An Bord Pleanála Ref.: SU05E.SU0106

An Bord Pleanála

Inspector's Report

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

DESCRIPTION : An existing quarry

SITE ADDRESS : Carrick East and Truman West, Laghy, Co. Donegal

DIRECTION UNDER S.261A

Planning Authority :	Donegal County Council
Planning Authority Reg. Ref.:	EUQY10
Owner :	Cemex (ROI) Ltd.
Operator / occupier / applicant:	Cemex (ROI) Ltd.
Direction:	To apply to An Bord Pleanála for substitute consent under 177E. The direction implies, rather than stated, that the application be accompanied with a remedial environmental impact statement and a remedial Natura impact statement (date of order 20/08/12).
Review:	Ref.QV0222. The Board CONFIMRED the determination under 2(a)(i) and SET ASIDE the determination under 2(a)(ii) on 22/01/14.

APPLICATION:

Made by :	Cemex (ROI) Ltd
Type of application :	Application for substitute consent under Section 177E accompanied by a remedial environmental impact statement.

INSPECTOR : John Desmond

Date of inspection: 10/11/14

PART 1

1.0 SITE DESCRIPTION

1.1 The substitute consent site is located on the southern side of the village of Laghy (also Laghey), at the southern end of Donegal, c.45km south-southwest of Letterkenny. The quarry site is effectively contiguous with built-up, commercial area associated with Laghy, with a Eurospar shopping centre, garden centre, etc., located opposite the entrance to the site on the northern side of the link road (the R232[1]) and a County Council operated civic centre adjacent the northeast of the quarry. The northern boundaries abut the N15 (northwest) and the R232 link road (northeast) connecting the national road to the Pettigo Road (R232 and Laghy Mains Street). Access to the quarry operations is to the northeast, onto the R232 link road. The quarry abuts an area of steeply sloping scrubland to the east. A local rural road runs adjacent to the southern boundary. To the west of the site are agricultural grazing lands.

1.2 The landscape of this area is a drumlin landscape (as so described in the rEIS[2]) and is rolling in nature; agricultural lands interspersed with lakes and scrubland. The site is c.1km from the coast where there is a substantial tidal estuary.

1.3 The substitute consent area defined in the application is stated as 7.5ha, however, having regard to the decision of the Board in the quarry review case ref.no.QV0222, the area to which the substitute consent application should relate is 4.15ha (as estimated by the reporting Inspector) and comprises the southern and western sections of the said 7.5ha area only.

1.4 Having reviewed the aerial photographs referred to by the said inspector, using the DoEC&LG 'mapviewer' tools, I measure the area of the relevant extraction area at in the region of c.3.5ha. Taking account of the areas directly ancillary to the said extraction area (i.e. that area where overburden has been removed and berms have been provided along the site boundaries), adjacent the western, southern and eastern sides of that pit, I calculate the relevant area as approximately 5ha. I have attached a copy of the extraction area and ancillary areas, as relevant to this substitute consent application, to my report. The original permitted quarry area is located to the northeast, but it shares only a short boundary with the area to which the substitute consent application relates. The intervening quarry area that falls outside both the said permitted area and the area of the quarry relevant to this current substitute consent process measures in the region of 2.6ha. It should be

[1] The OSI mapviewer and Myplan mapview show the link road as a local road and indicate the R232 extending north through Laghy to the northern junction with the N56. The applicant refers to the link road as the R232, as does Openstreetmaps.ie and Google Earth.

[2] E.g. in paragraph 6.12.

noted that the calculations of the area concern can only be considered a general approximation.

1.5 The quarry has a stated depth of 17mOD. There are two benches. The level of the upper bench varies across the quarry from c.25mOD to c.37mOD. The pit faces are effectively vertical. The pit is almost fully enclosed by the pit faces which extend to c.60mOD, with narrow ridges of high land retained to the north and east of the pit, beyond which the land level drops off steeply.

1.6 Processing is carried out on site, comprising the crushing of extracted materials to produce aggregates. There are concrete and concrete block production operations associated with the quarry operations, served by the aggregates produced on site, located to the north of the overall site. A wastewater management and recycling system is located at the concrete production site. The quarry appeared reasonably tidy and well organised.

1.7 The nearest residences are located c.130m to the east, c.150m to the south, c.165m to the west and c.230m to the north of the subject extraction pit, but there is a smattering of dwellings within 300m.

1.8 The substitute consent site is c.800m east of Donegal Bay (Murvagh) SAC (site code ref.no.0000133 and proposed NHA of same number) and within 900m of Donegal Bay SPA (site code ref.no.004151).

2.0 SUBSTITUTE CONSENT APPLICATION DOCUMENTATION received 03/07/14:

2.1 Cover letter: Peter Kingham, Principal, SLR Consulting Ireland.

2.2 Remedial Environmental Impact Statement: Prepared by SLR Consulting Ireland. No significant effects have been identified as having occurred, to be occurring or to be likely to occur from the development undertaken. No remedial measures are proposed beyond the existing mitigating measures implemented on site. A restoration plan entailing the natural re-colonisation of the site by local scrub vegetation and the natural flooding of the pit to c.30mOD (a depth of c.13m) is proposed.

2.3 Drawings:

Site location map	1:50,000	drawing 1
Site location map	1:10,000	drawing 2
Site notice & existing layout	1:2,500	drawing 3
Existing layout plan	1:500	drawing 3A
Restoration plan	1:1250	drawing 4
Cross sections	1:1000	drawing 5

2.4 Further information received 23/07/14: Letter from SLR Consulting explaining the reason for so defining the redline site boundary for the substitute consent application.

Drawing no.6 (1:500) 'Existing Cross Sections'.

2.5 Public notices: Newspaper 24/06/14; Site notice 25/06/14 (in place at time of inspection 10/11/14).

3.0 RELEVANT PLANNING HISTORY

Reg.ref.no.T.9720: Permission **GRANTED** in April 1969 for development of a quarry and the erection of crushing and grading plants and a concrete products factory.

Reg.ref.no.T.9720A: Outline permission **GRANTED** in July 1973 for erection of canteen and store buildings with sewage treatment plant.

Reg.ref.no.835/81: Permission **GRANTED** by Donegal County Council in (26/06/81) for a weighbridge, offices, canteen and toilet block. The proposed structures are located to the north, outside of the substitute consent site boundary.

Reg.ref.no.823/88: Permission **GRANTED** by Donegal County Council (21/10/88) for a bitumus mixing plant.

4.0 Enforcement

None.

5.0 QUARRY REGISTRATION

QY21: The Planning Authority imposed 15no. conditions in registering the quarry on 09/03/07. The registered quarry area was stated as 16.29ha, with an extraction area of 12.84ha and the material extracted was limestone, with concrete bashing plant, block yard, tar macadam plant and aggregate processing plant. The quarry was alleged to have been in operation since 1969, with the current operator commencing quarrying since 1972.

6.0 SECTION 261A PROCESS

EUQY21 / QV0222: On 07/02/14 the Board confirmed the Planning Authority's determination under section 261A(2)(a)(i), set aside the Planning Authority's determination under section 261A(2)(a)(ii).

