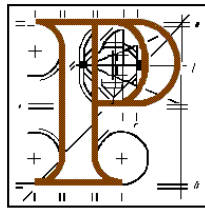


An Bord Pleanála



Inspector's Report

Reference: SU23.SU0071

Title: Quarry at Cappaghwhite, Co. Tipperary

Location: Tinnahinchy, Cappaghwhite, Co. Tipperary

Applicant: Joseph Tobin.

Local Authority: South Tipperary County Council

Date of Site Visit: 21st February 2014

Inspector: Philip Davis

1. Introduction

This is an application under section 177E of the Planning and Development Acts, 2000-2011 for substitute consent for a quarry in south County Tipperary. The application is accompanied by a remedial Environmental Impact Statement (rEIS) and remedial Natura Impact Statement (rNIS). The rEIS and rNIS are required on foot of a direction under s.261A2(a) by the Board that the quarry would have required an EIS and NIS, due to the size and scale of the operation and the potential impact on an adjoining SAC – a tributary of the Suir River.

2. Site Description

Photographs of the site and environs are attached in the appendix to this report.

Tinnahinchy

Tinnahinchy townland is located in central Tipperary, approximately 20 km west of Cashel and about 4 km north-west of the village of Dundrum and 2 km east of Cappaghwhite. The townland occupies a distinct low hill with a highpoint of 165 metres AOD, on the western side of the valley of the south-flowing Multeen River, a tributary of the River Suir. The hill is mainly low grade grassland and scrub, with better quality grazing land further east down the base of the valley to the river. The R497 regional road runs along the western side of the valley floor connecting Nenagh to Tipperary Town. A sand and gravel quarry with a working area of about 5 hectares in extent occupies the eastern side of the townland, where the hill runs down to the regional road. There is another quarry on the opposite (western) side of the hill. The area is very sparsely populated with just a scattering of farmsteads and occasional dwellings along the road network.

Quarry at Tinnahinchy, Tipperary

The SC site is a sand and gravel quarry which cuts into the eastern side of the hill at Tinnahinchy – it extends from the roadside of the R497 for about 200 metres to the working face. The site area is given as 9.5 hectares – this includes a large excavation area of approximately 5 hectares with a long spur which is a former excavation area, now largely infilled. The overall landholding is some 33 hectares. The excavation area is roughly circular shaped. The ore body is a deep largely homogenous deposit of glacial and fluvioglacial gravels. The quarry is active at a low intensity level and has processing plant for gravel washing and settlement ponds. At the time of my site visit there had been very heavy rain for some days, and there was extensive areas of standing water, and evidence of minor pluvial flood damage. Plant on site includes sorting and washing machinery, several excavation diggers, a wheelwasher (out of action at the time of my site visit due to rain damage) and a number of portakabins (with a septic

tank) and an unused agricultural shed. There appears to be a well (or monitoring point) near the wheel washer but this is not indicated in the submitted plans. A pipe for what I assume is potable water for the site office runs from an adjoining farm into the site. The access to the site is a wide concrete floored entrance with a cross-drain to prevent run-off from the quarry. The eastern boundary of the site, next to the main road, is marked by a ditch and scrappy hedge. The restored part of the quarry extends from the north-western part of the site along the edge of the slope overlooking the valley – this has been almost all infilled with what appears to be the arisings from sand and gravel washings. A series of land drains runs along the western side of the restored quarry, with water flowing into a sump which seems to lead to a pipe under the restored area, emerging at a ditch further below.

East of the site is the regional road, at this section quite straight. The road is at the same level of the quarry floor, but is on a stone and concrete retaining structure about 3 metres in height above the river level of the Multeen, which flows to within a few metres of this retaining structure. The Multeen is a largely unimproved fast flowing river which drains the valley, and is part of the River Suir SAC. East of the river are flat fields of high quality pasture on the valley floor.

South of the site, at the level of the road is a small farm complex with a dwelling. It is separated from the quarry by a low wall and hedge. A water supply pipe runs from the farm to the quarry office. Beyond this are further fields. The land rises steeply behind the farm buildings – these fields are all in pasture or light scrub.

