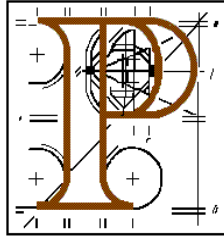


# An Bord Pleanála



## Inspector's Report

**Planning Authority:**

South Dublin County Council

**Applicant:**

L. Behan & Sons

**Application Type:**

Application for Substitute Consent

**Date of Site Inspection:**

11<sup>th</sup> May, 2015

**Inspector:**

Kevin Moore

## **1.0 INTRODUCTION**

- 1.1 This application is for substitute consent for a quarry at Windmill Hill, Rathcoole, County Dublin.
- 1.2 A notice was issued under the provisions of Section 261A, following a review by An Bord Pleanála, 31<sup>st</sup> May, 2013 instructing the owner/operator of the quarry at Windmill Hill, Rathcoole to apply for substitute consent (SC) for the works undertaken on the site and that the application for substitute consent be accompanied by a remedial Environmental Impact Statement (EIS). An application for substitute consent accompanied with the above documents was lodged by the applicant with An Bord Pleanála on the 24<sup>th</sup> October, 2013. Further details were received by the Board on 18<sup>th</sup> November, 2013.

## **2.0 SITE LOCATION AND DESCRIPTION OF OPERATION**

- 2.1 The existing quarry is a rock quarry on lands totaling 40.875 hectares at Windmill Hill, Rathcoole, County Dublin. It is located off the N7 Dublin-Limerick Road approximately 2km south-west of Rathcoole village. It provides crushed stone aggregate for fill and road surfacing.
- 2.2 The site is made up of quarrying and grassland used for sheep grazing. The topography of the general area could be termed a rolling landscape. Surrounding lands are primarily in agricultural use. The nearest dwelling to the site is located ca. 250 metres to the south in the ownership of the Behan family.
- 2.3 Embankments / berms have been constructed along the northern and western boundaries of the site to screen the development. The embankments have been stabilized through tree planting.

- 2.4 The existing gated site entrance is onto the N7 National Primary Road. The entrance roadway has an asphalt surface. A haulage road from the site entrance to the yard area has a tarmac finish.
- 2.5 Ancillary facilities on site include aggregate processing plant, screening units, an asphalt manufacturing plant, and ancillary infrastructure inclusive of offices, storage/maintenance sheds, weighbridges, a wheel wash and car parking. A washer is located to the north-west of the yard area to provide for washed stone when required. There is also a recycling facility, with a permitted capacity of 10,000 tonnes per annum of inert material.
- 2.6 Drinking water is supplied from a well. Sewage treatment is by an on-site septic tank. Storm water runoff from the roadway is directed to a silt trap and oil interceptor. Wheelwash water is provided by the storage lagoons.
- 2.7 The rEIS states that the quarry activities are undertaken during normal daylight hours between 5.00 am and 21.00 pm Monday to Friday and between 5.00 am and 14.00 pm Saturday, and that the quarry is normally closed on Sundays and Bank Holidays. 10-12 persons are stated to be employed full-time at the quarry.
- 2.8 The rEIS submits that it is intended the quarry is worked to an elevation of approximately 120m OD, 24m approximately below the level of the N7 that runs along the northern perimeter of the site. The rehabilitation would provide for the removal of all structures associated with the quarry activities, the entire quarry floor being covered with soil and reseeded, and the lands restored to agricultural use.

### **3.0 PLANNING HISTORY**

Relevant planning history for the site includes the following:

- 3.1 **An Bord Pleanála Ref. QV06S.QV0090 (P.A. Ref. SDQU05A/4)** – A review of the decision by South Dublin County Council under the section 261A process was sought by the applicant. The Board decided to confirm the determinations under section 261A(2)(a)(i) and section 261A(3)(a), culminating in the application for substitute consent now before the Board.

- 3.2 **An Bord Pleanála Ref. PL 06S.241259 (P.A. Ref. SD12A/0059)**

Permission was granted by the Board for a development consisting of a dedicated area within the quarry in which no more than 10,000 tonnes per year of imported inert materials generated by off-site construction activities shall be segregated, processed, recycled and reused as raw materials for the existing on-site asphalt manufacturing plant.

- 3.3 **An Bord Pleanála Ref. PL 06S.PA0006**

Permission was refused by the Board for a resource recovery project for the thermal treatment of non-hazardous residual municipal and residual construction and demolition waste and the net generation of 28MW of electricity.

