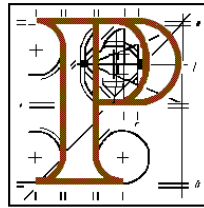


# An Bord Pleanála



## Inspector's Report

### Application under Section 177E pursuant to notice under Section 261A(3)(a) of the Planning and Development Act

**DESCRIPTION :** Limestone quarry

**SITE ADDRESS :** Townland of Polkeen & Ballygarraun, Twomileditch, Co. Galway

#### **DIRECTION UNDER S.261A**

Planning Authority : Galway County Council

Planning Authority Reg. Ref.: QSP7

Owner : Roadstone Provinces Ltd

Operator : Roadstone Provinces Ltd

Direction: To apply to An Bord Pleanála for substitute consent under 177E with a remedial environmental impact statement and a remedial Natura impact statement.

Review: None.

#### **APPLICATION:**

Made by : Roadstone Wood Ltd

Type of application : Application for substitute consent under Section 177E.

**INSPECTOR :** John Desmond

Date of inspection: 17/01/14

## **SITE DESCRIPTION**

The subject site is located to the northeast side of Galway City, directly adjacent and outside of the city development boundary, c.4km from the city centre and c.4.5km southwest of Claregalway.

The lie of the land varies from steep to gently rolling to flat and appears to be moderate agricultural land set out in small plots and used for grazing, interspersed with widespread scrubland in parts. There are extensive areas of exposed rock in karstic formation to the south and west of the site, contiguous with the substitute consent area. There are extensive areas of raised bogland from 600m to the north which have been heavily harvested. One-off housing development is prolific throughout much of the road network to the northeast of the city, particularly along the Castlegar Road. The lands to the southeast, fronting onto the N17, appear to be in transition from residential to commercial type uses. Two dwellings accessing onto a local road to the north have been built in recent years (from 2008) adjacent to the northeast of the substitute consent area. Ballybrit Racecourse is located c.400m to the southeast. An extensive business park (Racecourse Business Park) is located c.300m to the east.

Lough Corrib is within c.3.5km to the west of the quarry, however the site is within c.1.65km of boundary to the Lough Corrib cSAC to the west. Ballindooly Lough is located to the west of the quarry but is not subject of Natura or other national environmental designation. The lands surrounding the lough have been subject of significant artificial drainage.

The substitute consent application area is stated as 40.5ha and the quarry is described as a limestone quarry. It forms part of a total (stated) quarry landholding of 65.9ha which includes a pre-64 area of c.14.5ha at the southeast of the site. The 14.5ha area has been subjected to extraction but now encompasses mainly processing, block making, storage ancillary to or associated with the extraction activities on the wider site, in addition to the access route to the N17. The 65.9ha area also includes a 9.22ha area for which permission was granted in 1971 for extraction. The entire 9.22ha area would appear to have been subject of extraction, to a depth of least -4mOD in parts. The area has also been subject of considerable backfilling at the eastern end to a level at 19mOD (according to the survey drawings).

The 40.5ha area subject of this application for substitute consent can be divided into three distinct areas. Approximately 25ha has been extracted and forms part of a single extraction pit contiguous with (southwest, west and north of) the pit permitted in 1971. An additional area adjacent the southwest and south (c.1.3ha) has largely been stripped of its limestone pavement and vegetation, with some piles of limestone pavement and overburden in situ. Other than the removal the limestone pavement, no extraction is obvious. An area (c.0.3ha) adjacent the northeast has not been stripped and is in agricultural use.

A c.9ha area located at the mid-south of the overall site, adjacent to the west of the pre-1964 area, does not appear to have been extracted although the majority of that area (excluding the southernmost area c.1.5ha) appears to have been subject of excavation works to accommodate the main office and retail area, parking, siltation / settlement ponds, an asphalt plant, processed materials storage area, general storage and access roads falling within the substitute consent area.

The third area measures c.3.8ha. It appears to have all have been subject to extraction in the past, but possibly half of the area has been backfilled with overburden material and left to recolonize naturally. Widespread deposition of C&D waste, including waste concrete and asphalt was evident in this area on the day of inspection.

The site boundaries comprise mainly of traditional field boundary hedgerows, with some stonewalls, and low fencing to the southwest. Palisade fencing (c.2m high) has been erected along part of the eastern boundary and chain-link fencing (c.2m high) along the southeast boundary, but most of this boundary treatment is outside of the substitute consent area.

The site is accessed from the N17 road (Tuam Road) to the southeast. The N17 junction with the N6 (Galway Ring Road) is located c.1.8km to the south, connecting to the M6. Two alternative routes of similar length to the M6 are available via the local road c.600m to the north (serving the racecourse and business park) via the R339 and N18, or via the N6. The site has access to the N17 within the 100kph zone, just outside the 50kph zone. The N17 has a wide hard-shoulder in this location and the lines of sight in both directions appear unobstructed from a 2.4m setback.

#### **SUBSTITUTE CONSENT APPLICATION DOCUMENTATION (received 26/07/13):**

**Letter from Author Cox Solicitors** – It is the opinion of Senior Counsel that, in accordance with the presumption against retrospective effect and having regard to the applicants constitutional right to property, the power in section 177K(3) to impose conditions requiring a financial contribution in accordance with section 48 or a supplementary contribution scheme under section 49 can only be exercised in respect of development that has yet to be carried out. The imposition of any retrospective development charge would be unreasonable and ultra vires the Board and unlawful.

**Remedial Nature Impact Statement**, prepared by SLR, with the assessment conducted by Steve Judge, Senior Ecologist and member of Chartered Institute of Ecology and Environmental Management (CIEEM) with 12+ years' experience in ecological consultancy. It concludes that the quarry operations have not had any measurable significant effects on any of the European sites within its potential zone of influence including Lough Corrib SAC, Lough Corrib SPA, Galway Bay Complex

SAC and Inner Galway Bay SPA and it is not likely to have any effects through continuation of quarrying operations to affect the integrity of the relevant European sites, or their qualifying interests, in light of their conservation objectives.

### **Remedial Environmental Impact Statement:**

The REIS comprises an assessment of the potential for significant impacts on the factors of the environment between The REIS identifies potential impacts on each of the factors of the environment

The rEIS concluded that no significant impacts have occurred, are occurring or are likely to occur with respect to human beings, soils & ecology, surface & ground water, climate, air, noise, vibration, landscape & visual, cultural heritage, material assets and traffic and transport.

The rEIS concluded that a significant adverse impact on habitat resource of international value (Limestone pavement) had occurred, amounting to 0.1% of resource area in Galway County, but that no on-going or future impacts would occur. It also concluded that a significant adverse impact on habitat resources of local value had occurred on the site, but that no significant impact on ecology would occur based on current baseline ecology on site and that the site restoration would improve biodiversity and have neutral impact in long-term.

Remedial measures (referred to as '*specific ecological mitigation and enhancement*') including i) the retaining and managing for conservation purposes of all areas of limestone pavement within the quarry and to remove any spoil / material on the limestone pavement, leaving, wherever practically possible, exposed rock or a shallow covering of material above the limestone pavement; ii) adherence to 'Notice Nature – Wildlife Habitats & the Extractive Industry' for avoidance of disturbance to any breeding peregrines through restricting of blasting during the breeding season to greater than 150m from nest location and allowing nesting birds undisturbed until their chicks have fledged.

### **Drawings:**

No.SC01 – site location map, 1:50,000

No.SC02 – site location map, 1:10,000

No.SC03 – site notice location / site layout plan, 1:2,500

No.SC03A – site layout plan, 1:500

No.SC03A, B, C, D, E & F – (6no.) site layout plans, 1:500

No.SC04 – Proposed site restoration plan, 1:2,000 (proposed restoration plan drawings FI 1 submitted 18/10/13 and 05/11/13 are identical)

No.SC05 – Restoration cross sections, 1:500

### **Other documents:**

Restoration Implementation Proposals (response to DAHG-DAU submission) submitted 18/10/13/

## **RELEVANT PLANNING HISTORY**

**Planning decisions** (on or including the subject quarry site and / or substitute consent site):

**PL07.05.11170 / Reg.ref.5062:** Outline permission **GRANTED** by the Minister for Local Government (07/03/69) for construction of house at Ballygarraun, Co. Galway

**Ref.ref.6138:** Approval **GRANTED** by Galway County Council (13/06/69) for the erection of a dwelling house within the townland of Ballygarraun, Co. Galway.