7.0 REPORTS / SUBMISSIONS

7.1 NRA (28/07/14): The main points of the submission can be summarised as

follows:

- No objection to the quarrying operations based on the analysis set out in the rEIS.
- Where intensification occurs above current levels presented in the rEIS, the NRA recommends that a Traffic and Transport Assessment is undertaken outlining potential impacts on the N15 and the N15/R-232 junction.

7.2 GSI (12/08/14): No comment.

7.3 Section 177I report by Donegal County Council (15/09/14): The main points of the Council's report can be summarised as follows:

7.3.1 General -

- Total quarry area of 14.5ha, including c.7ha permitted quarry (reg.ref.no.T97/20) and the c.7.5ha area subject of the substitute consent application.
- Extraction of limestone by blasting, which is then processed for aggregates.
- Council records indicate that the quarry was operational from March 1941. Planning permissions reg.ref.T97/20 and T823/88 are relevant.

7.3.2 Policy -

Donegal County Development Plan 2012-2018 relevant policies –

- RH-P-3 Stronger Rural Area
- 11no. Natura sites within 15km but none area deemed to be within zone of influence of the site.
- No nature reserve, groundwater protection area, freshwater pearl mussel catchment, other area of importance for protection of flora or fauna, and no significant archaeological potential apply.
- T-P-3, T-P-15, T-P-17, T-P-18, T-P-19 & T-P-20 cumulative seek to control development prejudicial to implementation of a transport scheme, ensures compliance with technical standards and control new / intensification of access to national / strategic road network. Existing entrance shall be conditioned to meet current technical standards in so far as reasonably possible.
- WES-P-1, WES-P-3, WES-P-9 & WES-P-12 cumulative seek to protect environment, ground water, water quality and risk from major accidents. The quarry operator should be conditioned to carry out or put in place the identified mitigation measures including environmental monitoring and

recording of inspections should substitute consent be granted. Existing mitigation measures in respect of ground and surface water (including monitoring) as identified should continue to operate. No particular concerns raised by the PA.

- F-P-1 TO F-P-6 addresses the Food Risk Management Guidelines. No concerns.
- Natural Heritage section 6.1.3 – NH-P-1, NH-P-2, NH-P-3, NH-P-4, NH-P-5, NH-P-8, NH-1-10, NH-P-12 AND NH-P-14. No concerns raised.
- Policy BH-P-1 built heritage. No concerns raised.
- AH-P-1 archaeological heritage. No concerns raised.
- Extractive industry and geology, section 7.13, policy EX-P-1 seeks to protect specifies areas from new extractive industry unless it can be demonstrated that they would not have a significant adverse impact. No concerns raised by PA.
- EX-P-2 seeks not to permit quarries unless it can be demonstrated that they will not result in a significant threat of pollution. No concerns raised by PA.
- EX-P-3 requires integrated, phased development and restoration plan for aftercare / re-use of site. The application has been accompanied by a restoration plan for aftercare of the quarry in order to further reduce any visual impact and to restore the application site. No concerns raised.
- EX-P-5 required submission of evidence of suitability of road network and proposals to remedy any deficiencies in same at applicant's own expense. This has been submitted. It is reasonable that existing entrance arrangements be conditioned to meet current technical standards as far as reasonably practical.
- Tourism section 8.1.3. Policies TOU-P-1 & TOU-P-3 seek to safeguard landscape and habitats, visual quality, amenities and views. No significant visual impact arises. Conditions to address further screening and to control extent of further excavation / activity and site restoration
- Policy MCZM-P-10 seeks to ensure proposals do not compromise the recreational and environmental amenity of Natura 2000 sites, NHAs and the EHSA areas. No concerns raised.
- Development and technical standards – Part 10.5 Industrial and Commercial Development applies. Conditions should address landscaping, buffers and screening (section 10.5.2), suitable storage of all waste materials (sections 10.5.4 & 10.5.5), separate collection and disposal of all runoff from bunded areas (section 10.5.6), fuel connection / discharge points shall be rollover bunded (section 10.5.7).

7.3.3 Recommendation: It is recommended that the application for substitute consent be approved subject to 14no. conditions addressing the following issues:

1. Limit quarry activity / areas to redline boundary as delineated on plans submitted to the Board 25/07/14 and carried out strictly in accordance with lodged plans, details, the rEIS and the rNIS.
2. Final detailed restoration plan to be submitted for agreement of the planning authority.
3. Provision of visibility splays to the entrance.
4. Confining of operating hours.
5. Site boundaries.
6. Noise limits (and monitoring).
7. Dust deposition limits (and monitoring).
8. Wheelwash and sprinkler system; cleaning of spillages on public road, condition and spraying of internal roads.
9. Bunding and interceptors.
10. Surface water discharge
11. Restriction other development.
12. Signage / advertising prohibited.
13. Removal of scrap metal.
14. Provision of 'adequate' security in form of bond / cash deposit / other.

8.0 **RESPONSES**

8.1 Donegal County Council (28/08/14): In response to the further information submission by Cemex (ROI) Ltd c/o SLR Consulting (received to the Board on 23/07/14), the Planning Authority indicate that it is in agreement with the applicant's delineation and definition of the area of the application site for substitute consent.

9.0 **POLICY DOCUMENTS**

9.1 **DONEGAL COUNTY DEVELOPMENT PLAN 2012-2018**

Chapter 4 Infrastructure – 4.1 Transportation Policies General; T-P-3, Policies Strategic Roads T-P-15, T-P-17, T-P-19, T-P-20 (Note – the quarry is adjacent the SRN, but not the substitute consent site and the quarry does not access onto the SRN).

Section 4.2 Water and Environmental Services: Objectives WES-O-4, WES-O5;

Policies WES-P-1, WES-P-3, WES-P-9, WES-P-12

Chapter 6 - The Natural and Built Environment

Aim - To conserve, protect and enhance the County's built, natural and cultural heritage for future generations and encourage appreciation, access and enjoyment of these resources.

Natural Heritage Aim - To conserve and protect where appropriate the County's natural heritage for future generations and encourage appreciation and enjoyment of these resources.

Natural Heritage Objectives – NH-O-1 – NH-O-8; Policies NH-P-1 – NH-P-15

NH-O-7 – to prepare a landscape character assessment.

Chapter 7 – Natural Resource Development

Section 7.1 Extractive Industry and Geology

Aim – To facilitate the appropriate and sustainable extraction of locally sourced aggregates and/or minerals that contribute to the local economy and where such activity does not adversely affect issues of acknowledged importance including water quality, natural habitats, important areas of landscape character, views and prospects or areas of geological interest.

Objectives EX-O-1 – EX-O-4; Policies EX-P-1 – EX-P-5

Geology – Policy G-P-1

10 REFERENCE DOCUMENTS

'*Advice Notes On Current Practice (in the preparation of Environmental Impact Statements)*' (EPA, September 2003).

'*Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities*' (DoEH&LG, December 2009).

'*Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC*' (European Commission, November 2001).

'*Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development*' (DoEH&LG, August 2003).

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

'*Geological Heritage Guidelines for the Extractive Industry*' (ICF and GSI, 2008).