- 3.4 **P.A. Ref. SDQU05A/4**

The quarry was registered subject to 36 conditions.

- 3.5 **P.A. Ref. A14**

Permission was granted in 1968 for the development of a quarry.

#### **4.0 APPLICANT'S REMEDIAL ENVIRONMENTAL IMPACT STATEMENT (rEIS)**

The findings of the rEIS are noted and considerations are as follows:

#### 4.1 Human Beings

Please refer to Assessment below.

#### 4.2 Cultural and Archaeological Heritage

Please refer to Assessment below.

#### 4.3 Flora and Fauna

It is submitted that there has been no significant change to the boundaries of the quarry since 1990; excavation has proceeded vertical rather than horizontal which has lessened the impact on flora and fauna. It was further submitted that quarrying on the site has not removed any high value boundaries.

#### 4.4 Air and Climate Change

The assessment of impacts concluded that any effects as a result of construction were of relatively short-term and that previous potential impact of processing operations on ambient air quality was managed and controlled by the appropriate implementation of appropriate environmental management practices for all aspects of the operation. Mitigation measures stated to be employed at the site to control and minimize potential impacts were set out. It was concluded that the site does not require any remedial measures to be implemented to mitigate adverse residual air quality or climate impacts.

#### 4.5 Noise & Vibration

Routine noise surveys between 2007 and 2013 were used for the purposes of noise impact assessment. Noise survey results for one noise monitoring location for one identified month for each of these years were presented. The applicant concludes that this has demonstrated that site activities did not elevate ambient noise levels unacceptably and did not cause an unacceptable noise nuisance or disturbance at local residential receptors.

In relation to vibration, it is submitted that blast monitoring was conducted in accordance with the requirements of the registration process and that the results of the surveys were below the specified limits of 112 mm/sec and 125dB(L)max peak air overpressure.

It is concluded that the site does not require any remedial measures to be implemented to mitigate adverse residual noise or vibrational impacts.

#### 4.6 Soil & Geology

It is stated that the soil cover removed at the quarry has been reworked in the construction of landscaping berms along the perimeter of the site. In relation to quarrying, it is stated that activities were carried out in phases through the working of benches, with the production rate varying over the quarry's lifetime and dependent on the economic climate.

#### 4.7 Water & Hydrogeology

The results of chemical analysis of surface water in nearby water bodies for one monitoring point in June 2006, one in February 2008 and one in September 2013 were provided. The results were stated to be generally within the standard for good status waters.

In relation to groundwater, it is stated that a water level survey of groundwater wells was carried out in 2007 and 2008 as part of previous site investigations. It is further stated that groundwater was encountered in all of the boreholes within the bedrock and that it is expected that groundwater within the bedrock has limited connectivity. It was submitted that groundwater appears to be moving in a northerly direction beneath the site.

It is stated that there are a number of wells located along the county road to the south of the site.

The general assessment of impacts states that there has been no significant impact on the water environment from operations on the site, there was no groundwater dewatering / pumping, groundwater was used on site to meet water requirements, there was minimal impact on surrounding wells in the area, and groundwater and surface water monitoring within the area has shown good water quality.

It is submitted that historic workings did not have significant impacts on groundwaters and surface waters.

#### 4.8 Traffic

It is stated that during 2004 to 2008 the quarry produced up to 8,000 tonnes per day resulting in 400 truck movements per day. It is stated that this had no adverse effect on the N7 even prior to its upgrading in 2006.

#### 4.9 Landscape and Visual

It is stated that the natural topography, along with the indigenous and introduced vegetation, have limited the exposure of the site to the

surrounding landscape and it is only a few areas of the quarry that are visible from any residential properties or roads.

#### 4.10 Material Assets

It is stated that, in relation to the major utilities in the area, the location as well as the activities to date of the quarry have never had any impacts on the water supply and/or power supply in the area. Furthermore, it is submitted that to date the operation of the quarry in terms of aggregate processing, rock blasting, road soiling or associated HGV movements has had no impact on the N7.

#### 4.11 Interactions

It is stated that it has been determined through historical information available and the results of recent surveys and sampling that there have been minor impacts on the receiving environment, and where necessary, mitigation measures have been previously implemented to minimize the impact of the subject quarry on the receiving environment.

