

1.0 INTRODUCTION, SCOPE AND METHODOLOGY

Golder, member of WSP in Ireland (Golder) have been commissioned to undertake this remedial Environmental Impact Assessment Report (rEIAR) to accompany a substitute consent application for an existing sand and gravel quarry at Ballinabarny North and Bolagh Lower, Redcross, Co. Wicklow. This rEIAR is submitted on instruction of ECT Sand and Gravel, owner and operator of this quarry who will be the applicant for this substitute consent application.

The quarry is situated ca. 3.5 km southeast of Rathdrum and ca. 3.5 km northwest of Redcross.

The lands that are the subject of this rEIAR ('the subject lands') measure 23.7 ha and are entirely encompassed by the substitute consent application area. The reserve at this quarry is glaciofluvial sands and gravels derived from sandstone and shales and underlain by shales and siltstone. The sand and gravel deposits in other area of the quarry are currently worked to an average depth of 114 mAOD. The reserve is excavated by mechanical means and processed on site. Excavated material is transported to a processing plant area over approximately 0.75 ha, which holds further processing plant, including washing, screening and grading for market. This plant and processing area is an established part of the quarry area central to the Site.

Figure 1.1 shows the regional location of the Site, whilst Figure 1.2 presents the substitute consent application area.

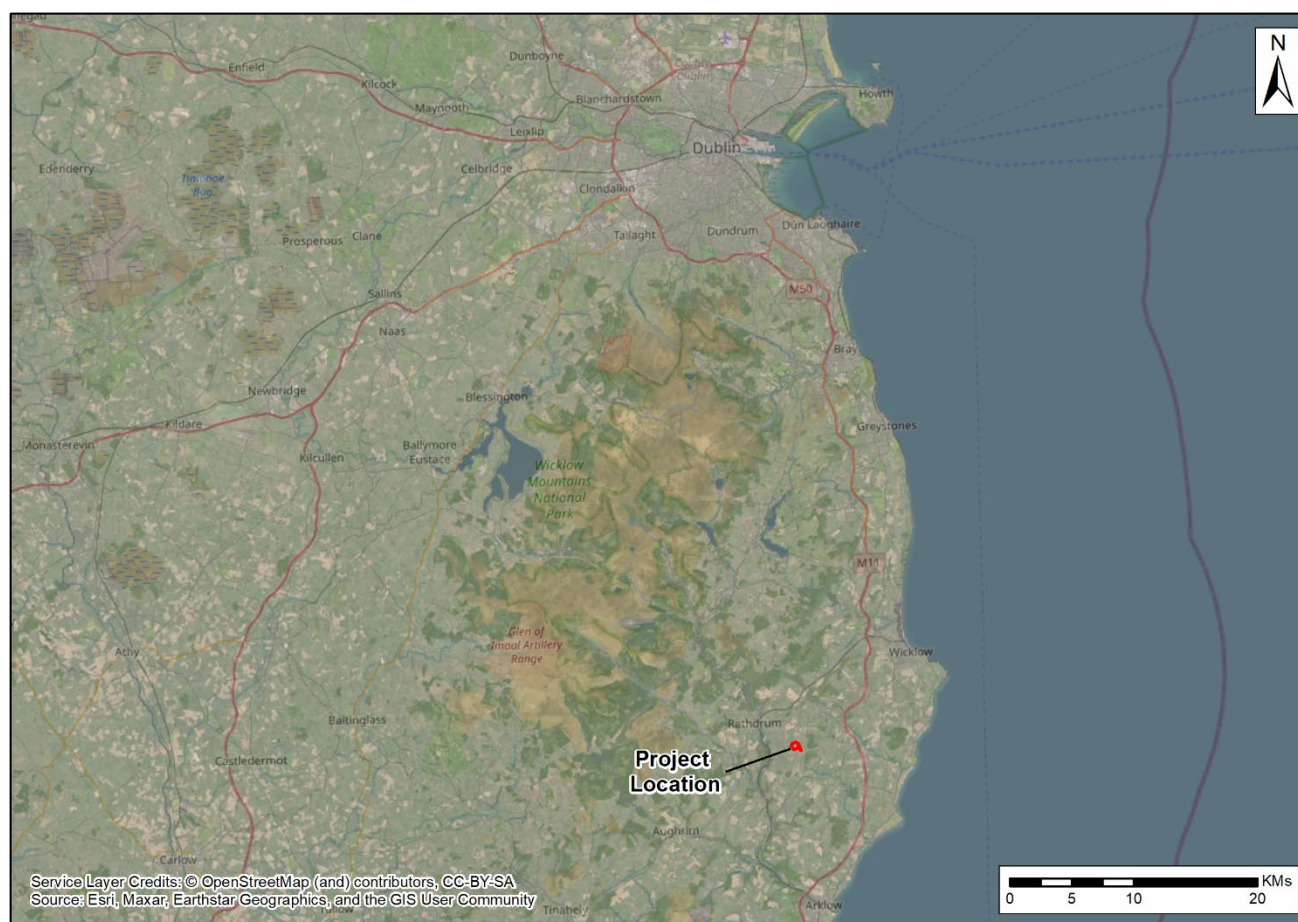


Figure 1.1: Project Location



Figure 1.2: Substitute Consent Application Boundary

1.1 Requirement for rEIAR

Certain proposed developments, due to their typology and scale, automatically trigger the requirement for EIA by a competent authority as part of that authority's formal assessment process for granting permission, consent or licensing. As set out in the next section, a hierarchical suite of European and national legislation and guidance govern Environmental Impact Assessment (EIA) and direct Environmental Impact Assessment Report (EIAR) content.

Remedial EIA arises where retrospective consent for a development that should have been subject to an EIA when permission was originally granted is now required to be undertaken. The consent for this type of development is substitute consent, itself the subject of dedicated legislative provision that in the first instance only allows the seeking of substitute consent after the granting of leave to make such an application or upon direction notice from an authority.

In this instance, the substitute application that this rEIAR accompanies is by Order of An Bord Pleanála (ABP; ABP-307472-20) of 9 July 2021, which is set out within Appendix 1.1. The Order refers to Section 177E of the Planning and Development Act, 2000, as amended, which sets out the requirements for a valid substitute consent application.

Section 261A of the Planning and Development Act 2000, as amended is entitled 'Further matters in relation to control of quarries' and succeeded Section 261 'Control of quarries'. It is necessary to set out the treatment of the quarry under Section 261 and Section 261A to illustrate the substitute consent application parameters arising from the above Order as this rEIAR has been prepared to accompany that application.

1.1.1 Definition of a Quarry for S.261 and S.261A

It is noted that S.261(13) are definitions for that Section. This includes 'quarry'; "has the meaning assigned to it by section 3 of the Mines and Quarries Act, 1965." This definition is set out here, Section 3, Mines and Quarries Act, 1965:

"In this Act "mine" means an excavation or system of excavations made for the purpose of, or in connection with, the getting, wholly or substantially by means involving the employment of persons below ground, of minerals (whether in their natural state or in solution or suspension) or products of minerals.

(2) In this Act "quarry" means an excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or bore-hole or a well and bore-hole combined.

