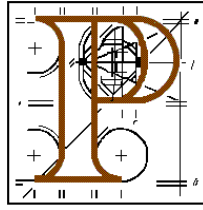


An Bord Pleanála



Inspector's Report

SU05E.SU0125

Development: Quarry at Crislaghkeel, Burnfoot, Lifford, County Donegal.

Application for Substitute Consent under Section 177E

Planning Authority: Donegal County Council

Applicant: McDaid's Quarry

Submissions: Geological Survey of Ireland
Dept. of Arts Heritage and the Gaeltacht

Observations: None

Inspector: Karla Mc Bride

Date of site inspection: 4th April 2015 & 11th March 2016

1.0 SITE LOCATION AND EXISTING OPERATIONS

- 1.1 This is an application for Substitute Consent under Section 261A (3) of the Planning and Development Act 2000. It is lodged on foot of a section 261A (2) (a)(i) determination and section 261A(3)(a) decision by An Bord Pleanála and the application is accompanied by a remedial Environmental Impact Statement (rEIS).
- 1.2 Substitute consent permission is being sought for an existing rock quarry which is located to the NE of Bunrana in County Donegal. The quarry site occupies an upland rural area, it is located in the townland of Crislaghkeel to the N of the R238, and vehicular access is via the L-7411-2 local road. The surrounding area is predominantly agricultural in character, the site boundaries are mainly defined by fencing and embankments and the lands slope down to the S and SE. There is a single dwelling house located to the S of the quarry with several other houses located within c.0.5km and there is a go-kart racing track to the immediate NE. The site adjoins two watercourses that drain to Lough Swilly Inch Level to the S. The Lough Swilly SPA and SAC are located within c.4km and c. 6km of the quarry respectively.
- 1.2 The quarry site comprises an overall area of c.21.06ha, rock is extracted both by blasting and mechanical means to produce 4 and 6 inch stone, quarry fill, dust and 10mm and 20mm washed stone. Blasting occurs 3 or 4 times a year. The excavated rock is crushed, screened in mobile crushers, graded, washed and stockpiled for transportation off-site. The centrally located batching plant mixes on-site aggregate with imported sand and cement to produce readymade concrete. This material is weighed on the weighbridge at the site entrance in the SE section of the quarry which is also occupied by the site office and fuelling area. There is a large settlement lagoon located in the far NW section of the quarry parallel to the site boundary with two smaller ponds located in a more central position to the W of the screening and washing plant.
- 1.3 The quarry currently produces c.175, 000 of material per annum and an average of c.3, 500 tonnes of product leave the quarry per week and c.12, 500m³ of ready mix concrete is produced per year. The quarry currently employs 8 people on a full and part time basis. The hours of operation at the quarry are 07.00-18.00 Monday to Friday and 07.00-15.00 Saturday and the quarry is not in operation on Sundays and public holidays.

2.0 SUBSTITUTE CONSENT APPLICATION

2.1 The development consists of the following works at the existing c.21.06ha quarry and the application for substitute consent includes all associated site works and ancillary development:

- Site office and septic tank, weigh bridge, power/switch room, storage container, truck/plant wash bay and shed with fuelling area.
- Mobile stone crusher/screener, concrete batching plant, and power screen washing plant.
- New settlement lagoon systems and perimeter drains (FI).

The application was accompanied by the following documents:

- Remedial Environmental Impact Statement (rEIS)
- Report on the Existing Septic Tank System

2.2 Remedial Environmental Impact Statement (rEIS)

2.2.1 The remedial Environmental Impact Statement (rEIS) was compiled with regard to S.177F of the Planning and Development Act, 2010 (as amended contains a description of the site and it contains:

(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 of the development;

(b) Details of:

- a. 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.
- b. The period of time within which any proposed remedial measures shall be carried out by or on behalf of the applicant.

The rEIS, which contains a Non-technical summary and technical appendices, examines the potential impacts on the quarry under the following standard EIS headings.

3.0 SITE HISTORY

3.1 Pre 1964 and Permission Ref.94/1914 and Ref. 97/2665

- 3.1.1 The planning authority accepts that this quarry was in operation prior to 1964 and the following planning applications are relevant:

Reg. Ref. 1814/94: Planning permission granted by the County Council in 1995 for the retention and continuation of quarry operations on the site subject to 20 conditions.

Reg. Ref. 97/2665: Planning permission granted in 1998 by the County Council for the retention and continuation of blasting operations on the site subject to 20 conditions.

3.2 Enforcement

- 3.2.1 **UDIN00/43:** Enforcement file from 2002 regarding expiration of planning permission granted in 1998, non-compliance with condition restricting the use of the local road LP1871/1 by quarry vehicles and outstanding financial conditions.

3.3 Section 261 Registration

- 3.3.1 This is Substitute Consent application relates to an amalgamated quarry which originated as 2 separate quarries which were registered by the County Council in 2007 under S.261 as QY59 and QY60.

