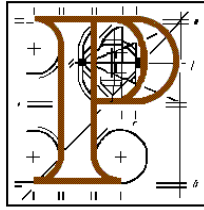


# An Bord Pleanála



## Inspector's Report

**Appeal Reference:** SU12.SU0133

**Development:** Rock quarry at Liscuillew Upper, Drumkeerin, Co. Leitrim.

### Planning Application

Planning Authority                      Leitrim County Council.  
Planning Authority Reg. Ref.      QR01  
Applicants:                                  Sandlewood Ltd.  
Type of Application:                      Application for substitute consent  
Date of Site Inspection:

**Inspector:** Donal Donnelly

**Appendices:** Photographs & maps

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The subject quarry is located in the townland of Lisculle Upper in Co. Leitrim approximately 3.5km south of the village of Drumkeeran. Access to the site is from the R280 Regional Road via narrow and winding local roads that continue up gradient for approximately 3km from the junction with the R280 to the site entrance.
- 1.2 The site sits on the north-eastern slopes of Seltannasaggart or Corry Mountain (426m OD) at an elevation of c. 280m OD. Lough Allen, with a surface level of c. 50m OD, is located approximately 2.7km east of the site. There are panoramic views from the site to the east over Lough Allen and Slieve Anierin in the background. The quarry is set in an upland landscape comprising mostly of marginal agricultural lands, forestry and heath.
- 1.3 The quarry is situated between two streams that merge to the east to become a tributary of Owengar River which flows into Lough Allen. To the rear (west) of the quarry as close as 140m is Corry Mountain Bog NHA. The nearest dwelling is approximately 50m to the east and there is another dwelling c. 230m to the north of the site boundary.
- 1.4 The width of the quarry void is shown on drawings to be approximately 312m at its widest from east to west. From north to south the void measures up to 113m. I have measured the area of the quarry from drawings to be 2.3 hectares. There are settlement ponds outside the site boundary in a rehabilitated area to the north of the site. The access lane to the quarry continues up-gradient to the quarry entrance and the quarry is screened from the public road by the rising topography. At the time of my site visit, the quarry was operational.

## **2.0 DESCRIPTION OF PROPOSAL**

- 2.1 By order dated 14th June 2013 the Board confirmed the decision of Leitrim County Council in respect of a quarry development made under Section 261A(3)(a) of the Planning and Development Act, 2000 (as amended). No application for substitute consent was submitted to the Board within the requisite 12 week period. The applicant requested the Board to consider an extension of time to apply for substitute consent and the Board duly declined.
- 2.2 The matter became the subject of High Court proceedings and the Judge determined that Section 177E(4) of the Act does not prohibit the Board from considering whether or not to grant an extension of time after the 12 week period has expired. The matter was remitted back to the Board and it was decided to grant the applicant an extension of time for making the substitute consent application and preparing a Remedial Environmental Impact Statement.

- 2.3 The applicant advised the Board that they intended to make a direct application for prospective development to the Board in accordance with Section 37L (4) of the Planning and Development Act, 2000 (as amended). However, the applicant did not submit an application for further development within 6 weeks of the application for substitute consent and therefore the Board will now proceed to determine the substitute consent application as lodged.
- 2.4 The substitute consent application relates to an area of 2.3 hectares comprising an existing rock quarry where extraction and processing of dimension/ building stone and by products takes place. Extracted material unsuitable for dimension/ building stone is screened and crushed for two days per week into decorative chips and sand. No blasting occurs and the extraction process involves the use of tracked excavators with excavation buckets to remove overburden to access rock strata beneath. The extracted material is stored on the quarry floor prior to processing. Suitable stone is altered by guillotine within the processing building and placed into 1 tonne bags or pallets for delivery. Other plant used on site includes a screener, impact crusher, 3 no. track machines, loading shovel, rock breaker, bucket crusher, guillotine and forklift. The current annual tonnage from the quarry operation is approximately 55,000 tonnes and this is similar to historical extraction rates.
- 2.5 Surface and process water is recycled and passed through a system of lagoons before discharge to the watercourse along the northern boundary of the site. A discharge licence has been issued for the disposal of settled rainfall runoff from the existing sandstone quarry to surface waters. The quarry does not operate below the water table.
- 2.6 The quarry employs six staff and operating hours are between 08:00 and 18:00 Monday to Friday and 08:00 to 16:00 on Saturdays. There is a dry canteen and office located within the site and water supply is from 2 no. rainwater harvesting tanks. There is no mains water supply.
- 2.7 The application is accompanied by a remedial Environmental Impact Statement (rEIS). This document describes the development the subject of this application in more detail and includes an assessment of the existing environment, impact assessment and mitigation/ remedial measures.

### **3.0 REMEDIAL ENVIRONMENTAL IMPACT STATEMENT**

- 3.1 A Remedial Environmental Impact Statement (rEIS), presented in four sections, was submitted in support of the application for substitute consent. Section 1 of the rEIS includes a site description; Section 2 comprises a description of the receiving environment; Section 3 identifies the likely significant impacts that have occurred, are occurring or are likely to occur, together with the remedial measures implemented, or are currently being implemented; and Section 4 provides a description of existing mitigation measures and recommended mitigation measures.

- 3.2 There are assessment chapters in the rEIS on human beings; flora and fauna; soils and water; air, dust and climatic factors; environmental noise; vibration; landscape and restoration; traffic; and archaeology and cultural heritage. The assessment chapters are summarised from the Non-Technical Summary as follows:

Human beings

- 3.3 It is stated in the rEIS that the quarry's small workforce will not put a strain on the services provided at Drumkeeran, the nearest town. The quarry has/ is generating little traffic, with on average only nine loads leaving the site daily. The Miner's Way, a historical walking route, passes close to the quarry and it is considered that the visual impact of the quarry thereon would be negligible.
- 3.4 Overall, it is considered that the infrastructure in the area can cope with the operations at the quarry and that there would be no negative impact on the socio-economics of the area.

Flora & fauna

- 3.5 The quarry is 150m east of Corry Mountain Bog NHA. There are no direct links to any European sites within 7.5km of the site.
- 3.6 It is stated that there has been no significant negative impact to local habitats and no species of national or international interest were identified within the quarry or in proximity to it.
- 3.7 Dry and wet heath have been impacted upon; however, it is noted that there is ample availability of alternative habitats. Worked areas have been rehabilitated to their previous habitat.
- 3.8 It is stated that no impact has or will occur on the aquatic life of the surface water system in the area due to mitigation measures. Water quality at the EPA Owengar monitoring station had a Q4 rating in 2011 and a WFD status described as "good". Groundwater was also classified as being of "good status" and not at risk.

Geology & hydrogeology

- 3.9 Sandstone is being extracted from the quarry belonging to the Lackagh Sandstone Formation and the quarry floor is in contact with the Gowlaun Shale Formation.
- 3.10 The nearest quarry to the site is c. 2km to the north-east. An abandoned coalmine c. 2.5km south-west of the site has been nominated as a County Geological Heritage Site.
- 3.11 The quarry and surrounding area drains to the Owengar River and eventually into Lough Allen. No active dewatering is being carried out at the quarry and no significant Quaternary Aquifers are reported in proximity.