(3) "Mine" and "quarry" include, respectively, any place on the surface surrounding or adjacent to the shafts of the mine or to the quarry occupied together with the mine or quarry for the storage or removal of the minerals or for the purposes of a process ancillary to the getting of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals but, subject thereto, does not include any place at which any manufacturing process is carried on.

(4) For the purposes of this Act, any place occupied by the owner of a mine or quarry and used for depositing refuse from it shall form part of the mine or quarry, but any place so used in connection with two or more mines or quarries, and occupied by the owner of one of them, or by the owners of any two or more in common, shall be deemed to form part of such one of those mines or quarries as the Minister may direct.

(5) For the purposes of this Act any line or siding (not being part of a railway) serving a mine or quarry shall form part of the mine or quarry, but, if serving two or more of them, shall be deemed to form part of such one of them as the Minister may direct.

(6) For the purposes of this Act a conveyor or aerial ropeway provided for the removal from a mine or quarry of minerals or refuse shall form part of the mine or quarry."

European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011 (S.I. No. 584 of 2011) inserted a discreet 'quarry' definition into Section 2 'Interpretation' of the Planning and Development Act, 2000 as amended as follows:

"quarry" means an excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or bore-hole or a well and bore-hole combined, and shall be deemed to include—

(i) any place on the surface surrounding or adjacent to the quarry occupied together with the quarry for the storage or removal of the minerals or for the purposes of a process ancillary to the getting of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals but, subject thereto, does not include any place at which any manufacturing process is carried on;

(ii) any place occupied by the owner of a quarry and used for depositing refuse from it but any place so used in connection with two or more quarries, and occupied by the owner of one of them, or by the owners of any two or more in common, shall be deemed to form part of such one of those quarries as the Minister may direct;

(iii) any line or siding (not being part of a railway) serving a quarry but, if serving two or more quarries shall be deemed to form part of such one of them as the Minister may direct;

(iv) a conveyor or aerial ropeway provided for the removal from a quarry of minerals or refuse.”

S.261A commenced in 2011 and, therefore, the above definition of a quarry applies to that section and to the quarry the subject of substitute consent that this rEIAR accompanies.

1.1.2 Section 261 Control of Quarries

Set out here is a summary of the Section 261 process to set a context for this quarry. As a summary, it does not purport to be a full rendition of Section 261 and is set out without prejudice to Section 261 of the Planning and Development Act 2000, as amended and the planning applications arising, which are public record.

Section 261 commenced in 2004 and required that ‘the owner or operator of a quarry’ that was in operation under planning pre ‘63 status or had a planning permission over 5 years of age supply details of their quarry operation to their local authority, i.e. to ‘register’ their quarry with their local authority. The details required to be supplied consisted of a form containing high level information, such as; age of extraction use; location, extent, and rate of extraction; traffic; hours of operation; and a map indicating the ‘area of the quarry, including the extracted area.

Upon receipt of registration information, the local authority were bound to apply a registration number to that quarry and carry out an assessment. In summary, the assessment was to determine whether the quarry was pre ‘63 (i.e. was in operation before the advent of the requirement to seek planning permission) or held planning permission. The authority also assessed the compliance of the site against its planning permission. The authority then had alternative options to notify to the registering owner or operator:

- That the quarry was pre ‘63 and would be subject to the imposition of conditions on the operation of the quarry, or was required to seek planning permission with EIAR (then an Environmental Impact Statement (EIS)); or
- That the quarry held planning permission and the authority was considering imposing new or revised conditions on its operation. Those conditions are considered the same as conditions imposed on planning permissions.

It also occurred that certain quarries registered were found to not hold planning permission or pre ‘63 status and were required to close.

The local authority was required to advertise the commencement of S.261 and their intentions in respect of each registered quarry.

1.1.3 Section 261 Registration of the Quarry, Wicklow County Council (Ref. QY39)

East Coast Transport Ltd (ECT) applied to register the quarry on 27 April 2005 as being operated by Mr. Vincent Cousins, with an estimated ‘site boundary’ of 23.7ha and a ‘quarry extraction area of 4ha. This registration further recorded that the quarry was pre ‘63. The registration was assigned ref. QY39 by Wicklow County Council (WCC).

1.1.4 Wicklow County Council Reg. Ref. 08/1153 and An Bord Pleanála Appeal PL27.233638

Planning permission was granted by WCC (Reg. Ref. 08/1153) for the retention and continuation of use processing and stockpiling of aggregate and various buildings and plant on 25.9617 hectares, and permission was sought for the retention and continuation of use of sand and gravel extraction at 21.07 hectares in 4no. phases, with processing of 150,000 tonnes per annum proposed. The application was accompanied by an EIS.

The planning permission was lost on appeal to ABP (RL27.233638). ABP's reason for refusal referred to the planning history of the site, the failure to register the quarry in accordance with section 261, the judgement C-215/06, that the development for which permission was sought was of a class that required EIA and included a significant element of retention and that therefore the Board was precluded from granting permission.

1.1.5 Section 261A Further Control of Quarries

Set out here is a summary of the Section 261A treatment of the quarry. The summary of S.261A at the outset does not purport to be a full rendition of Section 261A and is set out without prejudice to Section 261A of the Planning and Development Act 2000, as amended and the planning applications arising, which are public record.

Section 261A commenced in 2011. **S.261A(1)** required that each local authority publish notice that it intended to review 'every quarry' in its administrative area to determine whether the following was required but not carried out:

- i) An EIA;
- ii) A determination as to whether an EIA was required; and
- iii) An Appropriate Assessment (AA).

For the remainder of this section, EIA and AA are referred to as 'environmental assessments'. The potential outcomes of that review were:

- S261A(b) where environmental assessment or a determination for EIA required and not carried out + 261 registration undertaken and pre '63 status or conditions exist: the authority will issue notice that substitute consent is required to be sought;
- S261A(c) where environmental assessment or a determination for EIA required and not carried out + 261 registration not undertaken where the quarry is post '63 and no planning permission exists: the authority will issue notice that enforcement action will arise requiring cessation of activity and remedial site measures; or
- S261A(d) where environmental assessment or a determination for EIA required and not carried out + the development giving rise to that requirement was after 03 July 2008: the authority will issue notice that enforcement action will arise requiring cessation of activity and remedial site measures.

Section 261A(1)(f) required notice of the determination to be issued to the owner or operator and S261(1)(g) allowed for review of that notice upon request to An Bord Pleanála.

Section 261A(2)(a) required that each local authority, having regard to certain matters, make determination as to whether;

- i) development was carried out after 01 February 1990 that would have required EIA or determination as to whether EIA was required and not carried out, or
- ii) development was carried out after 26 February 1997 that would have required EIA or determination as to whether EIA was required and not carried out.

Section 261A(3)(a) required that a notice be issued within a certain time limit where an authority made a determination under S261A(2)(a)(i) and / or S261A(2)(a)(ii) and the quarry was found to be pre '63 or had a planning permission and fulfilled registration requirements under S.261. That notice concludes with a requirement to seek substitute consent with relevant environmental assessment from An Bord Pleanála.

The remainder of S261A(3) requires that the notice be issued to the owner / operator of the quarry, anybody who made submission to the process and a copy sent to An Bord Pleanála. The owner or operator of the quarry or anybody who made submission to the process may apply to An Bord Pleanála for a review of that notice.

