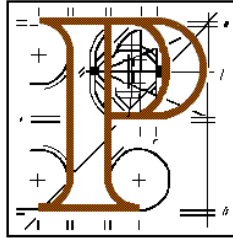


An Bord Pleanála



Inspector's Report

Ref. No SU.07.0036.

DEVELOPMENT: Existing limestone quarry at Cartron, Belclare, Tuam, Co. Galway.

PLANNING APPLICATION

Planning Authority: Galway County Council

Planning Authority Ref. QSP71

Applicant: McTigue Quarry's Ltd.

Application Type: Application for Substitute Consent

OBSERVERS

1. Catherine Ó Ceóinín.
2. Peter Sweetman and Associates
3. National Roads Authority
4. Frank Mortimer
5. Health Service Executive
6. An Taisce
7. Galway County Council.

DATE OF SITE INSPECTION 27th August 2013 and 10th January 2014.

Inspector: Derek Daly

1.0 INTRODUCTION

A notice was issued under the provisions of Section 261A (3)(a) by Galway County Council on the 3rd of August 2012 instructing the owner/operator of a quarry at Cartron, Tuam, County Galway 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 applicant applied for an extension of time pursuant to Section 177E(4) of the Planning and Development Act, 2000 as amended. On the 17th of January 2013 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 7th May 2013. The application has been made in accordance with Section 177E and is accompanied by a Remedial Environmental Impact Statement and Remedial Natura Impact Statement.

2.0 SITE LOCATION AND DESCRIPTION.

The site is located in the townlands of Cartron and Ermina in a rural area approximately 7 kilometres southwest of Tuam and the 1.5 kilometres southwest of the village of Belclare in County Galway. The appeal site has no direct frontage onto a public road but is connected via a private road to the public road, which is part of a local road network, which links into the R333 Tuam to Headford Regional Road approximately 1.5 kilometres to the north and the N17 Galway Sligo National Primary Route approximately 3 kilometres to the east. The private road also serves another quarry (Mortimers) located to the south and east of the appeal site.

The quarry on the site is an active working stone quarry characterized by benching and cliffs with stockpiling of materials, and processing areas for the screening, crushing and grading of material with associated plant.

Many of the roads are relatively narrow and the alignment of the R333 Tuam to Headford Regional Road in proximity to the N17 is of a relatively poor vertical and horizontal alignment with a large section of the carriageway having a solid white line.

The general area is dominated by agricultural use but with a relatively high level of dwellings many of recent construction located along the road network largely arising from the relative close proximity to Tuam and the N17. The landscape is relatively flat and low lying but the appeal site is located on the eastern lower

slopes of Knockmaa Hill, which is the dominant feature in the landscape and which is highly visible from a considerable distance in all directions.

The site is irregular in configuration but the main of quarrying operation is roughly L-shaped in configuration. There is also an area to the west of the active quarry which was part of the registration process which has not been excavated.

The overall site has a stated area of 12.11 hectares with 8.64 hectares the subject of substitute consent and 3.47 hectares to the west which is undeveloped.

3.0 PLANNING HISTORY.

The planning history relating to the site is detailed below:

P.A Ref. 06/3299

Permission granted on the 21st of May 2007 for the retention of (a) garage/workshop, (b) wheelbase washing unit and c) a weighbridge subject to 3 conditions.

P.A Ref. 10/629.

An application for retention of oil storage tanks, office, retention of garage/workshop granted under 06/3299 and retention of and additional garage/workshop was withdrawn.

P.A Ref. 09/1518.

An application for retention of oil storage tanks, office, retention of garage/workshop granted under 06/3299 and retention of and additional garage/workshop was withdrawn.

Planning Registration P.A. Ref QY 71.

The site was registered under Section 261 with 14 conditions, which are standard in nature on the 27th of April 2007.

P.A. Ref. No. EN09/098

An enforcement notice was served by the planning authority in relation to unauthorised oil storage tanks, unauthorised office, unauthorised extension to existing garage/workshop approved under planning Ref. No. 06/3299 and unauthorised additional workshop/storage unit.

4.0 DETAILS OF DETERMINATION UNDER SECTION 261A

The planning authority determined under file ref **QSP71** that

- (i) Development was carried out after 1st February 1990 which development would have required having regard to the Environmental Impact Assessment Directive an environmental impact assessment but that such an assessment was not carried out.
- (ii) Development was carried out after 26th February 1997 which was not authorised by a permission prior to 26th February 1997, which development would have required having regard to the Habitats Directive an appropriate assessment and that such an assessment was not carried out.

