An Bord Pleanála

Inspector's Report

ABP-306803-20

Development	To extend existing quarrying facility
Location	Ardkill More, Carrickaboy, Co Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	19227
Applicant(s)	John Nulty
Type of Application	Permission
Planning Authority Decision	To grant
Type of Appeal	Third Party
Appellant(s)	R. Lee.
Observer(s)	An Taisce, Peter Sweetman
Date of Site Inspection	8th July 2020
Inspector	Deirdre MacGabhann

Contents

1.0 Site Location and Description

1.1. The 10.25ha appeal site lies approximately 7.5km south of Cavan Town and 4.5km east of Ballinagh, in the townland of Ardkill More, County Cavan. The village of Carrickaboy lies c.1.5km to the north east of the site. The site is situated to the east of, and takes its access from, a county road the L-2517. This local road joins the N55 approximately 5km to the north of the site and Kilnaleck to the south.

1.2. The site comprises a working quarry, which has been cut into the western slopes of Ardkill More hill. An internal haul road leads from the L-2517 to the quarry floor via offices and a weighbridge. To the north of the offices is a shed (garage/workshop) and to the north east of this settlement ponds which discharge to an adjoining watercourse. Other settlement ponds lie to the east of the offices. On the quarry floor material which has been freed by blasting is crushed, screened and stockpiled. An internal access road runs from the offices along the northern boundary of the site to an upper working area (see photographs). To the south east of this area is the proposed extension area. It comprises an area of undulating terrain, overgrown with scrub vegetation. The site has extensive views over the landscape to the south east, south and west.

1.3. Residential properties lie alongside the L-2517 to the north, south and west of the quarry and to the east of the proposed extraction area. The nearest property lies to the southwest, opposite the southern boundary of the site.

2.0 Proposed Development

2.1. The proposed development, as revised by way of significant further information (11th March 2020), comprises the extension of the existing extraction area to the south east by an additional 1.04ha, within the overall quarry site of 10.25ha (see Site Plan, drawing no. PL17-169-02). Quarrying of greywacke sandstone is proposed from the extension area to a maximum depth of c.40mOD (working height of the quarry 245.5 AOD), above the water table, with an extraction rate of c.50,000 tonnes per annum and an operational period of 10 to 15 years. Blasting will take place approximately two times a year to free the resource. Processing will take place in the existing quarry void using mobile processing plant. The proposed development includes all ancillary site development works, areas of stockpiling, landscape and boundary

treatment and progressive restoration of the site (drawing no. PP-17-169-05). Restoration will be to a natural habitat. It is envisaged that the majority of the restoration will be carried out after extraction operations of the site have ceased (section 2.10 EIAR). Operating hours will be from 7am to 6pm Monday to Friday, 7am to 2pm on Saturdays, with no working on Sundays or Bank Holidays. No lorry's will leave the facility before 8am of any day (section 2.2. EIAR).

2.2. The planning application was accompanied by an Environmental Impact Assessment Report (EIAR) and Non-Technical Summary. Other technical documents include:

- Landscape and Visual Assessment.
- Report on the Stability of Rock Faces (Appendix A of FI).
- Archaeological Assessment (Appendix B of FI).
- Landscaping and Restoration Plan (Appendix C of FI).
- A report on compliance with existing standards and conditions attached to the quarry (submitted with FI, received on the 26th November 2019).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 6th February 2020, the planning authority decided to grant permission for the development subject to 22 conditions, which include:

- C2 and C3 – Development contribution and bond.
- C4 – Restricts the extraction area to that shown on stated drawings and the development to a period of 10 years. Requires restoration of the site within 11 years of the grant of permission.
- C5 – Restricts depth of quarry to a maximum of 210mAOD, with benching details to be provided in advance of commencement.
- C6 – Requires implementation of mitigation measures set out in the EIAR.
- C7 – Requires archaeological monitoring.
- C8 – Requires the development to be operated in accordance with an Environmental Management System.

- C9, C10 and C11 – Control noise, vibration and dust.
- C12 – Requires the site to be effectively secured at all times.
- C13 – Restricts operating hours to 8am to 6pm Monday to Friday and between 9am and 2pm on Saturdays.
- C14 – Sets out requirements for environmental monitoring.
- C15 – Requires active management of topsoil and overburden with detailed proposals to be submitted to the planning authority in advance of commencement.
- C16 – Requires use of wheel wash by HGVs.
- C17 – Governs the management of surface water, discharges to surface and groundwater and abstractions.
- C18 – Restricts activities on site to quarrying and the primary crushing of materials on-site, limits extraction in relation to adjoining boundaries, sets out requirements for refuelling, maintenance of plant and management of spills.
- C19 – Controls potential contamination from hydrocarbons.
- C20 – Governs rehabilitation of the site.
- C21 – Requires the provision of prescribed visibility splays at the site entrance and a Stage 3 Road Safety Audit on completion of splays.
- C22 – Requires an updated Rock Stability Report for the entire site within 6 months of the grant of permission to document all measures to be carried out and a timescale for implementation (to be agreed with the planning authority).