West of the site, and part of the landholding, are pasture fields running up to the top of the hill, which is largely pasture with some woodland. A small track runs up past the west side of the quarry, accessing some fields. There is another unconnected quarry on the opposite side of the hill, about 1 km distant.

North of the site is a rough track running along the side of the quarry – this track provides access to the lands west and east of the excavation area. Just north of the track is a hedge and deep ditch. The ditch appears to have had a watercourse but was largely dry at the time of my site visit, despite the heavy rainfall. It is possible that this is due to water flowing through the gravels into the excavation area, or possibly the land drains near the top of the hill have been largely diverted to drain to the east. Beyond this drain is poor quality grazing land on the steep slope of the valley side. The land drains uphill of this area collect at a sump which seems to run in a pipe under the reclaimed quarry area, flowing out in a watercourse further east. Beyond this are fields of wet low quality pasture on the slopes along the Multeen valley.

3. **Determination**

In May 2013 the Board decided to confirm the Determination of the Planning Authority under s.261A2(a) ((i) and (ii)), that a determination that an EIA was required, but had not been carried out, and that an appropriate assessment would have been required, but that such an assessment was not carried out. The Board also Determined that the quarry would have required an appropriate assessment under the Habitats directive, but that such an assessment was not carried out. In making this determination, the Board had specific regard to the scale, extent and nature of the operation, and the close proximity of the site to the Multeen River, which forms part of the Lower Suir SAC (site code (002137).

4. **South Tipperary County Council technical reports**

Planners report, 29/11/2013. This report sets out Development Plan policy and policy relating to road safety. It concludes that subject to appropriate mitigation, substitute consent should be granted. Seven recommended conditions are set out, two of which relate to financial contributions.

5. **Applicants response**

The applicant has responded to recommended conditions set out in the County Council report (which includes reference to suggested conditions from the HSE). It is noted note that most of these recommended conditions are not appropriate and ultra vires for a substitute consent, which covers work in the past. With regard to they suggested development contribution the following points are made:

- It is claimed that the reason for the SC approval is down to the planning authority's failures.
- It is noted that contributions were levied and paid in full under the conditions attached to the consent under 02/18.
- There is no additional wear and tear on local infrastructure caused by the works covered by the SC.
- Any extension of the works will require further consent which will be covered by a financial contribution.
- It is argued that the definition in the DCS for the area of 'winning and working' sand and gravel results in a need to include a much larger area than that required for a rock gravel, and so is intrinsically unjust – on this basis it is argued that the real area for which contributions are due is approximately 1 hectare – i.e. the net increase in excavation area over and above that previously permitted.

6. Other correspondence

An Taisce (16th December 2013). It is submitted that no consideration should be given to any rEIA for a quarry which exceeds thresholds and does not have a valid planning basis. It is submitted that previous registration of a site under s.261 must be deemed to be irrelevant, as this did not establish the legal basis of works on the site.

Geological Survey of Ireland (14/1/2014): No comment with regard to the rNIS.

HSE (9th January 2014). States that the EIS addresses most of the concerns from an environmental health perspective, but outlines a number of issues to minimise the risk of nuisance. A series of detailed recommendations are set out to mitigate noise/vibration, air pollution, water quality, ancillary facilities, and security lighting.

7. Planning Context

Planning permissions – appeal site

The planning authority decided to grant permission for the continuation of use of a sand pit on the site in 2002 – the application area was for a pit just under 1.4 hectares (**02/18**). 36 no. conditions were attached. The proposals included for the extraction of water from the Multeen River. I note that there have been a significant number of breaches of conditions relating to this permission, and the extraction area has gone far beyond that permitted. Enforcement file 82/05 records five separate warning letters for unauthorised works and non-compliance with conditions for 02/18.

The quarry was registered under s.261 (**QY/34**).

Planning permissions – general vicinity

None relevant on file.