**PL07.5/16952:** Permission **GRANTED** by the Minister for Local Government on appeal (10/12/71) for the construction of a house at the townland of Ballygarraun, Co. Galway.

**Reg.ref.11173:** Permission **GRANTED** by Galway County Council (18/05/72) for development of land comprising the extension of quarry boundary within the townland of Pollkeen to encompass an area of almost 12.5ha. Approximately 4.25ha of that permitted extension area has not been extracted, of which area c.2.5ha is separated from the quarry proper by way of a public road. This site is outside of the substitute consent area.

**Reg.ref.37077:** **OUTLINE** Permission **GRANTED** by Galway County Council (05/01/81) for a c.10.5ha extension to existing quarry in the townland of Pollkeen. No evidence of a subsequent grant of approval permission has been submitted. Approximately  $\frac{3}{4}$  of that area has been subject of extraction and the entire site is included within the substitute consent area.

### **Enforcement:**

None referred to by the planning authority.

### **Quarry Registration:**

**Reg.ref.QY7** – The planning authority decided to attach 11no. conditions to the continued operation of the subject quarry proposed to be registered under section 261 of the Act 2000, as amended. This decision is referred to as a '*license for quarry operation*' in correspondence from the Planning Authority dated 20/02/07 – no such term is employed under section 261. The total quarry area was stated as 68ha by the applicant.

## **Determination:**

**Reg.ref.QSP7** – Section 261A(3)(a) notice<sup>1</sup> issued from the Planning Authority dated 03/08/12 directing the owner / operator to apply to the Board for substitute consent under section 177E accompanied by a remedial EIS and a remedial NIS within 12 weeks of the issuing of the notice. The notice was not subject of an application to the Board for a review. Under SH07.0012 the Board permitted a time extension of 38 weeks to the 12 week period.

## **REPORTS**

GSI (27/08/13) : No comment.

HSE (10/09/13) : No complaints received in respect of the quarry. Background noise data should be taken at night and daytime when the quarry is not operational at noise sensitive locations to establish background levels. Where noise levels exceed 10dB over background levels, complaints increase.

It should not have been allowed for the floor level of the application area to have extended below the water table. No remedial measures are proposed.

The septic tank and waste water treatment system must be fully operational and in proper working order.

NRA (27/08/13) : Any consent granted for development at this site should not result in intensification of use of the existing direct access to the N17 within the 100kph zone in accordance with the DoECLG Spatial Planning and National Roads Guidelines.

Should permission be granted, any recommendations from the TTA in the EIS should be implemented in the interest of safety, efficiency and capacity of the national road network.

The site is in close proximity to the N6 GCOB Scheme, which is to be subject of alternative route options by the County Council following a ruling of the Supreme Court.

Consultation with the Roads Design Office is required in considering this application to ensure there is no conflict with the national road schemes in the area.

DAU of DAH&G (10/09/13): The REIS is based on surveys conducted at a time (5<sup>th</sup> February) sub-optimal for necessary botanical and vegetation surveys to characterise and evaluate the habitat types present and to identify rare and legally protected plant species.

The REIS notes loss of c.6.5ha of limestone pavement, an Annex I habitat under the Habitats Directive and the conservation status of which was judged unfavourable at

---

<sup>1</sup> The notice issued by the Council incorrectly states that it is a notice under section 261A(3)(c).

national level in 2007. The permanent loss of such an area of Annex I habitat outside a nature conservation site could constitute 'environmental damage' under the Environmental Liability Directive (2004/35/EC). Refers to study conducted by Wilson et al on the surrounding limestone pavements.

Comment should be sought on the accuracy and significance of the REIS recording Grey Partridge as present, as its current national population is located on cut away bog areas in the midlands.

The former route of the N6 GCOB Scheme, which passes close to the northern boundary of the site, is relevant in terms of cumulative impact.

Details of proposed restoration plans, comprising a single drawing and general recommendations in flora and fauna chapter of REIS, are inadequate. Further details of the plan and its implementation are required in advance of a decision. Details should include area, site levels, ground conditions, restoration / biodiversity objectives, works required, boundary treatment, ecological supervision, planting (if proposed), monitoring of recovery, management of non-native invasive species, etc. 'Wildlife, Habitats and the Extractive Industry' (Notice Nature) and 'Advice Notes on Current Practice (on the preparation of Environmental Impact Statements)' (EPA, 2003) should be noted in relation to restoration of quarries.

An Taisce (29/08/13) : The site is less than 1km from the Lough Corrib SAC. Pre-64 status not documented. There is significant issue of cumulative impact with Moylough Precast extraction area to the north and large scale peat extraction directly contiguous to the application site. Information is required on the land tenure of the applicant and the legal status and the environmental impact of contiguous and sand gravel and peat extraction.

Galway County Planning Authority (05/09/13) : The Transport and Infrastructure Department (Roads Section) has no objection to the quarry use as the quarry is already in use without causing capacity issues on the N17. Recommends that the quarry traffic only access the N84 via the N6 and not via the School Road, Castlegar.

Galway County Planning Authority (11/10/13) : The site notice was inspected 21/08/13 and was found to be in place.

There is no enforcement history in respect of this site.

Permission was granted for extension of quarry boundary under reg.ref.11173 in 1972.

The County Development Plan, section 4.6, notes the importance of the extractive industry to the economy of the county, recognises the challenge in facilitating gainful exploitation of the materials with minimum impact on the environment and residences, and that the extractive industry is fundamental to the continuing economic and physical development of the county.

Policies ED16-ED19, inclusive, objectives ED6 and ED7 and DM Standard 35 'extractive industry' apply.

### **Environment section –**

There have been two complaints made to the Council's Environment Section in 2008 and 2011 (no details provided) but nothing was discovered on investigation and the complaints were closed.

The operators have a discharge license from the Environmental Section for discharge of water pumped from settling ponds to a discharge point in the limestone pavement within the site.

The operators have an Air Pollution license from the Environment Section for the asphalt plant located outside of the substitute consent boundary.

The quarried area has a vulnerability rating of 'extreme – exposed rock' above a regionally important karst aquifer. There is a pollution risk from accidental spillage during refuelling but there is no evidence that pollution has occurred.

As the quarry has not intersected a significant groundwater flow it can be assumed that the effect on the local groundwater regime is small.

The area liable to flood indicated in Fig.6-9 is likely to occur from surface water runoff rather than from a turloch.

Excepting possible effects from blasting, noise and dust in the immediate environs, the quarry activities have not had a significant effect on the wider environment including the adjacent areas and Natura sites. No current or anticipated significant effects are expected to arise from these past activities.

No reference is made in chapter 6 'Surface Water & Groundwater' of the EIS to the nearby Terryland River, a tributary of Lough Corrib, but the quarry activities do not affect this river and its moderate status results from diffuse urban pollution.

### **Roads section -**

The sightlines at the entrance to the N17 where the 100kph limit applies must be shown to comply with NRA TD 41-42/11 [DMRB]

An estimated 750,000 tons per annum has been hauled from the quarry has a considerable impact on the County Galway Road network and cost of same should be defrayed by way of contribution against future repairs as a result of on-going activity (€250,000 or a supply of 1,500,000 tonnes of materials, within 6 months and at 10 year intervals thereafter)

A properly designed signage scheme indicating the quarry complex location, highlighting its entrance / exit and warnings as regards HGV movements must be provided and maintained.



## **GCC Recommendation –**

The quarry complies with the extractive development policies and objectives under the County Development Plan. It is considered that substitute consent should be granted for the development subject to 6no. conditions.

## **OTHER OBSERVATIONS / SUBMISSIONS**

None.

## **RESPONSES**

### First party response c/o SLR Consultants (18/10/13)

The main points of the submission made in response to the content of the DAH&G (DAU) submission of 10/09/13 can be summarised as follows:

- It is the expert ecologist's professional opinion, given the levels of overburden stripping and quarry operations that that have taken place within the site that the survey can correctly be described as representative of the habitats present. The undertaking of further surveys would not materially alter the results of species recorded or the findings of the assessment.
- The aerial photographs indicate that quarrying operations are likely to have removed limestone pavement from the 1990's through to 2003/4, which predated the commencement of the 2008 Environmental Liability Regulations on 01/04/09.
- The extraction of limestone pavement has ceased on these lands, mitigation and enhancement measures are addressed under section 4.157 of the rEIS, no damage or threat of damage thereto arises from this application, it is recognised that all such existing limestone pavement should be protected as an Annex 1 priority habitat and that protection will be afforded to that habitat in complying with the rNIS and rEIS.
- There have been a number of sightings of Grey Partridge in County Galway, all of which are likely to come from captive bred stock released as game birds and the recording of a solitary Grey Partridge is therefore of little significance.
- As the proposed GCOB Scheme route was ruled out by the ECJ preliminary ruling 11/04/13, it was considered inappropriate to consider cumulative or in-combination effects in the rEIS and rNIS as it is highly unlikely to be going ahead. There is no information available on the likely alternative route(s) and therefore it is not feasible to undertake any cumulative or in-combination assessment for the rEIS or rNIS.