Section 261A(4)(a) required that a notice be issued within a certain time limit where an authority made a determination under S261A(2)(a)(i) and / or S261A(2)(a)(ii) and the quarry was found; to have commenced after 01 October 1964 and had no planning permission, or the registration requirements under S.261 were not fulfilled. That notice concludes with an intention to issue an enforcement notice for cessation of quarrying and remediation.

The remainder of S261A(4) requires that the notice be issued to the owner / operator of the quarry and anybody who made submission to the process. The owner or operator of the quarry or anybody who made submission to the process may apply to An Bord Pleanála for a review of that notice.

Section 261A(5) required that a notice be issued within a certain time limit where the authority has made a determination under S261A (2)(a) that development occurred after 03 July 2008 that a notice would issue. That notice concludes with an intention to issue an enforcement notice for cessation of quarrying and remediation notwithstanding whether the quarry was found to be pre '63 or had a planning permission and fulfilled registration requirements under S.261.

The remainder of S261A(5) requires that the notice be issued to the owner / operator of the quarry and anybody who made submission to the process. The owner or operator of the quarry or anybody who made submission to the process may apply to An Bord Pleanála for a review of that notice.

Section 261A(6) sets out the matters that can be applied for review to An Bord Pleanála; the determination under S261A(2), decisions under S261A(3)(a) or (4)(a), the determination and / or decision under S261A(5)(a).

The remainder of S261A(6) sets out review procedures such as; suspension of notice operation until review conclusion, local authorities being required to supply information to the board upon request, and the review decision shall be provided to the person who requested the review and the local authority.

Section 261A(7) requires that where a notice has been issued under S261A(3)(a) requiring application for substitute consent and no review has been received by an Bord Pleanála, or a review has confirmed determination under S261A(2)(a) and decision under S261A(3)(a), the application for substitute consent shall be made within prescribed time limits.

Section 261A(8) requires that where a notice has been issued under S261A(3)(a) requiring application for substitute consent and a review by an Bord Pleanála has not been concerned with or confirmed determination under S261A(2)(a) or decision under S261A(3)(a) has been set aside, the local authority shall issue an enforcement notice for the cessation of quarrying.

Section 261A(9) and (10) relate to the review of a notice issued under S261A(4)(a) where notice of enforcement notice was issued.

Section 261A(11), (12) and (13) relates to the review of a notice issued under S261A(5)(a) where notice of enforcement notice was issued where development was after 03 July 2008.

Section 261A(14) requires that subject to section 177E(2A), where an application for substitute consent is made, it shall be made in relation to that development in respect of which the planning authority has made a determination under (2)(a).

Section 261A(15) explicitly requires that applications for substitute consent after direction under subsections (3), (10), or (12) comply with the provision of Part XA.

Section 261A(16) to (24) generally facilitate and apply to quarries that seek leave to apply for substitute consent.

1.1.6 Section 261A Review of the Quarry by Wicklow County Council and An Bord Pleanála Quarries Review Ref. QV27.0299

On 12 August 2012, Wicklow County Council served notice in accordance with Section 261A of the Planning and Development Act directing the applicant to apply to An Bord Pleanála for substitute consent with an rEIS based on the development, which post-dated 1st February 1990 and for which an EIA should have been carried out but was not. The requirement was based on an acceptance of a pre-1964 development and fulfilment of the requirements of 261 registration.

ECT applied to An Bord Pleanála for a review of the direction to apply for substitute consent (reference number 27.QV.0299). An Bord Pleanála upheld Wicklow County Councils direction to apply for substitute consent in a letter of direction to ECT d on the 28 March 2014.

1.1.7 Substitute Consent Application SU0121 and EIA Project Boundary

The Board refused an application for substitute consent stating that the Environmental Impact Statement was deficient in its failure to consider cumulative effects and alternatives and to provide sufficient information in relation to key impacts including the effects on water resources, hydrology and aquatic environment of the area. The Board was not satisfied that the development that has taken place has not resulted in significant and adverse effects on the environment. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

1.1.8 Judicial Review

ECT sought to quash the decision of An Bord Pleanála (dated 2 February 2016) to refuse the application for substitute consent made in September 2014 (SU0121). A High Court judgement dated 18 December 2019 decided that the relief claimed by ECT Sand and Gravel Ltd in the Judicial Review (JR) proceedings should be refused. However, during the course of those proceedings, it was determined that a further application could be made for Substitute Consent and, accordingly, an application was subsequently made to An Bord Pleanála for leave to apply for Substitute Consent under Section 177C (2)(b) of the Planning and Development Act 2000 (as amended).

1.1.9 Application for Leave to apply for Substitute Consent

An application for leave to apply for Substitute Consent was submitted to the Board in July 2020. Leave to apply for Substitute Consent was consented by way of Order of An Bord Pleanála [ABP-307472-20] of 9 July 2021.

1.2 Structure and Content of the rEIAR

EIA is a process undertaken for certain types of development. It provides a means of drawing together the findings from a systematic analysis of the likely significant environmental effects of a scheme to assist local planning authorities, statutory consultees and other key stakeholders in their understanding of the impacts arising from the development.

The following subsections outline the evolution of EIA Directives and their interpretation in the Irish jurisdiction, and the statutory provisions and guidance that provide the purpose and content of the rEIAR, which is summarised at the end of this section.

1.2.1 EIA Directives and Transposition

The requirement for an EIA process arises from European Union (EU) Directives required to be adhered to by member States and transposed into national laws.

The original EIA Directive 85/337/EEC has been amended and superseded by Directives 97/11/EC, 2003/35/EC, 2009/31/EC to Directive 2011/92/EU.

Having regard to the transposition of the original environmental assessment Directive into Irish Law, it is determined by reference to the Planning and Development Act, 2000 as amended (P&D Act) that the appointed day at which the requirement for same arose is the 1 of February 1990.

On 16 April 2014, Directive 2011/92/EU was amended by Directive 2014/52/EU of the European Parliament and of the Council (2014 EIA Directive).

The amending 2014 EIA Directive consists of 16 no. Articles and 5 no. Annexes that define EIA and the supporting information and processes available, and the requirement for EIA determination in the form of reasoned conclusion by the competent authority.

This is the environmental impact assessment report (EIAR) by the developer defined at Article 1 and required under Article 3. This report relates to lands of 23.7 ha. That enclose lands that have been the subject of extraction with a site area of 20.16 ha. Extraction area of that magnitude attracts automatic requirement for EIA as an Annex 1 project and is therefore subject to an assessment in accordance with articles 5 through 10.

Article 5 of the 2014 EIA Directive sets down the minimum information to be supplied in an EIAR, including those matters in Annex IV, as follows;

- (a) a description of the project comprising information on the site, design, size and other relevant features of the project;*
- (b) a description of the likely significant effects of the project on the environment;*
- (c) a description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;*
- (d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;*
- (e) a non-technical summary of the information referred to in points (a) to (d); and*
- (f) any additional information specified in Annex IV relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected."*

The 2014 EIA Directive required that *"Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 16 May 2017."*

The requirement for the current rEIAR arises as a result of grant of leave for substitute consent under the Planning and Development Act, 2000 as amended. Therefore, the competent authority undertaking EIA is An Bord Pleanála.