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- 1st August 2019 – The report refers to the planning history of the site, submissions and observations made, technical reports and the policy context for the development. It reviews and assesses the different topic sections of the EIAR and provides a reasoned conclusion, that the proposed development is not likely to have significant effects on the environment. The report also has regard to the Appropriate Assessment Screening Report submitted and considers that the development would not be likely to have a

significant effect on the European sites. The report recommends further information in respect of compliance, sightlines (Kilnaleck side), environmental monitoring, working height, report on the stability of rock faces, type of stone to be extracted, application for Discharge Licence (see report by Environment below), resubmission of visual impact assessment in the absence of superimposed landscaping, an archaeological assessment of the site, details and timescale for restoration and reconsideration of proposals for excavation adjacent to the south eastern boundary of the quarry (which would leave a significant face).

- 5th February 2020 – The report considers that the matters raised in the request for further information have been addressed and recommends granting permission for the development.

3.2.2. Other Technical Reports

- Environment (4th July 2019) – Notes that the applicant made a section 4 discharge licence to the Environment Section in 2018 and that further information was requested but not received. Recommends that the application be referred to the EPA, Inland Fisheries Ireland and the planning authority's Waste Management Section and approval, subject to conditions. Subsequent report (20th December 2019) states that monitoring results were compliant with limit, and recommends approval subject to conditions.
- Roads (29th July 2019) – Recommends that applicant demonstrate how sightlines will be achieved (Kilnaleck side). Subsequent report (29th January 2020) raises no objections subject to conditions.

3.3. **Prescribed Bodies**

- Development Applications Unit (17th July 2019) – Recommend an archaeological assessment, including geophysical survey, given the proximity of sites of archaeological interest (Recorded Monuments CV031-004 Linear Earthwork, The Black Pig's Dyke and CV031-060 enclosure).
- IFI (17th July 2019) – Make recommendations in respect of the application including that no discharge of suspended solids is made to watercourses, all surface waters pass through appropriate interceptors, existing watercourses

are protected in terms of water quality, topography and habitat and measures are put in place to minimise potential damage during construction and prevent the introduction of invasive species.

- Irish Water (18th July 2019) – State that the development is in proximity to abstraction sites for drinking water and therefore require compliance with Water Framework Directive, EIA Directive, Groundwater Directive and best practice for Groundwater Protection Schemes.

3.4. **Third Party Observations**

- Lee (17th July 2019) – Questions whether the applicant addressed all matters of compliance under PA ref. 05/1801 and PL02.QC2013/PL02.218928, including the working height of the quarry, previously limited to 246 AOD. Absence of monitoring data from application documents. Safety of rock faces. Rock produced by the quarry (limestone or greywacke stone).

4.0 **Planning History**

- PA ref. 7325 – Permission granted in 1977 on the appeal site to Sean Nulty for quarry production of stone asphalt tarmacadam plant, storage and office accommodation, car park and machinery repair workshop.
- PA ref. 97/166 – Permission granted to John Nulty Ltd on the appeal site for offices, material testing laboratory, canteen, toilets, store and machinery workshop, the provision of a weighbridge, wheel wash facility and 2 no. mobile crushers.
- PA ref. QY7 (PL 02.QC.2013) – Registration of the quarry John Nulty Ltd and subsequent appeal to the Board. In 2007, the Board confirmed and modified the decision of the planning authority, which imposed conditions in respect of landscaping, restoration, contour survey, discharge of waters, settlement ponds etc.
- PA ref. 051801 (PL 02.219928) – Permission granted by the Board, in 2007, for the extension of the quarrying facility to include an additional 3.37ha of land (to the east of the existing working area and within the existing quarry envelope set out in PA ref. 7325 and 97/166) and new entrance.

- PA ref. 1162 – In 2011, permission granted to John Nulty for retention and completion of partially constructed structure, to be used as a conveyor system to transfer crushed materials from the upper levels of the quarry floor, and ancillary works.

5.0 Policy Context

5.1. National Policy

5.1.1. The government's Guidelines for Planning Authorities on Quarries and Ancillary Activities, recognise the important contribution the aggregates industry make to economic development in the country and acknowledge that, by their nature, minerals can only be worked where they occur. However, the guidelines recognise that the operation of quarries can give rise to land use and environmental issues that require to be controlled through the planning system. The Guidelines identifies these issues and sets out best practice in dealing with them.