Restoration Implementation Proposals (revised October 2013) comprising report and restoration plan (drawing F11). The main points of the report can be summarised as follows:

- There are no proposals to alter existing quarry faces. They have been engineered so that they do not pose any risk to stability.
- It is proposed to restore the substitute consent site area for nature conservation purposes, a beneficial after-use recommended in the EPA guidelines of 2006. Restoration to agriculture or forestry use is impractical due to lack of subsoil or topsoil material. A range of semi-natural habitats are likely to develop in the longer term including secondary woodland / scrub, dry calcareous and neutral grassland, open standing water and exposed calcareous rock providing opportunities for a range of individual and groups of species.
- Objective to provide 'safe and secure environment while encouraging the development of a range of habitats through natural regeneration.
- 4no. biodiversity objectives include, inter alia, the retention of 'the ecological value of existing limestone pavement rock, creating areas of limestone scree, retention of rock faces as habitat for e.g. Peregrine Falcon, and the maintenance of population status of existing key species identified with the quarry.
- 8no. restoration works are detailed. Those of note include the erection, if required, of secure fencing and / or additional planting to avoid accidental entry by unauthorised persons; the ripping of parts of the quarry floor to achieve a variety of ground conditions; temporary small pools will be allowed to form on quarry floor to support aquatic / marginal vegetation; creation of overburden islands as growing medium for recolonizing plants; areas of retained limestone pavement will be accurately mapped and surveyed prior to cessation of quarrying operations and management actions will be taking on advice of ecological consultation on any appropriate habitat management of these areas prior to implementation of restoration plan.
- The restoration plan includes a five year supervision and monitoring plan. An ecological consultant will prepare a progress report on habitat development and may proposed measures to support this, if found necessary, through management measures or supplementary planting.
- Control of weeds / management of invasive species – where specified plant species are identified during monitoring, appropriate measures specific to the plant species will be taken to control and / or eradicate them with a specific approach specified relating to use of herbicide.

Galway County Planning Authority (21/10/13)

Costs of €1,125.00 should apply to the application to cover the costs of reporting on this substitute consent application.

First party c/o SLR consulting (18/10/13)

It is clear that the matters raised by An Taisce in the letter received 28/08/13 do not relate to the Twomileditch Quarry.

First party c/o SLR consulting (18/10/13)

The main points made in response to the NRA submission of 2/08/13 can be summarised as follows:

- The existing access is part of the pre-64 quarry development in operation since the quarry first commenced.
- The TTA contained in chapter 13 of the rEIS concluded that the historical and existing quarry traffic would have had a minimal impact in terms of transportation and highways. Based on the impact assessment and existing mitigation measures, no remedial measures are proposed.
- The development will not result in any intensification of use of the existing direct access to the N17 national primary road above historical levels of extraction.
- The mitigation measures stated in section 13.120 will continue to be implemented at Twomileditch quarry.
- As the quarry was identified as a constraint to be avoided in the Constraints Study completed for the initial GCOB scheme, the RDO will be aware of the quarry and on this basis it is not likely that the quarry would conflict with the future planned GCOB scheme.

First party c/o SLR consulting (05/11/13)

The main points made in response to the Galway County Council submissions of 10/10/13 and 04/09/13 can be summarised as follows:

- Responding to recommended condition no.1 re provision of sightlines to NRA TD 41-42/11 standard. The existing entrance on N17 has been in use since the quarry commenced pre-1964 (permitted for extension in 1972). The TTA assessment in the rEIS concluded that the junction visibility at the entrance is considered appropriate and fit for purpose. The applicant considers the condition unnecessary and requests the Board not to attach same.
- Responding to recommended condition no.2 re contribution of €250,000, etc. A letter of legal advice from Arthur Cox (19/07/13) advises that 'the purported imposition of any condition providing for development contributions in the case of a retrospective basis would be unlawful and ultra vires. The applicant considers it not appropriate to attach the condition and requests the Board not to attach same.

- Responding to recommended condition no.3 re provision and maintenance of appropriate road signage. Any such signage would have to be agreed with the NRA who is responsible for the national primary and secondary road network.
- Responding to recommended condition no.4 re avoidance of spills during refuelling. This is address under section 6.107 of the rEIS detailing existing mitigation measures
- Responding to recommended condition no.5 re requirement that recyclable or waste materials must be removed off site to a licensed or permitted facility. Submits that the applicant has plans for a C&D waste recycling facility within the quarry and that specific regulations govern extractive industry waste. The Board is requested to attach an amended condition worded as follows:

*‘Any recyclable or waste materials arising within the quarry must be removed off site to licensed or permitted facilities (excluding extractive industry waste and waste associated with any licensed or permitted facilities within the site).’*

- Responding to recommended condition no.6 re agreement of restoration plans. Condition noted. Details of restoration proposals contained in chapter 2 rEIS (section 2.56-2.64) and as further information submitted 18/10/13.
- Responding to GCC Transport & Infrastructure (Roads) Section letter of 02/09/13, specifically with reference to routing of HGV traffic via School Road, Castlegar access to N84. Section 13.120 of the rEIS lists a number of mitigation measures in place to alleviated adverse traffic impacts, including a traffic routing policy to ensure that all movements are made via the strategic road network to avoid HGVs passing through residential areas as far as is practical.

#### NRA (08/11/13)

The comments made by the NRA in its submission to the Board of 26/08/13 remain the position of the Authority.

## **POLICY DOCUMENTS**

### **GALWAY COUNTY DEVELOPMENT PLAN 2009-2015 –**

Section 4.6 Extractive Development. Extractive development policies ED16-ED19. Extractive development objectives ED6 and ED7.

DM Standard 35: Extractive Development.

DM Standard 36: Compliance with Landscape Sensitivity Designations – Class 1 Low Sensitivity rating (may encroach on High Sensitivity rating at western fringe).

DM Standard 37: Site with Nature Conservation Designations.

DM Standard 40: Water Resource Management and Protection

DM Standard 41: Prevention of Groundwater Pollution

## REFERENCE DOCUMENTS

*'Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities'* (DoEH&LG, December 2009).

*'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development'* (DoEH&LG, August 2003).

*'Advice Notes On Current Practice (in the preparation of Environmental Impact Statements)'* (EPA, September 2003).

*'Guidelines on the information to be contained in Environmental Impact Statements'*, (EPA, March 2002).

*'Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC'* (European Commission, November 2001).

*'Quarries and Ancillary Development, Guidelines for Planning Authorities'* (DoEH&LG, 2004).

*'Environmental Management in the Extractive Industry (Non-Scheduled Minerals)'* (EPA, 2006).

*'Guidelines for Local Authorities on the Waste Management (Management of Waste from the Extractive Industries) Regulations 2009'* (EPA, 2012)

## **ASSESSMENT**

- 1.0 Introduction
- 2.0 Nature and extent of development concerned
- 3.0 Planning policy issues
- 4.0 Environmental Impact Assessment
- 5.0 Appropriate Assessment
- 6.0 Conclusion and recommendations

### 1.0 Introduction

- 1.1 This is an application for substitute consent under Part XA, Section 177E of the Planning and Development Act 2000, as amended. The planning authority issued a direction under section 261A(3)(c) contained in a notice issued by the planning authority under section 261A(3)(a)<sup>2</sup> on 03/08/12 in

---

<sup>2</sup> Incorrectly referred to as a 3(c) notice by the Planning Authority.

respect of the quarry located in the townlands of Polkeen and Ballygarraun, Twomileditch, Co. Galway, which was not subject of a review by the Board. The notice required that the owner / operator apply to the Bord for substitute consent in respect of the '*quarry development*' under section 177E of the Act accompanied by a remedial Environmental Impact Statement and a remedial Natura Impact Statement.

1.2 This application for substitute consent can only address that development carried out from 1 February 1990 until the making of the application on 26 July 2013 and I will endeavour to confine my assessment accordingly.

