

An Bord Pleanála



Inspector's Report

REF:- SU07.SU0087

DEVELOPMENT:-

Substitute Consent application for existing quarry and ancillary works at Brooklodge Demense, Ballyglunin, Tuam, Co. Galway.

PLANNING APPLICATION

Planning Authority:

Galway County Council

Planning Authority Reg. Ref.:

QY12

Applicant:

BGN Sand & Gravel Ltd

Type of Application:

Substitute Consent under Section 177E

Date of site inspection:

21st of July 2014

INSPECTOR:

Angela Brereton

1.0 INTRODUCTION

A notice was issued under the provisions of Section 261A (3)(a) by Galway County Council on the 3rd of August 2012, instructing the owners/operator of a quarry at Brooklodge Demesne, Ballyglunin, Tuam, Co.Galway, 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 and Natura Impact Statement. Subsequent to this an application for substitute consent has been made to the Board accompanied by a remedial EIS and NIS. This was lodged by the applicant with An Bord Pleanála on the 12th of March 2014. There were subsequent minor amendments submitted on the 22nd of April and the 9th of May 2014.

2.0 SITE LOCATION AND DESCRIPTION

The sand and gravel quarry site is located between Tuam and Athenry, Co. Galway in the townland of Brooklodge Demense near Ballyglunin Village, approx.10km south of Tuam town. It is accessed by a private access road off the narrow county road L2127 (area of Ardskea Beg) and approached by travelling along the N63 Galway Road and turning north on the R347. It can also be accessed by turning off the N63 at 'Finn's Cross' and heading north towards Ballyglunin village.

The quarry is to the north west of the small settlement of Ballyglunin. This is a small village, consisting of a few houses, a post office and a former railway station on the now disused Athenry to Claremorris line. Much of the area is dominated by the former Brooklodge demesne. There are 3no.relatively recent residential properties in close proximity adjoining the south eastern boundary in the small estate 'Tallamh An Bhlácaigh', Brooklodge Demesne, Ballyglunin. These are close to the quarry area and are screened from this and the adjoining quarry by trees along their rear boundary. There is also some ribbon development along local roads, some of which are relatively close to the pit.

There is agricultural land to the west and an adjacent sand and gravel quarry to the north and east. There is some reclaimed land to the south. The land further to the south forms part of Brooklodge Demesne and the remains of the former Brooklodge House are standing in a state of ruin to the south. The Abbert River flows from east to west c.460m to the south of the quarry and divides the Brooklodge Demesne and the Ballyglunin Estate to the south. Ballyglunin House is located to the west of the estate and is used as a student residence and learning centre.

The quarry was in operation on the day of the site visit and working machinery was seen on site. Much of the subject quarry has been excavated and materials including sand and gravel are stockpiled on the quarry floor. There is one deep central pond area and a number of silt ponds in the south western part of the site. Washing and screening of sand and gravel takes place on site.

In general the extraction area of the subject site is central and hidden from surrounding views from the local roads. The periphery of the site to the north and west is bordered by a small area of woodland and the adjacent quarry to the north east. This is known as JJ Higgins Sand and Gravel and while there are stockpiles of

excavated materials on site, this does not appear to have been in operation for some time. There is a wire boundary fence between this and the subject quarry. Both quarries have separate accesses, the Higgins quarry is accessed via the local road to Ballyglunin to the north east. A treeline remains around the south-western and south-eastern boundaries.

3.0 PLANNING HISTORY

There is a history of Enforcement proceedings regarding unauthorised sand and gravel refining and quarrying, including drawing and transportation from the site and opening of an access onto the public road. Photographs are included showing quarrying operations at that time (c.2005/2006). Planning permission has not been obtained for quarrying on these lands.

- Reg.Ref.06/1814 - PL07.220165 – Planning permission was granted by the Council but refused by ABP for the construction of 15no. houses and ancillary works at Brooklodge Demesne, Ballyglunin. The reason for refusal referred to the development on the former sand and gravel pit, reliant on a separate treatment plant in an unserviced rural area, designated as a ‘Major Aquifer of High Vulnerability’ in the Ballyglunin Settlement Centre Study, 2003, would represent unplanned, piecemeal, disorderly development of the settlement prejudicial to public health, contrary to the proper planning and sustainable development of the area.

This application site was located within the boundaries of the subject quarry.

Adjoining Site

- Reg.Ref.64305 – in 1991 Coillte Teoranta applied for planning permission for the development of a quarry with a site area of 9.461ha on part of a greater landholding of 18.87ha. The substitute consent area, which was not part of that application, is within the southern part of this landholding. Permission was granted in March 1993 subject to 4 conditions by Galway County. Council. Condition no.4 included a development contribution. This quarry, including the location of its access, now appears to correspond to the adjoining JJ Higgins Sand and Gravel quarry.
- Reg.Ref.70186 – in October 1994 permission was granted to Claude Lyons for a revised access to this quarry, subject to 2 no. conditions. The drawings show that this appears to be approx. the location of the existing access to the subject quarry.
- Reg.Ref.04/5542 – The Council granted planning permission for the construction of 3no. dwelling houses and ancillary works subject to 24no. conditions (October 2005). The Site Layout Plan shows that these have a single access to the county road. This development of 3no. houses is known as Tallamh An Bhlácaigh has been constructed and is to the south east of and adjoining the substitute consent area.

- Reg.Ref.06/2421 – Outline Permission was granted on the 30th of October 2006 for 15no. houses on the adjoining quarry site to the north. Permission has expired in 2011.

Copies relevant to these permissions are included in the history documentation submitted.

4.0 QUARRY REGISTRATION

The application form submitted on the 10th of March 2005, provided that the subject quarry commenced pre-1963. This provides the site area of this sand and gravel quarry is given as 3.5ha as is the extraction area of the quarry. The drawings submitted showed within the red boundary the unworked area and the extracted area and the current workable area which is located in a more central part of the site. The Site Layout Plan (submitted 10th of May 2005) provides that the Site Area outlined in Red is 9.72ha, the extraction area 9.293ha and the extracted area is 0.630ha.

A Preliminary Environmental Assessment & Report Registration of the Quarry dated May 2004 is included with the Registration application. This had regard to Archaeological Site and Monuments (a map is included showing the location of 8no. sites recorded within 1km of the site). Details relative to Noise and Vibration, Dust and Water are provided including brief details of impacts and mitigation measures. This noted that there was no discharge to waters, either direct or in-direct, or surface waters or groundwater. Land Registry details concerning these lands and adjoining lands to the north of the quarry were also included. Reference is made to the permission granted for the adjoining quarry to the north (Ref.64305) and relative to the access (Ref.70186) referred to in the History Section above.

Regard was had to enforcement and the Council noted in June 2005 that no planning permission had been received for the subject quarry. In February 2006 they noted that unauthorised quarry works were ongoing and had intensified. This included extraction, refining and transportation of sand and gravel. Machinery was being used for these purposes and a site office was in place. Photographs of the operations at the quarry in 2005-2007 and aerial photographs dated 1995 and 2000 were included.

The quarry was registered under S261, on the 9th of March 2007, subject to 11no. conditions. These are operational and monitoring type conditions. The Council noted that the registration with or without conditions does not obviate the requirement to obtain planning permission or confer or bestow authorised status on a development which is an unauthorised development.