- 3.12 The formations have been provisionally classified as “bedrock which is generally unproductive except for local zones”. Bedrock aquifers under the site have an extreme vulnerability and groundwater is considered to be probably not at significant risk for abstraction and saline intrusion, point pressure and diffuse pressure. A well survey for the rEIS recorded six private wells and one spring along the local road used as sources of water supply.
- 3.13 The rEIS concludes that there has not been and there is unlikely to be any adverse impacts on the quality and quantity of water supply in the area due to the quarrying activities. It is noted that surface water run-off is collected by interceptor drains and directed towards the primary treatment lagoon and then to settlement lagoons via an oil interceptor. A number of discharge licences have been granted by Leitrim County Council and the conditions of these licences have been complied with.

*Air, dust and climatic factors*

- 3.14 It is considered that the quarry has a low inherent potential for generation of airborne dust due to the nature of the sandstone material and the minimal crushing of rock undertaken at the quarry.
- 3.15 Analysis of fugitive dust deposition rates show these to be below international limits, with the maximum level recorded at the boundary being 182mg/m<sup>2</sup>/D and as low as 33mg/m<sup>2</sup>/D.
- 3.16 Modelling of fine particle particulate matter found these levels to be insignificant at the nearest houses. Pollutant levels due to diesel powered equipment at the nearest houses were also found to be negligibly low. It is stated that incorporation of standard dust mitigation measures ensures negligible residual impact.

*Noise*

- 3.17 Noise levels at the nearest house to the east were determined to be well within acceptable standard limits with all quarry equipment operating. There is no line of sight to the nearest dwellings and there is significant acoustic screening due to the elevated nature of the quarry.
- 3.18 The EPA’s “Environmental Management in the Extractive Industry (Non scheduled minerals)”, 2007 publication specifies a guideline daytime noise limit of 55 dB(A) and it is concluded that the quarry operates within this limit under worst case conditions with all items of equipment operating and receptor locations downwind.
- 3.19 Noise measurements taken by different consultants over a number of years indicate that levels at the nearest noise sensitive locations are well below industry standard.

- 3.20 Quarry traffic is stated to be infrequent with average levels at the houses to the north calculated to be 49 dB(A). It is noted that quarry traffic does not pass the nearest house to the east.

Vibration

- 3.21 No blasting has taken place in the quarry and is unlikely to take place. The rock breaker truck movements do not produce significant levels of vibration.

Landscape and restoration

- 3.22 Viewpoints chosen for the visual assessment of the quarry include the R280 between Drumshanbo and Drumkeeran; dwellings in the vicinity; preserved views; amenity areas; Miners Way and Leitrim Way; Kingfisher Cycle Trail; and Drumkeeran village.
- 3.23 It is judged that the quarry has a minimal effect on the general appearance of the landscape and views from around Lough Allen, and this highlights that the visual impact of the quarry is negligible.
- 3.24 Human activity in the area including forestry, peat cutting, mining, communications, road infrastructure, agricultural practices, wind farming, etc. have created a landscape already much influenced by human activities. It is concluded that the existence of the quarry does not necessarily detract from the existing value of the landscape and that the visual impact is subjective.

Traffic

- 3.25 It is stated that the L4283 local road is used by quarry traffic to connect to the R280. Traffic generated by the quarry is low and all roads are operating with spare capacity. Safety improvements at the site access have previously been carried out.

Archaeology

- 3.26 Nothing of archaeological significance was discovered from examinations of OSi mapping, the Record of Monuments and place and history and documentary sources, together with a walk-over survey of the quarry.

## **4.0 PLANNING HISTORY**

Leitrim County Council Reg. Ref: 1024

- 4.1 Stonefacings Ltd. were granted permission in April 1969 to erect a factory on the quarry site without conditions.

Leitrim County Council Reg. Ref: 1329

- 4.2 Stonefacings Ltd. applied for permission in February 1970 to erect a crushing plant at Liscullew Quarry. The Planning Authority advised the applicant that planning permission was not necessary.

Section 261 Registration – Ref: QR1

- 4.3 The quarry was registered with conditions imposed on its operation on 3<sup>rd</sup> April 2007.

Leitrim County Council Reg. Ref: 08/260

- 4.4 An application by James McPadden to retain an existing quarry was invalidated on 11th December 2008. The development included a portacabin for office and staff, staff toilet, and collection of stormwater and pollution control measures to include oil interceptor and settlement lagoons. Permission was also sought for the proposed installation of a new proprietary effluent treatment plant and polishing filter.
- 4.5 This retention application was invalidated as a result of the European Court of Justice Decision C-125/06 relating to retention planning permissions for developments requiring EIA. A second application submitted in January 2009 was declared invalid for the same reason.
- 4.6 The application was preceded by a Circuit Court Order of 19<sup>th</sup> December 2007 relating to the case of Dacre Munro and Sandlewood Ltd. and James McPadden trading as Drumkeeran Stone. The Court found that quarrying activities at the site constituted unauthorised development that commenced within a period of 7 years prior to the date of bringing of the application. The Defendant was consequently ordered to submit a valid application for retention of the unauthorised quarrying activities.

Leitrim County Council Reg. Ref: WPL/08/01 (PL12.WW.0379)

- 4.7 A third party appeal by Dacre L. Munroe was lodged against the Decision of the licensing authority, Leitrim County Council, to grant a S4 discharge licence for disposal of settled rainfall runoff from an existing sandstone quarry to surface waters.
- 4.8 On 8<sup>th</sup> December 2009, the Board decided to refuse the appeal and directed the local authority to grant the licence and to amend a condition of the licence reducing the BOD<sub>5</sub> limit.

Leitrim County Council Reg. Ref: QR.01 (PL.QB0058)

- 4.9 A quarry notice review was received by the Board on 3<sup>rd</sup> October 2012.

Leitrim County Council Reg. Ref: QR.01 (PL12.QV0011)

- 4.10 A quarry review was requested by Dacre L. Munroe and by Sandlewood Ltd. of a determination by Leitrim County Council under Section 261A of the

Planning and Development Act, 2000 as amended by the insertion of section 75 of the Planning and Development (Amendment) Act 2010, and as further amended by the European Union (Environmental Impact Assessment and Habitats) Regulations 2011 and European Union (Environmental Impact Assessment and Habitats) Regulations 2012. The Board confirmed the Council's determination that:

- development was carried out after 1st day of February, 1990 that would have required an environmental impact assessment, but that such an assessment was not carried out.
- (i) the quarry commenced operation before the 1st day of October, 1964, and that (ii) the requirements in relation to registration under section 261 of the Planning and Development Act, 2000, as amended, were fulfilled.

Leitrim County Council Reg. Ref: QR.01 (PL12.SH0230)

- 4.11 The Board granted an extension of the period for the making of the substitute application for four months.

