

File With \_\_\_\_\_

## SECTION 131 FORM

Appeal NO: ABP 317330-23Defer Re O/H ☐

TO:SEO

Having considered the contents of the submission dated/ received 7/10/23  
fromApplicant I recommend that section 131 of the Planning and Development Act, 2000  
be not be invoked at this stage for the following reason(s): no new planning groundsE.O.: Date: 19/7/23

To EO: \_\_\_\_\_

Section 131 not to be invoked at this stage. ☐Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: \_\_\_\_\_

Date: \_\_\_\_\_

S.A.O.: \_\_\_\_\_

Date: \_\_\_\_\_

M \_\_\_\_\_

Please prepare BP \_\_\_\_\_ - Section 131 notice enclosing a copy of the attached  
submission

to: \_\_\_\_\_

Allow 2/3/4weeks – BP \_\_\_\_\_

EO: \_\_\_\_\_

Date: \_\_\_\_\_

AA: \_\_\_\_\_

Date: \_\_\_\_\_

File With \_\_\_\_\_

## CORRESPONDENCE FORM

Appeal No: ABP 31733023

M \_\_\_\_\_

Please treat correspondence received on 7/7  
22/10/23 as follows:

1. Update database with new agent for Applicant/Appellant \_\_\_\_\_

2. Acknowledge with BP 203. Keep copy of Board's Letter ☐

1. RETURN TO SENDER with BP \_\_\_\_\_

2. Keep Envelope: ☐3. Keep Copy of Board's letter ☐

## Amendments/Comments

Applicants reap to appeal

## 4. Attach to file

(a) R/S ☐(d) Screening ☐(b) GIS Processing ☐(e) Inspectorate ☐(c) Processing ☐RETURN TO EO ☐EO: [Signature]Plans Date Stamped ☐Date Stamped Filled in ☐AA: [Signature]Date: 12/7/24Date: 12/7/23

**Lisa Quinn**

**From:** Chris Tinsley <chris@quarryplan.co.uk>  
**Sent:** Friday, July 7, 2023 10:36 AM  
**To:** Appeals2  
**Subject:** ABP-317330-23- Lands at Cloonascragh- Appeal Submission  
**Attachments:** Response to Third Party Appeal- Niland ISSUE.pdf; Response to Third Party Appeal- Sweetman ISSUE.pdf  
  
**Importance:** High

Dear Sir/ Madam

Further to the Board's letters of 14<sup>th</sup> June 2023 and 23<sup>rd</sup> June notifying us of the lodgement of thirds party appeals made by Mr Peter Sweetman and Mr Thomas Niland against the decision of Galway County Council to grant planning permission for the above referenced site, we wish to make the attached submissions on behalf of the applicant and our client, McTigue Quarries Ltd.

The submissions are made via email as confirmed as an acceptable method of submission in an email from the Board dated 4<sup>th</sup> July 2023.

I would be grateful if you could confirm safe receipt of the same.

Any queries, please do not hesitate to contact me using the details below.

Regards  
Chris

**Chris  
Tinsley** BA DipTP  
MRTPI



Senior Town Planning Consultant

**Quarryplan Limited**  
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An Bord Pleanála  
64 Marlborough Street  
Dublin 1  
D01 V902

Dear Sir/Madam,

7<sup>th</sup> July 2023

**RE: An Bord Pleanála Reference ABP-317330-23**

**Quarrying operations (extraction of sand and gravel); recovery of waste via the importation recycling and processing of construction of demolition waste; and the restoration of the site with indigenous and recovered natural materials at Cloonascragh Sand and Gravel Pit, Tuam, County Galway (Galway County Council Reference 22/60819).**

We refer to your letter dated 14<sup>th</sup> June 2023 notifying us of the lodgement of a third party appeal against the decision of Galway County Council to grant planning permission for the above referenced development. We wish to make the following submission on behalf of the applicant and our client, McTigue Quarries Ltd.

