

An  
Bord  
Pleanála

**Board Direction**  
**BD-017490-24**  
**ABP-315708-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/09/2024.

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**

Having regard to the following:

- The National Planning Framework,
- The Quarries and Ancillary Activities, Guidelines for Planning Authorities (2004),
- The Donegal County Development Plan 2024-2030, and
- The planning history of the site,

it is considered that, subject to compliance with conditions, the proposal would be acceptable in principle from a land use perspective. The environmental impacts of the proposal in terms of noise, dust, and vibration levels within the surrounding area would be capable of being satisfactorily mitigated, thereby safeguarding the amenities of this area. Likewise, the proposal would, subject to mitigation, be compatible with biodiversity and the maintenance of water quality in receiving waters. Landscape and visual impacts would be mitigated by the provision of berms and tree planting within the site. Traffic generated by the proposal would, subject to improvements to the L-23749 and the re-siting of the junction between the R-236 and the L-23749, be capable of being accommodated satisfactorily on the public road network. Under environmental

impact assessment, the significant effects of the proposal would be capable of being satisfactorily mitigated, and, once mitigated, this proposal would not adversely affect the integrity of any European site. It would, thus, accord with the proper planning and sustainable development of the area.

### **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 and appeal.
- (c) the submissions from the planning authority and the third-party appellant in the course of the application, and
- (d) the planning inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the 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.

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

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are and will be mitigated as follows:

- The proposal would afford employment.

- The proposal would adversely affect biodiversity, although this effect would be satisfactorily mitigated, leaving only the on-going loss of grassland.
- The proposal would entail the loss of geological bedrock from the site. Such loss needs to be weighed against the need to supply the construction industry with aggregates in line with national and local planning policies.
- The proposal would adversely affect surface water and groundwater, although this effect would be satisfactorily mitigated by the water management proposals.
- The proposal would generate noise and dust and, occasionally, blasting vibrations. These impacts would be satisfactorily mitigated by good management and maintenance practices and the adoption of best practice methodologies.
- The proposal would have landscape and visual impacts, which would be mitigated by means of planted berms and the retention of hedgerows.

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

Having regard to the policies set out in the National Planning Framework and the Donegal County Development Plan 2024-2030, to the previous use of the site as a quarry, the established character and pattern of development in the vicinity of the site, the planning history of the site, and to the mitigation measures proposed in the Environmental Impact Statement and Natura Impact Statement, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would be acceptable in terms of traffic safety and protection of the environment, would be in accordance with the provisions of the Donegal County Development Plan and 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 23rd day of November 2022 and by the further plans and particulars received by An Bord Pleanála on the 15th day of March 2024, 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 mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European Sites.

3. The mitigation measures contained in the submitted Environmental Impact Assessment Report (EIAR), shall be implemented.

Reason: To protect the environment.

4. (a) Prior to the commencement of development, plans showing all consequential changes to (i) the quarry faces, and (ii) the restoration scheme for the site shall be submitted to, and agreed in writing with, the Planning Authority.  
(b) The permission hereby granted shall be for a 25-year period commencing with the date of this order, at which time, all quarrying operations shall cease, and the site shall be fully restored within one year of the date of cessation, unless a further planning permission has been granted for continued operation.

Reason: In the interest of clarity and in order to ensure the post-activity restoration of the site

5. The quarrying activities shall be in accordance with the 5 phases identified in the 'General Arrangement Drawing', Drg. No.11 by Michael Friel Architects and Surveyors and other documentation submitted with the application. Prior to the

commencement of each of phases 2, 3 , 4 and 5, the developer shall submit a comprehensive report to the planning authority for their written agreement, detailing the compliance of the development with the conditions of this permission during the preceding phase of development.

Reason: In the interest of control and orderly development

6. Annual output of materials from the proposed quarry shall not exceed 110,000 tonnes. Records of daily output shall be kept, and these records shall be submitted to the Planning Authority annually.

Reason: In the interests of clarity, good traffic management, and the amenities of the area.

7. (a) Excavations shall not occur below a level of 119 metres AOD.  
(b) Prior to the commencement of development, details of the siting and design of a benchmark referenced to Ordnance Datum shall be submitted by the developer to, and agreed in writing with, the Planning Authority, and, thereafter, the benchmark shall be immediately installed and retained in-situ for the duration of the development.  
(c) A topographical survey of the site reflecting changes to site levels resulting from excavation activities shall be submitted by the developer to the planning authority on an annual basis.

Reason: In the interests of clarity, and orderly development.

8. The quarry, and all activities occurring therein, shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.

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

9. The development shall be operated and managed strictly in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This EMS shall incorporate all the mitigation measures, and, where relevant, attendant timelines that were set out in the



Environmental Impact Assessment Report dated 2022, which was submitted by the applicant to the Planning Authority. It shall also incorporate the requirements of relevant conditions set out in this order.

Reason: In order to safeguard biodiversity, water quality, and the amenities of the surrounding area.