## **5.0 SUBMISSIONS BY PRESCRIBED BODIES AND OTHERS TO AN BORD PLEANÁLA**

Environmental Health Service Consultation Report (HSE)

- 5.1 This report comments on environmental health impacts of the development as outlined in the rEIS and the adequacy of the rEIS from an environmental health viewpoint. The following is a summary of the observations and submissions received on matters of consultation, surface and groundwater, air quality, noise and site decommissioning:

- Submitted rEIS outlines the principles and description of the project quite clearly.
- rEIS outlines the existence of a Surface Water Discharge Licence controlling discharge from this facility.
- Non-technical summary is considered adequate although short on detail and data.
- Information on description of physical environment appears to be largely desktop obtained. There is a paucity of information in the area of surface water and groundwater data.
- Clarification is required in relation to the ultimate fate of sediment produced from the settlement of surface water and possibly from process water within the various lagoons.
- Chemical flocculation is used but not referred to in any detail in the rEIS - chemical make-up of sediment/ sludge, and whether it is to be stored or



removed from site, as well as safety and protective measures should be clarified. Any historical disposal of sludge/ sediment should be outlined.

- No quantitative data in relation to groundwater is noted – definitive number of wells in the immediate area is unclear and no well water monitoring results have been presented.
- Revision of the hydrological/ hydrogeological aspects of the study area would be beneficial.
- It is recommended that annual qualitative analysis of an up-gradient well, an on-site well and a down-gradient well within 500m of the site are carried out.
- From on-site monitoring and modelling procedures, all relevant standards appear to have been safely adhered to for air, dust and climatic factors.
- It is event of grant of substitute consent, it is recommended that an annual dust deposition survey be carried out at a representative time when processes or practice change should take place.
- There would be value in a further noise survey that would obtain the recorded background noise level at all noise sensitive locations when all plant is closed down and also the noise levels when all plant is fully operational.
- There does not appear to be any in depth reference to decommissioning of the quarry as a general topic.
- Clarification is required in the area of plant disposal and the disposal of solid or semi-solid waste for tailing ponds and lagoons at a time in the future when the site is finally decommissioned.
- Reference to complaints in relation to the quarry appear only in letters contained in Appendix C of the rEIS.
- Recommended that the applicant commit to an Environmental Management System that would provide at least an annual survey of the operation in terms of noise, dust deposition, toilet waste disposal and groundwater quality in relation to wells within 500m of the site.

*Dacre L. Munro & Dorothy Munro, Upper Liscullew*

5.2 This submission was received from the residents of a dwelling which is located approximately 50m east of the quarry. The main points raised are as follows:

- Quarry traffic is impacting on the Miners Way walking route – 2 truck movements every 45 minutes are expected.

- Heavy vehicles cause damage to the road and significant wear and tear to residents' vehicles – road should be repaired at quarry operator's expense.
- Quarry application was not correctly advertised.
- rEIS is of poor quality, contradictory and factually incorrect.
- Circuit Court found in 2007 the quarry to be unauthorised and abandoned for years, and there had been an intensification in usage over the years since 2000. Quarry lost its pre-64 status.
- rEIS states that quarry traffic does not use the L8272-1 – attached photographs show quarry traffic passing observer's property.
- Photographs show machinery clearly visible from outside observer's dwelling and how visually intrusive the quarry is from observer's residence.
- Trees do not screen the quarry from Wilder's House – this property is occupied.
- Trucks require speed to access the slope into the quarry and engines roar and empty tipper bodies boom on the rough access road.
- rEIS photographs show that the crusher is not housed which was one of the conditions the Planning Authority sought to impose.
- Berms around the quarry should have been more substantial.
- More powerful and bigger capacity heavy machinery is being used in the 21st century, and this creates greater fumes and noise levels and constitutes a nuisance.
- Effects of echo are omitted from the surrounding terrain – there is a fold in the terrain which amplifies and bounces back any sound.
- It would appear that more lagoons are proposed above the observer's houses – as a matter of safety, these should not be permitted.
- The quarry active and inactive has been polluting the watercourses for several years. Waterfall in observer's garden has been visibly polluted for years.
- Observer's borehole was tested on 15th May 2012 and the iron reading had dramatically increased and there was also manganese pollution.
- Limit for suspended solids is 30mg/l and the recording on 17th July 2007 was 1000mg/l – this pollution flows through Owengar Woods NHA, which is downstream from the quarry. Site also abuts the Corry Mountain Bog NHA.

- The rEIS advocates a septic tank in one place and a chemical toilet elsewhere.
- Wind blows predominantly from the quarry in the direction of the observers which contradicts the rEIS.
- Site is not serviced by a public watermain.
- 22.52 hectares leased/ registered by the quarry is mostly commonage used for grazing that cannot be planted by forestry.
- Operating hours within the rEIS are contradictory – work and haulage takes place outside the stated hours.
- Crushing occurs daily and not once a month. Daily rock breaking is even more intrusive.
- Road has never been cleaned by the quarry operator.
- Quarry is very visible scar on the landscape – views within rEIS underestimate the visual impact of the quarry.
- Quarry is discernible from the protected view along the R200 through Ballinagleragh.
- Dust measurements occurred over Christmas and New Year when quarry was shut and snowed in – dust is not generated in wet or snowy weather.
- Diesel fumes travel in the direction of the observer’s dwelling and sink with the terrain to the lowest level.
- Peregrine falcons nested at the site before 2000 but have now lost their nesting sites. Quarrying has also dislodged horseshoe bats from the site.
- The area is prone to landslips.
- Former employees of the quarry confirmed the accuracy of the observer’s traffic survey that traffic returned every 30 minutes.

*Geological Survey of Ireland*

- 5.3 The Geological Heritage and Planning Programme of the GSI recommends that the Geological Heritage Guidelines for Extractive Industry is consulted with regard to the finalised restoration plans. It is noted that rock exposures could be left visible, if appropriated, in order to promote geo-diversity and geo-conservation in the community.

An Taisce

5.4 The following comments were received from An Taisce:

- Site is within an area of upland heath which is also of high visual amenity.
- Site inspection and photographs raise significant concern over the previous operating impact in its extent of scarring of hillside above Lough Allen.
- Legal status of the quarry is not significantly documented to establish pre-1963 status.
- Ireland is clearly failing to meet its legal obligations to achieve good conservation status for both dry and wet heath habitats – quarry extension would lead to irreparable loss of both these Annex 1 habitats.
- Area of wet and dry heath in question also supports breeding populations of Red Grouse, Meadow Pipit, Skylark and Merlin and golden plover may also use the site.
- Accompanying rEIS is inadequate – it is acknowledged that areas of wet and dry heath would be lost yet it does not indicate that the loss of two Annex 1 habitats runs counter to Ireland’s legal obligations under the Habitats and Birds Directive.
- Land adjoining the quarry forms part of an extended upland mountain habitat system which contains a mosaic of blanket bog, pools, flushes, wetlands, wet and dry heaths and species rich grasslands – Annex 1 habitats are an important element of the broader ecosystem mosaic and their loss would impact on threatened species within the NHA, such as Merlin and Red Grouse.
- Refusal of substitute consent is recommended on the grounds that the site was and is inappropriate for quarry development.

Department of Arts, Heritage and the Gaeltacht

5.5 The following heritage related observations/ recommendations were received from the Development Applications Unit:

- The proposed rock quarry extension will bring the development closer to the NHA.
- There are likely to be EU Habitat Directive Annex habitats occupying the proposed quarry extension area including regenerated cutover blanket bog on peat of c. 1m deep, which is likely to support wet heath.
- There appears to be no scoping or assessment of the potential ecological impact of the proposed quarry extension. Impacts on flora

and fauna could arise from rock dust, machinery noise and hydrological impacts.

