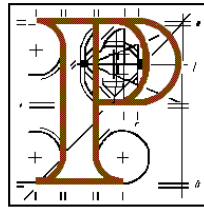


**An Bord Pleanála Ref.: SU07.SU0076**  
**An Bord Pleanála**



**Inspector's Report**

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

**DESCRIPTION :** An existing rock quarry  
**SITE ADDRESS :** Tonroe, Oranmore, Co. Galway

**DIRECTION UNDER S.261A**

Planning Authority : Galway County Council  
Planning Authority Reg. Ref.: QSP.74  
Owner : Cannon Concrete Products Ltd  
Operator : Cannon Concrete Products 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: The Board confirmed the determination under 2(a)(i) and set aside the determination under 2(a)(ii) and confirmed the decision under 3(a).

**APPLICATION:**

Made by : Cannon Concrete Products Ltd  
Type of application : Application for substitute consent under Section 177E accompanied by a remedial environmental impact statement.

**INSPECTOR :** John Desmond  
Date of inspection: 22/09/14

## **SITE DESCRIPTION**

The site is situated in south County Galway c.2.1km north of the centre of Clarinbridge, c.3.3km southeast of the centre of Oranmore and c.11km east-southeast of the centre of Galway City.

The substitute consent area has a stated area of 6.3ha, the entirety of which appears to have been subjected to extraction activity. The lowest spot level is given as -6.0mOD which would appear to cover about half of the application site, however this excludes the quarry lagoon which I assume to be at around -8.0mOD. The remainder of the pit has been quarried to about 2.0mOD. The southeast corner rises up to a stated level of 15mOD, but on inspection this appears to be crushed extracted material and the feature provides an access to the adjoining farmland to the southeast. According to the applicant's drawings the pit face reaches 16.0mOD and therefore the total depth of the quarry has reached c.24m. A quarry lagoon of 0.64ha is indicated on the drawings, in addition to a small silt lagoon of 700-sq.m and a sump to the south. A large amount of concrete production waste has been deposited at the western boundary of the pit, adjacent the silt lagoon, although it is unclear how much of it falls within the substitute consent site.

The site forms part of a larger quarry area measuring c.13.5ha, which extends north (c.3.5ha) and southwest (c.4ha) from the substitute consent area. The pit area external to the southwest boundary of the substitute consent site is in use as a processing and storage area associated with the extraction activity. That part of the quarry (c.3.5ha area) north of the substitute consent boundary has been subjected to varying levels of stripping. Approximately half of the said area (that area adjacent the extraction pit) has been fully stripped, with some extraction of the surface layer of rock apparent. Apart from a small area (c.0.2ha) set out as metals storage compound and, possibly, the western section immediately north thereof, the remainder of the area has been subject of significant overburden removal (now stacked in rows) and the shattering of the surface rock, but there is much scrub cover within this area. Processed extracted material was being moved from the extraction pit (i.e. within the substitute consent site) at the time of inspection. The facility appears well organised and to be managed in a professional manner.

The lands adjacent each side of the quarry lands are all in agricultural use, except the lands to the southwest: to the west the land is under scrub and to the south it may be in residential use or possibly a farmstead. The area is rural in nature, however there is widespread low-density one-off housing distributed along the road network in the area, including along the access road to the site from the N18. There is a local authority compound c.100m west of the quarry entrance. The compound is situated within an old quarry pit, but the shallow pit (the base is almost level with the roadway and the pit-face c.5m in height) is not active and the site would seem to be in use only for storage of materials.

The quarry has access to the N18 via a local road of c.500m in length. This road also provides access to about 14no. residential dwellings. The local road varies in

width from c.3m along the central section, to c.5-6m at the southern end where the boundary has been setback in association with residential development. A number of the surface water drains evident at the western and eastern ends of the local road were blocked-up with silt, as are the drains on the private section of that road within the wider quarry boundary. At the time of inspection the N18 carried heavy traffic such that it proved difficult to exit onto the main road from the access road.

The substitute consent site is c.1.2km east of Cregganna Marsh SPA and c2km distant from Galway Bay SPA at its nearest point to the south and c.1.5km south of Galway Bay Complex pNHA at the nearest point to the north.

### **SUBSTITUTE CONSENT APPLICATION DOCUMENTATION received 03/12/13:**

**Cover letter:** Patrick O'Donnell of Earth Science Partnership (Ire Ltd).

**Remedial Environmental Impact Statement,** prepared by Earth Science Partnership Ire.Ltd. The only significant adverse impact referred to is the removal of material from the pit which is considered a '*profound impact, which cannot be mitigated against*' but which is '*an acceptable use of resources*'. No other significant adverse impacts have been identified as having occurred, to be occurring or to be likely to occur from the development that has been undertaken and that is subject of the substitute consent application.

### **Drawings:**

Received 03/12/13

Site location map	1:25,000	no.PP-100-01
Site location map	1:2,500	no.PP-100-02
Site layout map	1:1000	no.PP-110-00
Site layout map	1:500	no.PP-110-01

### **Public notices:**

Newspaper 22/11/13

Site notice 02/12/13 (two in place at time of inspection 21/09/14)

### **RELEVANT PLANNING HISTORY**

Within the wider quarry landholding but outside the substitute consent area

**Reg.ref.13/275** – Permission granted by Galway County Council on 23/07/73 to Micheal J.Cannon for erection of stone crushing plant and develop quarry in the townland of Tonroe.

### Outside the landholding and substitute consent area

**Reg.ref.69674** - Permission granted by GCC 17/01/94 for retention of conversion of garage to playroom in dwelling location c.350m from the southeast corner of the substitute consent site.

**Reg.ref.57567** - Permission granted by GCC 21/11/88 for dwellinghouse at c.350m from the southeast corner of the substitute consent site.