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

'*Guidelines on the information to be contained in Environmental Impact Statements*', (EPA, March 2002).

'*Quarries and Ancillary Development, Guidelines for Planning Authorities*' (DoEH&LG, 2004).

'*Safe Quarry – Guidelines to the Safety, Health and Welfare at Work (Quarry) Regulations 2008*' (HSA, 2008).

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

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

PART 2

ASSESSMENT:

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

1.0 Introduction

1.1 This is an application for substitute consent under Part XA, Section 177E of the Planning and Development Act 2000, as amended. On 07/02/14 the Board confirmed the planning authority's determination under Section 261A(2)(a)(i), set aside the planning authority's determination under Section 261A(2)(a)(ii) and confirmed the planning authority's decision under Section 261A(3)(a), insofar as it related to EIA, to direct the owner / occupier to submit an application for substitute consent accompanied by a remedial Environmental Impact Statement.

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

2.0 Nature and extent of development concerned:

2.1 This substitute consent application is for '*an existing rock quarry*' pertaining to a site of 7.5ha stated area. Having inspected the site and viewed the aerial photographs for the area I am satisfied that the stated area is a reasonable approximation of that area that has been subject of extraction, inclusive of ancillary areas where overburden has been removed. The said 7.5ha area encompasses the entire extraction area and ancillary development that falls outside of the original grant of planning permission, notwithstanding that much of that area was quarried prior to 1 February 1990.

2.2 That area were quarrying was carried out post 1 February 1990 can be identified by comparison of the OSI aerial photographs from 1995 and subsequently. The Inspector to the Section 261A review file (QV0222) estimated that at least 4.15ha extraction area was commenced post 1 February 1990 (i.e. post 1995) and defined the area, generally, on a map appended to her report (I have attached a copy of same to my report). I have measured the area concerned using the DoEC&LG mayplan.ie map viewer. I estimate the extraction area concerned to measure closer to 3.5ha, with the

relevant quarry area extending to c.5ha inclusive of those ancillary areas where overburden has been removed and berms put in place. I do not consider the difference in areas as estimated by the inspector on review and by myself in considering the application for substitute consent to be a material in the context of the quarry review and substitute consent process.

2.3 The applicant, in further information submission received 23/07/14, submitted that the substitute consent should relate to the entire area subject of quarry activity that falls outside the boundary of the original permitted quarry (reg.ref.T.9720) for the reason that:

- Post 1990 development was carried out on all the unpermitted lands;
- The post 1990 development may have triggered the requirement for an EIA regardless of the date that quarry commenced on these lands;
- The exclusion of quarry lands that were worked (without permission) pre-1990 would mean that that development would remain unauthorised and require an application for retention permission;
- The planning authority could request that EIA be carried out to accompany the application, in which case the authority would be precluded from accepting the applicant due to the ECJ decision in case C-215/06 in July 2008, in which case it would be necessary for the to apply for leave to apply for substitute consent on the basis of exceptional circumstances.

2.4 The local authority (28/08/14) agrees with the applicant's regarding definition of the substitute consent site boundary. However, the substitute consent application can only relate to the area considered by the Board in its decision on review.

3.0 Planning policy:

3.1 The quarry development is generally consistent with the aim, objectives (EX-O-1 – EX-O-4) and policies (EX-P-1 – EX-P-5) governing 'extractive industry' as stated under section 7.1 of the County Development Plan 2012-2018. The Planning Authority has listed the relevant policies contained in the County Development Plan and indicated that no issues of conflict arise.

4.0 Environmental Impact Assessment – remedial Environmental Impact Statement

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

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

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

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

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

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

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

4.3.0 Human beings –

4.3.1 According to EPA guidance[3] the impacts concerning human beings include economic activity, social patterns, land use, employment, health and safety, settlement patterns and amenity. Undoubtedly the development will have had impacts on human beings due to the scale and nature of development and the proximity of the site to residential properties. Given the site location and its proximity to residential housing I consider impacts on human beings to be one of the principle concerns. The main impacts of concern are noise, dust and vibration from operations including blasting and access traffic.

4.3.2 The development carried out has, as indicated in the rEIS, has had a positive impact in the provision of direct and indirect employment in this area.

4.3.3 The rEIS indicates that there are c.129no. residences located within 1km, the majority being within the village of Laghy to the north, 31no. within 500m of the substitute consent site and 7no. within 300m of same. It is submitted that the potential negative impacts on human beings and amenities through noise, dust, vibration, traffic and visual issues were eliminated or reduced to acceptable levels through mitigation. These issues are dealt with in greater detail under separate chapters of the rEIS. The information and report forwarded by the Planning Authority makes no reference to any complaints or enforcement files pertaining to the subject quarry. No submissions or observations have been received from local residents. It would be reasonable for the Board to assume that the development undertaken at this site has not had significant adverse impacts on local residential amenities, although it is likely to have had adverse impacts (in terms of noise and dust) in the initial period when the quarry was operating at or near surface level.

4.3.4 The rEIS does not address the issue of health and safety of human beings. The extraction area within the substitute consent site extends almost to the boundary of the substitute consent site and quarry landholding in parts, with a setback of c.20m from the public road to the south. The rEIS indicates that the perimeter of the entire working area is secured by a combination of existing hedgerows, screening berms and post and wire fences and that warning signs alert to deep excavation (or similar) (p.2-3). On inspecting the site the boundary to the public road to the south was found to open, enabling free access to the quarry over a comparatively small berm. There is a 35m drop at the pit face beyond a relatively narrow ledge. This currently presents a significant risk to human safety. The risk of someone actually falling may be quite low, but the implications of a fall would clearly be catastrophic. In the short to medium term this can be resolved through the provision of secure fencing along the site boundaries.

[3] '*Guidelines on the Information to be Contained in Environmental Impacts Statements*' (2002); '*Advice Notes on Current Practice in the Preparation of Environmental Impact Statements*' (2003).

4.3.5 In the long term, particularly when the operations have ceased and the site has no economic use, I would doubt that secure fencing would be adequate mitigation. In my professional opinion, ideally, the pit faces should include a number of benches and be sloped at an angle to reduce the risk to human beings through falls, however there is insufficient space between the pit faces and the site boundary to remedy this issue in this manner. There is no requirement under the departmental or the EPA guidelines to finish pit faces with a slope and or benches (section 3.6 and figure 3.10 of the EPA guidelines suggest that the pit faces be regarded to provide for easier re-vegetation of the quarry pit on restoration, but make no comment in terms of public safety. The HAS's '*Safe Quarry Guidelines to the Safety, Health and Welfare at Work (Quarries) Regulations 2008 (S.I. No. 28 of 2008)*'[4] do not address the public safety hazard, rather it focuses of slope stability within the context of the quarry as a working environment. The rEIS indicates that industry standard slope angles, bench heights and bench widths have been used for extraction operations, but neither specifies what these standards are nor in what document they may be found. I was unable to locate relevant extractive industry guidelines governing same.

