

# An Bord Pleanála



## Inspector's Report

**REF:- SU17.SU0078**

**DEVELOPMENT:-**

Substitute Consent application for 4.8ha area of quarry at Barleyhill Quarry, Ardagh, Kingscourt, County Meath.

### PLANNING APPLICATION

**Planning Authority:**

Meath County Council

**Planning Authority Reg. Ref.:**

QY13

**Applicant:**

Roadstone Wood Ltd

**Type of Application:**

Substitute Consent under Section 177E

### APPEAL

**Observers:**

None

**Date of site inspection:**

14<sup>th</sup> of May 2014

**INSPECTOR:**

Angela Brereton

## **1.0 INTRODUCTION**

A notice was issued under the provisions of Section 261A (3)(a) by Meath County Council on the 18<sup>th</sup> of July 2012, instructing the owner/operator of a quarry at, Barley Hill, Ardagh, Co.Meath, to apply for substitute consent for the works undertaken on the site and that the application for substitute consent be accompanied by a remedial Environmental Impact Statement. Subsequent to the Board's Quarry Review decision in Ref. QV17.QV0028 an application for substitute consent has been made to the Board accompanied by a remedial EIA. This was lodged by the applicant with An Bord Pleanála on the 20<sup>th</sup> of December 2013. Subsequently the substitute consent area, was extended from 3.37ha to 4.8ha and revised plans and particulars including revisions to public notices and to the rEIA were submitted on the 30<sup>th</sup> of April and 17<sup>th</sup> June 2014.

## **2.0 SITE LOCATION AND DESCRIPTION**

The quarry at BarleyHill lies approx.5kms east of the town of Kingscourt and is located in the townland of Ardagh. It is within the rural agricultural area, close to the borders with Counties Monaghan and Cavan, with Meath Hill to the south and Ballyhoe Lough (p NHA) to the east. The site is accessed via a local road that spurs off the R165 at Killycroff, c.5kms to the northwest of Drumcondra towards Kingscourt. The R165 is located approx.2km to the west of the quarry.

The active quarry area is on the west side of the county road and is c.20.1ha. It is positioned within a limestone hill rising from the local agricultural landscape, and is above the watertable. The substitute consent area appears as part of and is not separated from the larger quarry site area, lies within the south western part of the greater landholding area and is set back approx. 400m from the adjacent local road.

The concrete batching plant is situated at the north of the main quarry extraction area. The overall production covers approx.1.2ha and houses quarry plant and machinery including site offices and storage silos. There is also a fuel storage and handling area, wheel wash and sprinkler system and associated settlement lagoons. Site offices and carparking area are located opposite the entrance to the quarry on the eastern side of the public road. These are within the greater landholding area and are not located within the subject site.

The field boundaries are comprised of a mixture of hedgerows and fencing with a local county road separating the administrative area of the quarry from the operational activities. A roadside ditch running along the eastern side of the public road passing the site discharges to Ballyhoe Lough, which lies c.500m to the east of the quarry.

Due to the undulating topography within the landscape, the quarry and the exposed face can only be seen from sections of roads on elevated grounds. There are some limited views of the ridge of the quarry which can be seen in the distance from Ballyhoe Lough. There are a number of residential properties and farm buildings located within 1km of the Barleyhill Quarry.

### **3.0 PLANNING HISTORY**

- QY13: The quarry was registered by the Council under S261 of the Planning and Development Act 2000 (5<sup>th</sup> of March 2007). The information submitted provides that the quarry commenced on site c.1950. Conditions were imposed by Meath Co. Council and subsequently modified by ABP Ref.QC17.QC2022 refers (28<sup>th</sup> of February 2008).
- Reg. Ref.01/899 Permission granted subject to conditions (19<sup>th</sup> of Sept. 2001) by Meath Co. Council for the construction of a Readymix concrete batching plant with associated water recycle catchment tanks and a concrete silo at Barleyhill. Condition nos.9 and 10 concerned contributions towards public roads.

Details submitted included a Report dated 10<sup>th</sup> of July 2001 which provided a description of the development and operations at that time, regard was had to Environmental Management including dust suppression measures, noise, traffic and water source and usage and the closed recycling system.

Copies are included in the history documentation submitted.

### **4.0 QUARRY REGISTRATION**

An application was made to the Council for registration under S261 of the Planning and Development Act 2000, on the 4<sup>th</sup> of March 2005. The application form included that quarrying commenced approx.1950. It was provided that the total site area of this limestone quarry was 21.05ha, with an extraction area of 14.32ha and that there were 40,000 truck movements per year.

Details submitted by Roadstone with the registration noted that an Environmental Management System was in operation at the quarry certified to meet then current requirements and guidelines. Under this system all environmental aspects managed included regard to dust, noise and blasting and to ensure the elimination of the likelihood of any significant environment effect. Environmental audits were carried out on a regular basis. They included a copy of the Draft ICF Environmental Code of Practice dated 2005 which Good Practice standards and procedures and is not specific to the subject site. Regard is also had to reinstatement and after-use.

A Planning Enforcement Report (August 2005) noted that there appeared to be no planning permission for quarrying at this site although permission had been granted for the erection of a readymix concrete plant with associated water recycle catchment tanks at Barley Hill Quarry (Reg.Ref.01/899 referred). This also referred to Ballyhoe Lough a pNHA to the east of the quarry and to views located in the townlands of Ardagh and Barleyhill in the 2001 Meath CDP. It was recommended

that conditions be imposed on the operation of the quarry to ensure that they are in line with Best Practice.

Roadstone response to the Council's draft registration conditions is dated 19<sup>th</sup> of January 2007. Having regard to timeframe they then estimated the lifespan of the quarry of at least 30 years to fully exhaust the accessible reserve. They also provided that no process water was discharged from this quarry and subsequently, no monitoring of surface water was required, but that a programme of monitoring groundwater was in place. They considered that an EPA recommendation should be applied to blasting practices at this quarry.

On the 5<sup>th</sup> of March 2007, Meath County Council registered this quarry subject to 22no. conditions (QY/13 refers). Condition no.2 limited the time period to 20 years. Condition no.3 provided that within 6 months of the order, the owner/occupier would agree the exact area of the quarry within which future extraction be confined and the maximum depth of the quarry excavation. Other operational and monitoring conditions are also included. Condition no.22 provided for a special contribution of €300,000 under S48(2)(c) of the Planning and Development Act 2000 in respect of road improvement works facilitating the proposed development.

#### **4.1 Appeal against Conditions**

A First Party appeal relative to a number of the Council's registration conditions was subsequently made on behalf of Roadstone Dublin Ltd (Ref.QC17. QC2022 refers). This included that condition no. 2 regarding the life of the permission be deleted/reworded to allow for 30 years, as the quarry commenced before 1<sup>st</sup> of October 1964 and there was no existing limit on the duration of the development. They also requested revisions to the wording of condition no.6 relative to noise emission limits and no.17 relative to vibration and air pressure. They requested condition no.18 relative to Hydrological Assessment be deleted in view of EMS systems in place, and revisions to condition no.20 relative to the wheelwash. They requested that the Board delete condition no.22 regarding special contribution, as development contributions do not apply to S261 quarry registration where conditions are being imposed on quarry development that commenced operation before 1<sup>st</sup> of October 1964.

