

**An Bord Pleanála
Inspector's Report
PL06F.241693**

DEVELOPMENT: Continuation of use of all existing authorised facilities and activities within a planning application area of c. 167 ha, components of development being:

- extraction, crushing, screening and processing of rock (authorised by Reg. Ref. No. F93A/1134 and PL206789) from the northern, central, western and southern deposits for a period of 35 years (total extraction area of 55.9ha total extractive area in a 211ha landholding);
- crushing, screening and processing plant,
- block manufacturing plant and block yard
- paving display centre and offices
- machinery maintenance building
- offices, staff facilities, laboratory,
- concrete batching plant and associated plant
- stockpile materials shed associated with asphalt plant granted under reg ref F06/0923 (PL06F 219655)
- weighbridge, bunded fuel storage and oil interceptor
- security huts (3no) truck wash bays and HGV Load Spray Bars (ref FW09A/0099 in respect of amendment to condition 14 of F03A/1430)
- Bord na Mona Moving Bed Biological Reactor and Percolation Area
- stockpiles Storage areas and Plant Storage Yard
- stables (22) and Horse exercise paddock
- existing Site Access (2no. onto R135 North Road (revised entrance ref F06A/0164 and PL06F 217413P) and Kilshane Road
- Restoration of any worked out extraction areas, including 5 years after cessation of quarrying activities.
- all other ancillary buildings plant and facilities for the production of building products, including aggregates, ready mix concrete, asphalt, tarmacadam and architectural blocks and all ancillary site works.

at its Huntstown quarry in the townlands of Huntstown, Johnstown, Coldwinters and Kilshane, Grange and Cappogue at North Road, Finglas, Co. Dublin.

The application is accompanied by an Environmental Impact Statement.

PLANNING APPLICATION

Planning Authority:	Fingal County Council
Planning Authority Reg. No:	FW12A/0022
Applicant:	Roadstone Wood Ltd
Application Type:	Permission
Planning Authority Decision:	Grant, subject to 22 conditions

APPEAL

Appellant:	Roadstone Wood Ltd
Type of Appeal:	First Party - v - Conditions

INSPECTOR:	Suzanne Kehely
DATE OF SITE INSPECTION:	4 th June 2013

1 INTRODUCTION

- 1.1 This is first party appeal against 9 of the 22 conditions of the Planning Authority's decision to grant permission for this development. There are no observations on the appeal. I inspected the development site on 5th June in the company of Mr. Peter Harty, Roadstone Wood Ltd. by prior arrangement. I also inspected the peripheral roads and lands. Photographs are contained in the Appendix. The EIS also contains some useful photographs.

2 SITE CONTEXT

- 2.1 The subject planning site comprises 167.5 ha out of a total landholding of 211 ha and hosts an extensive operational quarry which has been in existence since the 1970s. It is strategically sited at the northwest of the N2/M50 interchange on the urban fringe of Dublin city. The site area and context is illustrated in fig 1-1 of the EIS.
- 2.2 As compared to the previous continuance application before the Board the site frontage on the former N2 has been reduced and confined to the new entrance now sited more north on the same road. It is in close proximity to the newly aligned N2/M2 and the southern boundary and is in the order of 350m at its nearest point from the M50 to the south. The site also has frontage on a local road to the west - Kilshane Road /Cappagh Road - which serves an extensive industrialised area and ties into a radial corridor between the city and south Meath.
- 2.3 The site wraps around a power station to its east. To the south-east of the site is an actively farmed holding (Kildonan House), and beyond this a large ESB 220 Kv station complex where construction work was taking place. There is extensive industrial and office development to the west and south west and beyond (Millennium Business Park, Stadium Business Park, North West Business Park, Ballycoolin industrial/warehousing) which in part bounds the site or is sited on the opposite of the newly aligned Cappagh road. There is a golf course on the other side of the N2 and the end of a runway in Dublin airport is about 2.5 km directly to the east.
- 2.4 There is frontage development along the N2 comprising a number of small businesses (vet, garden patio centre,) and some residential development. Kilshane Road to the west also features some established frontage residential development and but is predominantly industrial. Two dwellings on the east side of Cappagh Road adjoining the site were in derelict condition and vehicular entrances were blocked up.
- 2.5 The surrounding road network was quite clean with no obvious presence of a quarry operation e.g. No visible pits, dust deposition or noise. Although background noise was quite evident from the M50, local roads and landing/take-off aircraft.

3 SITE DESCRIPTION

- 3.1 The Underlying limestone bedrock is classed as
- Malahide Limestone Formation - (majority north and south) described as well
 - Lucan Formation western and north

- Tober Colleen Formation central (minority)
 - Feltrim Limestone Formation (waulsortian)
- 3.2 The EIS refers to Desk based data such as GSI maps, literature (Jones 1988 - pre south quarry) and to a site survey of 6 ground water monitoring wells. Based on review of this and on rock chip samples and hydro chemical analysis and examination of quarried areas an assessment is made on the lithological formations and site structure. From this inspection and analysis it is stated that the same limestone will continue to be worked. The rock is strong to very strong and weathering is rarely significant. The limestone bedrock is generally considered to be locally important karst aquifer. Typically of rising aquifers groundwater flow is almost entirely secondary fissure permeability. No recorded karst features within 5km
- 3.3 The water drains naturally to two separate river basins. The Ward (via Ballystrahan stream to the North and the Tolka (via Finglas stream) to the south. The channel in the vicinity of W3 in the submitted plans to the north east of the south quarry had evidence of some silt deposition and was banked up with sandbags
- 3.4 Based on GSI national well database there are 12 wells or drill holes within 1km of site – 2 for abstraction.
- 3.5 In terms of site layout there are five distinct areas comprising :
- Central plant area which contains the offices, workshops, laboratory, block plant, concrete, asphalt and tarmac plants, and block storage and display areas, all associated with the extraction and processing operations.
 - North quarry – bench system – partly infilled.
 - Central quarry – bench system – not presently operational.
 - Western quarry – early stage bench - over burden removed – not operational.
 - South quarry – newest- This was being worked in a bench system at time of inspection having been recently blasted. The activity related to loading blasted aggregate and transporting and dumping into a small mobile screen/crushing plant before stockpiled and contemporaneously trucks travelling to and from quarry floor to load and transport to processing plant. The larger quarry floor plant was not in use. There were small amounts of surface water on the quarry floor. Water was pumped across the quarry floor to the north-west to a sump and piped through a pipeline running a northerly direction.
- 3.6 There are distinct stretches of pasture land and extensive hedgerow, berm planting throughout the site. Horses were grazing to the north of the south quarry at time of inspection.
- 3.7 To the north-west of the power station site is a stable block, with ancillary exercise paddock and running track.
- 3.8 Traffic volumes along the road network in the area are heavy and continuous, particularly along the Kilshane/Cappagh Roads which provide access between the industrial area and the N2 corridor. Background traffic noise from the surrounding road network was apparent from ground level between the south quarry and site perimeter.

- 3.9 A gas pipeline runs under the main haul route through the site. A multiplicity of high voltage electricity power lines also traverse the site overhead.

4 PROPOSED DEVELOPMENT

4.1 Permission is sought for the continuance of quarrying activities and associated activities on site for a further 35 years.

- Continue, for a period of 35 years, the extraction, crushing, screening and processing of rock in the four quarry areas (extraction area of 55.9ha (previously c. 57.5 ha), as originally permitted in 2004 (F03/1430- PL206789)
- retain entrance as permitted in F06A/0164 - PL217413) and shelter for stockpiles (as permitted in F06A0923 - PL219655)
- retain amendment to condition no14 of 2004 permission to allow option of spraying with water all vehicles carrying quarried or other dust producing materials to or from the site as an alternative to sheeting.
- Maintain existing buildings with a total floor area of 6,145 sq.m. and retain 212sq.m.

4.2 The table below illustrates the changes between the extant permission and the subject application (in bold)

Quarry	Area: of extant permission and(subject application)	Working to depth extant and (s.a.)	Est. reserve for extant and (s.a 35m.t.)
North	13.5ha (4.2)	29mOD 23mOD	3million tonnes
West	10.5ha (10.3)	29mOD 25mOD	6million tonnes
Central	11.5ha (16.4)	44mOD 18m	3 million tonnes
South	22ha (25ha)	8m OD (-65mOD)	15million tonnes

4.3 The principle elements of the proposed development are set out in section 2 of the EIS. Briefly key elements include

- Extraction of 1 million tonnes per annum avg over 35 year (as compared to 1.75million tonnes for first 10 years followed by 5 restoration -all subject to economic conditions)
- Extension of operation hours for concrete/asphalt
- No changes to working operations – although reduced frequency of blasting from 1-2 per week.
- No significant increase in area but increase in depth
- Removal of phasing (condition 5 in F03A/ 'no quarrying of the western quarry shall take place until all extraction works have ceased and been exhausted in the northern quarry, no quarrying of the revised central quarry shall commence until all extraction works have ceased has been exhausted in the western quarry.') In previous application (extant) that extraction would not take place in more than 2 quarry areas as the same time.
- Retention of ancillary plant operations for during of extraction – i.e. not restricted to temporary permission – only future quarry

4.4 Environmental Impact Statement

The application was accompanied by an EIS in the form of both a full technical statement and a non-technical summary. Substantial further information was submitted in relation to drainage, groundwater/ drawdown, water supply, water quality; dust monitoring, noise assessment, landscaping/restoration and traffic impact.

5 PLANNING HISTORY

5.1 The site

F03A/1430(PL.206789 File attached) refers to an application for Continuation of extraction, crushing, screening and processing of rock (authorised by planning register reference number F93A/1134) from the northern, central, western and southern deposits for 20 years (circa 57.5 hectares total extractive area in a circa 205 hectare overall site); the continuance indefinitely of all authorised crushing, screening and processing plant, block manufacturing plant (2,452 square metres), block yard (17.2 hectares), paving display area (636 square metres), paving centre (180 square metres), machinery maintenance building (1,456 square metres), offices (174 square metres), staff facilities (48 square metres), laboratory (68 square metres), concrete batching plant, semi-mobile concrete batching plant, asphalt plant, weighbridge, two number truck wash bays, four number security huts, Bord na Mona moving bed biological reactor and percolation area, stockpiles and all ancillary buildings, plant and facilities for the production of building products including aggregates, ready-made concrete, asphalt, tarmacadam and architectural blocks and all ancillary site works; progressive restoration of the worked out extractive areas including for five years after the cessation of quarrying; and for the retention of plant storage yard (site area circa 1.74 hectares), 22 number stables (394 square metres) and horse exercise paddock (site area circa 1.86 hectares) on substantially the same site.

