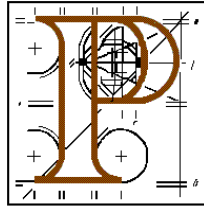


An Bord Pleanála



Inspector's Report

DEVELOPMENT:-

Quarry at Kilmannin, Ballyhaunis, Co. Mayo.

Planning Authority:

Mayo County Council

Applicant:

Austin Grogan & Sons

Application Type:

Application for Substitute Consent

DATE OF SITE INSPECTION:

5th February 2015

INSPECTOR:

Dolores McCague

1.0 INTRODUCTION

The subject application has been made pursuant to a notice issued by Mayo County Council under Section 261A(3)(a) of the Planning and Development Acts, 2000-2010 (as amended) subsequent to a review by An Bord Pleanála, 16th May 2014, which directed the applicant to apply for substitute consent accompanied by a remedial Natura Impact Statement for part of an existing quarry development under Section 177E of the Planning and Development Acts, 2000-2010 (as amended).

2.0 SITE LOCATION AND DESCRIPTION

The site is located north of Ballyhaunis Co Mayo, west of and fronting onto the national secondary route, N83. The subject site was part of a quarry which operated within a larger site in excess of 17ha. where quarrying of sand and gravel was carried out.

Currently no extraction is being carried out on these lands; deposits here have been exhausted.

A roadway leading from the facility to Annagh Lake had recently been blocked by the deposition of a mound of silt, to stop drainage from the facility reaching a roadway which connects the facility to the nearby lake, and thereby flowing downhill to the lake. On the date of inspection discoloured water continued to drain from this area and from an area adjacent to the north beyond the extent of the mound; the stream of discoloured water appeared to flow into the bed of the roadway.

The site is located in an area which is characterised by quaternary deposits and karst features.

Annagh Lakes a pNHA adjoins the site to the north. The flow from Annagh Lakes is northwards to the River Moy SAC which is about 1.5km distance from the site.

The subject site has a stated area of 1.5 hectares, comprising two separate areas, both identified as part of lands in Morley ownership. These lands adjoin lands which were formerly in the ownership of Greene and which were acquired in stages by the applicant. Quarrying extended southwards from the Green lands into Morley lands.

3.0 EXISTING OPERATIONS ON SITE

Currently no extraction is being carried out on the site or within the larger 17ha quarry area.

There is a processing and manufacturing facility for aggregate products and concrete, within the larger quarry area, which relies on the import of material to the site.

Water is provided from re-use of water following settlement in the lagoons and from abstraction from Annagh Lakes.

On the date of inspection the level of activity at the facility was low, a reflection of the level of activity generally in the construction industry. The subject site, which was fenced off from the larger site, has been seeded and is in pasture.

The facility at this location includes offices and other buildings: containers, a bunded oil tank, a concrete batching plant, screening facilities /washing facilities, stockpiles of aggregate material intended for use, piles of aggregate waste (silt), machinery including trucks for concrete mixing/delivery and diggers, a yard for concrete products (blocks) north of the office area, and settlement lagoons with a system of overhead pipes to conduct soiled water from one lagoon to another at the north west of the facility.

The subject site has been restored to farmland and is currently in pasture.

4.0 PLANNING AND REGULATORY HISTORY

Planning History

I am not aware of any planning application being lodged on the site.

Quarry registration under Section 261:

In June 2005 the owner/operator registered the quarry with Mayo County Council under Section 261 of the Planning and Development Act 2000.

The documentation states that the quarry commenced operation in 1965. The registered total site of the quarry is stated to be 17.17ha with sand and gravel extracted from the whole site.

