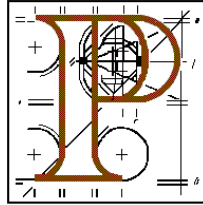


An Bord Pleanála



Inspector's Report

SU06S.SU0129.

DEVELOPMENT:-

Application under Section 177E of the Planning and Development Acts 2000 – 2011 for Substitute Consent in relation to a quarry development.

ADDRESS:

Mountseskin and Ballinascorney Upper, Brittas, County Dublin.

APPLICATION FOR SUBSTITUTE CONSENT

Planning Authority:

South Dublin County Council.

Planning Authority Reg. No:

QU05A/6.

Applicant:

Kilsaran Concrete.

Application Type:

Substitute Consent Application.

Planning Authority Decision:

Not Applicable.

DATE OF SITE INSPECTION: 11th June 2015

INSPECTOR:

Derek Daly.

1.0 INTRODUCTION.

SU06S.SU0129 relates to an application under the provisions of Section 177E of the Planning and Development Act 2000 – 2011 for substitute consent in respect of a quarry at Mountseskin and Ballinascorney Upper, Brittas, Carrick, County Dublin.

A notice was issued under the provisions of Section 261A (3)(a) by South Dublin County Council on the 13th of August 2012 instructing the owner/operator of a quarry to apply for substitute consent for the works undertaken on the site and that the application for substitute consent be accompanied by a remedial Environmental Impact Statement and a remedial Natura Impact Statement.

The determination was the subject of a review to An Bord Pleanála who confirmed the determination made under section 261A (2)(i) and set aside the determination made under section 261A (2)(ii).

The applicant applied for an extension of time pursuant to Section 177E(4) of the Planning and Development Act, 2000 as amended. On the 26th of August 2014 it was decided to grant an extension of time of 26 weeks for the making of an application for substitute consent.

An application for substitute consent accompanied with the above documents was lodged by the applicant with An Bord Pleanála on the 11th of December 2014. The application has been made in accordance with Section 177E and is accompanied by a Remedial Environmental Impact Statement.

2.0 SITE LOCATION AND DESCRIPTION.

The site, which is the subject of the current application, is stated as 5.076 hectares in area, is located in the south-west of County Dublin approximately 3 kilometres to the east of the village of Brittas in an upland area on the fringe of the Dublin Mountains in close proximity to the boundary with County Wicklow. The site is accessed off the northern side of the R114 Regional Route which to the west joins the N81 National Secondary Route and to the northeast the Firhouse and Tallaght areas affording access to the M50 on both routes.

The site is located off the northern side of the R114 within a valley between Knockannavea and Butter Mountains and is located on the lower slopes of Knockannavea, which has a summit of 396m OD with the lands rising northwards of the road.

The site relating to the substitute consent is part of an overall working stone quarry also located to the south and west of the substitute consent area, which extends northwards from the R114 and which extends into the townland of Aghfarrell. The quarry is referred to in documentation as Ballinascorney

Quarry. The current substitute consent application therefore relates to operations at the northern section of the overall quarry. The quarry operations on the site have progressively moved northwards up the slope from the road in a series of benches and vertical cliffs associated with stone quarry excavation.

In addition to the overall quarry there are ancillary facilities including offices, maintenance buildings, weighbridge, wheelwash, a crushing and screening plant, a settlement pond, bunded fuel tanks and storage areas, site entrance and internal roads which are not within the area of substitute consent. There is also a tar-macadam plant. These areas and operations are not within the area of substitute consent. The overall quarry extends from 290m OD to c. 345mOD (per planning report); the road along the front of the quarry site is c 295m OD. The overall quarry is defined by earthen berms along the eastern and western boundaries and by forestry areas to the north.

There are also lands to the south of the R114 which have been quarried and excavated. Owing to the relative elevated nature of the area the site is visible from some locations along the local road network and areas to the southwest but it is also screened by other upland areas and is not visible from the north and northwest.

3.0 ENVIRONMENTAL DESIGNATIONS IN VICINITY OF THE SITE.

In relation to the Habitats Directive and Natura 2000 Sites there are two SAC's are located in the general area within 3 kilometres of the site, the Glenasmole Valley SAC (site code 001209) and the Wicklow Mountains SAC (site code 002122) across the county boundary with County Wicklow. There are two SPAs in County Wicklow which are close to the borders of South County Dublin and the subject site, Wicklow Mountains SPA (site code 4040) and Poulaphouca Reservoir SPA (site code 4063). In addition there are three proposed NHAs located in the area: Slade of Saggart and Crooksling Glen (site code 002111), Lugmore Glen (site code 01212) and Dodder Valley (site code 00991).

4.0 CURRENT AND HISTORICAL OPERATIONS ON SITE.

The quarry was in operation at the time of my site inspection. The quarry operations at Ballinascorney Quarry comprise extraction of rock using industry standard blasting techniques; and processing of the fragmented stone using crushing and screening plant to produce a wide range of construction aggregates / stone products for use as fill materials, concrete aggregates and road making materials. The fixed processing plant is located to the southern part of the site.

According to the information contained in the rEIS there is a well on the site which supplies water for the quarry offices and canteen facilities. Effluent from toilet facilities is treated using on-site treatment units; comprising a septic tank

and a 6 modular Puraflo secondary treatment system. Mains electricity supply is also available on site.

The area of substitute consent as already indicated is located within a larger quarry area where extraction works date back to 1971. It is indicated that the extraction of rock within the substitute consent area occurred in the period May 2007 to January 2012. Rock was also extracted from other areas of the overall quarry before, during and after that period.

5.0 PLANNING HISTORY.

There is a long and extensive history relating to the overall quarry site dating back to 1971

There are also history files relating to unauthorised development on the site.

Information also submitted in relation to quarrying operations would indicate that the quarry did not commence operation prior to the 1st of October 1964 and was the subject of planning applications and permissions post that date. Details of the history are summarised below.