The Inspectors Report had regard to the planning history, planning policies and operations on the site and an assessment was made of the conditions appealed and recommendation. It is of note that in relation to condition no.2 that the Board decision (dated 28<sup>th</sup> of February 2008) considered that in this instance having regard to the pre -1964 status of this quarry there is no justification for the imposition of a time limit on the operation of the quarry and this condition was omitted. Modifications were made to condition nos. 6 (noise) and 17 (blasting) and to condition 18

(hydrogeological assessment) and condition 20 (wheelwash). Condition no.22 concerning financial contributions was omitted. The Board considered that there is no provision for the restating, modification or imposition of conditions requiring the payment of financial contributions under S48, notwithstanding the provisions of S261(6)(b) of the Planning and Development Act 2000.

Details were subsequently submitted by Roadstone regarding compliance with these conditions. This included details regarding hydrogeological assessment (Report dated November 2009), access and traffic management and landscaping and restoration.

## **5.0 PLANNING CONTEXT**

### **Meath County Development Plan 2013 -2019**

Chapter 7 refers to Water, Drainage and Environmental Services. S7.14.1 refers to the implementation of the Water Framework Directive. S7.14.2 refers to protection of Surface Waters and includes regard to rivers, lakes and coastal waters. S7.14.3 provides for the protection of groundwaters. Policies WS POL19 to 28 refer. S7.15 has regard to Flood Risk Management.

Chapter 9 relates to Cultural and Natural Assets. S9.6.9 includes regard to Archaeological Heritage and S9.6.10 refers to the Record of Protected Structures (Appendix 8). S9.7 refers to Natural Heritage, to biodiversity and the protection of Natura 2000 sites. Policies NH POL5 to POL7 and Objectives NH OBJ 2 and 3 refer. S9.8 refers to Landscape and provides for Landscape Character Assessment and Landscape types and sensitivities. S9.10 refers to Views and Prospects. Appendix 12 provides a list of Protected Views and Prospects. As shown in the Meath Landscape Character Assessment the site is located in LCA 2 North Meath Lakelands with a moderate value and low sensitivity. Landscape importance is described as regional.

Chapter 10 relates to Rural Development. S10.12 refers specifically to the Extractive Industry and Building Materials Production. This notes the need for the extractive industry in terms of supply and aggregate for the construction sector, delivering transport infrastructure projects and the export market. However the potential for conflict in the operation of these industries with wider environmental issues needs careful consideration. They also refer to S261A and the need to carry out EIA and AA in certain cases and to protect visual amenity, biodiversity and designated Natura 2000 sites. Policies RD POL 21 to 27 refer.

Ch11 provides the Development Management Guidelines. S11.14 refers to the Extractive Industry and Building Materials. This provides that control will be exercised over the types of development taking place and includes regard to issues of transportation, duration, rehabilitation, Natura 2000 sites etc. This includes that: *Extractive industry proposals should pay particular attention to the potential for likely significant effects on the Natura 2000 sites due to groundwater drawdown or*

*the contamination of surface water. It also provides: All sites shall be subject to rehabilitation and landscaping programmes in phase with the extraction.*

### **Planning Guidelines**

- Quarries and Ancillary Activities: Guidelines for Planning Authorities, 2004
- DOE Guidelines on the Quarry Industry 2006
- Geological Heritage Guidelines for Extractive Industry c.2008
- Appropriate Assessments for Plans and Projects in Ireland: Guidelines for Planning Authorities 2010.
- Regional Planning Guidelines for the Greater Dublin Area 2010-2022.
- Section 261A of the Planning and Development Act 2000 and related provisions January 2012.
- Section 261A Supplementary Guidelines 2012.

It is of note that Chapter 3 of the rEIS submitted with the substitute consent application refers to planning and development and legislative context.

## **6.0 COUNCIL'S DETERMINATION UNDER S261A**

The Council's Quarry Assessment Report is dated the 17<sup>th</sup> of July 2012 and has regard to the history and context of the site, including the registration of the quarry under S261 and relevant planning policies and to the Submissions made. It was noted that the stated area of the quarry is 21.05ha of which 9.16ha is under extraction and that extraction does not take place below the watertable.

They also refer to a Council Engineer's Report (January 2012) where it was noted that the quarry extraction area covers approx. 9.16ha and has yielded approx. 7.76 million tonnes of rock. The quarry has 2 bench levels, where the extraction occurs. The top of the extracted area has an average of approx. 96.5m AOD and the lowest section approx. 48.0 AOD. Methods of extracting rock include blasting the quarry faces. Extraction rates were c.300 to 500 tonnes per day. It was noted that there were no visible signs of dewatering of the quarry floor. Also there was no sign that any restoration had taken place. Photographs were included showing views of the quarry operations in 2011. There was concern that there is an issue of public safety with regard to edge protection at quarry faces.

Section 7.0 of the Q.A. Report provides an Assessment of the quarry and refers to its pre 1964 status and to on-going operations. An inspection of mapping available (O.S Sheet 3-5 (revision of 1961)) and from aerial photography dated 1974, 1994, 2000, 2006 and 2009 by the PA would concur that quarry operations did commence prior to 1963.

It was considered that the issue of abandonment was not applicable given that evidence available to the Council would suggest operations on a continuous basis.

The issue of intensification is more prevalent given the growth of the economy in the 1990's and 2000's. It is noted that a considerable extension in quarrying took place between 1974 and 1994. In volumetric terms it would appear as though significant extraction took place between 1999 and 2009 on the basis of the aerial photography available. Also reference was made at registration that c. 40,000 traffic movements p.a were then taking place.

Having obtained information from Land Registry, additional lands were obtained subsequent to 1964 for quarrying purposes and which could not have been reasonably envisaged in 1964. They refer to S8.0 of the Quarry file and the property Ownership Research Report prepared. They consider that on that basis the PA can satisfactorily state that the quarry is/ was not operating under a pre-1964 authorisation. Having established that the quarry was not operating as a bona-fide 1964 use on the basis of a material change of use, an assessment of the nature and quantum of development post 1<sup>st</sup> of February 1990 needs to be undertaken relative to the need for EIA.

The P.A noted that from an inspection of 1994 aerial photography compared with the later photography available it would appear that the area of extraction has altered slightly (some movement south and west) but not to a degree that the works in themselves represented an increase of over 25% of the existing quarry. Having appraised the information available in particular the details in relation to scale of operations at the S261 quarry registration stage they considered that works were undertaken post 1990 where a sub-threshold EIA could not be ruled out. Regard was had to the scale of extraction, the scale of the quarry and the proximity to sensitive sites in particular Ballyhoe Lough (p NHA designated in 1990).

S7.3 considers whether a determination relative to AA was required, for works carried out prior to 26<sup>th</sup> of February 1997. Regard is had to the distance of the quarry i.e greater than 15kms to both the Stabannan-Braganstown SPA and the Dundalk SPA and SAC and their qualifying interests are noted. As quarrying has not been undertaken below the watertable and groundwater abstraction from the quarry floor or discharge to the water courses has not occurred, it is considered unlikely that there has been a significant impact on these Natura 2000 sites. They refer to the AA Screening Report which provides that AA is not required in this case.

Having regard to determination under S261A(5) the information submitted provides it can be determined that the quarry was operational post July 2008, however the extent of such work is less clear and there is insufficient data to determine that the works were such that an AA and/or an EIA were required. In conclusion the PA is satisfied that quarrying took place prior to 1964 and the quarry was registered under S261, also that works took place after 1<sup>st</sup> of February 1990 that would have required

an EIA. A number of documents including maps, aerial photographs, submissions, land registry and folio numbers are included with this Q.A. Report.