In April 2007 the planning authority decided to impose 26 conditions on the operation of the quarry, including the following:

- No. 1 – Quarry to operate in accordance with the plans and particulars submitted to the planning authority in April 2005 (registration documentation).
- No. 2 – No quarrying to take place outside of the existing extraction area. Details on site area, extraction area, unworked area, to be submitted to PA.
- No. 4 – Developer to submit sections through the site indicating extracted and non-extracted ground levels and proposed final floor level for agreement, within 4 months of order.
- No. 5 – Requires a benchmark to be established on site.
- No. 6 – Requires record keeping of extracted material.
- No. 7 – Hours of operation.
- No. 8 – Entrance/signage.
- No. 9 – Location of stockpiles.
- No. 12 & 13 – Noise control.
- No. 14 – Control of blasting (none to take place).
- No. 15 & 16 – Control of dust.
- No. 17 – 22 – Control of water and air pollution.
- No. 23 – Environmental monitoring. Within 8 weeks of the date of this order, detailed arrangements for monitoring of water quality of both surface water and ground water, dust and continuous noise shall be submitted for the written agreement of Mayo County Council. Such monitoring shall be carried out by the developer throughout the life of the quarry and production area. The monitoring plan shall, as a minimum, include -
 - a. A list of all monitoring locations,
 - b. Description and specification of equipment to be used,
 - c. The identify and qualification of persons responsible for monitoring,
 - d. Parameters to be used,
 - e. Monitoring intervals,
 - f. Averaging times,
 - g. Proposals for the presentation of data,
 - h. Codes of practice to be used, and
 - i. Details of right of access to carry out environmental monitoring checks as required, or as requested by the Project Monitoring Committee.

Costs incurred by Mayo County Council in carrying out any necessary monitoring, monitoring checks, inspections and environmental audits, shall be reimbursed by the developer.

- No. 24 – Development charge.
- No. 25 – Waste management.
- No. 26 – Landscaping and restoration.

Section 261A Determination and Decision

The Planning Authority (Ref QY80/CQ80) under Section 261A of the Planning and Development Acts, 2000-2011, as amended, decided that the quarry commenced operation on or after 1st October 1964 and no permission was granted in respect of the quarry under the Planning Acts; and determined that development was carried out after 27th February 1997, which was not authorised and which would have required an appropriate assessment, which was not carried out.

The reasons stated were that:

- 1) the quarry commenced operation post 1st October 1964 and the requirements in relation to registration under S261 were fulfilled,
- 2) it is considered that development was not carried out after 1st February 1990 which would have required; having regard to the Environmental Impact Directive, an EIA, or a determination as to whether an EIA was required,
- 3) it is considered that EIA/EIA determination would have been required for the continuation of the quarry development due to the potential adverse impacts on the environment,
- 4) it is considered that that development was carried out after 26th February 1997, would have required, having regard to the Habitats Directive, an appropriate assessment i.e. an appropriate assessment would be required due to the proximity of the site from the nearest SAC,
- 5) it is considered that due to the uncertainty of the potential impacts the quarry would have had on the Natura 2000 sites in

the area, the development would require an appropriate assessment.

BOARD DECISION

The Board reviewed the decision and determination.

The information on the Board's review file (QV0320), includes in response to a request for information, that the larger site, of which the subject site forms part, has been operated as a quarry since prior to 1964. Concrete manufacturing on the site, including block making, also commenced prior to October 1964. The unit at the south eastern corner of the site was where the blocks were originally made by 1964. A roofed building was built in the 1970s in this area with permission for an enclosed pre-cast concrete manufacturing plant, as this was required for more technically sophisticated concrete products.

The site developed in Kilmannin is substantially a combination of lands belonging to two local families, Greenes and Morleys, both of whom had small pits established by 1960.

The Board concluded as follows:

The Board, in exercise of its powers conferred on it under section 261A of the Planning and Development Act, 2000, as amended, decided - based on the Reasons and Considerations marked (1) set out below, to confirm the determination of the planning authority in respect of this development made under section 261A(2)(a)(ii), as amended, and based on the Reasons and Considerations marked (2) to set aside the decision of the planning authority in respect of this development made under section 261A(4)(a) of the Planning and Development Act, 2000, as amended.