5.1 Site Planning History.

1971 planning permission apparently granted for 1.6ha (3.9536 ac) quarry at Ballinascorney Upper (no file is available).

P.A. Reg. No K /3021.

Continuation of use of the existing quarry and extension to quarry, at Aghfarrell and Ballinascorney Upper, on a site of a total of 9.9ha. (24.4629 ac) on the 20th of July 1977, permitted subject to 15 conditions and to cease 31st March 1982.

P.A. Reg. No 93A /0346.

Extension to quarry at Aghfarrell 13.7 ha (33.8527 ac) permitted subject to 5 conditions – No. 2 required all extractive and processing operations to cease by 30th Sept 2010. All buildings plant & machinery to be removed from site and all reclamation works to be completed by 30th September 2013 unless further planning permission granted.

Other permissions on the site included permissions for ancillary plant and machinery and maintenance facilities including;

P.A. Reg. No H.2433.

Permission granted on appeal (Ref6/5/33733) to Treacy Enterprises Ltd., Dundrum for the erection of bitumen Macadam Plant at existing quarry - 25th July 1977.

P.A. Reg. No TA 908.

Temporary permission granted for vehicle and plant maintenance structure 1980.

P.A. Reg. No 85A/533.

Temporary permission granted for office building (to 31/7/90).

P.A. Reg. No 85A /976.

Retention of plant maintenance structure - not finalised (further information requested).

P.A. Reg. No 90A /1694.

Permission for ESB substation.

P.A. Reg. No 91A/34.

Permission for works canteen.

P.A. Reg. No 93A/969.

Application for retention of small office building by a weighbridge.

P.A. Reg. No SD 06A/0430.

Permission for prefabricated office and canteen, relocated weighbridge, new wheelwash, employee and visitor car park, sand storage shed (12m high), two new bunded and covered fuel tanks, a secondary treatment system (Puraflo) to existing septic tank, percolation area and improvements to quarry entrance including realignment of boundary to improve sightlines at entrance.

P.A. Reg. No 07A/0337.

Planning permission granted on the 15th August 2007, for demolition of existing vehicle and plant maintenance structure (floor area 510m² maximum height 7.7m) granted under 93A/0970, to be replaced by a new building comprising a workshop, canteen, drying/cloakroom, rest room and bunded fuel & oil storage area (floor area 442m², maximum height 8.3m).

ABP Ref. No PL06S.243526/P.A. Reg. No SD14A0056.

Planning permission was refused on appeal on the 29/04/2015 for a cold feed recycled asphalt plant and covered storage shed (800 square metres) following a third party appeal against the decision of the Planning Authority to grant planning permission.

One reason for refusal was stated which referred to “on the basis of submissions made in connection with the application and the appeal, the Board considers the material to be imported and processed at the proposed development to be a waste and not a by-product, notwithstanding that the outcome of the process is a saleable product, that is, asphalt. The Board notes that the applicant has confirmed that the subject premises is permitted to accept up to 50,000 tonnes of waste per annum. Accordingly the Board considers that the provisions of Schedule 5 of the Planning and Development

Regulations, 2001, as amended, apply in this case and concludes that an environmental impact statement should have accompanied the application. In these circumstances, the Board is precluded from giving further consideration to the granting of permission for the proposed development”.

5.2 Section 5 Referrals.

The site was also the subject of referrals under Section 5.

RL2577.

Whether the recent expansion of quarrying activity and works to the northern end of the quarry is or is not development and is or is not exempted development.

The decision of the Board was that,

- (a) the excavation and formation of two earthen mounds outside the permitted 25.2 hectares quarry extraction area is development and is exempted development,
- (b) the drilling and blasting of rock outside the permitted 25.2 hectares quarry extraction area is development and is not exempted development,
- (c) the processing of stone from outside the permitted 25.2 hectares quarry extraction area is development and is not exempted development,
- (d) the excavation of stone from outside the permitted 25.2 hectares quarry extraction area is development and is not exempted development,
- (e) excavation on or near an archaeological site outside the permitted 25.2 hectares quarry extraction area is development and is not exempted development, and
- (f) excavation of top and subsoil outside the permitted 25.2 hectares quarry extraction area is development and is exempted development:

RL2486.

Whether the installation of new fixed plant machinery and intensification of use of explosives is or is not development or is or is not exempted development.

The decision of the Board was that,

- (a) the installation of new fixed plant and machinery, which have replaced existing fixed plant, comes within the scope of Class 21 (a)(iii) of Part 1 of Schedule 2 to the Planning and Development Regulations 2001, being less than 15 metres in height (in the case of the aggregates processing plant) and less than the height of the replaced plant (in the case of the asphalt plant),
- (b) the installation of additional new fixed plant and machinery comes within the scope of Class 21 (a)(iii) of Part 1 of Schedule 2 to the said

Regulations, being less than 15 metres in height, subject to the proviso that it does not facilitate expansion of output from the aggregates processing plant beyond that authorised under the existing permission for this activity, and

- (c) The expansion of quarrying activity would constitute development, being “works” within the meaning of sections 2 and 3 of the Planning and Development Act, 2000.

5.3 Other Applications and Permits.

The site was also the subject of other applications not solely related to quarrying operations and for permits including the following.

ABP Reg. No 06S 225920 / PA Ref SD07A/0787.

Permission granted for a waste recovery facility where certain classes of construction and demolition waste: namely topsoil, concrete, bricks, tiles, ceramics, asphalt, tar, tarred products, soils and stone, will be periodically crushed, screened and stockpiled using mobile plant to produce a saleable product; including a paved quarantine area.

WPR 085

Waste Permit Application to South Dublin County Council.

ENV/347/2006

Air Emissions Licence Asphalt Plant granted 9/08/06.

ABP Reg. No 06S.LA.0086.