10. (a) Prior to the commencement of development, the developer shall submit to, and agree in writing with, the Planning Authority a scheme providing details of all proposed revisions to the L-23749. These details shall reflect the plans submitted to the Planning Authority under further information on the 23rd day of November 2022, except for a further realignment of the L-23749, such that it begins to diverge from its existing alignment at a point 50 metres further to the north-west of the entrance to the residential property adjacent to the existing junction between the L-23749 and the R236.

(b) Prior to the commencement of any other development, the developer shall fully implement the agreed scheme of revisions to the L-23749.

(c) Prior to the commencement of use of the re-sited junction between the L-23749 and the R236, permanent visibility splays of 160 metres to the north-east and 72 metres to the south-west shall be provided to the nearside road edge at a point 4.5 metres back from the edge of the carriageway at the junction of the L-23749 with the R236. Within these splays, no object above 1.05 metres in height shall remain.

Reason: In order to ensure that satisfactory access to the site is available at all times.

11. (i) The applicant is required to engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930 – 2004) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent.
- (ii) The archaeologist is required to notify the Department of Housing, Local Government and Heritage in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.

(iii) The archaeologist shall carry out any relevant documentary research and may excavate test trenches at locations chosen by him/her, having consulted the plans of the proposed development.

(iv) Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the Department of Housing, Local Government and Heritage.

(v) Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record (excavation) and/or monitoring may be required, the Department of Housing, Local Government and Heritage will advise the applicant/developer with regard to these matters.

(vi) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with the Department of Housing, Local Government and Heritage.

Reason: To ensure the continued preservation (either in-situ or by record) of places, caves, sites, features or other objects of archaeological interest.

12. Prior to the commencement of the development of each phase of the proposal, the following biodiversity surveys of the site shall be undertaken:

- (i) A flora and habitat survey, including the identification of any invasive species,
- (ii) A breeding bird survey,
- (iii) A mammal survey, and
- (iv) An amphibian and reptile survey.

Such surveys shall be submitted to, and agreed in writing with, the Planning Authority. They shall include a timetable for the commencement of the development of each phase of the proposal, which is informed by their findings, in coordination with condition number 5 above.

Reason: In order to protect biodiversity.

13. The site shall be screened in accordance with a scheme of screening measures and boundary treatment in respect of the site, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the timeframe, specific location(s), and final form and height of proposed screening berms, details of all planting proposed on existing and proposed

screen berms, details of the ongoing care and management of such planting, details of a phased programme of landscaping within the quarry, details of an adequate barrier to prevent unrestricted access to the top of the quarry face from adjacent lands, and details of warning signage to be installed on such a barrier.

Reason: In the interest of visual amenity and to safeguard the amenities of property in the vicinity during the operating phase of the development.

14. Prior to the commencement of development, a construction management plan shall be submitted to, and agreed in writing with, the Planning Authority. This plan shall address the construction phase of the buildings and structures, which would be ancillary to the proposed quarry, and it shall include a comprehensive scheme for the management of surface water during this phase.

Reason: In order to control the amount and quality of water entering the off-site receiving waters.

15. (a) Prior to the commencement of quarrying, the water management proposals shall be constructed, fully completed, and commissioned for use. The resulting operational water management system shall be retained in-situ for the duration of quarrying and, thereafter, as a means of serving any overflow of water from the decommissioned quarry.

(b) The flow of water discharging from the water management system shall not exceed 9 litres per second.

(c) Prior to the commencement of quarrying, the developer shall submit to, and agree in writing with, the Planning Authority a scheme for the maintenance of the water management system, and, thereafter, the agreed scheme shall be adhered to at all times.

Reason: In order to control the amount and quality of water entering the off-site receiving waters.

16. The water supply to serve the proposed staff welfare facilities shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of use of the staff welfare facilities.



Reason: To ensure that adequate water is provided to serve the proposed staff welfare facilities, in the interest of public health.

17. (a) The treatment plant and polishing filter shall be located, constructed, and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ )" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the commencement of use of the staff welfare facilities and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the staff welfare facilities and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the commencement of use of the staff welfare facilities, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

18. All loads of dry fine materials shall be either sprayed with water or covered/sheeted prior to exiting the quarry.  
Reason: In order to prevent dust emissions, in the interest of amenity and traffic safety.
19. (a) The wheel and undersides of all vehicles transporting aggregate from the site onto the public road shall, shall prior to the exit of such vehicles onto the public road, be washed in a wheel wash facility.  
(b) The site access road shall be provided with a sealed surface between the wheel wash facility and the public road.  
(c) In dry conditions, all roads within the site and the active working face shall be sprayed with water at least three times a day.  
Reason: In the interest of road safety, and to protect the amenities of the area.
20. Details of the materials, colours, and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.  
Reason: In the interest of the visual amenities of the area.
21. Oils or chemicals stored within the site shall be stored within bunded areas and such substances shall not be discharged or allowed to discharge into surface or ground waters on site. Oil interception traps shall be provided on drainage lines serving areas where oil products are stored or used in accordance with the plans and details received by the Planning Authority with the original application.  
Reason: In order to avoid pollution.
22. All external lights shall be adequate hooded and aligned so as to prevent direct spillage of light beyond the site.  
Reason: In order to safeguard the amenities of the area.
23. (a) Free-field noise levels attributable to the operation of the quarry, when measured at the nearest noise sensitive locations, i.e., NSL 1 & 2 in Figure 9.1 of the Environmental Impact Statement May 2022 submitted by the applicant to the

Planning Authority, shall not exceed 55 dB(A) Leq, 1h during permitted operating hours and shall not exceed 45 dB(A) Leq, 15 min at any other time.