## 6.1 AA Screening Report

This has been carried out by Scott Cawley and is dated the 18<sup>th</sup> of July 2012. This included regard to hydrological pathways and noted surface water links between the quarry and designated sites were established from aerial photography and available mapping. The considerable distance of the Natura 2000 sites from the quarry is noted. The Stabannan- Braganstown SPA located c.17km to the east of the development site. Dundalk SPA and SAC is located c.24km downstream of the site. Qualifying interests for these sites are given. These sites are connected hydrologically to the quarry site. The site is within the River Glyde Catchment. The nearer site was designated as an SPA in 2011 with qualifying interests including Greylag goose and therefore cannot be retrospectively assessed under the Habitats Regulations 1997. In view of distance Dundalk SPA and SAC is not considered to be significantly impacted.

There is insufficient information available currently, to provide a historic assessment of in-combination impacts. Three other quarries occur within a 3km radius of the development site (Refs. QY12, QY14 and QY64). It is concluded that there is no likelihood of significant impacts on European Sites arising from this operation and therefore the need for AA would not have arisen.

## 7.0 DETAILS OF DETERMINATION AND DECISION UNDER SECTION 261A

The Planning Authority Determination under Section 261A(2)(a) of the Planning and Development Act 2000 as amended stated that:

In relation to the EIA Directive:

*An Environmental Impact Assessment or an EIA determination (screening) as to whether an EIA was required but such an assessment or determination was not carried out or made.*

Reasons:

*Having regard to the scale and characteristics of the development undertaken post the transposing of the EIA Directives, to the traffic volumes generated, methods of extraction, noise and dust emissions from the site and the proximity to sensitive sites and in particular Ballyhoe Lough (pNHA) it is considered that the development was likely to have had significant effects on the environment and thus a sub-threshold EIS was required.*

Subsequent to this determination the Planning Authority decided in accordance with S261A(3)(a) of the Planning and Development Act 2000, as amended, that:

- (a) The quarry commenced before 1<sup>st</sup> of October 1964.*
- (b) The requirements in relation to registration under S261 of the Planning and Development Act 2000-2011 were fulfilled.*



Reason:

*The Planning Authority having being so satisfied from it's investigations in respect of this quarry and it's inspection of the Planning Register and Register of Quarries pursuant to S261 of the Planning & Development Act 2001-2011.*

Accordingly, on the 18<sup>th</sup> of July 2012, the Planning Authority issued a notice under Section 261A(3)(a) of the Planning and Development Acts, 2000-2011 (as amended) which directed the applicant to apply to An Bord Pleanála for Substitute Consent, pursuant to S177E of the Planning and Development Act 2000, as amended, with an rEIS in accordance with the determination made under S261A(2)(a).

Maps included (28<sup>th</sup> of June 2012) show an aerial photograph (dated 2009/2010) which shows the quarry boundary in red and the lessor registered extraction area (QY13) shown blue. It is noted that the substitute consent application area is included within the southern part of these boundaries.

## **8.0 QUARRY REVIEW**

Subsequent to submissions from An Taisce and Peter Sweetman (on behalf of the Swans and Snails Ltd), the Council's S261A Determination and Decision was subject to a Review to the Board (Ref. QV17.QV0028 refers). The Inspector's Report had regard to the site location and context, scale of operations, planning history and policies. This considered that the quarry works that have taken place since 1964 could not have been reasonably been anticipated in 1964 and comprised a material change of use of the land and are therefore not authorised by virtue of the pre-1964 status of the quarry. Regard was had to the information submitted including the details submitted at registration stage, the aerial photography and to the extension and increase in depth to the extraction area that occurred since the relevant dates in 1990 and 1997. While it was not considered that a mandatory EIA would be required due to the area of extension being c.2ha, the Inspector considered that a sub-threshold EIA would be required. This was in view of the impacts that may have been caused to the environment, taking into account the scale of the operations including blasting and also having regard to hydrology and to the proximity of Ballyhoe Lough pNHA.

The Inspector had some concerns considering the requirement for AA having regard to any potential for pollution to the watercourses arising from discharges from the operations and the potential linkages to the Natura 2000 site downstream from the quarry. The Board (decision dated 3<sup>rd</sup> of July 2013) while it decided to confirm the Council's determination under S261A(2)(a)(i) regarding the need for a sub-threshold EIA and Decision under S261A(3)(a), did not accept the Inspector's recommendation regarding the need for an rNIS given the information from the ecologists on file, the distances to the European sites and in view of the site's conservation objectives.

## **9.0 DESCRIPTION OF OPERATIONS - SUBSTITUTE CONSENT APPLICATION**

The application form as originally submitted, provided that the substitute consent area related to approx. 3.37ha and it is of note that this has been subsequently extended in the revised information submitted on the 30<sup>th</sup> of April and 17<sup>th</sup> of June

2014 to 4.8ha. The overall quarry is 20.1ha in area and the subject application is in the south western area. It is of note that the substitute consent area, including the revised area was seen in context of the whole quarry area during my site visit.

A description of the site and operations is provided in Chapter 2. Operations on the landholding but not the subject site include a lime plant and a concrete plant. Infrastructure associated with this active limestone quarry comprises landscaped earthen berms surrounding most of the active quarrying area, offices and associated canteen facilities, settlement lagoons, fuel storage, wheelwash and weighbridge. All traffic accesses the facility directly at the site entrance located on the local county road.

The topography of the Substitute Consent application area varies from approx. 48mOD at the lowest point of the worked area to approx.105mOD at the highest point. As seen on site there are no buildings associated with this substitute consent application area. The working method comprises the controlled blasting of rock, followed by crushing and screening to produce various grades of rock and aggregate. The existing quarry is active and the rEIS provides it is operated in accordance with environmental best practice.

The aggregates produced at Barleyhill Quarry have a chemical composition which is unique to this area. The materials extracted are critical for the supply of ground limestone to agricultural customers in the local and regional area. Regular monitoring of the various environmental parameters is carried out by Roadstone Wood Ltd, as part of the operations at Barleyhill Quarry, including the groundwater, noise levels, blasting, vibration and air overpressure and dust emissions. Results of this monitoring are presented in the relevant sections of the rEIS. They also provide that a competent site management system is in place at all times.

It is noted that restoration works have not taken place in this working quarry. Information submitted regarding the context of this application includes that regard is had to the environment and to restoration of the quarry development through placement and landscaping of indigenous soils available within the substitute consent area. It is not envisaged that there will be any significant impact on the local road infrastructure with respect to the necessary future remediation works.

## **10.0 SUBMISSIONS**

### **10.1 An Taisce**

They provide general comments and note that the ECJ Case 215-06 provides that development coming under EIA should only be permitted and subject to retrospective assessment in exceptional circumstances. They provide that the lodgement of a rEIA with ABP does not in any way establish the legal basis of the quarry to which it relates or the entitlement of the quarry operator to obtain a retrospective EIA consent. No consideration should be given to any rEIA for a quarry which exceeds EIA thresholds and which does not have a valid planning basis and operating site boundary compliance under the following:

- Where the entire site areas has a properly documented bona fide pre 1964 status.
- A grant of permission between 1964 and 1990 when the Directive came into effect.
- A grant of permission after 1990 when the directive came into effect.

Previous registration of a site under S261 Planning and Development Act 2000 must be deemed irrelevant since this did not establish the legal basis for the site. This was confirmed by the November 2010 High Court Judgment *An Taisce v ABP* by Mr Justice Charleton.

## 10.2 Health Service Executive

This noted that Environmental Health were not included in the Screening/Scoping stage of this application. This is an existing quarry and there are no consents/licences required in this instance. They have regard to the existing operations on site and consider that the physical environment is adequately described in the rEIS. They note that there is no discharge of surface water from the site and that surface water is recycled within the site. While there is a well located within the quarry it is not within the substitute consent area. Quarrying operations have taken place above the water table. They note that the rEIS, provides that there will be no adverse impact on the groundwater environment as a result of quarrying operations. The most recent water analysis results indicate that quarrying operations have not had an impact on water quality.