1.2.2 Statutory Provisions

As stated above, the requirement for the current rEIAR arises as a result of an Order by An Bord Pleanála that allowed a 'fresh' substitute consent application for a quarry reviewed under S.261A of the Planning and Development Act, 2000 as amended to be submitted. The procedures and considerations for substitute consent are also contained in the Planning and Development Act, 2000 as amended. Therefore, the planning and development statutes and related policy and guidance are relied upon to contextualise and define this report.

The report of the assessment of environmental effects to be prepared and submitted by a developer is referred to as an Environmental Impact Assessment Report (EIAR) in the current planning and development statutes after the transposition of the 2014 EIA Directive.

In this instance the development to which this report refers is that which has been already undertaken and thus this report is of experienced effects hence its definition as a remedial EIAR (rEIAR).

The P&D Act describes an rEIAR to be submitted in instances of substitute consent application in S.177F(1), as follows;

“A remedial environmental impact statement shall contain the following:

(a) a statement of the significant effects, if any, on the environment, which have occurred or which are occurring or which can reasonably be expected to occur because the development the subject of the application for substitute consent was carried out;

(b) details of—

(i) 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;

(ii) the period of time within which any proposed remedial measures shall be carried out by or on behalf of the applicant;

(c) such information as may be prescribed under section 177N”.

Regulations have been made to administer EIA. For the purposes of this rEIAR and the statutes under which the requirement for its preparation has arisen, the following Statutory Instruments are relevant and have informed this report:

- European Communities (Environmental Impact Assessment) Regulations (1989-2006);
- European Union (Environmental Impact Assessment and Habitats) Regulations (2011- 2019);
- European Communities (Environmental Impact Assessment) Regulations (2011 – 2020); and
- Planning and Development Regulations (2001 – 2021).

1.2.3 Guidance

Under the P&D Act the minister may make regulations and issue guidance. Summarily, Sections 28 and 29 of the P&D Act require that planning authorities and An Bord Pleanála have regard to guidelines and comply with policy directives, respectively in the performance of their functions.

The structure and content of this rEIAR is in accordance with the following guidance:

Guidelines issued by the Housing, Local Government and Heritage Department

- 2020 *Environmental Assessments and Planning in Ireland – Planning Leaflet 11*, Office of the Planning Regulator;
- 2018 August *Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment*, Department of Housing, Planning and Local Government;
- 2012 July *Section 261A of Planning and Development Act, 2000 and related provisions Supplementary Guidelines for Planning Authorities*, Department of the Environment, Community and Local Government;
- 2012 January *Section 261A of Planning and Development Act, 2000 and related provisions Guidelines for Planning Authorities*, Department of the Environment, Community and Local Government;
- 2009 December (revision February 2010) *Appropriate Assessment of Plans and Projects in Ireland*, Department of Environment, Heritage and Local Government;

- 2009 November The Planning System and Flood Risk Management *Guidelines for Planning Authorities*, Department of Environment, Heritage and Local Government; and
- 2004 April *Quarries and Ancillary Activities Guidelines for Planning Authorities*, Department of the Environment, Heritage and Local Government.

Guidance issued by the Environmental Protection Agency [EPA]

- 2022 Guidelines on the information to be contained in Environmental Impact Assessment Reports;
- August 2017 *DRAFT Guidelines on the Information to be Contained in Environmental Impact Assessment Reports* [Draft 2017 EPA Guidance which updated the Draft Guidance of May 2017];
- September 2015 *DRAFT Revised Guidelines on the Information to be Contained in Environmental Impact Statements*;
- September 2015 *DRAFT Advice Notes For Preparing Environmental Impact Statements*;
- 2006 *Environmental Management Guidelines, Environmental Management in the Extractive Industry (Non-Scheduled Minerals)*;
- 2003 September *Advice Notes On Current Practice In The Preparation Of Environmental Impact Statements*; and
- 2002 March *Guidelines On The Information To Be Contained In Environmental Impact Statements*.

1.2.4 Purpose and Content of rEIAR

Taking the description of an rEIAR as in the Planning & Development Act 2000, as amended and the definition of an EIAR in the same Act together with that by reference to Articles 3 and 5 of the 2014 EIA Directive, this rEIAR is:

A remedial environmental impact assessment report of the effects, if any, on the environment, which have occurred or which are occurring or which can reasonably be expected to occur because the development the subject of the application for substitute consent was carried out. The report is prepared to aid An Bord Pleanála in environmental impact assessment.

In addition to the aforementioned Directives and statutory provisions and guidance, the contents of this rEIAR, including baseline data, then anticipated potential environmental effects and remedial mitigation measures have been fully informed by preceding and subsequent planning and license applications and outcomes related to the subject lands.

The rEIAR has been prepared in a 'Grouped Format' structure, having regard to the prescribed environmental factors of the EIA Directive and the 2022 EPA Guidance; "Population and Human Health; Biodiversity, Land & Soils, Water, Air, Climate, Material Assets, Cultural Heritage, Landscape, Interactions."

In this way each aspect of the environment is presented as a separate section referring to the environment as it existed before development commenced, the existing development, experienced and / or likely impacts, and employed / proposed remedial mitigation measures.

The rEIAR has therefore been systematically organised to provide the information and environmental aspect chapters identified in Table 1.1.

Table 1.1: Overall Structure of the rEIAR

Content	Chapter
Context and Requirement for rEIAR	1.0 Introduction, Scope and Methodology
A description of the existing environment.	2.0 Project Description; and As appropriate in the respective discipline chapters.
A description of the project.	2.0 Project Description
Identification of experienced / likely significant impacts during construction and operation of the development and a description of the measures employed / envisaged in order to avoid, reduce and, if possible, remedy significant adverse impacts.	3.0 Population and Human Health 4.0 Ecology and Biodiversity 5.0 Land, Soils and Geology 6.0 Water 7.0 Air Quality and Climate 8.0 Noise and Vibration 9.0 Cultural Heritage 10.0 Landscape and Visual Impact 11.0 Traffic 12.0 Material Assets
Sets down the cumulative and in combination significant effects of the project and considers expected / experienced effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned	Cumulative: As appropriate in the respective discipline chapters. In combination: 13.0 Interactions Major accidents and/or disasters: 2.0 Project Description

Alternatives are examined by reference to locations, design, technology, size, scale and processes, as appropriate, and are set out later in this chapter.

Likely and significant impacts arising from the existence of the development, its use of natural resources, the emission of pollutants and the creation of nuisances are identified, described as direct, indirect, secondary, cumulative; by duration as short, medium and long-term, permanent and temporary; and by type as positive and negative, as appropriate.

A Non-Technical Summary (NTS) accompanies the rEIAR and provides a summary of the key findings of the EIA in non-technical language.

Table 1.2 identifies the data and information to be included by the developer in the rEIAR as described in Annex IV of the amended EIA Directive, and the location of this information within the document.