### 5.0 **REPORT FROM THE PLANNING AUTHORITY**

5.1 In accordance with the provisions of section 177I(1) of the Planning and Development (Amendment) Act 2010 the planning authority submitted a response to a request from the Board. The report may be synthesised as follows:

#### 5.2 Overview

- The quarry authorised in 1968 comprised of approximately 5.95 hectares. Subsequent aerial photography flown at intervals since 1971

illustrates the progressive extension of the quarry excavation which now comprises 19.12 hectares. No approval was given for the quarry in excess of the permitted area. The quarry was extended by c. 3.36 hectares since 2000, equating to c. 22% of the quarry excavation at that time. The post 1<sup>st</sup> May 1999 quarry extension would constitute development which would have required screening for EIA.

### 5.3 General Observations

- The application for substitute consent is deficient regarding the scale, details and phasing of the proposal. The lack of clarity and precision in the proposal limits the scope of the planning authority to give a clear indication as to whether or not substitute consent should be granted.
- A schedule of recommended conditions is set out. These are based on a review of the conditions imposed in 2007 as part of the quarry registration process.
- The extent of lands anticipated to be included in the substitute consent application is significantly smaller in extent compared with that applied for. The proposal includes quarrying already authorised and substantial additional future quarrying. This is not the purpose for which the substitute consent procedure was devised.
- There is a significant lack of detail in the description of the development.
- The application form and site notice are both deficient in relation to the failure to make appropriate reference to the presence of a protected structure (windmill) within the application lands and the applicant has failed to assess the full impact of the development on this structure.
- Clarification is required regarding the proposed rehabilitation of the western portion of the quarry. Such future rehabilitation should be determined by a planning application and not by substitute consent.

- It is not appropriate to combine future waste management and quarrying in this substitute consent application process.
- Significant visual impact issues have not been adequately addressed.
- The noise monitoring results relate to the most recent period when the quarry was relatively dormant.
- The inadequacy of the flora and fauna survey is noted.
- Inconsistency of the extent of water pooling on the site is noted.

#### 5.4 Development Contributions

- Development contributions should apply to existing unauthorised and future development contained in the application.

#### 5.5 The Extent of Lands in the Application

- The portion of the quarry excavation area considered to be relevant for the purposes of Section 261A was determined by the Board to be the quarry extension carried out after 1<sup>st</sup> February 1990. An illustration showing the post-1990 area anticipated to be included in the application and the land not anticipated to be included is attached.
- Clarification is required as to the precise extent of the application lands that is appropriate to be included within the scope of the substitute consent application.
- The quarry owner/operator was advised that any unauthorised quarry excavations carried out prior to the commencement of the requirement for EIA would require to be authorised by way of a retention planning permission and that any further quarrying in such areas would require to be subjected to EIA prior to consent being given.

## 5.6 Status of Conditions Imposed under Section 261

- The planning authority presumes that the section 261A process supersedes the earlier section 261 process.

## 5.7 Review of Sections of rEIS

- Reviews of sections of the rEIS were made in relation to archaeology/cultural heritage, flora and fauna, air quality, noise and vibration, water and hydrology, traffic, landscape and visual, and waste management.

## 6.0 APPLICANT'S RESPONSE TO THE PLANNING AUTHORITY SUBMISSION

6.1 The applicant's response to the planning authority's submission may be synthesised as follows:

- \* The area of the development is clearly indicated and phasing is also indicated. Time periods cannot be accurately estimated.
- \* The applicant has endeavored to comply fully with conditions set out under section 261.
- \* The drawings submitted are identical to that submitted to the Council in 2005. This substitute consent application is in respect of the same area of lands.
- \* There are no plans to extend the quarry further to the south and encroach on the field containing the windmill site.
- \* 180 truck movements per day are sufficient to cater for 4,000 tons per week and the importation of suitable inert material for rehabilitation purposes. An amended chapter on 'Traffic' is attached.

- \* Responses as to how the development has complied with a range of conditions under the quarry registration process are provided.
- \* Revised proposals are submitted in relation to negating visual impacts.
- \* As the quarry was originally granted permission in 1968, there was no requirement to conduct baseline noise levels at that stage so baseline noise levels are not available. The noise surveys conducted between 2007 and 2008 were representative of the preceding years of the “celtic tiger” and are representative of the worst case noise impact scenario.
- \* An assessment of the biodiversity resource was undertaken in 2010 and is attached.
- \* The water level within the quarry floor historically fluctuates throughout the year.
- \* Regarding development contributions, the workable area is identical to that granted planning permission under section 261(6). There is no unauthorised development and no additional areas are to be worked. The application is not for the imposition of additional development levies.