5.0 COUNCIL'S DETERMINATION UNDER S261A

The Council's Quarry Assessment Report is dated the 12th of July 2012 and has regard to the history and context of the site, including the registration under S261 and to planning issues and submissions made. This noted that the quarry is within a

Landscape with a Class 1 sensitivity rating and Lough Corrib SAC is approx. 650m to the south-east of the site. An EIA has not been carried out, and it was considered that one was necessary in view of the area of the site i.e. c.6.37ha. It was noted that post July 2008 development had occurred. It was also considered that an AA was required but not carried out.

The Report noted that this quarry is pre-1964, planning permission has not been granted but the quarry has been registered under Section 261. An EIA was required due to the size of the quarry and an AA due to the proximity to Lough Corrib SAC. It was recommended that a notice requiring substitute consent be issued and that such an application be accompanied by an rEIS and an rNIS and submitted to ABP.

Photographs including aerial photographs c.1995, 2000, 2005, 2010 were included showing the extent of the quarry site.

6.0 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.

Reason:

The quarry site exceeds the threshold of 5ha which requires an EIA as set out in Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended).

In relation to the Habitats Directive:

Quarrying development was carried out after 26th of February 1997, which development would have required, having regard to the Habitats Directive, an Appropriate Assessment but such an assessment was not carried out.

Reason:

The quarry site is located less than 1km from Lough Corrib SAC (site code: 000297).

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 1st of October 1964.

(b) The requirements in relation to registration under S261 of the Planning and Development Act 2000-2011 were fulfilled.

Accordingly, on the 3rd of August 2012, the Planning Authority issued a notice under Section 261A(3)(c) 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,

accompanied by an rEIS and rNIS in accordance with the determination made under S261A(2)(a).

7.0 QUARRY REVIEW

While a request for a Review of the Council's determination under S261A was made to the Board, this was deemed to be invalid as it was not made within the appropriate time period – Ref. QV0091 relates.

8.0 SCOPING REQUEST

This was submitted by Inis Environmental Consultants on behalf of the applicants on the 20th of December 2012 and related to the existing quarry at Brooklodge Demense, which is operated by BGN Sand and Gravel Ltd. The Request for a scoping opinion was made under S177F(2) of the Planning and Development Act 2000-2011 as amended (Ref.SK07.SK0002 refers) having regard to the rEIS requested by the Council under the S261A(3)(c) Notice to accompany the substitute consent application. Responses have been received from the NRA, the DoAHG and the GSI.

The Inspector's Report noted that the area of the site given is c. 9.7ha of which approx.7.5ha is an active sand and gravel pit and noted that the Council considered this smaller at c.6.37ha and that the pit appeared approx.80% excavated.

The Inspector considered that the key issues for consideration in the rEIS/rNIS for the quarry relate to:

- The impact of the works on the hydrological balance of the area with specific regard to downstream flooding and on groundwater levels.
- The impact on the conservation status of the cSAC Lough Corrib with particular regard to water quality and invertebrates within the river system.
- The amenity impacts of quarry traffic on adjoining roads, having specific regard to the cumulative impacts with other quarries in the area.
- The impact on the setting of protected structures in the vicinity and the associated demesnes.

Also that the rEIS describe the changes to the receiving environment which have occurred as a result of the development and address indirect and cumulative impacts with other quarries in the area, in particular the adjoining sand and gravel quarry to the north-east. The Report provided advice regarding the various requirements for the criteria of the rEIS.

Having regard to rNIS it was noted that while there are no watercourses in the immediate vicinity of the site, the area is part of the catchment of the nearby Abbert River which is part of the Lough Corrib cSAC which is designated for a wide range of habitats and species which includes freshwater invertebrates including pearl mussels and crayfish. It was also noted that the water table had been breached and that the site includes an exposed pond within the limestone which appears to be largely exposed groundwater.

The Board in a letter dated 12th of June 2013 advised Inis Environmental Services of their written opinion of the information to be contained in the various criteria of the rEIS including the following:

A statement of the significant effects, if any, on the environment, which have occurred, which are occurring or which can reasonably be expected to occur because the development the subject of the application for substitute consent was carried out.

9.0 DESCRIPTION OF OPERATIONS – Substitute Consent Application

The current land use on the site is the extraction of sand and gravel. The quarry is operated by BGN Sand and Gravel. This is a working quarry and much of the quarry area appears to have been excavated or in the process of excavation. The finished areas are excavated down to bedrock. There is an access road to the quarry off the county road L-2127 Ardskea Beg. This is a parking area, weigh bridge and site offices located at the entrance to the quarry from this internal road.

The rEIS provides that the quarry is relatively small in scale and is nearing completion. At present approx. 80% of the 9.458ha site has already been excavated. In this case approx. 7.5ha of the site is currently being worked, with approx. 100-150 loads per month leaving the site. It was noted that the quarry was operational on the day of the site visit. Details are also given relative to the hours of operation and HGV lorry movements. Currently, it is provided that only very small amounts of material continue to be taken from the quarry site.

The pit is worked by a mobile excavator and sorting plant. Subsequently on site portable screening equipment has been used and continues to be used for the production of sand. Conveyor transfer equipment is also used with all site equipment (except the washing plant) and is only periodically moved around the site to facilitate that particular excavation area. There is washing of sand as part of the extraction process. The water supply for this comes from a piped system within the central lagoon area, the used water is returned to settling ponds which are then cleaned out and the sand from the bottom is stockpiled, left to dry and then sold as dead sand. As a result it is provided there is no waste on the site.

There is a lagoon area at the deepest section of the pit that appears to be fed by groundwater. There is a large sump approx.6m deep located within the central lagoon area which collects surface water run-off (and may also include a groundwater component at its depth). There are a number of other settlement ponds which are all interconnected in the western part of the quarry. It is provided that no water is discharged off the site.

It is noted that the quarry does not have a wheel washing facility for trucks departing the site. Dust suppression is provided by a tractor and water tanker. Details of the operations, provided that the water tanker is filled from a large pond/hole on the site which is always filled and then sprayed on the roadway and around the ground of the quarry.

9.1 Future Operations

Regard is also had to current and future operations and it is provided that there is approx. 2-3 years extraction potential left in the site. In the future the boundary to the south is to be replanted, the large deep pond would be fenced off and left for wildlife, two of the three ponds to the northwest of the site would also be left for wildlife. The site is to be secured with a boundary fence and returned to grassland where possible. Tree planting is to be carried out along the southern site boundary. It is considered that these will all form part of future restoration works. It also must be noted that a grant of substitute consent relates to the quarrying that has been carried out and that any ongoing or future works which would need to be the subject of a separate application/permission.

10.0 **MATTERS ARISING**

It is of note that there is a letter included in the documentation submitted from the landowners of the quarry site, saying they have no objection to BGN Sand and Gravel (leaseholders) making this application for substitute consent.