The third party appeal by Peter Sweetman and Associates dated 8<sup>th</sup> June 2023 has been reviewed by Quarryplan Ltd, acting as planning agents on behalf of its client, McTigue Quarries Ltd. Please find below a brief overview of the proposed development and submissions in response to the items raised within the appeal.

**Proposed Development and Planning Application**

McTigue Quarries Ltd submitted a planning application to Galway County Council in August 2022 for quarrying operations (extraction of sand and gravel); recovery of waste via the importation recycling and processing of construction of demolition waste; and the restoration of the site with indigenous and recovered natural materials at lands in the townland of Cloonascragh, Tuam, County Galway.

The application site is located at Cloonascragh Sand and Gravel Pit, in the townland of Cloonascragh, Tuam, County Galway. The existing pit has a total site area of 12ha. The planning application area covers an area of c. 6.5ha and is

comprised of the northern end of the existing pit, which is in the ownership of the applicant. The site is currently dormant.

The planning application seeks permission for 3 main elements:

1. the extraction of sand and gravel over an area of c.6.5ha;
2. the importation, recycling and processing of inert, construction and demolition waste; and
3. the progressive restoration of the site to Agricultural use.

Galway County Council consulted with the following bodies during the course of their assessment of the planning application:

- Galway County Council Roads and Transportation Department
- Galway County Council Heritage Officer
- Galway County Council Environment Section
- Department of Housing, Local Government and Heritage
- Irish Water
- An Taisce
- Failte Ireland
- Heritage Council
- Environmental Protection Agency.

A Further Information Request ('FIR') was received from Galway County Council on 3<sup>rd</sup> October 2022. Further information was provided by the applicant in response to the FIR on 31<sup>st</sup> March 2023. Notification to grant was issued by Galway County Council on 25<sup>th</sup> May 2023. A third party appeal was lodged with the Board on 8<sup>th</sup> June 2023 by Peter Sweetman and Associates.

### **Third Party Appeal**

The Appeal submission begins by quoting a passage from the Planners Report referencing the recommendations of the Appropriate Assessment (AA) screening process before stating that *"This is the wrong test the correct test"*. This statement is contradictory and it is not possible to understand the Appellant's claim.

The Appeal makes a number of claims in relation to the Natura Impact Statement (NIS). The NIS for the proposed project was prepared by Woodrow APEM Group. This report was written by Philip Doddy and Aoife Hughes and reviewed by Róisín NigFhloinn. Woodrow APEM Group are sufficiently competent and experienced in undertaking such Assessments as detailed in the NIS. Their responses to the matters raised in the third party appeal in relation to the NIS are provided at **Appendix 1**.

In the Planner's report it is confirmed that:

*"It is therefore concluded the proposed development including proposed mitigation can reasonably rule out that the proposed development at this site, individually or in-combination with other plans or projects, would not have an*

adverse effect (direct/indirect) on any European designated sites, their qualifying interests or conservation objectives".

Given that the application documentation has been prepared by competent experts with vast experience in the minerals sector and that it has been reviewed by the County Council and bodies with specialised areas of expertise with the above referenced conclusions reached on its adequacy, the appellant's claims with regards to the contents of the NIS are considered to be without substance or foundation.

The appellant's submission references item 4 of the FIR which relates to hydrology and states that they do not believe that the information provided satisfied the request. A 'Water Management Strategy in Operational Phase & Flood Risk Assessment' was prepared by BCL Hydro in response to Item 4 of the FIR.

No information is provided as to why the Appellant considers the information inadequate. The information contained in the FI response in relation to Item 4 was prepared by competent and experienced professionals at BCL Hydro and the Planners Report confirms that the County Council is content with the information provided. As such, the item is considered to have been adequately addressed in the response to the FIR.

In their submission, the Appellant references:

*"the record of the applicant concerning waste in their unauthorised quarry at Belclare Tuam. It is our submission that all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned have not been removed".*

It is unclear as to what record concerning waste the Appellant is referring to. Substitute Consent was granted for the Applicant's site at Belclare in 2015 which considered amongst other matters, the impacts upon the environment in terms of waste management. There have not been proceedings undertaken by any of the relevant public bodies with regards to waste at the Belclare Site and it is unclear as to how this matter relates to the consideration of reasonable scientific doubt in the preparation of the NIS for the Cloonascragh Site.