## **7.0 PLANNING AUTHORITY'S RESPONSE TO APPLICANT'S SUBMISSION**

7.1 The response may be synthesised as follows:

- It remains the planning authority's opinion that the application is deficient regarding the scale, details and phasing and some reasons are reiterated.

- It is not clear how any conditions imposed under the substitute consent process would relate to the conditions previously imposed under section 261(6) and the remaining obligations of the planning authority to monitor or enforce these conditions.
- There is a significant dearth of detail in the description of the development.
- The comments on the protected structure still stand.
- The rehabilitation comments still stand.
- The comments on access and traffic are reiterated.
- The comments on waste management still stand.
- The response to landscape and visual impact lacks sufficient information.
- The comments on the inadequacies in relation to flora and fauna are reiterated.
- The comments on development contributions remain.

## **8.0 PRESCRIBED BODIES SUBMISSIONS**

### **8.1 Department of Defence**

The Air Corps, in the context of proximity to Baldonnel Aerodrome, submitted it had no observations to make on the application.

### **8.2 National Roads Authority (NRA)**

The NRA's submission may be summarised as follows:

The nature, context and strategic importance of the N7 national primary road are acknowledged.

Any consent granted should not result in any intensification of use of the existing direct access to the N7 above permitted levels of use.

### 8.3 **Geological Survey of Ireland**

The GSI stated it had no comment to make in relation to the remedial EIS.

### 8.4 **An Taisce**

The submission of An Taisce may be summarised as follows:

- The detailing of alternatives and rehabilitation of the site is wholly insufficient.
- Reference is made to the extent of residential development at this location. The rEIS has underestimated the impact on residential amenity.
- The rEIS has underestimated the impact on the windmill at this location, a protected structure.
- The vulnerability of the Liffey Arterial Aqueduct and the need for further details on it are alluded to.
- There are deficiencies on habitats and species in the submitted documentation and the Council failed to assess surface water drainage proposals.
- Reference is made to non-compliance with conditions imposed by previous planning consents. The Board is asked to assure itself on the abilities of compliance by the applicant and on enforcement by the planning authority.
- It is requested that consideration be given for EIA being required in respect of development unauthorised by the 1968 planning permission and which is captured by the introduction of the EIA Directive in 1990

and that EIA and AA are required in respect of the post 2008 development.

## **8.5 Kildare County Council**

The Council, noting that the quarry is within 300m of the county border, considered that impacts on the amenity of residents in County Kildare and potential for surface water and groundwater pollutants need to be taken into account.

## **9.0 PUBLIC SUBMISSIONS**

### **9.1 Submission from Rathcoole Community Council**

The submission may be synthesised as follows:

- Reservations are raised about the quality of the assessment undertaken and the deficiencies in information, including population considerations, flooding, and biodiversity and climate change.
- Reference is made to non-compliance with conditions attached to Planning Permission SDQU05A/4 and the need for compliance before a new application can be considered.
- No information has been submitted on visual and environmental impacts and it is requested that the information be supplied/augmented before any decision.
- The NRA previously recommended refusal at the site and the Board is asked to review the NRA's considerations in determining the application.

- No consideration has been given to the watermain running parallel to the N7 on this site. It is requested that conditions be made that would safeguard the watermain and the water in it.
- The applicant may not have the financial resources to rehabilitate the site on cessation of works. The applicant has not lodged a security in the form of a bond. A request is made that a bond be paid and, in the event of non-payment, the Board, through condition, should ensure that recourse be made to ensure compliance.
- As no information has been provided regarding surface water drainage or the waste water system, we consider that the application does not adequately safeguard the receiving watercourse, with particular reference to the salmonid waters of the Griffeen River. The application should be conditioned to safeguard these watercourses.
- Concerns are raised about the impacts from waste materials from other approved development on the site.

## **10.0 PLANNING POLICY CONTEXT REVIEW**

- 10.1 I refer the Board to Section 177 (k) of the Planning and Development Act 2000-2010 as amended. Subsection 2 sets out the matters to be considered when making a decision in relation to an application for substitute consent.
- 10.2 The South Dublin County Development Plan 2010-2016 is the relevant plan relating to the existing quarry. Relevant policies applicable to the extractive industry set out in section 3.2.21 of the Plan include the following:

### **Policy EE36: Operation of Extractive Industries**

It is the policy of the Council to facilitate the operation of the extractive industry in suitable locations subject to the protection of amenity and maintenance of environmental quality.