There is an abundance of other permissions granted along the access road to the quarry and in proximity to the junction of that road with the N18 since after the original quarry development was permitted, most of which pertain to the development of one-off type housing.

### **Enforcement**

The P.A.'s cover letter of 16/12/13 indicates that 'copy of letter from enforcement department in respect of this site to follow. None appears to have been received to file. In respect of 'enforcement', the report of the Council's Planner (23/05/12) states NA.

### **QUARRY REGISTRATION**

**QR74:** The Planning Authority imposed 13no. conditions in registering the quarry on 25/04/07. The registered area was 16.821ha, including 2.57ha that was under negotiation for purchase. The extraction area was stated as 14.938ha and the extracted area as 5.864ha. The Inspector's report indicated that there were no planning enforcement files relating to the site.

### **SECTION 261A PROCESS**

**QSP74 / QV0134:** On 05/09/14 the Board confirmed the Planning Authority's determination under section 261A(2)(a)(i), set aside the Planning Authority's determination under section 261A(2)(a)(ii) and confirmed the Planning Authority's decision under section 261A(3)(a).

### **REPORTS / SUBMISSIONS**

#### An Taisce 16/12/13

- ECJ C.215-06 provides that development for purpose of EIA should be permitted and subject of retrospective assessment only in exceptional circumstances. The legislation does not define where exceptional circumstances should apply.
- Remedial EIS does not establish the legal basis of the quarry or the entitlement to obtain retrospective EIA consent.

- No consideration should be given to a remedial EIA for a quarry exceeding the EIA thresholds and which does not have a valid planning permission and operating site boundary compliance.
- Section 261 registration is irrelevant as it did not establish legal basis of the site (An Taisce v. An Bord Pleanála, Justice Charleton, November 2010).

Paul de H'Ora 11/12/13

- Concern about impact on [quality of] life as local resident.
- Cannon Concrete have made improvements over the years but there are some outstanding issues
- The access road abuts the front boundary wall without any margin [buffer].
- Difficulty and danger exiting their residential vehicular entrance.
- Concern about safety of his family (7 children under 16) with traffic travelling at full speed along the lane.
- It's an embarrassment and negligent that nothing has been done since 2007.
- Need for children at play signs.
- The sides of the road are unfinished and sloped and may cause heavy trucks to topple.
- All the road drains are long since blocked up.
- Need for regular cleaning of road surface.
- Need for strategy to limit and slow down traffic into and out of the quarry.
- Need for road lining to keep traffic away from residential gates.
- 80kph speed limit is excessive
- Wishes the best for Cannon Concrete Ltd and its employees but would like it to progress with consultation with local residents to enable them to live without fear.

David Cormican 13/12/13

- No consultation has ever taken place between residents and GCC or the quarry operator.
- As recently as last week trucks started leaving the quarry at 5.30am and they have started as early as 1.30am. No truck should be allowed to exit before 8am or after 6pm Monday to Friday
- A proper speed limit, signage, ramps and secure pedestrian walking area should be provided.

- Road maintenance is practically nil.
- Heavy crushers brought to the site cause untold damage to the road.
- The observer has had to clean the muck off the road while GCC workers pass in and out ignorant of the situation.
- Muck and dirt on perimeter walls to residential properties.
- Trucks queued at junction with main road at period of peak operations during the boom. Need for staggering of trucks at such times.
- Monitoring at quarry and notification of residents of blasting seems to have been discontinued.
- Weight restriction should be imposed on trucks [due to road damage]
- Proper cleaning system for trucks should be put in place, restoration of quarry on continual basis, dust control policy and consultation with residents is needed.
- Flooding of adjacent field to rear of residential property.

#### NRA 03/01/14

- The NRA has no objection subject to the proposal not to increase the level of extraction or processing above the existing levels or the levels granted under the section 261 registration.
- A traffic and transport assessment outlining potential impacts on the N18 and the N18/L-81067 junction should be undertaken where intensification is proposed.
- Any recommendations arising from the traffic analysis contained in the rEIS should be included as conditions in the interest of maintaining levels of safety, capacity and efficiency on the national road network.

#### GSI 15/01/14

- No comment.

#### HSE 28/01/14

- There are ongoing concerns over the protection of groundwater and the proposal to continue below the groundwater table is not recommended.
- Difference between operational and non-operational noise level (night time background noise) is between 16 and 22dB (any difference greater than 10dB may lead to complaints) and the EPA 55dB(A) standard has been breached on a number of occasions.
- The remedial measures need to be increased taking account of the excessive

noise generated.

- The day to day operations need further investigation to take account of the possible cumulative effects of numerous operations being undertaken at one time.
- Excessive road traffic coming into and out of the quarry also needs to be reviewed.
- Details of the types of effluent treatment serving the office and staff areas are required.
- Concern over possible contamination of groundwater from oil sumps and fuel containers within the large amounts of old machinery stored on site, and concern that the bund-wall containing two fuel tanks was full of water extending above the outlet pipes of the tanks.

Galway County Council Planning Authority Report (dated 14/02/14 and received 17/02/14)

- The report comprised a review of planning and enforcement (none) history, and a review of Development Plan policy, objectives and standards. The report is informed by the reports of the Council's Environment Section and Roads Department.
- The Environment Section indicated that there is no history of complaints recorded in its database and, having regard to the rEIS and to the environmental information available to the Council including GIA datasets relating to catchment management, protection of natural waters and European sites, it concluded that the development has not had a significant effect on the wider environment adjacent the site and Natura sites. It recommended a single condition be attached regarding the forwarding of groundwater monitoring results to the Planning Authority.
- The Roads Department notes that the access road is in good condition with little evidence of deposition of quarry sourced material. It recommended that 2no. conditions be attached relating to a one-off payment of €5,000 towards maintenance and upkeep of the local road network; and requiring the applicant to provide and maintain an appropriate road signage scheme to highlight the quarry entrance and turning movements of large vehicles in agreement with GCC.
- The Council's Planning Officer recommended that permission be granted subject to the said three conditions, in addition to three other conditions relating to the practice for refuelling and to storage of fuels, the removal of waste materials and to the agreement of proposals for land restoration.