The Appellant's submission also references information from the NIS which states:

*"A detailed waste acceptance protocol will be put in place and only internal contractors will be used".*

Before stating that *"This line proves that this basic requirement is not in place"*.

As detailed in the submitted EIAR, the Application Site benefits from Substitute Consent. The Substitute Consent process cannot grant any permission for future development. No development activity requiring planning permission is taking place. Given that the site does not benefit from any permission for development,

including that for the importation of waste, there is no need for a waste acceptance protocol to be in place at the site. The Appellant's submission is therefore wholly incorrect.

The appellant makes reference to Condition 3 of the Substitute Consent for the site and its requirement to submit and agree information in relation to fencing to maintain the security of recorded monument in GA043-046.

In response to FIR Item 16, the Applicant referred the Planning Authority to the Cultural Heritage Section of the remedial Environmental Impact Statement submitted (and approved) for Substitute Consent Reference 07.SU.0056, prepared by Dr Charles Mount.

The rEIS Chapter concluded that:

*"The removal of the remains of RMP site GA043-046--- cannot be remedied. No other impacts on cultural heritage, archaeology or buildings of heritage interest have been identified and no remedial measures are required".*

The Inspector's Report produced in March 2014 as part of the substitute consent permission details that quarrying at the site has led to the complete removal of the remains of a rectangular enclosure, Recorded Monument GA043-046 prior to 1995 before the area was placed into the Recorded Monuments in 1997. No remaining trace of the Monument was visible when a field survey was undertaken in May 2013.

Therefore, historical quarrying has led to the removal of the remains of the recorded monument GA043-046 and there is no remaining monument to secure. By its very nature, Archaeology does not alter in the intervening timeframe post the previous assessment as referenced above and as such, it is considered unnecessary to revisit the previously accepted conclusions.

The condition requires that proposals for fencing off and maintaining the security of the recorded monument to be submitted to, and agreed in writing with the planning authority, and implemented to the written satisfaction of the planning authority within one month of the date of the order.

A condition compliance submission was made to Galway County Council in February 2020 referencing how historical quarrying had led to the removal of the remains of the recorded monument and seeking the Planning Authority's written agreement to the restoration concept proposed for the whole site that incorporates the area of the former monument. No correspondence with regards to written confirmation, as required by the condition has been forthcoming from the Planning Authority since the condition compliance submission.

The Applicant has attempted to comply with Condition 3 insofar as possible. The fact that the remains of recorded monument GA043-046 have been previously removed and there is no remaining monument to secure does not go to the heart



of the Substitute Consent permission and does **not** mean that the site does not have Substitute Consent which was granted in 2015, as the Appellant alleges.

## **Conclusion**

McTigue Quarries Ltd submitted a planning application to Galway County Council in August 2022 for quarrying operations (extraction of sand and gravel); recovery of waste via the importation recycling and processing of construction of demolition waste; and the restoration of the site with indigenous and recovered natural materials at lands in the townland of Cloonascragh, Tuam, County Galway.

Notification to grant was issued by Galway County Council on 25<sup>th</sup> May 2023. A third-party appeal was lodged with the Board on 8<sup>th</sup> June 2023 by Peter Sweetman and Associates.

As demonstrated throughout this submission, the third-party appeal contains a number of inaccuracies, unfounded and incorrect claims and statements which have been demonstrated to be without any substance or foundation.

Arising from the above, we submit that An Bord Pleanála should uphold the decision of Galway County Council and proceed to grant planning permission for the proposed development.

I trust the above is satisfactory however should you do have any queries, please do not hesitate to contact me.

Yours faithfully



**Chris Tinsley MRTPI**  
**Senior Town Planning Consultant**

cc. G McTigue, McTigue Quarries Ltd.

