

**An
Bord
Pleanála**

**Board Direction
BD-016048-24
ABP-314181-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/04/2024.

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

Reasons and Considerations

Having regard to:

- The provisions of the Planning and Development Act 2000, as amended,
- The National Planning Framework,
- The Quarries and Ancillary Activities Guidelines,
- The provisions of the Donegal County Development Plan 2018 – 2024,
- The planning history of the site,
- The submitted remedial Environmental Impact Assessment Report, and
- The submitted remedial Natura Impact Statement,
- the report and the opinion of the planning authority and the applicant's response to the report;
- the nature, scale, characteristics and location of the development;
- the Inspector's assessment as set out in the Inspectors Report;
- the mitigation measures outlined and the restoration scheme proposed.

it is considered that the quarry following mitigation has not had a significant effect on the environment nor has it had a significant adverse effect on nearby European sites. It is further considered that, subject to compliance with the conditions set out below, it would have neither a significant effect on the environment nor a significant adverse effect on nearby European sites in the future. Thus, to grant substitute consent to this quarry would accord with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board considered the Natura Impact Statement submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on the River Finn Special Area of Conservation (Site Code 002301) and the River Foyle and Tributaries Special Area of Conservation (Site Code UK0030320). The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the River Finn Special Area of Conservation (Site Code 002301) and the River Foyle and Tributaries Special Area of Conservation (Site Code UK0030320) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on the River Finn Special Area of Conservation (Site Code 002301) and the River Foyle and Tributaries Special Area of Conservation (Site Code UK0030320) in view of the sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

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

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. The Board considered that the development, either individually or in combination with other plans or projects, would not have adverse effects on the integrity of the River Finn Special Area of Conservation (Site Code 002301) and the River Foyle and Tributaries Special Area of Conservation (Site Code UK0030320), in view of the sites' conservation objectives.

The conclusion is based on a complete assessment of all aspects of the project and there is no reasonable doubt as to the absence of adverse effects. This conclusion is based on:

- A full and detailed assessment of the project, including mitigation measures, in relation to the conservation objectives of European Sites', the River Finn Special Area of Conservation (Site Code 002301) and the River Foyle and Tributaries Special Area of Conservation (Site Code UK0030320).
- An assessment of in combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of European Sites', the River Finn Special Area of Conservation (Site Code 002301) and the River Foyle and Tributaries Special Area of Conservation (Site Code UK0030320).

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment in relation to the proposed development, taking account of:

- the remedial Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- the submissions received from the planning authority, prescribed bodies and the applicants response,
- the Inspector's assessment on environmental effects as set out in the Inspector's Report;

The Board considered that the environmental impact assessment report, supported by information provided by the applicant during the course of the application, identifies and describes adequately the direct and indirect effects of the proposed development on the environment. The Board is satisfied that the information contained in the remedial EIAR

complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board concluded that, subject to the implementation of the mitigation measures proposed in the remedial EIAR, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board generally adopted the report and conclusions of the Inspector.

The Board considered, and agreed with the inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment and measures to avoid, prevent or reduce such effects are as follows:

- The impact on biodiversity from loss of habitat, which has been mitigated by hedgerow planting on berms, and which would be further mitigated by additional hedgerow planting and a comprehensive restoration plan. The environmental effects of quarrying in terms of risk to water quality, noise and vibration, and dust, have also impacted biodiversity. Mitigation of these effects are described below.
- The impact on water quality in the St. Johnston Stream arising from suspended sediment and hydrocarbons in surface water run-off, which has been mitigated by the settlement ponds and which would be further implemented by the installation of a pipe and a hydrocarbon interceptor between these ponds.
- The impact of noise and vibration, which has been mitigated by the changing configuration of the quarry, the formation of berms, and the adoption of relevant protocols by plant and machinery operators.
- The impact of dust on air quality, which has been mitigated by the formation of berms, and the adoption of relevant protocols by plant and machinery operators, and which would be further mitigated by dampening down stockpiles during dry/windy weather and the installation of a wheel wash.
- Landscape and visual impacts, which would be mitigated by berm formation and tree planting and a comprehensive restoration plan.

In the light of the above, I am satisfied that the proposal has not had and would not have any unacceptable direct or indirect effects on the environment.

Proper Planning and Sustainable Development

Having regard to the nature, scale and extent of the development and noting the integrity of European Sites would not be adversely affected, in view of the relevant sites' conservation

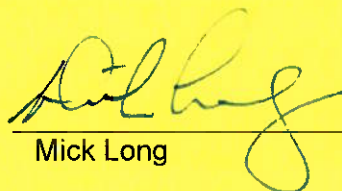
objectives, as set out above, and subject to compliance with the conditions set out below, the Board is satisfied that exceptional circumstances exist and that to grant substitute consent would be in accordance with the proper planning and sustainable development of the area.

Conditions

1.	<p>This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application on the 22nd day of July, 2022, as amended by the further response received by An Bord Pleanála on the 7th day of February, 2023, except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) All environmental mitigation measures identified within the remedial Environmental Impact Assessment Report and the remedial Natura Impact Statement shall be implemented in full, except as may otherwise be required in order to comply with the conditions attaching to this order.</p> <p>(b) An additional standby water pump shall be procured and retained at all times for use at the site.</p> <p>(c) Within three months of the date of this order, a timetable for the implementation of (a) and (b) shall be submitted to and agreed in writing with the planning authority.</p> <p>Reason: To protect the environment and amenities of the area, to ensure that flooding can at all times be tackled, and in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>Within three months of the date of this order, a plan to ensure that a western sightline is available to drivers exiting from the L5414 onto the L1264 in perpetuity shall be submitted to and agreed in writing with the planning authority. This sightline shall have an x distance of 3.05m and a y distance of 68m and it shall ensure that no obstruction exists above 1.06m. The agreed plan shall be fully implemented within 1 month of its written agreement.</p> <p>Reason: In the interest of road safety.</p>
4.	<p>(a) Within six months of the date of this order, a survey of the hedgerow along the southern boundary of the site shall be submitted to and agreed in writing with the</p>

	<p>planning authority. This survey shall identify any dead or dying hedging and any gaps in the existing hedgerow. The numbers and types of replacement and additional hedging shall be specified, and a timetable for the planting of such hedging shall be stated.</p> <p>(b) Within six months of the date of this order, a survey of the berms within the site identified for tree planting shall be submitted to and agreed in writing with the planning authority. This survey shall identify where the strengthening of these berms may be required to ensure that they provide suitable ground conditions for tree planting. They shall also be of a minimum height of 2 metres. The numbers and types of trees to be planted shall be specified, and a timetable for the strengthening of the berms and the planting of these trees shall be stated.</p> <p>Reason: In order to screen the quarry in the interest of visual amenity and in order to promote biodiversity.</p>
5.	<p>Within six months of the date of this order a comprehensive restoration plan for the site shall be submitted to and agreed in writing with the planning authority. This plan shall state the timetable proposed for all restoration works.</p> <p>Reason: In the interests of visual amenity, public safety, and biodiversity.</p>
6.	<p>Within three months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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 the Board for determination.</p> <p>Reason: To ensure the satisfactory restoration of the site.</p>

Board Member



Mick Long

Date: 11/04/2024