

To

The Secretary

An Bord Pleanála,

64 Marlborough Street

Dublin 1

From

Thomas Niland

Birmingham Rd

Tuam

Co Galway

H54PY83

<b>AN BORD PLEANÁLA</b>	
LDG-	<u>064445-23</u>
ABP-	
<b>21 JUN 2023</b>	
Fee: €	<u>220</u> Type: <u>draft</u>
Time:	By: <u>Reg Post</u>

**APPEAL RE 2260819 GALWAY COUNTY COUNCIL**

PA REG.NO.	2260819
DESCRIPTION	quarrying operations including the extraction of minerals (sand and gravel) over an area of 6.5ha to a final depth of 34m aod, mineral processing activities, the loading of materials, the transportation of materials from the quarry and all related ancillary works related to the same; the recovery of inert waste arising from construction and demolition (c and d) activity via the importation of inert material and the operation of an inert waste recycling facility; and the recovery of natural materials of clay, silt, sand, gravel or stone and which comes within the meaning of inert waste (resultant from the recycling and mineral processing proposed on-site) for the purposes of achieving a beneficial restoration for the site to agriculture. Planning permission is sought for a period of up to 10 years. The planning application is accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS). Area of site to which the application relates to 6.500 hectares ADDRESS Cloonascragh Co. Galway APPLICANT McTigue Quarries Ltd
ADDRESS	Cloonascragh
APPLICANT	McTigue Quarries Ltd

**I wish to appeal this decision**

It is quite clear from photographic evidence submitted by me at the primary planning stage that this site has been, and has continued to be used for the purposes of:

**1. *Extraction of sand and gravel from within the planning application site.***

- It is clear from drawings provided as part of the FI request (see attachment 1) that virgin ground has been extracted from within this applicant site since the 2015 grant of substitute consent

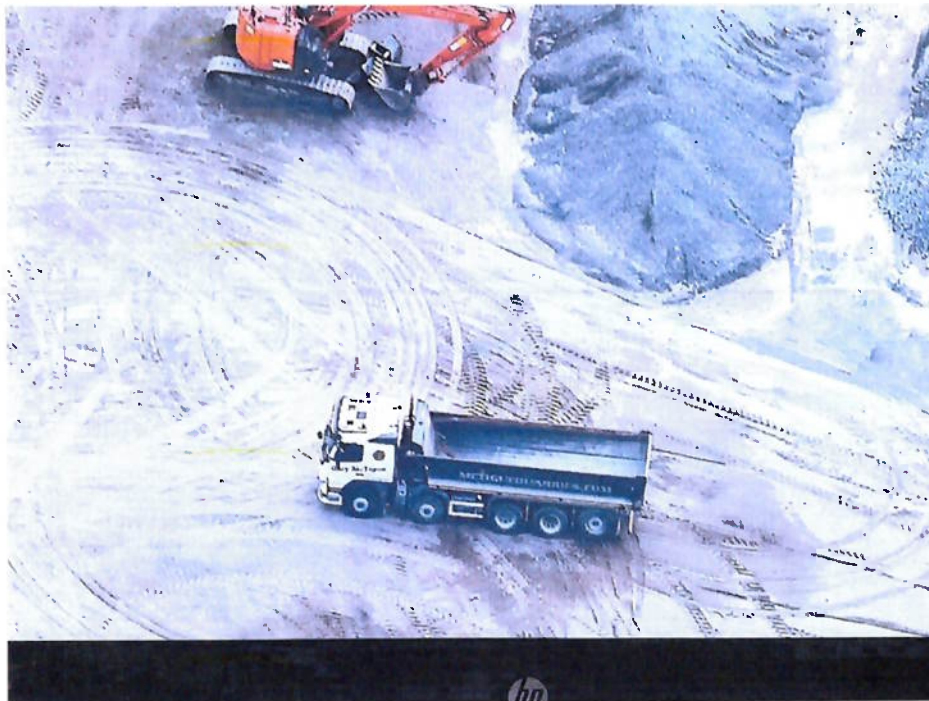
This can be seen clearly on attachment 1 from the area where the blue arrows are pointing and also from the cross section number 1,2,3 and 4 - 16, 17 and 18 – 33 and 37. It is clear from this that extraction has occurred within the planning application site.

