

An  
Bord  
Pleanála

**Board Direction**  
**BD-012442-23**  
**ABP-311265-21**

The submissions on this file and the Inspector's reports were considered at Board meetings held on 13/05/2022, 10/01/2023 and 06/06/2023.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

In reaching its decision the Board had regard to:

- The National Planning Framework, including National policy objective 23 which seeks to facilitate the development of the rural economy through supporting sustainable and economically efficient sectors, including extractive industries, provided they maintain and protect the natural environment.
- The location of the appeal site in an area of Moderate Scenic Amenity, as designated in the Donegal County Development Plan 2018 to 2024. These are areas outside of the Local Area Plan boundaries and Settlement framework boundaries that have a unique, rural and generally agricultural quality and within which it is stated that these areas have the capacity to absorb additional development that is suitably located, sited and designed subject to compliance with all other objectives and policies of the Plan (Policy NH-P-7 applies).
- The relevant policies in respect of extractive industries are set out in section 8.1 of the Donegal County Development Plan 2018-2024 and the overall the aim of the Plan to facilitate appropriate and sustainable extraction of locally

sourced aggregates and/or minerals that contribute to the local economy subject to environmental safeguards as reflected in policies EX-P-1 to EX-P-6 of the Plan.

- The documentation submitted with the application and appeal, and
- The report of the Inspector.

### **Appropriate Assessment**

The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that Sheephaven Bay Special Area of Conservation (Site Code 001190), Muckish Mountain Special Area of Conservation (Site Code 001179), and Derryveagh and Glendowan Mountains Special Protection Area (Site Code 004039) are the only European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the European Site in view of the site's Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the

- i) likely indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) mitigation measures which are included as part of the current proposal,
- iii) Conservation Objectives for the European Site.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of these European sites or any other European site, in view of their Conservation Objectives. This conclusion is based on a full and detailed assessment of all aspects of the proposed development including mitigation measures and monitoring in respect of environmental effects and there is no reasonable doubt as to the absence of adverse effects.

### **Environmental Impact Assessment.**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions received in the course of the application and appeal, and
- (d) the Inspector's reports.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application and appeal. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

## **Reasoned Conclusions on the Significant Effects.**

Having regard to the examination of environmental information contained above, and in particular to the EIAR, and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct, indirect and cumulative effects of the proposed development on the environment are as follows:

- **Population and human health** – For the duration of the development, short term positive direct and indirect effects on the local economy and short term negative effects arising from on-going HGV traffic on local roads, and an increase in noise and dust in the immediate area of the site. These effects will be mitigated by the location of the development in a sparsely populated rural area, modest numbers of HGV traffic and conditions to minimise environmental effects to acceptable levels.
- **Biodiversity** – The proposed extraction will result in the permanent loss of 3.0ha of natural habitat from the subject site, including wet and dry heath, and an increase in the area of the quarry site and disturbance effects. Significant impacts will be mitigated by the careful siting of the proposed development to avoid sensitive locations within the site, restricted access to sensitive areas, oversight by an Ecological Clerk of Works, limited outdoor lighting, measures to protect water quality, revegetation of perimeter berms and restoration to ecological after use.
- **Water** – Operation of the quarry in proximity to the Carrownamaddy River, abstraction of water from the river and discharge of wastewater to it has the potential for significant effects on the water environment. However, these will be avoided by the modest level of water to be abstracted and the arrangements for the management of surface water flows on the site and discharge of water through a settlement pond system to meet water quality objectives to be set out in the discharge licence.
- **Material Assets** – For the duration of the development, the proposed development will continue to contribute to a significant proportion of HGVs the L2182. However, this effect will be mitigated by the relatively modest number of vehicle movements generated by the development and relatively small

number vehicles and pedestrians using the rural road. Expansion of the extraction area has potential for landscape and visual effects. However, these are offset by the context for the development which largely precludes significant views of the site from the public road network and sensitive receptors and proposals for additional bunding and landscaping. In the longer term restoration of the site to ecological after uses will have a permanent positive landscape and visual effects in the area.

Notwithstanding the conclusion reached in respect of the inability of the proposed measures to fully mitigate the impact of the development, it is considered that the environmental effects would not justify a refusal of planning permission having regard to the overall benefits of the proposed development.

