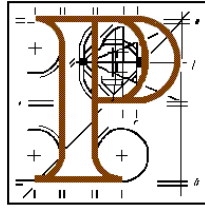


# An Bord Pleanála



## Inspector's Report

SU07.SU0091

### DEVELOPMENT

**Description:** Substitute Consent Application for Quarry  
**Address:** Cloughmore North Ballynahown, County Galway

### SUBSTITUTE CONSENT APPLICATION

**Planning Authority:** Galway County Council  
**Planning Authority Reg. No:** QSP 117  
**Applicant:** Martin O' Flatharta  
**Application Type:** Application for Substitute Consent  
**Observers:** None  
**Date of Site Inspection:** July 28<sup>th</sup> 2014  
**INSPECTOR:** Paul Caprani

## **1.0 INTRODUCTION**

SU 0091 and SU 0092 are two related cases concerning two contiguous quarries in Connemara, West Galway. Two applications were necessary as the quarries were registered under the provisions of S261 as two separate entities. Both applications were subject to quarry reviews under the provisions of S.261A(6)(a). In the case of both quarry reviews the Board determined that development was carried after the 1<sup>st</sup> of February 1990 for which an EIA may have been required but was not undertaken. Applications for substitute consent accompanied by a remedial EIS were required for both developments. Applications for Substitute Consents were lodged on the 7<sup>th</sup> of April 2014 in respect of both Quarries.

## **2. SITE LOCATION AND DESCRIPTION**

The Quarries are located in the Townland of Cloghmore Beg on the western side of the R336 Regional Route, between the villages of Inveran and Casla (Costelloe) in West Galway. The area is sparsely populated the land is barren comprising of shallow lithosol soils and open bog and heath interspersed with large areas of rock outcrop. Three separate quarries are located within the overall extraction area. According to the quarry review files, the total extracted area is c.7.78 hectares. The northern part of the extracted area does not form part of either application for substitute consent.

The R336 forms the eastern boundary of the site. One entrance off the R336 serves both sites. The larger southern area of extraction, amounting to an extraction area of 2.6 Ha (applicant; Martin O Flatharta) relates to application SU 0091. Whereas the smaller, central portion of the extracted area amounts to 0.52 Ha (applicant; Pdraig O Coisteabla) relates to application SU 0092. The stone extracted from the quarry is granite. Pockets of the quarry have been excavated to depths of 4-5 meters. The quarry extends back 200 to 300 meters westwards from the R336. There are stockpiles of loose and broken stone throughout the site. At its closest point the excavated area is located close to a small lake, Loughauneveen (also referred to as Loch na nOilean) further west. There are a number of streams and watercourses in the vicinity of extracted area which flow into the lake. A drainage ditch at the north-eastern end of the quarry links the quarry floor with a local unnamed stream which drains into the adjacent lake. There is no evidence that the water table has been breached on site. Neither quarry is located within any designated Natura 2000 sites. The Connemara Bog Complex SAC which covers a large area in south-western Galway is located in close proximity to the east of both quarries.

There are no dwelling houses within 500 meters of the site entrance. The nearest dwelling house is c.550m to the north on the western side of the R336. There are 8 dwelling houses within a kilometre of the site. All these houses are located to the south of the site on the main Rossaveel to Inveran Road.

### **3. OPERATIONS ON SITE**

The remedial EIS states that operations have taken place on site on an intermittent basis since 1948. Aggregate has been used for civil construction works including road repairs, wall construction and coastal defence projects. Ornamental stone work has also been exported off the site.

The site accommodates a weighbridge, reception office, site office, storage containers and a port-a-loo. Mobile plant on-site includes trucks, excavators, loaders and a crusher and screener. There is no water or electricity connection to the site. Rock is extracted by means of blasting. Extracted rock is crushed and screened on site. According to the rEIS there is no washing of materials on site and at the time of site inspection there was no evidence of storing of fuel or chemicals on site. In terms of annual output, the quarry, the northern portion of the quarry (SU 0092) has had an annual output ranging from 5,000 tonnes in the 1990 to 250 tonnes in 2004. The larger more southerly quarry (SU 0091) had an output range of 2000 tonnes in 2004 to 20,000 tonnes in 2013 (further details are contained in Table 3.2 to 3.4 of the remedial EIS). The hours of operation are typically 8 am to 6 pm Monday to Friday and 8 am to 2 pm Saturday. The site was not operating at the time of site inspection.