## **Appendix 1**

Woodrow Response to the matters raised in the third party appeal in relation to the NIS



woodrow  
APEM Group

McTigue Quarries, Cloonascragh, Tuam, County Galway

Planning Authority Reference Number: 2260819

The following points are given in response to an appeal by Peter Sweetman & Associates to a grant of permission for the above proposed development. The Appeal has been reviewed by Philip Doddy (Senior Ecologist) whose competency is set out in the Statement of Authority contained within the submitted Natura Impact Statement (NIS).

1. Mr Sweetman's appeal states the following:

*The planning authority considered the nature and scale of the proposed development, within European sites, the conservation objectives and qualifying interests of the Lough Corrib SAC and SPA the distance of the site from same., Following the screening process, the Planning Authority has determined that the potential for significant effects to European sites cannot be excluded. By virtue of the requirement for protection or mitigation measures required during operation of the proposed development, the recommendation of the screening process is, therefore, to proceed to Stage Two: Appropriate Assessment.*

This is the wrong test the correct test. The threshold for screening for Appropriate Assessment is set out in Kelly -v- An Bord Pleanála [2014] IEHC 400 (25 July 2014) which states at 26. Which was included in our submission.

Response:

Article 26 of the ruling referred to above states the following:

26. There is a dispute between the parties as to the precise obligations imposed on the Board in relation to the stage 1 screening by s.1777U but its resolution is not strictly necessary in these proceedings. There is agreement on the nature and purpose of the screening process which is well explained by Advocate General Sharpston in Case C-258/11 *Sweetman* at paras 47-49:

"47. It follows that the *possibility* of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment. There is no need to *establish* such an effect; it is, as Ireland observes, merely necessary to determine that there *may be* such an effect.

48. The requirement that the effect in question be 'significant' exists in order to lay down a *de minimis* threshold. Plans or projects that have no appreciable effect on the site are thereby excluded. If all plans or projects capable of having *any* effect whatsoever on the site were to be caught by Article 6(3), activities on or near the site would risk being impossible by reason of legislative overkill.

49. The threshold at the first stage of Article 6(3) is thus a very low one. It operates merely as a trigger, in order to determine whether an appropriate assessment must be undertaken on the implications of the plan or project for the conservation objectives of the site [ . . . ]"

In the present case, it was considered possible that the Proposed Development could have a significant effect on European Sites, and therefore the proposal did proceed to Stage 2: Appropriate Assessment. As a result, a full Natura Impact Statement was prepared, as required.

## 2. Mr Sweetman's appeal states the following:

*Item 4. The application has an identified hydrological connection with Lough Corrib SAC And SPA, the application is requested to provide full details of the proposed on-site water management system for the operational phase of development including:*

- a) Volume of water required for screening and washing processes, both of extracted and imported materials.*
- b) Full details of where water for such processes is sourced and stored on-site*
- c) Details of on-site water storage capacity of soiled water within the water management system, i.e. settlement ponds and identified attenuation tank.*
- d) Please provide more detailed account of the proposed use of groundwater pond outside the application site boundary and within the applicant's ownership.*

*I having read the Natura Impact Statement submitted we find that this request reasonable.*

*It is our submission that the further information on this point did not satisfy the request*

## Response:

This point does not relate to the ecological work carried out by Woodrow at the site or the reports prepared by Woodrow. The matter was addressed in the FI response and is discussed within the main body of the submission, made by Quarryplan Ltd.

3. Mr Sweetman's appeal states the following:

*Item 2. The NIS has been updated based on detailed information relating to dust, noise, water usage, a surface water management detail and flood risk assessment as well as any proposed mitigation. The Planning Authority carried out an Appropriate Assessment and is satisfied that, where the potential for any adverse effect on any European Site has been identified, the applicant has appropriately identified beyond reasonable doubt that the pathway by which any such effect may occur has been robustly blocked through the use of avoidance, appropriate design and mitigation measures. The Planning Authority concludes that the proposed development either, individually or in combination with other plans or projects, will not adversely affect the integrity of any European Site.*

It is our submission that this assessment does not comply with the requirement of the CJEU as set out in paragraph 44 of Case 258/11.

"So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned."