They note that Air Quality is described in S.9 of the rEIS and that monitoring and analysis of dust deposition levels is carried out on a monthly basis. Recent monitoring results indicated that dust deposition levels exceeded the recommended 350mg/m<sup>2</sup>/day on 4 events during 2012 and 2013. Results in relation to blasting indicate vibration and air over pressure complies with the relevant standards. They noted that as per S.10 of the rEIS monitoring indicates that noise levels did not exceed the daytime limit of 55d B(A) during monitoring periods.

They note that details of restoration plan are provided in S.11 of the rEIS. The Environment Health Office has received no complaints regarding this quarry. They provide that the dust suppression methods employed on site must be effective in order to prevent a nuisance arising. The applicant should review procedures for dust control during particularly dry periods. In addition steps must be taken to prevent vandalism of dust monitoring equipment in order to provide accurate monitoring data.

## 10.3 Inland Fisheries Ireland

Having examined the rEIS they note that in S7.4.5 Surface Water Quality that the EPA site at Ballyhoe Bridge 0300 has not been sampled since 1978 as part of the Biological Monitoring programme. They note there is no discharge to surface waters from the site. They are not aware that the development has or is having a negative impact on the fishery habitat in the area. They have no objection to the substitute consent application from a fisheries perspective provided that the Mitigation Measures (section 7.7) are adhered to at all times.

They note that the site is located in the River Glyde catchment which is valuable from a fisheries perspective and have regard to fisheries in the nearby River Lagan which contains salmonid habitat and holds good stocks of Salmon and Brown Trout among other species. Ballyhoe Lake is a popular angling resource with good stocks of bream, roach, rudd, hybrids, perch, pike and eels. In relation to the Neagh Bann International River Basin District, the site is located in the Glyde waterbody which has an overall status of moderate, with the objective to restore good status by 2021. Therefore they provide it is important to ensure that the quarry in question does not have a negative impact on surface waters.

#### 10.4 Geological Survey of Ireland

Information submitted describes this as a working quarry with exposed faces of locally fossiliferous limestone. It also provides the site (code MH005) maybe recommended for designation as a County Geological Site (CGS) for Geological National Heritage Area (NHA). The GSI provide that they have no additional comment to make on this application.

### 11.0 PLANNING AUTHORITY REPORT UNDER S177I

Reference is made to the planning history of the site, to planning policy and the quarry operations. The PA considered in their initial S177I Report submitted on the 3<sup>rd</sup> of February 2014, that the site the subject of this substitute consent application did not comprise the overall development for which consent should be sought. They noted and had regard to the aerial photography, that the overall quarry area is approx. 20.1ha and considered that the substitute consent application area confined to the south western corner of the holding (3.37ha) does not include all works undertaken post 1990 that would have necessitated an EIA. Therefore while they considered that the substitute consent should be granted, this opinion relates solely to the area for which it has been sought by the applicant and does not prejudice their opinion that the area for substitute consent should have been sought is a far greater area.

They provided a chronological assessment of the rEIS submitted. They included a schedule of 4 recommended conditions, and did not consider that a development contributions condition should be included in this case.

Subsequently on foot further information submitted on behalf of the applicant relative to an increase in the substitute consent area and to a S132 notice from ABP to the applicant, a revised application including rEIS has been submitted on the 17<sup>th</sup> of June 2014, whereby the site area has been increased to 4.8ha.

### 12.0 RESPONSES

#### 12.1 First Party Responses

Tobin Consulting Engineers have provided a response submitted on the 4<sup>th</sup> of March 2014, on behalf of Roadstone Wood Ltd (Roadstone) to Meath Co. Council's initial S177I Report. This noted that in their S261A Quarry Assessment Meath Co. Council was satisfied that the quarry commenced operation prior to 1964 and fulfilled the requirements in respect of S261 and they referred to the overall limestone quarry site, with an overall area of 20.1ha. The PA recommended that in accordance with

S261A that they apply for substitute consent as some development (not identified or clarified) had been carried out after 1<sup>st</sup> of February 1990 which would have required an EIA or a determination as to whether an EIS was required to be carried out on a sub-threshold basis. This consideration was made solely on the basis of aerial photography.

Roadstone made a substitute consent application to the Board with a particular focus on the environmental perspective including the scale and characteristics of the development undertaken, traffic volumes, methods of extraction, noise and dust emissions and proximity to sensitive sites, in particular Ballyhoe Lough (pNHA). On those grounds it was considered that the development may have been likely to have had significant effects on the environment and thus a sub-threshold EIS was required.

The sub-threshold rEIS was submitted which included all the factors not only in relation to the substitute consent application site, but to the entire of the registered overall Barley Hill quarry of 20.1ha. They consider that the PA is only entitled to make a decision on what is before it and not on what is not before it and refer to the substitute consent area. They have assessed the quarry site as a whole to include the subject site so there can be no reason for concern as to any likelihood of the quarry causing significant effects on the environment.

Roadstone Wood Ltd provided they would seek clarification from the PA on its position with regard to the remainder of the overall quarry site. The description given and site reviewed by the PA is that which refers to the overall 20.1ha site and they note references to this in the analysis of the rEIS in their S177I Report. They noted that their analysis of Landscape and Visual Impact was the only area where information provided in the rEIS focused more particularly on the Substitute Consent application area. However views were assessed of the impact of the greater quarry area. Furthermore the Restoration Plan for the overall quarry including the substitute consent area was submitted to the PA in 2009 in compliance with the conditions of the Quarry's S261 registration.

In their rEIS conclusion the PA provides that the substitute consent area should be different to that submitted, but does not identify what it considers to be the appropriate area. More importantly the PA is satisfied with the correctness of the information contained in the rEIS and proceeded to assess the subject site on the basis of that information. Their findings in relation to the impacts on the Natura 2000 site relate to the quarry as a whole, which is described as operating within a hill above the groundwater table.

The PA's recommendation to grant substitute consent to the subject site is made on the basis that the site (and in Roadstone's view the overall quarry of 20.1ha) has not given rise to significant adverse effects on the environment. On-going impacts are limited in type and significance and can only be remediated as outlined in the rEIS. On the basis of the information submitted, they consider that there is no reason from an environmental or planning perspective for the Board not to grant substitute

consent to the applicant for the subject site in this case. However since the PA has expressed reservations as to other lands contained within the quarry they requested that the Board use its discretion to seek/await further information from the PA and/or Roadstone before reaching its decision. In order to clarify this situation they have sent a letter to the local authority (dated 4<sup>th</sup> of March 2014) requesting a meeting with Roadstone at the earliest convenience and they attached a copy of this correspondence.

### 12.2 Further Details submitted

The letter from Tobin Consulting Engineers on behalf of the First Party submitted on the 30<sup>th</sup> of April 2014, provides that these revisions are submitted in response to consultations with Meath County Council. Following their meeting and a review of the available data Roadstone has identified an area adjacent to the current Substitute Consent application area where development may have taken place post-1990. They have submitted revised drawings showing the substitute consent area extended northwards, from 3.37ha to 4.8ha.

They provided that the rEIS that accompanied the application (submitted December 2013) included an assessment of the works to date and mitigation measures within the overall site at Barleyhill Quarry. Therefore this also included all possible impacts from works to date within the revised substitute consent area.

However in response to the S132 request from ABP which was of the opinion that this change in area constituted a material change of use, they submitted revised public notices and rEIS on the 17<sup>th</sup> of June 2014. Their accompanying letter notes that as per their previous correspondence in December 2013, they attach correspondence setting out the legal position with regard to any purported imposition of development contributions in this case.