On the 21st of March 2014 the Board requested further information regarding the application. This included the following to comply with the relevant articles of the Planning and Development (Amendment)(No.3) Regulations 2011:

- Revised Public Notices.
- Revised Scaled drawings showing the boundaries of the site in red, of the landholding in blue and wayleaves in yellow.
- Details of the onsite septic tank as mentioned on page 83 in the rEIS.
- Their comments on the Council's Report under S261A where the size of the quarry is given as 6.37ha and their application site is 7.5ha.
- Clarification as to whether ongoing works have the benefit of planning permission or whether they are proceeding on the basis of a pre-64 authorisation.
- Volume 3 –Technical Report as mentioned in the Schedule of Documentation with the application has not been received.
- A revised CD containing the full application and documents set out.

10.1 Further Information response

This has been submitted on behalf of the First Party on the 22nd of April 2014 and includes the following:

- Amended Public Notices
- Drawings to comply with Article 227 and Article 23 of the Planning and Development Regulations 2011 including elevations and sections to scale.

- They provide comments on the area of the quarry and substitute consent area which are discussed further in the Assessment below.
- Information regarding the on-site septic tank, including that it is nearing capacity and recommending that it be emptied on an annual basis and that they are willing to enter into a maintenance plan.
- Reference to Volume 3 – Technical Report is a typo.

Further revisions to the Public Notices were requested by the Board in their letter dated 22nd of April 2014.

Amendments to the Public Notices were submitted on the 9th of May 2014. This included photographic evidence of the erected site notice and a CD containing a soft copy of the documentation submitted to the Board.

11.0 SUBMISSIONS

11.1 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 Court Judgment *An Taisce v ABP* by Mr Justice Charleton.

11.2 Geological Survey of Ireland

They provide that they have no comment to make in relation to the rNIS compiled in support of this application.

11.3 Natonal Roads Authority

They note that the subject development site accesses the local road network by the L2127, a local route which links into the R347 Tuam to Athenry route to the east of the quarry and the R347 to N63 route to the West. Traffic analysis has been undertaken in support of the application outlined in the rEIS. While the rEIS does not specifically outline the impact of traffic movements associated with the quarrying

operations on the road network it does indicate the volume of traffic from quarry is low and refers to the operating hours. The NRA has no specific objection in principle to the proposal. It is their opinion that any recommendations arising from the traffic chapter should be included in conditions with any decision to grant permission in the interests of maintaining levels of safety, capacity and efficiency on the national road network.

11.4 Department of Arts, Heritage and the Gaeltacht

They provide that in view of time constraints they are not in a position to view the current application but include a copy of their submission (May 2013) at pre-planning stage relative to the scope of the rEIS and rNIS. This includes the following:

- The overall quarry is not covered by any nature conservation designations but extends to within about 400m of Lough Corrib c SAC (site code:000297).
- Remedial assessments should be based on a full and detailed project description that includes all areas covered by the term quarry as per current legislation. Site restoration and reinstatement should also be covered.
- The rEIS should address cumulative effects of any adjoining or previously worked quarries.
- It should address the past, present and cumulative effects on flora and fauna, direct and indirect effects on Lough Corrib cSAC. Also the effects on water, geology, soils and air which are of relevance in relation to nature conservation and ecology.
- Appropriate remedial measures undertaken to remedy any adverse effects on the environment should be given.
- They note that maps and aerial photos show there has been some disturbance in areas of natural woodland and they are concerned that this woodland may have had ecological value.
- A precautionary approach should be taken in retrospective assessments when pre-development or pre-damage ecological information is limited or lacking.
- They provide details on what should be contained in the flora and fauna chapter of the rEIS. This includes identification and assessment of the receiving environment, before and after habitat, botanical and faunal surveys.
- Disturbed ground in quarries may support habitats of ecological value and rare species of flora. The biodiversity potential of the site should be taken into account in developing a restoration plan.
- Noise, vibration and emissions (including to air and water) should be taken into account where appropriate.
- The rNIS should address any significant effects of the quarry alone and in combination with other plans and projects on European sites in view of their conservation objectives.
- Screening should be undertaken to identify whether any of the qualifying interests of the SAC are/were at risk over the lifetime of the quarry. This includes in relation to surface water and groundwater quality.
- Habitat loss and fragmentation could potentially be significant for the Habitats Directive Annex 11 species - Lesser Horseshoe Bat.

- Appropriate remedial or mitigation measures to remedy or mitigate against significant effects should be specified in the rNIS along with the time period which such measures shall be carried out.

11.5 Health Service Executive

They comment on the adequacy of the rEIS from an E.H viewpoint. They note they have received no complaints in relation to the operation of this quarry in the past. They have regard to the following:

- Wastewater is collected and then removed off site by a licensed operator. It would be preferable if on-site treatment of wastewater was adopted in line with standard existing planning and development guidelines. The development should cater permanently within the boundaries of the site for the treatment of waste generated therein.
- The bedrock is classified as a Regionally Important Karstified aquifer. Vulnerability is extreme as bedrock is exposed in the centre of the quarry site.
- There are some concerns over the protection of the groundwater. To ensure that the lagoons, in particular and other possible contaminants including hydrocarbons etc, do not pose any adverse risk to groundwater, they recommend that routine sampling of groundwater and surface water is undertaken. This sampling should include both chemical and microbiological testing.

11.6 Submission from local residents

This has been received from local residents at Tallamh An Bhlácaigh, Brooklodge Demesne, Ballyglunin who wish to object to the substitute consent planning application on the grounds of human impact, air pollution, noise intrusion and the site notice not being easily visible from the public road or place. Their submission includes the following:

- They consider that the rEIS is misleading and that there is an impact on surrounding houses. They include photographs taken in April 2014, showing the proximity of their housing in Tallamh An Bhlácaigh to the quarry boundary.
- The EU directives require that any dwelling within 100m of a development be assessed for air quality. They provide that no environmental officer has ever checked these homes for contaminant type or size. They include a photo showing dust on a child's bedroom window.
- The Noise Assessment in the rEIS does not take into account the proximity of residential dwellings to the quarry operations. They note that there are 13 no. houses in Brooklodge Demesne and many of these are within 500m of the quarry site.
- The Tallamh An Bhlácaigh estate consisting of three private homes (Ref.PL04/5542) are within 20m of the boundary of the quarry site. A single line of trees demarks the boundary with the quarry. They include photographs showing an image of an excavator to the rear of these trees and note the proximity of works equipment to the rear of their house.
- They also include a photograph showing the eastern pit boundary not listed as part of the quarry but within the same boundary fence, which shows the

proximity of their estate to the southern boundary demarcated by the row of trees.

- They provide a photograph showing the inadequacy and lack of visibility of public notices from the public road.
- They have concerns regarding air pollution/dust, noise and lack of enforcement of operational hours and unauthorised quarrying outside of the S261 registration conditions.
- The reports regarding home occupancy are pre 2008, these residents purchased their homes in or after 2009 and note that the Council granted permission for a housing development 20m from a working quarry.
- The quarry currently employs 4no. non local workers and does not provide any employment to the local (Ballyglunin) area.
- They are concerned that with the announcement of the Tuam bypass, that extraction and transport activities may increase in the future, should permission be granted. This would seriously affect local residents and traffic safety in general.