Development Plan

The site is in open countryside designated as ‘secondary amenity area’ in the most recent South Tipperary County Development Plan. The boundary of SAC 002173 (River Suir) runs along the adjoining Regional Road – i.e. within about 20 metres of the site boundary.

8. Assessment

Planning background

The substitute consent has been submitted for an extended quarry area (including restored areas) with a total site area given as 9.5

hectares. However, I note that the S.261A direction applies to only the existing extraction site, with an area indicated in the Review as 3.45 hectares. As the Board Direction only applies to this smaller site (essentially, the existing extraction area), I would conclude that the substitute consent can only apply to this lesser area. It would not therefore provide any permission or approval for unauthorised works outside the boundary of the area submitted for review previously.

I would note in this regard that the 2000 aerial photograph did not show any works on the site, so the quarry seems to have commenced around 2001, with a retention permission in 2002, which was then exceeded. I note that the extension of the quarry, which is part of the EIS submitted but not part of the s.261 notice, appears to have commenced after 3rd July 2008 (i.e. the date of the relevant ECJ judgement), so cannot be subject to substitute consent. There is no record on file of this excavation and tipping of material having any permission, license or approval.

rEIS and rNIS

Notwithstanding the ambiguity about the extent of the quarry which is subject to this rEIS and rNIS, I consider that the information submitted conforms to the regulations and is reasonably accurate and so can form the basis for a full EIA and appropriate assessment.

As I have noted above, I do not consider that the full area of quarrying is subject to substitute consent, so for my assessment of the key issues below I will focus on the main quarry, although as there are clearly interlinked (especially with regard to surface water flows) it is not possible to separate the impacts entirely.

Assessment of alternatives

As the quarrying works have been completed, there is no reasonable assessment of alternatives to the location of the quarry. The only alternatives are for processes within the quarry.

Flora and fauna/rNIS

The applicant has submitted an rNIS in support of the appropriate assessment – the same rNIS constitutes the ‘flora and fauna’ section of the rEIS.

The quarry works appears to have involved the removal of unimproved wet grassland and hedges with some habitat value, in addition to a number of ditches, but there is no way of being sure about the nature of the missing ecology. The rNIS correctly notes that the existing quarry, in particular partially disturbed areas, has some potential for habitats, including nesting sand martin (although the quarry is currently probably too active for this - I saw no evidence for nests although the report states that at the time of the survey some are visible). A number of species considered of interest may occur at the site, although the

author of the rNIS notes that the time of year for the survey was not ideal. It does seem however that while the expansion of the quarry resulted in significant loss of habitat, this could adequately be addressed in mitigation – in particular, any restoration should allow for areas for natural recolonisation of parts of the site and leaving some exposed gravel cliff areas for nesting birds.

The key issue with regard to flora and fauna is the impact on the adjoining river which is part of an SAC. The river to the east (the Multeen) is part of SAC site code 002137, an extensive complex of riverine habitats associated with the River Suir. The Multeen contributes to the ecological qualities of the Suir catchment mainly as a fast flowing gravel bottomed and largely unmodified river channel. There are no indications from the information on file as to whether the Annex I and Annex II species listed in the Conservation Objectives for the SAC are present in the Multeen (these include pearl mussel, several species of lamprey and shad, salmon and otter) but for the purposes of this assessment it is reasonable to consider that they may be present in the river and immediately downstream (or in the case of otters, living along the banks).

The boundaries of the SAC adjoining the quarry are at the road embankment. I examined this section of river and found no direct physical connection between the quarry and the riverbank – I saw no evidence of discharge pipes or connecting land drains. The information submitted does indicate that in the past water was abstracted directly from the river for gravel washing and it is proposed to continue this practice. It is likely that water run-off from the upper slopes of the hillside drains into watercourses which have been impacted by the overall works – the upper drains seem to flow into a drainage ditch further west of the excavation area which seems to flow into the Multeen about a 100 metres north (upstream) of the site. At least some of this flow will go via a sump and drain which goes through the restored area of quarry. As this part of the site has stabilised, I would consider impacts on the Multeen to be unlikely, but unless the operations were carried out very carefully in the past when this part of the site was in operation, it would be very likely that there would have been run-off of suspended solids (at least) to the river.