5.2. Development Plan

5.2.1. Section 3.8 of the adopted Cavan County Development Plan 2014-2020 sets out policies and objectives in respect of extractive industries (EDP6 to EDP9 and EDO21 to 26). The Plan recognises the importance the industry makes to the rural and wider economy and seeks to ensure that development takes place in a manner which affords protection to the built and natural heritage, including high amenity landscapes, national and European sites of conservation interest, archaeology and the water environment and take place in a manner in which environmental disturbance is minimised in all areas of the county (see attachments).

5.3. Natural Heritage Designations

5.3.1. The appeal site is lies in a rural area and is removed from sites of natural heritage interest. The nearest sites are situated c.9km to the north west of the appeal site and are associated with Lough Oughter and comprise Lough Oughter and Associated Loughs pNHA and SAC (site code 000007) and Lough Oughter SPA (site code 004049). Approximately 10km to the south east of the appeal site is Lough

Sheelin, an SPA (site code 004065) and pNHA (site code 000987) and approximately 10km to the south west, Lough Gowna, a pNHA (site code 000992).

5.4. EIA Screening

5.4.1. Schedule 5 of the Planning and Development Regulations 2001 (as amended) sets out classes of development, and thresholds within these classes, which requires environmental impact assessment. In Class 2(b) of Part 2 of the Schedule, environmental impact assessment is required for quarry development where the extraction area would be greater than 5ha. In Class 13(a) environmental impact assessment is required for any change or extension to a development which would result in an increase in size greater than 25% or an amount equal to 50% of the appropriate threshold, whichever is greater.

5.4.2. In this instance, the proposed extension to the quarry comprises 1.04ha and extends the existing quarrying facility on a site of 10.25ha. The applicant has submitted an EIA on the basis that the total extraction area of the quarry is greater than 5ha.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Third party grounds of appeal are:

- **EIAR**. Inadequacy of EIAR. Contend that the planning authority did not have sufficient scientific information to grant permission and failed to assess the application properly. Lack of data regarding environmental monitoring. Reliance of compliance with necessary regulatory requirements.
- **Compliance**. Absence of comprehensive compliance information for PL02.QC2013 and PA ref. 05/1801 (PL02.219928) and the questions this raises for future compliance given the conditions of the grant of permission.
- **Working height**. Lack of clarity regarding working height and impact on summit reaches.
- **Hydrology**. Failure to address key hydrological criterion, no assimilative impact study, inadequate information on storm water flow, lagoons and off site

runoff, inadequate compliance with discharge licence, inadequate data on monitoring.

- **Biodiversity**. Absence of Natura Impact Statement.
- **Visual and archaeological impact**. No assessment of long distance and landscape regional impacts and on linear earthwork which traverses the site (Black Pig's Race/Work Ditch) and on nearby archaeological monuments.
- **Cultural heritage**. Levelling of significant sections of 'Black Pig's Race/Work Ditch' since c.1985 and insufficient information on impact of continued quarrying on cultural heritage.
- **Site Justification**. Justification for extending a quarry at this height, given applicant's access to alternative quarry reserves beside Cavan town.

7.0 Responses

7.1. Applicant Response

- None.

7.2. Planning Authority Response

- **EIAR/Compliance.** Consider that sufficient scientific detail was submitted with the EIAR to assess direct, indirect and cumulative impacts. Further information included details in respect of monitoring carried out at the quarry. Details included in Planner's Report and available on public file.
- **Working height.** Indicated in further information (245.5AOD) in accordance with Drawing no. PL-17-169-04 submitted on 26th November 2019. Working height is as per previous grant by the Board. Adequately controlled by condition nos. 1 and 5 of the permission.
- **Hydrology.** No concerns raised by Acting Executive Senior Scientist.
- **Biodiversity**. A Screening Report was submitted and addressed in the Planning Report. The assessment carried out on the 2 Natura sites within

10km of the site and found that it would have no impact on the integrity of these.

- **Visual impact**. 246m contour line has been retained in the current extension resulting in more acceptable visual impacts. Having regard to this contour line, the depth specified of the proposed extension and details of restoration programme, development is acceptable in terms of visual amenities.
- **Cultural heritage**. Development is located north west of Worm Ditch or Black Pigs Race. Applicant has demonstrated that archaeological testing would be challenging and that the site is unsuitable for geophysical survey. Given the constraints on site, the proposal for archaeological monitoring of topsoil removal is acceptable.
- **Site Justification**. The planning authority is satisfied with the justification for the proposed extension in terms of location.