4.3.6 Given that there would appear to be no standards or industry related guidelines that specify appropriate slopes and / or benches to finished extraction pits in terms of the interest of public safety, and given that conditions specifying same are not generally attached to permissions at local authority or Board level, the pit faces in situ may be regarded as an industry norm and not unacceptable in the unusual course of quarry development. In this context, and in the context of the site being within a rural area of low density development, it would be reasonable to remediate this issue through appropriate boundary treatment. I would advise that in order to ensure the maintenance of the boundary fencing in perpetuity, the payment of a bond be required by condition.

4.4.0 <u>Flora and fauna</u> –

4.4.1 Impact on ecology on site – The rEIS concludes, based on historical aerial photographs that the site consisted of fields under permanent pasture of agriculturally improved grassland enclosed by hedgerows prior to commencement of quarrying operations. The lands are therefore unlikely to have been of high ecological value and the loss of same through quarrying is not likely to have been significant.

4

http://www.hsa.ie/eng/Publications_and_Forms/Publications/Mines_and_Quarries/Safe_Quarry_Regs_2008.pdf

4.4.2 Impact on broader ecology – The rEIS notes that there are four statutory (SAC / SPA) and non-statutory (pNHA) designated nature conservation sites within 5km radius of the site.

- Donegal Bay (Murvagh) SAC and pNHA (site ref.000133)
- Donegal Bay SPA (site ref.004151)
- Lough Eske and Ardnamona SAC (site ref.000163)
- Ballintra SAC and pNHA (site ref.000115).

Although there are several other sites with statutory and non-statutory conservation designations within 5-15km of the site (Durnesh Lough SAC / SPA / pNHA, Carricknahorna Lough and Lough Gorman pNHA, Lough Golagh and Breesy Hill SAC, Tamur Bog SAC, Lough Fad Bog NHA, Dunragh Loughs / Pettigo Plateaux SAC / pNHA, River Finn SAC, Lough Derg (Donegal) SPA, Pettigo Plateau Nature Reserve SPA/pNHA, Lough Eske and Arnamona SAC / pNHA, and Meenaguse/Ardbane Bog SAC / pNHA), I consider the selection of sites within 5km to be appropriate given the nature and scale of the development concerned.

4.4.3 The assessment considers the current suitability to accommodate protected flora and fauna, including bats, badgers and red squirrel, whereas the assessment should have considered whether the subject area would have been likely to have accommodated such species pre-development. It concludes that the site supports a range of habitats, all of which are ubiquitous, anthropogenic and intrinsically low nature conservation value due to the high level of disturbance experienced from quarrying operations; that the ecological value of the site is lower than previously existing on this site prior to quarrying but not significantly so.

4.4.4 The rEIS considers the impacts on habitat loss and fragmentation and damage to wildlife from same, disturbance from human activity, noise and vibration, and impact dust deposition. It also considers the impact of changes to ground water levels and changes in ground and surface water quality, having regard to the proximity of the aforementioned designated conservation sites. It concludes that no significant impacts have arisen. I consider this conclusion to be reasonable.

4.4.5 It is proposed to restore the quarry for nature conservation purposes post operation (according to paragraph 4.86, this would be in agreement with the NPWS). No cumulative impacts are predicted as there are no other known activities or proposed activities within close proximity that would result in significant cumulative impacts on ecology. The assessment effectively considers the cumulative impact of all quarry development on the whole quarry site. No residual ecological impacts are likely to occur.

4.4.6 No remedial measures are proposed other than the continuing operation of the quarry, where practically possible in accordance with best practice and appropriate guidelines, in a sensitive manner and with all due regard to

current wildlife legislation. The proposed site restoration plan, mentioned a number of times within chapter 4 and included as figure 2-1 in the rEIS (as well as Drawing no.4 submitted with the application) may be considered a remedial measure. The rEIS indicates under paragraph 4.86 that the restoration plan would be agreed with the NPWS, however it would be appropriate for the details restoration plan to be agreed with the Local Authority. The applicant may enter into consultations with the NPWS to inform the restoration plan but, in the event that substitute consent is granted, however this should not be a requirement of condition.

4.5.0 Soils & geology –

4.5.1 The site is a County Geological Site that has been identified by the GSI IGH programme for possible recommendation for geological NHA. It is proposed by the applicant to preserve a representative sample of the rock face in the restoration plan for the site as recommended by the GSI in its County Geological Site Report appended to the rEIS (appendix 5.1).

4.5.2 Direct impacts included the removal of soil and subsoil from the site and subsequent excavation of the underlying bedrock. The rEIS provides no assessment of the significance, if any, of this impact. No indirect impacts on geology or soils have occurred or are anticipated outside of the site. Mitigation measures that have been implemented include the use of soil and subsoil in the construction of screening berms. No remedial measures are proposed. The GSI have made no comment on the development.

4.5.3 It is reasonable to conclude that no significant impacts have occurred, are occurring or are likely to occur from the development undertaken.

4.6.0 Surface Water & Groundwater –

4.6.1 The assessment included a desk study and field trips. The quarry lies within the North Western River Basin District (NWRBD). The nearest surface water feature is the Tullywee River, a small river located c.120m east of the quarried area (c.250m from the substitute consent site), which flows into the Laghy Stream at Laghy Bridge, which flows into Donegal Bay 680m west of the quarry. The rEIS also indicates that the Ballykillowen Stream is located to the north of the site and joins the Laghy Stream downstream of Laghy Bridge (this watercourse is located to the northeast of Laghy Village)

4.6.2 The EPA mapviewer shows a small watercourse traversing the northern section of the quarry site and the commercial centre to the northeast of the quarry. This watercourse is only c.500m long, is subterranean through the quarry and commercial centre and joins the Tullywee River prior to the confluence of that river with Laghy Stream. It is not subject of EPA monitoring. Figure 6.1 of the rEIS shows the said watercourse as the

discharge channel, with the discharge point to the surface water system at Tullywee River.

4.6.3 The rEIS reports that the surface water quality of the Laghy Stream (at the nearest monitoring location 500m to northwest) had a Q rating of 4 (unpolluted) in 1999 and that the Laghy Stream is considered as being strongly expected to achieve 'good' status. The rEIS indicates that the upper Laghy Stream is classified as being of 'good' status (upstream of the confluence with Ballykillowen River)[5]. The Tullywee River (into which effluent from the operations discharge) is not subject of EPA monitoring but it joins the upper Laghy Stream.

4.6.4 The applicant carried out water sampling upstream and downstream of the discharge point to the Tullywee River and also directly down-gradient of the Carrick Bridge adjacent to the waste recycling facility operated by Donegal County Council. The samples were analysed for suspended solids, biological oxygen demand (BOD), ammonia and total phosphorous and the results compared with license quality standards (a discharge license applies ref.no.LWAT55[6] - I was unable to locate a copy of the licence online and not copy is attached to file). Total phosphorous was found to be slightly elevated (0.06mg/l compared to 0.05mg/l in the discharge license), but the level in the settlement pond was 0.05mg/l. Ammonia was elevated above the discharge license limit in the settlement pond, but was less than the detection limit downstream of the discharge. Suspended solids, BOD and pH were recorded at levels below the discharge limit in all samples.