Table 1.2: Requirements of 2014/52/EU Annex IV and where these have been addressed in this rEIAR

Item	Requirement of Annex IV item	Reference in rEIAR
1	Description of the project, including in particular: (a) a description of the location of the project; (b) a description of the physical characteristics of the whole project, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases; (c) a description of the main characteristics of the operational phase of the project (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used; (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.	(a) and (b) Chapter 2 – ‘Project Description’ (c) and (d) Chapter 2 – ‘Project Description’, and identified in the relevant technical chapters
2	A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by	Section 1.7 – ‘Alternatives’

Item	Requirement of Annex IV item	Reference in rEIAR
	the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.	
3	A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.	A 'Baseline Conditions' section has been provided in each technical chapter' along with a section which summarises a 'Do-Nothing' scenario without development.
4	A description of the factors specified in Article 3(1) likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.	Each relevant study area which has been scoped into the rEIAR is provided within a dedicated technical chapter. Chapters 3 – 12.
5	A description of the likely significant effects of the project on the environment resulting from, inter alia: (a) the construction and existence of the project, including, where relevant, demolition works; (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources; (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste; (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters); (e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources; (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change; (g) the technologies and the substances used. The description of the likely significant effects on the factors specified in Article 3(1) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project. This description should take into account the environmental protection objectives established at Union or Member State level which are relevant to the project.	(a), (b) and (c) Each technical chapter, as appropriate (d) Chapter 3 (Pop. and Human Health), Chapter 9 (Cultural Heritage), and Chapter 2 (in relation to accidents and disasters) (e) Each technical chapter, as appropriate (f) Chapter 7 (Air Quality and Climate) (g) Each technical chapter, as appropriate Descriptions of effects are identified in each technical chapter, as appropriate
6	A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.	Assessment methodology is identified in each technical chapter, as appropriate, or a common framework and terminology has been identified in Section 1.6. Difficulties encountered in compiling the rEIAR have been identified in each technical chapter, as appropriate
7	A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided,	The identification of remedial mitigation measures is identified in each technical chapter, as appropriate.

Item	Requirement of Annex IV item	Reference in rEIAR
	prevented, reduced or offset, and should cover both the construction and operational phases.	
8	A description of the expected significant adverse effects of the project on the environment deriving from the vulnerability of the project to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to Union legislation such as Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.	Chapter 2, Section 2.4 (Major Accidents and Disasters)
9	A non-technical summary of the information provided under points 1 to 8.	Submitted as a separate document with this application
10	A reference list detailing the sources used for the descriptions and assessments included in the report.	Final Section of each technical chapter.

1.3 Limitations and Difficulties in Compiling the Specified Information (Schedule 6 of SI 600 of 2001, as amended)

Limitations and difficulties encountered in preparing this rEIAR having regard to the Planning and Development Regulations and Section 3.7.2 of the 2022 EPA Guidelines relate to the lack of monitoring and survey data from the period that the subject lands were excavated and material processed. WSP/Golder were allowed full access to all records held by the substitute consent applicant, who has possessed the lands that are the subject of this rEIAR and their surrounding landholding since 1999. The applicant, upon taking possession of the lands, continued (and continues) to operate the quarry therein.

Historic planning application and license files were inspected at the offices of Wicklow County Council and via the online planning portal where appropriate. Notwithstanding, consistent topographical survey and monitoring data for the subject lands from years preceding about 2008 and S.261 registration of the quarry does not exist.

In this instance, the subject lands and processing plant have variously been the subject of, or part of previous planning applications, an rEIS, EIS and Screening for AA, which themselves contain monitoring, impact and mitigation analyses that are part relied upon to discern the environmental impact of development on the subject lands before, during and after the extraction phases.

Conservative assessments have been applied where information concerning methodology or program could not be fully determined.

As appropriate, information from publicly available sources has been used in the course of this assessment. This includes mapping sources, such as the Environmental Protection Agency, Geological Survey of Ireland, Department of Communication, Climate Action and Environment, and other information, including Census returns. Due care has been taken in the review of these data sets; however, no responsibility can be taken for inaccuracies that may be present within this public data.

WSP/Golder Associates have had full access to the quarry site, associated lands, offices and records, including access to the developer and employees of companies operating the quarry site in order to inspect and monitor and to prepare this rEIAR.

1.4 rEIAR Contributors and Guarantee of Competency and Independence

S177F(1A) requires that the rEIAR be prepared by experts with the competence to ensure its completeness and quality.

In the interests of consistency and the leveraging of existing specialist knowledge of the subject site, alongside the applicant, competent experts have been retained to compile this rEIAR. The applicant supplied information held in respect of previous reports.

Notwithstanding the refusal of previous substitute consent and planning applications (refs. SU0121 and 08/1153) decisions, the environmental assessments that gave rise to those outcomes by both the local authority and An Bord Pleanála were reviewed to identify the following group of experts, all of whom are particularly experienced in environmental assessment of quarry and mining projects.

The rEIAR was completed by a project team led by WSP/Golder, who also prepared a number of the chapters.

The members of the team and their respective inputs are presented in Table 1.3.

In accordance with EIA Directive 2014/52/EU, we confirm that experts involved in the preparation of the rEIAR are fully qualified and competent in their respective field. Each has extensive proven expertise in the relevant field concerned, thus ensuring that the information provided herein is complete and of high quality.

Table 1.3: rEIAR Contributors

Discipline	Lead Specialist	Qualifications	Accreditations	Years of Professional Experience
Population & Human Health; Material Assets	Lynn Hassett	MSc Environmental Impact Assessment BSc (Hons) Applied Ecology	Practitioner Member of the Institute of Environmental Management and Assessment	15
Biodiversity	Freddy Brookes	MSc Aquatic Ecosystem Management	Member of the Chartered Institute of Ecology and Environmental Management (MCIEEM) Member of the Institute of Fisheries Management (MIFM)	14
Land, Soils & Geology	Anna Goodwin	MSc Geology MSc Hydrogeology	Chartered Geologist (Geological Society of London) and European Geologist	18

Discipline	Lead Specialist	Qualifications	Accreditations	Years of Professional Experience
Water	Sofia Nazaruk	MSc Hydrogeology BSc Geology and Applied Environmental Science	Fellow of the Geological Society of London	10
Air Quality and Climate	Rachel Lansley	MSc Environmental Monitoring and Analysis, BSc Physical Geography	Chartered Scientist (CSci), Member of the Institution of Environmental Sciences (IES) Member of the Institute of Air Quality Management (IAQM)	15
Noise and Vibration	Mervyn Keegan (AONA Environmental)	MSc Environmental Science BSc Applied Biology	MIOA	23
Cultural Heritage & Archaeology	Conor Ryan	BA (Joint Hons.) Archaeology and Geography	Associate of the Chartered Institute for Archaeologists (ACIfA)	8
Landscape & Visual	Richard Barker (Macroworks)	MLA, PG Dip Forestry, BA Env	Corporate Member Irish Landscape Institute	17
Traffic & Transport	Aly Gleeson (PMCE)	MEng (Hons) Civ Eng MBA (Hons) BSc (Hons) Civ Eng Road Safety Audit, Certificate of Competence	CEng FIEI - Chartered Engineer, and Fellow of Engineers Ireland	20
Interactions	All relevant lead specialists			
Mitigation and Monitoring				

Discipline	Lead Specialist	Qualifications	Accreditations	Years of Professional Experience
Introduction, Project Description, and Planning	Ruth Treacy	BSc.. Agr. Sc. MSc,. Agr. Sc.. Dip. Planning & Environmental Law	MIEI, CRWM, MIWM	20
	Gavin Lawlor	B Soc Sc MRUP	MIPI	25

1.5 The Applicant / Developer

The developer for the purposes of this rEIAR and applicant for the purposes of substitute consent is ECT Sand and Gravel (ECT), owned by Mr. Vincent Cousins. As noted above, ECT has exclusively operated the quarry since 1999 when he purchased the landholding and gravel pit from Sean Whelan. The land has been in the Whelan family since it was purchased by the grandfather of Sean Whelan, Joseph Whelan, in the late 1930s. A gravel pit has been present on this land and in operation prior to the 1 October 1964, with uninterrupted use since that time and under the ownership of the Whelan family.