### **Policy EE37: Proposals for New Extractive Industries**

It is the policy of the Council that in the assessment of applications for new development, intensification of use or diversification of activity, the Council will have regard to the nature of the proposal, the scale of activity proposed, the impact on the adjoining road network and its effect on the environment.

### **Policy EE38: EIA and Landscape Plan Requirements for Extractive Industries**

It is the policy of the Council that it is a requirement that applications for development within this category will be accompanied by an Environmental Impact Statement, as appropriate and a detailed landscaping plan. The plan should indicate proposed screening for the operational life of the site and set out a programme for the reinstatement of the landscape. The predominant use of native plant species in landscaping plans is encouraged. The Council will have regard to the Quarries and Ancillary Activities Guidelines for Planning Authorities (2004) or as may be amended from time to time

## **11.0 ASSESSMENT**

### **11.1 The remedial Environmental Impact Statement**

11.1.1 An Bord Pleanála issued a notice under the provisions of Section 261A following its review on 31<sup>st</sup> May, 2013. This expressly instructed the owner/operator of the quarry to apply for substitute consent (SC) for the works undertaken on the site and that the application for substitute consent be accompanied by a remedial Environmental Impact Statement. It is evident from the application submitted to the Board in response to this notice that the applicant did not comply with this requirement. What has been submitted does not constitute a remedial Environmental Impact Statement. In recognizing this, it is, therefore, apparent that an Environmental Impact Assessment cannot be undertaken in this instance.

11.1.2 In making this observation I submit the following in support:

The difficulties emanating from this application stem clearly from the applicant appearing not to know what he is applying to the Board for. This is expressly proven in the applicant's response to the planning authority's report to the Board. Therein it was stated by the applicant:

"The drawings submitted to An Bord Pleanála showing the quarry area outlined in red and the Behan land holding outlined in blue are identical to that submitted to South Dublin County Council on 25<sup>th</sup> April 2005 and on the 10<sup>th</sup> October 2005 which had the workable quarry lands outlined in blue and the extraction area outlined in Green and total land holding outlined in red. This substitute consent application is in respect of the same area of lands."

11.1.3 I put it to the Board that the applicant does not know what the application process is about and that the exercise, based on the applicant's understanding and the details that have been submitted in support of the applicant's understanding of what this application is about, represents

completely inadequate and irrelevant application content. Thus, it is entirely misplaced to conclude that an Environmental Impact Assessment can be undertaken in this instance.

11.1.4 The applicant proceeded to submit a report on the workings of the site that could not in any way be interpreted as an Environmental Impact Statement due to the failure of the document to address relevant environmental impacts. This deficiency was further compounded by the same report failing to address the application at hand, namely the development the subject of the review so determined previously by the Board. The Board will note that I have previously informed them of this position.

11.1.5 To reinforce the applicant's outright failure to deal with what is relevant, I turn to the submitted report, purporting to be a remedial Environmental Impact Statement, and consider the lack of relevant content therein.

#### *Description of the Proposed Development*

11.1.6 There is no description of the proposed development the subject of this application. One does not know about the characteristics of the past quarrying activity required to be the subject of this application. There is no detail on the relevant layout, size or scale of the proposed development. There is no understanding of the extraction history and methodology applicable to the relevant development. There are no details on exploration drilling, trenching, etc. leading to the encroachment into the relevant land area the subject of this application. No information is provided on the land use requirements, phasing, the nature and quantity of materials extracted, a timeframe over which such extraction occurred, and applicable monitoring. There is no focused consideration of the processes and activities aligned with the development the subject of this application, the specific natural resources, effects, residues and emissions associated with the relevant development. There are significant inadequacies in

relation to the decommissioning of the relevant development and orderly rehabilitation, with a serious lack of information on quarry face stability, security, long-term water pollution control, a comprehensive strategy for site rehabilitation, monitoring provisions and bonding to ensure closure is permissible.