## RESPONSES

### Applicant c/o Earth Science Partnership (Ire) Ltd in response to 3<sup>rd</sup> party submission from Mr Paul de h'Ora (received 30/01/14)

- The applicant was unaware of any submissions made by neighbour to GCC over the years and the operator has procedures in place for dealing with complaints or submissions from the local community or the local authority in relation to quarry activities, with discussions held between parties to reach agreement on implementation of measures.
- Would welcome speed restrictions on the access road to N18 as part of an overall traffic control system but this is outside the applicant's jurisdiction.
- The damage to the side of the road results from the setting back of the roadside boundary and the improper finish of the area by the homeowner.
- The upkeep of the gullies to the access road is the responsibility of GCC.
- The gravel spill referred to by the observer was from the Galway Co.Co. quarry. Cannon Concrete has procedures in place in event of accidental spillage of material with the manager immediately informed and arrangements made to have the spillage cleaned up immediately.

### Applicant c/o Earth Science Partnership (Ire) Ltd in response to 3<sup>rd</sup> party submission from Mr David Cormican (received 30/01/14)

- Cannon Concrete commenced early on two mornings due to a large pour of concrete required for a project, the first time it opened early in over four years. This is in line with the submission to GCC regarding opening hours with exceptions outlined.
- A 25kph speed limit is imposed within the quarry and on the private section of access road and the operator would be very agreeable for this limit to be extended the full length of the c.500m road.
- Ramps along the road would result in increased noise levels from trucks braking before ramps, when traveling over ramps (especially empty trucks) and revving up after ramps. A number of residents have requested the operator not to install ramps and all employees have been warned to adhere to the 25kph speed limit until they reach the main road.
- The local road has been surfaced to a high standard and the applicant has installed gulleys at the entrance to the site with a tank to collect any runoff from the quarry, preventing silt and water from leaving the site.
- Sub-contractors are employed occasionally to carry out crushing, including for 6 months in 2013 which involved the movement of crushing machinery to / from the site. One movement occurred on a Sunday evening but the rest



occurred during normal working hours, the first movement of plant in over five years.

- The setting back of the boundary walls in accordance with planning permission subsequent to the surfacing of the road by Canon Concrete resulted those areas being left unfinished or poorly constructed.
- All road vehicles moving crushing machinery are within the legal weight limit and would not have caused any damage. All trucks must adhere to legal weight limits and records of same are kept on site for all loads leaving the facility.
- There has been only one blast at the quarry since 2008, in February 2013. All neighbours were informed. Every blast is fully monitored and adhere to all guidelines and all results are reviewed and copies of results kept on site.
- All Canon trucks are kept clean and do not deposit dust on the road. A spraying system is employed to prevent dirt leaving the premises and a road sweeper is used on the internal quarry road.
- No water is discharged from the quarry and it is not possible for discharge to enter the field in question. The flooding is more likely to have occurred due to the high rainfall levels experienced during November 2009.
- Not aware of any submissions to GCC by neighbours. The County Council is responsible for the upkeep of the public road including maintenance of gullies.

Applicant c/o Earth Science Partnership (Ire) Ltd in response to Planning Authority's report (received 06/03/14)

- The applicant addresses the conditions recommended by the Council as follows:
- The applicant agrees to provide services and material to the value of €5,000 towards the upgrade and maintenance of the local road network subject to discussion with GCC's Road and Transportation Section.
- The applicant will communicate with GCC re road signage scheme and turning movements of vehicles into and out of the quarry. The applicant is agreeable to extending the speed limit for the full length of the local road argues against the implementation of ramps for reasons of noise generation.
- The applicant will provide the results of monitoring to GCC on an annual basis as part of an Annual Environmental Report.
- Only minimal amounts of fuel are stored in the quarry for health and safety reasons and all fuel/products for plant/machinery is stored in bunded storage tanks / tanks locate in bunded concrete storage areas. Procedures are in place for refuelling and maintenance of plant/machinery.

- All recyclable or waste material will be removed off site and transported to a licenced or permitted facility.
- A restoration plan was submitted as part of the applicant. A landscape and restoration plan agreeable to both the applicant and the GCC will be finalised and implemented.

## **POLICY DOCUMENTS**

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

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

Section 9.4 Landscape Conservation & Management: s.9.4.2.3 Landscape Sensitivity; policies HL93-HL97 and objectives HL44-45.

DM Standard 35: Extractive Development.

DM Standard 36: Compliance with Landscape Sensitivity Designations – Class 1 low.

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**

*‘Section 261A of the Planning and Development Act, 2000 and related provisions, Guidelines for Planning Authorities’* (DoEC&LG, January 2012)

*‘Section 261A of the Planning and Development Act, 2000 and related provisions, Supplementary Guidelines for Planning Authorities’* (DoEC&LG, July 2012)

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

'Guidelines for Inspectors: Quarrying and the Water Environment', unpublished (February 2013)

## **ASSESSMENT:**

- 1.0 Introduction
- 2.0 Nature and extent of development concerned
- 3.0 Planning policy
- 4.0 Environmental Impact Assessment - rEIS
- 5.0 Overall conclusion

### 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. On 05/09/14 the Board confirmed the planning authority's determination under Section 261A(2)(a)(i), set aside the planning authority's determination under Section 261A(2)(a)(ii) and confirmed the planning authority's decision under Section 261A(3)(a), insofar as it related to EIA, to direct the owner / occupier to submit an application for substitute consent accompanied by a remedial Environmental Impact Statement.