Planning Authority Air Pollution Register Reference Number AP/01/2010, air pollution licence, granted on appeal, for a hot mix asphalt plant located on site of existing stone quarry. The industrial process consists of mixing hot aggregates that have been dried in a drying drum by burning fuel oil with heated asphalt/bitumen in a paddle mixer, to produce a paving material. The principle emissions from the exhaust stack are sulphur dioxide, oxide of nitrogen, carbon monoxide, volatile organic compounds, particulates and other products of combustion from the production process, all in accordance with plans and particulars lodged with the Council. The licence was granted.

5.4 Quarry registration.

SDQU 05A/06.

Registration of a quarry.

Registered subject to conditions 25th April 2007, deleting conditions attached to previous permissions granted under K3021 and 93A/0346) and attaching 36 new conditions. The registration was for a large area equating to what appears to be the land ownership.

5.5 Section 261A.

SDQU05A/6.

Under Section 261A (2)(a) the planning authority determined that:

- (i) Development was carried out after 1st May 1999 which development would have required having regard to the Environmental Impact Assessment Directive an environmental impact assessment or a determination as to whether environmental impact assessment was required and no such determination was made.
- (ii) Development was carried out after 26th February 1997 which development would have required having regard to the Habitats Directive an appropriate assessment, but that such assessment was not carried out.
- (iii) The planning authority decided (Under Section 261A(3)(a)) that: works commenced after 1st of October 1964 and that permission was granted in respect of the quarry.
- (iv) The requirements in relation to registration were fulfilled.
- (v) The planning authority directed the owner/operator to apply for substitute consent.

ABP Ref.No.09.QV0154.

Application for Review under Section 261A of Planning and Development Act 2000 as amended. The review was requested under the provisions of S.261A(6)(a) by the Dublin Mountain Conservation and Environmental Group care of Michael McCoy of Ballinasorney Upper, Brittas, County Dublin in respect of the determination by South Dublin County Council decision to seek an application for substitute consent accompanied by an EIS and NIS, on the 13th day of August, 2012.

The Board in its decision confirmed an application for substitute consent accompanied by an EIS only and set aside the decision for an NIS. The Decision was dated 24th June 2014.

The effect of the decision was to direct the owner/operator to make an application to the Board for substitute consent not later than 12 weeks after the date of the giving of the Board's decision or such further period as the Board may allow and the application was to be accompanied by a remedial Environmental Impact Statement.

The current proposal arises from the above determination.

6.0 APPLICATION LODGED WITH THE BOARD

The application for substitute consent was lodged with An Bord Pleanála on the 11th December 2014. A planning application form indicates that the applicant is the owner and occupier of the site in question which is stated as

5.07 hectares. In terms of site history, the application form indicates a planning history dating back to 1971 for the overall quarry site.

The area of 5.07 hectares relates to an estimated area of extraction outside of areas permitted and authorised by planning permissions.

An Bord Pleanála circulated the application to the following prescribed bodies;

- Development Applications Unit (DAHG);
- Bord Fáilte;
- The Heritage Council;
- An Chomhairle Ealaíon;
- The Eastern Regional Fisheries Board;
- The Department of Communication, Energy and Natural Resources;
- An Taisce;
- HSE;
- Irish Water.

7.0 SUBMISSIONS.

7.1 LOCAL AUTHORITY SECTION 177 I REPORT.

7.1.1 The report refers to the Section 261A review of the quarry and the determinations made. The application for substitute consent is reasonable based on the planning history and operations of the quarry to date. In relation to the current application for substitute consent the planning authority indicates that it has a number of concerns but these can be addressed by conditions and recommends conditions in relation to addressing the concerns.

7.1.2 The concerns relate to

- The influence of quarrying on groundwater.
- Waste management is not adequately addressed.
- There are issues in relation to traffic, to safeguarding cyclists and pedestrians in the area and also to the need for ongoing payment of a financial contribution to maintain the road network.
- Impacts on a recorded monument.
- The issue of restoration.
- The issue of dust and air quality.
- The future use and progression of the quarry in particular to more elevated areas of the landholding.

7.1.3 In relation to conditions there is concern in relation to the status of conditions of the imposed under section 261 in the context of the Section 261A process.

7.1.4 Reference is made to national, regional and local planning guidance, policy and objectives.

7.1.5 The report then outlines internal reports received in relation to the rEIS which outline comment and conditions.

7.1.6 The ecology report refers to the nature and time period of the surveys in relation to identification of species and habitats and to aspects of the data in relation to the connectivity of the site and designated habitats in particular the Wicklow Mountains SPA and in particular the peregrine falcon and merlin species.

Reference is made to the Brittas River discharges in the context of connectivity to the Poulaphouca Reservoir SPA.

7.1.7 In relation to surface water and groundwater reference is made to aspects of anticipated runoff and attenuation measures. A condition is suggested in relation to aspects of groundwater monitoring.

7.1.8 In relation to noise air quality and vibration reference is made the permitted periods of blasting and to limiting the hours of operation of the quarry.

7.1.9 In relation to landscape reference is made to increasing biodiversity on the site in the restoration phase; that the berms should be retained in terms of landscape enhancement and the wider overall landscaping of the site should set the context for landscaping and restoration.

7.1.10 In relation to waste management reference is made to a condition for a waste management plan.

7.1.11 In relation to traffic and transportation reference is made to existing road conditions to a traffic ban on the Ballinascorney Upper Road since 2004 and traffic is required to turn east and use this unsatisfactory road or turn west and pass through the village of Brittas and the local national school. Mitigation measures could include requiring HGVs travelling east and not west into Brittas village.

Mitigation measures to ban westward movement and to travel east are also referred to and that there are positive and negative implications in relation to both options. It is recommended that a part time ban could be implemented during peak drop off and collection times at the national schools. It is also recommended continued payment of the annual financial contribution provided for in SDQU05A/6 for a period of ten years be continued.

7.1.12 The report includes a schedule of conditions 42 in total including the following;

- The submission of a digital terrain model outlining areas excavated, areas prepared for excavation and areas that have been rehabilitated.
- Ongoing updating of the digital terrain model.
- Limitation on the life of the permission until and including the 30th of December 2019.
- Limitation on area of extraction.