### **4.0 PLANNING HISTORY**

There is no history of planning applications or planning enforcement associated with the site. The quarries were registered separately under the S261 planning registration process, on April 26<sup>th</sup> 2007.

Under the provisions of section 261A Galway Co Council, on August 3<sup>rd</sup> 2012 issued a notice under subsection 3(c) of the Act requiring the owners of both quarries to apply for substitute consent and that the application be accompanied by an remedial EIS and remedial NIS. This decision was subject to a review under the provisions of subsection 6(a). The Board in its decision dated 9<sup>th</sup> October 2013, determined that both operators apply for substitute consent and that each application be accompanied by a remedial EIS (rEIS) only. The review by the Board set aside the decision of the planning authority to request the applicant to submit a remedial NIS. The Board Direction also

indicated that it may be appropriate to submit a single EIS in respect of both quarries. The EIS should however assess the cumulative impacts of all quarrying operations in the general area.

## **5.0 APPLICATION FOR SUBSTITUTE CONSENT**

On foot of the determination of the Board, the applicant submitted an application for substitute consent in relation to both sites on the 7<sup>th</sup> of April 2014. Identical rEIS's was submitted in respect of both substitute consent applications. It is not proposed to outline the contents of the rEIS in this section of the report. The contents of the rEIS will be assessed and evaluated throughout the course of the assessment.

On receiving the application the Board circulated the information to the following bodies for comment.

- Development Applications Unit of the Department of Arts, Heritage and the Gaeltacht. Bord Failte.
- The Heritage Council.
- An Chomhairle Ealaion.
- The Inland Fisheries Board.
- The Department of Communications, Energy and Natural Resources.
- The National Roads Authority.
- An Taisce.
- Failte Ireland
- Health Service Executive
- Uduras na Gaeltachta.

The following submissions were received in respect of the application for substitute consent.

### **5.1 An Taisce Submission**

An Taisce submission makes reference to the European Court Judgement case 215-06. This judgement provides that development involving EIA should only be permitted and subject to retrospective assessment in "exceptional circumstances". National legislation fails to define the circumstances where exceptional circumstances should be deemed to apply. The lodgement of a remedial EIA with An Bord Pleanala 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 remedial EIA for a quarry which exceeds the EIA threshold which does not have a valid planning basis.

Previous registration of the site under section 261 of the Planning and Development Act must be deemed to be irrelevant since did not establish a then legal basis of the site.

## **5.2 Submission from GSI**

The geological survey of Ireland has no comment to make in relation to the remedial NIS (sic) compiled to support the application.

## **5.3 National Roads Authority**

This submission states that the NRA has no specific comment to make.

## **5.4 Health Service Executive Submission**

It is stated that the Department has received no complaints in relation to either operation. Proper waste water treatment facilities should be provided on site for workers within the quarry. Proper mitigation measures should be put in place to ensure that any run-off from the quarry does not result in contamination of the adjacent lake, Loch na nOilean. This may become a bigger issue when further excavation occurs west of the site. The presence of obsolete machinery on site could pose a risk for contamination of surface waters, particularly from waste oils diesel and petrol.

## **5.5 Planning Authority Report**

The report sets out the policies and provisions as it relates to the extractive industry set out in the Galway County Development Plan 2009-2015. It is noted that the quarry is located in in a coastal rural area with a designation of Class 2 – ‘Moderate Sensitivity’. It note that the proposal complies with the policies and provisions set out in the development plan and it is recommended that in the case of both quarries substitute consent be granted.

The report also recommends that a total of 7 conditions be attached to any grant issued by the Board. The conditions relate to:

- Adequate sightlines at the entrance.
- A once off contribution of €10,000 towards the upgrading and maintenance of the road network in the area.
- The provision of a wheel-wash facility.
- The provision of appropriate signage in the vicinity of the quarry.
- Good practice in refuelling machinery on site.
- Recyclable and waste material to be removed off site.
- Details of a restoration plan to be agreed with the planning authority.