Reg. Ref. EUQY59: Charles McDaid applied to Donegal County Council to register the site under section 261. The total site area was stated as 4.8ha and the extraction area as 4.8ha. Registration was granted subject to 15 conditions.

Reg. Ref. EUQY60: Michael McDaid applied to Donegal County Council to register the site under section 261. The total site area was stated as 6.6ha and the extraction area as 4.7ha. Registration granted subject to 18 conditions.

3.4 Section 261A Determination

- 3.4.1 The overall site comprised an amalgamation of two historic and separate local pits which were registered under QY59 and QY60 as summarised above. The overall site also included the lands located in

between these two quarries and the overall landholding was estimated to be in the region of 19ha with an excavation area of 11ha.

- 3.4.2 The planning authority decided that section 261A 4(a) applied with regard to the planning history of the site which indicated that the quarry commenced operation on or after the 1st day of October 1964 and that no permission was granted in respect of the quarry under the Planning and Development Acts.
- 3.4.3 Following a review under QV05E.QV.0007, the Board decided to set aside the decision of the Planning Authority on the basis of the information submitted which confirmed that quarrying activity has occurred on these lands before the by the 1st day of October 1964 and that permissions were granted in respect of quarrying activity on these lands. The Board determined that development was carried out after the 1st day of February 1990 which would have required, having regard to the Environmental Impact Directive, an Environmental Impact Assessment but that such a determination was not carried out or made. The Board also determined that development carried out after 26th day of February 1997, by itself, or in combination with other plans and projects, would not be likely to have significant effects on the conservation objectives of any European sites, and a Natura Impact Statement and Appropriate Assessment were not required.

4.0 PLANNING POLICY CONTEXT

4.1 Quarries and Ancillary Activities Guidelines for Planning Authorities, DoECLG 2004.

- 4.1.1 This document provides guidance to planning authorities on determining applications for planning permission for quarrying and ancillary activities. It notes the economic importance of aggregates and that there will be a sustained level of demand in support of infrastructure provision. They can only be worked where they occur and pits and quarries tend to be located within 25km of urban areas where construction occurs. Advice is also provided in relation to environmental protection, visual impacts and residential amenity.

4.2 Donegal County Development Plan 2012-2018

- 4.2.1 The following sections of the County Development Plan are considered particularly relevant to this case.

4.2.2 The following extractive industry objectives are relevant:

- To conserve and protect the environment including in particular the archaeological and natural heritage in conservation and protection of European designated sites and any other sites which are prescribed.
- To preserve the character of the landscape where and to the extent that, the proper planning and sustainable development of the area requires it including the preservation of views and prospects, cultural features and the amenities of places and features of natural beauty or interest.
- To identify those sites with the highest mineral/aggregate extractive potential within the life of the plan, and which do not reside within high amenity areas or adversely impact on environmental designations.
- To protect and preserve quality of the environment including the prevention limitation, elimination, abatement or reduction or environment pollution and the protection of waters, groundwater, the seashore and the atmosphere.

4.2.3 The following policies are relevant:

EX-P-1: seeks not to normally permit new extractive industry proposals in area of especially high scenic amenity or where they would adversely impact upon any Natura 2000 site, Natural Heritage Area, nature reserve, groundwater protection area, freshwater pearl mussel catchment or other areas of importance for the protection of flora and fauna or areas of significant archaeological potential, unless it can be clearly demonstrated that such extractive industries would not have significant adverse impacts on the amenities or the environment, and comply with Article 6 of the Habitats Directive.

EX-P-2: seeks not to permit development proposals for quarry and ancillary facilities unless it has been evidenced that the development shall not result in a significant threat of pollution to the environment including siltation and sedimentation of receiving downstream surface waters, having regard to vulnerabilities identified in the river basin management plan and any relevant freshwater pearl mussel sub-basement plan and to ensure that extractive industry proposals do not adversely impact upon the environment including surface water and

groundwater aquifers, quality and quantity, river corridors, associated wetlands and River Basin Management Districts.

EX-P-3: seeks to require all applications for extractive industry proposals to be accompanied by an integrated phased development and restoration plan for aftercare/reuse of the site. Any restoration plan must comply with Article 6 of the Habitats Directive having regard to the relevant conservation objectives, qualifying interests and threats to the integrity of a Natura 2000 site. Restoration Plans should comply with policies set out in EX-P-1 and EX-P-2 and Objectives EX-O-1 and EX-O-2 and EX-O-4.

EX-P-4: seeks to require that, where an extractive industry development is proposed within 300 metres of a recorded monument/archaeological site or is likely to have a material impact on the visual amenities of the monument/site, the applicants and operators shall engage the services of an archaeologist or suitably qualified person to undertake an archaeological assessment of the site.