2.0 Nature and extent of development concerned:

2.1 According to the public notices this substitute consent application is for '*quarry development*'. The application form clarifies that it is for a limestone quarry development and that the substitute consent area covers 40.5ha. Approximately 25ha has been extracted and forms part of a single extraction pit contiguous with (southwest, west and north of) the pit extension permitted in 1971. The survey drawings indicate that the northern and central section of that area has been extracted to as low as approximately -3mOD and that the southern section has been extracted to a depth of c.17mOD, with an isolated area at c.12mOD (pond area). It is not clear whether extraction activities have continued on site subsequent to the survey. A steep-sided pond-filled extraction area in the central area may be a more recent feature. An area adjacent the southwest and south (c.1.3ha) has been stripped (by time of survey) but not yet been extracted. An area of c.0.3ha adjacent the northeast that has not been stripped and is in agricultural use.

2.2 A c.9ha area located at the mid-south of the overall site, adjacent to the west of the pre-1964 area, does not appear to have been subject of extraction. The majority of that area (excluding the southernmost area c.1.5ha) has been subject of excavations or clearance and levelling works to accommodate the main office and retail area (there are two main single-storey buildings with a number of sheds and storage and product display areas) and parking, an industrial plant (asphalt plant), processed materials storage area, access roads and a recently constructed siltation / settlement ponds. The definition of quarry excludes any place at which manufacturing process is carried on and the office building and retail area (and ancillary areas) do not come within the definition of quarry. The applicant has provided almost no information on these structures and operations and the Board may be minded to expressly exclude those elements by condition should it decision to grant substitute consent. Having regard to the definition of '*quarry*' under section 2 and the wording of section 261A(1)(a) of the Planning and Development Act 2000-2012 as amended, it is my understanding that the substitute consent application can only relate to that

development falling within the definition of quarry. Therefore, in my opinion, unauthorised development comprising of offices, asphalt plant, etc., should be excluded from consideration. The settlement ponds can be considered ancillary to the quarry and fall within the definition of same.

- 2.3 The third area, located to the northeast, measures c.3.8ha. It appears to have been subject to extraction in the past, but possibly half of the area has been backfilled with material and left to recolonize naturally. The area also contains a significant deposit of overburden mixed with C&D waste, including concrete and asphalt waste. According to section 3(2) of the Act 2000, as amended:

*'For the purposes of subsection (1) and without prejudice to the generality of that subsection— (b) where land becomes used for any of the following purposes— (iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris, the use of the land shall be taken as having materially changed.'*<sup>3</sup>

The extent of deposition of such waste material within the substitute consent area and the wider quarry site is not obvious from my inspection of the site and is not addressed in the application. The use of the land for C&D waste deposition is not quarry use and is not backfilling of overburden and therefore should be excluded from the substitute consent application. Only the extraction activity that has taken place within that area should be considered.

### 3.0 Planning policy issues:

- 3.1 I note the policies (*ED16-ED19*) and objectives (*ED6* and *ED7*) of the County Council in respect of extractive development as set out under section 4.6 of the Galway County Development Plan 2009-2015. I also note the development management standards (*DM Standard 35*) for extractive industries under the plan. The Council recognises the existence of deposits of stone and minerals as a fundamental resource and the winning of same as a key factor in the economic life of the County, but there are no actual clear objectives<sup>4</sup> pertaining to extractive development in the County. The policies are also unclear. The development management standard for extractive development under the plan, *DM standard 35*, does not set out quantitative or qualitative standards for such development but rather sets out policy in terms of, *inter alia*, the general location of such facilities and the

---

<sup>3</sup> Similarly, under the Act of 1963 the use of land for 'the deposit of bodies or other parts of vehicles, old metal, mining or industrial waste, builders' waste, rubble or debris, the use of land shall be taken as having materially changed.'

<sup>4</sup> An objective is an aim or a goal that someone wants to achieve. Objectives *ED6* and *ED7* do not provide any statement of what the Council wants to achieve in respect of this industry.

details that are required to be submitted with an application.

- 3.2 I note section 9.4 '*Landscape Conservation and Management*' of the County Development Plan and to section 11.8 DM standard 36 '*Compliance with Landscape Sensitivity Designations*'. Five levels of landscape sensitivity are set out under section 9.4 of the plan, with the subject site is rated class 1 '*low sensitivity*', which I consider to be appropriate. Section 11.8 of the plan indicates that '*all developments consistent with settlement policies*' are generally acceptable. The wording of section 11.8 would suggest it relates to urban generated development (one off housing) rather than to development such as quarrying.
- 3.3 I conclude that quarry use is open for consideration under the County Development Plan within this location subject to considerations of the proper planning and sustainable development of the area.

#### 4.0 **Environmental Impact Assessment**

##### 4.1.0 **Remedial Environmental Impact Statement**

4.1.1 **General** - The rEIS includes a detailed description of the development concerned. The description does not include reference to or a description of all the development that has taken place within the substitute consent area as delineated by the applicant. In particular, it omits any reference to buildings, machinery structures and operations and processes, if any, that are carried out within or facilitated by the said structures. In addition, the rEIS does not describe (in text or drawings) the location and design of the two conventional septic tank (and percolation areas) to which waste water is disposed and treated on this site (connected to office building). However these are indicated as ancillary to and / or associated developments within the site which would not in themselves have warranted the submission of an EIS and they do not fall within the scope of the definition of quarry under section 2 of the Act of 2000, as amended. I would advise the Board that the said development and structures do not fall within the scope of the substitute consent process. Similarly, the depositing of C&D waste on site should also be omitted from the substitute consent process as it is a material change of use from quarry use.

4.1.2 A non-technical summary is attached and is considered generally acceptable.

4.2.0 **Chapter 3 Human beings** – The rEIS identifies the potential negative impacts on human beings and amenity as noise, dust, vibration, traffic and visual issues. It is submitted that the existing / proposed mitigation measures set out in the respective sections of the rEIS ensure that the



impacts have been or will be eliminated or reduced to acceptable levels. The mitigations refer to:

- Surface & groundwater – section 6
- Air quality – section 8
- Noise – section 9
- The landscape – section 10
- Roads and traffic – section 13

4.2.1 It submits that no remedial measures are required. No potentially significant impacts are identified in respect of human beings. I note that two dwellings have recently been constructed (from 2008) adjacent to the northeast of the site and substitute consent boundary area, which would suggest that the quarry is not having a significantly deleterious impact on local residential amenities. The HSE indicates that no complaints have been received in respect of the quarry. The Council's Environment Section indicates that, although two complaints (of unspecified nature) were received in 2008 and 2011, they were not upheld on investigation. In general, having regard to the relevant section of the rEIS, I am satisfied that the development has not had a significant adverse impact on human beings through impacts on surface water, air quality, noise and landscape and visual impacts.

4.2.2 However the rEIS does not adequately address the long term safety risks presented to human beings by the pit. The pit has high vertical cliff-faces, without safety benches or graded slopes and therefore forms a significant threat to human beings from falls. The site is easily accessible from most of the surrounding lands. Should the pit flood post cessation of extraction it may not be possible to exit the water in the event of someone falling in. These are permanent definite significant risks to human beings. The significance of the risk will increase assuming the population of Galway continues to grow and the city expand into this area (the area already has widespread one-off housing). These impacts have not been addressed in the rEIS, although in the description of the development (section 2.32) it is indicated that in the interest of public safety and to prevent access to the quarry a barrier system has been put in place including stock-proof fencing along the site boundary (in accordance with Quarry Regulations 2008), with all necessary warning signs displayed at visible location along the boundary at appropriate intervals. It is also submitted that existing perimeter hedgerow species have been reinforced where required, in order to provide an impenetrable barrier around the site, and the entrance gate to the site is locked outside operational hours.

4.2.4 Security fencing is a realistic mitigation only whilst the site is in operation. When the site is no longer generating a return the maintenance of fencing

and security will become a burden and is unlikely to be continued indefinitely. It would seem to me that the issue can only be adequately mitigated by pit design that incorporates benches or slopes in lieu of hazardous vertical cliff faces, and ledges at the water's edge to enable exit from the flooded pit. As the extraction pit has been excavated up to (or almost up to) the boundaries of the site and the adjoining lands contain Annex 1 priority habitat (limestone pavement), it may not be possible to mitigate this significant risk to human life. The Board may consider it appropriate to seek further information from the applicant in this regard.