REASONS AND CONSIDERATIONS (1)

Having regard to:

(a) the provisions of the Planning and Development Acts, 2000 to 2013, as amended, and in particular Part XA and Section 261A,

(b) the Council Directive 92/443/EEC on the Conservation of Natural Habitats and Wild Fauna and Flora, as amended,

(c) the 'Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in December 2009/2010, and

(d) the proximity of the site to the River Moy Special Area of Conservation (Site Code: 002298), the location of the waste water treatment lagoons in close proximity to a surface water course which drains into the River Moy Special Area of Conservation (Site Code: 002298), the lack of clarity regarding the discharge of waters from the site and therefore the risk of pollution of waters entering the River Moy Special Area of Conservation (Site Code: 002298), it is considered that the likelihood of significant effect on the integrity of the River Moy Special Area of Conservation (Site Code: 002298) arising from development at this quarry after December, 2002, by itself, or in combination with the extensive quarrying on this site and with other plans or projects, could not be excluded in view of the conservation objectives of said site, and that Appropriate Assessment would have been required. The Board, therefore, confirms Mayo County Council's determination in respect of this development made under section 261A(2)(a)(ii) of the Planning and Development Act 2000, as amended;

REASONS AND CONSIDERATIONS (2)

Having regard to:

(a) the provisions of the Planning and Development Acts, 2000 to 2013, and in particular section 261A,

(b) the documentation on the review file (Mayo County Council register reference number QY80/CQ80); including the site's planning history, historic mapping, aerial photography and details of site registration under section 261 of the 2000 Act, as amended,

it is considered that:

the quarry commenced operation before the 1st day of October 1964, and the requirements in relation to registration under Section 261 of the Planning and Development Act, 2000, as amended, were fulfilled. It is therefore considered that the requirements of Section 261A(3)(a)(i) and (ii) have been met.

The Board's Direction gives further clarity of their assessment and includes the following:

'In deciding not to accept the recommendation of the Inspector in relation to section 261A(2)(a)(i), i.e. matters in relation to EIA, the Board had regard to the notice issued by the planning authority under Section 261A(4)(a) and the determination made therein under Section 261A(2)(a). Having regard to the provisions of Section 261A(6)(e) the Board considered that the notice issued by the planning authority was made solely in relation to the Habitat's Directive under 261A(2)(a)(ii) with no determination made in respect of S.261A(2)(a)(i). The Board therefore considered that its determination under Section 261A(2)(a) was restricted to matters arising from the Habitat's Directive under Section 261A(2)(a)(ii) and to the consideration of the associated decision under 4(a) only.'

The Board's determination, is therefore in relation to a particular area within an overall quarry: Morley lands. As such an application for substitute consent accompanied by a remedial Natura Impact Statement is required.

5.0 APPLICATION FOR SUBSTITUTE CONSENT

The application for substitute consent received by the Board on the 17th October 2014 includes a completed application form, copies of statutory notices, a remedial NIS and associated drawings.

The remedial Natura Impact Statement (rNIS) was prepared by Earth Science Partnership (Ire) Ltd, Consulting Engineers, Geologists & Environmental Scientists

The rNIS accompanying the current application states that:

'the application site forms part of 17.17ha area which was registered under S 261 of the Planning and Development Act 2000 as amended and which was previously subject to extraction of sand and gravel.

The application site is located adjacent to the existing manufacturing facility which consists of a site office, large storage shed, containers, bunded oil tank. To the south west of these are stockpiles of materials and a concrete batching plant. To the north of the concrete plant are crushing/screening/washing facilities and to the north of these, a series of lagoons into which wash water is directed. To the north of the site's offices is a storage area for concrete products e.g. blocks. The following site activities were noted during site visits:

stone grading and washing

concrete batching

loading of final stone products into both commercial and private vehicles

collection of wash water and settlement of solids

storage of stockpiles of graded stone

loading of batched loads of concrete into commercial and private vehicles.