Response:

Considering the conclusions of the Dust Impact Assessment prepared by AONA Environmental Consulting Ltd.<sup>1</sup>, and the distance between the Application Site and the closest European Site (633 metres), it was considered that there would be no significant impacts on European Sites as a result of dust from the Proposed Development.

Considering the conclusions of the Noise Impact Assessment prepared by AONA Environmental Consulting Ltd.<sup>2</sup>, and the distance between the Application Site and the closest European Site (633 metres), it was considered that there would be no significant impacts on European Sites as a result of noise from the Proposed Development.

These two issues, as they relate to ecological impacts on European Sites, do not constitute lacunae. The other matters referred to above (water usage, surface water management and flood risk assessment) are discussed within the main body of the submission, made by Quarryplan Ltd.

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<sup>1</sup> AONA Environmental Consulting Ltd. (2022) Cloonascragh Quarry dust impact assessment

<sup>2</sup> AONA Environmental Consulting Ltd. (2022) Cloonascragh Quarry noise impact assessment

4. Mr Sweetman's appeal states the following:

The F.I. Received Doc. Re the Natura Impact Statement.

Table 2: provides a list of Potential Impact type and effect and Potential Cause.

We draw attention the following points in this table as follows.

*"in the event that the imported C&DW which is being stored/handled/processed on site contains elements which are hazardous and the run-off/ leachate from the same;"*

Considering the record of the applicant concerning waste in their unauthorised quarry at Belcare Tuam. It is our submission that all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned have not been removed.

Response:

The Potential Impact Type identified in Table 2 of the NIS is valid, and the NIS further notes that:

"The Grange and Clare Rivers are important for Atlantic salmon. Otters, crayfish, lamprey and freshwater pearl mussels are also sensitive to toxins and contaminants."

While the record of the applicant is a matter for the Planning Authority, is it imperative that hazardous waste is not buried at the site. It is understood that no hazardous waste is proposed to be imported to the site. This point is addressed within the main submission prepared by Quarryplan Ltd.

5. Mr Sweetman's appeal states the following:

*5.1 Mitigation to prevent pollution by hydrocarbons or other chemicals.*

*All fuels, lubricants and other chemicals will be stored in labelled containers or tanks within this bunded area. The bunded area will be regularly inspected to ensure proper containment. Any damage or flaws identified during inspections will be repaired without delay.*

That is not mitigation.

The CJEU defines this requirement as measures intended to avoid or reduce the harmful effects of the plan or project on that site. This 'undertaking' does not remove the risk.

Response:

This is a tried and tested approach that has become a COSSH standard in avoiding pollution potential. Provided that it is carried out in full, without exception, by the quarry operator, it is sufficient to avoid risk of impact from stored materials.

6. Mr Sweetman's appeal states the following:

*Spill kits will be available at all times to deal promptly with any spillage that may occur on the site.*

*That is not mitigation it is a measure to deal with a situation which we say should not be allowed to arise.*

Response:

Mr Sweetman's appeal correctly states that the situation should not be allowed to arise. However, the above quotation is not given in its full context. The NIS goes on to state:

"Spill kits will be available at all times to deal promptly with any spillage that may occur on the site. Employees will be familiarised with the correct use of spill kits. All on-site vehicles and machines will be checked regularly for oil leaks or drips. Any such problems will be repaired without delay. No routine servicing of mobile plant and machinery will be undertaken in the sand and gravel pit. HGVs which are used to haul excavated material from the site will be refuelled off-site, in order to minimise storage of fuels on the Application Site. Any necessary on-site repairs or re-fuelling will be done either in the workshop or within an appropriate area, or using drip trays and absorbent mats as required. Any waste oil will be stored under cover in the bunded area before being removed off-site by a licenced contractor. HGVs will not be routinely parked on the site for extended periods when not in use.

Operations at the Application Site will be in accordance with the best practice measures set out in Section 3 of the DoEHLG (2004) Quarries and Ancillary Activities: Guidelines for Planning Authorities<sup>15</sup>. The site manager will be responsible for ensuring the full implementation of specified mitigation measures."