### **Conclusions on Proper Planning and Sustainable Development**

Having regard to the established quarry and associated development on these lands, the planning history of the site, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 16<sup>th</sup> day of September 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall

be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The grant of permission shall be for a period of 20 years from the date of this Order. At the end of this period, the quarry use shall then cease and all related structures removed and remedial works including restoration works, in accordance with the general principles set out in the application, shall be carried out, unless, before the end of that period, planning permission shall have been granted for the continuance of quarrying for a further period. The site restoration works described in the application shall be completed within two years of the cessation of quarrying on the site.

**Reason:** In the interest of visual amenity.

3. No more than 75,000 tonnes of quarried material shall be extracted from the subject quarry within any one year from the indicated extraction area (Site Layout, Drawing No. 09). Extraction depth from the area indicated in Site Section, Drawing No. 12, shall not exceed 53mOD.

Prior to the commencement of development details of a benched profile to the quarry edge shall be submitted to the planning authority for written agreement. This shall be integrated with the plans for the restoration of the site to ecological after uses.

**Reason:** In the interest of clarity and having regard to the fact that this extraction rate was used for the analysis set out in the submitted Environmental Impact Assessment Report and Natura Impact Statement submitted with the application.

4. Prior to the commencement of development, the following details shall be submitted to the planning authority for written agreement:
  - i. Detailed arrangements for the management of surface water discharges from the site during flood/storm conditions.
  - ii. Detailed arrangements and timescale for the provision of a 4m berm around the extraction area.

- iii. Detailed arrangements for the landscaping of the site during operation to include detailed arrangements for planting of the perimeter berm to facilitate re-use of heath vegetation, additional tree planting and wildflower mix, management of the berm over its lifetime and in the final restoration of the quarry. Arrangements for planting and management of berm shall be integrated with ecological mitigation measures.
- iv. Detailed arrangements for the restoration of the site for beneficial ecological after uses and the arrangements to transition the site from an active quarry to the restored after uses.
- v. The applicant shall consult with the NPWS in the preparation of these details.

**Reason:** In the interest of environmental protection and biodiversity.

5. Prior to the commencement of development, the applicant shall submit to the planning authority for written agreement:
  - (a) A single Schedule of Monitoring and Mitigation Measures as outlined in the Environmental Impact Assessment Report, the Natura Impact Statement, Addendum NIS and associated documents submitted with this application.
  - (b) The document shall include arrangements for the monitoring of bird activity on the site, with arrangements to be agreed with the NPWS and details of monitoring submitted to NPWS.
  - (c) These measures shall be carried out in full, except where otherwise required by conditions attached to this permission.
  - (d) The Schedule shall be included in an Environmental Management System (EMS) and a Site Specific Environmental Monitoring Plan (EMP).
  - (e) The EMS and EMP shall be integrated with the discharge licence for the facility (LWat83 and any subsequent amendment to or new licence in respect of the site).
  - (f) The development shall be operated and managed in accordance with the agreed EMS required under (a) above.

**Reason:** In the interest of protecting the environment and the residential amenities of property in the vicinity and in the interest of public health.

6.
  - a) The developer shall monitor and record surface water discharge (quantity and quality), noise, ground vibration, and dust deposition levels at monitoring and recording stations, the location of which shall be agreed in writing with the planning authority prior to commencement of development. Monitoring results shall be submitted to the planning authority at agreed intervals.
  - b) On an annual basis, for the lifetime of the facility (within two months of each year end), the developer shall submit to the planning authority five copies of an environmental audit. Independent environmental auditors approved of in writing by the planning authority shall carry out this audit. This audit shall be carried out at the expense of the developer and shall be made available for public inspection at the offices of the planning authority and at such other locations as may be agreed in writing with the authority. This report shall contain:
    - i. Details of environmental monitoring in respect of water, noise, vibration and dust.
    - ii. An annual topographical survey of the site carried out by an independent qualified surveyor approved in writing by the planning authority.
    - iii. A written record of all complaints, including actions taken in response to each complaint.
  - c) All incidents where levels of noise, dust or vibration exceed the levels specified in this permission shall be notified to the planning authority within two working days.
  - d) Following submission of the audit or of such reports, or where such incidents occur, the developer shall comply with any requirements that the planning authority may impose in writing in order to bring the development in compliance with the conditions of this permission to further develop the quarry.