EX-P-5: seeks to require that development proposals are accompanied by evidence of the suitability of the road network in terms of width, alignment and carrying capacity to require that any identified deficiencies can be addressed at the applicant's expense. Any mitigation works required to upgrade or align the road infrastructure must comply with Article 6 of the Habitats Directive.

5.0 SUBMISSIONS

5.1 The Planning Authority assessment

The Planning Authority concerns are summarised below:

5.1.1 *General:*

Overall policy: The reports list the relevant policies and objectives.

Transportation: There are no planned transport schemes in the area; the existing entrance arrangements should be conditioned to meet current technical standards; and the installation of wheel wash and dust controls will protect the adjoining road network from dust deposits.

Water and environmental services: The existing mitigation measures in respect of groundwater and surface water should continue to operate; a

condition should require the implementation of the identified mitigation measures (installation of perimeter drains, creation of additional remedial settlement ponds, prevention programme to capture accidental spills, and obtain a discharge licence); and on-going monitoring should be required by way of condition.

Flooding: The site is not located within a floodplain or flood risk area and does not give rise to any flooding concerns.

Natural and built heritage: The site is not located within an area covered by any sensitive environmental, ecological, groundwater protection or archaeological designations, although there are three European sites within a 15km radius.

Extractive industry and geology: The site is not affected by any River Basin Management Plan or Fresh Water Pearl Mussel Sub-basin plans; the submission of a landscaping / restoration plan should be required by way of condition; in the absence of a road suitability report, the existing entrance arrangements off the local road should be conditioned to meet current technical standards.

Tourism: No specific visual impacts arise; the submission of a boundary treatment, landscaping and restoration plan should be required by way of condition.

Marine: No specific marine or coastal impacts arise.

Development and technical standards (Section 10): Conditions should be attached to deal with landscaping, buffers and screening (10.5.2); suitable storage of all waste material (10.5.4 and 10.4.5); fuel connection and discharge points should be rollover bunded (10.5.7).

5.1.2 **Recommendation and conditions**

The application for substitute consent should be approved subject to a number of conditions related to:

- Quarry activity should be restricted to the area identified in the SC application and carried out in accordance with the submitted plans.
- The submission of a detailed proposal for the restoration of the quarry to the Planning Authority for written approval.

- The provision of optimum, permanent visibility splays at the entrance of the existing entrance off the local road.
- Hours of operation.
- The erection and maintenance of a stock and trespass proof fence around the site along with lockable entrance gates.
- Noise levels should not exceed 50dB (a) at any houses; submission of an annual noise survey to the Council.
- Dust deposition should not exceed 350mg/sq.m at site boundaries averaged over 30 days; at least 3 dust monitor should be provided at agreed locations and regular dust monitoring results should be submitted to the Council.
- Wheel wash facilities, road dampening, prevention of spillages and road cleaning measures.
- Storage of fuels and chemicals within bunded areas and the installation of oil interceptor traps along drainage lines.
- No discharge of surface water to and from the public road.
- Restriction on exempted development; signage; annual removal of scrap; and lodgement of a Bond or other form of insurance.

5.2 Prescribed bodies

5.2.1 The application was circulated the application in electronic form for comments under the provisions of Section 131 of the Act. The following prescribed bodies were included:

- Department of Arts, Heritage and the Gaeltacht
- The Department of Communication, Energy and Natural Resources
- Health Services Executive
- The Heritage Council
- An Chomhairle Ealaíon
- Inland Fisheries Ireland
- Fáilte Ireland
- An Taisce
- EIRGRID

5.2.1 The **Geological Survey of Ireland** stated that they had no comment.

5.2.3 The **Department of Arts, Heritage and the Gaeltacht** stated that:

- The quarry is not located within a SPA, SAC or NHA, although it is situated c.3.5km from the Lough Swilly SAC and SPA and part of the proposed development is situated c.5km upstream of Inch Lake which is a lagoon and water dependent habitat.
- This development could damage/destroy water dependent habitats and species, including the lagoon, which is an Annex 1 habitat; potential impacts would arise through deterioration of water quality downstream in Inch Lake from contaminated surface water run-off and trade effluents.
- The remedial measures contained in the rEIS are noted and a Council discharge licence is required for the effluent discharges from the proposed remedial settlement ponds.
- The rEIS considered the Lough Swilly SAC and SPA to be outside the zone of influence; however the quarry is located in close proximity to these European sites with a direct hydrological link to both sites; the need for an AA must be considered as part of the planning process; and potential impacts must be considered in combination with other plans and projects.

6.0 RESPONSE SUBMISSIONS

6.1 *Applicant's response to submissions*

The Applicant did not submit a response in relation to the issues raised by the Planning Authority and the DAH&G's.

6.2 *Planning Authority* response to DAH&G submission

The Planning Authority had no further comments in relation to the DAH&G's contention that an Appropriate Assessment must be considered as part of the planning process.