The planning authority decided to grant permission but there was a first party appeal against 7 conditions. The Board decided to

ATTACH condition 4 (*This decision permits the developer/operator to continue quarrying/extraction and processing operations on the site for a period of **ten years** from the date of this decision and a further five years for restoration work. The existing buildings, hard standing areas and plant machinery shall be permitted for the 'lifespan' of quarrying operations. After that time, all quarrying/extraction works shall cease and all buildings, plant and machinery shall be removed from the site unless a further grant of planning permission is obtained from the planning authority or from An Bord Pleanála on appeal.*)

Reason: In the interest of proper planning and sustainable development of the

ATTACH condition 6 (*"Total dust emissions arising from the on site operations associated with the proposed development shall not exceed 100 mg/square metre/day, averaged over a continuous period of 30 days, when measured as a deposition of insoluble particulate matter at any point along the boundaries of the site. Reason: To protect the amenities of adjoining properties."*)

AMEND condition 8 such that

(1) The air over pressure arising from any blast carried out at the quarry shall, when measured outside the nearest inhabited house and business/industrial park unit, not exceed 125 dB (linear) pressure at frequencies of two Hertz or over.

(2) The transmitted ground vibrations arising from any blast carried out at the Western Quarry, when measured, at the foundations of the nearest dwelling house and industrial/business park unit to the site, shall not exceed a peak particle velocity of eight millimetres per second in any one of three mutually orthogonal planes.

(3) The transmitted ground vibrations arising from any blast carried out at the **Northern, Central or Southern Quarries**, when measured at the foundations of the nearest dwelling house and industrial/business park unit to the site, shall not exceed a peak particle velocity of **12mm per second** in any one of three mutually orthogonal planes. (changed from *"The air overpressure arising from any blast carried out at the*

quarry shall, when measured outside the nearest inhabited house and business/industrial park unit, not exceed 124 dB (linear) pressure at frequencies of 2 Hertz or over.

The transmitted ground vibrations arising from any blast carried out, when measured, at the foundations of the nearest dwelling house and industrial/business park unit to the site, shall not exceed a peak particle velocity of **8mm/second** in any of three mutually orthogonal planes. Reason: To protect the amenities of property in the vicinity”

AMEND condition11 such that . The operational hours of the development, including all quarrying and all processing operations, shall be between **0700** hours and 1800 hours, Monday to Saturday. Blasting operations shall take place only between 1000 hours and 1600 hours Monday to Friday. No operation of any kind shall be carried out on Sundays or public holidays. (changed from “The operational hours of the quarry shall be between **0800** and 1800 hours, Monday to Saturday. Blasting operations shall take place only between 1000 and 1600 Monday to Friday. No operation of any kind shall be carried out on Sundays or public holidays. Reason: In the interest of protecting the amenities of the area.”

REMOVE condition 12 a. (a prohibition on any blast detonation being carried out within 200 metres of any residential dwelling or industrial/business park unit.)

AMEND condition 24 such that the developer shall pay to the planning authority a financial contribution of €132,250 (one hundred and thirty-two thousand two hundred and fifty euro) in respect of water provision (calculated for the North Fringe Water Main related on the average water consumption for the development) benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. (“Prior to the commencement of development, the applicant/developer shall pay a financial contribution of €132,250, updated in accordance with the Wholesale Price Index – Building and Construction (Capital Goods), as published by the Central statistics Office to the value pertaining at the time of payment, to Fingal County Council towards the costs of water provision, calculated for the North Fringe Water Main related to the average water consumption for the development. Reason: The provision of such services will facilitate the proposed development and it is considered necessary that the developer should contribute towards the cost of providing same.”)

ATTACH condition 25The developer shall pay to the planning authority a financial contribution in respect of roads infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Dev. Act, 2000.

Reason: It is considered reasonable that the developer make a contribution in accordance with the terms of the Development Contribution Scheme adopted by Fingal County Council on the 8th December 2003, in respect of roads infrastructure and facilities benefiting development in the area of the planning authority that is provided, or is intended to be provided, by or on behalf of the local authority (reworded from “A financial contribution in the sum of €5000,000 as on the date of this permission, updated in accordance with the Wholesale Price Index – Building and Construction (Capital Goods), as published by the Central Statistics Office to the value pertaining at the time of payment shall be paid by the developer to Fingal County Council towards the costs of road improvements and traffic management proposals in the area serving this site, in particular towards Kilshane

Road and the existing N2 (Old Road) upgrading. This contribution to be paid prior to the commencement of development on the site.)

FW09A/009 refers to a grant of permission to omit condition 14 which required sheeting of loads. (attached report which includes recommendation to refuse on grounds of traffic safety having regard to the considered inadequacy of spraying/damping loads and debris. The planning report noted the EPA guidelines which recommend either spraying or sheeting. The applicant argues that they are at unfair disadvantage due to time and cost burden on customers associated with sheeting of loads.

F06A/09230 (ABP ref 219655) refers to a grant of permission for stockpile material shed

F06A/0164 (ABP ref 217413) refers to an application for a new entrance and to amend condition 11 re hours of operation. sought to operate certain activities between 0530 hours and 2000 hours Monday to Saturday. On appeal the following condition was attached (changed from PA condition

The operational hours of the development shall be as follows:

(1) Processing, manufacturing and despatching operations in relation only to ready-made concrete and mortar shall be between 0600 hours and 2000 hours, Monday to Friday and between 0700 hours and 1800 hours on Saturdays.

(2) All other operations (except blasting) shall be between 0700 hours and 1800 hours, Monday to Saturday.

(3) Blasting operations shall be only between 1000 hours and 1600 hours Monday to Friday.

(4) No operation of any kind shall be carried out on Sundays or Public Holidays.

Reason: To protect the amenities of the area and of property in the vicinity.

(changed from *The operational hours of the development, including all quarrying and all processing operations, shall be between 0700 hours and 1800 hours, Monday to Saturday. Blasting operations shall take place only between 1000 hours and 1600 hours Monday to Friday. No operation of any kind shall be carried out on Sundays or public holidays. Reason: In the interest of protecting the amenities of the area*)

93A/1134 (ABP ref. 092622) refers to an application to retain indefinitely all existing plant buildings, services and ancillary development (including block plant, macadam plant, stone plant and block plant) as previously approved in 1984 (ref. WA.2282), and for permission to quarry Northern, Western and Central limestone deposits as approved under ref. WA.2282 and Southern deposit on the applicants' lands. The Planning Authority decided to grant permission, but there was a third party appeal against the decision and a first party appeal against some of the conditions. The Board granted permission but retained most of the conditions imposed by the Planning Authority; including a restriction on the development of the western quarry without a separate approval, and a ten year limit (expiring in May 2004) on all extractive and processing operations, with restoration to conclude by June 2007. Time limits were also placed on the hours of blasting.

F01A/0231 (ABP ref 130638) refers to an application for approval for extraction and processing of the limestone of the Western Quarry as per condition 1 of ref. 93A/1134, and retention of previously approved WA.2282. The Planning Authority decided to grant permission, subject to 10 conditions. Following a third party appeal the Board granted permission, subject to conditions that included a time limit on all extractive and processing operations to May 2004, with restoration to conclude by June 2007, unless a further grant of permission was obtained, and limits on the operational hours of quarrying and of blasting.

F02A/0606 (Bord ref. 200623) refers to an application for the recovery of pre-sorted construction and demolition waste on a 1.5 hectare site within the “central quarry” of the applicants’ overall landholding, together with the construction of a hard standing area and provision of portacabin office. The Planning Authority granted permission, subject to 10 conditions. There was a first party appeal against a financial contribution condition, and the Board decided to amend the condition.

5.2 Outside quarry site

F98/1313 (Bord ref. 110954) refers to application for a Gas Fired Combined Cycle Gas Turbine Electricity Generation Station with an output of up to 600MW to include two heat exchange boilers, 4nom 33.5m high stacks, 2 no.. air cooled condenser units, two storey admin/control building, workshop, stores, electrical switchyard, above ground installation for gas supply, reserve fuel storage tanks, miscellaneous plant and equipment, landscaping, wastewater treatment plant and demolition of dwelling.

6 PLANNING AUTHORITY REPORTS

6.1 External Consultees

6.1.1 Department of Arts, Heritage and the Gaeltacht

No objection subject to conditions.

6.1.2 Dublin Airport Authority supports the mitigation measures in the EIS in relation to restoration of ground levels and avoidance of large water body which would have negative effect on Dublin Airport. It is requested that wording of a condition as that previously used should refer to DAA rather than Aer Rianta. (The previous submission DAA objected to water body as it would attract birds and lead to a bird strike hazard for aircraft.) In a letter of 11th December this is reiterated and a condition is attached.

6.1.3 Irish Aviation Authority: In letter of 11th April 2012 and 12th December 2012) it confirms it has no observations.

6.1.4 Health and Safety Authority (11th April 2012) refers generally to its policy advice on land-use planning and provides a reference to its website. In the context of SI74 of 2006 the development is considered to be category level 1. Based on the information provided, the authority does not advise against permission in context of Major Accident Hazards.

6.1.5 Inland Fisheries Ireland (3rd April 2012) Refers to the location within the catchments of the Ward and Tolka Rivers (notably salmonid systems - Atlantic Salmon Annex II and Brown Trout)

- Scale and nature could release sediments and pollutants and poor on site practices could have a significant negative impact on the fauna and flora of this important freshwater system.
- Any discharges to surface streams must not impact negatively on the salmonid status of the system.
- It is essential that sufficient treatment capacity is available in the sewerage treatment facility to protect integrity of receiving water. There can be no deterioration in the surface water quality.

- It is clear that the existing development has had significant impacts on regional water regimes (ref cone of depression in EIS section 4 and 6) and on small stream drying up. It appears that the base flows are highly reliant on continuous pumping operations from the quarry.
- Reference is made to the lowering of the quarry floor from 27mOD to -65mOD and the change in the water balance and that a net removal of and reduction in groundwater of volumes in the Ward catchment and associated increase in the Tolka catchment. It is essential that the flows in the Ballystrahan Stream (and other local streams potentially within cone of depression) are maintained at sustainable levels into the future.

In a subsequent letter (**15th January**) following further information it is stated that the concerns include the long term maintenance of flow in the Ballystrahan stream and its contribution to the headwaters of the River Ward. All measures should be undertaken to prevent further deterioration in the existing status of water and that degraded surface and ground water are restored to good status. The local authority is urged in this regard to include a condition requiring that all watercourses are reinstated to the predevelopment (pre 1970) condition during site restoration.

6.1.6 NRA In letter of 15th May 2012 it is stated that it has 'no further comments on further information.'

6.2 Internal Reports

6.2.1 Heritage Officer (19th April 2012) concerned that no consideration of potential impacts to Natura 2000 sites in the EIS particularly via The Ward River and the river Tolka. Further information required.

In a report of 5th February 2013 it is considered that the concerns relating to potential impacts of the proposed development to Natura 2000 sites via the Ward River and the River Tolka have been addressed in the ecologist's report. The conclusions are accepted and based on the current discharge regimes to the Ballystrahan Stream and the Finglas Stream there will be no significant adverse impacts.