1.2 I have inspected the substitute consent site and have reviewed all details and submissions on file, including the remedial EIS, and the quarry registration and quarry review files pertaining to the quarry.

### 2.0 Nature and extent of development concerned:

2.1 This substitute consent application is for '*an existing rock quarry*'. The boundary to the substitute consent site contains an extraction area of c.6.3ha stated area. The development concerned only relates to the extraction pit and associated processing activities (crushing and screening, which are indicated as primarily undertaken close to the extraction point at the quarry face, with the material stockpiled at various locations on the quarry floor) that have been carried out on the subject site (the redline boundary delineated on the site layout plan drawing no.PP-110-01). The substitute consent area is consistent with the Boards quarry review QV00134.

### 3.0 Planning policy:

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 note the Council's objective (HL32) in respect of quarrying and eskers under section 9.3.3. 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>1</sup> pertaining to extractive development in the County. 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 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*', which is appropriate. Section 11.8 of the plan indicates that 'all development consistent with settlement policies' will be acceptable. However references elsewhere within section 11.8 would suggest that *DM standard 36* relates to rural housing development rather than to developments generally.
- 3.3 It is the position of the planning authority that the subject development complies with the County Development Plan development policies and objectives for the extractive industry, having regard to the site's landscape sensitivity designation as '*class 1 – low*'. In my professional opinion, the Galway County Development Plan 2009-2015 does not provide clear guidance on the appropriate location and scale of quarry development in having regard to landscape sensitivity, however, given the low sensitivity designation, it can reasonably be concluded that quarry use is open for consideration within this location subject to considerations of the proper planning and sustainable development of the area.

#### 4.0 Environmental Impact Assessment – remedial Environmental Impact Statement

- 4.1.0 The applicant submitted a remedial Environmental Impact Statement with the application. Part XA, section 177F of the Act of 2000, as amended states that a remedial environmental impact statement shall contain:

*'(a) a statement of the significant effects, if any, on the environment, which have occurred or which are occurring or which*

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<sup>1</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.

*can reasonably be expected to occur because the development the subject of the application for substitute consent was carried out*

*(b) details of—(i) any appropriate remedial measures undertaken or proposed to be undertaken by the applicant for substitute consent to remedy any significant adverse effects on the environment; (ii) the period of time within which any proposed remedial measures shall be carried out by or on behalf of the applicant;'*

*(c) such information as may be prescribed under section 177N.*

4.1.1 This differs from, and is less prescriptive than the information required to be contained in an EIS as specified under article 94 and schedule 6 of the Regulations 2001, as amended. There is no indication under Part XA that the information contained in a remedial EIS shall also follow the requirements of the said Regulations and I note that the department's '*Guidelines for Planning Authorities and An Bord Pleanála on carrying out EIA*' makes no reference to rEIS. I have not been able to locate any regulations made by the Minister prescribing additional information requirements under section 177N. The Board may, however, decide that the requirements of article 94 and schedule 6 of the Regulations also apply and I have carried out an environmental impact assessment of the subject development accordingly, having regard to the departmental guidance for carrying out same.

4.2.0 General comment - The rEIS provides, generally in accordance with the requirements of schedule 6(1) of the Regulations, a detailed description of the subject development, a description of measures provided or proposed to mitigate adverse effects, data to identify and assess the what it considers to be the main effects and it addresses the issue of alternatives appropriate to the context of it being an rEIS and a substitute consent application.

4.2.1 The rEIS also generally provides an explanation or amplification of that information, as required under section (2) of schedule 6, including a description of the aspects of the environment that may or may not be likely to be significantly affected by the subject development having regard to the individual factors comprising the environment.

4.3.0 Human beings –

4.3.1 According to EPA guidance<sup>2</sup> the impacts concerning human beings include economic activity, social patterns, land use, employment, health and safety, settlement patterns and amenity. Undoubtedly the development will have had

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<sup>2</sup> '*Guidelines on the Information to be Contained in Environmental Impacts Statements*' (2002); '*Advice Notes on Current Practice in the Preparation of Environmental Impact Statements*' (2003).

impacts on human beings due to the scale and nature of development and the proximity of the site to residential properties to the southwest. Given the site location and its proximity to residential housing I consider impacts on human beings to be one of the principle concerns. The main impacts of concern are noise, dust and vibration from operations including blasting and access traffic.

- 4.3.2 The rEIS submits that the development has had a positive impact on local community in terms of economic activity and employment, has not led to a significant loss of the existing agricultural land use in the area and has not deterred people from living within proximity as a number of houses have been constructed within the study area over the last number of years. Potential for cumulative impacts are considered but none are identified as having occurred or to be likely. The rEIS identifies no *significant* adverse impacts as having occurred, to be occurring or to be likely to occur from the development undertaken. It is submitted that the potential negative impacts on human beings and amenity from noise, dust, vibration, traffic and visual are eliminated or reduced to acceptable levels through existing / proposed remedial measures outlined elsewhere.
- 4.3.3 It is evident from correspondence on file that the overall quarry development has caused some annoyance to local residents over the years. Three third party submissions to the registration application (QSP.74) expressed concern that quarry is inadequately sealed along the perimeter and poses safety risk (requested that quarry be backfilled and the pit faces slope off at 45-degree angle) and raised the issue of impact of dust and noise and blasting and traffic. Subsequently a letter issued from the Planning Authority to the operator on 22/05/08 about a complaint received over the alleged commencing of quarry operations at 5.25am on 16/05/08<sup>3</sup>.
- 4.3.4 There were only two submissions from two local residents to the substitute consent application. They raise the issue of adverse impact on the residential amenities of the area arising from HGV traffic, dirt on the access road, traffic safety issues arising from excessive speed of HGVs (impact on children and pedestrian safety and vehicular access), impact on the condition of the road and blocked gulleys. One of the submissions (Paul de h'Ora 11/12/13) does indicate that the quarry has made improvements over the years which suggests that any adverse impacts have decreased in magnitude. This may be due, in part, from the significant tailing off of activity at the quarry since the peak (2006). The second (David Cormican 13/12/14) submits that the HGV traffic has accessed the quarry out of hours (1.30am, and 5.30am) recently and on a Sunday. The applicant has responded that these were exceptional