### 12.3 Council's response

The Council have submitted a revised S1771 Report (11<sup>th</sup> of June 2014) in response to the revisions made including the extension of the substitute consent area to 4.8ha. This includes regard to the effects on the environment or European site in line with the chronology submitted with the rEIS. While they note the socio-economic benefits of low scale employment, humans were likely to be indirectly impacted by traffic, visual impact, noise and dust pollution and they consider that these issues are adequately dealt with in relevant chapters of the rEIS and provide an analysis of these.

Regard is had to the details submitted relative to ecology and geology, hydrology and hydrogeology and it is noted that the rEIS provided that there has not been an adverse impact on the environment relative to these issues. In relation to air quality they consider that there were potential dust impacts due to extraction. Note is taken of the dust monitoring survey as described in Chapter 9 of the rEIS which measured total dust deposition associated with the existing development from the period 2008-2013. While in some limited cases emissions were exceeded, they conclude that the overall impacts on air quality were acceptable having regard to the mitigation

measures proposed. The PA has no information to hand to suggest any difficulties with noise and vibration.

Having regard to Landscape and Visual they noted that the visual impacts associated with the quarry development are considered to be of moderate significance. There are no particular concerns in relation to access or volume in the Traffic Assessment submitted. They consider that the information submitted relative to Archaeology and Cultural Heritage provides that there are no direct or indirect impacts on any known items of heritage value.

They note the information submitted regarding the effects on the European sites. Based on the assessment it has been concluded that the existing quarry operates above the groundwater table and there is not, nor has there been, any groundwater abstraction from the quarry floor or discharge from the quarry site to local watercourses. While these sites are connected hydrologically, it is considered unlikely that there would have been a significant impact on watercourses or the Natura 2000 sites located c.17km to the east and 24km downstream. With regard to the Stabannan-Braganstown SPA designated in 2011 with the qualifying interests as greylag goose, this cannot be retrospectively assessed under the Habitats Regulations 1997.

The PA provides that having undertaken an appraisal of the detail submitted and a desk top study, that they are satisfied that the data contained in the rEIS is correct and that they have no information which would suggest that quarrying adversely impacted on the Environment. Their S177I Report concludes that the quarry has not given rise to significant adverse effects on the environment and that ongoing impacts are limited in type and significance and can be remediated as outlined in the rEIS. The PA recommends that substitute consent be granted and includes a Schedule of 4no. recommended conditions. They do not consider Development Contributions appropriate in this case and this is discussed more fully in the Conditions Review Section below.

## **13.0 ISSUES AND ASSESSMENT**

The application for substitute consent will be considered under the following headings:

- Principle of Substitute Consent
- Substitute Consent Area
- Remedial Environmental Impact Assessment
- Other issues – Planning Conditions.

### **13.1 Principle of Substitute Consent**

This application for substitute consent is made in accordance with the requirements of the S261A Notice issued by Meath County Council and subsequently reviewed by the Board under S177E of the Planning and Development Act 2000-2010, as amended and the Planning and Development Regulations 2001-2012. As noted the Council's S261A determination and decision was subsequently referred to the Board for review (Ref.QV17.QV0028 refers) and this application and accompanying rEIS

was lodged with An Bord Pleanála on the 20<sup>th</sup> of December 2013 with subsequent revisions to the substitute consent area on the 30<sup>th</sup> of April 2014 and revised public notices and rEIS on the 17<sup>th</sup> of June 2014. It is of note that substitute consent can only be permitted for development that has already occurred and for the area which is the subject of this application (i.e 4.8ha). Any proposed or future development on the landholding is beyond the remit of this application.

Under the provisions of Section 177K (2) of the Planning and Development Act 2000 as amended, it is stated that where an application is made to the Board for substitute consent in accordance with the relevant provisions of the Act, and any regulations made thereunder, the Board when making a decision in relation to the application should consider the proper planning and sustainable development of the area and have regard to the following matters:

- The provision of the Development Plan or any Local Area Plan for the area.
- The provision of any special amenity area order relating to the area (the Board will note that there is no special amenity area order relating to the site in question).
- The remedial Environmental Impact Statement and/or remedial Natura Impact Statement submitted with the application.
- The significant effects on the environment or on a European site, which have occurred or which are occurring or could reasonably be expected to occur because the development concerned was carried out.
- The report and the opinion of the planning authority under Section 177I.
- Any submissions or observations made to it in accordance with the Regulations under S177N.
- If the area or part of the area is a European site or an area prescribed for the purposes of S10(2)(c) – which concerns the conservation and protection of the environment, including archaeological and natural heritage and European sites.
- Conditions that may be imposed in relation to the grant of permission under Section 34(4).
- The matters referred to it in Section 143 of the Act (Board to have regard to certain policies and objectives).

The provisions of Section 177K(1) provide that the Board *may decide to grant the substitute consent, subject to or without conditions, or refuse it.*

It is considered that the following issues are particularly relevant and pertinent to the determination of the application for substitute consent:-

- Environmental impacts with particular emphasis on hydrological and hydrogeological issues, ecological and landscape issues, traffic, dust, noise and vibration.



### **13.2 The area of the Substitute Consent application site**

As noted in the Planning Authority's S1771 Report concerns have been raised regarding the area of the substitute consent application site. They noted the total area of the quarry site is 20.1ha and have regard to aerial photography and reiterated that the area of 3.37ha submitted does not include the total site area for which sub. consent should be sought. They provide this consideration is made on the basis of aerial photography available to the PA which is attached to quarry file (QY13) and which would indicate that vertical extensions took place over a much wider area than that previously sought.

In the Quarry Review (Ref. QV17.QV0028), the Inspector noted that having regard to the trigger dates of 1<sup>st</sup> of February 1990 and 2<sup>nd</sup> of February 1997, extraction has taken place at the quarry extending both the area and depth of the quarry. It is noted that in Ref. Reg.01/899 the area of the quarry site was given on the application form as 17.1ha. At registration stage the total site area was given as 21.05ha with an extraction area of 9.5ha. There is no information of the extent of quarrying in 1990. However the 1994/5 aerial photographs of the quarry indicate that the extraction area extended to approx. two thirds of the area registered in 2005, i.e approx. 9.5ha. Since this time i.e 1994/5 to 2013 the working area of the quarry has expanded to the southwest to include an additional agricultural field with an area of c.2ha. The Inspector considered that while a mandatory rEIA was not necessary in this case that in view of environmental considerations a sub-threshold rEIS was required. In this respect the Board confirmed the Council's determination under S261A(2)(a)(i).

In this assessment I have had further regard to these issues including the aerial photography. While these are not available relative to 1990, OSI.ie photography shows visual representations of the extent of the quarry in 1994/5, 2000, 2005. It is noted that much of the excavation had occurred prior to 1995, however further extensions are shown in the south western corner in 2000, and 2005. Aerial photography from OSI.ie, Google Earth and Bing.ie shows later extensions. The substitute consent area now submitted of c.4.8ha would appear to correspond to this photography. This implies that the area of extension to the extraction area is marginally less than 5ha or 25% or an amount equal to 50% of the appropriate threshold for mandatory rEIA (Class 13(a) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended). Copies of these aerial photographs are included in the Appendix to this Report.

While it is noted that the rEIS does also refer to the total site area of the quarry, as provided by the Council if the Board is to grant permission for the substitute consent on the basis of the information submitted, this would relate only to the area applied for and shown red in the revised application i.e 4.8ha and not to any greater area. Should they decide to grant I would recommend that this be conditioned.