I make the distinction here of "Virgin Ground" and not "stockpiles" as the applicant is trying to say that most of the ground disturbance since 2015 grant of Substitute Consent was the removal of stockpiles. The areas highlighted with blue arrows on attachment 1 *are not designated as stockpiles* by the applicant himself and clearly show virgin material has been/is being removed from within the application site.

This is a clear breach of condition 1 of the Substitute consent 07.SU.0036

**2. *Project Splitting and Facilitation of continued unauthorised extraction into bog areas adjoining the site by the current applicant.***

It has been clearly shown that all unauthorised activity within this application site and to the south of this application site is being carried out by the applicant. It cannot be disputed (despite an attempt to do so in response to my submission at FI stage) that the applicants trucks are seen in the site being loaded with sand or processed limestone which has been brought onto the site previously (See photo 1 and 2) By the applicant. And Enforcement Notice has been sent to the Applicant regarding this of which I have a copy. EN21/126



*Photo No. 1 showing McTigue Quarries branded Trucks*





*Photo No.2 showing Imported Sized Stone (BLUE/GREY COLOUR)*

In photo's No. 3, 4 and 5 you can again see Mctigue Quarries branded truck loaded with sand and leaving the site through the application site. Note the Date on these photos is **16<sup>th</sup> June 2023**



**Photo No. 3 showing truck being loaded**





Photo No. 4 showing Mctigue Branded Truck Loaded with sand.



Photo No. 5 showing truck leaving loaded through the application site

Water is also being drained from the new extraction area extending out into the bog, and being diverted over to the large water pond within the applicants ownership. As can be seen Photo No. 6 – new trench has been dug out and drainage piping is laid on the floor of the sand pit while trucks and machinery belonging to the applicant are parked within the pit.



Photo No. 6 showing new water trench

The applicant has continued this activity during this application and after the grant of permission (before c3 is issued) and this is subject to EN21/126

This site has been used in conjunction with the area to the south where extraction is on going as a **single unit** (as it was assessed under all previous planning history). There is only one way in and out and it is clear from the photos No. 8 and 9 (16 June 2023) below that there has been a water connection between silt ponds within the application site and the water pond which is in the ownership of the applicant but significantly the area is left out of the current application. It is however included that water from this pond will be needed sporadically for the on going processing within the application.

You can also see from a 2013 Aerial photo from Geohive map viewer website that there is water piping coming from the large pond in question (which is outside the application site) and going in the direction of the front ponds within the application site. This clearly shows that the previous operator of the site needed this water albeit the previous operator only washed sand as opposed to the washing of Soil and stone which is being sought here and will require vastly increased amounts of water. This piping can also be seen clearly from Google Maps recent photos.





Phot No. 7 Geohive 2013 aerial showing water piping

If water is needed from this pond whether sporadically or not, and there appears that there most certainly is a need, - then land in which this pond is situated should form part of this application. It is a fact that the processing of C and D waste is going to require a large volume of water (far in excess of that which is required to wash sand for example) and as such that this pond is going to be required on an on going basis and is critical to the success or otherwise of this processing operation. There is no mention of boring a well for water so this pond is going to be needed for processing of material within this application.





Photo No. 8



Photo No. 9

There also seems to be inconsistency in the mapping provided as part of the FI response.

The map provided as the 2013 SLR map and attached here (one used for purposes of SC application 2013) has a stockpile listed on it which I marked with a red X in attachment. It appears from 2013 aerial photos (no. 7) that there was no stockpile in this location? I Believe that this stockpile may have been included in this mapping by mistake and if so what others items have been added to the maps by mistake?

It is my belief that this area of ground which is within the ownership of the applicant (but not included in this application) has been left out of the current planning application in order to mislead the planning authority. It can be seen from aerial photos that there is piping (see under red arrow in photo 8) which appears to connect this pond (outside of the current application) to the ponds inside the current application. It is also apparent from aerial photo no. 6 that water is being drained from the area of current unauthorised extraction to this pond.