- 4.3.1 **Chapter 4 Ecology** – This chapter addresses flora and fauna factors of the environment. The assessment statement is detailed and is based on a habitat survey of the site. The rEIS provides a general description of the site prior to extraction, referring to the former presence of limestone pavement habitat on the site, and provides a detailed description of the site as current.
- 4.3.2 The rEIS identifies and focuses on the main valuable ecological receptors which I consider to be reasonable. The rEIS indicates that the direct loss of 6.5ha of limestone pavement (Annex I priority habitat) from the site, although only representing c.0.1% of the estimated resource of limestone pavement in County Galway, is assessed as having a significant impact on a habitat resource of international value. It is submitted that continuation of quarrying will not result in further loss of any existing valued habitats within or beyond the context of the application site and not predicted to result in any significant fragmentation of habitats or loss of connectivity of any habitat or feature in the wider surrounding area.
- 4.3.3 Galway County Council Environment Section (11/10/13) considered that, excepting possible effects from blasting, noise and dust in the immediate environs, the quarry activities have not had a significant effect on the wider environment including the adjacent areas and Natura sites and that no current or anticipated significant effects are expected to arise from these past activities.
- 4.3.4 The DAU-DAHG (10/09/13) notes that the conservation status of this habitat was judged to be unfavourable (poor) at national level in 2007<sup>5</sup> and that the permanent loss of such an area of Annex I habitat outside a nature conservation site could constitute '*environmental damage*' under the

---

<sup>5</sup> The DAU indicates that's the limestone pavement fragments surrounding the quarry have been mapped as part of the National Survey of Limestone Pavement and Associated Habitats in Ireland (Wilson and Fernandez), however no specific reference to this location is included in the document. The nation survey records 6,761ha of limestone pavement in Galway, of which 64.5% is designated. The extent is second in area only to that in County Clare, at 24,128ha. 32,187ha of limestone pavement is recorded in Ireland, 82.7% of which is designated.

Environmental Liability Directive (2004/35/EC)<sup>6</sup>. The DAU does not explain what the implications of the directive might be as regards the subject development. However the applicant's response (18/10/13) that the aerial photographs indicate that quarrying operations are likely to have removed limestone pavement from the 1990's through to 2003/4, which pre-dated the commencement of the 2008 Environmental Liability Regulations on 01/04/09, implying that the directive does not therefore apply. Based on OSI aerial photographs, I would confirm that the vast majority of the limestone pavement was removed prior to 2005.

- 4.3.5 Having regard to the '*National Survey of Limestone Pavement and Associated Habitats in Ireland (Irish Wildlife Manual no.73)*' and based on the OSI aerial photography, I estimate that the area of limestone pavement removed from the site to be in the region of c.8.65ha post 1995 (i.e. post 1 February 1990), inclusive of c.8.1ha post 2000 (i.e. after 26 February 1997). The significance of the impact would therefore appear to be greater than indicated by the applicant. The rEIS does not assess whether fragmentation of the habitat through the removal of this section of pavement has any significant implications for the wider area of pavement.
- 4.3.6 Section 4.157 recognised that all such existing limestone pavement should be protected as an Annex 1 priority habitat and that protection will be afforded to that habitat in complying with the rNIS and rEIS. In terms of remedial measures, it is proposed that all remaining limestone pavement will be retained and managed for conservation purposes, with any spoil or other material removed to leave, wherever practically possible exposed rock or a shallow covering of material above the limestone pavement. There is no indication of the extent or location of where any limestone pavement remains in situ and its condition, and whether the remedial measure is possible or feasible within the site. Without this information the remedial measure cannot be assessed or enforced. A fully detailed survey of the landholding and detailed mapped information and photographic survey of existing limestone pavement habitat<sup>7</sup> and covered limestone pavement should be submitted.

---

<sup>6</sup> According to the EPA '*The European Communities (Environmental Liability) Regulations 2008, came into force in Ireland on 1 April 2009. These Regulations (SI 547 of 2008) transpose EU Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage. The purpose of these Regulations is to establish a framework of environmental liability based on the 'polluter-pays' principle, to prevent and remedy environmental damage. The Agency has been designated as the competent authority for all aspects of these Regulations.*' (<http://www.epa.ie/enforcement/liab/> 06/03/14)

<sup>7</sup> The '*National Survey of Limestone Pavement and Associated Habitats in Ireland (Irish Wildlife Manual no.73)*' defines limestone pavement based on two geological structures – blocky limestone pavement (fixed) and shattered limestone pavement (loose) – but classifies it based, not only exposed and wooded limestone pavements, but also in respect of the associated habitats - European dry heaths, Alpine and Boreal heaths and Semi-natural dry grasslands and scrub facies on calcareous substrates. Therefore the view that limestone pavement consists only of exposed

- 4.3.6 The DAU raised concern about the applicant's habitat survey undertaken in early February, which is suboptimal for necessary botanical and vegetation surveys to characterise and evaluate the habitat types present and to identify rare and legally protected plant species. The rEIS recognises the timing of the survey as a constraint but submits that *'based on nature of habitats present at the quarry site it is assessed that the survey is representative of the habitats within the application site, and include the dominant and characteristic species of flora ... [and that] ... most species would have been active during this time and provided evidence of their presence'* and that *'a precautionary approach has been taken where protected species have been found, or considered highly likely to be present...'* In the response of 18/10/13, the applicant's environmental consultants submit that given the levels of overburden stripping and quarry operations that that have taken place within the site that the survey can correctly be described as representative of the habitats present and that undertaking of further surveys would not materially alter the results of species recorded or the findings of the assessment. This is reasonable in respect of the majority of the site, but in respect of the remaining areas of limestone pavement and other semi-natural areas which should be subjected to a habitat survey within the optimum survey season.
- 4.3.7 The DAU indicates that the N6 GCOB scheme, which passes close to the northern boundary of the site is relevant in terms of cumulative impact. In response of 18/10/13, the applicant's submits that the GCOB route was ruled out by the ECJ preliminary ruling 11/04/13 and therefore it was considered inappropriate to consider cumulative or in-combination effects in the rEIS and rNIS as it is highly unlikely to be going ahead. It is also submitted that as there is no information available on the likely alternative route(s) and therefore it is not feasible to undertake any cumulative or in-combination assessment for the rEIS or rNIS. This is reasonable. However cumulative impacts are relevant in terms impacts on limestone pavement habitat within the wider local area and within the wider region, including cumulative impacts through fragmentation of such habitats. In this regard *'The Status of EU Protected Habitats & Species in Ireland'*, NPWS (2013) identifies quarrying as one of the principle pressures on and threats to limestone pavement, in addition to agriculture.
- 4.3.8 Remedial measures are also proposed in respect of peregrine falcon, an Annex I species. The rEIS suspects a pair to be nesting in a worked out area of the quarry, but provides no evidence of actual nest location. It is stated that Roadstone Wood Ltd will adhere to guidance provided by Notice Nature in *'Wildlife Habitats & the Extractive Industry for avoidance of*

---

limestone pavement set in blocks with clear clints and grykes would not appear to encompass the full extent of the priority habitat 8240 Limestone pavement under Annex I of the Habitats Directive.

disturbance to any breeding peregrines. This will comprise, where possible, of restricting blasting during the breeding season (to greater than 150m from the nest location) and allowing birds nesting on quarry faces to be left undisturbed until their chicks have fledged. This is reasonable, although as this application relates to historic activity the mitigation measure is not relevant.

4.3.9 The rEIS includes a restoration plan. The DAU considers the details of proposed restoration plans, comprising a single drawing and general recommendations in flora and fauna chapter of REIS, to be inadequate and requests that further details of the plan and its implementation be submitted in advance of a decision. Details are to include the area, site levels, ground conditions, restoration / biodiversity objectives, works required, boundary treatment, ecological supervision, planting (if proposed), monitoring of recovery, management of non-native invasive species, etc. 'Wildlife, Habitats and the Extractive Industry' (Notice Nature) and 'Advice Notes on Current Practice (on the preparation of Environmental Impact Statements)' (EPA, 2003) should be noted in relation to restoration of quarries. The applicant, in its response of 18/10/13, submitted a more detailed restoration report, the main points of the report can be summarised as follows:

- There are no proposals to alter existing quarry faces. They have been engineered so that they do not pose any risk to stability.
- It is proposed to restore the substitute consent site area for nature conservation purposes, with a range of semi-natural habitats likely to develop in the longer term including secondary woodland / scrub, dry calcareous and neutral grassland, open standing water and exposed calcareous rock providing opportunities for a range of individual and groups of species.
- It is an objective to provide safe and secure environment while encouraging the development of a range of habitats through natural regeneration.
- 4no. biodiversity objectives include, inter alia, the retention of 'the ecological value of existing limestone pavement rock, creating areas of limestone scree, retention of rock faces as habitat for e.g. Peregrine Falcon, and the maintenance of population status of existing key species identified with the quarry.
- 8no. restoration works are detailed including the erection, if required, of secure fencing and / or additional planting to avoid accidental entry by unauthorised persons; the ripping of parts of the quarry floor to achieve a variety of ground conditions; temporary small pools will be allowed to form on quarry floor to support aquatic / marginal vegetation; creation of

overburden islands as growing medium for recolonizing plants; areas of retained limestone pavement will be accurately mapped and surveyed prior to cessation of quarrying operations and management actions will be taking on advice of ecological consultation on any appropriate habitat management of these areas prior to implementation of restoration plan.