### **13.3 Remedial Environmental Impact Statement**

This rEIS has been prepared and revised in conjunction with this substitute consent application by Tobin Consulting Engineers. Part I contains the Non-Technical Summary and Part II the detailed rEIS which includes analysis of the impacts of the

quarry development and has regard to mitigation measures provided in accordance with the DoEHLG (2004) planning guidelines. Relevant maps, figures and photographs and appendices regarding environmental monitoring are included. It is of note that the revised rEIS describes the quarry as approx. 20.1ha in total and the substitute consent application area as approx. 4.8ha. (Fig.1.2 relates). Regard is had to the chronology of criteria relative to impact on the environment in the rEIS below.

#### 13.3.1 Socio-Economic

Chapter 4 focuses on population, employment and tourism and amenities. Fig. 4.1 shows the location of properties in the vicinity. Details provide that Barleyhill Quarry provides significant employment, both directly and indirectly, in the locality and wider region. The Quarry is not in close proximity to any tourist attractions. Local historical monuments include a Recorded Monument, situated 200m from the Substitute Consent application area. This is discussed in Chapter 13 of the rEIS and it is noted that it has been almost completely levelled and the remains have not been impacted by activity in the Substitute Consent application area. It is not considered that the quarry detracts from visual amenity as it is screened from public roads and regard is had to the undulating topography of the area. It is provided that the quarry operations to date and its on-going operation have had no direct negative impact on any tourism or amenity site and provides local employment and is of benefit to the local community and wider economy.

#### 13.3.2 Ecology

An Ecological Impact Assessment (EclA) is provided in Chapter 5. This highlights that the rEIS was conducted for past works within an existing quarry and not for any proposed works outside the existing boundary. Desktop and ecological field surveys were carried out. The existing ecological conditions are described and evaluated in accordance with standard guidelines. No habitats of high or local ecological value or protected or rare species were noted during the survey. It was provided that no direct or indirect impacts are arising to any site designated for conservation purposes.

There are no designated Natura 2000 sites in the area and it has been confirmed that an AA is not required. Nearby sites of conservation interests include Ballyhoe Lough pNHA. Table 5.3 provides a list of pNHA's within a 15km radius of the site. The quarry is located within the River Lagan Catchment. The closest surface water features to the quarry include the River Lagan which is located 1.5km to the north and northeast of the quarry and Ballyhoe Lough pNHA (001594) which is located less than 1km east of the quarry. This is the closest to the quarry site and hence a key ecological receptor requiring consideration (Fig. 5.1).

While no discharge exists off site from Barleyhill a qualitative assessment was conducted to determine if any impacts are likely to have arisen or arising to Ballyhoe Lough pNHA, which is linked by a drainage ditch adjacent to the wwts for this quarry. The drainage ditch to the east of the quarry, which is not of ecological value, is the only possible link to this Lough. The lake is important for wildfowl and there is no evidence of previous or on-going impacts associated with the quarry that could be determined. As this is considered to be of local importance it will be retained

undisturbed. Uncontrolled emissions of sediment laden waters can result in sedimentation of natural watercourses and can impact on fisheries potential. No significant evidence of siltation or other impacts associated with the quarry were determined and no significant aquatic invertebrates were noted.

Regard is had to habitats and species of flora and fauna within the quarry site and a classification is given of these. It is noted that the substitute consent application area in the southern part of the quarry is the only section that is directly relevant to this application, Fig. 5.2 refers to habitats in this and the wider quarry area.

Peregrine Falcons which are listed on Annex 1 of the Birds Directive and are an amber listed species of moderate conservation concern have been noted on the overall quarry site (their roost site is outside the boundary of the SC application area). Other more common bird and mammal species have also been noted in the vicinity. It is provided that no impacts are currently arising to breeding birds and habitats detailed and potential Peregrine breeding sites have been protected.

Water quality management systems have been implemented at the quarry and have been adequate for protection of surface water quality and downstream designated sites potentially linked to the site. Woodland, exposed limestone rock and grassland habitats have been retained along with other locally important habitats detailed. Current mitigation measures and best practice are adequate and no additional mitigation is required. It is concluded that no significant adverse ecological impacts are evident from works to date within the Substitute Consent application area of the quarry.

### 13.3.3 Geology

Chapter 6 includes an assessment of impact to date on the geological environment (soils, subsoils, bedrock) at and surrounding Barleyhill Quarry, as a result of quarrying activities at this location. It provides that as the geological, hydrological and hydrogeological environment is managed as a unit, it is deemed appropriate to assess the overall site as a unit with references to the Substitute Consent application areas within the land ownership boundary. It is noted that details of the existing wastewater management and surface water management plans at the quarry are included in Chapters 2 and 7 of the rEIS.

Activities associated with the application area are the extraction of limestone aggregate and the processing of materials for use in the construction industry. Regard is had to the consultation with the GSI where it was confirmed that the quarry has been classified as a County Geological Site and maybe proposed for NHA designation. It is a valuable site to examine good exposures of locally fossiliferous limestone (used for aggregate).

Due to the nature of quarrying the existing geological environment is impacted. Much of the soil and sub-soils have been excavated within the Substitute Consent application area. Soil and geological classification maps for the area have been

included. The Barleyhill Quarry site is located within the 'Milverton Group' formation and the bedrock is described as Dinantian pure bedded limestone (Fig.6.3 relates). Fig.6.4 shows that the quarry is located within a Regionally Important Aquifer-Karstified. However it is noted that no karst features have been identified within the quarry and very few are recorded in the area.

Section 6.7 notes that several mitigation measures have been put in place at this quarry. The site continues to be operated in accordance with an established EMS and best practices have been implemented to ensure that surface water and groundwater in the area does not become contaminated by pollutants, details are given of these measures. In summary there have been no significant alterations to the local and regional environment as a result of works within the application area.

#### 13.3.4 Water

Chapter 7 includes an assessment of impact to date on the water environment within and surrounding the quarry. Surface and ground water management for the site and greater quarry area is assessed as a unit with specific references the substitute consent area. Regard is had to the relevant guidelines and data.

The river Lagan flows approx. 1.5kms to the north and north-east of the site. Ballyhoe Lough pNHS is approx. 1km east of the quarry. A minor drain is located adjacent to and north west of the administration building. There are no natural surface water features located within the quarry. The surface water drainage in the environs of the quarry is shown in Fig.7.1. On a regional scale, the quarry and its environs are primarily located within the Glyde River Catchment.

There are currently no known surface water abstractions from surface features either upstream or downstream of the quarry. According to the EPA Water Framework Directive data the surface water in the area around the quarry has a 'Moderate' status. The objective for the catchment is to restore the Glyde catchment to Good status by 2021.

Section 7.5 refers to the Groundwater Environment. It is noted that in compliance with Condition no.18 of QY13 a Hydrological Assessment was carried out in November 2009, *to identify the groundwater flow regime operating in the vicinity of the facility and the receiving waters for any and all discharges.* A copy of this Assessment is included in the information submitted.

Surface water runoff (generated by incident rainfall) at the quarry is allowed to infiltrate naturally through the quarry floor. Site surface water supply for aggregate washing and processing, ready-mixed concrete production, dust suppression and canteen/office facilities is extracted from an existing groundwater well located at the eastern side of the quarry. No groundwater wells are located within the Substitute Consent area (Fig.7.4 refers) and the properties in the area are supplied by a private group scheme. Drinking water for the quarry is supplied by a private well located in a

covered building inside the southern entrance of the quarry. All domestic effluent at the quarry is treated by an on-site wwtS/septic tank near the administrative building to the north of the substitute consent area.