The issue of changes to discharge regimes and the need to maintain flow rates in the long-term in stream also needs to be addressed as part of the on-going operation of the quarries and eventual restoration. The condition of the senior executive scientist (R. McGrath) are noted regarding pumping regimes and changes and also the requirement for a restoration plan

6.2.2 Environment Department: (R. McGrath) In a report of 1st February 2013 it is stated there is no objection. It is noted that the quarry operation could take place in all 4 quarries at the same time and the extraction planned could potentially impact on the protection of the groundwater. The applicant is requested to address the issue of protecting the groundwater at restoration stage although it is noted that cessation dates and details are unclear. The storage of the stockpiles on the quarry floor will need to be managed.

Conditions

- Details of pumping regime to be submitted and then any change will require agreement.

- Mitigation measure for potential impact on water supply (same as PI27.234347 –Wicklow quarry)
- No emission of List 1 and 2 substances to groundwater
- Appropriate EPA compliance re importation of inert soils for backfilling.
- Details of interim restoration plan for the central quarry
- Restoration plan detail 5 years prior to exhaustion of deposits of after 6months cessation.
- Waste management plan review every 5 years – needs to address stockpiles of unsalable product.

6.2.3 Planning and Strategic Infrastructure/Water Services Planning Report (11th April 2012) it is stated that there is insufficient information in respect of foul sewer, surface water, and water supply. Following submission of further information in a later report (**13th December**) the water services section has no objections subject to conditions.

6.2.4 Transportation Planning Section 19th April 2012: The existing entrance on the N2 is described as being of a high standard whereas the entrance on to Kilshane has restricted visibility due to hedge growth and the road is also poorly aligned. Further information was sought in respect of: annual production and traffic generation, a revised TIA based on max annual production of facility, justification for retaining access onto Kilshane Road subsequent to opening of new link (Tyrrellstown to Cherryhound), a profile of the axle loadings of the vehicles accessing the site and pedestrian segregation.

In a later report of **12th December 2012** these matters have been satisfactorily addressed. It is considered that the proposed development would have no significant traffic impact. It is noted that the Kilshane Rd Access is only for emergencies. No objection to proposal.

6.2.5 Architects Department 25th April 2012) The Conservation officer has no specific comments having regard to, the non-existence of archaeological remains and the location of the proposed extraction being removed from the site of former protected structures monuments.

6.3 Objections

William Byrne, Kildonan House: Mr.Byrne explains how his home and business are closest to the site and operations and that he has been suffering intolerable and unreasonable environmental conditions throughout its operation. He states that his health has suffered and there has been damage/impact on his house, lands and livestock. He refers to episodes of blasting, air pollution, and impact on water supply yet no evidence of monitoring/enforcement. He essentially objects to continued suffering due to environmental degradation and concludes that commercial interests should not override rights to reasonable environment.

6.4 Planner's Report

The initial report (27th April 2012) refers to the Development plan objectives regarding rural, heavy industry and general employment which pertain to the area. Objectives EE35, EE36, LR02, LR03, and BD13 refer to aggregate extraction and appropriate assessment. Key issues are considered to relate to principle

- Removal of phasing
- Extraction Depths
- Noise
- Dust
- Surface water and groundwater
- Appropriate assessment
- Wheel wash
- Geology
- life
- Traffic and transportation

Further information was requested in respect of:

- Air quality and noise and vibration re monitoring in context of removal of phasing.
- More detailed noise survey
- Screening of Appropriate Assessment
- Wheel wash provision
- Traffic impact
- Backfilling soils and progressive restoration details
- Management of extractive waste
- storage details for aggregates
- Foul sewer details
- Surface water details
- Groundwater –pollution control
- Water supply

In the subsequent report (6/2/13) the issues were responded to the satisfaction of the planning authority.

7 PLANNING AUTHORITY'S DECISION

The Planning Authority decided to grant permission for the development, subject to 22 conditions.

Condition 1 – standard

Condition 2 – **20 year** permission for extraction operations. After this time all quarrying/extraction works shall cease and all building plant and machinery are removed.

Condition 3 – restricts **noise** at sensitive receptors to 55dBA /45dBA limit for day/night times with no noise level exceeded limit by more than 2dBA

Condition 4- adherence to **mitigation measures in EIS** generally

Condition 5- repeat of 3

Condition 6 – relates to **vibration** levels

Condition 7 – restricts to **dust level** to not exceeding 350 mg/sq.m. /day on average over 30 days. Monitoring programme amended as required flowing annual review.

Condition 8- agree **pumping regime** within 3months of grant and other conditions of environment section. Most notable section.(iii) states that 'The operator shall ensure that the development does not affect or cause deterioration in water quality , water levels or yields in the domestic wells in the vicinity of the quarry. In the event of quarrying activities having a proven adverse impact on private wells in the vicinity the operator shall undertake appropriate remedial measures as agreed with the planning authority at the expense of the operator. In the event of any disruption of any water supplies the quarry operator shall cease any operation causing such disruption until water supply has been restored or replaced.'

Condition 9 – relates to the **restoration plan** to be submitted with 12 months of date of decision. Details to include access arrangements, slope stability, vegetation, biodiversity enhancement and maintenance and on-going restoration during the life of the quarry. Consultation with relevant airport authorities/bodies required.

Condition 10- any **changes to discharge regimes** to Ballystrahan stream and Finglas Stream shall require Screening for **AA**. Written agreement required.

Condition 11 – requires 24 hours' notice of **blasting** of occupant of land within 500m of the site boundaries. BATNEC technology required to minimise noise, dust, vibration and changes in air pressure.

Condition 12 – restrict **operational hours** to between 0700 and 1800 hours Monday to Saturday and blasting to between 1000hrs and 1600 hours Monday to Friday. No operation on Sunday or Bank holidays.

Condition 13 – The **wheel wash** facility shall be put in place within 2 months following the final grant or permission. All trucks leaving the site shall go through the facility. Effective measures shall be taken by the operator to prevent the undue emission of dust from the site and site roadways. A water bowser (s) or similar facility shall be available on site at all times during dry weather so that all vehicle and plant roadways can be watered to lay dust as necessary.

Condition 14- requires **cleaning of roads** and footpaths not less than **once a week**.

Condition 15 requires all vehicles carrying quarried material or other dust producing materials to or from site to **securely sheeted** in the interest of traffic safety.

Condition 16 – requires **security** measures in the interest of public safety.

Condition 17 – relates to **archaeological** matters

Condition 18 requires a tri-annual **aerial photograph** commencing 2014

Condition 19 relates to foul and **surface water drainage** and **water supply** generally.

Condition 20 – requires a cash deposit, **bond** or other security to secure satisfactory implementation of permanent pumping/dewatering of the worked out void pending completion of reinstatement works to fill with inert material.

Condition 21 – requires a **€500,000 contribution** in respect of ongoing road maintenance and improvements of the R135 North Road which benefits the proposed development in accordance with section 48(c)

Condition 22 – requires that over the lifetime of the quarry operations the applicant shall annually set aside a fund. The purpose is to provide appropriate projects/community gain in the general area and shall be decided on by Fingal County Council in consultation with the applicants. The initial contribution shall be updated in accordance with the consumer price index. The **community gain fund** shall be lodged into a special community gain account so as to mitigate the impacts of the quarry operation in the local community.

8 APPEAL SUBMISSION

8.1 SLR consulting on behalf of the applicant has submitted appeal against the imposition of conditions 5, 6, 8, 11, 12, 14, 15, 21 and 22 as worded.

8.2 Condition 5 (noise levels)

The applicant requests that this condition be omitted as it repeats condition 3.

8.3 Condition 6 (vibration)

The applicant requests that the word 'even' is replaced with 'seven' in line with Quarries and Ancillary Activities: Guidelines for planning authorities

8.4 Condition 8 (iii) (water supply disruption)

Rather than the wording 'In the event of any disruption of any water supplies, the quarry operator **shall cease any operation** causing such disruption until water supply has been restored or replaced', the condition should read 'In the event of any disruption of water supplies, the owner/operator **shall provide a temporary water supply** until the original water supply has been restored or replaced.'

8.5 Condition 11 (blasting notice)

The applicant requests that the requirement to notify all relevant parties within 500m of the site boundary be modified to 500m of the blast location. This it is submitted is in line with section 4.7(d) of the Guidelines which state that 'nearby residents (e.g. within 500meters) need to be given advance notice when blasting operations are due to take place.

8.6 Condition 12 (operational hours)

The applicant refers to previous board decision 217413 and 206789(attached) and requests that hours being extended and that asphalt and ready mix concrete and mortar processing be included such that the condition requires

- Processing manufacturing and despatching operations in relation only to ready-made concrete and mortar and asphalt shall be between the 0600 hours and 2000 hours Monday tot Friday and 0700 and 1800 hours on Saturdays.
- All other quarry operations (except blasting) shall be between 0700 hours and 1800 hrs Monday to Saturday

- Blasting operation shall be only between 1000hrs and 1600hours Monday to Friday
- No operation of any kind on Sundays or Public Holidays.

8.7 Condition 14 (cleaning of public roads)

The applicant requests that this condition be amended to omit the 'at least once a week' requirement having regard to the relocation of the entrance as there are now no residential dwellings opposite the entrance

8.8 Condition 15 (dust control)

The applicant seeks the removal of the requirement to sheet quarried/dust producing loads having regard to the success of the overhead spray bar dust suppression system through which all laden heavy goods vehicles pass. This was condition was previously amended for the F03A/1430 permission by a later application Fw09A/099.

8.9 Condition 21 (€500,000 s.48 (2) (c) contribution towards roads)

This condition should be omitted as

- There is no basis for it in the Transportation Planning section report
- There is no detail in the manager' order to support the level of contribution
- No provision of itemised breakdown
- The applicant has paid significant contribution. Contribution under F03A/1430 included €500000 which continue to be paid on a phased basis in addition to once payment of €132000 towards water.
- No significant road works have been carried out on either the Kilshane Road or North Road other than those specific to the N2 dual carriage way and link roads which would have been financed by the NRA.

8.10 Condition 22 (contribution for community gain)

The applicant is part of the CRH which acts in a socially responsible manner. CRH has contributed €2.9m to the Simon community over 4 years (2007-2011)

9 PLANNING AUTHORITY'S RESPONSE TO GROUNDS OF APPEAL

9.1 Condition 5 and 6

The applicant's case is considered to be reasonable.

9.2 Condition 8

The planning authority does not consider the requirement to cease an operation which causes disruption to a water supply to be inappropriate. It is explained that this **does not mean all operations on site should cease**. This condition should be upheld.

9.3 Condition 11

The planning authority explains that the requirement to notify people within a specified distance from the boundary means that the same people are notified all the time. If it was based on the location of each blast, the list would be different all the time and this would create a difficulty from an **enforcement** point of view.

9.4 Condition 12

The planning authority explains that more restrictive hours have been imposed due to the number of **residential properties** within the vicinity of the site but is satisfied that the Board considers this on its merits.

9.5 Condition 15

The requirement for sheeting is on the basis of recent inspections and road conditions in the area but is satisfied that Board considers this on its merits.