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<sup>3</sup> The conditions attached to the quarry in April 2007 restricted the hours of operation of the facility to between 07.00 and 19.00 hours Monday to Friday and 07.00 to 15.00 hours on Saturday, as was proposed by Cannon Concrete Products Ltd in submission of 05/04/07

circumstances which are provided for in its submission to the County Council regarding opening hours<sup>4</sup>.

- 4.3.5 The HSE's report would suggest that the noise levels reported in the rEIS can be expected to have a significant impact on residential amenities as the difference between background night time noise levels and operational noise exceeds 10dB (actually between 16-22dB) and the EPA 55dB(A) standard has been breached on a number of occasions. The HSE also submits that further investigation of cumulative effects of numerous operations carried out at one time is required. I consider it likely that the development carried out, in itself but, in particular, taken cumulatively with the wider quarry development, has had adverse impacts on the amenities of local residences to the southwest from dust and noise associated with that development (including traffic). In general the impacts arising from the substitute consent development undertaken are undesirable for any residential area, however they are not permanent impacts and may be regarded as complete.
- 4.3.6 There are significant potential health and safety impacts that will arise in future from site restoration. It is proposed to allow the quarry to flood. Based on the details on file, including the proposed restoration plan contained in chapter 11 of the rEIS, the flooded pit will be surrounded on all sides by vertical pit faces (pit top c.16.0mOD, water level at c.13.7mOD). Should anyone inadvertently fall into the flooded pit they may be unable to exit it. The pit will form a permanent public safety hazard<sup>5</sup>. The applicant proposes to erect security fencing around the site. This is reasonable but is not, in itself sufficient permanent measure to mitigate the risk to public safety on a site that may no longer be in economic use.
- 4.3.7 Neither the DoE nor the EPA refer to this issue in their respective guidance documents. The EPA's guidance on site restoration (fig.3.10) would suggest that the pit faces be made safe through re-grading. Despite referring to phase II of the applicant's site restoration plan as '*Restoration of Side Slopes*', the plan proposes no alterations to the existing vertical pit faces. The re-grading of the upper cliff faces down to the estimated future water level of the flooded pit along the lines of the aforementioned fig.3.10 (in addition to the provision of security fencing around the site as proposed) would reduce the risk to public safety to a reasonable level. There is limited space to achieve this on the southern and eastern boundaries of the site. A revised site restoration plan which fully addresses this concern should be agreed between the planning authority and the applicant. I note that the Planning Authority

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<sup>4</sup> This is contrary to condition no.6. attached to the quarry under the section 261 registration process.

<sup>5</sup> In the US an average of 30 deaths occur at abandoned mines per annum, the majority from drowning.

<http://geology.com/articles/abandoned-mines.shtml> 29/09/2014.

recommended that a condition be attached requiring the restoration proposals for the land be agreed with the Planning Authority.

#### 4.4.0 Flora and fauna –

4.4.1 The survey and assessment by EcoHort is reasonable. No rare/protected flora or invertebrates or mammals were recorded in immediate / greater locality. It considered there to be potential for only one species of conservation value, Peregrine Falcon (*Falco peregrinus*) an annex I species that is not under threat in Ireland (green listing) and that the active quarry had a medium local conservation value.

4.4.2 The potential for two indirect source-receptor links between the site and the Galway Bay Complex and Creganna Marsh Natura 2000 sites were found to be of a magnitude that did not have potential to become significant. No significant impacts were considered to occur on Annex I species (specifically, White fronted geese). It submits that none of the quarries (or any other relevant development) within 15km radius have any terrestrial or aquatic link to the quarry which would lead to a significant in-combination impact. The potential for impact from expansion of the extraction area, as referred to under section 4.8, is not relevant as the substitute consent process only concerns the regularising of development undertaken up to the time the application was made and not development carried out beyond that date.

4.4.3 I would accept that no significant adverse impacts on flora and fauna have occurred, are occurring or are likely to occur resulting from the development that has been carried out. The proposed mitigation measures largely relate to future or continuance of quarrying and are not relevant to substitute consent.

#### 4.5.0 Soils & geology –

4.5.1 No significant impact on soil and geology, including through cumulative impacts with other quarries within 15km, were identified. Mitigations measures proposed are generally acceptable. Reference under section 5.8 to reinstatement of the site when extraction has reached the required level infers the continuation of the development. The substitute consent process cannot authorise continuation of the development and any reinstatement should take place based on the current extent and depth of the quarry unless permission is granted subsequently granted for continuance of use.

#### 4.6.0 Hydrology & hydrogeology –

4.6.1 The rEIS provides good background contextual data and description. Surface water bodies within the region are overwhelmingly not of good status - within Clarin / Kilcolgan Water Management Unit most river bodies of poor status



and only 2 of 23 being of good status. Only 8% of channel length is as Good by EPA, none of high status, 7% moderated, 66% poor and 19% bad.