12.0 PLANNING AUTHORITY REPORT UNDER S177I

Reference is made to the planning history and context of the site including the extraction area within the overall quarry area and to planning policies. Regard is had to recommendations made by the Council's Road Department regarding provision of adequate sight distances and appropriate road signage and development contribution towards the local road network. They note that the application site is approx.9.4ha in area and adjoins another quarry ref. no.QSP36. The existing sand and gravel pit is located in Brooklodge Demesne, approx.7.5ha of the site is currently being worked, sand is washed on site as part of the extraction process. The site is designated 'Class 1- Low Sensitivity' (where Class 1 is the least sensitive and Class 5 the most sensitive) in the Galway CDP 2009-2015.

They note that the rNIS concluded that the presence of the quarry would not cause a risk of significant impact on any of the qualifying interests and conservation objectives of the Natura 2000 sites. They have regard to Development Management Standard 35 'Extractive Development' which states that the extraction of sand, gravel, stone, etc. is fundamental to the continuing economic and physical development of the county. They consider that this quarry complies with extractive development policies and objectives as set out in the Galway CDP 2009-2015.

They have reviewed the rEIS and rNIS including the report from the Council's Road Department and consider that substitute consent should be granted for the development. They recommend 6no. conditions, which are summarised as follows:

1. Site distances to be improved to provide an appropriate clear sight triangle of 100m to either side of the entrance/exit within 6months of the date of the consent.
2. Once off development contribution of €10,000 to defray the cost of maintenance of the local road network affected by haulage of material from the quarry.

3. Provision and maintenance of a proper road signage scheme to highlight the quarry entrance to be agreed with Galway County Council Roads and Transportation Section.
4. Normal good practice to be observed regarding refuelling machinery and appropriate fuel storage double walled container or bund arrangement on site.
5. Recyclable or waste material to be removed off site to licensed or permitted facilities.
6. A restoration proposal for the lands to be agreed with the PA.

13.0 RESPONSES

Hubert Deane and Associates Planning and Engineering Consultants have responded on behalf of the First Party. Their response includes the following:

1. The existing sight distances at the entrance will be improved to provide an appropriate clear sight triangle of 100m to either side of the exit within 6 months of the grant of consent.
2. Their response regarding alternatives to the Development Contribution proposed by the Council is noted in the Conditions Review Section in the Assessment below.
3. BGN Sand and Gravel would agree with the Council's Roads and Transportation Section to provide and maintain appropriate road signage to highlight the quarry entrance.
4. Refuelling of all lorries entering the site is done off site. On site machinery will have a designated refuelling area and will have a bunded arrangement.
5. All recyclable or waste material will be removed off site to a licensed or permitted facility by licensed hauliers.
6. A plan for the reinstatement of the lands will be agreed with the Council prior to its restoration.

14.0 PLANNING CONTEXT

Galway County Development Plan 2009-2015

The plan sets out a longer term vision for the manner in which the county can be developed and includes its environmental protection and enhancement along with sustainable planning and development. Rural Enterprise policies are included in S4.3.1, Policy ED6 relates to development close to existing natural resources.

S4.6 has regard to Extractive Development and notes that there are multiple workings of stone quarries and gravel pits throughout the County. It is recognised that the winning and processing of these materials are key factors in the economic life of the County and that the Planning Authority will face a challenge in facilitating the gainful exploitation of the materials with minimum impact on the environment and least disturbance to residents. It refers to policies and objectives relative to the Extractive Industry. Policy ED16 seeks to: *Facilitate the extraction of stone and mineral material from authorised sites having regard to its location in the landscape sensitivity rating.*

S4.8.1 refers specifically to Lough Corrib which is possibly the most significant natural asset in the County, particularly having regard to water supply, fisheries and tourism. Policy ED46 seeks to: *Restrict development, which would significantly diminish the amenity, landscape value and/or economic value of lakes or beaches and their assets or amenities.*

S6.2.1.5 includes Roads and Transportation Policies and seeks to provide a safe road system throughout the county and to facilitate safe and efficient transport movement.

Section 7 refers to Infrastructure, Water, Waste, Energy and Telecommunications. This recognises the L.A dual role to protect the natural heritage and ecosystems and the water related environment and to improve and extend the water services infrastructure.

Section 9 refers to Heritage, Landscape and Environmental Management. Policy HL1 seeks to: *Conserve, protect and enhance the special character of the County as defined by its natural heritage and biodiversity, its built environment, landscape and cultural, social and sporting heritage.*

This Section also includes policies for the protection of designated sites, habitats and species objectives. Regard is also had to Landscape Character, including Sensitivity and Management.

Section 11 relates to Development Management standards and guidelines. DM Standard 35 sets out requirements in relation to Extractive Development covering a range of matters and refers to compliance with relevant Guidelines, mitigation methods to reduce environmental impact, access, rehabilitation, EIS, landscaping and screening and heritage and biodiversity.

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.
- Western Regional Authority Regional Planning Guidelines 2004-2016.
- 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 in the rEIS submitted with the substitute consent application refers to the planning and development context and provides reference to the relevant planning policies.

15.0 ISSUES AND ASSESSMENT

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

- Principle of Substitute Consent
- Remedial Environmental Impact Assessment.
- Remedial Natura Impact Assessment
- Conditions Review and Other Relevant issues.

15.1 Principle of Substitute Consent

This application for substitute consent is made in accordance with the requirements of the S261A Notice issued by Galway County Council. It is made under S177E of the Planning and Development Act 2000-2010, as amended and the Planning and Development Regulations 2001-2012. This application for substitute consent and accompanying rEIS and rNIS was lodged with An Bord Pleanála on the 12th of March 2014 with subsequent minor amendments submitted on the 22nd of April and the 9th of May 2014.

Regard has been had to the planning policies and to the information submitted and it is considered that the principle of the established use of a quarry has been accepted on this site. It must be noted, however that having regard to the documentation submitted that while the quarry has been registered, permission has not been granted for quarrying on this site, and little evidence has been submitted including in the aerial photography and in the rEIS to show the extent of quarrying in the substitute consent area prior to 2005. Notwithstanding this, the substitute consent application follows from the determination and decision of the Council made under Section 261A and I am not aware of any legal requirement on the Board to re-visit the basis for the making of the application at this stage.

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.*

Regard is had to the area of the application site and to environmental issues below.

15.2 Regard to Substitute Consent Area

The drawings submitted provide that the area of the site within the boundary shown red which includes the access road is 9.458ha. The substitute consent application form provides that the area to which the application relates is 7.5ha. Drawing no. C1301-103 submitted on the 12th of March 2014 shows this area as the majority of the site hatched in green. This drawing: 'Site Survey of Quarry at Brooklodge Demesne' shows the extent of recent extractions shown hatched:

Table 1 refers:

Dates	Extraction Area	Tonnage Extracted
Feb 2005 – Apr 2006	3.08ha	234,963.46
Mar 2007 – Dec 2007	4.34ha	97,289.66
Jan 2008 – Dec 2009	6.37ha	306,167.84
Jan 2010 – Feb 2014	7.50ha	227,228.08 (Feb 2014 stockpiles: 8,060 tonne).
Cumulative Tonnage:		865,649.04

The further information submitted to the Board on behalf of the applicant provided that the site at Brooklodge Demesne has a total area of 9.721ha of which 9.293ha was registered with the Council in March 2007 for extraction, the area of 6.37ha (referred to in The Council's S261A Determination Report) was taken from an aerial photo of the site in 2010, the area of 7.5ha has been processed up to August 2012. The registration was on the basis of pre-64 authorisation. It is also of note that the rEIS refers to 7.5ha as being the area relative to substitute consent, with a total site area of c.9.458ha. Section 2.0 provides that the quarry is relatively small in scale and is nearing completion. At present approx.80% of the 9.458ha site has already been excavated.