9.6 Condition 21

In relation to the €500,000 special contribution financial contribution towards roads, it is explained that the senior executive engineer, Roads Maintenance advised that in the past, a levy of €1 per tonne of excavation /deposited material per year is a reasonable contribution for the additional damage caused by HGVs. This has applied to quarried and landfill sites. This was applied to Murphy's quarry in Hollywood. It is further explained that the damage to road pavements is exponentially related to HGV axle loadings. For this application the average HGV with 4.75 tonnes per axle would cause as much damage to a road pavement as 3000 cars with .75 axles. While the applicant is proposing extraction of 1,000,000 tonnes per year the special contribution was drastically reduced as the site entrance is close to the national road network and the maintenance of such is covered by general taxation. This condition is in line with section 4.7(j) of the Guidelines for planning authorities and accordingly is in line with national policy.

9.7 Condition 22 community gain

By way of general mitigation the creation of a community gain fund proportionate to the tonnage is proposed in line with national policy and has been used it is explained in waste management developments to support community initiatives. This is considered by the planning authority to be reasonable given the long established quarry operations and impacts on the local community. The Board is requested to uphold this.

10 FURTHER RESPONSES

10.1 The applicant responded to the submission from the Planning Authority in a letter dated 22nd March 2013 wherein the following comments are made:

10.2 **Condition 5 and 6** – comments noted

10.3 Condition 8

The applicant reaffirms that this condition should be amended and refers to QC2123

10.4 Condition 11

The planning authority's concerns about the enforcement issues are noted, however the applicant explains that the quarry operator is required under health and safety regulations to keep records of each blast and this factual information can be used to demonstrate compliance. The applicant proposes a condition requiring that *'at least 24hr notice of each blasting operate to be carried out shall be given to occupants of residential properties and industrial and business park occupants of mad within 550m distance of the blast location. Further warning by way of siren shall also be given not later than 30*

minutes prior to each detonation. The developer shall employ the best available technology not entailing excessive cost in order to minimise noise, dust, vibration and changes in air overpressure caused by blasting.'

10.5 Condition 12

The Board is asked to have regard to existing operational hours that were approved in the grant of permission for new access and extension of hours to operations PL06F.217213

10.6 Condition 14

Having regard to the change in entrance arrangements and the wheel washing requirements, the applicant restates the case that the road and footpaths in the immediate vicinity of the site entrance be cleaned on 'as needed' basis only.

10.7 Condition 15

The applicant reiterates the success of the overhead spray bar dust suppression system at the site through which all HGVs pass. The applicant was unaware of the planning authority's concerns as no comments were made during a site inspection nor was any formal notice lodged. A condition is proposed to the effect that HGVs transporting fine aggregate products off-site shall be dampened down using overhead spray bar dust suppression system prior to leaving the quarry.

10.8 Condition 21

The grounds of appeal are elaborated. It is submitted that planning authority has again failed to justify the financial contribution. It appears to be arbitrarily applied for every continuance application. The similar contribution in the Murphy quarry is irrelevant in the context of each case is on its merits. Despite the express concern about road damage by HGV, it is submitted that no significant road improvement or maintenance works have been carried out on either the Kilshane road of the R135 North Road. It is further submitted that there has been no benefit to the site to date of contributions paid by the applicant totalling €460,000 under the previous grant of permission in 2004. It is submitted that planning authority should demonstrate how the previous contribution has been spent to date on local road improvements on the R135. If it has not been spent then it should be set aside for future proposed maintenance and improvement of the R135

11 FINGAL DEVELOPMENT PLAN 2011-2017 and CONTRIBUTION SCHEME 2013 – 2015

11.1 Development plan policy and objectives

The core of the site is zoned RU 'to protect and promote In a balanced way the development of agriculture and rural related enterprise, bio-diversity, the rural landscape and the built and cultural heritage'. The peripheral parts of the site are zoned HI 'to provide for heavy industry'. The site is also substantially adjoined by this zoning except for lands to the south of the site which are zoned GE – 'General enterprise and employment'.

Section 2.6 of the written statement refers to quarrying and aggregate extraction.

'The aggregate industry provides an essential input to the construction industry. By their nature, aggregates can only be worked where they occur. There is a continuing need for new and expanded aggregate quarrying operations on land to meet regional and local requirements. There is thus a need to identify and protect aggregate resource areas to meet the likely scale of future demand while at the same time protecting the natural environment and communities from environmental impacts including noise, dust, traffic and vibration. Guidelines for Planning Authorities on Quarries and Ancillary Activities were published by the DoEHLG in 2004. These Guidelines recognise the contribution that extractive industries make to economic development but they also identify the land use and environmental issues which require mitigation and management through the planning system. Proposed development which would compromise aggregate rich areas requires careful consideration to avoid compromising aggregate reserves. The potential use of environmentally friendly products should be employed where possible to reduce the need for excessive quarrying. A number of guidelines relating to quarrying have been produced by various bodies for example 'Geological Heritage Guidelines for the Extractive Industry' (GSI) and 'Wildlife, Habitats and the Extractive Industry' Notice Nature). The various guidelines, not all of which are listed here, provide useful references and suggestions for potential restoration and reuse.'

11.2 Fingal County Council Development Contribution Scheme 2013 – 2015

This Scheme is effective in respect of permissions granted from 1st January 2013. Paragraph 11 refers to special development contributions.

'A special development contribution may be imposed under Section 48 of the Act where exceptional costs not covered by the Fingal County Council Development Contribution Scheme 2013 – 2015 are incurred by the Council in the provision of a specific public infrastructure or facility. (The particular works will be specified in the planning conditions when special development contributions are levied). Only developments that will benefit from the public infrastructure or facility in question will be liable to pay the special development contribution. Conditions imposing special contributions may be appealed to An Bord Pleanála.'

12 NATIONAL POLICY GUIDANCE

12.1 Guidelines for Planning Authorities on Quarries and Ancillary Activities, 2004

This document provides guidance on environmental implications of quarries and on assessment of planning applications and EIS. Section 3.10 refers to Environmental Management Systems. Section 4.7 sets out possible planning conditions and refer to: (b) times of operation, (*normal operations should be confined to the hours between 07.00 and 18.00hrs*), (d) control of blasting (notice to residences) within 500m) (g) groundwater wells and water supply (*'in the event of disruption ... should cease any operation causing such disruption*) (H) monitoring and (j) special contributions.

12.2 Guidelines For Planning Authorities and An Bord Pleanala on Carrying out Environmental Impact Assessment (Department of the Environment, Community and Local Government, march 2013).

These guidelines take account of the most recent changes in legislation in the transposition of the European Directive in relation to EIA. They are pursuant to section 28 and are intended as a guide to competent authorities carrying out an assessment at consent stage. They refer to recent changes in the legislation the following of which are pertinent to this appeal. Notably they refer to:

- section 172(1E) which provides that the competent authority must require the applicant to furnish any further information considered necessary to enable it to carry out an EIA.
- Section 172 (F) which provides where this information is not provided the application shall be deemed to be withdrawn.
- Section 172 (1i) which permits that attachment of conditions to any grant of permission in order to avoid, reduce and if possible off set major adverse effects save as controlled by certain licensable developments. In this regard reference is made to interface between the competent authority and the EPA required since September 2012.
- Information to be made available on a decision must include an evaluation of the direct and indirect effects of the proposed development on the matters set out in section 271(A). This may involve an elaboration or addition to conditions imposed. The assessment must include analysis and evaluation and identify, describe and assess in an appropriate manner in light of each individual case the direct and indirect effects.

Chapter 5 sets out the EIA process.

12.3 Environmental Management in the Extractive Industry (Non-Scheduled Minerals) EPA

I have consulted these guidelines in respect of good practice in quarry environment management systems and appropriate conditions of permission. E.g. section 3.9 refers to transport and traffic.

12.4 The Karst of Ireland – Limestone Landscapes, Caves and Groundwater Drainage Systems, GSI 2000

This document provides descriptions of the properties of limestones. It states that 'the nature of the limestone strongly influences its susceptibility to karstification. Purer limestones are more susceptible than impure limestones. Another strong influence is the geological structure: folding of the limestone causes fracturing and the formation of a network of fissures along which water can penetrate and begin to dissolve the rock. In general pure limestones tend to be brittle, allowing extensive open fractures, while impure limestones tend to deform more readily, sealing up the fractures and impeding water movement.'

The mantling of the limestone by the glacial deposits may be hiding more karstification than we are aware of. Deep karsts have been found at 60m below ground and this can present problems. Engineering problems have

been encountered in mining due to the presence of deep karst. One recent mining development in the Irish midlands encountered peat filled karst solution features at a depth of about 60 m.

12.5 The Development Contributions Draft Guidelines for Planning Authorities, Department of the Environment, Community and Local Government

These guidelines state that 'A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution'

12.6 Planning and Development Act

Section 139.—(1) Where—

(a) an appeal is brought against a decision of a planning authority to grant a permission,

(b) the appeal relates only to a condition or conditions that the decision provides that the permission shall be subject to, and

(c) the Board is satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted, then, subject to compliance by the Board with subsection (2), the Board may, in its absolute discretion, give to the relevant planning authority such directions as it considers appropriate relating to the **attachment, amendment or removal** by that authority either of the condition or **conditions to which the appeal relates or of other conditions.**

13 LICENSES

W0277-01 refers to a waste licence submitted to the EPA in 2011. As part of this application an EIS was submitted and the local authority was consulted. There has been no decision to date.

WPW/1/87 refers to a discharge license for the northern part of the site which is stated as being under review at the time of the EIS preparation.

No reference – A discharge license has been submitted to the Fingal County Council in respect of the southern part of the site.

14 ENVIRONMENTAL IMPACT ASSESSMENT REPORT

14.1 An Environmental Impact Statement has been submitted with the planning application and it has also been supplemented in response to a request for further information. I have read this documentation in conjunction with technical reports and guidance referred to in section 12 of this report.

The original EIS is in a single volume in which there are 14 sections

- Introduction

- Development Proposal
- Human Beings
- Ecology (Flora and Fauna)
- Soils/geology
- Hydrology/hydrogeology
- Climate
- Air Quality
- Noise/Vibration
- Landscape/Visual
- Cultural Heritage
- Material Assets
- Traffic/Transport
- Interaction of the Foregoing

A summary of the receiving environment and impacts are summarised in the Planners report. The key assessment issues are set out below.

14.2 General

The EIS describes the proposed development in detail and consideration of alternative is confined to recycled aggregate sources as an alternative to quarry continuation. It does not examine alternative location as the site is established.

While I consider this to generally reasonable the alternative phasing/restoration options could have been examined.

14.3 Human Beings

Impact on amenity by reason of noise, dust, traffic and quality of water are the potential key direct negative impacts. There are 13 dwelling and an industrial estate within 250m of the site. In further information it is now proposed to relocate and provide monitoring equipment for dust and noise to take account of the new development and likely sensitive receptors in the immediate environs. As part of ongoing Environmental monitoring programme all air bourne and water bourne impacts are to be controlled.

A positive impact is identified in terms of the contribution to the economy by way of products and employment.

While account is taken of the positive impact on the local economy there is no examination of the indirect impact on local industry in the event of a loss of ground water. There are no risks identified to the adjacent power plant which relies on abstraction of over 150m³ water a day.