7.3. Observations

- An Taisce (30th March 2020) – The appellant raises the issue of compliance history. Section 35 of the Planning and Development Act 2000 as amended imposes an explicit requirement to address past failures to comply in considering a particular development and developer. Compliance issues formed part of further information and there is now a 'de novo' obligation on the Board to address all matters of compliance.
- Peter Sweetman (31st March 2020) – Information in the planners report indicates that permission was granted to extend a non-compliant development. Condition no. 22 (rock stability report) requests information that should have been in the Impact Assessment Report. Public consultation avoided. Not legal in EU law. IFI's submission refers to measures to minimise potential damage from sediment runoff, spillages and discharges and in the opinion of IFI there may be such an effect. Appropriate Assessment is therefore required (see 26 in Kelly v An Bord Pleanála [2014] IEHC 400 (25 July 2014).

8.0 **Assessment**

8.1. Having regard the appeal file, including all of the submission received, my inspection of the appeal site and relevant local and national planning policies and guidelines, I consider that the main issues for this appeal are:

- Site justification.
- Compliance.
- Public consultation.
- Working height.
- Visual impact.
- Impact on archaeology and cultural heritage.
- Hydrology.
- Adequacy of EIAR.
- Need for Natura Impact Statement.

8.2. I deal with these matters below under the individual Planning, Environmental Impact and Appropriate Assessment headings of this report.

8.3. **Planning Assessment.**

Site Justification

8.3.1. The appellant states that as the applicant has another active quarry near Cavan Town and there, therefore, is little justification for the proposed extension of the quarry at height.

8.3.2. Chapter 3 of the EIAR addresses the matter of alternatives. The report refers to the on-going reliance on quarried material for construction aggregates and three main alternatives to the proposed development, do nothing, extension of the permitted quarry and development of a new quarry on a green field site. The report also refers to the applicant's quarry in Castletara, north east of Cavan Town, and states that a different material is extracted from this quarry and it would not, therefore, provide a suitable alternative to the proposed development.

8.3.3. Government policy and the current Cavan County Development Plan recognise the economic importance of aggregates to the construction industry and support its

development subject to environmental safeguards. Within this policy context, I would accept that the construction industry continues to require ready access to aggregates and that the extension of an existing quarry is in principle preferable to the opening up of a new quarry, and the potential environmental issues associated with this, subject to the satisfactory environmental performance.

8.3.4. The proposed extension will extract greywacke sandstone rock from the underlying geological formation (see Figure 2 and 3, response to further information, 26th November 2019). There is no information on file regarding the nature of the material extracted from the applicant's quarry in Castletara or evidence to support the applicant's statement that the materials differ significantly. Notwithstanding this, quarries typically serve a local market, having regard to the cost of transporting materials. Further, the proposed development comprises the extension of an existing quarry and comes forward within a national and local policy context which recognises the economic importance of the industry. I would consider, therefore, that the applicant is entitled in principle, to bring forward the proposed development, for adjudication through the planning system.

Compliance

8.3.5. Parties to the appeal refer to the lack of compliance with conditions of previous permissions, the requirements of section 35 of the Act and state that as compliance issues formed part of further information, the Board is required to address all compliance matters.

8.3.6. The planning history of the appeal site is set out in brief in section 4 of this report, with conditions imposed on the operation of the quarry under PA refs. QY7 (ABP 02.QC.2013), 051801 (ABP 02.219928) and 1162. These include such matters as emission standards and arrangements for environmental monitoring, progressive restoration, fencing, fuelling and capacity of settlement ponds.

8.3.7. In the course of the planning application, the planning authority requested information on compliance with conditions of previous permissions and on environmental monitoring. It is evident from later sections of this report that some the requirements of previous conditions have not been complied with and much of the environmental monitoring provides only a 'snap shot' view of quarry.

8.3.8. Section 35 of the Planning and Development Act 2000, as amended, empowers planning authorities to refuse permission for a development on the grounds of past failures of the applicant to comply with conditions of a previous permission. The same powers are not vested in the Board. In this instance, the planning authority has decided to grant permission for the development and in the Planning Report dated 5th February 2020 has stated '*Compliances with previous conditions shall be dealt with under the previous applications on site'*.

8.3.9. Having regard to the forgoing, notably this legal context for dealing with matters of compliance, and in order to assess the merits of the proposed development, I address relevant matters of compliance referred to by the appellant and observer, in the Environmental Impact Assessment section of this report, in the context of the likelihood of the proposed extension giving rise to significant environmental impacts. Similarly, I examine the likelihood of significant effects of the development European sites under the Appropriate Assessment section of this report, having regard to the past environmental performance of the quarry.

Public Consultation

8.3.10. Observers refer to condition no. 22 of the planning authority's decision to grant permission. It requires a Rock Stability Report to be carried out for the site, and it is argued that this information should have been included in the environmental impact assessment report and its omission avoids public consultation.