There are currently three access routes to the gravel pit, refer to figure Figure 1.3. The first (route A) is by means of a laneway that is not in the ownership of the applicant. This route was the historical access to the pit and is right of way access used since 1938. The use of this access ceased in c. 2013, when route B was brought in to use; this1-16s remains the current main access to the Site. Route B is the central route to the site and is accessed off the existing right of way and continues through the applicant's lands, which are the subject of an authorised waste facility. Permission has been granted for route C, which has been fully constructed and accesses the L5155 north of Kilmacrea crossroads. The use of this access is only permitted to an authorised quarry development and use of this access was prohibited by Wicklow County Council on refusal of the previous substitute consent under SU0121. It is proposed to revert to use route C should substitute consent be granted in this instance.



Figure 1.3 Access Routes

1.6 rEIA Process – Prediction of Impacts and Effects and Assessment of Remedial Mitigation Measures

1.6.1 Determining the Extent of the Assessment

It is necessary to define the extent of the rEIA in both spatial and temporal terms, and this has been done as described below.

Geographical Extent

The rEIA directly covers the physical extent of the Site as shown in Figure 1.2. Also, as many predicted impacts can extend beyond the immediate Site boundary (for example the use of the Site for foraging by a species that is primarily located off-site) an appropriate ‘zone of influence’ has been considered, as described in the individual topic chapters.

The geographical extent of the EIA boundary also includes the cumulative impacts from related and unrelated development activities in both the construction and operational phases.

Temporal Extent

As identified in Section 1.2.1, the original EIA Directive (85/337/EEC) was transposed into Irish Law through the Planning and Development Act, 2000 as amended, and the appointed day at which the requirement for same arose is 1 February 1990.

Therefore, the baseline for this rEIA has been set to 1 February 1990, and the rEIA process will assess environmental impacts from that date to the present.

1.6.2 Prediction of Impacts and Effects Prior to Mitigation

Prediction methods are required to identify and assess the significant effects of the development on the environment. The predictive methods used for each technical discipline are detailed in the respective chapter. For several topic areas, predictive methods have been developed by professional bodies. Where these are available, they have been identified in the individual chapters as appropriate.

For topics where there is no topic specific guidance available, a common framework of assessment criteria and terminology has been used based on the EPA's Guidelines on the Information to be Contained in EIARs (EPA, 2022).

This common framework follows a 'matrix approach' to environmental assessment, which is based on the characteristics of the impact (magnitude and nature) and the value (sensitivity) of the receptor. The terms used in the common framework are described below. Details of how these specifically relate to the individual topic areas are provided, where appropriate, within the respective topic chapters.

The descriptions for value (sensitivity) of receptors are provided in Table 1.4.

Table 1.4: Environmental Value (sensitivity) and Descriptions

Value (sensitivity) of Receptor / Resource	Typical Description
High	High importance and rarity, national scale, and limited potential for substitution.
Medium	Medium or high importance and rarity, regional scale, limited potential for substitution.
Low	Low or medium importance and rarity, local scale.
Negligible	Very low importance and rarity, local scale.

The descriptions for magnitude of impact are provided in Table 1.5.

Table 1.5: Magnitude of Impact and Typical Descriptions

Magnitude of Impact (change)		Typical Description
High	Adverse	Loss of resource and/or quality and integrity of resource; severe damage to key characteristics, features or elements.
	Beneficial	Large scale or major improvement of resource quality; extensive restoration; major improvement of attribute quality.
Medium	Adverse	Loss of resource, but not adversely affecting the integrity; partial loss of/damage to key characteristics, features or elements.
	Beneficial	Benefit to, or addition of, key characteristics, features or elements; improvement of attribute quality.
Low	Adverse	Some measurable change in attributes, quality or vulnerability; minor loss of, or alteration to, one (maybe more) key characteristics, features or elements.
	Beneficial	Minor benefit to, or addition of, one (maybe more) key characteristics, features or elements; some beneficial impact on attribute or a reduced risk of negative impact occurring.

Magnitude of Impact (change)		Typical Description
Negligible	Adverse	Very minor loss or alteration to one or more characteristics, features or elements.
	Beneficial	Very minor benefit to or positive addition of one or more characteristics, features or elements.

The approach followed to derive effects significance from receptor value and magnitude of impacts is shown in Table 1.6. Where Table 1.6 includes two significance categories, evidence is provided in the topic chapters to support the reporting of a single significance category.

Table 1.6: Significance Matrix

Environmental value (Sensitivity)	Magnitude of Impact (Degree of Change)				
		Negligible	Low	Medium	High
	High	Slight	Slight or moderate	Moderate or large	Profound
	Medium	Imperceptible or slight	Slight or moderate	Moderate	Large or profound
	Low	Imperceptible	Slight	Slight	Slight or moderate
	Negligible	Imperceptible	Imperceptible or slight	Imperceptible or slight	Slight

A description of the significance categories used is provided in Table 1.7.

Table 1.7: Significance Categories and Typical Descriptions

Significance Category	Typical Description
Profound	An effect which obliterates sensitive characteristics.
Large	An effect which, by its character, magnitude, duration or intensity alters a significant proportion of a sensitive aspect of the environment.
Moderate	An effect that alters the character of the environment in a manner that is consistent with existing and emerging baseline trends.
Slight	An effect which causes noticeable changes in the character of the environment without affecting its sensitivities.
Imperceptible	An effect capable of measurement but without significant consequences.

The approach to assigning significance of effect included reasoned argument, the professional judgement of competent experts and using effective consultation to ensure the advice and views of relevant stakeholders were taken into account.

The assessment of the significance of environmental effects covered the following factors:

- 1) The receptors/resources (natural and human) that would have been affected and the pathways for such effects;

- 2) The geographic importance, sensitivity or value of receptors/resources;
- 3) The duration (long or short term); permanence (permanent or temporary) and changes in significance (increase or decrease);
- 4) Reversibility – e.g. is the change reversible or irreversible, permanent or temporary;
- 5) Environmental and health standards (e.g. local air quality standards) being threatened; and
- 6) Feasibility and mechanisms for delivering mitigating measures, e.g. Is there evidence of the ability to legally deliver the environmental assumptions that are the basis for the assessment?

Following the assessment of the level of effect significance, remedial measures will be presented that will be used to further avoid, prevent or reduce the magnitude of the potential impact. If necessary, the significance of the effect taking into account the remedial measures is then assessed to give the residual effect significance. Any monitoring that will be required to measure the success of the remedial measures will also be presented.