- Limitation on hours of operation.
- Condition on noise levels, vibration and dust.
- Monitoring in relation to noise, vibration and dust.
- Details relating to key personnel staff for communication and consultation.
- The submission of an annual environmental audit.
- Provision for application of future changes and revised standards.
- Control of external lighting.
- The provision of advanced warning signs.
- The maintenance of the public roadway in the vicinity of the site.
- The provision of a wheel washing facility.
- Conditions in relation to surface water runoff and the control of surface water runoff.
- The implementation of a groundwater monitoring programme.
- Condition in relation to accidental spillages.
- Maintenance of settlement ponds.
- A plan for the management of waste including recording tyres and quantities of waste.
- A condition relating to the phasing of quarry operations.
- Conditions relating to landscaping and rehabilitation.
- Conditions in relation to archaeology.
- Traffic conditions including an annual contribution on road upkeep, a ban on HGV movements in the vicinity of Brittas NS in the morning and afternoon pickup periods.
- A general financial contribution on an annual basis stated as €64,000 per annum.

I would note that many of the conditions refer to the ongoing and future operations of the quarry and not specific to the area of substitute consent or works carried out during the period of excavation in the area of substitute consent.

7.2 OTHER OBSERVATIONS SUBMITTED

- 7.2.1 The applicant in a response to the S1771 dated the 8th of July indicates;
- The applicant notes that the planning authority considers the substitute consent application to be reasonable.
 - In relation to imposition of the conditions it is noted by the applicant that the substitute consent application is for development that has taken place and does not relate to future development.
 - Conditions imposed should therefore be within this context.
 - In relation to status of conditions imposed under section 261 this was a different process and section 261A is an additional legislative process drafted on foot of an ECJ relating to European Directives.

- Section 261A was not meant to supersede section 261 and the quarry continues within the consented area under section 261 and compliance with conditions imposed under section 261.
- In relation to the ecology report the surveys conducted have identified the species which would be typically recorded on the site and reflect the heathland habitat. The site outside of the 5 kilometre radius of the Wicklow Mountains SPA and although bird species are mobile the site is outside of the core ranges of the species identified for the SPA. Provision can be made in future restoration proposals for providing suitable potential breeding habitats.
- In relation to the Brittas River no changes in surface water quality are identified as having occurred or likely to occur and therefore the need to extend the zone of influence to the Poulaphouca Reservoir SPA.
- In relation to the submission on landscape and visual it is indicated that the restoration plan was prepared for the area of the substitute consent application but notes the overall comments in relation to restoration.
- In relation to traffic and transportation the quarry operated by the applicant is not the only quarry that uses the R114 regional road.
- The quarry is operating under the revised conditions imposed under section 261 (P.A. Ref. SDQU05A) and condition 36 and the applicant has carried out works and made contributions for road upgrade and maintenance works.
- No level of exceedance in permitted traffic has arisen from the unauthorised extension of the quarry and that no additional contribution should be levied over those required under condition 36.

8.0 PLANNING POLICY CONTEXT.

8.1 Quarries and Ancillary Activities Guidelines for Planning Authorities, DoEHLG 2004.

This document provides guidance to planning authorities on determining applications for planning permission for quarrying and ancillary activities. It notes the economic importance of quarries and envisages a sustained level of demand for aggregates to facilitate the provision of the infrastructure required to support continuing economic and social development and to maintain investment in the manufacturing and services sectors.

Being a location based resource aggregates can only be worked where they occur and it is generally neither economically nor environmentally sustainable to transport them at any great distance to their market due to increased transport costs.

Potential environmental impacts associated with quarries are outlined in chapter 3 and include noise and vibration, dust deposition/air quality, water supplies/groundwater including effects on the amount and quality of water, natural heritage, cultural heritage, landscape, traffic and waste management

of material arising from the process. Reference is also made to the preparation of a well-prepared Environmental Management System (EMS) as a valuable tool to assist the ongoing operation of quarrying and assist in integrating environmental management into daily operations, long-term planning and other quality assurance systems

8.1 Development Plan.

The current operative plan is the South Dublin County Development Plan 2010-2016.

The site is located within an area with the zoning objective H with the objective “to protect and enhance the outstanding natural character of the Dublin Mountains”. Extractive industry is open for consideration within the zoning but not permitted above 350 metres OD.

The quarrying operations which are the subject of this substitute consent also occurred during the period of the South Dublin County Development Plan 2004-2010. A similar zoning objective H “to protect and enhance the outstanding natural character of the Dublin Mountains” applied in relation to the substitute consent site. A similar restriction in relation to extraction above the 350 metre contour applied.

Both the 2004 and 2010 plans indicate policies and objectives on a range of matters and also guidance in relation to development management.

8.3 261A Guidance.

In addition guidance was issued to Planning Authorities by the DoECLG in relation to Section 261A of the Planning and Development Act, 2000 and related provisions in January 2012 to provide guidance on their implementation. Supplementary Guidelines for Planning Authorities in relation to Section 261A was subsequently issued in July 2012 clarifying some matters arising in the initial guidance.

9.0 PLANNING ASSESSMENT.

Under the provisions of Section 177 K(1) of the Planning and Development Act as amended, it is stated that where an application is made to the Board for substitute consent in accordance with the relevant provisions of the Act and any regulations made thereunder, the Board when making a decision in relation to the application, should consider the proper planning and sustainable development of the area and have regard in particular to the following matters:

- The provision of the development plan or any local area plan for the area. It is noted that there is no local area plan pertaining to the area.

- The provision of any special amenity area order relating to the area The Board will note that there is no special amenity area order relating to the site in question.
- The remedial Environmental Impact Statement and remedial Natura Impact Statement submitted with the application The Board will note that no remedial NIS was submitted or required to be submitted with the current application.
- The significant effects of the environment on a European site.
- The report and opinion of the planning authority under Section 177 (I).
- Any submission or observations made in it in accordance with the regulations.
- Conditions that may be imposed in relation to the grant of permission under Section 34 (4).
- The matters referred to in Section 143 of the Act.