A water management system is in place for the facility which includes recycling wash water and reusing as part of the process. Wash water is collected and pumped to a series of settlement lagoons located in the north western corner of the manufacturing facility. Wash water is passed through a series of 5 lagoons which allows suspended solids to settle out of suspension before being re-used. Common Reed and Bull Rush have inhabited some of the settlement ponds. Water quality in the final lagoon is good and the system was working well during the site walkover surveys. The settlement lagoons work in a closed loop and there is no direct discharge to any surface water body from the ponds. The level in the final lagoon is maintained by periodic pumping from the Annagh Loughs via a pump which is installed on a floating pontoon. Drainage channels and ditches in the vicinity of the lagoons were inspected during site visits and all were found to be dry. The only likely potential hydraulic linkage between Annagh Loughs is along a track to the west of the lagoons leading to the floating pump pontoon which the developer has undertaken to rectify immediately as part of mitigation measures.

Extraction activities have now ceased at the site which is now used for the purposes of processing aggregate and manufacturing concrete.

The subject application site consists of two distinct parcels of land amounting to 1.5ha which were previously subject to extraction of sand

and gravel, extracted to supply the adjoining aggregate processing and concrete manufacturing facility owned and operated by the applicant. Extraction activities have ceased and the site has been restored to grassland and is used for grazing. It has been registered as part of a 17.17ha site under S261. That 17.17ha site is now used for the purposes of processing aggregate and manufacturing concrete.

Outside the manufacturing facility, areas north and south have been restored for agriculture.

The development on the subject site of 1.5 ha involved the removal of sand and gravel of an unspecified amount over a period of time which occurred substantially post 1997. The subject site has been restored to grassland.

The rNIS states that there is no risk from the area which is the subject of this application, but there is concern over the ancillary works area. Mitigation measures are proposed to address the potential impacts which the rNIS identified as follows:

Mitigation

The inlet pipe to the first settlement lagoon should be extended further into the lagoon and positioned underwater.

The freeboard for all settlement lagoons should be increased to provide additional capacity to retain surface water within the lagoons. The height of the freeboard will be adequate to cater for maximum water levels.

Settlement lagoon containment boundaries should be strengthened and adequately sealed with impermeable material and should undergo routine integrity inspections.

The existing berm along the western boundary should be extended along the boundary of the decommissioned lagoons at the northwest of the quarry site. The berm should be extended to the south and southeast so that both the decommissioned and active lagoons are enclosed in a bunded area.

Construct a settlement lagoon for concrete washout for returning concrete lorries and run-off from the batching plant. The water should be re-used for manufacturing concrete.

Systematic work practice should be implemented to ensure no direct surface water pathway develops between the quarry site and the Annagh Loughs.

Positive seeding of disused settlement lagoons to the west of the existing settlement lagoons should be undertaken to promote vegetation of this area of the site. Native planting should be used.

6.0 CORRESPONDENCE

On the 23 Oct 2014, the Board sought clarification from the applicant as to the extent of the quarry to which the substitute consent application refers, which appears to differ from that set out in the planner's report on foot of which the 261A determination issued from the planning authority.

A response was received on the 11 Nov 2014 which includes:

Prior to submitting the application for substitute consent, correspondence was sent to Mayo County Council to clarify the area for substitute consent. Copies of the correspondence, agreeing the area of 1.5ha, is attached to the response. These areas correspond to areas located in 'Morleys Lands' which were quarried since 1997, and are referred to in the inspector's report on QV0320. Applicant's agent has overlaid the aerial photography in Autocad and calculated the areas.

7.0 CONSULTATION

The Board submitted copies of the application to Mayo County Council with the instruction that one copy be made available to the public, and requested a report from the Planning Authority in accordance with the provisions of Section 177I (2) (a), (b), (c), (d) and (e).

An Bord Pleanála circulated the application in electronic form for comments under the provisions of Section 131 of the Act. to the following:

Development Applications Unit

Fáilte Ireland

The Heritage Council

An Chomhairle Ealaíon

Inland Fisheries Ireland WRBD

Dept. of Communications, Energy & Natural Resources

An Taisce

HSE

8.0 OBSERVATIONS

Dept. of Communications, Energy & Natural Resources - GSI had no additional comment to make in relation to the rNIS

HSE - The Environmental Health Service had no comment to make.