The reasons referred to the quarry being less than 0.5 km from Knockmaa Hill a proposed NHA Code 001288 and the quarry exceeds the threshold of 5 hectares.

Accordingly, a notice was served on the applicant directing to apply for substitute consent and to submit a Remedial EIS and a Remedial Natura Impact Statement.

The Planning Officer's assessment report noted the size of the quarry as 11.29 hectares; the proximity to Knockmaa Hill pNHA; the planning history including a grant with conditions under P.A Ref. 06/3299 a garage/workshop, wheelbase washing unit and a weighbridge; the site has pre 1964 commencement and both EIA and AA is required.

5.0 SUBMISSIONS.

5.1 Applicant's submission.

Included in the application documentation are,

- Public notices.
- A Remedial Environmental Impact Statement (rEIS).
- A Remedial Natura Impact Statement (rNIS).
- Associated drawings and maps.

It is indicated that the substitute consent application is on a site of c12.11 hectares covers the pit and also includes the associated processing area, existing buildings and processing plant and other associated operations and boundary treatments. The actual extraction area is stated as 8.64 hectares

5.2 Catherine Ó Ceóinín

Catherine Ó Ceóinín in a submission refers to a record of stockpiling tyres on the site; to the absence of scrutiny on quarries the growth of quarries from small areas and encroachment on commonages.

5.3 Peter Sweetman and Associates.

Peter Sweetman and Associates in a submission indicate,

- The application is invalid as there is no reference in the public notices to the construction of the additional workshop/ storage serving the quarry.
- There is no facility for a retention application in rEIS.
- Mc Tighe Quarry Ltd appealed the decision of their Section 261 (QR071) stating the extraction area did not exceed 5 hectares and this application is for an extraction area of 8.64 hectares.
- It is the submission of the observer that the Section 261A legislation does not cover this unauthorised development of 3.64 hectares, the extraction was willfully and knowingly unauthorised and contrary to the EIA Directive and cannot be rewarded with substitute consent.
- The grant of retention would fly in the face of CJEU Case C-215/06 as in this case no exceptional circumstances are claimed.
- The claim to pre 1963 is untrue.
- Reference is made to aerial photographs in 1995 and 2000 and the presence of limestone pavement a priority habitat.
- There is a history of unauthorised development on the site.

5.4 National Roads Authority

The NRA in a submission indicate have no specific comment to make other than consideration be given to any recommendations arising from the TTA as conditions in any grant of permission.

5.5 Frank Mortimer.

Frank Mortimer in a submission indicates,

- The quarry never obtained planning permission and has been determined by Galway County Council to be exempt from planning permission due to pre 1964 operations and are at a loss as to how such a determination was made.
- There is no evidence to support pre 1964 quarry development.
- There is no evidence of an access road or works in 1995.
- The applicant has no title to the access road.
- Documentary evidence in support of above positions is submitted.
- There is a history of unauthorised development in relation to the quarry.
- There was not an appropriate enquiry made into the pre 1964 status of the quarry other than an affidavit of the operator of the quarry in support of this claim and contrary to the position stated by other parties.
- The weight of evidence is that quarrying commenced in late 1999/early 2000 and this is supported by aerial photographs of the period.
- There is no evidence of a road accessing the quarry in 1995; there is evidence of a road in 2000 but not of quarrying and significant intensification in 2005 and 2010.
- Issues of road access arise.

- Reference is made to the current application being used as a means to extend the boundary further to the west into a new area expressly omitted from previous applications.
- Conditions are outlined in the event of a decision to grant the current application.

5.6 Health Service Executive.

The HSE in a submission note that

- No complaints were received in relation to the quarry,
- Reference is made to drinking water supplies in the area and the absence of proper evaluation of possible impacts on groundwater.
- That background levels of noise be taken when the quarry is not operational.
- Reference is made to mitigation measures in relation to air and dust.

5.7 An Taisce.

An Taisce in a submission refer to cumulative environmental impact arising from the subject quarry and the adjoining quarry. Reference is made to the legal status of the registration process, the absence of information on the level/scale of quarrying in 1964 and 1990. The proposal does not constitute an exceptional case.