8.3.11. In the course of the planning application, the planning authority requested a Rock Stability Report on faces that exist within the quarry and any works required as a result of instable rock faces. In response the applicant submitted a report that was carried out in December 2008, dated 2009 and valid for two years. The report identifies statutory hazards (faces higher than 20m) and hazards (potential toppling failure on faces, potential rockfall on faces and potential planer failure on faces). It recommends that actions to address the identified hazards. These include exclusion zones and bunds at the base of slopes, and location of all quarry haul and quarry roads away from high faces. It also makes recommendations in respect of future excavations e.g. stub benches below all new faces, no standalone faces in excess of 20m and face angles reduced to 70º.

8.3.12. There is no information on file to indicate whether or not the recommended works have been carried out, or whether or not the proposed works are consistent with the technical recommendations of the report.

8.3.13. In response to the request for further information, the applicant states that it is proposed to carry out a follow up assessment in 2020 and in their decision to grant permission for the development, the planning authority requires an updated Rock Stability Report, within 6 months of the permission, with an agreed timescale for all measures that need to be carried out.

8.3.14. In practice, the Safety, Health and Welfare at Work (Quarries) Regulations, 2008 (as amended), in conjunction with the primary health and safety legislation govern the management of quarry operations, including quarry faces i.e. governance of the matter falls outside of the planning system. The stability of slopes to comply with this legislation is therefore not a planning matter. Notwithstanding this, the planning application and appeal process facilitates public consultation and members of the public have been able to raise concerns regarding the matter in advance of decision making.

Working Height

8.3.15. The appellant raises concerns regarding the lack of clarity regarding working height and impact on summit reaches.

8.3.16. In response to the request for further information, the applicant submitted drawing no. PL17-169-02, Proposed Site Plan, and PL17-169-04, Site Section AA and BB. These indicate that quarrying will take place at height, with material removed over a depth of c.40m from a maximum of 245.5m AOD to 210m AOD. This compares to the lower height of the quarry floor at 149.50m AOD and the maximum working height of the existing quarry, c.250m AOD to the west of the proposed extraction area (see PL17-169-02).

8.3.17. Having regard to the foregoing, I consider that there is no ambiguity regarding the details submitted in respect of the proposed working height of the quarry, or how these relate to the existing quarry. The EIA section of this report addresses the impact of the proposed development on the summit reaches.

8.4. Environmental Impact Assessment

8.4.1. The Environmental Impact Assessment Report (EIAR) comprises a Non-Technical Summary, the main report providing a technical assessment of environmental effects and appendices. I have examined the contents of the report against the requirements of Section 94 of the Planning and Development Regulations, 2001 (as amended) and, for the reasons set out in subsequent sections of this report, I do not consider that it contains an adequate explanation of the baseline environment or sufficient information to determine the likely effects of the development on the water environment or landscape. I do not consider that the subject development is particular at risk of major accident or natural disaster e.g. earthquake etc.

Difficulties Encountered

8.4.2. It is stated that no difficulties were encountered in the preparation of the EIAR. This conclusion seems reasonable.

Alternatives

8.4.3. Schedule 6 of the Planning and Development Regulations, 2001 (as amended) requires consideration of 'reasonable alternatives' which are relevant to the proposed development. In this instance, the proposed development comprises the extension of an existing quarry. Alternatives considered by the applicant are 'do nothing' and development of a greenfield site to serve the established customers and markets in the region. Assessment of the 'do nothing' scenario is stated to result in greater depletion of other sources of aggregates in the county and possibly increased haulage distances and traffic on the road network. Opening up of a greenfield site would have a long lead in time and potentially introduce quarrying to an area of the county where there is little or no previous extractive land use.

8.4.4. The alternatives considered by the applicant are not unreasonable and provide an adequate assessment of alternatives for the purposes of environmental impact assessment.

Population and Human Health

8.4.5. The appeal site lies in a rural area, with one off housing alongside public roads in the vicinity of the site. The nearest dwelling to the appeal site lies to the west of the site and public road, c.23m to the south west of the site entrance. There are no

dwellings within 200m of the proposed extension area and c.20 dwellings within 500m of it (see Figure 4.1, EIAR).

8.4.6. The proposed development has the potential to impact on human beings by virtue of emissions to air (noise, vibration and dust) and water (impacts on public health), landscape effects (impacts on amenity) and traffic (impacts on traffic safety, amenity and health).

8.4.7. Impacts on population and human health are dealt with in the individual topic sections of this report (below) and I conclude that whilst impacts are likely to arise, for example, by way of noise, dust and traffic, due to the location of the quarry relative to sensitive receptors and proposed mitigation measures direct, indirect, cumulative and in combination impacts are unlikely to be significant, except for instances of blasting where short term and localised effects will arise.

8.4.8. In the medium term the proposed development will provide for on-going rural employment for up to 5 people directly on the site and a number of indirect employees.