- Semi-natural moorland habitat will be drained and ultimately entirely removed in the location of the proposed extension to the rock quarry.
- Consideration should be given to the cumulative impact with other development such as afforestation.

## **6.0 APPLICANT'S RESPONSE TO S.132 REQUEST**

6.1 The Board invited the applicant to submit further information on the application clarifying the extent of the quarry, including maps and sections through the site. Information was also requested on the on-site treatment system for the disposal of wastewater.

6.2 The applicant submitted a response on 21st August 2015 wherein it is noted that the extent of the quarry to which the substitute consent application refers comprises 2.3 hectares. A 1:2500 location map of the site and land in the applicant's ownership was also included, together with sections through the site.

6.3 It is confirmed that there is no on-site treatment system for the disposal of wastewater. A holding tank is pumped out and removed off site by a licenced contractor on a regular basis.

## **7.0 REPORT OF THE PLANNING AUTHORITY (SECTION 177(I)(1))**

7.1 The Planning Authority states that the subject quarry is one which has been in existence prior to 1913 and is still active. Registration was sought under Section 261 of the Act and there have been four planning applications and five enforcement files relating to the site.

7.2 The first planning application dates back to 1969 when permission was granted for a factory. This building was for the housing of a guillotine machine for cutting quarried stone and is considered to be substantially compliant with permitted drawings.

7.3 An application submitted in March 2008 for retention of the existing quarry was declared invalid in December 2008 as a result of European Court of Justice Decision C-125/06 relating to retention planning permissions for developments requiring EIA. A second application submitted in January 2009 was declared invalid for the same reason.

7.4 An enforcement file was found to be unsupported in relation to quarry opening hours as conditioned under the Section 261 Registration process. The Circuit Court then decided in a subsequent case that the quarry was unauthorised but enforcement action was withdrawn on statutory estoppel

grounds as the activities were ongoing for more than 7 years. A third enforcement file was closed when it was found that a change of use had not taken place within the factory building on site. Finally, the enforcement file following failure to apply for substitute consent was closed in light of the current application. In addition, an enforcement file relating to a mobile home within the quarry was suspended following the substitute consent application.

- 7.5 In terms of the relevant provisions of the Development Plan, it is noted that the site does not benefit from any specific land use zoning but is designated as an Area of High Visual Amenity. The site is also within an area designated “Low Capacity/ High Sensitivity” for afforestation. The relevant sections of the Development Plan for quarries, extractive industries, mining, oil and gas are Section 3.7.7 and 4.4.6. The Planning Authority is of the opinion that the operation of the quarry does not contravene the objectives of the Development Plan. It is also considered that the activities of the quarry will not be detrimental to the objectives and policies in respect of Drumkeerin’s classification as a Tier 3 village owing to its distance from the quarry of c. 3.3km.
- 7.6 The Planning Authority has no record of any previous significant effects on the environment or European site associated with the quarry and therefore no remedial measures are recommended.
- 7.7 The Manager considers that substitute consent should be granted for the following reasons:

*“Having regard to the positive record of environmental management and responsible operation at the quarry and in consideration of Section 3.7.7 (Quarries, Extractive Industries, Mining, Oil and Gas) of the County Development Plan 2015-2021 it is considered that the development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area; would not have a negative impact on the integrity of Natura sites; and would be in accordance with the proper planning and sustainable development of the area.”*

- 7.8 There are six conditions recommended by the Planning Authority including those which state that the consent relates only to works undertaken within the red line boundary and does not impinge on the continued use of the “factory” unit permitted under P.1024. A detailed restoration plan shall be agreed in writing with the Planning Authority, as well as security for the satisfactory reinstatement of the site. The final recommended condition relates to development contributions.

## 8.0 RESPONSES

### Second party

- 8.1 The Planning Authority stated in response to the Board's correspondence of 4<sup>th</sup> December 2015 that it sees no new issues raised in the applicant's further information submission of 21<sup>st</sup> August 2015 that requires any amendment to their original submission.

### First party

- 8.2 The applicant's agent responded individually to the submissions by the HSE and the nearby residents. The main points raised in the response are summarised as follows:

- Time constraints imposed by Section 261A did not facilitate the completion of an EIS over a one year period to include assessments in all four seasons.
- A number of public bodies were consulted with no response received from the consultation process.
- The downslope area of the site is completely surrounded by interceptor drains and channels which makes it impossible for surface water to egress from the site. Surface water is conveyed to a single point where it is treated and piped to lagoons. Drain has also been inserted within the rehabilitated area which drains all water back into the quarry area at a lower elevation.
- There are no hydrological links between the quarry and any well and aquifer potential has been classified as poor. Groundwater tends to flow perpendicularly to contours and there is no possibility of any well being impacted by the presence of the quarry.
- Bore hole was drilled to 100 feet and no water was encountered. Board's Inspector also determined that fine suspended solids are unlikely to have any real potential to contaminate groundwater or drinking water well that is of appropriate construction and depth.
- Applicant's consultant was not allowed access to observer's property to establish the construction of the well with regard to capping, lining, etc.
- Discolouration of stream in observer's property is a result of iron bacteria and water in the area is naturally high in iron. Presence or absence of the quarry will not alter or impact on the iron concentrations found naturally in surface water.
- Quarry site is sufficiently removed from observer's dwelling such that there will be no impact from vibration - quarry does not blast.

- Three independent noise consultants have concluded that noise levels would be below 55 dBA with all equipment working simultaneously and the wind blowing in the direction of the observer's dwelling.
- Noise measurements have been taken when the quarry was operating and when it was not. Noise levels in the area are dominated by wind noise in the extensively afforested areas.
- Inert silt for the lagoons is used for the purposes of rehabilitation and may also be sold as a product. Rehabilitation has already taken place on site.
- Well monitoring programme would be excessive.
- Quarry face clearly moved between 1995 and 2000 and the rate of production has not intensified as indicated by the observer.
- Based on topographical maps, the rate of extraction has been between 80 and 100 tonnes per day.
- Full facts were not available to be judge in Circuit Court case which found that the operation had intensified. Judge mistakenly thought that traffic survey carried out by the observer had been carried out by the operator. Quarry face would have moved 50m per year as per observer's traffic survey – this level of extraction has never occurred.
- Operator has sought at all times to comply with conditions imposed on the quarry or any other requirements.
- Photographs show machinery rehabilitating area above observer's dwelling.
- Judge concluded that quarry was not contaminating the drinking water and this ratifies the findings of applicant's consultants, the Board's consultants, Dr. David Galazzi and Leitrim County Council.
- Observer's water feature is fed by roadside drain with a number of cuts that divert roadside water into it and combined with upland eroding streams, these are the most likely source of the discolouration and not the quarry.
- Measured dust levels indicate that the quarry does not produce dust levels that contravene the 350 mgM-2 per day limit and settleable dust levels within the quarry at the location towards observer's house have tended to be 50% the national standard.
- Photographs show no excessive dust within the process building.
- Level of observer's dwelling relative to the road make it prone to dust blowing off it.