### *Description of the Existing Environment*

11.1.7 After adequately describing a proposed development, an applicant is required to describe the existing environment, in this case relating to the existing environment prior to the quarrying extraction that has taken place and that is the subject of this substitute consent application. This is a second fundamental component of factual information to be provided upon which Environmental Impact Assessment can then be undertaken. There is no adequate description of the relevant aspects of the existing environment that prevailed prior to the excavation the subject of this application. If one does not have this accurate and adequate information on the existing environment one has no baseline against which environmental impact can be assessed nor does one have the basic references against which monitoring over time of the impacts of the relevant development can be made. An accurate and adequate description of the existing environment is essential to allow the assessor to evaluate the likely significant effects of the proposed development on the relevant facets of the environment so required, i.e. humans, flora, fauna, etc. One has no understanding of the context, character and sensitivity of the environment prior to the quarry extraction the subject of this application. This rings true for each of the aspects of the environment that were likely, or were potentially, affected by the development the subject of this application as set out in the submitted 'remedial EIS'.

### *Description of Likely Significant Impacts*

11.1.8 The aspects of the environment likely to be significantly affected by the proposed development are required to be considered in any rEIS. My considerations on the applicant's submission are as follows:

#### 11.1.9 Human Beings

One would anticipate that the rEIS would have provided comprehensive details on the environment before extraction the subject of this application took place. From the document produced it is evident that there is no understanding of who or what the sensitive receptors were and where there were located. There was no information provided on impacts arising for residential amenity, population, settlement patterns and economic activity, land use, local and community amenities, and health and safety. The references in the submitted report under this heading relating to noise, traffic, etc. were applicable to on-site activities and processes and to ongoing and future activities. They did not, and do not, address the subject of the substitute consent application, i.e. previous quarrying activity the subject of the Board's determination in the review under Ref. 06S.QV.0090. There is not the ability to assess environmental impact on human beings.

#### 11.1.10 Cultural and Archaeological Heritage

This aspect of the environment set out in the applicant's report focuses on pre-construction and construction phases of future development and does not consider the matter in hand, namely previous quarrying activity the subject of the Board's determination in the review under Ref. 06S.QV.0090. This section is entirely devoid of information that is essential to undertake EIA.

#### 11.1.11 Flora and Fauna

The document focused on the existing habitats and flora and fauna present on the site. There was a generalised consideration of likely effects from the overall quarry. It was not targeted at previous quarrying activity the subject of the Board's determination in the review under Ref. 06S.QV.0090. Without baseline information no EIA can be undertaken. As a result, there was no understanding of the loss of habitats, species, disturbance, displacement, changes in the water environment, and effects of activities on adjoining lands from the relevant development. This section could not be construed as a consideration of environmental impacts on flora and fauna arising from the relevant previous quarrying activity.

#### 11.1.12 Air and Climate Change

In this section of the submitted report the applicant clearly appears to understand that the substitute consent application is for the regularisation of all quarry activities at the site. The development was understood by the applicant to include a rock quarry, aggregate processing plant comprising of a primary crusher, secondary and tertiary crushing units, washing plant, an asphalt manufacturing plant, a recycling area, car parking, offices/canteen/toilets, storage maintenance sheds, a weighbridge, wheel wash, and access roads. It is evident from this that this section of the rEIS was misdirected in what was required to be considered, namely previous quarrying activity the subject of the Board's determination in the review under Ref. 06S.QV.0090. There was no attempt to present information specifically relevant to the matter required to be assessed. Most importantly, the application was devoid of necessary baseline information against which environmental impacts could be assessed.

The annual range of dust deposition monitoring results between 2007 and 2013 were presented in a generalised table and which purported to show that the range of measured dust deposition values from on-site and off-site sources were routinely lower than the 350 mg/m<sup>2</sup>-day limit value specified by the EPA and DoEHLG. There was no information relating to quarrying activity between 1990 and 2006. Without any factual supporting data, one cannot conclude that the quarrying activity the subject of this substitute consent application did or did not have an unacceptable or adverse impact on local air quality.

#### 11.1.13 Noise & Vibration

Once again the deficiencies in baseline information are apparent by the detail presented in this section of the report. Routine noise surveys between 2007 and 2013 were used for the purposes of noise impact assessment. Noise survey results for one noise monitoring location for one identified month for each of these years were presented. The applicant concludes that this has demonstrated that site activities did not elevate ambient noise levels unacceptably and did not cause an unacceptable noise nuisance or disturbance at local residential receptors. There was no information relating to quarrying activity between 1990 and 2006. Without any factual supporting data, one cannot conclude that the quarrying activity the subject of this substitute consent application did or did not have an unacceptable or adverse impact on the local noise environment. How can one conclude, for an operation that functioned between 5.00 am and 21.00 pm Monday to Friday and between 5.00 am and 14.00 pm Saturday, that these referenced results are in any way representative of what has occurred since 1990?