14.4 Ecology (Flora and Fauna)

A comprehensive range of desk based and field surveys were conducted for the site. The desk based survey extended to within a 2km radius of the site. It is stated that the site is not subject of any statutory conservation designations.

The quarry site supports a wide range of habitats most of which have a low overall ecological value except for areas of dry calcareous and neutral grassland and some hedgerow. However the majority of these habitats are outside the quarry excavation area so there will be no significant direct loss.

The continuation of quarrying will not have a significant impact on any individual population of bird species.

As there will be no increase in the permitted quarry area and quarrying will extend downwards there will be no loss of natural surface water features.

In terms of dust deposition, the level of 1000mg/m²/day is deemed (Highways Agency standards, 2007) to be the likely level at which sensitive species/ecosystems can be affected. As the levels are restricted to 350mg by way of mitigation measures which are operational at present an adverse impact is highly unlikely.

The rehabilitation of the site over the longer term to agricultural land has the opportunity to enhance and develop natural habitats.

14.5 Soils/geology

The nature of the development will result in a direct and irreversible loss of bedrock. As the quarry footprint will not be significantly increased there will be no large scale loss of soil.

The soil and geological profile is mapped by reference to desk based studies, field visits of the operational quarry and analysis of wells/boreholes. From this the quarry bedrock is classified accordingly.

- The south quarry is developed with limestone of the Malahide Formation which dips steeply. The limestones are dominated by well bedded limestones with minor shales.
- The central quarry which is not being presently worked is developed in pale micritic Waulsortian limestone of the Feltrim Limestone Formation. Contact between the Waulsortian and Tober Colleen Formation is evident here.
- The north quarry is developed in a sequence of well bedded limestone and research indicates that it is also developed within the sub-Waulsortian limestone of the Malahide Formation. The borehole reveals a dominance of shale in parts of this quarry.

It is surmised that the future development will continue to work the same limestone deposits as are presently being worked.

The quarrying operation to date has revealed an unusual juxtaposition of two rock types. The quarry restoration scheme will retain exposure of this contact between the Waulsortian and Tober Colleen Formation for geological heritage as recommended by the Geological Survey of Ireland.

It is interpreted from the angles and exposure of existing exposed formations that the Tober Colleen Rock formation is c.200m thick in the area and that the sub crop would be 100m in width and that it should be underlain by Lucan Formation limestone. The rocks are described as well jointed and that the rock is strong to very strong and weathering is rarely significant more than few centimetres below the rock surface. No significant karstification was observed in the ground water boreholes.

The baseline data is I consider compromised by the conjectural nature of the rock classification below the base of the boreholes (ref. Appendix 6A of FI) and down to a depth of -65mOD which is 98m below the lowest quarry floor at

present and an overall depth in the region of 147m from the original ground level. The following list sets out the depths of the boreholes.

Well no. GW01 – bored from a ground elevation of 80.98mOD to a depth of 61m
Well no. GW02 – bored from a ground elevation of 81.51mOD to a depth of 55m
Well no. GW03 – bored from a ground elevation of 77.94mOD to a depth of 49m
Well no. GW04 – bored from a ground elevation of 81.21mOD to a depth of 61m
Well no. GW05 – bored from a ground elevation of 84.95mOD to a depth of 55m
Well no. GW06 – bored from a ground elevation of 82.16mOD to a depth of 80.5m

Having regard to the nature of the limestone and I refer to geological guidance cited in section 12 of this report, it would seem that the proposed quarrying depths has undetermined implications for groundwater and its hydraulic connectivity with sensitive receptors.

14.6 Hydrology/hydrogeology

The underlying Waulsortian and Malahide formations are considered to be locally important karstified aquifers. The hydrochemistry is stated as being typical of that from dolomitised limestone. The groundwater is classified as having high to extreme vulnerability status.

The groundwater levels are stated at being between c.70 and 95mOD and the lowest extraction floor is stated at 27mOD - although survey drawings show 33m.

The quarry excavations have already intersected the groundwater table and lowered it around the periphery with the excavation of each quarry bench. There are minor groundwater inflows to each of these quarries which was apparent on site and water is pumped from the floors as and when required. The northern quarry has an estimated discharge rate of 20litres/second when pumps are active. Discharge from the northern quarry has reduced in volume from an average of 2600m³/day (2009) to winter flow of 1470m³/day (2010). The average groundwater flow for 2010 is estimated to be 750m³/day. Discharge from the south quarry is estimated to range for a summer average of 2000m³/day to a winter average of 3500m³/day Of this volume an average 1000m³/day is estimated to be intercepted groundwater.

The site is drained by two water catchments – Ballystrahan stream drains the northern section of the site and is part of the River Ward catchment and a channel drains the southern half to Finglas Stream and is part of the River Tolka. Both rivers have a recorded 'poor' status. (EPA 2010)

Rainfall infiltrates to ground for the majority of the site – this includes run-off from roadways, hardstanding and roof areas. Rainfall in the quarry floor is mostly channelled to sumps. Groundwater inflow to quarries is similarly routed to a channel and pumped to settlement lagoons. Process water for crushing and dust control is sourced at quarry sumps.

The North stream takes the treated wastewaters from the concrete/asphalt production plant. Waters from the north and central quarry plant is monitored at w2.

It is stated that there will be no significant residual impacts with respect to groundwater or surface water subject to mitigation measures.

The Planning authority requested more analysis on the groundwater. In section 9.5 of the response it is confirmed that there will be an estimated 1.1km drawdown cone around the north and south quarries and 2km cone around the south quarry after 35 years which is based on real ground water measurements. This distance is based on assuming uniform bulk aquifer properties for the bedrock aquifer. The current situation is described as having a radius of groundwater influence of 1.1km with the steepest drawdown of 10m within a 400m radius of the north and south quarries. This reduces rapidly so that beyond 1.1km it is less than 2m. As the quarry deepens there will be a steepening of the cone of depression.

14.7 Critical Issues – South quarry excavation and dewatering

While I note a lot of information on groundwater is available through the extensive excavation to date and pumping regime consequent on groundwater interception, together with the borehole data, the fact remains that the extension of the quarry floor depth by a further 95 m below the existing low point of the quarry floor is a considerable excavation. Notably it is going some 68m deeper than borehole testing depths and there is accordingly a question about the basis for determining future bedrock characteristics and groundwater abstraction quantities. With the potential for more fissures and conduits in deeper rock and I refer in this regard to the Geological Survey of Ireland document *The Karst of Ireland – Limestone Landscapes, Caves and Groundwater Drainage Systems, GSI 2000* it cannot in my opinion be ruled out with certainty that a significant body of groundwater may be intercepted. There is it would seem an inadequate conceptual understanding of the future groundwater flow system and the hydraulic connectivity to receptors.

Critically the EIS identifies an interaction of drawdown between the extraction areas. (Refer to EIS, sections 6.114, 6.126.) This interconnectivity with the north quarry and south quarry (as evidenced by the reduced groundwater quantities in the North quarry as the south quarry deepens) hence between two river basins is a source of potential significant quantitative and qualitative impacts. I note that in the Eastern River Basin Management Plan 2009-2015, the River Ward is classified as 'Poor and 'Bad' yet it is a salmonid river – a particularly sensitive receptor. The consequences of a loss of water from the Ward River catchment to the Tolka River catchment as the south quarry deepens much much further, while recognised as having a mild magnitude of risk, has not been fully examined in the submitted documentation in terms of its ecological impact – despite such issues being raised by Inland Fisheries Ireland e.g. potential critical drop in base flows in Ballystrahan Stream a tributary of the River Ward which is highly reliant on continuous pumping from the quarry.

It would be preferable to base the concept modelling on more site investigation and pumping tests in order to give a clearer indication of groundwater characteristics. The Board may wish to seek an independent expert view on this aspect for a more thorough assessment or alternatively seek this information from the applicant. The Board could also seek to restrict quarrying to the depth of the borehole only.

I note, however that the conditions of permission require, agreement of pumping regimes, protection of water quality and ultimately ceasing of causal activities where water supplies are interfered with – the latter requirement

being challenged in this appeal. I also note the EIS refers to an established Environmental Monitoring System although this system is not explicitly addressed in the conditions of permission. While implicit in condition 4, it would I consider be prudent to attach a condition specifically addressing EMS and monitoring to ensure compliance with the conditions of permission. This is in accordance with the EPA guidance.

While the data in the EIS indicates a satisfactory level of control of the impacts, to date and through licensing, there is a possibility of potential conflict with adhering to the required pumping regime and complying with the Dublin Airport Authority requirements. For example, in event of an extensive groundwater drawdown and restricted assimilative capacity in surface water catchment there may be a need for extensive lagoons to comply with the pumping regime. The EIS is cognisant of the risks of certain birds to aircraft and particularly in the Restoration plan stage and is presently controlled by design. This could be dealt with on an on-going basis through the EMS in order to pre-empt and control bird risk.

The risk of salination of groundwater has not been explicitly ruled out. Although having regard to the distance from the coast – in the order of 10km, I do not consider this to be a likely significant risk.

14.8 Climate

It is stated that the development is not of sufficient scale to have any direct impacts on the regional or local climatic conditions. No monitoring or mitigations measures are therefore proposed.

14.9 Air Quality

Dust is the principal contributing element to degrading the air quality and this is emitted from the quarrying, crushing, screening and ready-mix concrete and asphalt production plant. Road traffic is also a source.

Chemically the dust is inert and does not include harmful compounds. Dust monitoring to date show that levels are generally in compliance with industry guideline limits. Impact will be direct, temporary and non-cumulative.

Deposition levels are set out in table 8-1 (Page 8-6) and with the exception of one incident at D2 all levels were within EPA guidance limits. 350mg/m²/day was exceeded at D2 for March 2011 east of processing area

Mitigation measures are in place and proposed which include prevention by way of plant /site layout and dust suppression though dampening and planting of berms. Cleaning measures and vehicle maintenance measures are also proposed. Although it is proposed to reduce the existing required road cleaning regime from weekly to on 'as needs' basis. On-going monitoring results will be submitted to Fingal county Council on a regular basis. In further information the dust monitoring locations have been altered and supplemented with a further two stations to be closer to residences (Figure AI 1-1.) Dust levels are regulated by condition.

14.10 Noise/Vibration

Assuming a worst case scenario whereby plant and machinery at all 5 locations are running at 100%, the predicted cumulative noise levels arising from quarrying/stone processing/loading activities comply with the daytime

noise emission limit value of 55dB(A) at sensitive locations in line with EPA guidance for the sector. These predicted cumulative noise levels are lower than the existing background noise levels arising from traffic on the external road network. Noise sensitive receptors are well screened through barriers (berms) and high topographical features. The maximum reading was 82d(b). The south quarry activity peaked at 53L_{Aeq} at residence R5 for general activity excluding Drill Rig and 54L_{Aeq} for activity including Blast Hole drill rig. The processing plant generated a 25-29L_{Aeq}. The methodology employed is BS5228-2:2009 *Code of Practice for noise and vibration control on construction and open sites* and is also to the satisfaction of the environmental section of Fingal County Council.