5.8 Galway County Council.

The planning authority in a submission indicate,

- The planning history
- Development plan provisions.
- Reference is made to the report of the environment department and the risks arising to groundwater and effects from noise.
- Reference is made to a report from the roads department.
- Permission is recommended for the development.
- Conditions are outlined including conditions relating to restoration of the site and a contribution of 25,000 euro.

5.9 Applicant's response.

The applicant in a submission indicates,

- The pre 1964 status of the quarry was determined by Galway County Council.
- The remit in the current proposal is substitute consent.
- Notwithstanding this signed statements relating to the use of the site as a quarry are submitted.

- Small amounts of building stone were extracted on an ongoing basis from the 1950s and late 1999 when more intensive mechanized extraction methods commenced.
- The matter of the existence of quarry between 1990 and 1999 was determined by Galway County Council.
- Although the 1995 aerial photograph is vague the white arcs within the site are areas where stone was extracted. There is also evidence of an access track which was surfaced in 2000 and evidence to the extraction in this period is submitted in the form of statements.
- The owner is the full owner of the subject application site and the right of way and has sufficient legal interest to use the right of way.
- The status of the quarry and its extent was established by the registration process. The legislation directed the applicant to prepare EIA and the applicant did not have to claim exceptional circumstances.
- The structures on the site without planning permission can form part of the substitute process.
- Oil tanks were on the site but were removed. The rEIS assessed the impact of these tanks and the only tank on the site is to meet the needs of the quarry. There is no evidence of accidental spillage from the tanks.
- Tyres previously on the site were removed.
- The production of lime occurs on the site and is assessed in the rEIS.
- In relation limestone pavement the rEIS and rNIS found no evidence that this habitat existed on the site or directly within the vicinity of the site. (Refer to appendices 5 and 6 with submission).
- In relation to groundwater mitigation measures are consistent with best environmental practice.
- In relation to noise the methodology follows best practice for the preparation of a rEIS.
- In relation to dust the applicant is not aware of any complaint on this matter.
- The submission has a number of appendices in support of the above.

6.0 PLANNING POLICY CONTEXT.

Galway County Development Plan 2009-2015.

Section 4.6 of the plan relates to Extractive Development and 4.6.1 outlines policies and objectives specifically relating to extractive development which include,

Policy ED16:

Facilitate the extraction of stone and mineral material from authorised sites having regard to its location in the landscape sensitivity rating.

Policy ED17:

Restrict development in the neighbourhood of existing extractive sites or sites which have obvious resource potential, and so avoid conflict in development activities.

Policy ED18:

Control all new operations and carefully evaluate all proposed developments to ensure that the visual or other environmental impacts of such works will not materially injure the amenities of the area.

Policy ED19:

The Planning Authority shall be favourably disposed towards planning applications for the use of temporary borrow pits for aggregates or materials that are located adjacent to or adjoining major public roads or infrastructure projects serving the county where the need to haul along public roads is eliminated. All normal planning considerations shall apply.

Objective ED6:

The Planning Authority shall have regard to the Quarries and Ancillary Facilities Guidelines published by the DoEHLG in 2004 and to DM Standard 36 of this Plan in the assessment of any applications for extractive developments.

Objective ED7:

Consider the preparation of an Extractive Industry Policy to provide greater clarity and guidance regarding extractive industry operations, planning application requirements and environmental and rehabilitation provisions.

Section 11 relates to Development Management standards and guidelines.

DM Standard 35 sets out requirements in relation to Extractive Development covering a range of matters and refers to compliance with relevant Guidelines, mitigation methods to reduce environmental impact, access, rehabilitation, EIS, landscaping and screening and heritage and biodiversity

7.0 ASSESSMENT.

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues.

- Principle of substitute consent.
- Principle of development.
- Environmental Impact Statement.
- Environment Impact Assessment.
- Appropriate Assessment

7.2 Principle of substitute consent:

The applicant it is noted was required to apply for substitute consent subject a notice issued by the Planning Authority on foot of Section 261A of the Planning and Development Act 2000 as amended under P.A. file ref (QSP71).

This application, I consider, complies with the provisions of the Planning and Development Act, 2000 as amended in regard to applications for substitute consent resulting from the issue of a notice by the Planning Authority.

7.3 Principle of development.

In section 3 of this report I have outlined the planning history relating to the site and in section 6 the policy context.