4.6.5 It is submitted that there has been one exceedance of the BOD discharge limit (8mg/l compared to 5mg/l) which were marginal and localised; that phosphorous levels have been exceeded on five occasions (0.29mg/l) but that water quality testing on the Tullywee River suggests that baseline concentrations slightly exceed the discharge license limit; that ammonia generally exceeds the discharge limit (maximum 1.13mg/l compared to limit of 0.05mg/l). It is expected that the source of ammonia and phosphorous at the site is from landspreading and agricultural land uses in the surrounding area. Water from the quarry floor and processing activities is pumped to the settlement pond prior to discharge and water from the quarry floor also passes through two holding ponds. The applicant expects that there has been and is not significant impact on surface water quality within the application area from the quarry operation and no direct surface water impacts on conservation designated areas are anticipated. No indirect impacts anticipated.

4.6.6 The rEIS does not justify the limitation of its assessment to four criteria. It is possible that this relates to the relevant limits set in the discharge license, but

[5] WFD status 2007-2009.

[6] No copy of the license is attached to the rEIS.

no copy of the license is attached to file. Given that the application relates to the extraction area and not to the associated activities in the wider quarry area, and that the discharge licence relates to the dewatering of the quarry from the quarry sump (rather than, apparently, to the cement and concrete block production facility[7]), the assessment of these limits would appear reasonable. Discharges (maximum of 3,000m^3/day) are well below permitted discharge level (5,432m^3/day). There is no report from the EHO/HSE. The local authority raises no concerns regarding impacts on the water environment and advises that the quarry operator should be conditioned to carry out or put in place the identified mitigation measures including environmental monitoring and recording of inspections and that existing mitigation measures in respect of ground and surface water (including monitoring) should continue to operate.

4.6.7 No flood events are recorded in the vicinity from the Tullywee River or Laghy Stream. No Preliminary Flood Risk Assessment is available for the area.

4.6.8 In terms of hydrogeology, the rEIS indicates that the limestones below the site are classified as a regionally important karstic aquifer with diffuse flow. No karst conduits were identified within the quarry. The closest karstic feature is Kilgole spring 3km to the southwest. Groundwater vulnerability at the site is rated extreme with rock at or near the surface, and the surrounding area is rated extreme to high vulnerability. The depth to watertable was not determined. There are no source protection areas within the vicinity. The Donegal-Ballintra groundwater body is rated of 'good' status but 'possibly at risk of not achieving good status' according to the NWRBD GWB report, being at risk from nutrient loadings to reives and transitional bodies. The zone of drawdown is expected not to extend far beyond the excavation area. Whislt I consider this reasonable given the nature of the bedrock, no survey assessment (in terms of boreholes) has been carried out to support this assertion. The applicant expects no impact on water supply boreholes or the SAC/SPA from groundwater. Fine sediment transport is not expected to impact significantly on groundwater quality. No indirect impacts are anticipated.

4.6.9 A number of mitigation measures are in place within the substitute consent area and within the authorised quarry. No remedial measures are proposed, other than the implementation of the site restoration plan and the removal of all chemicals, petroleum based products, mechanical and electrical equipment prior to closure.

4.6.10 The site appears to be well managed. Fuel tanks are stored within bunded areas. The effluent discharge from the site is covered by a Discharge License[8] and the quality of the discharge is monitored. The results of

[7] Para.6.39 would suggest so

[8] No copy of the WWDL is attached to file.

monitoring suggests that the quality of discharge is not optimal and includes occasional exceedances in limits, however the nature of the exceedances would not appear to be such as to result in a significant adverse impact on the surface water and groundwater environments. In conclusion, I am satisfied that it is not likely that significant impacts have occurred, are occurring or are likely to occur from the quarry development undertaken within the substitute consent area concerned and therefore no remedial measures are necessary.

4.7.0 Climate –

4.7.1 The rEIS submits that the quarry is not of a sufficient scale to have any direct or indirect impacts on regional or local climate conditions.

4.8.0 Air Quality

4.8.1 The rEIS assessment focuses on impacts from transport, soil and overburden handling, excavation, storage and transfer of limestone, and processing plant. Dust monitoring was carried out at 7no. locations, within or on the perimeter of the quarry[9], over a 15 month period from January 2013 to March 2014 inclusive, measured against the 350mg/m2/day limit recommended in the Quarry and Ancillary Development Guidelines (DoEC&LG, 2004) to apply at the perimeter of quarry sites.

4.8.2 The results show that there have been frequent significant exceedances of the recommended dust limits at this site, reaching as high as 1,594mg/m2/day. The rEIS submits that road traffic is a considered a significant contributor to increased dust levels at monitoring locations D1 and D2. It would be relatively easy to determine the dust generating impact of traffic by monitoring dust at a similar setback from the N59 but at a distance from the quarry, however the applicant has not established the baseline level. Given the nature of the facility, the associated activities carried out, the loose surface of roads and surface areas throughout the quarry, the deposition of loose material on hard-surfaced roads and areas, and the high levels of dust recorded at other monitoring points within the quarry, I am not satisfied that it has been demonstrated that external traffic is likely to be responsible for the exceedances.

4.8.3 The rEIS notes the exceedance at monitoring positions D4, D5 and D6, which is terms 'occasional', notwithstanding that the number of exceedances at monitoring point D4 (7no.) is greater than at location D2. The level of exceedance was very high in the case of D4, reaching 1,449mg/m^3/day on one occasion. The exceedance are excused by the applicant for the reason that the monitoring locations are situated immediately adjacent the quarry void, whereas the DoEHLG Quarry Guidelines recommend that they be

[9] Monitoring locations shown on Figure 8.1 of the rEIS.

measured at the site boundaries. However the edge of the quarry void is setback a minimal distance from the quarry boundary and I therefore do not agree with the rEIS conclusion that the deposition levels would be expected to be considerably lower than those measured[10]. It begs the question why the dust levels weren't taken at the easily accessible site boundaries, in accordance with the guidelines.

4.8.4 Having regard to the foregoing, I consider the development carried out, taken cumulatively with the associated quarry development and manufacturing activities to have resulted in a significant dust generation and deposition outside the boundaries contrary to the standards. However, the level of dust would have fallen off considerably with distance. The nearest dwellings (sensitive receptors) are located approximately 130m to the east (R3 – rEIS states 80m), 150m to the south (R5 – rEIS states 100m), 160m to the west (R8 – the rEIS states 100m) and 170m to the north (R10 – rEIS states 190m check) of the substitute consent site, with the commercial centre 215m to the northeast (R11). Table 8-3 details the conclusions of the Dust Risk Assessment, with the impact on each of the receptors deemed insignificant, except in the case of R3 (slight adverse) and R10 and R11 (acceptable impact). It is submitted that impact on R3 will be mitigated by the fall of the land and the intervening significant mature vegetation. The dust risk assessment attributes a risk value of a receptor based on the product of the significance of distance (from source) and frequency of exposure, having regard to the sensitivity of the receptor. Whilst the approach is reasonable, there is no indication of from where the methodology came. I not convinced that the categorising of residences as of medium sensitivity rather than as high sensitivity is justified, and there is no indication how the categorisation was arrived at or whether it was from an official guidance document (nor could I locate such guidance). I consider local residences to be the sensitive receptors of primary concern and, in the context they may be considered highly sensitive. Other sensitive receptors include the commercial area and public roads to the north. The public road will be sensitive in terms of visual impact and safety issues through the deposition of dust.