The location of R5 is shown in Figure 9-2 in the main body of the EIS. It is to the west of the south quarry on the east side of Cappagh Road and at time of site inspection was vacant/derelict.

14.11 Landscape/Visual

The vast majority of the proposed extraction works will be carried out within the footprints of the north central and south quarries as well as the western quarry footprint. The impact on the landscape is accordingly perceived to be minor.

It is stated that none of the extraction works will be visible from any location outside the development site save for the construction of screening berms and planting will be temporarily visible from the west. Such works will ensure permanent screening of extraction works from public areas.

The site is classed as a low lying agricultural landscape character area in the development plan. There are no protected views or landscape features within or immediately adjoining the site.

The restoration to a beneficial agricultural and ecological land use will have a positive impact on the landscape. The unusual exposed rock formation is to be retained as a point of geological interest and incorporated into this plan. In the shorter term the deposition of dust has the potential to detract from visual amenities. However through dust control, suppression and cleaning this will be controlled.

I note the site is located in an urban fringe location between heavy and extensive industrial development to the west, the airport to the east and the M50 to the south. Lands to north are strongly rural in character but tracts of agricultural land immediately adjoining lands to the south and grassland also weaves throughout the site. Accordingly there are views of a pastoral landscape from within and external to the site that are apparent and which aid present and future assimilation.

14.12 Cultural Heritage

The site of the one protected structure listed in the development plan within the development site has been extracted to geological levels. The proposed continuation of quarrying largely within the footprint of approved excavation sites will have no direct or indirect impact on any known archaeological, architectural or cultural feature.

I note that there are 8 other structures/archaeological sites in the order of 400m from the site. There is no examination of lowering of water table or vibration impacts.

14.13 Material Assets

The site is within the metropolitan area of Dublin and key infrastructural development include:

- Roads: The quarry is anticipated to generate 42 HGV two way movements per hour and is not anticipated to increase as a result of the planning application and will not have any adverse impact on existing traffic capacity. The Roads department of the planning authority however refer to the heavy loading on the road and exponential influence of axle load – 1 HGV could be equivalent to 3000 .75tonne axle loaded cars. This is addressed though a special financial contribution.
- Dublin airport – the end of runway 10/28 is 2.5km directly east of the quarry site. There is a risk of birds being attracted to a future habitat on the site and creating a hazard for aircraft. The ponds have been designed to avoid the congregation of birds. By infilling with inert material and avoiding a substantial body of water this risk is considered to be eliminated. The airport authority seeks to be consulted with future rehabilitation. It is notable that this is a condition of permission.
- Housing: Significantly, the quarry straddles a locally important aquifer. The continued quarrying presents risks to groundwater through pollution and loss of supply and thereby potentially affects domestic water supply. The Huntstown and Kilshane areas are supplied with potable water from Ballycoolin reservoir c. 2km west of the site. Impacts on air quality also potentially detract from the local amenities.
- Commercial/Utilities: The lowering of ground water and potential loss of supply could also have implication for local businesses The EIS does not present these indirect impacts.
- Utilities: In respect of hazardous impacts on Gas pipeline along the paved central access and Combined Cycle Gas Turbine power plant is immediately east, I note that the Health and Safety Authority states no objections. As the quarry has been operational for a considerable length of time no risks are anticipated.
- The development will have no impact on the Metro West urban light rail corridor south of the site (north of the M50)

14.14 Traffic/Transport

A revised Traffic Impact Assessment based on a different methodology was submitted in further information. Forecasting takes account of extraction and removal of materials and importation associated with processing and backfilling. 2008 was a peak year recording an export of almost 2million tonnes and importation of 183,100tonnes. This resulted in an average daily HGV trip generation of 742 (68/hr). This peak is used in the forecasting. Traffic impact has been assessed in accordance with the National Roads Authority document 'Traffic and Transportation Guidelines,' 2007.

In the worst case scenario the additional committed traffic to the forecasted traffic on the North Road is such that the North Road would continue to operate within the guidelines at approximately 27% theoretical capacity during its busiest period.

The surrounding road network will operate adequately and the development traffic will have minimal impact.

14.15 Interactions

This section of the EIS simply refers to chapters 3-13 of the EIS although refers in particular to section 6 in relation to geology and groundwater flow and also to the interact of operational landscape such as screening and its contribution to air quality and noise attenuation. A matrix summary would be useful and give more clarity.

14.16 Conclusion

From my appraisal of the EIS and further information, while present a substantially comprehensive statement of direct and indirect impacts in accordance with the regulations, there are I consider certain limitations to the basis for determining the nature of the underlying bedrock in terms of permeability in the form of large fissures and conduits for groundwater. This has implications on water supply both in terms of quantity and quality. This issue may merit further analysis by way of further site investigations and or independent expert opinion or restriction of activities by condition. While it is open to Board to consider the application de novo, condition 8 under appeal relates to this issue and accordingly having regard to the provisions of section 139 the Board can I consider confine the appeal to consideration of the conditions under appeal and address potential deficiencies within this context.

15 APPROPRIATE ASSESSMENT

15.1 General

EC Guidance on undertaking new non-energy extractive activities in

accordance with Natura 2000 requirements' *'NEEI projects in and around Natura 2000 sites are not automatically excluded. Instead, if they are likely to have a significant effect on the site in question, they must be subject to an Appropriate Assessment. Depending on the outcome, a decision will be taken whether or not to approve the plan or project and if so under what conditions. The aim is to avoid an adverse effect on the integrity of the Natura 2000 site.'*

Information was submitted as part of further information in respect of potential impact on Nature 2000 sites to the satisfaction of the Heritage Officer who initially raised the issue. The information is contained in Appendix B of the Additional Information bound document and it is entitled a *Natura Impact Statement : stage 1 screen Assessment*. It is essentially a screening report.

There are 11 Natura 2000 site within a 14km radius. The South Dublin Bay and River Tolka site is closest at a distance of 8.41km at its closest point.

15.2 Changes in Hydrological Regime

The South Dublin Bay and River Tolka, South Dublin Bay SAC, North Dublin Bay SAC and North Bull Island SPA/Ramsar site have a source-pathway-receptor link from the surface water discharge from the southern part of the quarry to a tributary stream of the River Tolka that outflows to the Tolka Estuary and into Dublin Bay. Similarly, the Malahide Estuary SAC and SPA have a source-path-receptor link from the surface water discharge form the northern part of the quarry site to Ballystrahan Stream a tributary of the River Ward that flows to Malahide Estuary.

Based on the size of the Ballystrahan sub-catchment the contribution of the discharge to the flows in the Ballystrahan stream and the daily volumes of tidal water flowing in and out of the Malahide Estuary, no significant alterations are predicted from the continued discharge from the northern part of the quarry on the daily flow rates experienced in these transitional water. Accordingly it is concluded that no likely exposure to hazard and no significant adverse effect on the Estuary.

Similarly, in the case of the Tolka Estuary it is stated that based on the size of the contribution of the discharge flows (1.5% in February 2010) in the River Tolka and the daily volumes of tidal flowing in and out of the Estuary no significant alterations are predicted from the continued discharge from the southern part of the quarry on the daily flow rates experienced in these transitional waters.

15.3 Changes in Water quality

Having regard to potential hazards such as toxic contamination, change in pH, nutrient enrichment and sedimentation and the characteristic of the estuarine waters and the water quality data it is concluded that the potential exposure to hazard is not likely as a direct result of discharge waters from the quarry.

15.4 Conclusion

I am satisfied that the only potential risk is by way of changes and degradation of the aquatic ecosystems but having regard to the distances of the quarry from any Natura 2000 site and the coastal/estuarine nature of the designated sites I consider it is reasonable to screen out further appropriate assessment. I consider therefore that the proposed development is not likely to have a significant effect on any Natura 2000 site.

Inland Fisheries has raised concern about the net removal of groundwater in the Ward catchment when quarrying in the southern area exceeds depth in the northern area and the consequent potential critical drop in base flows in Ballystrahan Stream which is highly reliant on continuous pumping for the quarry. The conditions in relation to pumping regime and water quality address this issue. While a sensitive ecological issue it is I consider, outside the scope of an appropriate assessment and more appropriately assessed within the scope of environmental impact assessment.

16 ASSESSMENT of APPEAL ISSUES

16.1 General

This appeal relates to a cumulative quarry area of c. 55.9 ha in an operational quarry that is part of a total holding of 211ha which also contains a co-located cement /block and asphalt plant. The current quarry floor level is at 33mOD. It is proposed to excavate 35 million tonnes at an average rate of 1 million tonnes p.a. over 35 years. The principle of a quarry excavation is well established and most recently supported in the 10 year permission in 2004. However there are some quite significant differences in the nature of the quarrying operation proposed as a consequence of this application. Most significantly it is now proposed to lower the quarry to a floor level of minus 65m OD from a present level of 33mOD and from an original ground level of

c.82mOD. There is also relaxation in phasing whereby all four quarries will potentially operate simultaneously instead of the ordered approach submitted in further information in the attached history file and that is presently subject of a condition of permission.

This application has come about at this time due to the need to restrict the duration in 2004 to 10 years so as to enable a review of the development. Since the application there has been a change in zoning objectives from purely agricultural related to a more industrial focus. There has also been a raft of environmental assessment and management guidance.

It is now proposed to continue business substantially as usual and the EIS indicates that no significant adverse environmental impacts have arisen to date that would warrant a reversal of the permission. Following a request for additional information, the planning authority decided to grant permission and restricted permission to a further 20 years in addition to a range of other conditions. The applicant has submitted a first party appeal against 9 of the conditions of permission.

Having considered, primarily, the long established use of the site as a quarry and also the established related plant operations and the decisions of the Board, the principle of the continuance is acceptable. There are nevertheless significant changes in relation to the scale and depth of the quarrying as reflected in the extraction as compared to the extant permission e.g. volume to be 35million and depth to increase to 65mOD. The scale and extent on a daily basis is however ultimately moderated by a limit of 20 years and the continuance of extraction rate of c.1 million tonnes per annum subject to conditions.

From my appraisal of the EIS and further information there are I consider certain limitations to the basis of determining the full nature of the underlying bedrock in terms of aquifer properties and hydraulic connections. This has implications on extent of drawdown and water supply both in terms of quantity and quality. While it is open to the Board to consider the application *de novo*, Condition 8 (iii) relates to this issue and accordingly having regard to the provisions of section 139 which allows the Board to omit, amend, attach conditions under appeal or other conditions, I consider there is sufficient scope to confine the appeal to the conditions under appeal and matters arising without invoking the *de novo* provisions.

16.2 Condition 5 (noise levels)

The applicant requests that this condition be omitted as it repeats condition 3. The planning authority states no objection to this. I consider it is reasonable and appropriate to omit this condition.

16.3 Condition 6 (vibration)

The applicant requests that the word 'even' is replaced with 'seven' in line with Quarries and Ancillary Activities: Guidelines for planning authorities. This appears to be a typographical error and the planning authority has no issue with the amendment. I consider it reasonable and appropriate to amend this condition.