Inland Fisheries Ireland – commented - the development site spans the Glore River and the Robe River catchments. The Glore River provides important salmon and trout spawning and nursery habitat for the River Moy system and its fisheries. This section of the Glore River catchment has been allocated 'poor ecological status' in the Western Basin Management Plan and this must be upgraded to 'good ecological status' by 2021. The site is approx 1.5km from the River Moy SAC which is selected for the protection of Atlantic salmon.

The application site has been restored to grassland and does not pose a threat to fisheries habitat in the area. The active ancillary works area, adjacent to this site, poses a potential threat to water quality in the Glore River. It is evident from the 2005 OSI aerial photograph of the site that pollution of Annagh Lough has occurred in the past. This image is available at osi.ie. The mitigation measures outlined in section 6 of the

rNIS must be fully implemented. Details such as the size and retention times of the settlement tanks should be provided.

Records of the water abstraction activity from Annagh Lough should be kept, including times, quantities and lake level.

9.0 PLANNING AUTHORITY REPORT

In accordance with its obligations under Section 177(l)(2) of the Planning and Development Act 2000, as amended, the Planning Authority was requested to report on the documentation submitted with the application.

The planning authority did not reported on the application.

10.0 COMPLETION OF APPLICATION

On the 23 Oct 2014, the Board sought clarification from the applicant as to the extent of the quarry to which the substitute consent application refers, which appears to differ from that set out in the planner's report on foot of which the 261A determination issued from the planning authority. This matter was clarified on the 11th October 2014,

11.0 FURTHER INFORMATION

On the 18th June 2015, the Board issued a request to the first party for the following information:

A revised remedial NIS which includes a statement of the significant effects, if any, on the River Moy SAC 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; details of any appropriate remedial or mitigation measures undertaken, or proposed to be undertaken, to remedy or mitigate any of these significant effects (if there any) on the European site; and the period of time within which any such proposed remedial or mitigation measures will be carried out by or on behalf of the applicant.

The revised rNIS should refer to the development carried out on the 1.5ha the subject of this application.

The revised rNIS should also contain a section which deals with cumulative and/or in-combination effects.

A response was received 8th September 2015 which included a remedial Natura Impact Statement dated 4th September 2015.

The applicant notes that the facility is subject to regular checks and inspections by Inland Fisheries Ireland (IFI) formally the North Western Regional Fisheries Board. They have never had any issue with activities undertaken at the facility and have never had to issue a caution in relation to activities.

Historical activity at the application site included the extraction of sand and gravel and the transport of this material to the manufacturing area for processing and concrete production. Extraction was undertaken above the water table and there was no discharge to any adjoining water course during this period. Therefore, no impact from historical activity undertaken at the application site was identified. Activities undertaken at the manufacturing facility included processing of material and production of ready-mix concrete and related products. The facility consists of a series of lagoons where water is recycled for use in the manufacturing facility. This is a closed loop system with all water recirculated back to the lagoon. No water is discharged from the facility and no water was ever discharged from this area of the facility. The lagoon was topped up with water abstracted from Annagh Lough which is undertaken on a periodic basis. Therefore, no impact from historical activity undertaken at the manufacturing facility was identified.

The assessment identified a number of potential impacts which could have arisen as a result of operational activities undertaken at the manufacturing facility. These included a potential indirect aquatic link via run-off from the manufacturing yard to the adjoining land to the west which could seep into water courses or a potential breach of the settlement lagoon walls which could potentially flow to Annagh Lough which contributes to the River Moy SAC. This would only have occurred in the event of an accidental breach in the lagoon wall. Run-off from the yard around the concrete batching plant flows towards a trench where suspended solids settle out of suspension with water evaporating off or percolation to ground. There

was no breach in the lagoon walls or discharge from the lagoons in the past.