It is noted in S6.4 of the r EIS that the quarry has been in operation since 2005 with quarry materials initially extracted for use by local farmers, building contractors and concrete supply companies. The land was bought in January 2005 with BGN starting quarrying in February 2005. The site was temporarily closed from April 2006 to March 2007 and re-opened with operations continuing to the present day. Pre - 2005, they understand that the site was originally forestry land with some minor quantities of gravel removed from the site over a number of years (un-determined). S6.5 provides that from available site drawings, it appears that approx. 7.5ha represents the existing extracted area while approx.1.958ha of the site presently remains as 'unworked area.'

While some minor discrepancies in the total site area have been noted it is considered that the relevant substitute consent area is that applied for i.e.7.5ha. In the interests of clarity it is recommended that this be the area referred to by condition should the Board decide to grant.

15.3 Remedial Environmental Impact Statement

This rEIS has been prepared in conjunction with this substitute consent application. 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. The Chapters have been prepared by a number of Environmental Specialists. Relevant maps, figures and photographs and appendices are included.

It is provided that the rEIS consists of a methodical examination of the works carried out to date for the excavated proportion of 7.5ha out of 9.458ha which were registered for quarrying under Ref. QY 12. It identifies environmental impacts as a result of the extractive process at each developmental stage from initial extraction, continual operations and up to cessation of works.

15.3.1 Socio-Economic

This chapter discusses the potential impacts on the Human Environment from the existing quarry activities in the general vicinity of Brooklodge Demesne and surrounding Ballyglunin area. This notes that the area is rural and sparsely populated. The majority of housing in the immediate vicinity of the quarry, has been constructed subsequent to the commencement of extraction operations in 2005

(Table 4.1 relates). Reference is also made to the permission granted for three houses in Reg.Ref. 04/5542 which refers to the existing houses in 'Tallamh An Bhlácaigh' to the south east of and adjoining the eastern boundary of the substitute consent area and adjacent quarry.

There are a number of small disused quarries in the area including that to the north east of the site which does not appear to be in operation. Section 4.3.5 provides that the quarry generates a very low volume of waste on site and that there are no manufacturing processes being carried out as part of the operations. It is noted that Health and Safety measures are in place and no blasting occurs as a result of quarrying. It is provided that there are currently no mitigation measures in place in relation to the human environment as all potential impacts have been deemed to be negligible.

15.3.2 Flora and Fauna

A historical description of habitats is given in S.5.2.2 which notes that the subject site was purchased in 2005 by the present operator and then comprised an area of mixed broadleaf/conifer woodland owned by Coillte. Historical OSI aerial photography shows the extent of the adjoining quarry to the north and of woodland on the subject site in 1995, 2000 and in 2005/2006. The woodland was felled under licence in 2005 and quarrying commenced shortly after on the subject site. Some re-colonisation of the area has occurred in areas that have been refilled to the southwest of the site. The loss of mixed broadleaf woodland maybe considered impact at local level. The working area of the quarry is now at its lateral maximum extent and there are no proposals to extend into the woodland area to the north and west boundary. They provide that it is proposed as part of the remediation to conserve this woodland.

A number of habitat types have been identified in the field survey (carried out in February 2014) and desk studies and details are given of these. It is provided that there are no designated species of flora/fauna on site. Details are given in S.5.4.3 regarding cumulative effects. They provide that there have been no cumulative impacts from the adjacent quarry to the north. Regard is had to the more recent permissions for residential development in the area. Copies of these are included in the Appendix to this Report and it is noted that these have not yet been enacted and while adjacent to are not within the subject site (Reg.Ref.12/730 is adjoining to the south east).

The land in which the quarry is located has no formal designations. The nearest nature conservation area and Natura 2000 site to the quarry is the Lough Corrib SAC (site code: 000297) which includes the Abbert River is located c.400m to the southwest of the quarry (Fig.5.1 refers). This site is designated for habitats and species of conservation concern including woodlands and water courses which also have landscape amenity value. It is noted that there are no drainage ditches or running water in the vicinity of the subject site and it does not appear that there are hydrological links with the Abbert River to the south. It is provided that there are no

significant impacts on the designated sites or conservation as a result of this development.

To date no mitigation measures have been put in place with regard to surface water, noise and dust. This is on the basis that there are no hydrological links and there have been no requirements for mitigation measures given the defined scale and nature of the quarry operations which has not materially changed in recent years. The importance of the Abbert River as part of Lough Corrib SAC is acknowledged and they agree to maintain the status quo in terms of having no impact on this river. Restoration and remediation plans are referred to in S.5.7. It is considered that should the Board decide to permit that a condition regarding restoration to include landscaping and tree planting should be included.

15.3.3 Soils and Geology

Regard is had in Chapter 6 to the topography, drainage and geology, land use and sub soils on this quarry site and to the maps included. The site lies predominantly in an area of limestone sands and gravels. Glacio-fluvial sands and gravels underlie the majority of the site. Details are given of bedrock geology – the site is located on Dinantian Pure Bedded Limestone. They provided that there are no sites of geological importance within the perimeter of the sand and gravel extraction area at Ballyglunin as confirmed by the Irish Geological Heritage Programme.

An assessment of impacts relating to past and present operations is given. Mitigation measures are referred to in Section 6.5. This notes that bedrock has not been removed from the quarry other than to create the sump area in the north central part of the quarry. Average tonnage extracted from 2005 to 2014 is noted in Table 6.3. Excavations would essentially have involved the removal of glacio-fluvial deposits from previously existing overburden mounds or ridges to a base consistent with the level of underlying bedrock or perhaps above this elevation at points across the site where groundwater was encountered. It is provided that to date no specific measures have been put in place at the quarry with regard to soils and geology and there is no evidence of any significant residual impacts in terms of the soils and geology environment. It is recommended that the septic tank be checked and emptied if necessary to ensure localised contamination of the shallow overburden and underlying bedrock does not occur.

15.3.4 Water (Hydrology and Hydrogeology)

In cumulative terms there is a close link between geology and the water environment. It is provided that apart from the principal significant drainage system in the vicinity of the subject site, the Abbert River (which joins the Clare (Galway) river approx. 6km to the west of the site, there are no on-site drainage features other than a small existing channel (small open drain). The Abbert River is approx.400m to the south of the site. Generally the on-site drainage consists of the deep sump located within the north central part of the site and a series of settlement ponds for re-use of water for screening/crushing operations. All surface drainage permeates to ground within the site. Surface water quality is monitored by the EPA at Pallas Bridge which is down gradient of the quarry site. The current water quality of the Abbert River is

recorded as 'Good status' with a biological rating of Q4 inferring an unpolluted quality status with satisfactory condition. It is noted that there is no record of flooding on the subject site.