Having regard to the provisions of Section 177 K(1) of the Act I consider the following issues are particularly relevant and pertinent to the determination of the application for substitute consent.

- Development plan policy;
- Environmental impacts with particular emphasis on water issues; air quality, dust, noise and vibration; ecological issues;
- Traffic;
- Visual impacts,
- Archaeology.

9.1 Development Plan Policy

As a preliminary matter it is considered appropriate that the Board assess the principle of the development in the context of the general objectives and policies set out in the development plan, and in particular those policies that relate to quarrying activity in the planning authority's administrative area.

The quarry is long established on the site dating back to 1971. The documentation submitted indicates that the area relating to this application for substitute consent was the subject of quarrying operation in the period May 2007 to January 2012. The provisions of both the 2004 and 2010 county development plans when quarrying occurred within the substitute consent area do not preclude extraction within the zoning objective in which the site is located and the site and quarried area is below the 350 metre OD height limit above which quarrying and extraction is specifically excluded.

I note that the planning authority have not raised any objections to the application for substitute consent on the grounds that it would overtly contravene any of the policies and objectives contained in the development plan. There are other policies and objectives in the developments to protect or to ensure quarry development does not adversely impact on views or prospects in the surrounding area; does not affect the integrity of qualifying

interests associated with European sites; protects the character of the landscape; provides for restoration and rehabilitation of sites; does not impact in any areas of significant archaeological potential and does not adversely impact on the receiving environment in relation to water air and general impacts.

These issues will be considered under separate headings if relevant in this report. It is important to state at this preliminary stage that there appears to be nothing in the relevant county development plans which specifically precludes the operation of a quarry at this particular location.

The principle of quarrying at this location is deemed to be acceptable subject to satisfying qualitative criteria set out in the development plan and the application for substitute consent will be analysed in the context of the information submitted with the substitute consent application and remedial EIS.

9.2 Environmental Impacts

9.2.1 Water Issues

Section 6 of the rEIS relates to surface water and groundwater. By way of initial comment the development has resulted in the removal of rock and the overlying soil which is addressed in section 5 of the rEIS which relates to soils and geology and which describes the nature of the soils and geology of the site and immediate area and consequently as a result of these works potential impacts could have arisen and continue to occur. The rEIS It is noted also indicates that in relation to direct impacts the nature of the development in the substitute consent area has entailed the removal of soil and subsoil material, and the subsequent excavation of a small area of underlying bedrock.

It is indicated in the rEIS that the development has not and will not have an indirect impact on the geological aspects of the environment outside the substitute consent area or that soils on adjoining lands has not and will not be impacted as a result of the works which have occurred within the substitute consent area.

Removal of material and altering of site levels can however potentially impact on the water environment. The site is within the catchment of the Brittas River and in an area characterised by low recharge and consequently has a high surface run off after rainfall. The rEIS indicates there are no surface water inflows onto the site and water from the adjacent lands runs off into ditches and drains which discharge to the Brittas River in a southerly direction. Water within the site arises from rainfall and some minor level of recharge within the active quarry.

There is an overall water management system on the site which includes the area which is the subject of substitute consent. When the area was the

subject of extraction the substitute consent area would have been an integral part of the overall management system. The substitute consent area of the site, when excavated, would therefore have been part of the operations of the overall quarry site where a water management system was in place. Within the overall site water discharges to a settlement pond located in the southern area of the site which is close proximity to the processing area. The level of this pond is lower than the level of the quarry floor.

There is provision during prolonged and heavy rainfall events to permit water to pond on the active quarry floor as an attenuation measure and then subsequently pumped to the southern settlement pond. Excess water from the settlement pond is discharged off site. Monitoring of wells in the vicinity of the quarry would appear to indicate minimal drawdown and impact on groundwater outside of the site.

In relation to impacts during excavation and possible residual impacts any water including dirty water arising in the substitute consent area is interlinked to a water management system for the overall extraction area and site. Water arising in the extraction area would have had a higher particulate matter and suspended content and if permitted to directly enter a watercourse would have had a potential adverse impact on the water quality of the receiving water.

Surface water from roads and hardstanding areas is diverted to the pond and there is provision for interceptors for oils and hydrocarbons and storage bunds prior to discharging to the pond. Potable water for staff facility was and is obtained from a well under a different system.

Examination of the bedrock and information contained from GSI (figure 5-3 of the rEIS) and assessment of hydrology in section 6 of the rEIS would suggest that only a small portion of rainfall can and does permeate its way into the groundwater system due to the lack of permeability of the bedrock and the nature of the soil.

Given the nature of the geology, water quantities in the substitute consent area arise therefore from surface flows and rainfall with minimal impact on groundwater notwithstanding the lowering of ground levels. The information submitted also does not indicate a wide area of drawdown or a cone of depression arose from the area of extraction. Given the nature of the area of extraction in the substitute consent area potential pollution of water from oils and hydrocarbons were, I consider, negligible but as water was gathered and continues to gather and discharge to a settlement pond further south on the overall site there is provision for interceptors as part of the overall management system to address accidental spillages.

In effect therefore the surface water flows arising on the substitute consent site pre extraction ultimately via drains found a way to the Brittas River. Post extraction water now finds its way to the quarry floor and is incorporated into a

water management system which is diverted to a settlement pond and discharged via a buried pipe to the Brittas River with mitigation measures in situ and attenuation measures if required in the event of extraordinary rainfall events and flows. There is also ongoing monitoring of the outflow and water quality sampling upstream and downstream of the site on the Brittas River do not indicate any significant change in water quality (table 6-4 of the rEIS).

In conclusion therefore I am satisfied that the operations on site to date and specifically arising from operations within the substitute consent area have not posed a significant threat to the water quality of the area during the period of extraction and there is no evidence of residual adverse impacts. With the continued implementation of appropriate environmental measures and the incorporation of the mitigation measures as set out in the rEIS the proposal has not adversely impacted on the water environment. Ongoing monitoring is desirable in relation to any potential residual matters arising.