In relation to vibration, it is submitted that blast monitoring was conducted in accordance with the requirements of the registration process and that

the results of the surveys were below the specified limits of 112 mm/sec and 125dB(L)max peak air overpressure. However, no details were provided on any surveys or the results arising for any time period since 1990 to support this conclusion provided in the document.

The Board is in no position to undertake EIA in this instance.

#### 11.1.14 Soils & Geology

This section is again devoid of basic information to aid the assessment process, with a complete lack of information on deposits, soil chemistry, etc. All that is known about soils and geology from the applicant's document is that the removed soil was reworked in the construction of landscaping berms along the perimeter of the site. There is no information about volumes of rock removed from this quarry and therefore the scale of impact on soils and geology for this application cannot be assessed.

#### 11.1.15 Water & Hydrogeology

This section of the document is stated in the submitted report to detail the existing environment, the activities on the site, determines potential impacts on the existing hydrological and hydrogeological environment and proposes mitigation measures. This again demonstrates the misdirected approach pursued by this application.

The lack of baseline information on groundwater is stark. To suggest this is a comprehensive analysis of historic effects on groundwater on this site and its effects on neighbouring groundwater wells is nonsensical. No detailed assessment of on-site testing has been provided and no details of groundwater connectivity and direction of flow are provided. There is no indication of where neighbouring wells are or previous impacts thereon.

The minimal results of chemical analysis of surface water could not be viewed as being representative either for the area the subject of this application or for the time period applying. The applicant's statements in the assessment of impacts cannot be relied upon based on such scant basic information to back up the claims being made.

#### 11.1.16 Traffic

This section of the document focused on the future development of the quarry. All that was stated in relation to the overall quarry in times past was that during 2004 to 2008 the quarry produced up to 8,000 tonnes per day resulting in 400 truck movements per day and that this had no adverse effect on the N7 even prior to its upgrading in 2006. The lack of any factual data and any analysis of impact of past activities the subject of this application is unacceptable. One is not in any position to assess the carrying capacity of the relevant road network, peak hour impacts, junction capacity, etc. This section reinforces yet again that the applicant does not know what this application is about.

#### 11.1.17 Landscape and Visual

The focus in the document is on how the quarry is or is not visible currently, the existing condition of the quarry site, mitigation that is required and future rehabilitation. None of this relates to the development the subject of this substitute consent application, the visibility of surface workings for the relevant period and the consequent effects on the landscape. One, therefore, has no understanding of the landscape and visual impacts of the development the subject of this application.

#### 11.1.18 Material Assets

There was no consideration of the impact of the quarrying activity the subject of this application on material assets. The document produced a generalized statement implying the quarry operation had no impacts on an aqueduct, an electricity pylon and on the adjoining main road. No baseline information was provided on the resources of economic value such as agriculture, access, and public utilities and the impacts the relevant development had on these since 1990. As a result, no EIA can be undertaken of the impact of the development on the material assets relevant to this quarry where the lack of information is so extensive.

#### 11.1.19 Interactions

The applicant's report states that it has been determined through historical information available and the results of recent surveys and sampling that there have been minor impacts on the receiving environment, and where necessary, mitigation measures have been previously implemented to minimize the impact of the subject quarry on the receiving environment. In light of there being such a deficiency of relevant historical information, surveys and sampling, this is an extraordinary conclusion to make. There is no way one could possibly draw any such conclusion or complete an assessment of the relevant environmental impacts based on a document so devoid of factual material to allow such an assessment to be made.

#### *Insufficiency of Data*

11.1.20 The considerations above can only lead to a conclusion that there is a serious insufficiency of data necessary to undertake EIA. From the information provided, one cannot be in a position to identify the main effects that resulted and to be clear on what was a likely effect and what

was a significant effect. Based on what has been provided, one cannot predict the environmental impacts that occurred, either directly or indirectly, in terms of their character, magnitude, duration and consequences. If one cannot be assured of the adequacy and quality of the data provided then one, firstly, cannot undertake EIA and, secondly, one most certainly cannot reasonably make a decision on whether to permit the development or not.

11.1.21 In conclusion, to suggest that one is in a position to undertake an environmental impact assessment of the quarrying activity the subject of this substitute consent application using the information provided in the submitted documentation is at best misplaced. The document could not reasonably be viewed as purporting to be a remedial Environmental Impact Statement, with conclusions drawn that do not result from sound baseline information and survey findings. The purpose of the substitute consent process is to allow the unauthorised quarrying activity that should have been subject to EIA to now be subject to EIA. In this instance it is not possible to do this due to the inadequacies of the application documentation.