7.0 FURTHER INFORMATION

7.1 Further information request

- 7.1.1 The Remedial EIS submitted by the applicant described the quarry site as comprising an area of approximately 23.51ha and the accompanying drawings indicate that the quarry lands are located on either side of the local road. This does not appear to correspond with the quarry area covered by the Section 261A Notice.
- 7.1.2 The applicant was requested to submit revised drawings and a revised Remedial EIS which accurately describes the area of the quarry where development was carried out after the 1st day of February, 1990. The applicant was advised to note that any measures proposed to remediate the adverse impacts of the development undertaken after this date should be contained within the site area covered by the Section 261A Notice.
- 7.1.3 The applicant should also be advised to remove all references to future quarrying works from the Remedial EIS such as the “When breaking new ground and stripping back topsoil and overburden....” as any future works will require a separate planning application.
- 7.1.4 The applicant was advised that the Remedial EIS should also contain a section which deals with cumulative and/or in-combination impacts.

7.2 Further information submission

- 7.2.1 The submitted plans now identify the lands on the opposite side of the road as being within the applicant’s ownership but not forming part of the area for which Substitute Consent is sought and the quarry area is now stated as 21.06ha.
- 7.2.2 The measures proposed to remediate any adverse impacts of the development undertaken are now contained within the site area covered by the Section 261A Notice.
- 7.2.3 Section 6 of the revised rEIS states that additional remedial settlement ponds should be constructed in the S portion (5 ponds) and N portion (1 pond) of the quarry. Section 9 identifies the need for additional planting to screen the ponds from public view. Section 12 deals with Cumulative effects. All remove references to further works have been omitted. There are no other substantive changes to the revised rEIS other than those required under the Further Information request.

7.3 Further response submissions

7.3.1 The applicant's response submission was circulated to the Planning Authority and the Prescribed Bodies listed in section 5.2.1 above.

7.3.2 The Planning Authority is satisfied with the existing and additional mitigation measures response and has no objection to the Board granting approval for substitute consent subject to the attachment of conditions and the implementation of the rEIS mitigation measures.

7.3.3 There has been no response to from the Prescribed Bodies.

8.0 ASSESSMENT

8.1 The main issues arising from this application for substitute consent are set out below:

- Development plan policy
- Environmental impacts
- Conditions
- Appropriate assessment

8.1 Development Plan policy

The site is located in an un-zoned rural area outside of any established settlement and the use of the lands for quarrying is compatible with national and local planning policy as set out in the 2004 Quarry Guidelines and the current County Donegal Development Plan for the area, and in particular the policies and objectives which deal with the extractive industry.

8.2 Environmental Impacts

8.2.1 The Remedial Environmental Impact Statement

The applicant submitted a remedial Environmental Impact Statement (rEIS) which describes the receiving environment, identifies potential impacts and assesses the likely significant impacts potential on the standard range of environmental components usually contained in a conventional Environmental Impact Statement (EIS). The rEIS describes the existing mitigation measures at the quarry, it proposes new measures and assesses residual impacts post mitigation. Most sections conclude with a technical appendix which contains survey results, data analysis and maps, and the rEIS were accompanied by a non-technical summary. The applicant was requested to make certain amendments to the submitted plans and rEIS by way of further information which are summarised in section 7.2 above, and the revisions also deal cumulative impacts.

8.2.2 Remedial Environmental Impact Assessment

The remedial environmental impact assessment is set out in the following sections.

8.2.1 *Human beings*

rEIS: Section 3 of the rEIS deals with the impact of the quarry on human beings. It identifies 11 houses located within a 500m, 8 people are directly employed and states that the quarry indirectly benefits the wider economy. The rEIS states that appropriate measures are in place to ensure compliance with relevant health and safety legislation and that other sections deal with impacts on human beings.

rEIA: The site boundaries are defined by a mix of embankments and fencing and vehicular access to the quarry is via two entrance and egress points located along the E site boundary with the local road. The Planning Authority raised concerns in relation to the existing boundary and access arrangements which should be robust and secure enough to prevent trespass by humans and farm stock. This concern could be addressed in a restoration plan, full details of which should be requested by way of a planning condition. The authority also raised concerns in relation to operational hours; however such a condition would not have any effect as the application for substitute consent relates to past and not future works.

- No residual impacts are anticipated following the implementation of mitigation measures and planning conditions.

8.2.2 *Flora and fauna*

rEIS: Section 4 of the rEIS deals with the impact of the quarry and its ancillary activities on flora and fauna in the quarry and the surrounding area. The habitat survey identified a range of habitats including those directly related to the quarry and wet heath on the adjacent lands as being the most dominant habitats, while non-dominant habitats include wet grassland, upland blanket bog, drainage ditches and arable crops. The survey concluded that quarry activities have had no adverse impact on the wet heath or upland blanket bog habitats. A concern was raised in relation to the impact of the extraction pond on bog hydrology. However it was concluded that this habitat had not been significantly damaged as the area (400sq.m.) of the pond is not significant relative to the overall area of the bog, and the water intake from an adjacent stream was matched by the outflow from the pond. A minimalist approach has been adopted to the re-installment of the dormant sections of the quarry which comprise land-forming and re-vegetation although the use of imported infill material is not recommended. It states that other issues related to water quality are addressed in section 6 of the rEIS.

rEIA: The quarry site and the surrounding area comprises a mix of habitats, flora and fauna, and the adjacent habitats have not been significantly affect by quarry activities. The reinstatement proposals for the dormant section of the quarry will enhance ecological quality of the area. However a full restoration plan should be required by way of condition for the written agreement of the planning authority.