## **5.6 Applicant's Response to Planning Report**

In relation to condition no. 1 it is stated that the current access arrangements fully comply with the sight visibility requirements for entrances as set out in the development plan.

In relation to condition no.2 (financial contribution of €10,000 towards roads improvements) it is stated that the quarry contributes to about 4 HGV trips per day or just 0.2% of the total AADT of the traffic volume on the R336. This is negligible in proportion to the overall traffic volumes on the road. There is no evidence to suggest that the road has been damaged as a result of the quarrying activity to date. The amount would severely impact on the viability of the quarry operations. This condition should therefore either be removed or the amount reduced.

In relation to condition no.3 the operator agrees to provide and operate a wheel wash facility.

In relation to condition no.4 the applicant agrees to provide and maintain appropriate signage schemes in consultation with the local authority.

Condition No 5 which relates to good practice in relation to refuelling practices will be complied with in full.

Conditions 6 and 7 which relate to waste management practices and site restoration will also be complied with.

## **6.0 DEVELOPMENT PLAN PROVISION**

The site is governed by the policies and provisions contained in the Galway County Development Plan 2009-2015. The plan notes that County Galway has extensive deposits of stone and mineral material which is a fundamental resource for the building industry. There are multiple workings of stone quarries and gravel pits throughout the county with continual pressure for development of new sources. 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 facilitating the gainful exploitation of the materials with the minimum impact on the environment and least disturbance to residences.

The following policies relate to the extractive industry:

Policy ED16: To facilitate the extraction of stone and mineral material from authorised sites having regard to its location in the landscape sensitivity rating (the subject site is located in landscape sensitivity rating 1- least sensitive landscape).

Policy ED17 restrict development in the neighbourhood of existing extractive sites or sites which have obvious resource potential and so avoid conflict in development activities.

Policy ED18 control all new operations and carefully evaluate all proposed developments to ensure that the visual or other environmental impact of such works will not materially injure the amenities of the area.

Policy ED19. The Planning Authority shall be favourably disposed towards planning applications for the use of temporary borrow pits for aggregates or materials that are located adjacent or adjoining major public roads or infrastructure projects serving the community where the need to haul along public road is eliminated. Normal planning conditions shall apply.

Extractive Development Objectives:

ED6: The Planning Authority shall have regard to the Quarries and Ancillary Facility Guidelines published by the Department of the Environment in 2004 and to DM standard 35 of this plan in the assessment of any planning applications for extractive developments.

ED7: Consider the preparation of extractive industry policy to provide greater clarity and guidance regarding extraction industry operations, planning applications requirements and environmental and rehabilitation provisions.

#### *Development management standard 35 - Extractive Development*

The extraction of sand, gravel, stone etc. is fundamental to the continuing economic and physical development of the county. It is desirable that such materials will be sourced close to the location of a new development to minimise the need for long haul routes and potential interference with traffic flows and amenity. The following details shall be considered central to the determination of any application for planning permission for the extractive industry.

#### *Guidelines*

Compliance with section 261 of the Planning and Development Act, the DOEHLG Quarry and Ancillary Facility Guidelines 2004 and the EPA

Guidelines for Environmental Management of the Extractive Industry 2006. Where extractive developments may impact on archaeological or architectural heritage, regard should be had to the DOEHLG Architectural Conservation Guidelines and the Archaeological Code of Practice (2002) in its assessment of planning applications. Reference should be made to the geological heritage guidelines for the extractive industry 2008.

#### *Landownership*

Details should be submitted showing the proposed site in relation to all lands in the vicinity in which the applicant has an interest.

#### *Deposits*

Details to be submitted to include the depths of topsoil, subsoil and overburden and material at various points on the site. An indication of the type of minerals which it is intended to extract, a statement as to whether the parent rock from which the mineral is extracted is suitable for other uses, and the estimated total quantity of rock and material which can be extracted commercially on site.

#### *Methods*

The methods of excavation and machinery to be used on site should be submitted. Details to be submitted to include all proposed site development works, including the proposed method of working, any existing or proposed areas of excavation, stages of work proposed, location of any settlement ponds, waste material and/or stock piling of materials, methods for the removal and storing topsoil, subsoil and overburden etc.