- The restoration plan includes a five-year supervision and monitoring plan. An ecological consultant will prepare a progress report on habitat development and may proposed measures to support this, if found necessary, through management measures or supplementary planting.
- Control of weeds / management of invasive species – where specified plant species are identified during monitoring, appropriate measures specific to the plant species will be taken to control and / or eradicate them with a specific approach specified relating to use of herbicide.

4.3.10 The restoration plan boils down to allowing the site to restore itself naturally. Over a sufficiently long period of time it is possible that the site will recolonized and form a viable habitat, however the applicant provides no supported estimate of how long this is likely to take or when this will commence. There is no assessment of whether the site is likely to become flooded with ground and surface water over time. There is no phasing proposed for site restoration. Further information is required in respect of the restoration plan.

4.4.1 **Chapter 5 Soils & Geology** – The nature and significance of the original and existing soils and geology on this site and the significance of same are explained in reasonable detail. The GSI Irish Geological Heritage Programme lists the quarry as a site of interest and the applicant submits that the GSI JGH Programme requested that any restoration / working plan allows for preservation of a section of the sequence exposed at the site for study and to allow for study access during the period the quarry is working (no correspondence from GSI is attached). Direct impacts are described as the removal of soil, subsoil and bedrock. It is indicated that there has been and will not be any impact on geological heritage in the vicinity of the site, or on geological aspects of the environment outside the site.

4.4.2 Existing mitigation measures are described and are reasonable. No remedial measures are proposed. I considered the conclusions of the rEIS as regards soils and geology to be acceptable.

4.5.1 **Chapter 6 Surface water & groundwater** – The rEIS provides a detailed description of the hydrology of the site and the wider area. It details possible direct impacts on ground and surface water systems but identifies no significant adverse effects. Based on the information presented in the rEIS,

it would appear that no significant impacts have occurred or are occurring. However the existing settlement ponds were constructed in 2007<sup>8</sup>. No reference is made to the possible (or probable) impacts arising from the discharge of untreated effluent to ground prior to the commissioning of the ponds, having regard to the quantity and quality of effluent, or to the significance of those impacts. This issue should be properly addressed.

- 4.5.2 I am concerned about the potential for significant adverse impacts to occur in the future from the development that has already taken place. This concern relates primarily to extraction below the water table. The HSE submission of 10/09/13 submits that it should not have been allowed for the floor level of the application area to have extended below the water table. There is no prohibition of quarrying below the water table and both the DoEH&GL quarry guidelines (2004) and the EPA guidelines of 2006 set out best practice to be followed where it is proposed to take place.
- 4.5.3 The eastern section of the substitute consent pit extends to -3mOD according to the site survey. There are extensive areas of standing water and pools that would suggest significant ingress of water to the pit. The groundwater levels to the east of the site have been measured by the applicant at c7mOD and to the west at >20mOD. A depression at 12mOD, is located c.80m from the quarry pit at the east of the site. This is the lowest land level within the vicinity of the pit (road level at the site entrance is c.21mOD) and it floods on a regular basis (the rEIS acknowledges it may be a turlough). The cone of drawdown surrounding the pit is indicated as c.15m. One would assume that on cessation of dewatering, the surrounding higher level groundwater would flow into the pit to reach an equilibrium in much the same way as occurs in the turlough.
- 4.5.4 The quarry's discharge license permits a discharge of 8000m<sup>3</sup>/day<sup>9</sup> but the average daily flow has been much lower and the highest daily flow was 7,740m<sup>3</sup> on 26/11/09. It is not stated how much water is abstracted to support the manufacturing processes (block making) within the wider quarry site. The REIS suggests that only very shallow pools arising from rainwater would occur on restoration of the site. I am not satisfied that the REIS addresses the potential for pit flooding and the likely resultant water level within the pit. The Board may consider it appropriate to seek the opinion of an independent hydrologist / hydrogeologist on this matter.
- 4.5.5 The flooding of the pit with groundwater may pose additional risks. Health and safety risks would arise for members of the public should someone fall into the flooded pit and be unable to exit the water due to the lack of safety benches or ledges. Groundwater pollution would be a concern should fly-tipping arise after the pit has been closed. It would be very difficult to

---

<sup>8</sup> Based on Google Earth aerial photographs dated 31/01/06 and 03/05/07.

<sup>9</sup> At 8000m<sup>3</sup>/day it would take 50 days to fill a 40ha area to a depth of 1m, assuming a level floor.

manage these impacts in the medium to long term when the pit is no longer providing a financial return. I don't believe that fencing is a realistic long term solution of the site, most especially if the site has no post-operation economic use.

- 4.5.6 Galway County Council Environment Section considers the effect on the local groundwater regime to be small as the quarry has not intersected a significant groundwater flow. The Environment Section indicates that there have been two complaints made to the Council's Environment Section in 2008 and 2011, but as nothing was discovered on investigation, the complaints were closed (no details are provided). It also found no evidence that pollution has occurred from accidental spillages on this site.
- 4.5.7 The HSE submits that the septic tank and waste water treatment system must be fully operational and in proper working order. No details of the system, including its capacity, the effluent loading on the system, the make/model, its location and the design and location of the associated percolation area, etc., have been submitted. The RESI indicates that the two septic tanks are connected to the office building and to the block building facility, neither of which falls within the definition of quarry and therefore they can be regarded as generally outside the scope of this substitute consent application.
- 4.6.1 **Chapter 7 Climate** – The conclusion that no significant impacts on regional or local climate will result are reasonable.
- 4.8.1 **Chapter 8 Air quality** – The rEIS identifies all dust sensitive receptors in the vicinity, describes the nature of activities and the dust generating capacity of same and provides a list of the dust monitoring results from January 2011 to April 2013 to support its conclusion that no significant adverse impacts arise from dust. The rEIS details the existing mitigation measures in operation on site relating to quarrying, processing and site access. It submits that no remedial measures are required and none are proposed. This is acceptable.
- 4.9.1 **Chapter 9 Noise & Vibration** – The rEIS submits that the noise monitoring carried out within the vicinity of the nearest noise sensitive receptors demonstrates compliance with condition no.2 attaching to the quarry under Section 261 (ref.QY7) which limited the noise level at any occupied house to not more than 55dB(A) $L_{Aeq}$  between 07.00 and 19.00 and to 45dB(A) $L_{15mins}$  at all other times in compliance with EPA(2006) and DoEH&LG (2004) standards. The HSE submission (10/09/13) advised that background noise data should be taken at night and daytime when the quarry is not operational at noise sensitive locations in order to establish background levels. However noise from the original authorised quarry and associated facilities /



operations on this landholding constitute part of the background noise levels and therefore additional background noise surveys would not be appropriate in this instance and demonstration of compliance the EPA standards is sufficient.