The subject site is located in a rural area where the predominant land-use is agricultural use and the site was the subject of registration under Section 261. The site has a history of planning applications and planning enforcement and quarrying and extraction is therefore well established on the site.

I note that many of the observer submissions raise questions relating to pre 1964 use and also the use of the site up to 1999. These matters relate to the issue of registration under Section 261 and are not material to the issue of substitute consent which relates to the current proposal.

In general terms the policies and objectives of the current county development plan support the principle of the expansion of an extraction industry which offers opportunity for employment and facilitates economic development. This largely supports national guidelines as set out in guidance on quarries and ancillary activities. The current county development plan also recognises a continuing need for some new or expanded aggregate quarrying operations on land to meet regional and local requirements and to ensure adequate supply of aggregates to meet likely scale of future demand.

The site itself has no specific zoning and it can be assumed that use is as the existing established use which in this case is an established quarry which is currently in active use.

It is therefore important to state at this preliminary stage of assessment that there is no specific provision in the Development Plan which specifically precludes the operation of a quarry at this particular location subject to satisfying development management standards and policies set out in the Development Plan.

The principle of the subject development is I consider acceptable subject to complying with standards as stated in national guidance in relation to the extractive industry and also development management standards stated in the county development plan and subject to the consideration that it does not

adversely impact on the amenities of the area or is not in contravention of other defined statutory provisions and provisions of the county development plan.

7.4 Environmental Impact Statement.

The application is accompanied by a remedial environmental impact statement.

In relation to the adequacy of the rEIS, I consider that it contains the information specified in Schedule 6 of the Planning and Development Regulations 2001, as amended and can be considered as a contribution towards the process of assisting making the relevant decision maker and the competent authority, in this case the Board, to enable a decision to be made. The various sections of the rEIS where relevant are considered in environmental impact assessment.

7.5 Environmental Impact Assessment.

The application for substitute consent in relation to EIA will be considered under the following headings:

- Impacts on human beings.
- Environmental impact including air emissions, noise and vibration and impacts on the water environment.
- Landscape and visual impact.
- Cultural heritage.
- Roads and transportation.
- Ecology

7.5.1 Impacts on human beings.

Chapter 4 of the rEIS relates to Human Beings.

In relation to human beings, the direct benefits of the proposal in relation to employment are outlined. Impacts which arise from quarrying activity relating to landscape, noise and dust are referred to and addressed in other sections of the rEIS but mitigation measures to address impacts are in place to mitigate these impacts.

I would consider that impacts identified are as stated in the rEIS and that visual impact also arises in the local context. These impact issues are however I consider adequately addressed in the relevant chapters of the rEIS.

7.5.2 Environmental Impact.

7.5.2.1 Air impacts.

Chapter 8 of the rEIS relates to Air and Climate.

In relation to air impacts the quarry development and its associated activities and processes has implications for air quality and potential direct and indirect impact arising from dust generation associated with general excavation, movement and processing of material and associated traffic movements internally within the site. There is also a potential impact on air quality due to traffic emissions and also the creation of dust from traffic entering and leaving the site. Blasting also occurs on the site the frequency of which it is indicated in the rEIS is dependent on demand for materials.

The rEIS indicates that dust is not currently a significant issue and monitoring confirms no elevated levels of dust deposition at site boundaries and reduction of levels have occurred over the years arising from these measures.

On the basis of the information submitted I consider that impacts relating to air emissions and quality have been assessed and there is nothing to suggest that significant adverse impacts have arisen as a result of the operations on the subject site.

I would conclude that the overall impacts on air quality would be acceptable having regard to mitigation measures in place.

7.5.2.2 Noise and Vibration.

Section 9 of the rEIS relates to Noise and Vibration.

The rEIS refers to the local receiving environment; the location of sensitive receptors and the presence of noise monitoring locations (figure 9.1 of rEIS). It is also noted that the operations of the quarry are located at lower levels increasing below the original ground level which provides additional acoustic screening. The monitoring stations have recorded noise levels which are indicated in table 9.2 of the rEIS and are below permitted levels. An assessment of noise levels are also indicated and related activities such as drilling, blasting rock braking and other associated activities. Reference is made to cumulative effects taking into account the adjoining quarry but that past activities are unlikely to have exceeded permitted levels.

Mitigation measures which were put into operation over the years and which are currently in operation are outlined. No additional remedial measures are indicated as required.

I would consider that the mitigation measures as outlined in the rEIS were satisfactory to ensure that the development did not adversely impact on the amenities of the area.