The bedrock aquifer is classified as RKd – a Regionally Important Karstified aquifer. The site is underlain by the Clare-Corrib Groundwater body (GWB). The aquifer in this region is classified as moderate to high on the basis of the free-draining glacio-fluvial sands and gravels in the locality and where minimal topsoil cover is present. However it is extreme on the basis that bedrock is exposed in the centre of the quarry site.

The assessment of water quality for the subject quarry site essentially comprises a desk-based study examining water quality data supplied by the EPA from their Water Quality Monitoring Points. There is presently no data available on site specific groundwater flow patterns in the gravels or bedrock at the quarry. While an absence of historical groundwater quality data is noted they provide that groundwater has not been impacted by historical or existing quarry operations. The nearest protected public water supply is the Barnaderg Group Water Supply Scheme with a spring source as supply. The quarry is not located within any groundwater source protection zone or the source protection area for any public water scheme. Due to the lack of active quarry dewatering at the site there has not been any perceived impact on the local groundwater abstraction.

Water is abstracted from the deep open pond on the quarry floor for washing and part of an on-site water recycling system, with the used water returned through three or four settlement ponds which are regularly cleaned out. The sand and fines from the bottom of these settlement ponds is stockpiled, left to dry and then sold as a dead sand product, there is no waste on the site. The water level in the deep sump at the site rises and falls with rainfall recharge and is likely to comprise both rainwater and a groundwater component. There is no surface water discharge from the site.

There is no evidence that the quarry operation has impacted on the natural groundwater regime as, in general, excavation has not extended below the level of the expected watertable. It is noted however, that specific groundwater quality data is unavailable for the quarry site. There are no additional mitigation measures that have been put in place at the quarry with specific reference to ameliorating the potential for historical impacts on the water environment as a result of past quarrying activities. There is no evidence of any significant impacts in terms of the water environment. However in view of the location of the quarry proximate to a designated site and in order to reduce any risk of pollution and in view of the past operation of the quarry, I would recommend that a condition be included in any grant of permission regarding the surface water management system on site.

15.3.5 Noise and Vibration

This chapter considers the noise and vibration impacts associated with both the historical and the existing operation of the BGN Sand and Gravel pit and refers to the

most relevant guidance relating to quarries and the extractive industries. This notes that a small number of residential dwellings are located to the northwest at a distance of approx.380m, to the south east, at a distance of approx.50m and to the south at a distance of approx. 380m to the closest boundary of the site. The existing noise climate is typical of a rural location removed from major roadways or industry.

A description of site operations is given and as the site is sand and gravel pit, extraction is limited to mechanical excavators. The use of blasting or rock breaking is not required or used at the site. Details are given of vehicular movements and plant operations. Regard is had to worst case noise impacts of the historical and current operations/activities. It is provided that on a historical basis, noise levels associated with the operations are calculated to be below the adopted daytime noise criterion and hence mitigation measures would not have been required. Also that mitigation measures in terms of retrospective noise issues are not possible. They provide that ongoing works for current and future operations should be undertaken in accordance with best practice measures relating to the control of noise and vibration.

Environmental noise surveys were carried out and details are given of these. It is noted that the most proximate residences in the Tallamh An Bhlácaigh estate were not included in the noise monitoring locations shown on Fig.8.1 of the rEIS. Their submission is concerned about noise and operational hours. The Site Layout drawings submitted show the location of these dwellings relative to the site. It is noted that the Council have taken enforcement proceedings against the quarry operating outside of the opening hours stipulated under condition no.1 of S261 ie: *Unauthorised quarrying outside of conditions imposed by Galway County Council*. A Warning letter has also been served on the owner/occupier of the adjoining quarry in this regard. The First Party have responded that they are operating within the prescribed opening hours. It is noted that these houses are relatively recent i.e post 2006 construction with later occupation. It is considered that these issues are relevant to planning enforcement as they refer to issues with ongoing works and are not the subject of a substitute consent application.

15.3.6 Air Quality

The German TA-Luft standard for dust deposition (non-hazardous dust) sets a maximum permissible emission level for dust deposition of 350mg/(m² per day) averaged over a one year period at any receptors outside the site boundary. Recommendations outlined by the DoEHLG apply the Bergerhoff limit of 350mg/(m² day) to the site boundary of quarries. It is noted that generally the potential for severe dust impacts as greatest within 100m of dust generating activities, though residual impacts can occur for distances beyond 100m. The nearest residential receptors would, therefore, be considered high sensitivity locations. They provide details of dust modelling carried out. They have regard to air quality and to quarry operations generating dust and emissions. They provide that the emissions from the quarry during the worst case period of 2008-2009 led to ambient concentrations which were within the relevant ambient air quality standards for dust. This is also the case relevant to current operations. They also note that currently, vehicle speeds are restricted on-site to below 20km/h and a water bowser is used in periods of dry

weather. As the quarry has a negligible impact on air quality and climate, it is provided that no additional mitigation measures are required.

15.3.7 Landscape & Visual Impact

This chapter presents the results of a landscape and visual impact assessment in relation to the sand and gravel quarry. Landscape Character is referred to in the Galway CDP 2009-2015. The quarry at Ballyglunin is located within LCA 5 'Northeast Galway (Tuam Environs)' in the Galway County Landscape Character Assessment 2002. The Landscape Sensitivity is rated as low/moderate in this area (Table 10.1 refers).

Regard is had to Natural Heritage and to the river Abbert as part of the Lough Corrib SAC to the south of the site. Table 10.2 provides a list of recorded Protected Structures and Table 10.3 a list of 12 Structures listed on the NIAH located within the vicinity of the site. In addition to these it is noted that Ballyglooneen House is also listed in the Gardens Survey on the NIAH (Fig.10.2 shows the location of these some distance from the site). Table 10.4 and Fig.10.3 relates to Cultural Heritage Sites located within the vicinity of the subject site, the closest of which is within 320m of the site. It is noted that the quarry operation does not impede on views toward Brook Lodge House or change the character of the Demesne as described in the Garden Survey of the NIAH.

S.10.4 provides that the quarry operation commenced in 2005 and extraction of sand and gravel has been ongoing since then. Sand and gravel are extracted from the moraine face in the central enclosed quarry area and sorted before removal by truck. Being excavated below ground level, the site is not really visible with only occasional views of working machinery. The periphery of the site to the north and west is bordered by woodland and the adjacent quarry to the north east. A conifer treeline remains around the south-western and south-eastern boundaries. It was noted on the site visit that while these trees provide screening along the site boundaries, there is very little dense woodland in the vicinity of the site and that it has for the most part been cleared due to the quarry operations.

An assessment of impacts on the visual character of the area is given and views are shown on photographs. There are no focal points or listed views in the vicinity of the subject site. Table 10.5 provides a list of Cultural Heritage Sites excluded from the assessment, which includes views from protected structures and archaeological monuments (Fig.10.4 and accompanying photos showing viewpoints refer). Photo no.11 shows the view of trees along the south eastern site boundary from the Tallamh An Bhlácaigh' estate. It is noted that this is not a dense belt of trees. Table 10.6 provides there is no view of the quarry from the various vantage points and that it is imperceptible/low from the entrance to the residences at Ardskea Beg looking east. In general it is provided that mitigation measures are not required as there is no significant impact on the visual amenity or landscape character of the area given the surrounding topography, screening and the lower levels of the quarry. However I would consider that should the Board decide to permit, landscaping to include tree planting should be included as part of a restoration condition.