#### *Production*

Details should be submitted to include the proposed production process to be employed, all requirements for water, electricity and/or other impacts to the production process and any proposals for chemical or other treatments.

#### *Mitigation Measures*

Details should be submitted to include the assessment of potential impacts on water resources, residential and visual amenity (including noise, dust and vibration impacts) biodiversity and any other relevant considerations together with appropriate proposals for mitigation.



### *Access*

Vehicle routes from the site to major traffic routes and the impact on the adjoining road networks. Details should be included on the mode, number and weight of trucks or other vehicles being used to transport materials and any truck sheeting or washing proposals.

### *Rehabilitation*

Details should be submitted should include reported plans and sections detailing the anticipated finished landform and surface/landscape treatments, both of each phase and whole excavation, quality and condition of topsoil and overburden, rehabilitation works proposed, the type and location of any vegetation proposed, the proposed method of funding and delivery of restoration reinstatement works etc.

### *EIS*

Any environmental impact study required by statute should be submitted. An EIS should ensure that all impacts in relation to heritage, environment biodiversity, groundwater protection etc. are clearly addressed and appropriate mitigation measures are included.

### *Proximity*

Details should be submitted include the location of all existing developments in the vicinity of the site that may be affected by the site development works, extractive operations and/or traffic movements generated.

### *Landscape and Screening*

Details should be submitted to include an indication of existing trees or other screening to be retained or removed or any proposed screening, grassing or planting of trees or shrubs and proposals for their maintenance.

### *Heritage and Biodiversity*

Details would include any recommendations for the site to be considered as part of the geological heritage of the county and any proposed measures with regard to the protection and promotion of environment and biodiversity including any proposals for rehabilitation.

## 6.0 ASSESSMENT

The assessment will evaluate the environmental impact of both proposals together. Where specific issues arise relating in to either the northern or southern portion of the quarry, these issues will be highlighted in the separate reports.

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 its 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 in the case of the current application there is no special amenity area order in this area).
- The remedial Environmental Impact Statement submitted with the application.
- The significant effects on the environment or European site.
- The report and opinion of the Planning Authority under section 177(l).
- Any submissions or observations made to it in accordance with the regulations.
- 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.
- Having regard to the provisions of section 177K(2) I consider the following issues to be particularly relevant and pertinent for the determined nation of the planning application.

- Development Plan Policy
- Surface Water and Ground Water Issues
- Ecological issues
- Air quality
- Noise
- Visual impact
- Cultural heritage
- Traffic
- Impact on European sites (Appropriate Assessment)
- Proposed conditions to be attached to any grant of substitute consent.

## **6.1 Development Plan Policy**

As a preliminary matter it is considered that the Board should assess the principle of the development in the context of the general objectives and policies set out in the Galway County Development Plan in relation to quarrying activity. Firstly I note the Planning Authority has not raised any objection to the application for substitute consent on the grounds that it contravenes any of the policies and objectives contained in the Development Plan. On the contrary Galway County Council in this instance are supportive in principle of the development. Galway County Council in its report makes reference to Development Management Standard 35 where it refers to the extraction of sand, gravel and stone as being of fundamental importance to the continuing economic and physical development of the county. The planning report quotes all policies and objectives set out in the Development Plan in relation to quarrying and extraction and considers that the current quarry complies with Development Plan policies and objectives in relation to extraction as set out in the Galway Development Plan 2009-2015. Galway County Council recommends that substitute consent be granted for the development as it fully supports the policies and objectives contained in the Development Plan.

Thus as a preliminary matter it appears that there is nothing in the Development Plan which specifically precludes the operation of a quarry at this particular location subject to satisfying qualitative and environmental criteria and the specific policies set out in the Development Plan. The Development Plan does not incorporate any policies which would prohibit or discourage quarrying activities in specific areas of the county. The proposed development therefore does not contravene any policy statements in the Development Plan and appears to support many of the wider goals as set out in the Development Plan in relation to the extractive industry.