16.4 Condition 8 (iii) (water supply disruption)

The applicant opposes the wording 'In the event of any disruption of any water supplies, the quarry operator shall **cease any operation** causing such

disruption until water supply has been restored or replaced'and proposes that the condition should only require that 'In the event of any disruption of water supplies, the owner/operator shall **provide a temporary water supply** until the original water supply has been restored or replaced.'

However the planning authority's condition is in accordance with that proposed in the EIS page 19 under the heading Mitigation: Replacement Water Supply: '*The operator shall ensure that the development does not affect or cause deterioration in water quality , water levels or yields in the domestic wells in the vicinity of the quarry. In the event of quarrying activities having a proven adverse impact on private wells on the vicinity the operator shall undertake appropriate remedial measures as agreed with the planning authority at the expense of the operator. In the event of any disruption of any water supplies the quarry operator shall cease any operations causing such disruption until water supply has been restored or replaced.*' This was as required for Ballylusk quarry (PL27.234347) in 2010. The applicant now however, holds that this condition is unduly onerous and should be amended and refers to a more previous case determined in 2008 - QC2123.

In response to a request for further information in respect of groundwater analysis, it is confirmed that the applicant will provide a replacement water supply at their own cost in the event of quarrying operations being demonstrated by the well monitoring programme to impact on the water supply of any third party in the vicinity. This replacement is proposed to be by way of a deeper well or public mains supply.

Having regard to my appraisal of the hydrological/hydrogeological aspects of the EIS and the scale of excavation and potential dewatering and the potential to intercept fissures and conduits and possibly drawdown more water than anticipated I consider it reasonable that the planning authority take a precautionary approach and require that the causal operations cease. In the absence of an accurate hydraulic model at 0 to -65m level range that is based on more comprehensive site investigation, this is appropriate and proportionate to the potential impacts. I refer in particular to the nearby domestic wells, the adjacent power station abstraction, the adjacent farming activities and the Dunboyne water supply further afield. The planning authority states that the requirement to cease operations only relates to the specific activity which causes the interference with water supply and not all operations on site.

In order to ensure no potential conflict with adherence to other conditions, it may be prudent to amend the phrase to 'shall cease any operation causing such disruption in a manner as agreed with the planning authority until water supply has been restored or replaced.' The scenario should ideally be pre-empted in an Environmental Monitoring System that is routinely audited. Accordingly I recommend conditions be attached to this effect.

16.5 Condition 11(blasting notice)

The applicant requests that the requirement to notify all relevant parties within 500m of the site boundary be modified to 500m of the blast location. This it is submitted is in line with section 4.7(d) of the Quarries and Ancillary Activities Guidelines. The planning authority is concerned about the logistical enforcement issues with shifting catchments; however the applicant explains that the quarry operator is required under health and safety regulations to

keep records of each blast and this factual information can be used to demonstrate compliance. The applicant proposes a condition requiring that 'at least 24hr notice of each blasting operate to be carried out shall be given to occupants of residential properties and industrial and business park occupants of mad within 550m distance of the blast location. Further warning by way of siren shall also be given not later than 30 minutes prior to each detonation. The developer shall employ the best available technology not entailing excessive cost in order to minimise noise, dust, vibration and changes in air overpressure caused by blasting..'

I note the guidelines are not quite so specific in that they state that the '*nearby residents (e.g. within 500meteres) need to be given advance notice when blasting operations are due to take place*'. I note that the condition in this regard usually states distance from site boundary. Having regard to the size of the site and number of pits I consider it reasonable to confine the notification to those within 500m of the boundary of the relevant quarry pit as delineated in the submitted drawings. The applicant should submit a map of the catchments for each quarry pit for clarity. I therefore consider it reasonable and appropriate to amend the condition to this effect.

16.6 Condition 12 (operational hours)

The planning authority has reduced the operational hours back to between 0700 and 1800hrs in line with the principal extant permission having regard to number of residential properties. However it is satisfied that this issue is assessed on its merits.

The applicant refers to previous board decisions 217413 and 206789 and requests that hours be extended and that asphalt and ready mix concrete and mortar processing be included such that the condition states:

- Processing, manufacturing and despatching operations in relation only to ready-made concrete and mortar and asphalt shall be between the 0600 hours and 2000 hours Monday to Friday and 0700 and 1800 hours on Saturdays.
- All other quarry operations (except blasting) shall be between 0700 hours and 1800 hrs Monday to Saturday
- Blasting operation shall be only between 1000hrs and 1600hours Monday to Friday
- No operation of any kind on Sundays or Public Holidays.

The Board is asked to have particular regard to existing operational hours that were approved in the grant of permission for new access and extension of hours to operationsPL06F.217213

I note that the current operational hours are governed by two permissions. The principal permission for the quarry operation (206789) restricts hours to between 0700 and 1800 hours, Monday to Saturday and Blasting operations to between 1000 and 1600 Monday to Friday. This was determined on appeal where the applicant had previously made the case for operating 0700 to 2300hrs instead of 0800 to 1800hrs. A subsequent application/appeal for extended hours for certain activities namely processing, manufacturing and despatching operations in relation only to ready-made concrete and mortar was permitted to operate between 0600 hours and 2000 hours, Monday to Friday and between 0700 hours and 1800 hours on Saturdays. The applicant is seeking to retain these hours but also extend it to asphalt production which is carried out in the central area adjacent to the concrete processing plant.

I note from the noise monitoring points at sensitive receptors that the plant operation in the central quarry scores the lowest in terms of LAeq level. I also note that the area is characterised by extensive heavy industry /industrial zoning in the current plan. In this context and having regard to the site size I consider there is some scope for a modest extension in hours. I would further point out that there is a shift towards a longer working day and more segregation/ restriction of heavy goods vehicle through the city since the guidelines for planning authorities in 2004 and there is I consider a need for more flexibility to accommodate these patterns. Extending hours for deliveries and asphalt/cement production is in keeping with these trends, although it is predicated on operating at an acceptable noise level. The applicant does not explain what is meant by processing in the proposed condition. It could in fact include primary crushing and screening on the quarry floor. Ultimately it is about controlling noise to within reasonable levels. While the principal of a moderate extension in hours is acceptable the detailed nature and extent of activities should be a matter for monitoring in an EMS in the context of changing technologies and standards. Accordingly an extension of hours in tandem with a condition requiring and specifying the terms of an EMS is appropriate.

16.7 Condition 14 (cleaning of public roads)

The applicant requests that this condition be amended to omit the '*at least once a week*' requirement having regard to the relocation of the entrance whereby there are now no residential dwellings opposite the entrance and there are wheel washing requirements which will reduce dust generation. The applicant makes the case that the road and footpaths in the immediate vicinity of the site entrance be cleaned on an '*as needed*' basis only.

The planning authority however considers that having regard to the nature of the facility, the quantum of material being moved and the traffic generation that it is reasonable that the applicant keeps the area within the vicinity of the site clean.

Road Sweeping is an important mitigation measure in terms of dust control and visual amenity. I note in the inert waste recovery facility licence application, periodic sweeping is an integral part of it and it is stated that '*The amount of mud carried onto the public road network is further reduced by periodic sweeping of the paved internal access road and the existing local road in front of the site*'. To relax the condition may be warranted or may be a retrograde step and to attach a condition so that it reflects the particular needs of the day is I consider at a level of micro-management inappropriate for a planning condition and enforcement. Ideally this is something that needs to be subject to ongoing management and monitoring as part of an EMS such that it can be appropriate to weather, traffic or other unforeseeable circumstances.

On balance I consider the condition of the planning authority should be attached and amended to take account of the new entrance and in tandem, this matter should also be subject of an EMS.

16.8 Condition 15 (dust control)

The applicant seeks the removal of the requirement to sheet quarried/dust producing loads having regard to the success of the overhead spray bar dust

suppression system through which all laden heavy goods vehicles pass. This condition was previously amended for the F03A/1430 permission by a later application Fw09A/099. A condition is proposed to the effect that HGVs transporting fine aggregate products off-site shall be dampened down using overhead spray bar dust suppression system prior to leaving the quarry.

I note that on page 11 of the EPA Environmental Management Guidelines it is recommended that that an extensive range of measures will be taken to minimise wind blown dust. In addition to controlling source at quarrying processing stage it recommends to

- Use water bowsers, sprays and vapour mists
- Spray exposed surfaces (roads stockpiles)
- Provide vehicle wheel washing facilities
- **Use covered (closed or sheeted) vehicles, or spraying for the transport of fine materials.**

Page 14 of the planning guidelines (2004) state *'wheel washing of vehicle leaving the site covering of fine loads or spraying of loads prior to exiting the site and if necessary cleaning the public roads in the vicinity of the entrance.'* However the guidelines state that best practice dust control measures should be proposed by the applicant and that these and any other special additional matters deemed necessary by the planning authority should be specifically referred to in a planning condition. In this regard I note that the decision in the case of FW09A/0099 which permits spraying as an alternative is very specific in its conditions

'Vehicles carrying material should damp down dry or dusty material following collection and prior to transport and/or should provide suitable covering to avoid nuisance being created...

Any vehicle carrying quarried material that does not have a suitable covering and is damped down shall carry a level load only...

The methods employed should prevent the deposit of material on the public road during its collections and transportation to and from the site'

This latitude has now effectively been revoked by condition 15.

Having regard to the guidelines which recommend an either or option but defers to the planning authority requirements, I consider it appropriate to permit the option but that this be subject to ongoing review in an EMS. This I consider would be an appropriate means to address ongoing issues in relation to haul load management and road safety and maintenance and concerns of the planning authority.

16.9 Condition 21 (€500,000 s.48 (2)(c) contribution towards roads)

The applicant makes the case that this condition should be omitted as:

- There is no basis for it in the Transportation Planning section report.
- There are no details in the manager's order to support the level of contribution.
- No provision of itemised breakdown.
- The applicant has paid a significant contribution towards these roads. Contribution under F03A/1430 included €500000 which continues to be paid on a phased basis in addition to once off payment of €132000 towards water.

- No significant road works have been carried out on either the Kilshane Road or North Road other than those specific to the N2 dual carriage way and link roads which would have been financed by the NRA. In relation to the €500,000 special financial contribution towards roads it is explained that the senior executive engineer in Roads Maintenance advised that in the past a levy of €1 per tonne of excavation /deposited material per year is a reasonable contribution for the additional damage caused by HGVs. This has applied to quarried and landfill sites. This was applied to Murphy's quarry in Hollywood. It is further explained that the damage to road pavements is exponentially related to axle loadings. For this application the average HGV with 4.75 tonnes per axle would cause as much damage to a road pavement as 3000 cars with .75 axles. While the applicant is proposing extraction of 1,000,000 tonnes per year the special contribution was drastically reduced as the site entrance is close to the national road and the maintenance of the road is covered by general taxation.