- The type of extraction activity, together with the levels of traffic, topography, prevailing winds and rainfall mean that air borne dust is extremely limited.
- It does not make economic sense to haul material uphill past observer's dwelling as opposed to downhill.
- Other nearby residents testified in court that they had not and do not experience any nuisance associated with the operation of the quarry with respect to traffic (which all passes their dwelling), dust, noise or water pollution.

Second party

8.3 The Planning Authority stated in response to the Board's correspondence of 8<sup>th</sup> January 2016 that it sees no new issues raised by the applicant's consultants 21<sup>st</sup> December 2015 that requires any amendment to their original submission.

Third party

8.4 The observer responded to the applicant's response with the following comments:

- Existence of quarry prior to 1963 and S.261 Registration in 2005 does not alter the fact that Judge John O'Hagan found the quarry to be unauthorised due to abandonment and intensification.
- Concrete channels may direct water along them but do not prevent water from seeping below them in the observer's direction.
- Initially water from well on observer's property was tested to be slightly above (20%) the legal limit for iron content in drinking water and this suddenly rose to 28.6 times the legal limit – this only came to light after observer had presented evidence in the nuisance case.
- Observer's well is steel lined and capped in concrete with a drain to remove any possible surface water contamination.
- Stream running through observer's property was for many years discoloured by sandstone working of the quarry and was the reason for Leitrim County Council Environment Section to bring a prosecution for water pollution against the quarry operator.
- To mitigate noise, a high berm of up to 3m should be created but this has not occurred.
- Trees have been cleared to protect ESB supply.
- Pictures of discoloured sink, toilet cistern and paving were not taken on observer's property.

- There is no iron deposition in the waterfall, stream or marked well on observer's property.
- As stated previously, there is a fold in the terrain that causes the quarry noise to echo back at a considerably higher volume than the noise originally heard.
- Sale of inert silt from the lagoon and overburden have not been factored into the operator's computations of product leaving the quarry.
- Quarry has been importing material from another quarry in Arigna to process – this is the main reason for traffic past the observer's dwelling.
- The L8272-1 is not uphill as it runs virtually parallel to the contour line of the hillside and there is no notable incline that would affect a heavily laden goods vehicle in either direction.
- State bodies should not use products from a quarry that has not yet been granted legitimisation.
- Fact remains that the observers are affected by dust and this was agreed by quarry expert.
- Operator has not housed quarry crushers as required by Council conditions.
- Operator goes to great lengths to show the quarry has no effect on the observer; however, both damages and costs were awarded against the quarry operator.
- Consent should not be granted or should be granted with stringent conditions, otherwise observer will take legal action to overturn the Board's decision or will make a complaint to the Ombudsman or the European Commission.

### HSE

8.5 The Environmental Health Officer submitted the following comments on the pertinent points of the applicant's response of 21<sup>st</sup> December 2015:

- No quantitative data is presented in the rEIS from any of the identified wells in the area – rEIS is required to assess if any environmental impact has occurred in the past and qualitative data from some of the wells would clearly be beneficial in assessing if an impact has occurred.
- HSE does not dispute the level of noise compliance with the EPA's Management Guidelines – Environmental Management in the Extractive Industry.
- Paragraph 8.7 of the rEIS states that "environmental noise levels should be reviewed at regular intervals" – this is in line with HSE's

recommendations that a noise survey should be carried out currently to enhance the rEIS as the last survey took place more than 3 years ago.

- In the event that consent is granted, noise survey should be carried out annually and the actual on site reading at noise sensitive locations of a) background levels with quarry inactive and b) levels with quarry active should be measured.

## **9.0 PLANNING POLICY CONTEXT**

### *Leitrim County Development Plan, 2015-2021*

- 9.1 The site is located within an Area of High Visual Amenity and in an area designated “Low Capacity / High Sensitivity” for afforestation within the Development Plan. The Corry Mountain Bog NHA is located approximately 140m to the west of the site.
- 9.2 Quarries, Extractive Industries, Mining, Oil and Gas are covered in Section 3.7.7. Under Policy 72 the Council will “...*facilitate the further development of the industry by permitting the continuation and extension of existing quarries and the development of new quarries, where such development does not adversely impact on; human or animal health, the environment, existing infrastructure and the amenity value of neighbouring lands.*”
- 9.3 Development Management Standards for quarries, extractive industries and mining are contained in under Section 4.4.6.

## **10.0 ASSESSMENT**

### **10.1 Background**

- 10.1.1 This is an application for substitute consent made in response to a quarry review decision made under Section 261(a) of the Planning and Development Act, 2000 (as amended) whereby the Board confirmed Leitrim County Council determination that development was carried out at a quarry at Lisculle Upper, Drumkerran, Co. Leitrim after 1st day of February, 1990 that would have required an Environmental Impact Assessment, but that such an assessment was not carried out. It was also determined that (i) the quarry commenced operation before the 1st day of October, 1964, and that (ii) the requirements in relation to registration under section 261 of the Planning and Development Act, 2000 (as amended), were fulfilled.
- 10.1.2 No application for substitute consent was submitted to the Board within the requisite 12 week period and following High Court proceedings, the Board decided to grant the applicant an extension of time for making the substitute consent application and preparing a Remedial Environmental Impact Statement. The applicant did not submit an application for further development within 6 weeks of the application for substitute consent.

- 10.1.3 The applicant has now submitted a substitute consent application and remedial Environmental Impact Assessment (rEIA) to the Board. The Board has invited submissions from prescribed bodies and third parties and the Planning Authority has submitted a report to the Board in compliance with Section 177(l) of the Act.
- 10.1.4 This substitute consent application relates to an existing rock quarry with area of 2.3 hectares. The applicant had submitted an application for retention of the quarry in 2008 following a Circuit Court Order of 19th December 2007, which found that quarrying activities at the site constitute unauthorised development that commenced within a period of 7 years prior to the date of bringing of the application. The Defendant was consequently ordered to submit a valid application for retention of the unauthorised quarrying activities. However, the retention application was invalidated as a result of European Court of Justice Decision C-125/06 relating to retention planning permissions for developments requiring EIA. A second application submitted in January 2009 was declared invalid for the same reason
- 10.1.5 Having considered the contents of the application and the submitted rEIS, together with all reports, submissions and responses, and the observations from my site visit, I consider that this application should be assessed under the following:
- Development principle;
  - Remedial Environmental Impact Assessment;
  - Appropriate Assessment;
  - Conditions; and
  - Conclusion.

## **10.2 Development principle**

- 10.2.1 It is a policy of the Council *“...to facilitate the further development of the (aggregates and concrete products) industry by permitting the continuation and extension of existing quarries and the development of new quarries, where such development does not adversely impact on; human or animal health, the environment, existing infrastructure and the amenity value of neighbouring lands.”*
- 10.2.2 It would appear that quarrying activity at this location is long established notwithstanding the fact that no planning permission for such ever existed. It is apparent from OSi mapping that small scale extraction took place as far back as the early 1900’s and it would also appear that quarrying has continued at varying degrees up to the present day. The expansion of existing quarrying activities may have been considered more acceptable than the opening of a new quarry at a separate location. The Quarries and Ancillary Activities Guidelines recognises the need for new and expanded aggregate quarrying operations to meet regional and local requirements.