The existing quarry is largely self-contained in terms of its water cycle. Gravel washing comes from the public water supply (obtained from a public well down stream of the site) and from occasional abstraction from the Mulkeen (stated to be 6 times a year), while it seems that there is no direct outflow – surplus water drains back into the underlying aquifer, so there would be little net loss of water (apart from evaporation). There is no evidence of active dewatering of the site. I saw no direct evidence that the quarry was below the water level, although I would have some concerns that the dry watercourse in the ditch to the north of the site indicates that perhaps there has been a lowering of local groundwater levels (although I would consider the

likeliest explanation to be that the ditch was diverted). A small amount of water also seems to be obtained via a pipe from the adjoining farmhouse – this is possibly from a farm well, but the quantities would not likely be significant if it was for use in the site buildings only.

There are two possible sources of pollution from the site (excluding the agricultural structure on the site which predates the quarrying – this seems to be disused) – the septic tank associated with the offices, and possible spillages of fuel and lubricating oils from the quarry plant. Other sources of impact on the river would be run-off of suspended solids via land drains. I would add to the possible issues outlined in the rNIS the prevention of spillage of sands and gravels on the adjoining roads (further along the road network there is a significant possibility of suspended solids running from the road directly into the river).

The rNIS sets out the potential for impacts in Tables 2 and 4 (this includes many other Natura 2000 sites, none of which I consider are close enough to have any possible negative issues). I don't disagree with the conclusions of the rNIS, but it would have been much better if it included a full survey of this stretch of the Mulkeen to assess if there were any possible localised impacts (for example, if there are any breeding pearl mussel beds in the vicinity). But in the particular context of a substitute consent submission I would consider this acceptable as the past habitat status cannot now be identified. The rNIS correctly identifies a range of potential risks to the conservation objectives of the SAC in the absence of adequate mitigation. It does seem that (possibly as much through luck as design), the nature of the quarry processes minimises the possibility of impacts. The exception would be the drawing of water from the river, which was permitted in the original permission and still apparently is ongoing on an occasional basis. I would be concerned if this drawing of water took place during dry periods when there may be an impact on flow in the river.

While I have my doubts as to whether it would have been appropriate to consider a quarry on this landholding if it had been submitted 'de novo' due to its location directly adjoining a sensitive watercourse, I consider that with appropriate mitigation it can be operated such that there would be no significant impact on the conservation objectives of the Natura 2000 site. I would recommend mitigation measures for the following objectives:

1. To ensure the septic tank is constructed and operates to best practice requirements.
2. To ensure no run-off of surface water outside the bounds of the extraction area
3. To restrict water abstraction during dry periods.
4. Adequate controls of fuels and oils within the site to ensure prompt management in the event of a spill.

5. No extraction of water from the river to be permitted.
6. The restoration of the site should leave areas of bare sand and exposed vertical cliffs to allow natural recolonisation and compensatory habitat for previous losses (I note in this regard that no restoration proposals have been submitted, so this must be subject to condition).

Soils and geology

The original site seems to have had a thin cover of low quality undifferentiated sub/topsoil. I saw no evidence that the topsoil has been stored for re-use. The underlying geology is very deep deposits of glacial and fluvioglacial gravels (the orebody), which overlie sandstones (the gravels also appear to be of sandstone origin). If the site is to be restored by the same methods of the former quarry on the north-eastern part of the site, much will presumably be sourced from gravel fines from the same site.

I do not consider that any mitigation of the removal of this material to be necessary, although at least some of the site should have topsoil replaced if it is possible on completion of the works.