Guidance on the application of a special contribution is provided in the Development Contributions Draft Guidelines for Planning Authorities, Department of the Environment, Community and Local Government. The Department Circular PD 5/2007 refers to section 48 development contribution schemes and the need for transparency and advises that *'However, the issue of transparency is also important in relation to the extent to which linkages between the revenues collected and the infrastructure projects funded from those revenues are demonstrated. Developers should reasonably expect to be able identify the infrastructural gain to which their contribution has been put. This is an essential element not only in terms of transparency, but also in terms of garnering support for the entire mechanism'*.

I note the main site entrance is located on the R135, the North Road - a regional road in an urban area. There is a second access on a busy local road- Kilshane Road - and this is for emergency use only as clarified in further information. Traffic exiting the main site entrance travelling to the western suburbs is likely to use this road. The proposed development including extraction of 1million cubic metres of aggregate in addition to the co-located production plant and backfilling will generate significant volumes of traffic of a nature and scale that will contribute to substantial wear and tear of the local road network in the care of the local authority. Page 36 section 4.7(j) of the guidelines refers to special contributions: 'In certain cases the additional traffic particularly in terms of HGV generated by the proposed quarry may result in additional expenditure by the planning authority on the surrounding road network including additional maintenance costs'. Accordingly I consider the principle of seeking a special contribution towards the upkeep and maintenance of the local road network to be wholly reasonable and in line with national policy. The planning authority's proportionate application of a rate based on tonnage and traffic volume is I consider a reasonable basis to apportion cost and its explanation is also reasonable. I note account is taken of the realigned N2 and improved access to the national road network. As this permission relates to 20 years I also note that this is proportionately significantly less than that sought for in the previous 10 year permission.

One of the main grounds for objecting to the contribution is that the applicant is not satisfied that the planning authority has used the previous paid contribution for the purposes for which it was sought and the Board is requested to seek further details of specific works and costs. I note in the

previous appeal that the planning authority costed the resurfacing of the N2 and the Kilshane Road in conjunction with minor improvements and upkeep at €500,000. While it may or may not be the case that the planning authority has carried out or intends to carry out works on foot of that contribution I consider this is a separate matter and recourse is provided for in the Act in that it expressly provides for reimbursement (12) *Where payment of a special contribution is required in accordance with subsection (2) (c), the following provisions shall apply—*

(a) *the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates,*

(b) *where the works in question—*

(i) *are not commenced within 5 years of the date of payment to the authority of the contribution,*

(ii) *have commenced, but have not been completed within 7 years of the date of payment to the authority of the contribution, or*

(iii) *where the local authority decides not to proceed with the proposed works or part thereof.*

the contribution shall, subject to paragraph (c), be refunded to the applicant together with any interest that may have accrued over the period while held by the local authority,

Accordingly I consider it appropriate to attach condition 21.

16.10 Condition 22 (contribution for community gain)

The applicant makes the case that there is no basis for this community gain condition in the development contribution scheme. It is also pointed out that the applicant is part of CRH which acts in a socially responsible manner and has contributed €2.9m to the Simon community over 4 years (2007-2011). The applicant further argues that the concept of a community gain condition is only applicable to waste facilities.

The planning authority however considers that a general mitigation by the creation of a community gain fund proportionate to the tonnage is in line with national policy and has been used it is explained in waste management developments to support community initiatives. The planning authority considers this reasonable given the long established quarry operations and impacts on the local community.

The concept of a specific 'community gain' condition is relatively new in Irish Planning law – being provided for in the strategic infrastructure applications (s.37 (G)(7)(d)(ii). It is not specifically mentioned in section 34. This does not necessarily preclude its application. I also note that the restoration phase of the quarry is effectively a form of waste management. S.2.69 of the EIS states '*the backfilling of the ultimate quarry voids will be through the importation of inert soils and stone which is deemed to constitute inert waste recovery through deposition.... These recovery operations will be through the issuing of a waste licence from the EPA.*' In this context in line with national policy I consider the application of such a condition is feasible. The attachment of special contribution towards a specific project would also be

feasible. This would have the benefit to the applicant of being a more transparent means of application or recourse for reimbursement. While there are mechanisms for this to be feasible, the question is – is it reasonable?

I consider the community (residential and commercial) interests are best served by the more immediate access to monitoring data and to such that is independently audited. The planning authority has not availed of applying a special contribution towards monitoring despite the provision for such in section 4.7(j) of the planning guidelines (2004) – ‘*a contribution may be required towards the cost of local authority inspections and monitoring*’. Section 48 (2) (C) is seen as the means to levy this cost. I am of the opinion that a contribution towards such monitoring and data provision is appropriate. As already stated in relation to my assessment of the foregoing conditions regarding water supply, dust control and road cleaning I consider these among other sources of environmental nuisance are best managed by a combination of comprehensive EMS and independent audit that is readily accessible to the public. I consider the funds are best employed in this way and the principle of seeking a contribution for such is expressly recommended in the guidelines. Given the burden of duty and costs in implementing this system which will be borne by both the developer and the planning authority I consider it reasonable to revert half of the amount to the applicant while the planning authority retain the other half toward its costs. This I consider is best as a special contribution and in this context the planning authority is still required to demonstrate the use of such funds.

This condition should therefore be amended to a rate of €0 .05 a tonne and in accordance with section 48(c). The applicant will then have recourse to seek a refund where appropriate.

16.11 Other conditions

In light of the review of the foregoing conditions I consider it appropriate to specify the requirement of an EMS and Environmental Audit which will give context to and facilitate implementation of the conditions as amended and are therefore an integral element of these conditions as reviewed. They provide a degree of flexibility that is I consider appropriate to a 20 year permission and are in line with best practice. This will facilitate the developer, the planning authority and the local community in achieving the proper planning and sustainable development of the area. This is in accordance with section 139 which permits, the Board, in its absolute discretion, to give to the relevant planning authority such directions as it considers appropriate relating to the **attachment**, amendment or removal by that authority either of the condition or conditions to which the appeal relates or **of other conditions**.

17 RECOMMENDATION

I recommend that the Board consider this appeal pursuant to Section 139 of the Act, and that the Planning Authority be directed to:-

Omit condition 5, amend conditions 6, 8, 11, 12, 15, 22 and attach conditions 14 and 21 and attach other conditions so that they read as set out below. Condition 21 and other conditions could be numbered 21 (i), (ii) and (iii)

6. Vibration levels from blasting shall not exceed a peak velocity of 12 millimetres per second, when measured in any three mutually orthogonal directions at any sensitive location. The peak particle velocity relates to low frequency vibration of less than 40 hertz where blasting occurs no more than once in seven continuous days. Where blasting operations are more frequent, the peak particle velocity limit is reduced to 8 millimetres per second. Blasting shall not give rise to air pressure values at sensitive locations which are in excess of 125 dB (linear maximum peak value), with a 95% confidence limit. No individual air pressure value shall exceed the limit value by more than 5dB(L_m)

Reason: In the interest of maintaining the amenity of adjoining landowners.

- 8(iii) The operator shall ensure that the development does not affect or cause deterioration in water quality, water levels or yields in operational wells in the vicinity of quarry. In the event of quarrying activities having a proven adverse impact on private wells in the vicinity, the operator shall undertake appropriate remedial measures as agreed with the planning authority, at the expense of the operator. In the event of any disruption of water supplies, the quarry operator shall cease any operation causing such disruption in a manner as agreed with the planning authority until water supply has been restored or replaced.

Reason: In the interest of public health

- 11 At least 24 hours advance notice of each blasting operation to be carried out shall be given to occupants of residential properties and industrial/commercial premises within a 500 metre radius of the quarry pit perimeter as delineated in the submitted plans (Figure AI 1-1). Further warning by way of a siren shall also be given not later than 30 minutes prior to each detonation. The developer shall employ best available technology not entailing excessive cost in order to minimise noise, dust, vibration and changes in air over pressure caused by blasting.

Within two months of the date of this permission the applicant shall submit an up to date map delineating the 500m radial catchment for each quarry pit based on the pit delineation of Figure 1-2 in the EIS.

Reason: In the interest of public safety and protection of amenities of the surrounding properties.

- 12 The operational hours of the development shall be as follows:
- Processing, manufacturing and despatching operations in relation only to ready-made concrete and mortar and asphalt shall be between the 0600 hours and 2000 hours Monday to Friday and 0700 and 1800 hours on Saturdays.
 - All other quarry operations (except blasting) shall be between 0700 hours and 1800 hrs Monday to Saturday.
 - Blasting operation shall be only between 1000hrs and 1600hours Monday to Friday.
 - No operation of any kind on Sundays or Public Holidays.

Reason: In the interest of protecting the amenities of the area

- 14 All public roads and footpaths immediately adjoining the site entrances shall be cleaned at regular intervals not less than once per week to the satisfaction of the planning authority unless otherwise agreed as part of the Environmental Monitoring System.

Reason: In the interest of road safety and to protect the amenities of the area.

- 15 All vehicles carrying quarried material or other dust producing materials to or from the site shall be sprayed and /or sheeted in accordance with best practice as agreed as part of the Environmental Monitoring System.

Reason: In the interest of traffic safety and amenity.

22. The developer shall pay the sum of €0.05 (five cent) per extracted tonne (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of on-going monitoring and associated community facilities. This contribution shall be paid prior in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

- 23 Within three months from the date of this order the developer shall submit to the planning authority for written agreement a proposal for an Environmental Management System (EMS) for the facility which shall have regard to Appendix C of the Environmental Management Guidelines – Environmental Management in the Extractive Industry (Non-Scheduled Minerals), Environmental Protection Agency 2005. The Environmental Management System shall include the following:

- (a) Monitoring of groundwater and surface water levels, quality and discharges.
- (b) Monitoring of dust and noise at the application site boundaries/sensitive receptors.
- (c) Monitoring of dust/debris deposition, haul load management and cleaning schedule on the surrounding road network in the vicinity of the entrances
- (d) Monitoring of bird control as a potential hazard to aircraft
- (e) Full details of site manager, contact numbers (including out of hours) and public information signs on the entrance to the facility
- (f) Proposals for refuelling of plant/machinery including emergency action in the event of accidental spillage.

Monitoring and frequency of reports shall be in accordance with the requirements of the planning authority and an annual Environmental Report showing detailed results of all monitoring shall be submitted to the planning authority each year.

Reason: In the interest of orderly development, public safety and to safeguard local amenities.

- 24 On an annual basis, for the lifetime of the facility (before the 1st day of March every year) the developer shall submit to the planning authority five copies of an environmental audit. Independent environmental auditors approved in writing by the planning authority shall carry out this audit. This audit shall be carried out at the expense of the developer and made available to the public for inspection at all reasonable hours at a location to be agreed with the planning authority. This report shall contain.
- (a) A record of groundwater levels measured at monthly intervals
 - (b) A full record of all monitoring result over the previous year for noise, dust and water quality monitoring.
 - (c) A written record of all complaints, including actions taken on each complaint.
 - (d) A review of the Environmental Management System performance and update of associated performance targets.
- Incidents of surface or groundwater pollution or incidents that may result in groundwater pollution shall be notified to the planning authority within seven working days.

Reason: In the interest of environmental protection and of safeguarding local amenities.

Suzanne Kehely
Senior Planning Inspector
24th June 2013

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