8.4.9. Health and safety matters have been referred to in the Planning Assessment section of this report. For the purposes of environmental impact assessment slope stability and health and safety matters are controlled by other regulatory instruments. However, the information on file contained in the slope stability report (Geotechnical Assessment of Nulty's Quarry, 2009) identifies hazards on site arising, for example, from face heights and the risk of toppling or rockfall. This situation clearly presents a risk of accidents to people working or visiting the site associated with the proposed development. I would accept that the applicant may have carried out remedial works, but in the absence of further information in this regard on the baseline environment at the quarry there remains a risk to human health. I would consider this to be a significant omission from the EIAR.

Biodiversity

8.4.10. Chapter 5 of the EIAR deals with biodiversity. It refers to Appendix B of the EIAR which comprises an appropriate assessment screening report. The assessment of impact on biodiversity is based on desk study and three visits to the site for survey in December, April and June (2017/8). The report refers to nearest European and national sites of nature conservation interest, Lough Oughter and Associated Loughs

SAC, SPA and pNHA (9km to the north west of the site) and Lough Gowna pNHA (10km to the south west of the site).

8.4.11. Four principle habitats were identified on the appeal site, exposed siliceous rock (ER1), scrub (WS1), wet grassland (GS4) and dry-humid grassland (GS3). The habitats were deemed to be of low ecological value due to their semi-improved nature, domination by common grass species, substantial representation locally or transient nature. No invasive species were observed within the zone of the proposed works or evidence of protected mammals, bats, Annex I (Birds Directive) or Annex II (Habitats Directive) within the area wider. The site was considered to offer suitable habitat for amphibians although none were observed. The nearest watercourse was identified as Ardkill More stream, 703m to the south east of the application site. It is stated to be of poor ecological status.

8.4.12. The report considers the do nothing scenario and concludes that, as permitted, the quarry would be restored in line with conditions and would result in moderate significant positive change in the ecological interest of the site. Potential operational phase impacts are considered to comprise habitat loss, habitat disturbance (on adjoining lands), disturbance to local wildlife, dust deposition and deterioration in water quality arising from quarrying operations with consequential effects on habitats and species. Post operational impacts are considered to be positive, with the opportunity to create a range of habitats with positive benefits for wildlife and local biodiversity. The report refers to an inactive quarry site at Pullabane, c.2.5km north of Ardkill More. Due to the distance of the development from the subject site, its inactive status and absence of connectivity, cumulative impacts are considered unlikely.

8.4.13. Mitigation measures are set out in section 5.11.2 and include confining all works to the proposed development site, adherence to best practice guidelines, removal of scrub outside of the bird nesting season (October to February), use of native shrubs and trees for screening, appropriate storage of soils on site for future reinstatement, measures to minimise sediment generation and early re-vegetation of exposed surfaces. Following cessation of all quarrying it is recommended that an ecologist and landscape architect devise a restoration plan to achieve a high level of biodiversity on the site.

8.4.14. The applicant's assessment of the biodiversity status of the site seems reasonable based on the scientific information presented. Impacts on habitats and species are unlikely to be significant given the relatively small site area, limited ecological value of the site, absence of protected species, short term nature of the proposed works (10 years), proposals for mitigation, predicted levels of noise and dust and restoration of the site.

8.4.15. Impacts on the water environment are addressed in the 'Water' section of this EIA and I conclude that the applicant's assessment of likely effects on the water environment is inadequate and therefore that there remains a risk to water quality (both surface and groundwater) from the proposed development and therefore to downstream habitats and species.

8.4.16. Potential effects on European sites are dealt with in the Appropriate Assessment section of this report and no significant effects are anticipated.

Land, Soil, Water, Air and Climate

8.4.17. **Land and soil.** Chapter 6 of the EIAR deals with impacts land, soil and geology. It is based on desk study and site inspections. Soils comprise shallow, well-draining acidic mineral soil and bedrock Slieve Glah Formation, siltstone, mudstone and greywacke. Soils and sub-soils will be removed from the 1.04ha site and stockpiled in perimeter screening bunds for future use in the restoration of the site. Standard mitigation measures for the storage of soils are set out in Table 6.5 of the EIAR and section 6.65 (monitoring), these include minimising soil handling, soil handling in appropriate conditions, monitoring of operations to ensure that they are carried out in such a way as to minimise potential impacts and provision of a project specific Environmental Management Plan.

8.4.18. Loss of bedrock from the Slieve Glah Formation will had a direct, permanent impact on the resource. However, given its abundance in the area such an impact, in combination with the existing quarry, is unlikely to be significant (see Figure 6.3, EIAR). Risk of contamination of bedrock will be addressed via proposed standard mitigation measures (Table 6.5) including appropriate storage of potential contaminants, secondary containment systems for waste containers and appropriately sized bunds for storage tanks etc. Subject to implementation of these measures impacts on geology by way of contamination are unlikely to be significant.