- 4.6.2 It is stated that no water from the quarry is discharged off site, although it is unclear whether it has ever been the practice over the period concerned. Water from the quarry sump is stored for use in the block manufacturing operations on the original quarry and manufacturing site, and for dust suppression. Whereas the rEIS calculates that 116,921m<sup>3</sup> per year or 320.3m<sup>3</sup> per day percolates to ground within the wider (14.5ha) quarry holding (50,800m<sup>3</sup> and 139.2m<sup>3</sup>, respectively, for the 6.3ha substitute consent area), no calculation is provided for the quantity of groundwater ingressing the site.
- 4.6.3 On the day of inspection (following a relatively lengthy dry period) it was evident that groundwater enters the site at the lower level of the pit faces, but the flow was seepage rather than a substantial flow. This can be expected to vary with the weather. A third party submission (David Cormican, refers to flooding of fields to the rear of his property in 2009 that he suggests can be attributed to the quarry operations. The applicant responded that there is no requirement to discharge water from the quarry and it is not possible to discharge water to the field in question which is some 700m distant. The applicant's explanation that the flooding resulting from the high rainfall in November 2009, which resulted in severe flooding in many parts of the country, is reasonable. It is further indicated that the quarry is allowed to flood in times of extreme events. In terms of groundwater, the cone of drawdown (13.71mOD water level, with -5.86mOD at sump) is quite restricted and therefore would appear not to have had a significant impact.
- 4.6.4 Testing of the lagoon waters against EC Regulations S.I. No.294 of 1989 and S.I. No.272 of 2009 EC Environmental objectives (surface water regulations) showed compliance with all parameters bar three: dissolved oxygen, BOD and sulphate.
- Dissolved Oxygen – The rEIS explains that this was likely due to stagnant as opposed to flowing nature water body.
  - BOD – Arithmetic mean above recommended guideline value of ≤1.5mg/l as two samples were ≤2.6mg/l but results were generally <1mg/l
  - Sulphate – the statement that “*sulphate was above the recommended guideline value on a number of occasions*” minimises the actual significance of noncompliance with limits. Sulphate levels actually exceeded the 200mg/l limit on 10 of the 12 sampling occasions, reaching a level of 728mg/l in 2008.
- 4.6.5 The rEIS provides no determination of the significant of these results in terms of impacts (and significance of same) on the water environment. Testing of

two new groundwater wells showed compliance with S.I.no.9/2010 EC Env. Objectives (Groundwater) Regulations 2010, but the EPA Interim Guidelines Values for Chloride limit 30mg/l were exceeded. It can be assumed that compliance with the S.I. 9/2010 is the critical standard and that there are no ongoing significant effects.

4.6.6 The rEIS identifies potential for contamination of groundwater environment due to accidental emissions from plant / machinery on site. The site is located within an area of high vulnerability for groundwater, with vulnerability increased due to removal of soils and exposure of rock. Mitigation measures are in place to minimise risk to groundwater, including bunding of fuel tanks, procedures for refueling or the addition of lubricant, etc., and monitoring. The rEIS does not refer to any significant impacts as having occurred, to be occurring or to be likely to occur from the development undertaken. It asserts that no quarries or other industrial/commercial activities within 15km are considered to have potential to have significant in-combination impact. It specifies proposed mitigation measures but these largely relate to the continuance of development which cannot be authorised under the substitute consent procedure. There would appear to be no significant past impacts that warrant remedial mitigation measures.

4.6.7 On balance, I consider it likely that the development undertaken has not resulted in significant adverse impacts on the water environment. Any contamination of ground and/or surface water that may have occurred evidently, based on monitoring results, will have been temporary in nature. There is potential adverse impacts on groundwater arising from fly-tipping of waste in the flooded pit once operations have ceased at the site, notwithstanding proposals for secure fencing. This risk may be lower due to the relatively large number of residential dwellings within the vicinity. Details of security fencing, security measures and monitoring should be agreed by condition with the Planning Authority.

#### 4.7.0 Climate –

4.7.1 The impact assessment is of day to day activities being undertaken on site, arising from vehicles and plant giving rise to CO<sub>2</sub> and N<sub>2</sub>O emissions during extraction and transportation. It is submitted that the levels of emissions are not particularly high and that there is no significant impact on climate and no significant cumulative impacts. I am satisfied that the development undertaken is unlikely to have resulted in any significant adverse impacts on the Climate.

4.7.2 The remedial / mitigation measures proposed are not relevant to the development subject of this substitute consent application, as the development concerned has already been undertaken.

#### 4.8.0 Air

- 4.8.1 The rEIS does not anticipate that there has been or will be any significant air emissions from the existing development on its own or in combination with other development if the proposed mitigation measures are adhered to. It also anticipates no significant impact from dust, in the past or going forward.
- 4.8.2 The dust monitoring results (see table 8.3 of rEIS) show that dust emission limits (350mg/m<sup>2</sup>/day) were exceeded on three occasions in 2007, reaching as high as 781.2mg/m<sup>2</sup>/day in March/April of that year. Three submissions to the registration application (in 2005) complained about dust which was said to vary day to day and, at its worst was alleged to necessitate all the windows in the house to be closed (the only results for 2005 are 45.46mg and 55.44mg/m<sup>2</sup>/day). The issue of muck and silt carried onto the road and dust from the trucks were raised and the need for a proper sprinkler system and a dust management plan was identified. I consider it likely that the impact of dust has been a significant issue in the past and has adversely impacted on residential amenities at least occasionally. This no longer seems to be a pressing concern, whether due to the provision of adequate mitigation and / or reduced activity or a combination of both.
- 4.8.3 The mitigation measures relate primarily to the continuance of extraction development, rather than to remedial measures to mitigate existing significant effects. Ongoing dust generation will continue as long as the pit remains open and therefore some of the mitigation measures, including surface spraying will be required during dry periods until the pit is permitted to flood and the site to be recolonized naturally by vegetation on site restoration.