9.2.2 Air quality, Dust, Noise and Vibration.

Sections 7, 8 and 9 of the rEIS specifically address the issues of air quality, noise vibration and dust.

In relation to air quality the identifiable impacts arising in relation to the quarry operations are fugitive dust emissions arising from transport internally of material, removal and recontouring of soil and overburden, and excavation of rock. The screening of excavated material did not and does not occur in the area of substitute consent. Working within areas where soil is removed exposing base surfaces can result in dust particles transferring and moving in the air. These potential impacts are identified in the rEIS. The issue arises as to whether the fugitive emissions impact on sensitive receptors in relation to human beings, water bodies and ecology.

Being an active quarry there is ongoing dust monitoring data built up over a period of time dating back to March 2005, which would include the period May 2007 to January 2012 when the substitute consent area excavated. The monitoring data in relation to the overall quarry site is outlined in Appendix 8-C of the rEIS and further studies were undertaken as part of the rEIS. In relation to dwellings a total of 14 dwellings were identified within a kilometre radius with further in-depth quantitative assessment carried out in relation to what was identified as the 6 most sensitive receptors in the absence of mitigation measures and with mitigation measures

It is noted that mitigation measures are in place for the overall site including the area of substitute consent. Arising from ongoing monitoring carried out at the perimeter of the site the levels of dust deposition have been measured since March 2007 and have complied with and has not exceeded the limit value set out in the Quarries and Ancillary Activities Guidelines for Planning Authorities, DoEHLG 2004, where a limit value of 350mg/m²/d is indicated (Appendix 8-C of rEIS).

In relation to air quality and dust, therefore, I am satisfied that the operations on site to date did not and have not posed a significant impact or residual impact to the air quality of the area and that with the continued implementation of appropriate environmental measures as set out in the rEIS that the proposal would not have an adverse impact. I would also note that the area of substitute consent is located at furthest distance from sensitive receptors identified and located in the area.

With regard to noise and vibration as the quarry is a rock quarry in addition to noise associated with extraction, movement of vehicles internally and to and from the site and processing there is also ongoing instances of blasting and these would be the identifiable impacts. These impacts have arisen within the area of substitute consent and the works within the substitute consent area would have also impacted on other areas of the quarry as material was drawn to other areas of the site and ultimately transported off the site in HGVs.

Being an active quarry the site has been the subject of ongoing monitoring both in relation to noise generally and also blasting where in relation to blasting every blast since 2005 has been monitored at neighbouring residences identified on figure 9-1 of the rEIS with the results indicated in appendix 9-C of the rEIS. The results indicate compliance in relation to the condition as set out in the registration of the quarry under Section 261 P.A. Reg. SDQU 05A/06 and DoEHLG 2004 guidance and EPA 2006 guidance.

In relation to other generation of noise ongoing monitoring of noise has occurred in the context of mitigation measures on the site which include operational measures and the use of screening berms on the site perimeter. It is noted that the area of substitute consent is at the northern end of the overall quarry furthest distant from identifiable sensitive receptors.

Arising from ongoing monitoring carried out at the perimeter of the site the noise levels of 55 dB(A) L_{Aeq} (1 hour) are it would appear complied with based on the monitoring occurring at the site boundary and comply with the condition as set out in the registration of the quarry under Section 261 P.A. Reg. SDQU 05A/06 and DoEHLG 2004 guidance and EPA 2006 guidance

In conclusion therefore it appears that the quarry operations which were undertaken on site have not and do not give rise to significant noise levels in the immediate vicinity of the quarry and it would also appear that the noise environment is generally acceptable and did not significantly impact on the amenities of the area.

The site is on the basis of permissions granted under section 261 and other permissions subject to ongoing monitoring in relation to both noise and blasting. Mitigation measures are in place and no additional remedial measures in the way of mitigation measures are proposed by the applicant

based on the results of ongoing monitoring and I would not have an issue with this.

9.2.3 Ecology

Section 4 of the rEIS assesses ecology and provides a summary of the Ecological Impact Assessment (EclA) conducted by the applicant. The 5.07 hectares area was the subject of a habitat survey details of which are outlined in figure 4-2 of the rEIS. The dominant and overwhelming habitat found within the site is characterised as “ED” active quarries; exposed rock and bare ground with also minor areas of scrub and conifer woodland adjoining the northern boundary. No record of protected, rare or notable flora species was recorded. In relation to fauna no listed species were identified on the site. Its proximity to forestry was noted and that species using the forestry habitat may visit the site but the site itself offered limited opportunities for these species given the bare nature habitat of the ground and the level of disturbance arising in the area and this position was unlikely to significantly change.

The site is not within or in close proximity to a Natura 2000 site. The substitute consent area also adjoined an active quarry dating back to 1971 which in relation to fauna would indicate a level of disturbance to the site and area from human activity and activities associated with a working quarry.

Although not specifically stated in the rEIS, it is assumed that the quarry has removed the previous habitat on site which, it is assumed was similar to the surrounding landscape which predominantly comprises of agricultural land typically consisting of open fields under permanent pasture interspersed with blocks of coniferous woodland on steeper slopes and on areas of higher ground.

These habitats are not a designated habitats or form part of the qualifying interests of any Natura 2000 sites in the vicinity. It would appear reasonable to assume that any quarrying activity which has occurred post 1990 on site may have removed similar habitat to that prevailing in the surrounding area. This habitat it is likely would have been of greater ecological interest than what prevails at present on the application site, but the site and the surrounding area did and does not contain an ecological habitat to warrant its designation as a European site. Older O.S. maps would indicate that the site historically was similar to adjoining areas.