**Reason:** In the interest of protecting residential amenities and ensuring a sustainable use of non-renewable resources.

7. The quarry, and all activities occurring therein, shall only operate between 0700 hours and 1800 hours, Monday to Friday and between 0800 hours and 1600 hours on Saturdays. No activity (e.g. loading, movement of machinery or material etc.) shall take place outside these hours or on Sundays or public holidays.

**Reason:** In order to protect the amenities of property in the vicinity.

8. No blasting shall take place during the bird breeding season, April to June of each year (inclusive).

**Reason:** In the interest of biodiversity.

9.

(a) Details of all blasting, including blast design and implementation, shall be agreed in writing one month prior to the carrying out of blasting.

(b) Blasting operations shall take place only between 1200 hours and 1600 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays. Blasting shall not be carried out any more frequently than once per month (excluding the months of April to June, inclusive), unless by prior written agreement of the Planning Authority.

(c) Monitoring of the noise and vibration arising from blasting, at three no. locations, and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the planning authority.

(d) Prior to the firing of any blast, the developer shall give notice of his intention to the occupiers of all dwellings within 500 metres of the site. An audible alarm for a minimum period of one minute shall be sounded. This alarm shall be of sufficient power to be heard at all such dwellings.

**Reason:** In the interest of public safety and residential amenity.

10. Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres/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 eight millimetres per second. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin)max peak with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin).

**Reason:** To protect the residential amenity of property in the vicinity.

11. During the operational phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed:

- an LArT value of 55 dB(A) during 0800 and 1800 hours. The T value shall be one hour, and
- an LAeqT value of 45 dB(A) at any other time. The T value shall be 5 minutes.

Prior to the commencement of development, locations shall be agreed at which noise monitoring shall take place. This shall include at least 3 noise sensitive locations and baseline/ambient monitoring in advance of commencement.

**Reason:** In order to protect the amenities of property in the vicinity.

12.

(a) Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.

(b) The developer shall engage the services of a road sweeper with shall sweep the public road on a twice daily basis or as necessary to ensure compliance with (a) above and for a distance of 70 metres on either side of the site entrances.

**Reason:** To control dust emissions arising from the development and in the interest of the amenity of the area.

13. Prior to the commencement of development a stock proof fence shall be erected around the perimeter of the entire site. Fencing shall be planned and implemented in consultation with NPWS.

**Reason:** In the interest of public safety and biodiversity.

14. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

15. All Heavy Goods Vehicles departing the site (quarry void and processing area) shall do so via a wheel-washes adjacent to the public road, details of which shall be submitted to and agreed in writing with the planning authority in advance of commencement. Signs shall be erected indicating this requirement. All vehicles used for carrying materials from the site shall be fitted with tailboards or similar devices to prevent spillages onto the public road.

**Reason:** In the interest of ensuring that a clean road surface is maintained and in the interest of traffic safety.

16. Scrap metal and other waste material shall be removed at least annually from the site in accordance with the written requirements of the planning authority. Such materials shall be deemed to include scrapped trucks, other scrapped vehicles, empty oil barrels, broken or otherwise unusable truck bodies, worn out conveyor belts/chains, worn out batteries, unusable tyres and worn out conveyor/roller shafts.

**Reason:** To protect the amenities of the area.

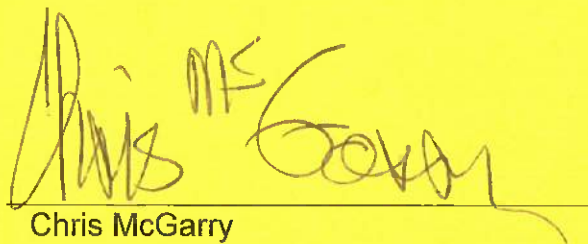
17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory restoration of the site, coupled with an agreement empowering the local authority to apply such security or part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

**Reason:** To ensure the satisfactory restoration of the site in the interest of visual amenity and biodiversity.

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms and Development Act 2000, as amended. The contribution shall be paid prior to re-commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission to further develop the quarry.

**Board Member**

  
Chris McGarry

**Date:** 13/06/2023