#### 4.9.0 Noise & vibration –

- 4.9.1 The rEIS assesses the impact of noise against EPA standards ‘Environmental Management in the Extractive Industry (non-Scheduled Minerals) which sets a limit of 55dB(A) for day time and 45dB(A) for night time. Of the six daytime monitoring occasions the noise limit was breached on three (up to 60.9dB(A)<sub>L<sub>Aeq</sub></sub>). It attributes this to the number of vehicles passing the monitoring station that would have contributed to elevated noise levels, in addition to background noise level on the N18 which reaches 55dB on occasion. No blasting was carried out at the time of monitoring. There is a gap in monitoring for the years 2009-2011 inclusive and there are no results prior to 2006. Given the relatively high density of residential dwellings along the access road, and assuming the limited number of survey are representative of the impact on development ongoing over the wider period at that time, the quarry and quarry access traffic, particularly taken with the manufacturing development on the wider quarry site, may have resulted in significant adverse impact from noise on local residences during the period concerned. This impact will have been more significant for dwellings more

distant from the N18 as the baseline noise levels will be lower. That a significant impact is likely to have occurred is supported by the HSE submission of 28/01/14 which notes the difference between operational and non-operational noise (night time background level) is between 16dB and 22dB and indicates that complaints generally arise where the difference is greater than.

- 4.9.2 In terms of vibration and air overpressure from blasting extraction operations, air overpressure exceeded the 125dB(lin) limit on one occasion (and met on another) but the 12mm/s ground vibration was not exceeded. The results date only from 2007 and therefore the impact prior to that date are not known. The development undertaken may therefore have had significant impacts over the period concerned, notwithstanding that blasting will have been occasional. It is not stated how many times per annum blasting has occurred over the period concerned. One submission to the quarry registration application referred to the impact of blasting as unnerving and suggested that cracks in his dwelling may have resulted from quarry blasts. The rEIS submits that any impact from blasting and processing are short lived, however the impacts may be significant whilst they are occurring and the occurrence would have been far more frequent during the period of high economic growth.
- 4.9.3 The impact of noise generated, exclusive of blasting, arising from all noise generating machinery on site is assessed at 47.3dB(A)LAeq at the nearest NSL. It is submitted that this is a worst case scenario and, in any case, is lower than the EPA's daytime limit. There may have been cumulative impacts in the past with traffic on the N18, but the applicant does not quantify this. The applicant's submission to the quarry registration application indicates that noise levels at the nearest NSL at 54.7dB(L) were found to be below EPA and ICF limits. It states (on p.46 or appendix E of registration application) '*there are no concerns with noise and there has never been any complaints in relation to noise from the site. No action is required.*' Submissions to the quarry registration application complained of the impact of blasting, the noise of trucks and the piercing noise of a very loud siren. Therefore there is anecdotal evidence that the quarry has had an appreciable adverse impact on the surrounding residences in terms of noise
- 4.9.4 The impacts arising can be regarded as completed in respect of the development subject of this application for substitute consent, except where they relate to site restoration works.

#### 4.10.0 Traffic –

- 4.10.1 The applicant submits that traffic levels are y small relative to traffic on the N18 and that traffic associated with the development will not increase above the levels experience at peak. It provides no real assessment of traffic impact. It is likely that the impact of heavy vehicles travelling along this

narrow local road has had a localised significant adverse impact, in terms of noise, vibration and dust and safety issues on the residential amenities of local residents living there-along. There would have been significant adverse cumulative impact with traffic accessing the manufacturing facility on site and traffic accessing the Galway County Council facility. This impact will have peaked in the economic boom period. There is no signage on the N18 to alert drivers of the location of the facility or of the likelihood of a HGV turning movements at the junction.

4.10.2 The details submitted with the quarry registration application indicate that there were 294no. vehicular movements per day, 200 of which were HGV movements, however this related to the entire quarry and manufacturing development (i.e. the cumulative impact). The rEIS indicates that there were 160no. vehicular movements in 2006, reducing each subsequent year, reaching 38no. movements in 2012. As stated in the rEIS, the extracted materials are used to supply the (permitted) manufacturing facility on the wider holding and the quarry facilitates that industry (it is unlikely that the manufacturing industry would be viable without a directly adjacent source of material). Is it not therefore it is not possible to separate out the traffic impacts between the two combined operations. A number of third party submissions to the registration application contradict this assertion and complained about the number of and speed of trucks using the lane, sometimes causing windows and doors of house to vibrate and trucks depositing muck.

4.10.3 The original quarry and existing manufacturing activity on the wider site (and the neighbouring local authority facility) preceded the majority of the residential development that has taken place along the lane and the baseline residential amenities of the dwellings have to be viewed in this context rather than in the context of a typical rural area (their proximity of the N18, which carried heavy traffic, should also be noted). The applicant submits that Cannon Concrete traffic voluntarily travels at 25mph along the access road and that it would welcome the imposition of a speed limit on the road as part of an overall traffic management strategy. I would agree with the applicant's opposition to the provision of speed bumps along the road on the grounds that it would increase noise. The narrow width and residential nature of the lane would encourage most drivers to drive at lower than the 80kph posted speed limit. However, these issues relate to the permitted manufacturing and quarrying facility within the original site boundary and are not relevant to the substitute consent application for a development that can be regarded as completed.

4.10.4 The assessment is not aware of any past accidents and I note that there are no road accidents recorded in the RSA's road collisions map system that would appear to be attributed to the operation of the quarry.

4.10.5 Traffic to/from the proposed facility will have had an adverse impact on the residential amenities of properties fronting onto the local access road due to generation of noise, vibration, dust and safety concerns. The impact peaked in or around 2005-2006 when extraction and traffic movement were at their greatest. For the majority of affected residences the baseline environment would have included some (and possibly a significant) level of HGV traffic accessing the quarry and manufacturing facility permitted in 1973 and therefore the significance of the traffic impact is less than it would be for a typical rural area. The traffic impacts associated with the substitute consent quarry can be considered completed.