4.8.5 Given the distance between the site and the nearest sensitive receptors and the absence of any third party objections, I consider it unlikely that there has been an appreciable adverse impact on local residential dwellings from dust. The impact is likely to be concentrated on the public roads to the northwest and northeast, on the commercial centre and more particularly on the surrounding farmland and scrubland (the scrubland to the east will have mitigated dust impact in that direction). The impact can be expected to be

[10] For practical purpose the monitoring points would have to have been setback from the edge of the pit. The exact locations are not indicated.

confined and to reduce rapidly with distance, although the impact will be weather dependent.

4.8.6 The rEIS indicates that '*subject to continued implementation of the existing mitigation measures, the development can and will endeavour to comply with the…threshold of 350mg/m2/day (averaged over a thirty day period) measured at the site boundary*' (para.8.77). It describes the ongoing mitigation measures implemented to mitigate dust generated by the quarry extraction / processing activities and by the site entrance / access, which accord with the recommendations under the DoEHLG and the EPA guidelines (see pages 8-16 to 8.17 rEIS). It is apparent from the dust monitoring results that the existing mitigation measures are inadequate to ensure compliance with the recommended standards. It may be that the measures are not implemented consistently in relation to the extraction and processing activities.

4.8.7 Whilst existing field boundary vegetation has been retained, it is quite thin. The berms are generally grassed but without shrub or scrub cover that would aid a reduction in fugitive dust. Additional planting would help remediate the impact. There were significant quantities of loose material deposited on paved roads and on the unpaved roads within the quarry complex, which onto the public road outside the quarry. Maintenance and regular cleaning of the internal and of deposits attributable to the quarry on the immediately adjacent public road network would mitigate generation of dust by this facility. Consistent implementation of the dust mitigation measures specified in the rEIS would reduce dust generation. The generation of dust by associated manufacturing activities are outside the remit of the substitute consent process. However, as the substitute consent process concerns only that development already carried out and does not authorise ongoing or future development, it would be inappropriate to attach conditions addressing these issues in the event that the Board decides to grant substitute consent. The issue of dust generation levels will be remediated on rehabilitation of the site in accordance with the site restoration plan.

4.8.8 Conclusion – Based on the monitoring results provided, it can be seen that the development carried out, taken in itself and cumulatively with the authorised and non-authorised quarry areas and with the associated production activities has continued to generated significant levels of dust at the site boundaries on an ongoing basis, well in excess of recommended maximum levels under EPA and Departmental guidelines, despite the ongoing implementation of dust mitigation measures. Given the distance to sensitive receptors, it would seem unlikely that any perceptible impact from dust has occurred on residential property in the vicinity.

4.8.9 Any residual dust levels generated by that development carried out within the substitute consent area will be remediated through the rehabilitation of the site in accordance with the site restoration plan.

4.9.0 Noise & vibration –

4.9.1 Noise and vibration monitoring results relate to the period outside that concerned in the substitute consent process. 2011-2014, however it is reasonable to accept them as generally representative of the cumulative noise and vibration impacts on the development carried out post 1 February 1990.

4.9.2 Three noise monitoring locations were selected. The exceedances at location 1 (adjacent Sligo – Donegal Road N15) are attributed to traffic on the N15. Having inspected the site, I would accept this as a reasonable explanation and that the noise from the quarry in this location did not appear excessively intrusive. The exceedance at location 3 is attributed to traffic noise in the rEIS (footnote 3 p.9-4). The said location is in proximity to the internal access road and therefore HGV traffic forming an integral part of the quarrying operations can be expected to generate noise and the impact of same is relevant to the development concerned in the substitute consent application. No exceedance is recorded for location no.2. I perceived the noise generated within and surrounding the pit (west and south) to be significant. The intrusiveness of the noise was increased by the character of the noise which included pulsating tones associated with processing activity (no extraction was carried out at the time of inspection). The significance of noise reduced significantly on the external side of the berms and I consider it unlikely that the noise would be considered intrusive at the nearest noise sensitive receptors given the separation distance from the source, although it is likely to be perceptible. No objections have been received from local third parties. I consider no significant ongoing impact to be occurring from the development concerned, in itself or taken cumulatively with development on the wider quarry site.

4.9.3 Assuming that a similar level of noise has been generated at the quarry since 1 February 1990, the level of noise perceived at the surrounding noise sensitive receptors would have been far more significant during the early stages of extraction (i.e. when extraction was taking place at the surface and before the development of the current lower bench) and the development carried out may possibly have had significant adverse impact on local residential amenities (i.e. on human beings). The height of the berms are not clearly stated. I estimate the height of the berms to the south to be around 3.5m and they are, even now, only lightly vegetated, mostly with grass and I am not satisfied that they would have provided sufficient mitigation from the impact of noise on the nearest noise sensitive receptors (residences) to the substitute consent site.

4.9.4 The noise impacts, if any, may be regarded as complete. I do not anticipate any significant ongoing of future impacts from noise from extraction within the substitute consent site.

4.9.5 Vibration – All blasts are monitored and records kept, detailing the results of vibration, air over pressure and blast design as part of the Environmental Management System implemented at the quarry. Blasts are carried out by a qualified 'shotfirer' and blast design is reviewed on a regular basis and modified, where necessary, to ensure ground-borne vibration limits. The frequency of blasts over the period concerned is not stated, rather the rEIS indicates that frequency depends on market demand. It can be assumed that blasts were more frequent during the period of rapid economic growth and declined during the recession.

4.9.6 The rEIS includes a review of blast monitoring from 2011 to 2014. Monitoring was carried out at two locations, the nearest dwelling to the west (measures c.160m from the edge of the extraction pit) and the nearest dwelling to the northeast at Laghy village (183m from the extraction pit, but c.420m from the relevant substitute consent extraction pit area). The results show that the air over pressure (AOP) limit (125dB) and the peak particle velocity (PPV) limit (12mm/s) recommended in the EPA and departmental guidelines on quarries / extraction activities were not exceeded at the monitoring points. No direct or indirect significant impacts are identified.

4.9.7 The period concerned under substitute consent is from 1 February 1990. The rEIS provides no overview of the impact of blasts prior to 2011 whereas it can be expected that the operator will have monitored blasts and maintained records of same at least from the time it was registered under section 261 on 09/03/07 and probably long before that time. The monitoring records do not provide the context of the location in which the relevant blast events took place and it is not possible to determine whether monitoring was carried out at the nearest noise sensitive location. Whilst monitoring location V1 is c.160m from the extraction pit, it is more than 400m from the boundary of the substitute consent site (as determined under the section 261A quarry review application). The residential dwellings located to the south and east are nearer the substitute consent extraction pit area (between c.149m and c.123m, respectively) than the dwelling at V2 (c.160m) and the AOP and PPV received at those locations are likely to have been greater when blasts were carried out at the southern or eastern perimeter of the pit than those presented for V2. The assessment of vibration impacts is insufficient to support the applicant's contention that the development complied with the relevant AOP and PPV limits recommended by the EPA and to support the rEIS conclusion that no significant impacts have occurred.