- No residual impacts are anticipated subject to the implementation of mitigation measures and planning conditions.

8.2.3 Geology and soil

rEIS: Section 5 of the rEIS deals with the impact of the quarry and its ancillary activities on geology and soils within the quarry and the surrounding area. The underlying bedrock belongs to the Precambrian Quartzites, Gneisses and Schists group and the Fahan Slate Formation underlies the site. The quarry does not contain any sites of geological interest and the nearest site is at Fahan Pier c.4km to the W.

Production is estimated at c.3, 500 tonnes and c.250m³ of ready mix concrete per week (or c.175, 000 tonnes and c.12, 500m³ per annum). Most topsoil and overburden has already being removed, c.42, and 000 m³ of topsoil has been used to create screening banks along the SE and NE site boundaries. Soils Maps indicated that the N part of the site comprised blanket peat and the S part comprised shallow till mixed soil with a rocky outcrop in the SW corner. The potential impacts, mitigation measures and residual impacts are summarised in the following table.

Potential impacts	Existing mitigation measures	Proposed mitigation measures	Duration & extent of impact	Residual impacts
Loss of soil & overburden	Used to create berms	Stockpile for future use	Permanent Negative	Re-use on site for berms
Loss of rock	None	None	Permanent	Permanent
Groundwater pollution	Management of fuel spills	Pollution spill kits & new WWTP	Refer to s.6 below	Refer to s.6 below
Aquifer vulnerability	Management of fuel spills	Pollution spill kits & new WWTP	Refer to s.6 below	Refer to s.6 below

rEIA: The removal of soil and overburden and the loss of rock are an inevitable consequent of quarrying. The re-use of top-soil to form on-site embankments and berms is a positive impact in terms of visual amenity and biodiversity. No sites of geological interest have been or will be affected. On-site management of fuelling currently seeks to prevent groundwater contamination. The proposed mitigation measures which include adherence to best re-fuelling and spillage prevention practices, and the use of pollution spill kits will further minimise the adverse impacts soils and geology which addresses the concerns raised by the Planning Authority.

- No residual impacts are anticipated following the implementation of mitigation measures and planning conditions.

8.2.4 Hydrology and hydrogeology

rEIS: Section 6 of the rEIS deals with the impact of the quarry and its ancillary activities on hydrology and hydrogeology within the quarry and the surrounding area.

The rEIS states that the underlying bedrock has no inter-granular porosity, the groundwater table reflects local topography and ground water flows W towards Lough Swilly. Groundwater vulnerability is classified as “rock at or near the surface” and “extreme” for the S section, and “high” for the N section. The underlying Aquifer is classified as poor and generally unproductive whist 200m S of the entrance it is classified as “locally important and moderately productive” in places. There are a number of natural springs in the quarry. There are no boreholes or wells in close proximity to the quarry. The quarry originally straddled a small hill with surface water flowing SW and NE to form two separate catchments and this regime still exists. Water flowing from the S section drains to Lough Swilly at Burnfoot to the S whilst water from the N section drains to the Mill River which discharges to Lough Swilly at Bunrana to the W. Except for the local road, there is no evidence of flooding on the surrounding area.

The rEIS states that the two main water dependent processes are product washing and concrete manufacture. There are two settlement ponds near the washing plant in the N section and water is pumped from these ponds to the plant. The ponds collect surface water run-off from the surrounding area and the washing plant which is then recycled back to the plant. An abstraction pond in the N edge of the site feeds the ponds in dry weather. Water for concrete manufacture in the S

section is sourced from a small deep lagoon which is groundwater fed and pumped to the batching plant (c.12, 500m³ per annum). The rEIS states that there are several surface water pathways through the quarry and some channels have been eroded to a depth of c.40cm. There are 2 distinct outflows along the S boundary with the local road. The main outflow at the entrance gate is piped under this road to a field drain and hence to a larger drain which either joins an un-named stream which flows W to Lough Swilly, or drains E to the Mill River. Approximately 90% of effluent leaves the S section of the quarry. There are several ponds located in the S section where excavation below the watertable has occurred. The existing settlement ponds in the N section have a combined capacity of c.5885m³, most run-off flows into collection pond 3, it is then directed to a stream flowing E to the Mill River which drains into Lough Swilly at Buncrana.