It is considered that these provisions, when implemented in full, would be sufficient to prevent impacts on European Sites.

7. Mr Sweetman's appeal states the following:

*A detailed waste acceptance protocol will be put in place and only internal contractors will be used.*

*This line proves that this basic requirement is not in place.*

Response:

It is understood that this is discussed within main body of the submission, made by Quarryplan Ltd.

8. Mr Sweetman's appeal states the following:

*'Detailed mitigation measures have been put forward in this NIS to protect groundwater in the area from contamination, and to ensure that the Proposed Development does not result in adverse impacts on the integrity of any European Sites or their protected habitats and species. In addition, embedded mitigation is included in the proposal to control and regulate the proposed importation & processing of construction and demolition waste at the site and the use of the natural materials recovered from the same in the restoration of the quarry.'*

So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned."

Response:

While this objection is not specific, it is considered that the ecological assessments carried out are comprehensive and do not contain lacunae.

## **Conclusion**

It is confirmed that the NIS has been prepared by competent and experienced professionals and does not contain lacunae. The NIS has been reviewed by Galway County Council with the Planner's report confirming that:

*"It is therefore concluded the proposed development including proposed mitigation can reasonably rule out that the proposed development at this site, individually or in-combination with other plans or projects, would not have an adverse effect (direct/indirect) on any European designated sites, their qualifying interests or conservation objectives".*

The Appellant's claims with regards to the adequacy of the NIS are therefore considered to be unfounded.





An Bord Pleanála  
64 Marlborough Street  
Dublin 1  
D01 V902

7<sup>th</sup> July 2023

Dear Sir/Madam,

**RE: An Bord Pleanála Reference ABP-317330-23**

**Quarrying operations (extraction of sand and gravel); recovery of waste via the importation recycling and processing of construction of demolition waste; and the restoration of the site with indigenous and recovered natural materials at Cloonascragh Sand and Gravel Pit, Tuam, County Galway (Galway County Council Reference 22/60819).**

We refer to your letter dated 23<sup>rd</sup> June 2023 notifying us of the lodgement of a third party appeal against the decision of Galway County Council to grant planning permission for the above referenced development. We wish to make the following submission on behalf of the applicant and our client, McTigue Quarries Ltd.

The third party appeal by Mr Thomas Niland dated 21<sup>st</sup> June 2023 has been reviewed by Quarryplan Ltd, acting as planning agents on behalf of its client, McTigue Quarries Ltd. Please find below a brief overview of the proposed development and submissions in response to the items raised within the appeal.

**Proposed Development and Planning Application**

McTigue Quarries Ltd submitted a planning application to Galway County Council in August 2022 for quarrying operations (extraction of sand and gravel); recovery of waste via the importation recycling and processing of construction of demolition waste; and the restoration of the site with indigenous and recovered natural materials at lands in the townland of Cloonascragh, Tuam, County Galway.

The application site is located at Cloonascragh Sand and Gravel Pit, in the townland of Cloonascragh, Tuam, County Galway. The existing pit has a total site area of 12ha. The planning application area covers an area of c. 6.5ha and is

Company Number – NI 051906



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comprised of the northern end of the existing pit, which is in the ownership of the applicant. The site is currently dormant.

The planning application seeks permission for 3 main elements:

1. the extraction of sand and gravel over an area of c.6.5ha;
2. the importation, recycling and processing of inert, construction and demolition waste; and
3. the progressive restoration of the site to Agricultural use.

Galway County Council consulted with the following bodies during the course of their assessment of the planning application:

- Galway County Council Roads and Transportation Department
- Galway County Council Heritage Officer
- Galway County Council Environment Section
- Department of Housing, Local Government and Heritage
- Irish Water
- An Taisce
- Fáilte Ireland
- Heritage Council
- Environmental Protection Agency.

A Further Information Request ('FIR') was received from Galway County Council on 3<sup>rd</sup> October 2022. Further information was provided by the applicant in response to the FIR on 31<sup>st</sup> March 2023. Notification to grant was issued by Galway County Council on 25<sup>th</sup> May 2023. A third party appeal was lodged with the Board on 21<sup>st</sup> June 2023 by Mr Thomas Niland.