- 4.9.2 The applicant also submits that the blast monitoring that has taken place in respect of this quarry demonstrates compliance with condition no.4 attached under section 261 which limits the ground vibration arising at any house in the vicinity from the blast to not greater than 12mm/sec peak velocity, and which limit the air overpressure at any house arising from the blast to not greater than 125dB(lin) max peak with 95% confidence limit. This is acceptable.
- 4.9.3 The 0 complaints received in respect of the quarry and Galway County Council (11/10/13) indicates that there is no enforcement history in respect of the site. The Council's Environment Section (11/10/13) refers to two complaints received in respect of the facility (2008 and 2011). The section provides no details as to what the complaints referred. The Environmental Section deals with environmental pollution including noise pollution<sup>10</sup> and it is possible that the complaints related to noise. The Board may consider it appropriate to seek clarity on these complaints, however as nothing was discovered and the files were closed it can be assumed that no significant impact occurred. There are no third party submissions from local residents objecting to the substitute consent application, which would suggest that noise and vibration impacts have not been significant.
- 4.9.4 No remedial measures are proposed. As the application relates to a development carried out, rather than to the authorisation of future development, this is acceptable.
- 4.10.1 **Chapter 10 Landscape and visual** – The rEIS provides a detailed and realistic description of the landscape context and a site specific landscape appraisal. A logical zone of theoretical visibility (ZTV) is calculated and presented as a worst case scenario. It shows that greatest visual impact will be on a limited area adjacent the northeast of the site and to the elevated lands to the southeast of N17, and that a more moderated visual impact will extend principally to the north (up to 4km), but also for a shorter distance to the south (up to 2km). The visual receptors are identified as road users and residents of private properties within the study area and these are indicated (in 5no. clusters) on the ZTV map (figure 10-2 of the rEIS). A clearly defined methodical approach is taken to the evaluation of visual impacts on receptors, having regard to the sensitivity of the landscape and of the viewpoints and the magnitude of the visual effects.

---

<sup>10</sup> <http://www.galway.ie/en/Services/Environment/GuidetoyourServices/>

- 4.10.2 The rEIS rates the sensitivity of the individual landscape elements affected by the extraction works as medium (and confirms the overall landscape sensitivity of the LCA 5 area as low), however the assessment refers to the limestone pavement as limestone outcrop and therefore does not actually take account of the value (or extent) of this landscape element removed. Limestone pavement may form a striking visual feature in its own right, locally and possibly within the wider area depending on its siting and extent. I don't believe this has been properly addressed in the rEIS. As the rEIS does not accurately describe the landscape sensitivity of the landscape prior to extraction (particularly as regards limestone pavement) it cannot and does not accurately portray the magnitude of landscape effect which includes the removal of an area of limestone pavement from the substitute consent area. The significance of the impact on the overall landscape is assessed as minor, with a moderate to minor impact on landscape (i.e. not significant) as regards the sensitivity of individual landscape elements affected by the works.
- 4.10.3 In respect of the five clusters of sensitive receptors, the significance of the visual impact is determined in the rEIS as moderate, moderate / minor and minor. I note that two dwellings have recently been constructed (from 2008) adjacent the northeast of the site, which have extensive views over the site and which would suggest that the significance of visual impact is highly subjective. Given the high sensitivity of the limestone pavement and the extent of limestone pavement removed the significance of visual impact may be rated as significant but localised.
- 4.10.4 No mitigation measures are proposed as, it is submitted, the quarry is already screened from the majority of surrounding locations. Excepting the rEIS's failure to take due account of the significance of the limestone pavement removed from the site (or to quantify same), I consider the applicant's impact assessment to be reasonable.
- 4.11.1 **Chapter 11 Cultural Heritage** – The rEIS provides a detailed review of cultural heritage and archaeology within the vicinity of the site. It indicates that there are no designated or non-designated structures of heritage interest situated within or within the vicinity of the substitute consent area that would be directly or indirectly impacted by the development. It concludes that there are no direct or indirect impacts on any known items of cultural heritage, archaeology or buildings of heritage interest in the substitute consent area or the vicinity. I consider this to be acceptable.
- 4.12.1 **Chapter 12 Material Assets** – The rEIS does not provide an assessment of the potential significance of impacts on material assets under chapter 12. It refers the reader back to the various constituent chapters for potential impacts and existing mitigation measures in relation to residential buildings,

historical monuments, amenity areas, surrounding land use and local services. Having regard to the EPA's 'Advice Notes on Current Practice' (2003) which sets out the potential environmental effects pertaining to material assets, and given that the applicant addresses the issue of transport and transportation separately in chapter 13, the applicant's approach may be considered acceptable.

- 4.11.1 **Chapter 13 Traffic & Transport** – The applicant conducted a traffic and transport assessment, which has been included in the rEIS. It determined that the application site, during its average levels of operation, would have contributed 0.8% of the total two-way flow on the N17. It submits that this level of traffic is within daily fluctuations in background level and is well below the 10% figure that would constitute a traffic impact according to the 'Guidelines for Traffic Impact Assessment' (IH&T, 1994). Furthermore, it is suggested that the assessment is robust as it considered 50% of site traffic as passing through the NRA count point, when in reality traffic will disperse further throughout the highway network, with some vehicles heading east towards the M6. The applicant concludes that the traffic associated with the quarry has not and does not currently result in a material traffic impact and no mitigation measures are proposed.
- 4.11.2 I have reviewed the TTA in detail and have significant reservations about the assessment in a number of respects. The assessment of the impact of the theoretical *average* level of traffic generated by this site over the 10-year period 2003-2012, on the N17 traffic for 2012 rather than the assessment of the *actual* maximum impact that has taken place<sup>11</sup> and therefore underplays the significance of the actual impact on the network. The use of a 0700-0800 AM peak is inappropriate and minimises the impact of operational traffic which is less at that hour<sup>12</sup>. The TTA makes no allowance for traffic joining or departing the network between the NRA counter and the site, which may well result in materially greater levels of traffic in the vicinity of the site. It is not clear that the HGV operational traffic calculated by the applicant include all HGV traffic including traffic not using the weighbridge. The averaging out of HGV traffic over a 6 day week is inappropriate and dilutes the figure for daily traffic – Saturday is an 8 hour not 12 hour day and is likely to generate significantly fewer trip movements - and this data is then not directly comparable with the NRA data which is for annual average weekday trips. The applicant's use of TRICS data does not accord with

---

<sup>11</sup> The maximum impact on the network occurred in 2006 when operations peaked and network traffic was almost at peak (2007 was peak network year).

<sup>12</sup> The 0700-0800 AM peak is justified by the applicant based on the NRA traffic counter data, however the counter is located c.6.5km north of the entrance, beyond the N17/N18 signalised junction at Claregalway (a significant bottleneck) and the AM peak can be expected to be later in the site's location on the fringe of the city. Review of the NRA data reveals marginal difference between traffic levels at 0700-0800 and 0800-0900 hours.

'TRICS Good Practice Guide 2012' which suggests that at least 5-6 appropriate TRICS sites are used – the TTA used full data for 2 sites and incomplete data for a third. The substitute consent site includes a range of uses and it is not certain that the TRICS sites are fully comparable in terms of the pattern of traffic they would generate over the working day. Having estimated the peak hour traffic generation, the TTA then removes 50% of same on the basis that 50% of operational traffic exits north towards the NRA N17 traffic counter, with the remainder heading south. This reduction is wholly unjustified as 100% of all operational traffic uses the N17. The TTA provides for no trip assignment to the network and provides no qualitative assessment of what parts of the road network are sensitive to the traffic generated by this site, including congested routes and junctions. Also, the REIS provides no assessment of the actual impact of the development on the network, in terms of wear and tear, is provided in respect of the road network as a material asset, which I consider a significant omission in view of the scale of the development that has taken place and the importance of the N17 in addition to the other roads in this network.

- 4.11.3 Notwithstanding the shortcomings of the TTA, this is an application for substitute consent for development that has already been undertaken rather than an application for development going forward. In this context the traffic impact can be viewed as a completed impact that cannot be addressed by remedial mitigation other than by repairs to the public road network. The Council's Roads Section has raised no objection subject to, inter alia, the payment of a contribution of €250,000 (or a supply of 1,500,000 tonnes of materials) within 6 months and at 10 year intervals thereafter to defray the cost of future repairs from the considerable impact of HGV traffic on the County Galway Road network. A contribution condition for future or on-going development would be inappropriate as a grant of substitute consent by the Board would not authorise future development but regularise development already taken place.
- 4.11.4 The applicant has submitted a legal opinion from Arthur Cox Solicitors that, in accordance with the presumption against retrospective effect and having regard to the applicants constitutional right to property, the power in section 177K(3) to impose conditions requiring a financial contribution in accordance with section 48 or a supplementary contribution scheme under section 49 can only be exercised in respect of development that has yet to be carried out and that the imposition of any retrospective development charge would be unreasonable and ultra vires the Board and unlawful. In my view, the requirement of a once-off payment (a special development contribution under section 48(c)) to remediate the impact that the subject development has already had on the road network would be entirely reasonable. Having regard to the provisions of Part XA of the Act, it is clear that specific exceptional costs not covered by a scheme are likely to have been incurred

by the local authority in respect of public infrastructure and facilities which have benefitted the development concerned in this substitute consent application. I therefore do not agree that the attaching of a contribution condition would be ultra vires. The Board may, however, consider it appropriate to request the applicant to submit proposals for remedial measures addressing any significant impact that may have occurred on the road network.