Groundwater levels at the quarry are provided in Table 7.4. It is provided that activities at the site have not impacted on the watertable which is below the quarry floor and therefore operations at the quarry have not had an impact on the groundwater environment. There are no groundwater inflows into the quarry and no groundwater control is required. Also there was no groundwater abstraction from the quarry floor and therefore no impact on the groundwater table level in the local area.

Details are provided of Groundwater quality monitoring and analysis of results Appendix 7.1 refers. It is envisaged that the flow in the nearby streams and subsequently the River Lagan comprises overland run-off and a component of groundwater baseflow. The Regionally Important Karst Aquifer is dominated by diffuse flow. Vulnerability is classified as extreme (Fig. 7.6 refers).

Surface water management comprises of a water collection sump near the concrete batching plant and a settlement lagoon system near the southern entrance of the quarry. The settlement ponds collect runoff from the quarry hardstand areas and from the wheelwash and following settlement this water is directed to a sump near the entrance and recirculated to the wheelwash or used for dust suppression or concrete production.

Mitigation measures to prevent pollution are referred to in S7.7. The lowest extraction level within the substitute consent application area was 48mOD. Based on the water levels taken at the quarry (water level ranges from 30.5mOD to 32.58m OD) works were completed above the watertable. Therefore it is provided that operations at the quarry have not had an impact on the groundwater environment.

Based on the observations given, implementation of mitigation measures and environmental monitoring it is concluded there has been no significant impact on the local and/or regional water environment in this area as a result of works to date at this location.

#### 13.3.5 Climate

It is provided in Chapter 8 that on a local, regional and global scale, the climate has not been altered by the activities of the quarrying within the substitute consent application area. The implementation of Best Practice is also referred to having regard to dust and plant and equipment on site.

#### 13.3.6 Air Quality (Dust)

Dust monitoring has been carried out, Chapter 9 refers. Table 9.1 shows results for the past 5 years were within the compliance threshold limit of 350mg/m<sup>2</sup>/day as recommended by the TA Luft/VDI 2119/Bergerhoff Method, with the exception of a

few events which were slightly above the recommended limits. A review of the dust control measures was carried out after these events and the recent results indicate that these controls are effective. Fig.9.1 shows that the monitoring locations relate to the quarry area as a whole. The substitute consent area is set back within the quarry further from the public road and residential properties. Details of mitigation measures and monitoring in place are outlined in S9.4 and it is provided that these significantly reduce potential for dust emissions.

### 13.3.7 Noise and Vibration

Chapter 10 refers to the Noise Study and noise monitoring that has been carried out and relevant to possible impacts from previous works. It was noted that in the period 2006-2013 LAeq levels at all the noise monitoring location area were below the daytime limit of 55dB. Fig.10.1 shows noise and blast monitoring locations within the overall quarry site. Regard is had to blasting, vibration control and control of air-overpressure and to best practice measures. It is noted that potential impacts from blasting within the substitute consent application area have been limited to date as a result of the extended stand-off distances from this area and the nearest receptors to the site, screening bunds around the perimeter of the quarry and the implementation of best practice blasting procedures at the quarry. S10.4 refers to mitigation measures relative to noise and blasting and vibration. It is concluded that there is no evidence of thresholds associated with the operational activities at the quarry being exceeded and no further mitigation measures are proposed.

### 13.3.8 Landscape and Visual

Chapter 11 includes an assessment of the area around the quarry, a description of the surrounding landscape character and describes measures to reduce the visual impact of the development. Barleyhill Quarry is located in a drumlin landscape of north county Meath near the border with counties Cavan, Monaghan and Louth. The site is situated on an elevated upland slope with the existing landscape rising to the south and southwest. While it is noted that the site area for this application area is 4.8ha, it is provided that the quarry area is 20.1ha and the study area for this remedial landscape and visual assessment consists of an area of 5km radius around the substitute consent application site.

The quarry is situated within the *Hills and Upland Areas Landscape* Character Type and *North Meath Lakelands Landscape* Character Area as noted in the Meath CDP. There are some limited views of the existing quarry or substitute consent application area from roads within the study area (Fig.11.1 refers). Photographs are also included. It is noted that screening mounds and upper parts of the quarry faces can be seen in the views of the substitute consent application area in the context of the undulating topography and drumlin landscape.

There are also open partial views of the quarry from Ballyhoe Lough pNHA. There are no views of the quarry from designated views in the locality (Ref. VP22/23 in the Meath CDP 2013-2019 refer). It is noted that there are no views from special landscape areas, designated sites or pNHAs in nearby Counties Cavan, Louth and Monaghan. There are no plans to restore the quarry to pre-extraction contours. The

final degree of visual impact will depend on the extent and quality to which the recommendations of the Restoration Plan proposed for the site will be implemented (Fig.11.4 shows that proposed for the substitute consent area).

### 13.3.9 Traffic

Chapter 12 notes that the approach to this assessment is conservative as it assesses the traffic generated as a result of activities within the overall landholding of Barleyhill Quarry and has not been restricted to traffic associated with the substitute consent application area only. The access to the quarry is from the county road (L74021) and the speed limit along this local road is 80km/hr. There are two accesses associated with the quarry operations located on either side of the public road. One access leads to the quarry office and weighbridge while the other leads to the quarry area itself. Fig.12.1 shows that adequate sightlines are available. Warning signage is present on either side of the entrance. Parking and turning areas are provided within the site to accommodate both HGVs and light vehicles. Mitigation measures included the provision of a wheelwash at the entrance to the site, external warning signage and parking areas within the greater quarry area.

As the development generated by the quarry as a whole is approx.4.5% of the capacity of the road it was considered unnecessary to carry out a junction capacity assessment of the entrance to the quarry. Also given the rural nature of the area and the low volumes of traffic generated, it was causing a minor to negligible impact on traffic flows on the L74021. No recorded incidents have occurred at the entrance to the quarry indicating that the entrance has been operating safely. Based on the information submitted it is not considered that the impact of quarry generated traffic is significant.

### 13.3.10 Cultural and Archaeological Heritage

Chapter 13 refers to a study and assessment carried out to assess significant effects if any on these issues. Regard is had to base line data and field studies. While there are no Recorded Monuments within the substitute consent area, the closest is MH003-003 'Ardagh Earthwork' and a former castle site MH003-002, situated 200m from the Substitute Consent application area. The castle has been almost completely levelled and it is provided that the remains are not impacted by activity in the substitute consent application area. Photographs are included showing Protected Structures in the area. Fig.13.1 shows the proximity of Recorded Monuments in the area and further details are shown on the plates and given in Appendix 13.1. It is provided that there are no direct or indirect impacts on any known items of cultural heritage, archaeology or buildings of heritage interest in the substitute consent application area or vicinity and no specific mitigation measures are warranted.

## 13.4 **Conclusion regarding rEIS**

In general it is considered that each of the factors has been discussed in detail in the various Sections of the rEIS including regard to mitigation measures and that a brief coverage has been given to the interactions between the factors in Chapter 14. As this is an application for substitute consent there has not been an investigation of alternatives. It is concluded that while there was potential for interactions to result in

a cumulative impact, it has been demonstrated within this rEIS that none of these cumulative impacts resulted in significant environmental degradation.

It is provided that the mitigation measures implemented at Barleyhill Quarry, Ardagh, were designed to ameliorate the impact of the works within the application area and the overall site on a wider environment. The rEIS provides that the quarry development entails active quarrying works with an overall landholding of approx. 20.1ha and the substitute consent area as revised is approx.4.8ha In general the rEIS refers to the context of the quarry area as a whole although specific references are made to the substitute area and regard is had to the restoration plan shown for this area in the Landscape and Visual Chapter.