Surface and groundwater

The quarry is underlain by two aquifers, considered 'poor' to 'moderate' and locally important. It is considered of 'high' and 'extreme' vulnerability due to the very permeable subsoil. It is stated that the groundwater level is at least 5 metres below the quarry floor. It states that local drinking water comes from a public supply – this is at Ironmills Bridge, which is about 500 metres south (downriver) of the quarry. From EPA reports, it seems that the Multeen is of a generally satisfactory quality (Q value of 4-5). It is noted that the loading on the septic tank which serves the site office is very modest (rarely more than one or two workers on the site). I consider this assumption to be reasonable, which is fortunate as the site would otherwise not be suitable for a domestic septic tank due to the proximity to the river and the very permeable subsoil. The gravel washing within the site is a mostly 'closed' system with water from the final lagoon re-used for washing. Water is stated to be taken on 6 occasions a year to top up the lagoons – this is estimated to be approximately 2% of the daily river flow during each of these occasions. Water is lost through evaporation and soaking through to groundwater. A separate report on the local hydrogeology is attached to the rEIS – this indicates that water extraction from the river is not particularly significant in volume terms.

In general I would consider this section of the rEIS to be acceptable. Proposed mitigation is set out in section 3.4.9 and I would consider these broadly acceptable. However, there is an assumption that abstraction of water from the river should continue. I am somewhat concerned at the lack of direct information on the possible impacts of the abstraction, so I would recommend a condition such that this is not

permitted during the summer months to ensure no significant impact on water flow during dry periods.

Climate and Air Quality

The rEIS concludes that there would be no significant impact on climate. No mitigation measures would be necessary.

The quarry has been subject to dust monitoring on foot of the previous permission and there are dust monitoring gauges around the site. I saw no visible evidence of dust arisings outside the site, but as my site visit was in winter this is not unexpected. There are standard dust mitigation measures in place with the standard of dust deposition not exceeding 350mg/m²/day monthly in line with the Irish Concrete Federation Code (there are no national standards) – This appears to be acceptable in this context so I would recommend that the usual mitigation measures be restated in any conditions relating to mitigation.

Noise and Vibration

Historically, the noise emissions from this quarry are likely to have been much higher in the Celtic Tiger days as it appears that the quarry was much more intensively worked in those years. The rEIS just has data from 2004 and 2005 which indicates moderately high levels, although I note that the only nearby receptor is the dwelling owned by the quarry operator. The quarry is currently under active use, but from my inspection appears to be at a very modest level which is not likely to produce noise levels above those indicated in the Noise and Vibration section of the rEIS. There is no blasting on the site, or apparently any major source of vibration. I would recommend the normal mitigation measures for this type of quarry as set out in the EIS and previously set in the conditions in the permission for part of the site.

Landscape and visual impacts

The quarry is within what is characterised in the County Development Plan as landscape of secondary amenity. It is generally an attractive rural area with some good scenery, although it is not a core tourist area, nor is the scenery of the very highest quality. The Landscape Character Assessment in the rEIS characterises it as medium sensitivity, class 2 scenery, which I would consider to be a reasonable conclusion. The partially wooded nature of the area and the topography ensures that large developments can be absorbed within the overall landscape.

The quarry consists of a very large and not particularly well controlled gouge out of a hillside. It has the potential for major visual impact, but through more luck than good design it has not been as damaging as such a large quarry could have been. The high hedges along the road results in few clear views of the quarry from the public road system, apart from when directly beside the entrance. The most intrusive

public views are from the minor road on the opposite side of the valley – (photograph location 8 in the rEIS). There are just a handful of dwellings along this road, and it is not a major tourist route.

Due to the manner in which the site has been excavated and its internal layout, there seems little benefit to using stored materials as visual bunding. A bund along the road frontage would be advantageous, but it would involve significant alterations to existing buildings, including the septic tank. The strengthening of the hedgerow would be beneficial. The most appropriate mitigation would involve insuring that the final restoration of the site is appropriate – with some natural regeneration allowing for a softening of the features, in addition to the restoration of the quarry floor for agriculture or natural habitat.