Residual effects of 'large' or 'profound' significance are considered to be 'significant' for the purposes of this assessment.

The effects of the Development are also considered cumulatively with those that could foreseeably have resulted from other known developments that have occurred in the assessment study area.

1.7 The Need for the Development and Consideration of Alternatives

The application site comprises a sand and gravel quarry and associated infrastructure. The Site comprises a total of c. 23.7ha of which 20.16ha has been subject to extraction. The Site is surrounded by agricultural lands with forestry to the east and west of the Site. A full description of the Site is provided in Chapter 2.

1.7.1 Rationale for the Development

The rationale for the proposed development is based on the need to safeguard the existing and future operation of the quarry, as well as all buildings, and ancillary uses currently permitted and operating on the site, in the longer-term. In this regard, the regularisation of the development is intended to safeguard the high-quality sand and gravel reserve at this location and the significant capital investment already provided in the existing quarry.

The sand and gravel reserve at the subject location is of a proven good quality, capable of being used as aggregate fill and for further processing to asphaltic and concrete products. Therefore, the reserve material assumed to be present at the subject site and now extracted provided suitable aggregates for construction purposes.

As with all aggregate extraction development, the nearer the supply of aggregate to the market, the more economically viable it is and given the nature of aggregate deposits, quarries can only be worked where the sediments occur. Aligned to this economic situation is the environmental and social preferability of locally sourced aggregates. Aggregates sourced close to their market are preferable to those sourced at more remote locations as this lessens road traffic and associated environmental impacts and economic costs. Socially, the local sourcing of construction aggregate strengthens the local economy through job provision and associated spending and exploits advantages and opportunities inherent in local supply chains.

Aggregates are an essential material for the construction industry and are used in all major development plans (housing, road surfacing, infrastructure etc.). As such, they are of major significance to the overall growth of their local areas and the country and an important economic resource despite fluctuations in levels of construction due to wider economic forces.

The purpose of this rEIAR is to assess the site with regard to experienced / potential impacts on the environment, and to recount / propose measures to avoid, reduce or remedy undesirable potential impacts, as appropriate.

In this case, the quarry site represents the land asset upon which the owner and company employees rely. The owner is a quarry operator and employer who wishes to maintain this asset. The continued quarry use and sustainable further development is contingent on further planning permission to secure future reserve, especially as the substitute consent process is restricted to extant development.

Maintaining the quarry site and adjacent suitable lands as a viable quarry with associated processing plants will ultimately realise the sustainable extraction potential of this extant, established quarry and will maintain those direct and indirect jobs.

This application for substitute consent is required to regularise the planning status of the Site which is fundamental to the making of future applications for extraction. This proposal is supported by the Department of the Environment, Heritage and Local Government's *Quarries and Ancillary Activities – Guidelines for Planning Authorities* (2004), which states the following regarding proposals for quarry extensions:

"In considering whether a further permission should be granted, the planning authority should have regard (inter alia) to the following factors:

The extent of the remaining mineral resources and

- a. *The extent of existing capital investment in infrastructure, equipment, etc."*¹

1.7.2 Site Selection and Alternative locations

In this instance, the rEIAR has arisen as a direct requirement of an application for leave for substitute consent. In other words, the subject site is not a proposed site but rather an existing extraction and processing site. In view of the retrospective nature of the substitute consent process we cannot point to a site selection methodology employed in choosing the subject site. As such, site selection is outside the control of the operator having originated from their purchase of the extant quarry land in 1999. The existence of the established quarry and processing complex suggests that the persistent, continuous use of the subject lands for a quarry was more feasible, in environmental and economic impact terms, than developing a new greenfield quarry.

The existing quarry and ancillary uses and structures are already fully permitted and fully operational. The Applicant has already provided a significant capital investment in the existing quarry and in this regard, an alternative location is not considered to be viable or make best use of the existing reserves in the local area. regularisation and use of the existing quarry at the subject site is considered to be the most appropriate development.

1.7.3 Alternative Designs Considered at the Subject Site

In common with the site selection methodology, alternative design proposals are precluded due to the retrospective nature of the rEIAR. A review of historic aerial photography and information supplied by the developer suggests that, since the 1940s, the subject lands were extracted from the east, with progression in a north, west and south direction, and it is known from the 2021 topological survey data that extraction is to approximately to an average depth of 114 mAOD, where sand and gravel deposits have already been exhausted. It is assumed that the direction of extraction workings was dictated by the proximity of processing and direction of deposit. The location of existing plant, machinery and buildings on the site are already established and the locations were considered to be in the best possible locations to operate, which were away

¹ Department of the Environment, Heritage and Local Government (2004), *Quarries and Ancillary Activities – Guidelines for Planning Authorities*, p. 30 – 31.

from the quarry void yet close to the entry / exit point, whilst also ensuring minimal impact on the receiving environment and residents in the quarry's vicinity.

1.7.4 Alternative Mitigation Measures

Existing mitigation measures employed at the Site have been implemented by the operator based on industry best practice and relevant industry guidance.

As such, the subject site now has an established form and layout and the only event conceived and contained within this rEIAR is the restoration of this area to have regard to EIA requirement for mitigation of foreseeable impacts.

1.7.5 4.3.4 “Do Nothing” Alternative

The “do nothing” alternative would result in the cessation of the operation of the existing quarry at its existing footprint and depth. Industry demand for sand and gravel aggregates remains high and the ‘do nothing’ alternative would require alternative sources of sand and gravel to be established to supply the construction section.

1.7.6 Conclusion

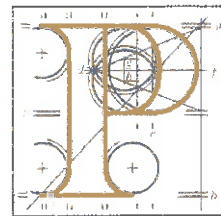
The selection of an alternative location for the proposed development is not applicable, given that the quarry and the associated activities are already in operation and considered to have sufficient reserves to continue the quarry's operation. The quality of the remaining reserves, as well as the capital investment on site means that the development cannot be accommodated in an alternative location.

APPENDIX 1.1

Order of An Bord Pleanála
ABP-307472-20 9 July 2021

Our Case Number: ABP-307472-20

Your Reference: ECT Sand and Gravel Limited



An
Bord
Pleanála

Golder Associates Ireland Limited
Town Centre House
Dublin Road
Naas
Co. Kildare

9th July, 2021

Re: Quarry.
Ballynabarney, Redcross, Co. Wicklow.

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned matter under the Planning and Development Acts 2000 to 2020. A copy of the order is enclosed.

The effect of this order is to direct you to make an application to the Board for substitute consent not later than 12 weeks after the date of the giving of the Board's decision (or such further period as the Board may allow). The application shall be accompanied by a remedial Environmental Impact Assessment Report and/or a remedial Natura impact statement.

Please note that the final date for the making of an application for substitute consent is 1st October, 2021.

Section 177E of the Planning and Development Act, 2000, as amended, sets out the requirements for a valid substitute consent application and your attention is also drawn to Part 19 of the Planning and Development Regulations, 2001, as amended, which requires, inter alia, the applicant to submit to the Board a newspaper/site notice. You are requested to contact the Board at bord@pleanala.ie in relation to the wording of the public notice prior to publication of same, or any other matter concerning the making of the application. A fee is also payable to the Board in respect of the substitute consent application.