## **6.2 Legal Basis for Substitute Consent**

A submission from An Taisce argues that a remedial EIS and retrospective assessment under the substitute consent process should only be permitted in “exceptional circumstances”. While this point is noted, it is apparent that the legislation does not define what constitutes “exceptional circumstances”. The An Taisce submission implies that as exceptional circumstances have not been justified in this instance an application under the substitute consent process is not warranted. It is clear from the recent history associated with this site that both the Planning Authority and the Board have assessed and reviewed the quarry in accordance with the provisions of section 261 and section 261A. Specifically the Board in its decision dated 23<sup>rd</sup> September 2013 directed the applicant to make an application for substitute consent to be accompanied by a remedial EIS. As the Board has already directed the applicant to submit a substitute consent application, any arguments in relation to the substitute consent process and whether or not it is warranted in this instance has in my view been superseded by the Board’s decision.

An Taisce’s contention that no consideration should be given to a remedial EIS were the developments that do not have a valid planning basis appears to challenge the whole legal basis of section 261, Part XA of the Act and associated legislation. Any such legal challenges are a matter for the Courts and not An Bord Pleanála.

## **6.3 Potential Impact on the Water Environment**

The existing quarry operations on site have the potential to impact on groundwater and surface water in the area. The rEIS indicates that bedrock has not been excavated below the watertable and the groundwater levels have not been breached on site. I would reach a similar conclusion based on my site inspection. The impermeable nature high density and massive structure of the igneous rock provides an effective barrier between the quarry floor and the underlying aquifer. Furthermore the quarry does not operate a proprietary waste water treatment system on store any fuels oils or diesel on site. I can only conclude that the quarry does not, and has not since 1990, posed a threat to the groundwater in the area.

In terms of surface water there are a number of unnamed streams in the vicinity of the excavated area. They drain southwards and westwards into Loch na nOilean. The most obvious hydrological connection between the quarry floor and the surrounding surface water bodies is through the artificially created channel which links the excavated area to the unnamed stream which flows southwards into the lake. This is the main conduit through which water

flows out from the quarry. The rEIS states that the channel is submerged during high periods of rainfall only. It was dry during my site inspection. There was no water in the channel at the time of site inspection. Water quality monitoring was undertaken as part of the rEIS. The water in the lake appears to be in pristine condition. As no fuels are stored on site the only threat the quarry poses is through higher levels of suspended solids. The levels of suspended solids in the samples undertaken are negligible and it appears that the quarry does not, and historically has not, posed a risk to the water quality in the area. Any discolouration in the water can most likely be attributed to the peaty soils and subsoils in the surrounding area as suggested in the rEIS.

#### **6.4 Potential Impact on Ecology**

In ascertaining the ecological impact of the proposal, the rEIS included a desktop study and an ecological field survey. An Bord Pleanála has already determined in the quarry review determination that a stage 2 Appropriate Assessment can be screened out, notwithstanding the close proximity of the Connemara Bog complex cSAC and SPA. The NPWS 'Rare and Protected Species Records' was consulted as part of the investigations carried out in the rEIS. 7 rare and protected species were found within a 10 km grid in which the site is located. In terms of habitat impact, the extraction activities to date is very likely to have given rise to the loss of heath habitats which are classified as Annex 1 habitats. A smaller area of Blanket Bog may have also been removed which is a priority Annex 1 habitat. However the rEIS goes on to state that the area of bog in which the site is located is not the best example of this type of habitat in the country and for this reason it has not been designated as a Natura 2000 site. Notwithstanding this, the loss of Annex 1 and priority Annex 1 habitats is described in the rEIS as a 'significant loss at local level'. It is estimated that approximately 2.8 ha of wet heath and 0.15 ha of blanket bog has been lost as a result of quarrying operations on both sites. The removal of such habitat would have impacted on nesting and foraging areas for local terrestrial and bird species. However given the abundance of similar type habitats in the wider area this is not deemed to be significant. On the whole the EIS acknowledges that heath and bog habitats have been removed and the restoration of this habitat is not feasible. The impact is described therefore as being permanent and significant.