The development for which substitute consent is now being sought may have been considered acceptable in this context.

- 10.2.3 As noted under Policy 72, any continuation or extension of a quarry should be assessed having regard to impacts on humans and animals, existing infrastructure and adjoining amenities. In addition, it is also a policy that the “...*transportation of extracted material from the source be carried out without causing nuisance to other road users.*” These are matters that are covered under the rEIS, which includes a statement of the significant effects, if any, on the environment that have occurred or are occurring, or can reasonably be expected to occur because the development the subject of the application for substitute consent was carried out; details of any appropriate remedial measures undertaken or proposed to be undertaken by the applicant for substitute consent to remedy any significant adverse effects on the environment, and the period of time within which any proposed remedial measures shall be carried out by or on behalf of the applicant; and any such information as may be prescribed under section 177N (Regulations).
- 10.2.4 I shall assess hereunder each of the main sections of the submitted rEIS to form an opinion below as to the acceptability or otherwise of the document and whether or not it provides sufficient information for the Board to make an informed decision in this case.

### **10.3 Environmental Impact Assessment**

- 10.3.1 An Environmental Impact Assessment must identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the EIA Directive, the direct and indirect effects of a proposed development on human beings, flora and fauna; soil, water, air, climate and the landscape; material assets and the cultural heritage; and the interaction between these factors.

*Compliance with Article 94 of the Planning and Development Regulations, 2001 (as amended)*

- 10.3.2 The planning application is accompanied by an EIS which includes a non-technical summary, main report and maps and appendices.
- 10.3.3 Having regard to Article 94(a) of the Regulations, I am satisfied that the rEIS adequately describes the proposed development to include information on the site, design and size of the site. Avoidance, remedial and reductive of significant adverse impacts are outlined for each factor, as well as the data required to identify and assess the main effects. It is noted that main alternatives could not realistically be considered as the application for substitute consent only applies to the existing quarry area.
- 10.3.4 With respect to Article 94(b) and Paragraph 2 of Schedule 6 of the Regulations, I consider that the relevant information has been provided to describe the main characteristics of the construction/ operational phases, production processes and expected residues and emissions. Furthermore,

the aspects of the environment likely to be significantly affected by the proposed development are set out, together with a description of the likely significant effects, and description of the forecasting methods and any difficulties encountered.

- 10.3.5 Finally, as required under Article 94(c), the EIS provides a summary in non-technical language of the information provided under Article 94 (a) & (b).
- 10.3.6 Overall, and having regard to Article 111, I consider that the rEIS received by the Board in connection with the appeal complies with Article 94 and is therefore adequate.
- 10.3.7 Whilst I agree that there may be some deficits in information contained within the rEIS, the applicant has made some attempt to address these within the Section 131 responses. I also acknowledge the difficulty in retrospectively assessing impacts when insufficient monitoring of activities would not have been carried out.

*Likely significant effects arising from the proposed development*

- 10.3.8 Sections 4-12 of the rEIS set out an assessment of the impact on environmental aspects associated with the quarry development. Section 3 above identifies and describes the main likely significant effects arising from the proposed development and regard should be had to this section of the report. The likely significant effects are identified as follows:

*Human beings*

- 10.3.9 The impact of the development on human beings can be described in terms of population, land use, employment, community facilities, education, economy, infrastructure and tourism.
- 10.3.10 The quarry development can be considered to have had a positive impact by creating employment and providing the local and regional economy with a continued supply of sand and stone products.
- 10.3.11 In terms of land use, the socio-economic impact of the change in land use would have had a low magnitude impact. The quarry will not have significant impacts on the visual landscape, as the development is well screened from the public road and nearby Miners Way walking route. The impact on tourism is therefore considered to be negligible.
- 10.3.12 Other impacts on human beings are covered under the noise and vibration, water, dust, air quality, and visual impacts sections of the EIA.
- 10.3.13 No mitigation measures are recommended, as it is considered that the quarry has benefitted the socio-economic development of the area.

*Flora & fauna*

- 10.3.14 The site is located approximately 140m east of Corry Mountain Bog NHA, which consists mainly of wet heath, dry heath with flushes, upland blanket

bog and Sitka spruce plantations. The quarrying process involved the removal of topsoil and overburden and it is likely that adjoining flora would once have been found within the quarry and this would have resulted in habitat removal.

- 10.3.15 It is considered that little significant negative impact to local flora has occurred as these habitats are common locally and rehabilitated areas have become recolonized by those species. It is unlikely that there is fauna within the footprint of the quarry and fauna will also begin to reoccupy the rehabilitated areas. Increased particulate loading, siltation and run-off could adversely affect local watercourses. It is noted that there are no direct connections to any European Sites via local watercourses.
- 10.3.16 Mitigation measures include retention of boundary hedges within the substitute consent area; no unnecessary removal of scrub cover; creation of small areas of scrub on boundary berms; observation of discharge conditions; and rehabilitation and re-vegetation of exhausted quarry areas.
- 10.3.17 The Development Applications Unit of the Department of Arts, Heritage and the Gaeltacht is more concerned with the potential ecological impacts of an extension of the quarry. This substitute consent application relates to the area that has already been quarried.
- 10.3.18 I would point out that many of the impacts on ecology of the quarry the subject of this substitute application have already occurred. Therefore, mitigation measures associated with continued quarrying are not relevant to this application.

#### *Soil & water*

- 10.3.19 The quarry has been extracting rock from the Lackagh Sandstone Formation and the quarry floor is at the geological contact with the Gowlaun Shale Formation. Mining for coal has taken place approximately 2.5km from the site and quarrying for dimension stone and aggregates is reported to be quite common in the area.
- 10.3.20 A permanent impact on the local geological environment has taken place through extraction of sandstone.
- 10.3.21 It is stated in the rEIS that ponding water is constituted entirely by rainfall. Concrete channels on the quarry floor collect water run-off and then discharge to the primary settlement lagoon where it is treated with a flocculant prior to discharge to final settlement lagoons via an oil interceptor. The water is then discharged from the final settlement lagoon under licence (WLP/08/01) into a stream to the north of the site.
- 10.3.22 The roadside drain east of the quarry has characteristics indicating the presence of iron bacteria. It is stated in the rEIS that the presence of iron bacteria is not toxic to aquatic life nor does it pose an environmental health risk. Common frog spawn can be observed at this location along the roadside.