This water connectivity, along with the necessary transport of material into and out of this area through the current application area, as well as the obvious extraction of virgin ground within the current application area is clear evidence that the complete area is being used as one operating site, and is project splitting for the purpose of legitimising past and current unauthorised activity throughout this site. Such practises risk circumvention of EIA legislation and is inconsistent with EIA case law. An Bord Pleanála must ensure the whole development is assessed as a single unit for the purposes of seeking regularisation in accordance with required legislation.

It is in my opinion based on the planning history of the applicant that it is highly likely that extraction of sand and gravel which is outside of the current planning site will continue under the cover of this permission (if granted) and the local Authority have shown no willingness to enforce the planning code on this applicant at any site despite clear evidence that unauthorised activity is on going. As has been shown here in photos dated **16<sup>th</sup> June 2023** the applicant hasn't stopped this unauthorised activity as it is, never mind after any potential grant of permission on any part of this site.

### ***3. The storage of a crushed stone material brought into the site from another quarry for the purposes of onward sale***

This material (blue/grey in colour compared to the sand which is brown in colour) is likely being brought to this site from the applicants other quarry in Belclare. This is in affect facilitating the on going withdrawal of material from a quarry which is supposed to be closed on foot of a supreme court order since 2019 and also is the subject of an open (but stalled?) enforcement EN 15/029 by Galway county Council. EN 15/029 involves severally warning letters and several site visits but yet no enforcement has been issued yet! There has been large amounts of this limestone material stored on this site since 2020 according to information available on submissions on public file no. 20/1547 which was a withdrawn application by the applicant.

Could it be that, the location for storage of this material at the very back of the site which isn't visible from the entrance of the site or the public road was done so that this activity couldn't be seen and was kept outside the current application site to avoid any enforcement ? What other reason could there be – when the application site is closer to the entrance and a more suitable location. The hauling of this material into this site and again out of this site (through the application site) hasn't been assessed or addressed and is most likely (given it is still going on) to continue. This appears from pictures of 2020 stockpiles to be significant enough to warrant assessment. Traffic volumes to



and from the application site are in valid and don't properly represent the traffic which would generate from this application.

This material (blue/grey in colour) can be clearly seen from both aerial photos No. 2, 3 and 6.

Despite Galway county Council having issued enforcement proceedings against atleast one sand and gravel pit just outside Tuam, and one quarry in Killola, Roscahill, Co. Galway, (there may well be other examples I am unaware off) it appears that the local Authority is selective with whom they take enforcement against. The enforcement section within Galway County Council have issued several warning letters, visited the applicants quarry site in Belclare several times and yet 3 years after the last warning letter no enforcement has being issued. why has it been stalled? Galway county council have "active" enforcement proceedings against the current applicant for unauthorised sheds within the same Belclare quarry which has been on going now for over 10 years. Why is it taking so long to enforce a simple unauthorised building? Finally Why has no enforcement commenced on the current site despite it being obvious on going unauthorised activity continues (see attached photos dated 16<sup>th</sup> June 2023) and there is an active enforcement file EN21/126

Is it for these reason I have appealed this application and feel it is only at the Board level that impartial decisions will be taken with respect to this application.

Signed: Thomas Niland

Date of Issue:  
05/05/2023 09:15am

**THIS IS AN IMPORTANT DOCUMENT**

KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO PRODUCE THIS ACKNOWLEDGEMENT TO AN BORD PLEANALA IF YOU WISH TO APPEAL THE DECISION OF THE PLANNING AUTHORITY. IT IS THE ONLY FORM OF EVIDENCE WHICH WILL BE ACCEPTED BY AN BORD PLEANALA THAT A SUBMISSION OR OBSERVATION HAS BEEN MADE TO THE PLANNING AUTHORITY ON THE PLANNING APPLICATION.

Galway County Council

PLANNING APPLICATION REFERENCE No: 2260819

A submission/observation in writing, has been received from Thomas Niland on 04/05/2023 in relation to the above planning application.

The appropriate fee of €20 has been paid. (Fee not applicable to prescribed bodies)

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001 and will be taken into account by the planning authority in its determination of the planning application.

Yours faithfully,  
Galway County Council