Whether or not the removal of such habitat can be regarded as a significant environmental impact is debatable in my view. While the impact is permanent, the areas of heath and bog surrounding the site were not deemed to be of sufficient quality to warrant inclusion as a Natura 2000 site. Furthermore the rEIS makes reference to an NPWS report (under Article 17 for Annex 1 habitat types, 2013) which rates the habitat in the immediate vicinity of both quarries as 'Bad' in terms of overall conservation status. It also notes that both Wet

Heath and Blanket Bog are in 'Decline'. In total it is estimated that less than 3 ha of Wet Heath and Blanket Bog has been removed to date and this habitat was not designated under the Habitats Directive. The adjacent Connemara Bog SAC is in excess of 49,000 Ha. Thus the loss of Bog within the quarry in the context of the adjoining designated bog is negligible, less than 0.01%. Thus the loss in this instance in no way threatens the viability or fragments the designated SAC. Thus it could be reasonably argued in my view that the loss of Wet Heath and Blanket Bog habitat in this instance does not result in a significant environmental impact.

## **6.5 Noise and Vibration**

The environmental impact arising from noise and vibration is in many respects determined by the proximity of environmental sensitive receptors. The nearest sensitive receptor in this instance is a dwelling house to the north approximately 550 meters away. The noise assessment carried out as part of the rEIS indicates that quarrying operations are inaudible at this noise sensitive location most of the time. Traffic on the R336 is the dominant source of noise in the area. General noise generation from the quarry cannot be considered a significant environmental impact. Furthermore having regard to the receiving environment and the separation distances between the site and the nearest noise sensitive receptors and the level of production associated with the quarry, it is unlikely that noise generation from the quarry previously constituted a significant environmental impact.

Results from blasting and vibration levels set out in Table 6.5 indicated that levels recorded on two separate blasts from 2007 and 2104 are within acceptable limits as specified in the DoEHLG Guidelines for Quarrying Activities and are therefore unlikely to give rise to a significant Environmental Impact.

## **6.6 Traffic and Transportation**

A singular access exists onto the R336 which serves both quarries. The R336 is a lightly trafficked road with an AADT of 4584 (less than 300 vehicles per hour, 8am to midnight). The alignment within the vicinity of the entrance is straight and there are no issues in relation to sight visibility at the entrance of the site. The estimated volume of site generated traffic when the quarry is operational is 8 (two cars and a total of 6 HVG movements – the Board will note that the volume of traffic generated cited in the EIS corresponds with the information contained in the quarry registration form completed in 2005).

I would therefore concur with the conclusions contained in the EIS that the quarry, including when it was at full production, would not have had a significant impact on the road network in terms of traffic generation.

## **6.7 Air Quality**

Dust monitoring surveys were undertaken between January 28<sup>th</sup> 2014 and February 28<sup>th</sup> 2014. Details of the weather conditions on the various days in question are not indicated in the EIS. However February, being wetter and colder than most months throughout the year, It is very likely that the climatic conditions aided dust suppression within and around the site. The dust monitoring points were located (see figure 7.2 in the EIS) near the entrance and centrally within the quarry floor. The levels recorded over the 30 day period was 276mg/m<sup>2</sup>/day and 198mg/m<sup>2</sup>/ day which is below the commonly accepted limit of 350mg/m<sup>2</sup>/day, but nevertheless can be considered high for this time of year. Dust levels may be expected to be higher during the warmer and drier summer months. It is possible, that the commonly accepted limit of 350mg/m<sup>2</sup>/day could be breached during the summer months at this these locations.

However the dust monitoring stations are located well within the confines of the quarry in close proximity to the extraction and processing area and well away from any sensitive receptors. The boundary of the nearest third party house is in the order of 550 metres away from the dust monitoring station and dust levels would be expected to greatly reduce over such distances. It is possible, if not likely that historically dust levels where higher during periods of higher production. However based on the information available and the distance between the quarry and the nearest third party dwelling, I am of the view that the dust levels generated from the quarrying activity are and were unlikely to give rise to significant environmental impacts in terms of air pollution or dust deposition. As a dust suppression measure, particularly on adjoining roads, the Board could consider requiring the applicant to provide water spray facilities on site for periods of dry weather. The Board could also condition that loads would be covered when transported off site. I note that both measures are incorporated as a mitigation measures in the EIS.

## **6.8 Visual Impact**

In terms of significant environmental effects, it could be reasonably argued that the visual impact arising from the quarries in question is perhaps the greatest single environmental effect arising from the works undertaken to date. This is primarily due to the cumulative effect arising from three areas of excavation located side by side, two of which are the subject of the current substitute consent applications. I estimate, based on the myplan.ie website,

that the total area which has been disturbed due to quarrying activities (extraction, removal of overburden, access tracks, stockpiling etc.) amounts to c 6 ha. Approximately half of this area relates to the current substitute consent applications.