Cultural Heritage

There are no records of any historic or archaeological remains on the site. As it has mostly been stripped, any opportunity to investigate the site for possible archaeology has been lost. There are no indications that the site would have been a likely site for archaeology. The rEIS states that there is no evidence of any remains on the site – I would note that the older OS maps indicate a structure of some type (possibly a farm building) and what appears to be an enclosure or old sand pit on lands just west of the quarry, although this would most probably be a more modern agricultural feature rather than an indicator of older remains.

The remaining area of undisturbed land is minimal, but it is close to the top of the hill where some types of prehistoric remains (such as burials) are more likely. So I would recommend that a monitoring condition be added in line with the mitigation recommendations in the rEIS.

Material Assets

The primary impact on local material assets would be on the local road network. I saw no visible evidence of damage from loaded quarry vehicles – the adjoining road is of a higher engineering standard than the average country road. But I would recommend a development contribution condition to ensure a proper financial contribution to the local road network.

Traffic

The site accesses on to a single regional road which runs north to Thurles and Nenagh and south to Tipperary Town, with Cashel to the east. There are no national roads in the vicinity. Traffic levels are likely to be much lower than when the quarry was at its peak, probably at most a handful of loads per day. The site lines at the entrance appear satisfactory in both directions. The nearest hazard is the junction with the Cashel Road to the south – this crossroads is somewhat substandard for larger vehicles. The current levels appear

to be acceptable and no specific mitigation measure are recommended which are enforceable.

Interactions, direct and indirect affects

There is one other quarry in the area – a pit on the opposite side of the hill which appears to be working the same overall mineral body (the entire hill appears to be made up of gravel deposits). The quarries are not within sight of each other, and access onto different roads. The interactions are likely to be quite minimal and I do not consider that there are likely additional off-site impacts likely to have a significant bearing on the impacts specific to the quarry in question.

Conclusions

I would have concerns about the very close proximity of the quarry to the River Suir SAC and the drawing of water from this watercourse. It does seem however that the fairly half-hearted mitigation measures which were in place on the quarry during its peak use ensured that the quarry did not have any significant impact on the conservation objectives of the SAC and were otherwise within the bounds of acceptability. I therefore recommend that subject to the mitigation measures set out in the EIS and the recommended conditions below, that the substitute consent be confirmed. I would restate that this substitute consent should only apply to the quarry boundaries as submitted with the documentation for the S.261A2 Direction – this is significantly less than the area assumed in the rEIS and rNIS.

Development Contribution.

The planning authority requested a development contribution of €337,832.01 in line with the adopted scheme. I note this covers the submitted 9.5 hectares as submitted with the EIS, not the smaller area subject to the S.261A(2) Direction (approximately 3.45 hectares, although there is some ambiguity and contradictions in the site area in the original S.261A submissions). I would recommend therefore that the Board reduce the area subject to a development contribution accordingly.

With regard to the other arguments submitted by the applicant against the sum requested by the planning authority I would note that while a development contribution was made for the permitted development on the site (a much smaller area of extraction), there is no provision within the Scheme for an exemption or reduction on this basis. While it is argued by the applicant that traffic levels were the same as that for the permitted area, in reality the overall works have been very significantly more than that permitted – the levels in the unauthorised area to the west are much steeper resulting in much greater volumes of sand and gravel available for extraction. I therefore do not see any reasonable basis for a reduction in the development contribution on this basis. As regards the issue of development contributions for any new

authorisation for the quarry going forward, this will be a matter for the applicant to agree with the planning authority.

I therefore recommend to the Board that the correct area for the development contribution scheme is 3.45 hectares, and no exemptions or reductions apply. I calculate the reduced contribution as €122,686.36.

9. Conclusion and Recommendation

I conclude that the rEIS and rNIS are acceptable and that the Board should confirm the substitute consent subject to the conditions set out below. For the avoidance of doubt, I would note that the quarry works is subject to all mitigation measures set out in the rEIS and so I do not propose that these be repeated in the conditions.