The rNIS concludes that no water was ever discharged from the facility, a potential indirect aquatic link was identified, via run-off from the manufacturing yard or a potential breach of the settlement lagoon walls which could potentially flow to Annagh Loughs which contributes to the River Moy SAC. It was concluded that it was unlikely that a significant impact to either Annagh Lough or the River Moy SAC would have occurred in the past or is likely to occur as a result of operational activity. The likelihood of an insignificant impact could not be discounted due to the aquatic link. It was determined that the proposed remedial/mitigation measures would address this risk and that the nature and management of the site and the proposed mitigation measures would be sufficient to avoid any future impact.

Agricultural activity undertaken in the area would have the potential to impact on the adjoining water courses.

Appendices to the rNIS include a copy of a letter from the first party stating that the operation was subject to yearly checks from Northwestern Fisheries Region and never received a caution; and a letter from Mr Bernard Waldron, Cave, Ballyhaunis stating that he attempted to reclaim marshy land located at the back of Grogan's Quarry at Cave, Ballyhaunis around about the year 2003. He coated the entire area with loam sand which he bought from Grogans, hoping that it would solidify the ground and that he would topsoil the ground and plant forestry. He abandoned the operation.

12.0 FURTHER CONSULTATION

The response to the further information request was submitted to Inland Fisheries Ireland, Geological Survey of Ireland, An Taisce, Environmental Health Service, Development Applications Unit, Department of Arts Heritage and the Gaeltacht, and the Planning Authority.

13.0 RESPONSES

The **Planning Authority** have responded commenting only in relation to the revised rNIS:

It is considered that direct impacts are unlikely from the historical activity considering the location, nature and scale of the development carried out on 1.5ha and a number of potential indirect effects on the River Moy cSAC and Lough Corrib cSAC from this development have also been ruled out. It is also considered that the range of cumulative effects from other activities is likely not to have resulted or continue to result in adverse effects on the integrity of one or more European sites. It is considered that the mitigation/remedial measures are, in general appropriate, in that they are related to the remediation / strengthening of settlement lagoons to ensure no accidental discharges to a hydrological pathway to either cSAC. However, there would be merit in assessing the construction of an additional settlement lagoon for concrete washout for cumulative effects with the historical activity and current in-combination effects from other plans or projects.

The **Geological Survey of Ireland** (GSI) have responded including:

Since the application site consisting of sand and gravel extraction is now fully restored to agricultural land, it is accepted that no significant effects from the extraction area on the River Moy SAC are occurring at present or are likely to occur in the future.

However, the aim of a remedial NIS is to also establish if a project has had any impact on a Natura 2000 site in the past along with mitigation measures put in place at the time of occurrence to remediate such impact(s)

The GSI response encloses aerial photos extracted from Ordnance Survey Ireland and Google Earth, at different points in time, accessible on the internet, to support their observations:

Aerial photos (image 2 and 3) clearly show a leakage from the settlement ponds/lagoons in the north of the quarry into Annagh Lough, at least between 2004 and 2006, with sediments starting to diffuse spreading on

the 2004 photo (image 2) and having spread to the entire Lough in 2006 (image 3). The extraction of sand and gravel hadn't started yet in the area where the application for substitute consent is sought. Therefore pollution in Annagh Lough cannot be incriminated on the sand and gravel extraction at this stage but solely on the operation in the northern part of the quarry. However, processing of extracted sand and gravel from 2009 (image 4) would have required the use of the same processing facilities for crushing, screening and washing, with wash water directed to the settlement lagoons, and diffuse leaching into Annagh Lough can still be observed at that stage. GSI cannot comment on any direct impact on the River Moy SAC that would have resulted from sudden and continuous input of sediments from the settlement lagoons into Annagh Lough, but statements in the revised rNIS and cover letter in relation to 'no discharge from the site to the adjoining water course and SAC' are misleading and these specific impacts should have been addressed in the revised rNIS.

HSE – have responded and have no comment to make.