4.9.8 Based on the report of the planning authority it may be assumed that no warning letter, enforcement notice or legal action was taken in respect of the

development carried out. The authority is not obliged to submit details of complaints that may have been received about the quarry except where a warning letter, enforcement notice or legal action has issued, therefore it cannot be assumed that no complaints regarding noise or vibration were received. However, no objections to the application have been received to file and it can therefore reasonably be assumed that the development has not had a deleterious impact in terms of noise and vibration. The rEIS submits that mitigation measures were implemented in accordance with best practice / mitigation measures described in section 3.2 of the DoEHLG (2004) guidelines. No remedial measures are proposed.

4.9.9 Based on the information on file and the absence of any objections to the application it can be assumed that the development carried out has not had significant adverse impacts in terms of noise and vibration. As the substitute consent process may authorise development already carried out, no significant ongoing or future impacts from noise and vibration are anticipated and no remedial measures are necessary.

4.10.0 Landscape –

4.10.1 The site is not located within an area designated as of Especially High Scenic Amenity (EHSA) under the County Development Plan, nor are there protected views or prospects within the vicinity of the site. The County Development Plan 2012 does not contain a landscape character assessment. The site is located within 1km of Donegal Bay (Murvagh) SAC and pNHA (site ref.000133) and SPA (site ref.004151). I would accept that the development concerned has had no more than a moderate/minor level of landscape impact and that the visual impacts on sensitive receptors has been moderate to minor (see viewpoints in figure 10-2 and 10-3 appended to the rEIS). No significant impacts have resulted on landscape conservation. The development has been and continues to be afforded good screening from view outside of the site due to the lie of the land and due to the retention of narrow strips of elevated land with vegetation to the north and east of the substitute consent areas, in addition to the erection of berms and the retention of original field boundary hedgerows and trees along most of the site's perimeter to the west and south.

4.10.2 Other than the implementation of a site restoration plan (comprising the natural recolonisation of the site by native vegetation and allowing groundwater to rise and create a surface water body) on cessation of operations, no remedial measures are proposed. The provision of native shrub and tree planting along the western and southern perimeters of the site in order to reduce fugitive dust emissions from the site would further reduce the visual impact of the subject extraction pit, although such planting is not

necessary to remediate an adverse visual impact from the development concerned.

4.11.0 Cultural heritage –

4.11.1 There are no records sites or monuments within the substitute consent boundary or within the wider quarry complex. A ringfort, dating from the early medieval period is located c.265m to the south of the substitute consent site and quarry complex boundary. A holy well is situated c.120m to the northeast of the quarry and c.325m northeast of the site pertinent to the application for substitute consent. The rEIS indicates that there are no undesignated monuments recorded in the vicinity and that a survey of cartographic, aerial photographic and place-name sources did not reveal any additional cultural heritage material. Two previous archaeological investigations in the wider area did not uncover any archaeological remains. An inspection of the site was carried out, but as the site concerned has been extracted to geological strata there was no indication of any cultural heritage or archaeological material.

4.11.2 The rEIS included an assessment of historic buildings within the vicinity, including designated protected structures (Laghy Bridge and parish church) and non-designated structures (from NIAH records) and from a field survey.

4.11.3 I am satisfied that no direct or significant indirect impacts have occurred on built or cultural heritage including archaeology and, accordingly, it is acceptable that no remedial measures are proposed.

4.12.0 Material Assets –

4.12.1 The rEIS considers the impact of the development concerned on buildings (residential and historic), amenity areas (amenity, tourist, scenic (views and trees), surrounding land-uses, transport infrastructure and local services. The applicant submits that the impact on material assets has been addressed in the other sections or chapters of the rEIS and that no remedial measures are warranted.

4.12.2 The EPA EIA advice notes (2003) indicate that material assets include architectural, archaeological and cultural heritage which has been assessed under the previous chapter of the rEIS. Additional material assets include economic assets of human origin (settlements, transport infrastructure, major utilities, ownership and access) and environmental economic assets (assimilative capacity, renewable and non-renewable resources).

4.12.3 In my professional opinion, the main concern would be impact transport infrastructure (i.e. the road network), on neighbouring land uses and residential properties, and on the assimilative capacity of the water environment to accommodate effluent from the development concerned

having regard to the cumulative impacts of the overall quarry complex. Having regard to the content of the rEIS, I am generally satisfied that significant impacts have not occurred, are not occurring and are not likely to occur from the development carried out and therefore no remedial measures are warranted.

4.13.0 Traffic & transportation –

4.13.1 The rEIS included an assessment of the traffic implications associated with the site in terms of its integration with existing and historic traffic in the area. It endeavours to determine and quantify the trips generated by the development and the impact of same on operational performance on the local road network, currently and in the past. The assessment is based on a site visit, manual classified traffic counts on 23/03/13 at three locations (site entrance and two local junctions on the public road network), with a traffic model used to assess the historical impact (using records of historical activity at the site) and the current and future year (2019 and 2029) impacts on operational performance on the junctions and the network. For clarity, future year impacts are not relevant to the substitute consent process.

4.13.2 I note the determination of AM and PM peak hour at the site access, at the junction of the national primary road (N15) with the R323 west of the site access and at the junction of the R232 with the local road at Laghy Main Street to the east of the site access as set out in tables 13.1, 13.2 and 13.3 respectively[11]. The said tables' details do not include the data necessary to confirm the assertion that the AM peak is 08.45-09.45, but this is included in appendix a13-A.

4.13.3 In terms of traffic generation, the rEIS estimates the quarry complex to generate 160no. daily vehicular trips. This is based on the and extraction rate of 283,000 tonnes per annum (stated as the peak production year pertaining to the subject quarry), the resulting exportation of extracted stone, concrete blocks and concrete loads and the importation of sand and cement per day, in addition to staff and miscellaneous traffic. The level of traffic generation assumed can be considered a worst case scenario. The rEIS calculates the traffic generated as a proportion of total traffic on the R232 (link road) for the years 2007, 2014, 2019 and 2029 (e.g. c.7.4% in 2007 and 8.2% in 2014). Although the substitute consent process relates only to the c.5ha quarry development (c.3.45ha extraction area) carried out post 1 February 1990, the applicant's traffic assessment looks at the cumulative impact of all quarry and associated development carried on at the wider site. I consider this reasonable, although the Board should be mindful that the traffic generated by the development concerned will have been less than that assessed by the applicant.

[11] The OSI maps show the link

4.13.4 TRICS data is used to distribute the daily trips during the working day. This is reasonable. In terms of trip assignment on the network, trips relating to the import of sand and cement necessary for the manufacturing process are based on the location of suppliers, which is logical. The actual assignment of other trips to the network appears reasonable, although it is not exactly clear on what basis they have been assigned. It is possible that it is informed by historical traffic patterns associated with the operations.

4.13.5 The assessment follows the NRA's '*Traffic and Transport Assessment Guidelines*' in assessing the opening year, opening year +5 and opening year +15, however the future year scenarios are not relevant to the substitute consent process. Only the traffic assessment relating to 2007 is relevant as it was the peak period of production within the period concerned in the substitute consent process.