#### 4.11.0 Landscape & restoration –

4.11.1 The rEIS does not identify any significant landscape or visual impacts. The substitute consent quarry is not obtrusive when viewed from the surrounding lands or from a distance. The restoration plan provides that all stockpiled and plant and machinery will be removed, the site boundaries will be secured, the pit will be allowed to flood and the site to re-vegetate naturally.

4.11.2 In principle I consider reasonable to allow the site to re-vegetate naturally and there is no other realistic option other than to let the pit to flood. I have raised concern elsewhere in this assessment about public health and safety and about fly-tipping at the quarry on closure and advised that these issues be resolved through appropriate restoration and securing of the site by way of condition, should the Board decide to grant permission.

#### 4.12.0 Material Assets –

4.12.1 No significant adverse impacts are noted in the rEIS. I would accept that the loss of geological resource and land resource is not significant. The assessment of the impact on the road network is inadequate and the rEIS makes no attempt to quantify the impact, locally or otherwise. On inspecting the lane I found it to be, generally, in good condition and the applicant submits that they surfaced it in recent years. A number of gullies along the road are blocked with silt, as are those within the private section of quarry road at the entrance to the site. In this regard the Council has recommended that a financial contribution of €5,000 towards maintenance and upkeep of the local road network be attached. The applicant has not objected to this contribution but agrees to provide services and material to the value of €5,000 in lieu of financial payment. I consider this contribution to be reasonable, but the form of payment should be determined by the Planning Authority.

4.12.2 There has been no assessment of impact on residential property as material assets. Such impacts would include damage to surface structures through vibration from blasting. A submission to the registration application alludes to possible damage (cracks) from blasting, but none of the submissions to the

substitute consent application refers to such impacts therefore it is reasonable to conclude that no significant adverse impacts on residential material assets have occurred.

#### 4.13.0 Archaeology & Cultural heritage –

4.13.1 Arising from a desk study and a field survey the rEIS concludes that no significant impacts have occurred. I consider this to be a reasonable conclusion based on the details of the desk survey. Any unrecorded or unanticipated archaeological remains will have been permanently lost and unrecorded through the development undertaken.

#### 4.14.0 Interactions –

4.14.1 No significant impacts are identified. As noted above, I have some concern of risk to surface water and groundwater from after-use and restoration through risk of fly-tipping at the site (see above).

#### 5.0 Other issues –

5.1 It was evident on the day of inspection that a considerable quantity of concrete manufacturing waste material has been deposited at the western side of the pit, although the majority of the fill falls outside of the boundary. 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>6</sup>*

I would advise the Board that any decision to grant substitute consent for the development concerned should expressly exclude the authorisation of deposition of waste within that area. I note that the Planning Authority recommended that a condition be attached requiring that recyclable or waste material be removed off site to licensed or permitted facilities. The Planning Authority has not indicated that it has taken any enforcement action in respect of the deposition of any wastes within the subject facility.

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<sup>6</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.*’

6.0 Overall conclusion

- 6.1 I am concerned that the proposed restoration plan for the pit, which provide for vertical pit faces surrounding a flooded pit will result in a permanent public safety hazard in this area. I am also concerned that the quarry, if not properly secured and/or monitored or subject of an economic afteruse, will attract fly-tipping and pose a threat to groundwater. The restoration plan needs to be amended to resolve these concerns. This issue can be addressed by condition requiring agreement of detail to be reached between the applicant and the planning authority. Apart from this issue, I am satisfied that the quarry development has not resulted in permanent significant adverse impacts on the factors of the environment.



### **Recommendation:**

I recommend that the Board **GRANT** substitute consent for the quarry development undertaken within substitute consent boundary.

### **Reasons and Considerations**

Having regard to:

- the provisions of the Planning and Development Acts, 2000 to 2014, and in particular Part XA,
- the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities', April 2004,
- the provisions of the current Galway County Development Plan,
- the remedial Environmental Impact Statement submitted with the application for substitute consent,
- the report and the opinion of the planning authority under section 177I,
- the report of the Board's inspector, including in relation to potential significant effects on the environment,
- the submissions on file,
- the site's planning history,
- the pattern of development in the area, and
- the nature and scale of the development the subject of this application for substitute consent.

It is considered that the remedial Environmental Impact Statement submitted with the application identified and described adequately the direct and indirect effects on the environment of the development and 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. The grant of substitute consent shall be in accordance with the plans and particulars submitted with the application to An Bord Pleanála on the 3<sup>rd</sup> day of December 2013. This grant of substitute consent relates only to development undertaken as described in the application, does not authorise any future extraction activity and does not relate to any other development on the subject site.

**Reason:** In the interest of clarity.

2. Nothing in this decision shall authorise the use of the substitute consent site for the deposition of wastes, including waste arising from concrete manufacturing.

**Reason:** In the interest of clarity.

3. Within three months of the date of this order the applicant shall submit for the written agreement of the planning authority a revised site restoration plan for the subject site. The restoration plan shall, in particular, address the following safety concern:
  - (a) The re-grading of the upper pit-face down to the waterline of the flooded pit in order to reduce the risk of someone falling into and being unable to exit the flooded pit. The revised site restoration plan shall have regard to section 3.6 *'Landscape, Restoration and Afteruse'* and to Fig.3.10 of the *'Environmental Management Guidelines: Environmental Management in the Extractive Industry (Non-Scheduled Minerals)'* (EPA, 2006).
  - (b) Full details of measures to secure the site boundaries from unauthorised access after closure of the facility.

**Reason:** In the interest of public safety.

4. 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 other security to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. 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 An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory restoration of the development.

5. The developer shall pay the sum of €5000 (five thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the maintenance and upkeep of the local road network. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of 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 An Bord Pleanála to determine.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development

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John Desmond,  
Planning Inspector  
30/09/14