7.5.2.3 Soils and Geology.

Chapter 10 of the rEIS relates to Soils and Geology.

The nature of the operations carried out on the site by their nature has given rise to impacts arising from the removal of soil and subsoil and the flora contained within and the removal of limestone to depths considerably below previous ground levels.

The receiving environment is outlined in relation to soils and geology in the rEIS and the primary impacts are identified as the removal of soil and the substrata consisting of limestone ranging in depth from 10 to 25 metres. The removal of rock is a permanent irreversible impact.

7.5.2.4 Water

Chapter 11 of the rEIS relates to Water.

In relation to water there are implications for both surface water and ground water with regard to potential impacts arising from quarry activities. It is important to note in this context that the subject site is not a wet working site with extraction above the watertable. The working site is extracting limestone rock which permits transmission/conduit of water vertically and horizontally with high porosity. There are also processing activities associated with the quarry involving washing of material for the purpose of screening and grading aggregates. In the absence of a robust management system to contain and control discharges dirty water with suspended solids can I consider impact on sensitive water based receptors.

There is no watercourse in the immediate vicinity but is part of the Lough Corrib catchment and Lough Corrib is located approximately 9 kilometres to the west of the site.

The rEIS in an appraisal and survey of water catchments initially examined the receiving environment including the Lough Corrib Water Management Unit. The surveys also refer to turloughs within 5 kilometres of the site with no defined hydraulic connection identified between the site and the turloughs.

Groundwater flows are indicated and reference is made to the extreme vulnerability of the underlying aquifer which in the context of the site being karstic limestone formation with removal of overlying soils is a reasonable position. Although the aquifer in the wider Corrib/ Clare River water body is classed as of poor groundwater quality tests outlined in the rEIS and carried out within the site indicate no contamination on the subject site itself.

Essentially in relation to this site the primary impacts which are identified in the rEIS are discharges of contaminated water to ground water and also accidental spillages from oils and other chemical agents to groundwater.

The rEIS outlined the water management scheme in situ and also proposals in relation to further mitigation measures to be implemented on the site. Given that the site is essentially a dry working site this reduces potential risks other than recharge of contaminated water back into the groundwater. In relation to water impacts having reviewed the information I consider that the measures in place and proposed address potential impacts to water and that no significant impacts have arisen and are likely to arise from the operation of the quarry on the subject site.

The rEIS concluded that the quarry would not have significant impacts on water and I would concur with this conclusion.

7.5.4 Landscape and visual Impact.

Chapter 6 of the rEIS relates to landscape.

Quarrying by the nature of its surface extractive process will give rise to visual impact. The stripping and removal of soil cover and vegetation in relation to the subject site has resulted in a significant visual impact on the site and its immediate vicinity. Away from the immediate site the nature of the landscape and topography to absorb visual impact requires to be considered and also in relation to the subject site the cumulative impact when taking the adjoining quarry site into consideration.

A landscape appraisal was carried out of the site and refers to the residual effects after the cessation of quarrying activity indicating that mitigation measures will in the long term help in restoring the landscape and increase biodiversity in the area through re-vegetation and the maturing of woodland planted in the quarry floor and along the site boundaries. Reference is also however made that will not be possible to fully restore the quarry faces and the cumulative impact arising from having two adjoining quarries and two possible periods when cessation of quarrying will occur.

In relation to the proposed site the site is located on a hill within a low lying flat landscape but the appeal site is located on the northeastern lower slopes of Knockmaa Hill, which is the dominant topographical feature in the landscape and which is highly visible from a considerable distance in all directions. Although the site is not within an area designated of a high scenic value it is an attractive rural landscape. The proximity of the two quarries is a factor in increasing the visibility of quarrying operations. The proposed site by virtue of its relative location and the actual area of excavation is less prominent than the adjoining quarry to the south.

The development by its nature therefore will impact on the visual amenities of the area as it involves a change in the character of the local landscape with scarring of the hillside and unless the quarried area is filled in its entirety result in an

irreversible change in the landscape. The fact that there will be an impact however does not necessarily infer that the impact is entirely negative, that the impact cannot be ameliorated by screening during the operational life of the quarry and provisions for landscaping which will mature post quarrying. In this regard I consider that the mitigation measures carried out to date and proposed into the future are reasonable.