### **Third Party Appeal**

The third party appeal is broken in to 3 sections however it is considered to be focussed on one broad issue, that is, alleged unauthorised activity at the site. As a general comment, the Appeal contains a significant degree of speculation, which is unfounded and in any event, is not relevant to the proposed development or a material consideration in the determination of the planning application. As such, it is not considered necessary to comment upon these elements of the Appeal in detail, other than to confirm that they are inaccurate or irrelevant.

### **Alleged Unauthorised Extraction**

The Appeal begins by alleging that sand and gravel has been extracted from within the planning application site without planning permission. The appellant references how the photographs they have provided and a number of the cross section drawings for the planning application demonstrate that extraction has occurred at the Application Site.

## **Planning Drawings**

Drawings were provided by the Applicant in response to FIR item 1 which show existing, consented and proposed contours. As detailed in the FIR, the top and bottom of the quarry faces/ landforms (i.e. the consented levels) as shown in Drawing Ref 04 A Existing Site Layout approved under Substitute Consent Reference 07.SU.0056 have been provided in drawing 230126Dwg03A and overlay the proposed mineral extraction design.

The drawing shows that there are no significant differences between the consented levels from the Substitute Consent drawing and the existing site levels. As detailed in the FIR response, any discrepancies between the two levels are as a result of human interpretation in the digitisation process for the historic Substitute Consent drawing rather than being as a result of any mineral extraction at the site.

The Planners Report confirms that the drawings:

*"provide sufficient detail of consented site levels, existing site levels and those proposed post quarrying operations on site. The Planning Authority is satisfied the Applicant has appropriately addressed this request for information".*

## **Photographs**

The Sand and Gravel Pit was granted Substitute Consent by An Bord Pleanála in accordance with section 177E of the Planning and Development Act, 2000 (as amended) in December 2015 under Reference 07.SU.0056. This permission authorised all development activity at the site up until the grant of Substitute Consent. The site is now under the ownership of two parties: McTigue Quarries Ltd and Preascragh Ltd.

Approximately 6.5ha of the northern part of the site which was granted Substitute Consent is the subject of the planning application. The planning application area and lands under the control of the Applicant are clearly shown on the Site Location Maps provided in the planning application.

During the course of the determination of the planning application, the Appellant provided a number of photographs within their submission of alleged unauthorised quarrying operations. Item 12 of the FIR requested an explanation of the same.

In response to item 12 of the FIR, the Applicant confirmed that no quarrying operations or any other development requiring planning permission has taken place within the planning application site and provided an explanation with regards to the photographs of quarrying works provided in the Appellant's submission to the planning application. This account is provided in the FI Response and therefore is not repeated here.

The appellant provides a number of photographs within their appeal submission. These photographs focus on the same part of the sand and gravel pit as those included within their submission to the planning application are of lands **outside** of the planning application boundary. The photographs included within the Appeal focus primarily on a pond in the central part of the Sand and Gravel Pit. As evidenced in the planning application drawings, this pond is located c.15 metres beyond the southern boundary of the Application Site. Any activity outside the Application Site is not relevant to the planning application in question.

The Planners Report describes how two site visits were undertaken in August and September 2022 and the report includes photographs which have been taken throughout the site.

Upon review of the drawings, further information and explanation provided in the FI Response, the Planner's Report states that:

*"The Planning Authority accepts the explanation provided by the Applicant that any quarrying works observed were outside the application site boundary and in the absence of clear and demonstrable evidence that breaches of planning have occurred within the application site boundary the Planning Authority is satisfied with the applicants account of activity on-site. This matter has been addressed".*

### **Alleged Project Splitting**

The Appellant alleges that the project amounts to project splitting in an attempt to circumvent the EIA Directive. This is not the case. Whilst the Sand and Gravel Pit has historically been operated as one Planning Unit and was granted Substitute Consent as the same, it is now been split into two planning units and is under two separate ownerships. The Applicant has acquired the lands at the northern end of the Pit and is seeking development consent for the same.