The rEIS does evaluate potential impacts in the context of noise, vibration, human activity, dust deposition, groundwater, surface water and water quality arising from the quarrying operations on the receiving landscape and habitats and also in relation to sensitive receptors habitats such as the nearest Natura 2000 sites Wicklow Mountains SAC and Glenasmole Valley SAC and also pNHAs Glenasmole Valley pNHA, Slade of Saggart and Crooksling Glen pNHA and Lugmore Glen pNHA.

In relation to designated sites it is indicated that all of the designated sites are of a sufficient distance away from the quarrying operations that no significant changes in baseline levels attributable to quarrying operations at this quarry are likely to have occurred arising from dolerite extraction from the substitute consent area. In relation to water generally the rEIS considers that with no obvious hydrological pathways linking these sites to the quarry no significant changes in the hydrological regimes of these sites are likely to have occurred or are predicted to occur as a result of the unconsented quarrying operations at Ballinascorney Quarry.

I would note that in ABP Ref.No.09.QV0154, which was an application for review of the determination by South Dublin County Council decision to seek an application for substitute consent accompanied by an EIS and NIS, the Board in its decision confirmed an application for substitute consent accompanied by an EIS only and set aside the decision for an NIS.

The extent to which what habitat was removed by quarrying activity cannot be fully ascertained but based on my assessment above and relying on the contents in the rEIS, I can only conclude that the removal of the previous habitats to facilitate the quarrying would not have had a significant adverse environmental impact as the previous habitat did not merit or warrant designation as a European Site and there is nothing to suggest that that its removal had or continues to have a significant adverse environmental impact on an European site or on flora and fauna generally.

I note the reference in the Section 177 (l) report to designated avian species potentially occurring in the vicinity of the site and that cliff faces remaining post excavation may provide suitable habitat. Given the mobile nature of birds movement outside of a SPA is likely to occur and the site may provide a future attractive habitat for certain bird species and this is a matter can be considered in future restoration processes and proposals.

9.3 Traffic

Section 13 of the rEIS assesses traffic and in relation to traffic generation arising in the period 2007 to 2012 when extraction occurred in the substitute consent area in a period of low demand for material and as the demand for aggregates is market driven the operation of the unauthorised development did not effect an increase in the rate of aggregate extraction in that period.

The demand for material if not extracted from the substitute consent area could the rEIS states have been met from other areas of the quarry. As a consequence no additional impact of the road network and identified haul routes to the main markets, principally from the R114 to the N81, or additional traffic generation occurred as a result of the extraction within the substitute consent area.

In the S177(I) report in relation to traffic and transportation reference is made to existing road conditions in the area and to the ongoing issues relating to HGVs on the road network. There is reference to temporary restrictions on the road network during school drop off and collection periods and to continuance of the payment of the annual financial contribution provided for in SDQU05A/6 for a period of ten years.

The applicant's response makes reference to the distinction between S.261 and S.261A and that the quarry is operating under the revised conditions imposed under section 261 (P.A. Ref. SDQU05A) and that the applicant has carried out works and made contributions for road upgrade and maintenance works. It is also indicated that no level of exceedance in permitted traffic has arisen from the unauthorised extension of the quarry and that no additional contribution should be levied over those required under condition 36.

In considering the substitute consent the issue to be addressed is the period when the area was excavated and I would agree with the overall conclusions set out in the rEIS in relation to traffic and consequent impacts identified. There is provision for the annual payment of a contribution to the improvement and maintenance of the public road network affected by the quarry for a period of 10 years by way of condition in the section 261 registration which would have equated with the period when the substitute consent area was excavated as part of the overall quarry operation.

I do not consider in the overall context that the traffic generated by the development within the substitute consent area when fully operational had a significant impact on the local road network or the wider regional road network. It is reasonable to consider that if the area of substitute consent was not used in any form of extraction of material similar quantities could have been extracted elsewhere in the overall quarry as occurred before during and subsequent to the works within the area of substitute consent so the overall impacts arisen would not have been greater or significant. I do not consider that further financial contribution in the context of the current consent is appropriate.

9.4 Visual Impact

Section 10 of the rEIS assesses landscape and visual impact. To put the matter in context the area of substitute consent relates to an area of 5.07 hectares which is part of larger quarry. The area relating to the substitute consent as stated in the rEIS was excavated in the period 2007 to 2012 and being recent operations the overall potential impact is as a consequence potentially more visible and raw in visual terms. The area relates to the northern extension of the quarry operation and is in the higher section of a hillside rising northwards from the public road. This increases potential visibility but it also has to be considered in the content of an area of a larger excavation.

In relation to visual impact the removal of rock and other material represents a permanent impact on the landscape with the creation of cliffs and visual scarring on the hillside. The area would appear to have been in part a forestry area and the quarrying operations removed the trees and other vegetation cover.

The site is not, however, readily visible from a wide area given the nature of the surrounding landscape and topography. The area is part of a valley and views of the site are screened from the south by Butter Mountain. The site is not visible from the north and views of the site from the west and from the east from the R114 are limited given the nature of the contours. The site is only visible from the R114 in the immediate vicinity of the site.

There is a distant view of the site from the R579 Kilbride road in the immediate proximity of the junction with the N81 and the entrance to Lisheen Springs Golf Club. The site and in particular the scar faces within the substitute consent area are not readily visible from any views and prospects stated in the current South Dublin County Development Plan.

It is difficult to fully evaluate landscape impact retrospectively but in overall terms the topography of the overall quarry development and area, as well as the receiving surrounding landscape are mitigating factors in reducing the visual impact of the site. The small extent of the substitute consent site has I consider resulted in a low landscape impact and it represents a portion of a wider area of excavation.