The site is in a rural area, which is an attractive landscape with mature hedgerows and trees. Knockmaa Hill is the dominant feature of the landscape and quarrying already occurs in two quarry operations on its lower slopes and vicinity. In general terms, the quarrying works are therefore a dramatic and irreversible impact on the local landform as a result of scarring and changes in the topography. The principle visual impact will be in the vicinity of the site and the impact diminishes further from the site and with appropriate landscaping it would not, therefore, be excessively intrusive and will not be I consider significant.

I therefore conclude that the impacts of the proposed works, while adversely impacting the immediate landscape, are in broad terms acceptable subject to appropriate landscaping.

7.5.5 Cultural heritage.

Chapter 12 of the rEIS relates to cultural heritage.

The rEIS refers to the significant archaeological evidence in the area with six identified sites on Knockmaa hill. Reference is also made to the designated monuments within a 1 kilometre radius of the quarry but there are none within the subject site and given the extent of quarrying operations no sites are likely to be identified. In general terms therefore no direct or indirect impacts are identified and the ongoing operation of the quarry will not give rise to residual impacts.

In relation to cultural heritage I would consider that having regard to the subject site and the documentation on the file it is likely that there would be no direct impacts on the existing archaeological environment. I do not consider that the impact of the development would significantly impact on the cultural heritage of the immediate area.

7.5.6 Traffic and transportation.

Chapter 7 of the rEIS relates to Traffic and Transportation.

In relation to traffic associated with the development there are implications for the existing road network arising from increased traffic generated, the nature of the traffic in particular HGVs utilizing the road network and the actual characteristics of the road network. The development is a resource tied based activity utilising a

local road network and the origin and destination of traffic extends to a wider area and requires journey time to use the N17 the main traffic artery in the area.

In addition to the direct traffic based impacts there are interactions with other potential sensitive receptors including human beings as the development generates a distinctive level and usage of HGV traffic with potential impacts of noise from vehicles and of potential impacts on air quality through emissions from vehicles.

The existing public road network serving the site is narrow in places and poorly aligned and this would apply also to the R333, which in turn links onto the N17.

The rEIS has assessed the existing environment in relation to the site operations and the road network in terms of road with alignment and condition immediate to the site and also in relation to several key junctions (figure 7.3 of rEIS) concluding that the traffic generated by the quarry is significantly below threshold of capacity on these routes and consequently will have a negligible impact on the road network.

Overall I would note that the development by its nature will generate traffic and in particular HGV traffic on the road network. The development is however a tied resourced based industry and the network has been upgraded in sections to facilitate free flow of traffic. The development also is within a reasonable distance of the regional and national road network.

I consider that the development would not have had an adverse impact on the road network in the area nor would the development endanger public safety by reason of traffic hazard. I would also conclude that no significant impact arises in relation to sensitive receptors in the area directly or indirectly.

7.5.7 Ecology

Chapter 5 of the rEIS relates to Flora and Fauna.

The main impacts of concern in a quarry development would be the removal of habitats which support unique or designated species as quarrying by the nature of its operation involves ground disturbance which would remove the ground conditions and cover which support those habitats.

In relation to ecology/flora and fauna the site is not located within a Natura site, the nearest being in excess of 2.5 kilometres away. This is the Lough Corrib SAC and SPA, a large site encompassing the Lough and many of the rivers within its catchment. The nearest designated site is the Knockmaa Hill pNHA site code 001288 approximately 500 metres to the west of the subject site where the main features of interest relate to woodland and areas of limestone pavement which support distinct flora species.

The quarry activities on the site has removed the soil and vegetation and also resulted in significant lowering of ground level. The rEIS has identified no designated protected species on the site based on field studies carried out and considers the site of low ecological value. It is also concluded that the site would not support protected species in its current species.

By way of mitigation it is indicated that restoration of the site will provide the opportunity for recolonising areas of the site. In effect therefore the rEIS in relation to flora and fauna has outlined that irreversible loss of habitat has occurred arising from the extraction process giving rise to areas of bare ground with little or no cover. The ongoing quarry process has also generated disturbance arising from noise and movement of machinery and humans which has led to a site which is not conducive to fauna.

There is no evidence presented to suggest there were significant flora or fauna species on the site. Nor is there any data to conclude that the quarry has had any perceptible impact on such species. Equally in considering interactions I would refer to other sections of the assessment and I would consider, and would be in concurrence with the rEIS, that the interaction of the impacts does not lead to significant environmental impacts and effects beyond those identified for each of the individual environmental topics.