However in the context of the substitute consent application I am generally satisfied that the documentation submitted including the description of the development, the baseline information, the impact assessment and mitigation measures are described in sufficient detail to enable the Board to make a decision in this case. A non-technical summary is provided. The assessment of impacts is based on the information available and in some cases on recent surveys during ongoing extraction. There are some anomalies in the information given but it is not considered that these are significant.

The nature of the development is such that significant potential impacts are related to hydrology and hydrogeology, ecology, landscape, noise and air/dust. I have considered the impacts, which have taken place, are and have been amendable to mitigation. Residual impacts after mitigation will not be significant. Regard does need to be had to restoration and landscaping and it is noted that little has been carried out to date. I would recommend that if the Board decides to permit that it be conditioned that a detailed restoration plan be submitted.

#### **14.0 CONDITIONS REVIEW**

It should be noted that substitute consent relates only to works that have been undertaken as described in this application and the rEIS and does not authorise any future extraction/development. In this context operational conditions cannot generally be deemed to be necessary, directly relevant or capable of enforcement. The Planning Authority has suggested a number of conditions in the event that the Board is minded to grant permission. A Schedule of these conditions is included with their S177I Report. Any conditions which relate to the ongoing and future operation of quarrying activity such as monitoring, emission limits on noise, dust, vibration, provision relative to future vehicular movements, hours of operation etc do not apply as substitute consent only covers works carried out to date. Accordingly the conditions recommended for inclusion with the substitute consent are more limited in their scope. In the event of further applications for continuance of quarrying or expansion of activities at the site these matters would be re-visited.

The scope for inclusion of conditions in relation to substitute consent is provided in S177K(3) of the Planning and Development Act 2000 as amended provides that



conditions may include:

- (a) one or more than one condition referred to in S34(4),
- (b) a condition or conditions relating to remediation of all or part of the site on which the development the subject of the grant of the substitute consent is situated,
- (c) a condition or conditions requiring a financial contribution in accordance with S48, or
- (d) a condition of conditions requiring a financial contribution in accordance with a supplementary development contribution scheme under S49.

#### 14.1 Development Contributions

The information submitted by Arthur Cox with the application questions the legality of the imposition of development contributions. This provided that it is their considered view supported by the Opinion of Senior Counsel that in accordance with the presumption against retrospective effect and having regard to their client's right to property, the power in S177K(3) to impose conditions requiring a financial contribution in accordance with S48 or a supplementary contribution scheme under S49 can only be exercised in respect of development that has yet to be carried out. Accordingly they consider the imposition of any retrospective development contributions charge in the context of S261A application would not be reasonable, would be ultra vires the Board and would be unlawful and will be challenged by way of a judicial review.

The Meath County Council Development Contributions Scheme 2010-2015 (as amended 2013) provides for levies relating to quarrying activity established on a per 0.1ha fee of €2,467. This has been revised from €2,500 in their Scheme adopted in December 2009. Prior to this it is of note that in Section 3.1 of their 2004 Scheme they included Extraction/Landfill/Land Reclamation *to be determined under Special Contributions*. It is noted that the footnote in relation to quarries/extractive industry in their current scheme provides that this relates to the footprint of surface extraction area only, and does not apply to underground mining. As per the current scheme the contribution would be €118,416 i.e based on the substitute consent application area of 4.8ha which appears to correspond to the extraction area as referred to in the rEIS.

The PA notes in their S177I Report that the Development Contributions Scheme 2010-2015 provides for levies relating to the quarrying activity established on a per 0.1 hectare fee. No such contributions were applicable prior to the adoption of the 2010 Development Contribution Scheme. Given that the PA is satisfied that the quarry has not been operational for some time and that in any case there is no possibility of establishing the extent of any works undertaken post 2010, they do not consider it appropriate to seek any development contributions. The Council's recommended schedule of conditions with their S177I Report does not include a development contribution.

It is noted that the quarry is operational and that excavation in the substitute consent application area is continuing. As per S177K (3)(c) this type of condition is applicable in relation to a substitute consent application and therefore needs to be considered in this context. It must be noted that the Board's remit in this regard is to adjudicate on the proper application of the Adopted Development Contributions Scheme to ensure that the terms have been properly applied and interpreted.

In view of the history of the site, should the Board decide to include a development contributions condition, I would consider that a general contributions condition relative to the substitute consent area would be more relevant. However in this case it also must be noted that the Council's Scheme has only been adopted in 2010 and that having regard to the information submitted the majority of the excavation that has taken place relative to the substitute consent application has taken place prior to this date. Therefore I would consider that the application of a development contributions condition would not be appropriate in case.

### **15.0 Regard to Section 177J**

Section 177J of the Planning and Development Act, 2000 as amended, provides that the Board where it forms the opinion that the continuation of all or part of the activity or operations on or at the site of the development the subject of the application, is likely to cause significant adverse effects on the environment or adverse effects on the integrity of a European site to issue a draft direction to the applicant for substitute consent to cease within a specified period, all or part of the activity or operation. As the development is not considered to have significantly adversely affected the environment or integrity of the Natura 2000 sites, it is considered that such a direction by the Board is not warranted in this instance.

### **16.0 CONCLUSION AND RECOMMENDATION**

In conclusion the development, which has occurred, essentially comprises another phase of the existing quarry at this site. Having regard to the planning history, the nature and scale of the existing quarrying operations carried out on site, to existing mitigation measures being undertaken on site and subject to a number of remedial measures in regards to ground and surface water management and on site restoration, I am satisfied that the quarrying activity that has taken place is acceptable in the context of environmental impact. However any ongoing and future operations of the quarry would need to be monitored separately in the context of a subsequent application and having further regard to the implications on the environment. Therefore I recommend that substitute consent be granted subject to conditions for the reasons and considerations below.

### **17.0 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 Meath County Development Plan, 2013 - 2019,
- (d) the remedial Environmental 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.

## 18.0 CONDITIONS

- 1(a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application on the 20<sup>th</sup> day of December 2013 and as amended on the 30<sup>th</sup> of April 2014 and the 17<sup>th</sup> of June 2014.
- (b) This grant of substitute consent relates only to the area shown in red in the Site Layout Plan, drawing no.6985-2001C submitted on the 30<sup>th</sup> of April 2014 and to development undertaken as described in the application and revised remedial Environmental Impact Statement submitted on the 17<sup>th</sup> of June 2014 and does not authorise any future development on this site.

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

- 2. 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. Management measures relating to the capacity of the system to cater for extreme rainfall events shall be incorporated.

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

3. A detailed restoration scheme for the site according to the broad principles indicated on Figure number 11.4 Rev.A, Restoration Plan submitted to An Bord Pleanála on the 30th day of April, 2014, shall be submitted to the planning authority for written agreement within three months of the date of this order. The following shall apply in relation to the design and timing of the restoration plan:
  - (a) Prior to the commencement of restoration works, a further survey of the site by an ecologist shall take place to establish, in particular, the presence of badgers, nesting birds, bats or other species of ecological value, including flora, which may have recently moved onto the site. The restoration plan shall have regard to the results of this survey.
  - (b) Details relating to finished gradients of the cliff faces, the type of restoration to be carried out and to measures to ensure safety during site restoration shall be provided.
  - (c) Details of landscaping including planting and mounding to be carried out.
  - (d) A timescale for implementation and proposals for an aftercare programme of five years shall be submitted to the planning authority for written 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.

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 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.

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Angela Brereton,  
Inspector,  
11<sup>th</sup> of July 2014