- 10.3.23 It is stated in the rEIS that part of the rainfall infiltrates through the quarry floor and either recharges to the bedrock or emerges at lower elevations. However, it is considered that most rainfall is collected by the drains that discharge to the settlement lagoons.
- 10.3.24 I observed from my site visit that surface water draining to the southern side of the quarry access road appeared to be coloured by sediment from the quarrying operations. This was apparent at a point near the junction with the public road where water coloured orange from iron bacteria came in contact with water colour yellow. This appears to be water containing sediment from quarry operations that is not passing through the settlement lagoon system. This water may be getting carried down-gradient from the quarry under the concrete surface water interceptor drain.
- 10.3.25 The Groundwater Protection Scheme indicates that the groundwater has a high vulnerability rating. The Water Framework Directive has classified the groundwater as being of “good” status. A borehole survey on site recorded a limited ingress of water at 2m below ground level and no further water ingress at a depth down to 30m.
- 10.3.26 There is no public source of water supply in the area and a well survey recorded the presence of 6 no. wells and 1 no. spring along the local road to the east of the site. The applicant did not gain access to these wells and noted that the wells appear to be in the underlying shale formations rather than the Lackagh Sandstone Formation. An observer, however, has submitted that iron readings have dramatically increased within their borehole and that the quarry active and inactive has been polluting the watercourses for several years.
- 10.3.27 I note that the quality of treated water from the quarry is controlled by way of licence from the local authority. However, I would have concerns that run-off is infiltrating away from the existing drainage system. In the absence of detailed well monitoring, it is also difficult to comment on the impact of quarrying operations on groundwater quality. I note, however, the comment of the Inspector reporting on the appeal against the Council’s decision to grant a discharge licence (WW0379), that *“any percolation of surface waters containing elevated levels of suspended solids would be highly filtrated during the course of such percolation down to groundwater level.”*
- 10.3.28 No water abstraction or dewatering has taken place at the quarry and there is no sewage disposal to groundwater. Provisions are in place to minimise pollution risk through installation of oil interceptor, bunds and oil spill kit. Suspended solids from the drainage system entering the stream are controlled by discharge licence and other suspended solids would be filtrated before reaching ground water. There would appear to be no risk of heavy metals pollution as the bedrock present in the quarry walls does not display signs of significant mineralisation.
- 10.3.29 The services of a geotechnical engineer has previously been retained to carry out a full slope stability assessment to minimise and prevent the risk of slope failure. The quarry is situated as close as 140m from the Corry



Mountain Bog NHA; however, the quarry is down-gradient of the NHA and discharge therefore flows away from the NHA.

*Air, dust and climatic factors*

- 10.3.30 There would be increased potential for local generation of dust from the quarry during prolonged periods of dry weather. During overburden stripping dust levels are likely to be elevated and this has taken place on average once a year. Dust emissions would also be caused by excavation and processing, and agitation of dust along haul routes by vehicles. The other main source of air pollutants would be pollution from diesel powered equipment.
- 10.3.31 The main mitigation measure with respect to dust creation has been in the form of planning and design to include the location of haul routes and stock piles away from sensitive receptors and the effective use of screening. Other mitigation measures have included minimisation of dust escaping from processing plant; construction of good quality internal haul routes; spraying of haul routes during prolonged dry weather; road sweeping; on site speed restrictions; and dust monitoring. There would appear to be no wheelwash at the site and according to the rEIS, one was proposed to be installed in 2015.
- 10.3.32 At the time of my site visit, weather conditions were a mixture of sunshine and showers. I did not observe any excess dust outside the boundaries of the site on vegetation or on the roadway. It is likely that the moisture content in the air is quite high given the elevation of the site. Furthermore, the higher ground to the south-west would give some shelter from prevailing wind conditions. The elevation of the site and the intervening planting and screening would help to minimise fugitive dust levels from the public road. Modelled dust dispersion from the quarry at the nearest dwelling was predicted to be less than 30 mg/m<sup>2</sup>/day.

*Environmental noise*

- 10.3.33 Noise measurements have been carried out on three occasions by three noise separate consultants. This has included noise modelling and direct measurements made subsequent to modelling.
- 10.3.34 The quarry has given rise to production levels of approximately 8 truckloads per day and this is at the lower end of the scale for a commercial quarry. In addition, no blasting occurs and stone is extracted by mechanical excavators/ rippers and broken down into suitable sizes by a rock breakers on the quarry floor on approximately one day per week. Dimension stone is guillotined and stones too small for building use are screened and crushed.
- 10.3.35 All items of equipment at the quarry were in operation when noise measurements were carried out at the nearest dwelling and measurements of 52 dB(A) LAeq were recorded. However, the component of quarry noise would have been less due to the contribution of wind. At the quarry entrance, the steady noise component was in the range of 45 to 53 dB(A)

LA90 and this also contained a wind noise contribution. The predicted mean noise level at the nearest house is 41 dB(A) for general quarrying, rising to 44 dB(A) when screening and crushing are in progress dB(A).

- 10.3.36 There is a good degree of acoustic screening owing to the fact that there is no line of sight from the top of the quarry to the nearest house. There is also no line of sight from the noise sources within the quarry and the public road. Quarry traffic is as low as 4 no. truck movements in any given hour and this would be considered a negligible noise impact.
- 10.3.37 Existing noise mitigation measures have ensured compliance with national standards.

#### *Vibration*

- 10.3.38 The EPA's Environmental Management Guidelines – Environmental Management in the Extractive Industry (Non-Scheduled Minerals)" states that a vibration and air over pressure survey shall be carried out when rock blasting occurs. There has been no blasting at this quarry. Ground vibration from equipment would be imperceptible at a distance of 20m from the source and overall the vibration impacts will be negligible.

#### *Landscape & restoration*

- 10.3.39 The site is located within an "Area of High Visual Amenity", as designated in the Development Plan. Originally the site would have comprised of blanket peat and the lands surrounding the quarry remain largely uncultivated. The Landscape Character Assessment describes this as an "upland area which rises above Lough Allen and lowland drumlins... contains elements of health platea, hills and gentle farmed slopes...".
- 10.3.40 The site is not visible from the approach road (L4283) and in general is well screened by forestry and the rising topography within the immediate area. The site is just about visible from the eastern side of Lough Allen and can be seen from the grounds of the church in Drumkeeran.
- 10.3.41 The quarry was examined from two Preserved Views (V21 & V21). V21 looks east towards Lough Allen and the effect of the quarry on this view is none. V22 is approximately 10km to the south-east and the quarry would be imperceptible within this view. The quarry, however, would have a slight impact on Corry Strand and on Miners Way. The visual impact of the quarry on the nearest dwellings is considered to be none to slight owing to the intervening topography and vegetation.
- 10.3.42 In terms of mitigation, it is stated that further planting of vegetation would assist in minimising the visibility of the quarry. There may also be the opportunity to redesign the forestry plantation to minimise the quarry's impact on the landscape. It is highlighted, however, that the pre-existing nature of the quarry does not allow for a suitably efficient environmental design from the outset of the project. The Geological Heritage and Planning Programme of the GSI recommends that the Geological Heritage Guidelines

for Extractive Industry is consulted with regard to the finalised restoration plans. Rock exposures could be left visible, if appropriate, in order to promote geo-diversity and geo-conservation in the community.

#### *Traffic*

10.3.43 It was measured that on average the quarry generates 80 HGV movements per week. Two junctions were assessed for the rEIS; Junction 1: R280/ L4283 and Junction 2: site entrance and L4283. These junctions operate well within capacity.

10.3.44 The standard of the local road serving the quarry is poor with significant horizontal and vertical curves and steep gradients. However, the surface has recently been improved and a number of passing bays have been installed. This road has been in use for quarry access for many years and the quarry generates relatively low volumes of traffic.