7.6 APPROPRIATE ASSESSMENT.

The application for substitute consent lodged by the applicant with An Bord Pleanála on the 7th May 2013 submitted in relation to Appropriate Assessment (AA) a remedial Natura Impact Statement (rNIS).

I would note that activities, plans and projects can only be permitted where it has been ascertained that there would be no adverse effect on the integrity of a Natura 2000 site, apart from in exceptional circumstances. In considering AA I have had regard to the provisions of Planning and Development Act 2000 as amended and in particular to Section 177G.

The primary issue to consider is whether the development has individually and in combination with other plans or projects adversely affect the integrity of the European site concerned having regard to its conservation objectives.

It is indicated that the site is not within or adjacent to any Natura 2000 sites. As part of the screening process five Natura 2000 sites within 15 kilometres of the site are identified. Each of the five sites are individually outlined in the context of their conservation objectives and listed habitats and species. NHAs are also identified on the basis that they are important in supporting wildlife and habitats and often support Natura 2000 sites.

The position presented in the rNIS has in effect concluded that no measureable adverse impact has occurred to affect the integrity or qualifying interests of a Natura site arising from the development.

The primary issue therefore to consider is whether the development under consideration individually and in combination with other plans or projects has or has not adversely affected the integrity of the European site concerned having regard to its conservation objectives.

The site is not within a European site. Having considered the matter I consider on the basis of the information presented that the development has not adversely affected the integrity of the European site concerned having regard to its conservation objectives.

In relation to the impact on qualifying habitats and species the rNIS did examine potential impacts on European sites within a 15 kilometre radius site of the site. The rNIS assessed impacts in relation to identified potential impacts on the receiving environment in the context of source, pathway and receptor and I consider that no link has been established between the site and these sites.

I note that in the submission of Mr. Sweetman reference is made to aerial photographs in 1995 and 2000 and the presence of limestone pavement a priority habitat. In response to this reference to limestone pavement the applicant indicates that the rEIS and rNIS found no evidence that this habitat existed on the site or directly within the vicinity of the site. I would note that the quarrying operations have removed any current visual evidence of any possible presence of limestone pavement. There is therefore no conclusive information submitted by any party in relation to this matter.

In relation to this matter Limestone pavement code 8240 is a listed priority habitat under the Habitats Directive. They are included as listed habitats in European sites and pNHAs but the site as already stated is not listed for designation.

I have examined the aerial photographs including those relating to the years 1995 and 2000 before the areas were significantly excavated. The photographs do appear to indicate areas of exposed bare rock. Whether they are areas of limestone pavement or limestone outcrops or area which were the subject of excavation is not in any way conclusive. There is nothing in an examination of the aerial photographs to indicate that the rock would conform to the definitions for limestone pavement as set out in the publication "*The development of methodologies to assess the conservation status of limestone pavement and associated habitats in Ireland*" Irish Wildlife Manuals No. 43 published by the National Parks and Wildlife Service in 2009.

I would however note that the Knockmaa Hill pNHA site code 001288 located approximately 500 metres to the west of the subject site was designated for

reasons which included the presence of limestone pavement and it would be reasonable to consider that the subject site could have been similarly considered if limestone pavement was present.

Having considered the matter I consider on the basis of the information presented that the development has not adversely affected the integrity of any European site concerned having regard to their conservation objectives. There is nothing to suggest that the loss of woodland has resulted in any loss of Annex 1 habitat or in the fragmentation of habitat and any qualifying interest.

I therefore consider it reasonable to conclude on the basis of the information available that the proposed development, individually and in combination with other plans or projects would not adversely affect the integrity of a European site.

7.7 DEVELOPMENT CONTRIBUTION.

The local authority has recommended to the Board that the application for substitute consent be granted subject to relevant conditions environmental and financial associated with the operation of the sand and gravel quarry. Galway County Council have in a submission to the Board indicated payment of a contribution of €25,000 to defray additional maintenance cost of the local road network due to the use of the local roads to transport material from the quarry. In the context of the site's location and the requirement for the use of local roads prior to accessing the national network a contribution as stated is I consider reasonable.

I also consider that the standard development contribution scheme condition and similarly a bond should also be applied as I cannot see any basis for departing from normal practice in the matters of general financial contributions or bonds.