The EIAR considers that residual impacts will be long term but negligible. It is also stated that the geological exposures within the will be of interest to the geologist.

8.4.19. As stated previously the EIAR does not refer to stability of rock faces in the existing quarry (which will be used for the processing material derived from the extension area) but the matter has been addressed by the planning authority via further information. Further, for the purposes of EIA the stability of rock faces on the site are unlikely to give rise to wider or significant effects on the health of the population and is a matter, therefore, which is properly addressed under health and safety legislation.

8.4.20. **Water.** Impacts on the water environment are dealt with in Chapter 7 of the EIAR. The assessment is based on desk study and site investigations, with fieldwork carried out in December, January and April 2017/2018, and monitoring programmes of surface and groundwater.

8.4.21. From my inspection of the appeal site and contents of the EIAR it is my understanding that that rainfall falling on the existing quarry, and ground water that emerges from the exposed faces of the quarry, drains to the quarry floor. From here it infiltrates to ground through cracks and fissures in the underlying rock, with any collecting surface directed by gravity to settlement ponds to the north of the site office. Following primary settlement the water overflows from the settlement pond to the east of the office, via piped culvert beneath the internal haul road, to outfall to additional settlement ponds to the north of the site workshop. From my inspection of the site I do not consider that the drawings submitted with the planning application accurately reflect the arrangement of ponds on site (i.e. there are a larger number of smaller ponds). From here it is stated that water flows to the local watercourse along the site's northern boundary (see Figure 7.16). It is stated in the EIAR that water from the settlement ponds is used on site for processing and dust suppression (with extraction not exceeding $2m^3$/day).

8.4.22. In section 7.63 of the EIAR, it is stated that at the time of site inspections in November 2017 and January 2018, i.e. winter flow regimes, minimal flow was noted within the outfall drain. There is no technical information on file regarding the rate of flow or base flows in the discharge stream or information on the capacity of the

settlement ponds or arrangements for the disposal of settled solids from ponds (as per requirements of condition no. 7 of PL02.219928).

8.4.23. The discharge stream outfalls to Ballinagh River a tributary of the River Erne which flows west to Lough Gowna and Lough Oughter. The EPA does not assign a water quality status to the waterbody (Ballinagh_010), however, the EIAR states that between 1971 and 1989 water quality in the river, upstream of Ballinagh village was generally unpolluted (see Table 7.2). The waterbody discharges into the Erne_070 which has Moderate Status (for the WFD period 2013-2018).

8.4.24. The EIAR refers to work practices to minimise contamination of surface (and groundwater) and Table 7.1 shows the results of surface water monitoring carried out in January 2018 from samples taken from the primary settlement pond and outfall ditch (SW1 and SW2 on Figure 7.16). No further data is presented in the applicant's response to the request for further information. Therefore, whilst the results from the monitoring exercise indicate that the samples taken were within the standards set out in the Drinking Water and Surface Water Regulations, this conclusion is based on a single monitoring exercise.

8.4.25. The underlying aquifer is identified as a poor bedrock aquifer, which is generally unproductive except in local zones (Pl), and of Extreme vulnerability due to rock at surface i.e. limited overlying protective soils. Reflecting this, it is stated in the EIAR that groundwater recharge for the site is quite modest at $1720m^3yr^{-1}$. Predicted flow directions are shown in Figure 7.15, with these generally following topography. The EIAR states that there are no groundwater supply sources in the immediate vicinity of the site and no public supply boreholes downgradient of it. This statement contradicts Irish Water's submission to the planning authority which states that the development is in proximity to abstraction sites for drinking water (see letter to PA dated 18th July 2019).

8.4.26. It is stated in the EIAR that the quarry is worked above water table and this would be consistent with my inspection of the site. However, the quarry floor has a level of 149.5mOD which compares to a winter groundwater level of 148.55m (January 2018, Figure 7.16). This leaves a 'freeboard' of 0.95m. However, the depth of the settlement ponds is not indicated in the EIAR and it would seem from their

appearance (level relative to quarry floor and colour) that there may be connectivity with groundwater. This matter is not addressed or explained in the EIAR.

8.4.27. A groundwater sample from the on-site well taken in January 2018 generally shows compliance with Groundwater and Drinking Water Regulations. Excessive faecal coliforms are stated to be attributed to animal faeces (see Table 7.4). Again the conclusion set out in the EIAR is based on a single monitoring exercise.