DECISION

The Board, in accordance with section 177K of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, decided to **GRANT** substitute consent in accordance with the following conditions.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

The Board had regard, inter alia, to the following:

- (a) the provisions of the Planning and Development Acts, 2000 to 2011, as amended, and in particular Part XA,
- (b) the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2004,
- (c) the provisions of the South Tipperary County Development Plan, 2009,
- (d) the remedial Environmental Impact Statement and the remedial Natura Impact Statement submitted with the application for substitute consent,
- (e) the report and the opinion of the planning authority under section 177I,
- (f) the submissions/observations made in accordance with regulations made under section 177N,
- (g) the report of the Board's Inspector, including in relation to potential significant effects on the environment,
- (h) the planning history of the site,

- (i) the pattern of development in the area, and
- (j) the nature and scale of the development the subject of this application for substitute consent.

The Board completed an environmental impact assessment in relation to the development in question, and considered that the assessment and conclusions of the Inspector's report were satisfactory in identifying the environmental effects of the development in question, and also agreed with his conclusions in relation to the acceptability of mitigation measures proposed and residual effects.

The Board considered the remedial Natura Impact Statement submitted with the application for substitute consent and carried out an Appropriate Assessment of the development having particular regard to the potential for impacts on a nearby Natura 2000 site (Lower River Suir Special Area of Conservation (Site Code: 002137)). The Board completed an Appropriate Assessment and having regard to the nature and scale of the subject development, the nature of the receiving environment and the mitigation measures and water management proposals set out in the remedial Natura Impact Statement, the Board is satisfied that the subject development, either individually or in combination with other plans or projects, has not adversely affected the integrity of a European site.

Having regard to the acceptability of the environmental impacts as set out above, it is considered that, subject to compliance with the conditions set out below, the subject development is not contrary to the proper planning and sustainable development of the area.

CONDITIONS

1. This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application on the 4th day of November, 2013. This grant of substitute consent relates only to development undertaken as described in the application and does not authorise any future development on this site. For the avoidance of doubt, this substitute consent only applies to the 3.45 hectare site submitted for determination to the Board under Section 261A(2)(a) of the Planning and Development Act 2000, as amended and as determined on the 9th day of May 2013

Reason: In the interest of clarity.

2. A restoration scheme shall be carried out in accordance with a restoration plan, which shall include existing and proposed finished ground levels, landscaping proposals and a timescale for implementation. This plan shall be prepared by the developer, and shall be submitted to, and agreed in writing with, the planning authority within 3 months of the date of this notice. This plan shall include for the provision of habitats in mitigation for previous damage caused,

including exposed gravel cliff faces suitable for nesting birds, open water/wetland areas and areas of natural recolonisation. In the event of a failure to agree details, the restoration proposals shall be submitted to the Board for agreement.

Reason: In the interest of the visual amenities of the area, to ensure public safety and to ensure that the quarry restoration protects and enhances ecology.

3. Within three months of the date of this order, details of the surface and ground water management system for the entire site, including a time frame for implementation, and which incorporates the mitigation measures and water management proposals set out in the remedial Environmental Impact Statement shall be submitted to, and agreed in writing with, the planning authority. This management system shall include provision for prior agreement with the planning authority on all abstractions from the River Multeen, in particular during the summer months and during droughts.

Reason: To ensure protection of groundwater quality and to provide for the satisfactory disposal of surface water.

4. Within three months of the date of this order, a scheme of landscaping, including details of the screening and landscaping arrangements along the boundary of the site shall be submitted to the planning authority for written agreement. This scheme shall include the strengthening of the existing hedge along the road boundary. All planting as agreed with the planning authority shall be carried out within one year of the date of this order.

Reason: In the interest of the visual amenities of the area.

5. Within three months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

Reason: To ensure the satisfactory restoration of the site in the interest of visual amenity.

6. The developer shall pay to the planning authority a financial contribution of €122,686.36 (One hundred and twenty two thousand, six hundred and eighty six euro, thirty six cent) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development

Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid within six months of the date of this order or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the substitute consent.

Philip Davis,
Inspectorate.
11th March 2014