I would note that a restoration plan was prepared, as part of the rEIS to reduce the visual impact of the development in the long term. The plan provides for the restoration of the previously stripped land to the north and east of the quarry void to agricultural land and for the planting of a band of native trees on the quarry bench located within the substitute consent site. The overall effect will if implemented soften the appearance of the north-eastern quarry face. The S177 (I) does recommend a form of evolving restoration and retaining the berms and the applicant's response notes the overall comments in relation to restoration in relation to future revisions of restoration proposals for the quarry

I can only therefore conclude that currently the quarry does not have a significant adverse impact on the visual environment when viewed from different locations in the vicinity. In addition assuming that the quarry is at its maximum extent since quarrying operations began, I can only conclude that in the period between 1990 and the present the quarry and in particular the area of substitute consent, is unlikely to have had a significant environmental impact from a visual perspective, in the context of other excavation works immediate to the site which of a larger scale and extent and also the relatively long established nature of those works dating back to 1971. In effect the works carried out were carried within an area already the subject of major visual change and alteration.

9.5 Archaeology

Section 11 of the rEIS relates to Cultural heritage. The rEIS indicates that there are no recorded monuments or sites of archaeological interest within the substitute consent site. The nearest archaeological sites is located 90 metres to the northwest and that site appears to have been levelled during the planting of forestry and not by actions related to activities on the site. Historical information including maps and a previous EIS on the remainder of the quarry indicates an absence of archaeological sites within the substitute consent area. There is no indication that based on the information submitted on the file or in the EIS that the quarrying activities which took place subsequent to 1990 in any way impacted upon any archaeological features within the site or on any aspect of cultural heritage.

10.0 APPROPRIATE ASSESSMENT

I would note that in ABP Ref.No.09.QV0154, which was an application for review of the determination by South Dublin County Council decision to seek an application for substitute consent accompanied by an EIS and NIS, the Board in its decision confirmed an application for substitute consent accompanied by an EIS only and set aside the decision for an NIS.

11.0 ENVIRONMENTAL IMPACT ASSESSMENT

I have read the entire contents of the rEIS and I consider that the rEIS submitted complies with the requirements of Articles 94 and 111 of the Planning and Development Regulations 2001, in that it contains the information specified in Schedule 6 of the Regulations and that the information is presented in an adequate manner.

The rEIS sets out a description of the existing quarry in the substitute consent area and its relationship to the adjoining quarry area not within the area of substitute consent and identifies and describes the likely significant direct and indirect effects which were likely to have occurred as a result of the quarrying activity in the period between 1990 and the present date. I further note that the EIS attempts to assess in a comprehensive and robust manner the environmental impacts arising from the activities on the site.

The environmental impact has been properly assessed in relation to:

- Human beings.
- Flora and fauna / ecology
- Soils and Geology.
- Surface water and groundwater.
- Climate.
- Air quality.
- Noise and vibration.

- Landscape and visual.
- Cultural heritage.
- Material assets.
- Traffic and transportation and
- Finally the EIS assesses the proposed development in the context of the interaction of the foregoing.

The rEIS assessed the potential likely effects on the environment under each of these headings and sets out specific mitigation and remedial measures where necessary and appropriate in order to reduce and offset any potential environmental impact. I am therefore satisfied that the remedial EIS as submitted meets the statutory requirements as set out in Section 171A of the Act and Schedule 6 of the Planning and Development Regulations. I would also conclude based on the information contained in the EIS that the residual effects arising from the quarrying operations on site are deemed to be acceptable in the context of potential environmental impacts.

12.0 CONCLUSIONS AND RECOMMENDATIONS

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

REASONS AND CONSIDERATIONS

The Board had regard, inter alia, to the following:

- The provisions of the Planning and Development Acts 2000 to 2014 Part XA in particular.
- Quarrying and Ancillary Activities: Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government (April 2004).
- The provisions of the current South Dublin County Development Plan 2010-2016 and the provisions of the South Dublin County Development Plan 2004-2010.
- The Remedial Environmental Impact Statement submitted with the application for substitute consent.
- The report and the opinion of the planning authority submitted under Section 177 I.
- The report of the Board's Inspector including in relation to the potential significant effects on the environment.

- The site's planning history including the enforcement, registration and quarry review history of the subject site
- The pattern of development in the area.
- The nature and scale of the development the subject of this application for substitute consent.

The Board completed an Environmental Impact Assessment in relation to the development in question and concluded that the remedial Environmental Impact Statement submitted identified and described adequately the direct and indirect effects on the environment of the development. The Board considered that the EIS was satisfactory in addressing the environmental effects of the development during the period of excavation works and also agreed with its conclusions in relation to the acceptability of mitigation measures proposed and the residual effects that the development would not be likely to have or have had a significant effect on the environment.

Having regard to the acceptability of the environmental impacts as set out above, it is considered that the subject development, subject to compliance with conditions set out, is not contrary to the proper planning and sustainable development of the area.

CONDITONS

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application, submitted on the 11th day of December, 2014, except as otherwise may be required to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be in accordance with the agreed particulars.

(b) The grant of substitute consent relates only to past quarrying that has been undertaken as described in the application and does not authorise any structures or any future development on this site, including excavation, unless authorised by a prior grant of planning permission.

Reason: In the interest of clarity.

2. All environmental mitigation measures identified within the remedial Natura impact statement, remedial Environmental Impact Statement and associated documentation shall be implemented in full, save as may be required to comply with the conditions set out below.

Reason: In the interests of the conservation of the environment.

3. Within six months of the date of this order, details shall be submitted to, and agreed in writing with, the planning authority in relation to the on-going monitoring of surface water quality and of ground water.

Reason: In the interest of the conservation of the environment.

- 4 The implementation-stage details of the restoration of the quarry outlined in figure 2.2 of the rEIS shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this order, and shall include the following:
 - (a) details relating to the finished gradients of the quarry face,
 - (b) the control of dust emissions until such time as the restoration is established,
 - (c) a scheme of landscaping and tree and other species planting,
 - (d) details of security fencing,
 - (e) proposals for an aftercare programme of five years,
 - (f) The retention of the existing berms on the perimeter of the site and
 - (g) a timeframe for implementation, including proposals for phasing of the restoration works.

Reason: In the interest of protection of the environment, landscape and public safety

- 5 Within six months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory restoration of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

Derek Daly,

Senior Planning Inspector.

20th July, 2015.