The rEIS states that the existing drainage regime is unable to cope with high volumes of run-off and unregulated sediment laden water drains S to local watercourses. Potential impacts related to elevated pH and sediment deposition which could adversely affect water quality and aquatic ecosystems. Ground and surface water could be contaminated by fuel leaks and spillages. There is no evidence that the recharge capacity of the underlying aquifer has been adversely affected. The rEIS concludes that there will be no significant adverse effects on hydrology and hydrogeology subject to the implementation of the following mitigation measures:

- The installation of perimeter drains to capture and direct all of the quarry run-off towards existing settlement ponds no.1 and no.2 and remedial pond no.4.
- The construction of 6 additional settlement ponds (5 in the S and 1 in the N sections) within the quarry according to best practice to achieve attenuation of flow with an additional capacity of c.5,964m³.
- A prevention programme to capture accidental oil spills.
- Application for Local Authority Discharge licences for all three quarry outflows.
- Environmental monitoring to include abstraction record keeping and regular inspections.

rEIA: The extraction of substantial amounts of rock from the quarry has resulted in some localised breaches of the water table, and given rise to surface water run-off from rainfall, water flowing into the quarry from higher ground and from springs and from sediment laden run-off from the processing and manufacturing activities. There are several ponds

on the quarry floor including the large settlement ponds in the NW section and a surface water fed pond, and a small deep lagoon in the S section which is fed by ground water. The roadside drain that runs from the quarry entrance along the local road was in full flow on the days I carried out my site inspections and the road side drains located further downhill of the quarry appear to contain quarry related sediments.

The existing water treatment and drainage arrangements are inadequate. The substantial amounts of quarry water that flows out of the S section of the quarry into nearby drains and watercourses has the potential to adversely affect water quality and aquatic ecosystems. The watertable is also at risk of contamination from infiltration by quarry water and accidental fuel spills and leaks.

The planning authority stated that the existing mitigation measures in respect of ground and surface water should continue to operate but that additional mitigation measures are required. These include perimeter drains, remedial settlement ponds, and a prevention programme to capture accidental spills, a discharge licence and on-going monitoring. These concerns have been addressed by the applicant in the further information submission.

The existing and proposed mitigation measures should manage surface water run-off and discharge to ground reasonably well. However the settlement ponds and on-site site drainage arrangements should also have the capacity to deal with heavy rainfall events, given that the past extraction of aggregates has given rise to an environment that does not readily absorb rainfall that falls on the site or flows into the site from the surrounding area. The excavation works associated with the construction of the three proposed settlement lagoons (no.1, no.2 and no.3) located in the worked out E section of the quarry should not breach the water table. The groundwater abstraction lagoon associated with the batching plant in the mid W corner of the quarry should be protected from contamination and dumping. The discharge of surface water to the roadside drain should not be permitted and any discharge to a watercourse should be subject to a Discharge Licence. These issues could be addressed by way of a planning condition, some of which may require the written approval of the planning authority.

The two watercourses to the E and W of the quarry ultimately drain in to Lough Swilly at Burnfoot to the S and Buncrana to the W and although both watercourses are linked to the quarry, the distance between the quarry and the Lough is substantial. The site is not located within a floodplain or a flood risk area and quarry activities have not

given rise to any flooding concerns in the surrounding area. Any flooding of the local road network as a result of the inadequate drainage arrangements will be addressed by the implementation of the aforementioned mitigation measures.

- No residual impacts are anticipated following the implementation of mitigation measures and planning conditions.

8.2.5 Air quality

rEIS: Section 7 of the rEIS deals with the impact of the quarry and its ancillary activities on air quality on the surrounding area. It identifies the location of the nearest house as being 20m to the S and then the next nearest as being over 300m to the NE. It assesses the levels of total dust deposition at several locations around the site from quarrying activities which including overburden stripping; excavation; processing and stockpiling; and loading and haulage. Mitigation measures include routine wetting of hard standing areas; use of dust suppression kits; regular mechanised sweeping; wheel wash facility; pre-wetting stock to be used in the production process; no unnecessary movements of stock; and the use of covers.

rEIA: Quarry operations have given rise to the emission of dust particles as a result of extraction and processing, stockpiling and movement. The surrounding area is not densely populated and most of the site is screened by embankments and fencing. The Planning Authority recommended that dust control measures and dust monitoring points to be put in place to prevent pollution and to protect residential amenity and the adjoining road network. However, dust deposition in the surrounding area from past quarry operations has not been a noticeable problem and it has not given rise to any significant adverse impacts that could be retrospectively mitigated for.

- No residual impacts are anticipated.