(b) Notwithstanding (a) above, where any temporary quarry activity is expected to exceed the noise limits above, this shall be notified in advance to the planning authority, and to residents in the vicinity, indicating the reason for such activity, and its likely duration. No such exceedance of noise limits shall occur without the prior written agreement of the planning authority.

(c) A noise survey and assessment programme shall be undertaken to assess the impact of noise emissions arising from the operation of the quarry. The scope and methodology of this survey and assessment programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. The results obtained from the programme shall be submitted for review at quarterly intervals to the planning authority. The developer shall carry out any amendments to the programme required by the planning authority, following this review.

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

24. (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) A monthly survey and monitoring programme of dust and particulate emissions shall be undertaken to provide for compliance with these limits. Details of this programme, including the location of dust monitoring stations, and details of dust suppression measures to be carried out within the site, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall include an annual review of all dust monitoring data, to be undertaken by a suitably qualified person acceptable to



the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.

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

25. (a) 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. Monitoring of the noise and vibration arising from blasting 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. Annual reports of such monitoring shall be submitted to, and agreed in writing with, the planning authority within two weeks of their completion. The developer shall carry out any amendments to its blasting operations required by the planning authority following this annual review.

(b) Prior to the firing of any blast, the developer shall give 24-hour advance notice of his intention to the occupiers of all dwellings, schools, and businesses within 500 metres of the site, and, in addition, the HSE's Ballytrim House. 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, schools, and businesses.

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

26. (a) 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).

(b) A monitoring programme, which shall include reviews to be undertaken at annual intervals, shall be developed to assess the impact of quarry blasts. Details of this programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.

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

27. (a) The developer shall monitor and record groundwater, surface water flow, noise, ground vibration, and dust deposition levels at monitoring and recording stations, the location of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Monitoring results shall be submitted to the planning authority at monthly intervals for groundwater, surface water, noise and ground vibration.

(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 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) A written record derived from the on-site weighbridge of the quantity of material leaving the site. This quantity shall be specified in tonnes.

(ii) An annual topographical survey carried out by an independent qualified surveyor approved in writing by the planning authority. This survey shall show all areas

excavated and restored. On the basis of this, a full materials balance shall be provided to the planning authority.

(iii) A record of groundwater levels measured at monthly intervals.

(iv) A written record of all complaints, including actions taken in response to each complaint.

(c) In addition to this annual audit, the developer shall submit quarterly reports with full records of dust monitoring, noise monitoring, surface water quality monitoring, and groundwater monitoring. Details of such information shall be agreed in writing with the planning authority. Notwithstanding this requirement, all incidents where levels of noise or dust exceed specified levels shall be notified to the planning authority within two working days. Incidents of surface or groundwater pollution or incidents that may result in groundwater pollution, shall be notified to the planning authority without delay.

(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 into compliance with the conditions of this permission.

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

28. The developer shall provide all landowners within 500 metres of the site with appropriate contact details which may be used in the event that any such landowner wishes to inform the developer of any incident, or otherwise to make a complaint in respect of an aspect of quarry operation.

Reason: In the interest of the protection of residential amenity and planning control.

29. Prior to commencement of development, 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 An Bord Pleanála for determination.

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

30. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of road works, and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The security to be lodged shall be as follows -

(a) an approved insurance company bond in the sum of €75,000 (seventy-five thousand euro), or

(b) a cash sum of €75,000 (seventy-five thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or

(c) such other security as may be accepted in writing by the planning authority.

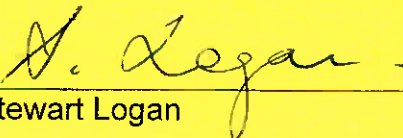
Reason: To ensure the satisfactory upgrade of the means of access to the site.

31. 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 of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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.

**Board Member**

  
Stewart Logan

**Date:** 19/09/2024

**Note:**

The Board noted the recommendation of the Inspector to restrict permission to Phases 1 and 2 of the development. However, the Board considered that the 25-year duration of permission (5 Phases) sought by the applicant and documented in the submitted application was warranted in the context of the significant extent of the reserves identified and the substantial capital investment supporting the development - which are relevant factors outlined in the 2004 Guidelines. The Board accordingly granted permission for 25 years for the development.