Separately, it would greatly assist the Board to have a soft copy of the entire application submitted with six hard copies. In this regard, the drawings on the soft copy should be in PDF format.

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Yours sincerely,

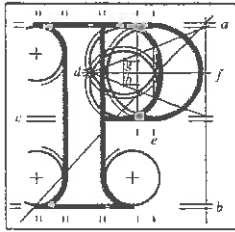


Erica Kearns
Executive Officer

BP100QN

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An
Bord
Pleanála

Board Order
ABP-307472-20

Planning and Development Acts 2000 to 2020

Planning Authority: Wicklow County Council

Application for Leave to Apply for Substitute Consent by ECT Sand and Gravel Limited care of Golder Associates Ireland Limited of Town Centre House, Dublin Road, Naas, County Kildare.

Development: Quarry at Ballynabarney, Redcross, County Wicklow.

Decision

GRANT leave to apply for substitute consent under section 177D of the Planning and Development Act 2000, as amended, based on the reasons and considerations set out below

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to Sections 177C and 177D of the Planning and Development Act 2000, as amended, the Board is satisfied that an Environmental Impact Assessment and an Appropriate Assessment are required in this case, in the light of the scale and nature of the quarrying that has been carried out.

Furthermore, the Board examined whether or not exceptional circumstances exist such that it would be appropriate to allow the opportunity for regularisation of the development by granting leave to apply for substitute consent.

In this regard, the Board considered that:

- this application for leave to apply for substitute consent has demonstrated that the regularisation of the quarry would not circumvent the purposes and objectives of the Environmental Impact Assessment Directive or of the Habitats Directive because it would allow for the provision of information and an analysis of the likely significant environmental effects of the development,

AW

- the applicant could reasonably have had a belief that the quarrying development that took place prior to 1999 when he acquired the site was authorised,
- this application for leave to apply for substitute consent has demonstrated that the ability to carry out an assessment of the environmental impacts of the development for the purpose of an Environmental Impact Assessment and to carry out an Appropriate Assessment, and provide for public participation in such assessments, has not been substantially impaired.
- the submission of a remedial Environmental Impact Assessment Report and remedial Natura impact statement would facilitate an assessment of the potential for the remediation of any significant effects on the environment or on a European site, and
- the applicant had made reasonable efforts to regularise the planning status of the quarry and noted that the planning authority is not currently pursuing enforcement proceedings against the applicant in this case,

having regard to the foregoing, it is considered that exceptional circumstances do exist such that it would be appropriate to permit the opportunity for application for regularisation of the development by permitting an application for substitute consent in relation to the site outlined in this application.

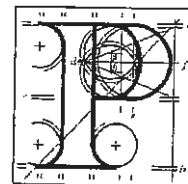


Dave Waish

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 9th day of July 2021

Judicial Review Notice



An
Bord
Pleanála

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act 2000 (as amended)

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

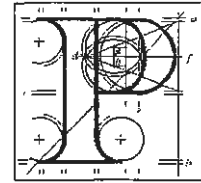
The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the ~~costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where~~ relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website,
www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice. Modified 30/11/2011

Fógra faoi Athbhreithniú Breithiúnach



An
Bord
Pleanála

Athbhreithniú breithiúnach ar chinneadh a rinne An Bord Pleanála faoi fhorálacha an Achta um Pleanáil agus Forbairt, 2000 (arna leasú)

Nuair is mian le duine agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird caithfear é sin a dhéanamh trí athbhreithniú breithiúnach amháin. Tá na forálacha chun agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird le fáil in ailt 50, 50A agus 50B san Acht um Pleanáil agus Forbairt, 2000 (arna ionadú le halt 13 den Acht um Pleanáil agus Forbairt (Bonneagar Straitéiseach) 2006, le halt 32 agus 33 den Acht um Pleanáil agus Forbairt (leasú), 2010 agus le halt 20 agus 21 den Acht Comhshaoil (Forálacha Ilghnéitheacha), 2011.)

Ní féidir ceistiú a dhéanamh in aghaidh cinnidh an Bhoird ach amháin trí iarratas ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúirteanna (I.R. Uimhir 15 de 1986). Faoi réir fho-alt 50(6) den Acht um Pleanáil agus Forbairt, 2000 déanfar iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach laistigh den tréimhse 8 seachtain den dáta a rinne an Bord an cinneadh nó laistigh d'aon síneadh ama a cheadaíonn an Ard-Chúirt faoi fho-alt 50(8). Tabhair faoi deara nuair atá athbhreithniú breithiúnach i gceist faoi alt 50 nach féidir ach bailíocht an chinnidh a cheistiú agus ní thugann an Chúirt aon chinneadh faoi fhiúntas na forbartha ó thaobh prionsabail pleanála cuí nó forbairt inchothaithe na háite nó éifeachtaí ar an timpeallacht. Tá sé leagtha síos in alt 50 nach ndeonófar cead d'athbhreithniú breithiúnach muna bhfuil an Chúirt sásta go bhfuil forais shubstaintiúla ann chun argóint a dhéanamh go bhfuil an cinneadh neamhbhailí nó gur ceart é a neamhniú agus go bhfuil suim shásúil ag an iarratasóir leis an ábhar i gceist san iarratas nó i gcásanna a bhaineann le measúnacht tionchair timpeallachta gur eagraíocht í an t-iarratasóir a chomhlíonann coinníollacha áirithe.

Tá forálacha in alt 50B mar gheall ar chostais maidir le himeachtaí san Ard-Chúirt i dtaobh athbhreithniú breithiúnach i gcásanna áirithe (lena n-áirítear imeachtaí faoi chinntí nó gníomhartha de bhun dlí de chuid an Stáit lena dtugtar éifeacht do na forálacha faoi rannpháirtíocht an phobail agus rochtain ar an gceartas atá leagtha amach i dTreoir 85/337/CEE i.e. an Treoir faoi mheasúnacht tionchair timpeallachta agus na forálacha í dTreoir 2001/42/CE maidir le héifeachtaí pleananna agus clár áirithe ar an timpeallacht a mheasúnú). Is í an fhoráil ghinearálta in imeachtaí lena mbaineann alt 50B ná go n-focfaidh gach páirtí a chostais féin. Is féidir leis an gCúirt costais a bhronnadh i gcoinne aon pháirtí i gcásanna áirithe. Chomh maith le sin tá forálacha i bhfeidhm ionas gur féidir leis an gCúirt iomlán a chostas nó cuid díobh a bhronnadh ar an iarratasóir, in aghaidh fhreagróra nó fhógrapáirtí i gcásanna ina bhfaightear faoiseamh mar gheall ar gníomhú nó neamhfheidhm an fhreagróra nó an fhógrapáirtí.

Tá eolas ginearálta faoi athbhreithniú breithiúnach le fáil ar an suíomh idirlín www.citizensinformation.ie.

Séanadh: Tá an t-eolas thuas tugtha mar threoirlíne. Ní éilítear gur léirmhíniú dlí faoi na forálacha ábhartha atá ann agus dá mbeadh sé ar intinn ag éinne cás dlí a thógáil in aghaidh an Bhoird bheadh sé inmholta comhairle dlí a fháil ar dtús. Athbhreithnithe 30/11/2011