10.3.45 Infrastructural requirements or modifications are not considered to be necessary for the R280/ L4283 junction. The site access onto the public road requires improvements to the junction surface and sight lines should be cleared to the north.

10.3.46 Internal road layout allows for road user inter-visibility with sufficient road widths and set-backs. The design speed is 30kph.

#### *Archaeology & cultural heritage*

10.3.47 It is stated in the rEIS that the quarrying operations to date do not appear to have had any negative impacts on the architectural heritage of the area. There is an absence of any recorded archaeological monument close to the quarry site and the results of a field walk survey revealed no potential surface archaeological sites.

#### *Interactions*

10.3.48 Inactions of the foregoing are identified in the following table:

<b>Receptor Activity</b>	<b>Human Beings</b>	<b>Flora &amp; Fauna</b>	<b>Soils &amp; Water</b>	<b>Air Quality</b>	<b>Noise &amp; Vibration</b>	<b>Visual Impact</b>	<b>Traffic</b>	<b>Archaeology</b>
Human Beings		•	•	•	•	•	•	
Flora & Fauna								
Soils & Water		•						
Air Quality	•	•						
Noise & Vibration	•	•						
Visual Impact	•	•						
Traffic	•			•	•			
Archaeology								

## **10.4 Conditions**

- 10.4.1 Section 177(K)(3) of the Planning and Development Act, 2000 (as amended) states that a grant of substitute consent may include one or more than one condition referred to in section 34(4); a condition or conditions relating to remediation of all or part of the site on which the development the subject of the grant of substitute consent is situated; a condition or conditions requiring a financial contribution in accordance with section 48; or a condition or conditions requiring a financial contribution in accordance with a supplementary development contribution scheme under section 49.
- 10.4.2 The Planning Authority has suggested a number of conditions should the Board be minded to grant permission. These conditions clarify that the substitute consent application relates only to the 2.3 hectare area as outlined in red within the drawings and maps submitted with the planning application. It is also recommended that a detailed restoration scheme shall be agreed with the Planning Authority within 6 months of the date of the decision order. Other conditions relate to the lodgement of a security bond and payment of development contributions.
- 10.4.3 I would agree that any conditions attached to the grant of permission should relate to the pre-existing quarrying activities at this location and to the future restoration of the site. It should be noted that this application does not authorise further extraction and therefore operational conditions are not necessary, relevant or enforceable.

## **10.5 Appropriate assessment**

- 10.5.1 The nearest European Site to the subject quarry is the Boleybrack Mountain SAC situated approximately 7.8km to the north-east. The Culcaigh-Anierin Uplands SAC is approximately 9.2km to the east of the quarry on the far side of Lough Allen.
- 10.5.2 Having regard to the nature and scale of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **10.6 Conclusion**

- 10.6.1 Essentially, the significant effects of the works for which substitute consent is now sought relate mainly of a prolonging of pre-existing impacts, rather than the creation of any new adverse effects.
- 10.6.2 Quarrying operations continue at the site; however, this application is not concerned with any quarrying beyond the limits of the areas illustrated within plans, particulars and documentation submitted with the substitute consent

application. Furthermore, the applicant did not make a direct application for prospective development to the Board within the required period.

- 10.6.3 Having regard to the Environmental Impact Assessment carried out above, and to submissions made in connection with the substitute application, I have outstanding concerns with the existing surface water drainage system. Notwithstanding the fact that discharge from the lagoon system is monitored by discharge licence issued by the Local Authority, it appears that the drainage system is inadequate and that there is a significant level of rainfall infiltrating through the quarry floor and emerging at lower elevations. This was evidenced in the roadside drain beside the access and from photographic evidence submitted by the occupants of the dwelling to the east of the site, which appear to show water containing sediment from the quarry.
- 10.6.4 Having regard to the above, I propose the attachment of conditions to any grant of substitute consent requiring the submission of a programme of monitoring for ground and surface water and for improvements to the existing surface management system.
- 10.6.5 In general, I note that quarrying activity is long established at this location and the expansion of existing quarrying activities may have been considered more acceptable than the opening of a new quarry at a separate location. I would be satisfied that significant effects that have taken place to date can be remedied with appropriate conditions.
- 10.6.6 I note that the quarry drains to settlement ponds, two of which are located outside the red line boundary shown on substitute consent application drawings. The Board may wish to seek further information in this regard to include drawings and plans with red line boundary incorporating all aspects of the quarry's drainage arrangements.

## **RECOMMENDATION**

I have considered the contents of the application and rEIS, the submissions on file, observations from the site visit and the provisions of the current Leitrim County Development Plan. I recommend that substitute consent be granted for the development based on the reasons and considerations hereunder and subject to the conditions set out below.

## REASONS AND CONSIDERATIONS

Having regard to:

- (a) the provisions of the Planning and Development Acts, 2000 to 2014, and in particular Part XA,
- (b) the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government in April 2004,
- (c) the provisions of the Leitrim County Development Plan 2015-2021,
- (d) the remedial Environmental Impact Statement submitted with the application for substitute consent, and documentation on file generally,
- (e) the report and the opinion of the planning authority under section 177I of the Planning and Development Act 2000, as amended,
- (f) the submissions made in accordance with regulations under section 177N of the said Act, as amended,
- (g) the planning history of the site,
- (h) the determination of An Bord Pleanála in application for review of notice reference number 12.QV.0011,
- (i) the wastewater discharge licence,
- (j) The mitigation measures which are in place and the further remedial measures proposed,
- (k) the nature and scale of the development the subject of this application for substitute consent,
- (l) 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 either individually or in combination with other plans or projects, would not have an adverse impact on the integrity of any European site, having regard the conservation objectives of those sites.

## CONDITIONS

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application, and by further information submitted on the 24th day of August, 2015, 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 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, proposals for the following, to include a timeframe for implementation, shall be submitted to the planning authority for written agreement:

(i) A programme for monitoring of groundwater levels and groundwater quality within the site, to include groundwater wells at locations around the boundary of the application site and working quarry (up gradient and down gradient of quarry).

(ii) A programme for monitoring surface water flows at locations around the quarry including drainage and watercourses unconnected to the lagoon system of drainage within the quarry.

**Reason:** To ensure protection of groundwater quality and surface water bodies.

4. Within six months of the date of this order, construction-stage details of improvements to the surface water management system, and a time frame for implementation, shall be submitted to, and agreed in writing with, the planning authority. These details shall address any on-going requirement for the discharge of waters from the quarry to the satisfaction of the planning authority. The details submitted should demonstrate that the surface water

management system would be capable of reducing sedimentation within surrounding watercourses and drains to an acceptable level.

**Reason:** In the interests of orderly development and the protection of the environment.

5. Implementation-stage details of the restoration of the quarry shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this order and which 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 planting,
  - (d) details of fencing,
  - (e) proposals for an aftercare programme of five years, and
  - (f) 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.

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

**Reason:** To ensure the satisfactory completion of the development.

7. 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 was 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, as amended. The contribution shall be paid within six months of the date of this order or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.



**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the application for substitute consent.

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**Donal Donnelly**  
**Inspector**

18<sup>th</sup> May 2016