Note 1: It would be a futile exercise to seek to address the deficiencies in this application by way of a request for further information as the document throughout fails to provide the minimum information to be contained in an EIS as required in accordance with Schedule 6 of the Planning and Development Regulations 2001, as amended.

Note 2: I note the Board sought further information on 4th November, 2011 which acknowledged that submitted drawings included a number of buildings on the site and asked if the applicant

wished these buildings to be included as part of the application for substitute consent and, if so, that appropriate fees were to be submitted. The applicant responded on 18<sup>th</sup> November, 2013, attaching a schedule of floor areas for existing buildings and enclosing an additional fee. These buildings have not, never were, and cannot be part of the application for substitute consent. They do not form part of the quarrying activities the subject of this application and they are not of a category of development for which EIA applies. If such structures are unauthorised development the applicant is required to make such applications to the planning authority in accordance with section 32 of the Planning and Development Act. The application for substitute consent is very specific and applies to the land area determined under the quarry review process only. The applicant cannot seek to get a planning permission for the full range of quarrying activities and structures on this site under this substitute consent application. Such fees should be returned.

## **12.0 RECOMMENDATION**

It is recommended that permission is refused in accordance with the following:

### **Reasons and Considerations**

The remedial Environmental Impact Statement accompanying the application, which was lodged with An Bord Pleanála on 24<sup>th</sup> October, 2013, does not comply with the requirements of article 94 and Schedule 6 of the Planning and Development Regulations, 2001, as amended, due to:

- (a) The failure to adequately describe the proposed development relating to the application for substitute consent, inclusive of the physical characteristics of the proposal, the relevant extraction processes, the nature and quantity of extracted materials, the land-use requirements during the construction and operational phases, phasing and methodology of previous extraction, residues and emissions from the relevant development, monitoring, decommissioning and rehabilitation;
- (b) The failure to describe the existing environment prior to the quarry extraction the subject of the application, culminating in the lack of any understanding of the context, character and sensitivity of that environment or any baseline against which environmental impact can be assessed;
- (c) The inadequacy of data required to identify and assess the main effects which the proposed development would likely have had on the environment, either directly or indirectly, in terms of their character, magnitude, duration and consequences;
- (d) The lack of details of material significance and substance in regard to considerations on the overall development relating to the application with regard to impacts on human beings, flora, fauna, soil, water, air, the landscape, material assets, cultural heritage and the inter-relationship between these factors, with particular regard to:

*(i) Humans*

The lack of information on impacts arising for residential amenity, population, settlement patterns and economic activity, land use, local and community amenities, health and safety, and with regard to traffic, the lack of any factual data and any analysis of impact of past activities the subject of this application;

*(ii) Flora & Fauna*

The lack of baseline information and failure to provide any understanding of the loss of habitats, species, disturbance, displacement, changes in the water environment, and effects of activities on adjoining lands from the relevant development;

*(iii) Soils & Geology*

The failure to provide information on deposits, soil chemistry, volumes of rock removed and the scale of impact on soils and geology;

*(iv) Water*

The deficiencies in information on groundwater, lack of detailed assessment of on-site testing, failure to provide details of groundwater connectivity and direction of flow, and the effects on neighbouring wells, and inadequacy of chemical analysis of surface waters.

*(v) Air & Climatic Factors*

With regard to dust, the lack of information specifically relevant to the matter required to be assessed and the omission of factual supporting data and, in relation to noise and vibration, serious deficiencies in baseline information, and inadequate and unrepresentative survey and monitoring information;

*(vi) The Landscape*

The failure to provide information that relates to the development the subject of this substitute consent application, particularly with regard to the visibility of surface workings for the relevant period and the consequent effects on the landscape;

*(vii) Material Assets*

The failure to provide adequate information on the resources of economic value such as agriculture, access, and public utilities and the impacts the relevant development had on these since 1990;

*(viii) Cultural Heritage*

The lack of any information on the relevant application; and

*(ix) Inter-relationship between these factors*

Arising from the above, a complete deficiency of relevant historical information, surveys and sampling.

The Board is, therefore, precluded from considering a grant of substitute consent in this case.

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Kevin Moore

Senior Planning Inspector

May, 2015