The area is open and exposed with little screening available. The wider area in the development plan is identified as having a 'medium sensitivity to change'. Notwithstanding the nature of the receiving environment, the works undertaken to date cannot be described as having a detrimental or profound impact on the landscape. This is due to the fact that all excavation has taken place at or below ground level, which makes the visual impact less discernible. Furthermore the surrounding landscape can be described as exposed and quite barren with exposed rock outcrops throughout the area. This is indicated in the site photos attached and the photos contained in the EIS. Having regard to the existing environment, views of the quarries particularly over the long and middle distance views would not be significant or particularly incongruous. The rEIS also indicates that a site restoration plan which will involve backfilling and progressive restoration will significantly reduce the visual impact on the works carried out to date. Thus having regard to the nature of the receiving environment, and the fact that the existing excavation has taken place at or below ground level, it is considered that the existing quarry did not, and currently does not have a significant adverse visual impact.

## **6.9 Archaeology and Cultural Heritage**

The only recorded archaeological monument is located c. 1 km to the west of the site. The site is not located within an area of archaeological potential. In terms of cultural heritage, two thatched cottages are located c. 1 km to the south west. Due to the separation distances involved it can be reasonably concluded that no significant adverse impacts arise as a result of the works undertaken to date on the setting or historical context of these structures. The area is not designated as being of any archaeological significance and thus there is no reason to believe that any archaeological material has been removed as a result of the excavations which have taken place to date.

## **6.10 Impact on European Sites**

The potential impact of the proposed development on European sites in the vicinity was the subject of an assessment under both quarry reviews attached (ref. QV07.QV0099 and QV0064). In the case of both reviews, it is clear that the Board, in setting aside the decision of the Planning Authority under the provisions of section 261A(2)(a)(ii) did not consider that the proposed development would adversely impact on any conservation objectives



associated with a European site. The nearest European site is the Connemara Bog Complex SAC (site code 002034) and SPA (004181). The quarry sites lie contiguous to the western boundary of the SAC and SPA and the Board determined that having regard to the location of the site which is in terms of hydrology, down-gradient from a Natura 2000 sites, and the conservation objectives for the site and the scale and nature of the activities carried out on the quarry, it is considered that development carried out on the quarry in question after 26<sup>th</sup> February 1997 would not have required an appropriate assessment under the Habitats Directive. I fully concur with this view and agree with the Board's conclusion in this regard.

## 6.11 Conditions

The appellant has challenged Conditions No. 2 as requested by Galway County Council in its report under the provisions of section 177L. This condition requires a financial contribution of €10,000 for the upgrading of roads which have suffered damage as a result of traffic generated by the quarry over the years. The submission on behalf of the applicant argues that the access road R336 is in good condition and the contribution of traffic from the quarry is negligible and would not contribute in material terms to the deterioration of the road.

I note that the submission from Galway County Council does not specify under what provisions of the Act the applicant is expected to make the financial contribution. No reference is made to the Development Contribution Scheme. It is assumed that the financial contribution request is not made under the normal provisions of section 48 of the Planning and Development Act 2000. I can find no reference to any supplementary contribution scheme adopted by Galway County Council under section 49 of the Planning and Development Act which would relate to the site in question. I can only assume therefore that Galway County Council is requesting the sum as a special contribution under the provisions of section 48(2)(c) of the Planning and Development Act 2000. The Development Management Planning Guidelines for Planning Authorities issued by the DoEHLG in 2007 provides guidelines in relation to special contribution requirements. It states that *'a condition requiring a special contribution must be amenable to the implementation under terms of section 48(12) of the Planning Act therefore it is essential that the basis for the calculation of the contribution should be explained. This means that it will be necessary to identify the nature/scope of works the expenditure involved and the basis for the calculation including how it is apportioned to the particular development'*. As none of this information was provided in the planning report, I don't consider it appropriate that the Board attach the said condition in the absence of more detailed explanation to be provided by the Planning Authority. The normal financial contribution levy

under the provisions of the adopted financial contribution scheme may be more appropriate in this regard.