7.8 OTHER MATTERS.

I wish to refer to the legal requirement to consider whether or not there should be a cessation notice issued in the subject case. Based on my assessment in relation to any significant impacts, I do not consider it would be appropriate to require a cessation of activities.

The applicant has indicated as part of the substitute consent application that there is an intention to regularise all ancillary structures on the site and which were the subject of enforcement action by the planning authority. Specifically there is reference to an extension to an existing garage/workshop (Building A on submitted drawings) and the construction of an additional workshop/storage serving the quarry (Building B on submitted drawings) forming part of the substitute consent application. The basis for applying for these structures is to house and maintain the large plant machinery on the site.

There is also reference to other ancillary structures included as part of the substitute consent application, the canteen, pumphouse, lime crushing enclosure and water tank. It is noted that none of these structures are referred to in the public notices and therefore do not form part of the substitute consent application.

The substitute consent process relates to consideration and assessment of the quarry and its processes. Buildings irrespective of possible ancillary activities should I consider be addressed by a separate planning application.

8.0 CONCLUSION AND RECOMMENDATION.

The development which has occurred essentially comprised the extraction of limestone in an existing quarry at this site. Matters are raised in relation to right of access and also in relation to matters of a civil nature which are not related to the issue of substitute consent.

Arising from my assessment above and based on the information available therefore I conclude that the quarry has not given rise to significant adverse impacts on the environment and that ongoing impacts are limited in terms of scale and significance and can be remediated. I also consider that the subject development, either individually or in combination with other plans or projects, has not adversely affected the integrity of a European site.

I therefore recommend that the application for substitute consent should be granted in this instance based on the reasons and considerations and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

The Board had regard inter alia to the following:

- The provisions of the Planning and Development Acts 2000-2011 as amended and in particular part XA.
- The Quarry and Ancillary Activities, Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government 2004.
- The provisions of the Galway County Council Development Plan 2011-2017.
- The remedial Environmental Impact Statement and the remedial Natura Impact Statement submitted with the application for substitute consent.
- the planning history of the site,
- Submission received,
- 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 statement identified and described adequately the direct and indirect effects on the environment of the development and also the acceptability of mitigation measures outlined and proposed and residual effects arising.

The Board considered the remedial Natura Impact Statement submitted with the application for substitute consent and carried out an Appropriate Assessment of the development having particular regard to the potential for impacts on Natura 2000 sites. The Board completed an Appropriate Assessment and having regard to the nature and scale of the development, the nature of the receiving environment and the mitigation measures and water management proposals set out in the remedial rNIS and the Board is satisfied that the development, on its own or in combination with other plans or projects, has not adversely affected the integrity of a European site.

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

CONDITIONS

- 1 The grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application on the 7th May 2013. This grant of substitute consent relates to only works undertaken to date and does not authorise any future development on the subject site. This grant of substitute consent relates to the matters referred to in the public notices and not to the regularization of buildings on the site.

Reason: In the interest of clarity.

- 2 A detailed restoration scheme for the site shall be submitted to the planning authority for written agreement within three months of the date of this order. The following shall apply in relation to the design and implementation of the restoration plan:
 - (a) The site restoration shall provide for the immediate re-vegetation of the site where suitable and/or the provision of features to control sediments which could result in surface water pollution.

(b) Prior to commencement of works, a further survey of the site by an ecologist shall take place to establish, in particular, the presence of species of ecological value, including flora, which may recently have taken up occupancy on the site. The restoration plan shall have regard to the results of this survey.

(c) A timescale for implementation and proposals for an aftercare programme of five years shall be agreed with the planning authority.

Reason: In the interest of pollution control, to enhance the visual amenities of the area, to enhance ecological value and to ensure public safety.

- 3 The developer shall pay to the planning authority a financial contribution a contribution of €25,000 to defray additional maintenance costs of the local road network due to the use of the local roads to transport material from the quarry. 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 and shall take account of any previous payments made in respect of the development on the site. 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 matters shall be referred to the Board to determine.

Reason: It is considered reasonable in the context of the nature of the development and its impact on the local road network that a condition requiring a contribution be applied to the consent.

- 4 The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. 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 and shall take account of any previous payments made in respect of the development on the site. 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 matters shall be referred to the Board to determine.

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

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

Reason: To ensure the satisfactory restoration of the site.

Derek Daly,
Senior Planning Inspector.

24th March, 2014.