14.0 PLANNING POLICY CONTEXT

COUNTY DEVELOPMENT PLAN

The current Mayo County Development Plan 2014 – 2020, and previous plans: 2008-2014 and 2003-2009 contain similar provisions in relation to protecting rural based resources such as quarries and ensuring that the development of aggregate resources is carried out in a manner that minimises the effects on the environment, including the Natura 2000 network.

NATIONAL GUIDELINES

The Quarries and Ancillary Activities Guidelines for Planning Authorities (April, 2004) offers guidance to Planning Authorities on planning for the extractive industry through the development plan process and determining applications for planning permission for quarrying and ancillary activities.

15.0 ISSUES AND ASSESSMENT

I consider the issues arising in respect of this application for substitute consent can be addressed under the following headings: Procedural Issues, Principle of Development, Natura Impact Assessment, and the assessment is dealt with under those headings.

Procedural Issues

Principle of the Application for Substitute Consent

An application for substitute consent may only be brought forward under section 177E(2)(a) of the Planning and Development Act 2000 (as amended) pursuant to a notice under Section 261A of the Act (or other relevant sections of the Act).

In this case the planning authority has served a notice on the owner/operator of the quarry under Section 261A. Further, in the notice, the planning authority states that it decided that quarrying had commenced prior to October 1964 and that the requirements in relation to registration of the quarry under section 261 were fulfilled. The Board, in its review of the determination, confirmed the determination of the planning authority. The development, which is the subject of this application for substitute consent has therefore been brought forward in accordance with the legal provisions of the Planning and Development Act 2000, as amended, and within the specific provisions of section 177E(2)(a). There is, therefore, an appropriate legal basis for the application.

Section 177J

The subject site was not operational on day of inspection and does not appear to have been in operation for a period of time. I do not consider that the provisions of section 177J of the Planning and Development Act 2000 relating to cessation of works would be applicable in this instance.

Principle of Development

Compliance with Development Plan Policy

The Guidelines on Quarries and Ancillary Activities, published in April 2004, emphasise the economic importance of quarries. The Mayo Development Plans, 2014-2020, 2008-2014 and 2003-2009 recognise the importance of safeguarding mineral reserves, identifying strategic reserves and the significance of mineral resources in both economic and employment terms. The Development Plan does not incorporate any policies which prohibit quarrying activities in specific areas of the county

and thus each application for either planning permission (or in this case substitute consent) is to be evaluated on its merits and in accordance with the proper planning and sustainable development of the area.

The overall site has a well-established use as a quarry.

In the light of the planning history, the policies of the County Development Plan and the National Guidelines, I consider the principle of the development to be acceptable.

Natura Impact Assessment

The Appropriate Assessment process entails the consideration as to whether a plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures necessary to avoid, reduce or offset negative effects.

The application was accompanied by a remedial Natura Impact Statement (rNIS) prepared by Earth Science Partnership (Ire) Ltd, Consulting Engineers, Geologists & Environmental Scientists.

The quarry site is not within a designated site. The nearest Natura site is the River Moy SAC (site code 002298, advertised in Dec '02), located approximately 1.5km to the north west. The site is connected hydrologically via Annagh Lakes (pNHA) to the River Moy SAC. The five Annex II species which are included in the conservation objectives for the site are water dependent: White-clawed Crayfish, Sea Lamprey, Brook Lamprey, Salmon, and Otter.

The information presented in the rNIS refers to the current situation at the facility, and the likely threats to the SAC from the current operation. The 26 conditions attached to the S 261 registration required the production of information on many of these issues.

A revised rNIS was submitted in response to the Board's request to the applicant to detail the significant effects, if any, on the River Moy SAC which have occurred, are occurring or can reasonably be expected to occur because of the development the subject of the application; and any appropriate remedial or mitigation measures undertaken, or proposed to be undertaken, to remedy or mitigate any of these significant effects. It has identified no impact on Annagh Loughs and states that no water was ever discharged from the facility.