15.3.8 Cultural Heritage

A Cultural Heritage Assessment has been undertaken of the impacts upon the archaeological, architectural and cultural heritage of the area. This included both desktop and field studies. The site is located to the north of the Abbert River in the northern corner of the historical Brooklodge Demesne. There is one National Monument in State Care within 5km of the subject area, Knockmoy Cistercian Abbey is located 3.8km to the west. Table 11.3 provides a Record of Monument and Places (RMP) identified within 2kms of the area. These are generally located some distance to the south of the quarry area and there are two RMP sites within 500m of the quarry, these include Brooklodge Country House and an associated Icehouse at Brooklodge Demesne (Fig.11.5 relates). Table 11.5 includes a Record of Protected Structures in the vicinity of the quarry. Photographs of these are included. Table 11.6 provides a Record of Protected Structures within Brooklodge Demesne. No indirect impacts on archaeological, architectural or cultural heritage have been identified for the quarry facility.

Details are given of a field survey carried out in December 2013. It is provided that no finds or features of archaeological significance were noted in the area. S11.4.1 provides that the quarry however, does impact on the old Brooklodge Demesne, which is listed in the NIAH Garden survey of Galway. Brook Lodge now is ruins is c. 450m from the site. What survives of the Demesne is the high stone wall that bounds the site to the west. This wall standing 1.5 to 2m high, is visible from the adjacent access road to the west and makes an attractive local feature. The old demesne wall is shown in Plate 5 running along the western boundary of the site. Plate 5 also shows the remains of original dense woodland. There is concern that this wall may be inadvertently damaged by the ongoing or future works. It is concluded that the boundary of the estate does survive and should be retained in situ with an appropriate buffer.

It is recommended that should the Board decide to grant permission for the substitute consent that a condition be included regarding retention of this wall and archaeological monitoring of the area to be included as part of any restoration works.

15.3.9 Traffic and Transportation Infrastructure

Details are provided of the access routes and the road network in the area (Fig.12.1 refers). The TTA consists of a review of the impact of the quarry development and details of transportation associated with that development. The time period referred to is, from 2005 to 2014 (with a temporary closure period 2006 to 2007) and the worst case scenario extraction period during the busiest period 2008-2009. Details are given of tonnage that has been extracted. Presently it is estimated that 80% has been quarried and there are approx.100-150 loads of extractive material per month leaving the site and that there is approx. 2-3 years, worth of sand/gravel left at the site. Details are given of operating hours and equipment and HGV usage which has decreased in recent years. It is noted that the local route L2127 has not been tarred in recent years but that the condition of this narrow road is good in either direction from the centre of the site entrance.

While it is noted that the information given in this Chapter is not that detailed, it is considered that due to the low level of traffic generated by the quarry operations and the low levels of traffic on the road in general that there are no impacts on the existing road network and they provide that a Road Safety Audit is not required. Also as there are no impacts there currently are no mitigating circumstances.

15.3.10 Conclusion regarding rEIS

In general it is considered that each of the factors has been discussed in various levels of detail in the different Sections of the rEIS including regard to mitigation measures. Some coverage has been given to the interactions between the factors in the various Sections and briefly in Chapter 13. 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 the subject quarry, were designed to ameliorate the impact of the works within the application area and the overall site on a wider environment.

In the context of the substitute consent application it is considered that the rEIS provides a comprehensive description of the development and analysis of the likely impacts on the environment. 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. I consider that, despite the limitations on the baseline data, particularly having regard to the lack of historical environmental data available, the assessment of the impacts and the mitigation measures are sufficient to enable the Board to make a determination on the application. There are some anomalies in the information given but it is not considered that these are significant.

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 while much of the quarry has been worked out, little restoration 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.

16.0 Impact on European Sites

The Planning Authority determined under the provisions of Section 261A 2(a) that works were carried out subsequent to the 26th February 1997 which would have required, having regard to the Habitats Directive, an Appropriate Assessment and that such an assessment was not carried out. In response to this, the applicants have produced and submitted a remedial Natura Impact Statement (March 2014). This notes the Regulatory context and has regard S177G of the Planning and Development Acts 2000-2010 as amended which sets out the criteria for an rNIS.

Appropriate assessment (AA) considers whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures necessary to avoid, reduce or offset negative effects. The requirements for AA, stems directly from Articles 6 (3) and 6 (4) of the Habitats Directive 92/43/EEC. The Council's concerns regarding potential significant impacts on designated sites have been noted in the context of their S261A determination above.

In order to ensure that the project complies fully with the requirements of Article 6 of the Habitats Directive and all relevant Irish transposing legislation, screening of the project has been carried out in Section 2 of the rNIS to see if a Stage 2 AA is required. It is provided that if the effects are deemed to be significant, potentially significant, or uncertain, or if the screening process becomes overly complicated, then the process must proceed to Stage 2(AA).

A description of the project and the existing environment from desk and field based studies is included as part of the Screening process in the rNIS. This includes a description of the ten main habitats identified during field work in February 2014. This notes that the largest habitat in the development area is active quarry and there is a remnant of woodland along the site boundaries (Fig.2 relates). While the woodland areas along the boundaries and in the periphery of the site are of some ecological value the worked area of the quarry and the recently prepared land to the west and south west is of relatively low ecological value. It was noted that that there are no designated species of flora or fauna on the site. It is provided that the improved grassland will continue to be farmed and provides a buffer to the south between the subject site and the Abbert River.

The land in which the quarry is located has no formal designations. There are three Natura 2000 sites located within 15kms of the subject site:

- Lough Corrib SAC (site code: 000297)
- Monivea Bog SAC (002352)
- Levally Lough SAC (000295)

Fig.3 shows the location of these sites. Levally Lough is a Turlough located c.12km to the northeast of the subject quarry and has no hydrological and limited biological connectivity to the subject quarry and has been screened out of the assessment. It is also of note that Lough Corrib SPA (site ref.004042) is located c.17m to the west of the site and is thus screened out of this assessment.

Table 1 refers to the Qualifying Habitats and Species relative to Lough Corrib SAC and to Monivea Bog SAC. Details of their Conservation Objectives are given. Table 2 provides details of Qualifying Interests and Key environmental conditions supporting site integrity.

The nearest Natura 2000 site to the quarry is the Lough Corrib SAC which includes the Abbert River located c.400m to the southwest of the quarry. It is considered that

in view of proximity the Lough Corrib SAC is the most relevant Natura site. The Lough Corrib SAC (site ref.000297) was first proposed as a SCI in May 1998 and was advertised in July 1999 and again in 2006. There is no requirement for appropriate assessment to address development carried out prior to the first advertising / classification of the relevant sites.