4.13.6 The R232 link road has an assumed AADT of 11,600, based on type 1 single carriageway road for Level of Service (LOS) D, according to NRA DMRB Vol.6 TD9/12. Based on table 13.12 rEIS, the actual AADT on the on the R232 Link Road was 2,145 vehicles in 2007 and therefore the road was operating well within capacity. Quarry traffic accounted for c.7.4% of total traffic on the link Road in 2007.

4.13.7 Junction capacity assessments were carried out for the site access, the junction of the N15/R232 link road and the R232/Laghy Main Street (see tables 13.13, 13.14 and 13.15, respectively), which demonstrate that the junctions are operating well within capacity.

4.13.8 The rEIS addresses the issue of road safety under section 13.56-13.61. It provides an overview of the road network in the vicinity without any commentary for potential conflicts arising for quarry traffic, nor does it provide a commentary on potential road safety conflicts arising from quarry traffic on the wider network. I would agree that sightlines at the site entrance appear to sufficient. The rEIS included a review of historical collisions - three injury accidents on the N15 or at the N15/R232 junction, 2002, 2011 and 2012. There is no indication that quarry traffic was in anyway responsible, or not, for the said accidents. The RSA 'Ireland Road Collisions' map system indicates that 8no. accidents have occurred on the N15 within the vicinity of the junction with the R232 link road, four of which were classified as serious, the other four were minor. The collisions in 2012 and 2011 (referred to in the rEIS) were classified as minor. The rEIS does not refer to any of the other accidents (the RSA database extends between 2005 and 2012, inclusive, only). The details of the collisions are not available online and it has not been possible to determine whether or not quarry traffic was involved in the collisions. The road network within the vicinity of the quarry entrance, including the junctions examined in the rEIS, appears to be of a good standard and there is nothing

to suggest that conflict between quarry traffic and other traffic on the network generally would be a significant issue.

4.13.9 Having regard to the traffic and transportation assessment contained in the rEIS, I am reasonably satisfied that the development concerned has not, in itself or taken cumulatively with the wider quarry development, had a significant adverse impact on traffic and transportation, or traffic and transportation infrastructure as a material asset. As the substitute consent process may authorise development already carried out and not ongoing or future development, I anticipate no ongoing or future significant impacts from traffic generated by the development concerned.

4.14.0 Interaction of the foregoing –

4.14.1 The rEIS submits that interactions have been addressed within the assessment of the individual environmental topics. I am reasonably satisfied that this is the case.

5.0 Other issues - Conditions –

5.1 I note the 14no. conditions recommended by the Planning Authority to be attached in the event of a decision to grant substitute consent. Only condition no.2 (site restoration) and condition no.5 (securing the site boundary) are generally appropriate, subject to amended wording. The other conditions imply the authorisation of continued development within the substitute consent site which cannot be authorised under the substitute consent process and are inappropriate.

5.2 Should the Board decide to grant substitute consent, standard substitute consent conditions should apply, in addition to revised wording to conditions nos.2 and 5 recommended by the Local Authority. A security bond condition should be attached in order to ensure site restoration and to ensure the erection and maintenance, in perpetuity, of suitable stock-proof and trespass-proof fencing around the western, southern and eastern perimeter of the site to prevent unauthorised public access to the pit rim.

6.0 Overall conclusion

6.1 Having regard to scale, character and context of the development concerned, to the contents of the rEIS and having inspected the site, I am satisfied that, in general, significant adverse impacts have not occurred, are not occurring and are not likely to occur resulting from the development undertaken within the area concerned for the purposes of the substitute consent process. The ongoing risk to human safety from the c.35m high, vertical pit faces within a short distance of an open boundary to a public road, within a populated area should be remediated in the immediate and medium term through securing

the site boundaries from public access by boundary treatment of appropriate design, including regular maintenance and monitoring, which can be satisfactorily addressed by condition. As this risk cannot realistically be addressed through site restoration and amending of the quarry pit, the retention and maintenance of an appropriate and secure boundary in perpetuity should be ensured through a condition requiring the payment of a bond.

Recommendation:

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

Reasons and Considerations

Having regard to:

- the provisions of the Planning and Development Acts, 2000 to 2014, and in particular Part XA,
- the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities', April 2004,
- the 'Environmental Management Guidelines: Environmental Management in the Extractive Industry (Non-Scheduled Minerals)' (EPA, 2006)
- the provisions of the current Donegal County Development Plan,
- the remedial Environmental Impact Statement submitted with the application for substitute consent,
- the report and the opinion of the planning authority under section 177I,
- the submissions on file,
- the site's planning history,
- the pattern of development in the area, and
- the nature and scale of the development the subject of this application for substitute consent.

It is consider that the remedial Environmental Impact Statement submitted with the application identified and described adequately the direct and indirect effects on the environment of the development and that subject to compliance with the conditions set out below, the subject development is not contrary to the proper planning and sustainable development of the area.

CONDITIONS

1. The grant of substitute consent shall be in accordance with the plans and particulars submitted with the application to An Bord Pleanála on the 3rd day of June 2014. This grant of substitute consent:

   (a) relates only to development undertaken as described in the application, does not authorise any future extraction activity and does not relate to any other development on the subject site.

   (b) is limited to that area (approximately 5ha, including c.3.45ha extraction area and the ancillary development areas) outlined in red on the attached map (map reference no.1).

   Reason: In the interest of clarity.

2. Within three months of the date of this order the applicant shall submit for the written agreement of the planning full details of suitable stock-proof and trespass-proof boundary treatment to permanently secure the upper levels (i.e. the pit rim) of the substitute consent site from unauthorised access by members of the public, including the implementation of a monitoring and maintenance programme for same during and post the operational period, in perpetuity, for the subject facility.

   Reason: In the interest of public safety.

3. (a) The restoration of the site shall be carried out in general accordance with the restoration plan submitted with the application for substitute consent. Within three months of the date of this decision, the applicant shall submit detailed proposal for the restoration of the substitute consent site for the approval of the planning authority. The details shall include:

   i. The identification of all areas to be levelled or graded;

   ii. The identification of all items of plant and machinery, scrap metal, stockpiles and waste materials to be removed;

   iii. Details of measures to ensure the stability of the faces of the quarry;

   iv. The identification of areas liable to flood;

   v. Details of proposed measures to ensure public safety;

   vi. Details of landscaping / screening measures to be implemented;

   vii. The timescale for the implementation of the restoration scheme of exhausted areas / areas where quarrying activity has ceased on a phased basis;

   (b) The restoration of the subject quarry area shall be completed within a period of twelve months after the date of the approval of the restoration

plan by the planning authority unless permission is first granted for the continuation of quarry activity within the substitute consent area.

Reason: In the interest of proper planning and sustainable development.

4 Within three months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to ensure the maintenance, in perpetuity, of the stock-proof and trespass proof boundary treatment referred to under condition no.2, coupled with an agreement empowering the local authority to apply such security or part thereof to implement same. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: In the interest of public safety.

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 other security to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory restoration of the development.

John Desmond,
Planning Inspector
24/11/14