The other conditions set out in the local authority report are reasonable in my view and such signage can be erected by the developer subject to agreement of the Planning Authority. This can be addressed by way of condition.

## **7.0 CONCLUSIONS AND RECOMMENDATIONS**

Arising from my assessment above I consider the application for substitute consent should be granted in this instance. Based on the information available I consider that the quarry has not given rise to significant adverse environmental effects and the on-going impacts are limited in terms of scale and significance. I therefore recommend that the application for substitute consent be granted based on the reasons and considerations and subject to the conditions set out below.

### **REASONS AND CONSIDERATIONS**

The Board had regard to inter alia the following.

- The provisions of the Planning and Development Acts 2000-2012 as amended and in particular Part XA.
- The Quarry and Ancillary Activities Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in 2004.
- The provisions of the Galway County Development Plan 2009-2015.
- The remedial environmental impact statement submitted with the application for substitute consent.
- The report and the opinion of the Planning Authority under section 177(I) of the Planning and Development Act as amended.
- The submissions made in accordance with regulations made under section 177(N) of the said Act.
- The nature and scale of the development subject to this application for substitute consent and the pattern of development in the area.

The Board considered the remedial Environmental Impact Statement and concluded that the statement identified and described adequately the direct and indirect effects of the environment on the development. Having regard to the acceptability of the environmental impacts as set out above, it is considered that the development is subject to compliance with conditions set out below would not be contrary to the proper planning and sustainable development of the area.

## **CONDITIONS**

1. The grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application on the 14<sup>th</sup> March 2014. This grant of substitute consent relates only to works undertaken to date and does not authorise any future development on the subject site.

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

2. A detailed restoration plan for the site should 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 implementation of the restoration plan.
  - (a) Site restoration provided for the immediate re-vegetation of the site where suitable.
  - (b) The incorporation of planting in accordance with an agreed scheme with the planning authority.

**Reason:** In the interest of ecology and visual amenity.

3. A designated wheelwash facility shall be provided at the quarry entrance at a location to be agreed with the planning authority.

**Reason:** In order to improve dust suppression measures on site.

4. All obsolete machinery, tyres, equipment and plant which are no longer used as part of the excavation or processing operations on site shall be removed from the site by a licensed contractor within two months of the date of this decision.

**Reason:** To reduce potential contamination of groundwater and surface water to improve the visual amenities of the area.

5. Within two months of the date of this order proposals for the erection of traffic signs including traffic safety and traffic directional signs shall be erected at locations to be agreed with the planning authority.

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

6. Quarrying and associated operations shall be confined to the hours of 0800 hours to 1800 hours Monday to Friday and 0800 hours to 1400 hours on Saturday. Quarrying activities shall not take place on Sundays or public holidays.

**Reason:** To protect the amenities of property in the vicinity.

7. A stock and trespass proof fence shall be erected and maintained around the full perimeter of the site and a lockable gate shall be maintained at the site entrance.

**Reason:** In the interest of orderly development.

8. Noise levels emanating from the quarry shall not exceed 55dBA at any boundary of the site. A noise survey shall be carried out on an annual basis in accordance with details to be agreed with the planning authority.

**Reason:** To protect the amenities of the area.

9. Three dust monitoring facilities shall be provided at locations to be agreed with the planning authority and the results of the monitoring shall be submitted to the planning authority twice yearly within the period of two months from the date of this decision. Dust deposition levels shall not exceed 350mg/m<sup>2</sup>/d.

**Reason:** In the interest of residential amenity.

10. All oils, chemicals and hydrocarbons shall be stored within bunded areas and such substances shall not be discharged or allowed to be discharged into surface or ground waters on site. Oil interception traps shall be provided where appropriate. Details should be agreed with the planning authority.

**Reason:** In the interest of protecting the environment.

12. Within three months of the date of this order the developer shall lodged with the planning authority cash deposit, a bond of an insurance company or other such 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 security shall be as agreed with the planning authority and the developer are in default of an agreement shall be referred to the Board for a determination.

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

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

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

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**Paul Caprani,  
Senior Planning Inspector.**

**15<sup>th</sup> August, 2014**

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