The suggestion appears to be that loam sand may have entered the lake as a result of attempted land reclamation work being carried out by an adjoining landowner, around about the year 2003, using sand from the quarry. A letter from the landowner involved is supplied.

Concerns have been expressed by IFI and the GSI, each referring the Board to aerial photographs (orthophotos) available on the Ordnance Survey of Ireland website, in which a plume of effluent from the facility can clearly be identified for the years 1995, 2000 and 2005. It can be seen from these images that the plume comes from a point source, at the quarry, rather than a diffuse source from agricultural land surrounding the lake. It is clear that in the period post December, 2002, the period identified in the Board's determination in relation to the subject development, the plume continued/increased.

There is very little information available to the Board in relation to the quarrying activity on the subject site; including a complete absence of any information on the quantity of material quarried, the period over which it was extracted, or the proportion of the overall operation it comprised. Nor is there any data on water quality dating from the relevant period.

Although the development of the subject site comprised only a portion of the activity which occurred on the overall site, the cumulative impact of the development in combination with the other development which took place at the facility, is also a consideration.

The evidence presented by the applicant, that no water was ever discharged from the facility and there was no impact on Annagh Loughs, does not accord with the evidence available from aerial photographs. It is clear that Annagh Loughs, which provides a pathway to the River Moy SAC (site code 002298), where the qualifying interests include water dependent species, was subject to discharge of polluting matter from the quarry.

Mitigation is proposed as part of the subject application. The Board should note that this refers to proposed mitigation of the impacts of the current operation. The applicant has stated that no mitigation measures are required for the application site as no risk or concerns were identified.

The proposals are that:

- *The inlet pipe to the first settlement lagoon should be extended further into the lagoon and positioned underwater.*
- *The freeboard for all settlement lagoons should be increased to provide additional capacity to retain surface water within the lagoon. The height of the freeboard will be adequate to cater for maximum water levels.*

- *Settlement lagoon containment boundaries should be strengthened and adequately sealed and impermeable material and should undergo routine integrity inspections.*
- *The existing berm along the western boundary should be extended along the boundary of the decommissioned lagoons at the northwest of the quarry site. The berm should be extended to the south and southeast so that both the decommissioned and active lagoons are enclosed in a bunded area.*
- *Construct a settlement lagoon for concrete washout for returning concrete lorries and run-off from the batching plant. The water should be re-used for manufacturing concrete.*
- *Systematic work practice should be implemented to ensure no direct surface water pathway develops between the quarry site and the Annagh Loughs.*
- *Positive seeding of disused settlement lagoons to the west of the existing settlement lagoons should be undertaken to promote vegetation of this area of the site. Native planting should be used.*

These have no bearing on the subject application for substitute consent and cannot be considered to mitigate the adverse impacts of the subject development.

16.0 RECOMMENDATION

I recommend that the application for substitute consent should be refused for the following reasons and considerations.

17.0 REASONS AND CONSIDERATIONS

Having regard to the adverse impacts caused to Annagh Loughs as evidenced from aerial photographs, and in the absence of detailed information in relation to the impact of the development, and detailed proposals to adequately mitigate these impacts, the Board cannot conclude that the qualifying interests and conservation objectives associated with the River Moy SAC (site code 002298), located downstream of Annagh Loughs, have not been adversely affected by the quarrying activities which have been undertaken on site; or that the

development undertaken, individually and in combination with other plans or projects, has not adversely affected the integrity of the European Site.

Dolores McCague
Inspectorate

Date

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| Appendix | 1 | Map and Photographs |
| Appendix | 2 | Extracts from Mayo CDP 2003-2008 |
| Appendix | 3 | Extracts from Mayo CDP 2008-2014 |
| Appendix | 4 | Extracts from Mayo CDP 2014-2020 |
| Appendix | 5 | Conservation Objectives, Site Synopsis and Standard Data Form for River Moy SAC site code 002298 |
| Appendix | 6 | OSI Ortho Photograph 2005, 2000 and 1995 |