- 4.11.4 The NRA have raised no objection subject to no intensification of traffic using the entrance and that any recommendations from the TTA in the rEIS should be implemented in the interest of safety, efficiency and capacity of the national road network. No mitigation measures are proposed in the TTA. As this is an application for substitute consent the issue of future intensification does not arise.
- 4.11.5 The TTA did not define sightlines at the entrance but deemed them appropriate and fit for purposed and, having conducted a review of road traffic accidents the applicant concluded that there were no accidents to which the site could be perceived as contributing. The TTA concluded that there has been a permanent impact of no impact of significance in terms of road safety and no mitigation measures are proposed. The Council's Roads' Section requires that sightlines at the entrance, located within the 100kph zone, must be shown to comply with NRA TD 41042/11 [DMRB]. As this is an application for substitute consent for development already completed, it would not be appropriate to address the issue of sightline distance by way of condition as it would not constitute a remedial mitigation measure.
- 4.12.1 **Chapter 14 Interactions** – The rEIS submits that the interactions between the different environmental factors are covered within each of the rEIS sections. The EPA's '*Advice Note on Current Practice*' (2003) indicates that such an approach is usual, rather than the provision of a separate 'interactions' chapter. I am reasonably satisfied that the rEIS addresses the main interactions that have arisen.
- 4.13.1 **Environmental impact assessment conclusions:**
- 4.13.2 I consider the REIS to be deficient in how it addresses the following environmental factors: human beings, ecology, water and material assets. Further information is required.

## 5.0 **Appropriate Assessment**

### 5.1 **Remedial Natura Impact Statement**

- 5.2 The statement was prepared by SLR, with the assessment conducted by Steve Judge, Senior Ecologist and member of Chartered Institute of Ecology and Environmental Management (CIEEM) with 12+ years' experience in ecological consultancy.
- 5.3 Post cessation of quarrying operations, the site will be subject to a restoration plant to nature conservation after removal of all plant and equipment and the re-grading of spoil and overburden. No direct habitat loss has occurred or is likely to occur and no impact from disturbance (noise, vibration, human and / or visual) due to the distance of the site from the Natura sites. As the quarry is located within a karst landscape there is potential hydrological source-pathways-receptor link between the quarry and the Lough Corrib cSAC, Lough Corrib SPA, Galway Bay Complex SAC and Inner Galway Bay SPA.
- 5.4 The rNIS identifies two potential hazards arising from the development concerned: Alteration to the hydrological regime due to disruption or destruction of groundwater conduit flow paths and changes in groundwater quality.
- 5.5 It acknowledges the difficulty of predicting impacts due to the heterogeneity associated with karst system flows. Limited epikarst zone of 2-3m located at top of bedrock but no significant conduits identified. Groundwater flow is predicted to be shallow due to the topography and bedded nature of the limestone and the lowering of groundwater on the site is believed to have affected only a very narrow zone extending no more than 20m from the quarry voids – limestones have low permeability and narrow zones of influence are typical within such deposits. It indicates that there's little ingress of groundwater to the quarry with little need for continuous pumping from the void to facilitate extraction of limestone.
- 5.6 The rNIS considers that the extension of the quarry void would not likely have resulted in any significant reduction in epikarstic or conduit flows in a northwest direction towards the River Clare or west towards Lough Corrib. Based on the rate of groundwater inflow to the void it is likely that the contribution of groundwater flows in the epikarstic layer or underlying fractured limestones in the location of the quarry are not significant or critical to the maintenance of water levels of these features. It is not likely that the quarry has had or is likely to have any measurable significant impacts on the overall levels of water in either the River Clare or Lough Corrib as to impact on the associated riverine and lacustrine qualifying habitats and /or species of the Lough Corrib SAC or on any of the qualifying bird species of the Lough Corrib SPA in light of their conservation objectives.

- 5.7 Similarly, the development is not likely to have any measurable significant impact on overall water levels in the transitional waters of the Corrib River or on Galway Bay by way of discharge of water to ground from the void. The discharge of waters to ground have not had and are not likely to have any significant adverse impact on the qualifying features, in light of the conservation observations, for which Galway bay Complex SAC and the Inner Galway Bay SPA have been selected.
- 5.8 An Taisce raised concern about the potential for in combination effects on Lough Corrib SAC arising from the subject development and Moylough Precast extraction area to the north and large scale peat extraction purported to be directly contiguous to the application site. I would agree with the applicant (in response of 18/10/13) that the An Taisce in the letter received 28/08/13 does not relate to the Twomileditch Quarry. I could not locate Moylough Precast quarry in the vicinity and there are no large scale peat extraction operations adjacent the site.
- 5.9 The DAU did not raise any particular concerns with the rNIS and did not detail any concerns that the subject development has had, is having or will have significant adverse effects on any Natura 2000 site. I am satisfied, based on the information on file, that the subject development as carried out, has not, is not and will have significant adverse effects on any European site.
- 6.0 **Conclusion:**
- 6.1 The rEIS submitted by the applicant does not adequately describe important aspects of the existing environment within the substitute consent area, and does not described or address through proposed remedial measures, a number of potentially significant adverse impacts on the environment. This arises in respect of the following environmental factors: human beings, ecology, water and material assets. Further information is therefore required as set out in the recommendation set out below.

### **Recommendation:**

**On the basis of the information submitted with the application for substitute consent and within the remedial Environmental Impact Statement, it is not possible to determine the full extent of potential impacts on the environment, or their significance, or the residual impacts. I therefore recommend that, prior to the Board making a final decision on this application, the applicants be requested to submit further information, as detailed below.**

1. The applicant is requested to submit revised details, drawings and documentation as necessary to address the deficiencies in the remedial environmental impact statement submitted with the application:

(i) Human Beings – the applicant is requested to address significant effects comprising:

a. On-going risk to human safety due to high vertical cliff-faces within a site that does not appear to be secured from access by unauthorised persons,

and

b. The permanent risk to human safety, on closure of the pit, from high vertical cliff-faces surrounding the potentially water-filled pit, which will be almost entirely without safety benches or ledges or slopes necessary to facilitate exit from the water,

c. Provide full details of remedial measures addressing the significant effects under a. and b. and the time period within which the measures will be carried out.

Note - It is not considered feasible to permanently mitigate the potential long term significant effects through boundary fencing and signage, but rather remedial measures to mitigate the risk to human safety through a practical restoration plan, including a realistic costing of implementation of same may be appropriate.

(ii) Ecology – the applicant is requested to provide:

a. A detailed survey, within the optimum survey period for habitats, to determine the extent and nature of natural and semi-natural habitat remaining within the site, with particular regard to limestone pavement (priority habitat under Annex I Habitat Directive) and scrubland areas situated within the southwest, south and southeast of the site.

b. An assessment of cumulative impacts on limestone pavement habitat within the wider local area and within the wider region, including



cumulative impacts through fragmentation of such habitats. In this regard *'The Status of EU Protected Habitats & Species in Ireland'*, NPWS (2013) identifies quarrying as one of the principle pressures on and threats to limestone pavement, in addition to agriculture.

- c. A fully detailed site restoration plan for the entire substitute consent site, including timeframe for commencement and completion of implementation and taking account of the likely maximum water level within the pit on cessation of dewatering of the pit.

(iii) Surface & groundwater – the applicant is requested to submit:

- a. A detailed assessment by a qualified hydrologist / hydrogeologist to determine whether or not the extraction pit is likely to flood on cessation of dewatering of the pit and the likely water level to result.
- b. An assessment of the risks associated with the flooding of the pit, including risk of hazard to human beings and risks of pollution from illegal dumping or fly-tipping and remedial measures to mitigate the potential significant adverse impacts arising.

(iv) Material assets – the applicant is requested to submit

- a. An assessment of the impact of the development on the road network, in terms of wear and tear, in view of the scale of the development and associated traffic that has occurred since 1 February 1990.
- b. Proposals for any appropriate remedial measures undertaken or proposed to be undertaken to remedy any significant adverse effects on the road network as a material asset.

---

John Desmond  
Planning Inspector  
26/03/14