8.2.6 Noise and vibration

rEIS: Section 8 of the rEIS deals with the impact of noise and vibration from quarry activities on the surrounding area. Baseline and operational surveys concluded that quarry operations were within acceptable noise levels and there is no evidence of any noise complaints being made to the County Council. Mitigation measures include the use of working methods; replacing noisy machinery; locating noisy machinery away from houses; shutting down machines

when not in use; lowering materials as opposed to dropping them; and regular maintenance of plant, equipment, machinery and silencers.

rEIA: The generation of noise and vibration is an inevitable consequence of quarrying and the levels generated will depend on the type of activity undertaken (i.e. blasting, excavations, processing and haulage) as well as weather conditions. The surrounding area is not densely populated and most of the site is well screened by embankments. The Planning Authority did not raise any specific concerns in relation to noise and the quarry has not been a noticeable problem in the past, and it has not given rise to any significant adverse impacts that could be retrospectively mitigated for.

- No residual impacts are anticipated.

8.2.7 *Landscape and visual impact*

rEIS: Section 9 of the rEIS deals with the visual impact of the quarry and its ancillary activities on the landscape of the surrounding area. The quarry is not very visible because of the uneven nature and quality of the surrounding landscape. It can only be seen from two locations to the S and E and from a small section of a minor road c.1km to the N, although it is clearly visible from three nearby houses. The rEIS recommends the use of tree planting to further screen the quarry and reduce the visual impact. The five settlement ponds in the S part of the site will be screened by existing banks and additional planting is also recommended near the site entrance to provide further screening. The new and existing ponds in the N section should also be screened with native trees and hedges.

rEIA: Quarry works have had an inevitable impact on the landscape. The quarry is located within an undulating landscape and the site generally slopes down from N to S, the site boundaries are mainly defined by embankments and fencing, and views into the site are largely obscured by natural features and the topography of the area. The quarry is not located along any tourist routes and there are no heritage features in the vicinity. Any localised visual impacts could be addressed by a restoration plan, full details of which should be required by way of a planning condition.

- No residual impacts are anticipated following the implementation of mitigation measures and planning conditions.

8.2.8 *Material assets*

rEIS: Section 10 of the rEIS deals with the impact of the quarry and its ancillary activities on the material assets of the surrounding area. There are no recorded monuments, sites of archaeological interest or protected structures within the site. There is one Megalithic Tomb located c.400m to the SE of the quarry; three Standing Stones located between 700m and 2km to the SW and NW; several protected structures located in excess of 3km of the site; there is a strong cultural connection to Scalp Mountain to the S of the site; and there are a number of settlements in the wider area. The rEIS states that there have been no significant negative impacts on material assets to date and that none are predicted. Mitigation measures related to natural assets are proposed in sections 6,7 and 9 of the rEIS.

rEIA: Quarry operations have resulted in the inevitable removal of substantial amounts of rock from the site and the works have not had any known adverse impacts on archaeology and cultural heritage in the area. However it is possible that archaeological material could be discovered during the restoration phase and a planning condition should be attached to ensure the adequate management of these works to ensure the preservation of any artefacts.

- No residual impacts are anticipated following the implementation of mitigation measures and planning conditions.

8.2.9 *Roads and traffic*

rEIS: Section 11 of the rEIS deals with the traffic impacts of the quarry and its ancillary activities on the surrounding area and road network. The existing traffic situation was analysed at the junction of the R238 and L1871 during operational hours, c.0.8% to 1% of traffic along the R238 is quarry related, and a negligible negative impact was predicted.

rEIA: Quarry operations have not given rise to significant traffic generation along the local and regional roads. Vehicular access to the quarry is off the R238 via a local road, visibility at the junction is adequate in either direction, the R238 is not heavily trafficked and it has sufficient capacity to carry previous and current quarry related traffic. The Planning Authority has raised concerns in relation the existing entrance arrangements off the local road (entrance and exit), which do not meet current technical standards. Traffic generation in the surrounding area from past quarry operations has not been a

noticeable problem and it has not given rise to any significant adverse impacts that could be retrospectively mitigated for.

- No residual impacts are anticipated.

8.2.10 Interactions and cumulative impacts

rEIS: Section 12 of the rEIS deals interactions and cumulative impacts of the quarry and its ancillary activities on the surrounding area in combination with other plans and projects in the vicinity. It states that the relevant interactions have been identified in the various sections of the rEIS. The only other plan or project in the vicinity is the neighbouring “Go-Kart” track which operates in the summer and weekends and no cumulative are impacts predicted.

rEIA: Quarrying can give rise to inevitable and unavoidable impacts on the environment and many of these impacts interact with each other. The main area of concern relates to the effects of the extraction and processing works on hydrology and hydrogeology and the interaction with soils and geology and surface water processes, and on the landscape. The proposed mitigation measures and suggested conditions related to the management of surface water, processing water and on-site drainage, and site restoration, should ensure that adverse impacts are not significant. It is noted that there are no other developments in the surrounding area that could give rise to cumulative or in-combination impacts.

- No residual impacts are anticipated following the implementation of mitigation measures and planning conditions.