With respect to the lands outside of the Planning Application Area and the ownership of the Applicant, these lands are outside of their control. As such, it is not for the Applicant to comment on the planning status of lands outside of its ownership and it shall not do so. The Planning status of these lands is a matter for the site owner and the Planning Authority.

A full EIA has been undertaken for the proposed development by competent and experienced professionals. The EIAR has been reviewed by the Planning Authority and relevant consultees and the Planner's Report confirms that:

*"The competent authority considers that the Environmental Impact Assessment Report (EIAR) submitted with the Application on the 12<sup>th</sup> August 2022 and amended 24<sup>th</sup> March 2023, including the supporting appendices and proposed mitigation measures, and other submissions on file, are adequate in fully identifying*

*and describing the direct, indirect and cumulative effects of the proposed development, alone or in combination with other plans and projects on the receiving environment".*

Therefore, it is evident that the Applicant is no way trying to project split or circumvent the EIA directive and that the Appellant's claims are unfounded.

### **Water Management**

The appellants claims in relation to water supply have been previously addressed in the 'Water Management Strategy in Operational Phase & Flood Risk Assessment' prepared by BCL Hydro in response to Item 4 of the FIR.

As detailed in that document, the pre-existing Water Management System will be made operational again. There is water in a number of the ponds at present, and this is considered a sufficient volume for when operations at the Site re-commence. The recirculation of water through the silt settlement ponds/lagoons is a closed system. Water usage is minimised by re-circulation through the Water Management System. For the most part, the closed system will generally be topped up by rainwater harvesting, except during prolonged dry periods.

The water requirements of the proposed development have been calculated by competent and experienced professionals and therefore the Appellant's claims in relation to water supply are considered to be without any substance or foundation.

The Planners Report confirms that the County Council is content with the information provided and as such, is it not considered necessary to reconsider this matter any further.

### **Importation of Material**

The third party appeal alleges that material is being brought in to lands adjacent to the planning application area from another quarry owned by the Applicant. The Applicant can confirm that no quarrying is being undertaken at its Belclare site.

In any event, the matter is not relevant to the development proposals in question. The Applicant has confirmed that no quarrying operations or any other development requiring planning permission has taken place within the planning application site. The matter has been considered by the Planning Authority which has concluded that it is satisfied with the applicants account of activity on-site and that any quarrying works observed were outside the application site boundary.

## Conclusion

McTigue Quarries Ltd submitted a planning application to Galway County Council in August 2022 for quarrying operations (extraction of sand and gravel); recovery of waste via the importation recycling and processing of construction of demolition waste; and the restoration of the site with indigenous and recovered natural materials at lands in the townland of Cloonascragh, Tuam, County Galway.

Notification to grant was issued by Galway County Council on 25<sup>th</sup> May 2023. A third party appeal was lodged with the Board on 21<sup>st</sup> June 2023 by Mr Niland.

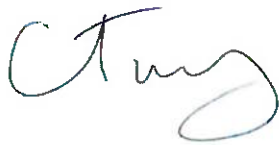
As detailed throughout this submission, the Applicant has confirmed that no quarrying operations or any other development requiring planning permission has taken place within the planning application site. Photographs have been provided focussing on lands outside of the Application Site. The Applicant has previously provided an explanation with regards to the photographs of this area outside the Application Site and the Planning Authority has confirmed that it is satisfied with the applicants account of activities on-site.

The third-party appeal contains a number of inaccuracies, unfounded and incorrect claims and all matters raised within the Appeal are considered to have been adequately addressed in the determination of the planning application.

Arising from the above, we submit that An Bord Pleanála should uphold the decision of Galway County Council and proceed to grant planning permission for the proposed development.

I trust the above is satisfactory however should you do have any queries, please do not hesitate to contact me.

Yours faithfully



**Chris Tinsley MRTPI**  
**Senior Town Planning Consultant**

cc. G McTigue, McTigue Quarries Ltd.