As designated as part of a Natura 2000 site, this river is afforded an internationally important level of conservation concern under the EU Habitats Directive. It is provided that a worst case scenario could potentially occur if indirect impact from contaminated surface water runoff was to find its way to the Abbert River and reduce the water quality thereafter affecting the qualifying habitats and species for which the river is designated. It is noted that there are no drainage ditches or running water in the vicinity of the subject site and there are no surface hydrological links with the Abbert River. They also provide that there is no evidence (the lack of historical groundwater quality data is noted) that the quarry operation has impacted on the natural groundwater regime. In general, excavation has not extended below the level of the expected water table. Chapter 7 of the rEIS which refers to Water – Hydrology and Hydrogeology is referred to in this respect.

An analysis of the pNHA and designated NHA in terms of their role in supporting the species using Natura 2000 sites was undertaken. Features such as ponds, woodlands and important hedgerows were taken into account during the rest of the AA process. Monivea Bog SAC is a raised bog system located c.10km to the southeast of the quarry and is drained by the Abbert River. This is also listed as a pNHA. Killaclogher Bog is designated as an NHA (001280) and as part of the Lough Corrib SAC. Lough Tee Bog is designated as an NHA (000307) and as part of the Lough Corrib SAC. Tiaquin Bog is proposed as an NHA (001709). It is provided that sites afforded dual designations are considered under the higher level of Natura 2000 site status. There are no other proposed or designated sites in the vicinity of the quarry.

Given the lack of hydrological connectivity with the Abbert River, it is provided it can be determined that there has not been any impact on the upstream hydrologically connected Monivea Bog SAC, Killaclogher Bog NHA, Lough Tee NHA or Tiaquin Bog pNHA.

Table 3 outlines the potential impacts in the absence of mitigation of the Project. In the case of Lough Corrib SAC and the more distant Monivea Bog SAC it is provided that there is no hydrological connectivity to the site. Also that as blasting is not carried out at the quarry and there is no potential for noise disturbance.

S2.7 of the rNIS provides an Assessment of Potential Cumulative Effects. They have regard to three more recent planning applications relative to residential development in the vicinity of the site. The closest is for residential development adjoining to the south of the site Reg.Ref.12/730 refers (a map is included showing the location in the Appendix of this Report). They provide that it is unlikely that this permission will go ahead. They also note that the latter two applications (Reg. Refs.12/1577 and

13/524, which are some distance from the site) include measures for the appropriate treatment of wastewater and as such there should be no cumulative impacts with regard to the subject quarry. It is of note that the rNIS does not include an assessment of or refer to any cumulative impacts that may have occurred from the adjoining quarry operations to the north.

They conclude that there have not been historically and would be no future significant impacts on the Qualifying interests of Conservation Objectives of the Natura 2000 sites considered in this assessment as a result of continuation of the existing activities. A Finding of no Significant Effects Report, along with their overall conclusions are presented in Appendix A of the rNIS.

16.1 Conclusion regarding rNIS

It is considered that post 1997 development which did take place on site is unlikely to have had or have a significant effect on a European Site, in particular Lough Corrib SAC, in view of the site's conservation objectives. In view of the information submitted in the rEIS and rNIS and in the First Party response, I would conclude that in relation to this substitute consent application that the development that has taken place, when considered either individually or in combination with other such developments, has not had a significant impact on the integrity of the designated Natura 2000 sites.

17.0 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 local authority has recommended to the Board that the application for substitute consent be granted subject to relevant conditions environmental and financial associated with the operation of the sand and gravel quarry. 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.

17.1 Development Contributions

It is noted that the quarry is operational and that excavation in the substitute consent application area is continuing. As per S177K (3)(c) a condition relating to development contributions 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.

Regard is had to the Galway County Council Development Contributions Schemes 2008 and the more recent 2010 to 2014. In both these Schemes contributions for quarries are not included in the General Contributions Scheme and it is provided that Special contributions for waste/land fill Quarries and gravel pits will be based on the following criteria:

- (i) The scale of the proposed development i.e. in the case of landfills the volume of material that it is proposed to deposit at the site or in the case of Quarries and Gravel Pits: the volume of material it is proposed to supply from and deliver to the site.
- (ii) The condition of the road serving the development.
- (iii) The length of the road or roads from the development to the nearest Class 1 local roads which is in good condition.
- (iv) The cost of bringing the road or roads up to a standard necessary to facilitate the development and not cause an adverse impact on other road users.
- (v) The cost of traffic control measures.
- (vi) Buildings provided as part of a Waste Landfill/ Quarries and gravel pits development will be subject to the provisions of the general contribution scheme for applicable development
- (vii) Waste landfills will also be subject to a €3.5 per tonne of waste deposited development contribution.

The Council's recommended schedule of conditions with their S177I Report includes in the interests of traffic safety, a once off contribution of €10,000 to defray the cost of maintenance of the local road network affected by haulage of material from the quarry. This would come under the terms of S48(2)(c) of the Planning and Development Acts 2000-2011 as amended.

The response of behalf of the First Party provides that due to the major expense of preparing the rEIS, BGN Sand and Gravel Ltd would find it difficult to contribute €10,000 but would consider the supply of road making material to the value of €10,000 to defray the cost of maintenance of the local road network affected by the haulage of material from the quarry.

While note has been made of the First Party response it is not considered that there is scope for this under the terms of the Development Contributions Scheme. In the context of the site's location, the history of the site and the requirement for the use of local roads prior to accessing the national network a contribution as stated is I consider reasonable. I would also recommend if the Board decide to permit, the inclusion of a bond condition to secure the satisfactory reinstatement of the site.

18.0 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.

19.0 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 information submitted, 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.

20.0 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 Galway County Development Plan, 2009 - 2015,
- (d) the remedial Environmental Impact Statement and the remedial Natura Impact Statement submitted with the application for substitute consent,

- (e) the report and the opinion of the planning authority under section 177I,
- (f) the submissions/observations made in accordance with regulations made under section 177N,
- (g) the report of the Board's Inspector, including in relation to potential significant effects on the environment,
- (h) the planning history of the site,
- (i) the pattern of development in the area, and
- (j) the nature and scale of the development the subject of this application for substitute consent.

21.0 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 12th day of March 2014 and as amended on the 22nd of April 2014 and the 9th of May 2014.
- (b) This grant of substitute consent relates only to the area of 7.5 hectares as specified on the application form and shown hatched in green on drawing no.C1301-103 'Quarry Areas' submitted on the 12th of March 2014 and to development undertaken as described in the application and remedial Environmental Impact Statement submitted on the 12th of March 2014 and does not authorise any on-going or 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, 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 the type of restoration to be carried out and to measures to ensure safety during site restoration shall be provided.
 - (c) Details providing for archaeological monitoring including the retention of the Brooklodge Demesne wall running along the western boundary of the site.
 - (d) Details for retention of existing boundary planting and of landscaping including planting and mounding to be carried out.
 - (e) 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, archaeology and the character of the area.

4. The developer shall pay to the planning authority a financial contribution a contribution of €10,000 to defray additional maintenance costs of the local road network due to the use of the local roads to transport material from the quarry. The contribution shall be paid within six months of the date of this order or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment and shall take account of any previous payments made in respect of the development on the site. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matters shall be referred to the Board to determine.

Reason: It is considered reasonable in the context of the nature of the development and its impact on the local road network that a condition requiring a contribution be applied to the consent.

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

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

Angela Brereton,
Inspector,
8th of August 2014