8.3 Conditions

8.3.1 The Planning Authority recommended that this application for substitute consent should be approved subject to a number of conditions related to bunding around fuels storage areas; dust and noise controls; the preparation of a restoration plan; the attachment of a Bond to ensure satisfactory completion of the works; operational hours; no discharge of surface water to the public road; the provision of optimum, permanent visibility splays at the entrance; the erection and maintenance of a stock and trespass proof fence; the provision of a wheel wash facility; restrictions on exempted development; signage; and the annual removal of scrap. The details are summarised in section 5.1.2 above.

8.3.2 The application for substitute consent only relates to works that have already been undertaken and not to any future works which would require planning permission. Conditions can only relate to past works that may have had an adverse impact on the environment that still require mitigation or remediation, where this is still possible.

8.4 Appropriate assessment

8.4.1 The quarry is not located within a SPA, SAC or NHA. However the Department of Arts, Heritage and the Gaeltacht raised concerns in relation to its proximity of the quarry to the Lough Swilly SAC and SPA and Inch Lake which is a lagoon and water dependent Annex 1 habitat. This department considered that the need for an Appropriate Assessment must be considered as part of the planning process and that the potential impacts must be considered in combination with other plans and projects.

8.4.2 This issue was previously addressed by the Board by way of the Section 261A Determination which was carried out under QV05E.QV.0007 and the details are set out in section 3.4 above. The Board determined that development was carried out after the 1st day of February 1990 which would have required an Environmental Impact Statement and Assessment. The Board also determined that development carried out after 26th day of February 1997, by itself, or in combination with other plans and projects, would not be likely to have significant effects on the conservation objectives of any European sites, and a Natura Impact Statement and Appropriate Assessment were not required.

9.0 CONCLUSIONS AND RECOMMENDATIONS

It is concluded that the quarry has not given rise to significant adverse effects on the environment and that ongoing impacts are limited in terms of scale and significance. I therefore recommend that the application for substitute consent be granted for the following reasons and considerations and subject to conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to:

- The provisions of the Planning and Development Acts, 2000 to 2014 and in particular Part XA,
- The Government's guidelines and supplementary guidelines on Section 261A of the Planning and Development Act 2000 and related provisions,
- The provisions of the Donegal County Development Plan, 2012-2018,
- The remedial Environmental Impact Statement submitted with the application for substitute consent,
- The nature and scale of the development the subject of this application for substitute consent, and
- The mitigation measures which are in place and the further remedial measures proposed,
- The report and opinion of the planning authority under section 177I,
- The submissions on file,
- The pattern of development in the area,

it is considered that, subject to compliance with the conditions set out below, the development would not be likely to have had/or to have a significant effect on the environment and 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 on the 07th day of November 2014 and the further information received by the Board on the 15th day of January 2016 and relates only to works undertaken prior to the decision of Donegal County Council to serve notice on 29th day of June 2012 of the requirement to apply for substitute consent. It does not authorise any excavation which has taken place since that date and does not authorise any future excavation.

Reason: In the interest of clarity.

2. A detailed restoration scheme for the site shall be submitted to the planning authority for written agreement within three months of the date of this order. The following shall apply in relation to the design and timing of the restoration plan:

- (a) The site restoration shall provide for the immediate re-vegetation of the site where suitable and/or the provision of features to control sediments which could result in surface water pollution.
- (b) The capacity of any settlement ponds installed shall be demonstrated to be adequate to cater for extreme rainfall events. Management measures relating to release of stored water shall be described.
- (c) The scheme shall incorporate tree planting to screen the quarry from key vantage points along the local road network.
- (d) Details of site safety measures shall be provided.
- (e) A timescale for implementation and proposals for an aftercare programme of five years shall be agreed with the planning authority.

Reason: In the interest of the visual amenities of the area, to ensure public safety and to ensure that the quarry restoration protects water quality.

3. The works associated with the excavation and construction of the three settlement lagoons (nos.1, 2 and 3) located in the worked out eastern section of the quarry shall not give rise to a breach of the water table. All stages of the works shall be monitored and recorded by a suitably qualified and professionally accredited engineer and the records shall be submitted to the planning authority for written approval on a regular monthly basis until the works are complete.

Reason: In order to protect ground water from contamination and pollution.

4. The existing groundwater abstraction lagoon associated with the concrete batching plant located in the mid-western section of the quarry shall be permanently protected from contamination and dumping. Details shall be submitted to the planning authority for written agreement within three months of the date of this order.

Reason: In order to protect ground water from contamination and pollution.

5. There shall be no discharge of quarry water to any roadside drains or adjacent watercourses in the absence of a Discharge Licence.
Reason: In order to protect ground and surface water from contamination and pollution.
4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including site restoration) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site during the site restoration phase and to secure the preservation and protection of any remains that may exist within the site.

5. Within three months of the date of this order, the developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.
Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

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

Karla Mc Bride
Senior Planning Inspector
14th March 2016