8.4.28. The applicant states that for the proposed extension to the quarry, surface water and groundwater patterns within the application site will follow the same pattern as those in the established quarry. Potential impacts on surface and ground water bodies may arise from activities carried out on site e.g. the movement of soils, extraction, crushing, grading and haulage of materials, including increased runoff and sediment loading and spillages of hydrocarbons with the potential for contamination of waterbodies (see Table 7.6). Standard mitigation measures for the industry are set out in Table 7.7 of the EIAR, these include passing of runoff from the site through settlement ponds. Notwithstanding the foregoing, there is no assessment in the EIAR of the likely increase in surface water/storm discharging through the settlement ponds or the capacity of these to accommodate the anticipated volume of water. Whilst I accept that flows may not be significant, there is no evidence upon which to base any transparent or confident conclusion. Given the requirements placed on the Board under the Water Framework Directive, to prevent the deterioration of water quality, they may wish to seek further information in this regard.

8.4.29. The EIAR states that cumulative effects are unlikely to arise due to the distance of the nearest quarry from the site and its location in a different surface water and ground water body and this conclusion does seem reasonable for the stated reasons.

8.4.30. **Air and Climate.** Air quality is dealt with in Chapter 8 of the EIAR. It sets out in Table 8.4 background conditions for the appeal site, lying within Air Quality Zone D (rural Ireland), and provides information on the baseline environment in January 2018 at four monitoring stations D1 to D4 at the perimeter of the existing extraction area to the west of the proposed extension area (see Figure 8.1 EIAR). Table 8.5 presents the results of this exercise and indicates that between 4th December 2017 and 4th January 2018, dust deposition was well within the emission limit value of

350mg/m^2/day, out in conditions of previous permissions. Monitoring information provided in response to further information (Traynor Environmental received on the 26th November 2019) carried out in May/June 2017 and May/June 2018 also indicates compliance with emission limits.

8.4.31. Sensitive receptors within 500m of the proposed extension area are set out in Table 8.6 and in Figure 8.3 of the EIAR. Having regard to patterns of precipitation and wind speed and direction, the report provides an assessment of the likely effects of the development on human and ecological receptors for the different phases of the development and for fugitive dust (potential nuisance), particulate matter (potential health) and exhaust emissions. Having regard to ambient air quality, location of the development relative to sensitive receptors (and sites of ecological interest), predicted emissions and standard mitigation measures, the EIAR concludes that the development is unlikely to give rise to significant effects on air quality. Having regard to these same factors, I do not consider this conclusion to be unreasonable.

8.4.32. Chapter 9 of the EIAR deals with climate. It provides an outward assessment of climate change i.e. the impact of the development on greenhouse gas emissions, and in inward assessment i.e. the vulnerability of the project to future changes and its capacity to adapt to the impacts of climate change. The report states that the rate of extraction associated with the proposed development will match that of the existing quarry and, therefore, there will be no increase in greenhouse gas emissions from machinery or processes carried out on site. Mitigation measures are proposed, in Table 9.6, to reduce the emissions typically through the use of renewable energy sources/suppliers, use of energy efficient machinery and avoidance of unnecessary use of equipment/transport. With regard to the vulnerability of the development to climate change, the report identifies extreme rainfall and storms and winds as the main concerns arising from climate change for the development. Mitigation measures are set out in Table 9.5 and are generally reasonable, however there is little detail on the proposed measures, even though they feed back into in principle design, for example, ‘consider design which allows for rising water levels and rising ground water’ and ‘design adequate project drainage’.

8.4.33. Having regard to the foregoing, I would consider that the development is unlikely to give rise to significant effects on climate and, whilst not particularly vulnerable to climate change, has not provided evidence of robustness.

8.4.34. **Noise and Vibration.** Section 10 of the EIAR deals with noise and vibration. Section 10.32 refers to existing good housekeeping measures to reduce noise and section 10.34 to standard blasting mitigation measures. Predicted impacts of the proposed development are based on:

- An assessment of the background noise environment, based on a 48 hour survey of noise levels in December 2017 at sensitive receptors NSL1 and 2 (Figure 10.1) to the east and west of the proposed extension area, and
- Likely noise levels arising for these and other receptors within 500m of the quarry (Table 10.10 and Figure 10.2, EIAR) with the proposed extension area and concurrent use of all noise generating processes/activities. (The EIAR does not identify the equipment that is used in the noise assessment or its location within the quarry).

8.4.35. Noise monitoring results are set out in Tables 10.8 and 10.9 at NSL 1 and 2 and are within the emission limit values set out in the conditions of the previous permission granted on the site under PL02.219928 (55dB(A) L_{AeqT} during daytime hours and 45dB(A) L_{AeqT} at other times). In response to the request for further information the applicant refers to noise monitoring in 2017. This also demonstrates compliance with noise emission limit values, but it is not clear if it was carried out at a different time to the monitoring exercise referred to in the EIAR.

8.4.36. Blast monitoring results, for a single exercise carried out on the 8th February 2019, are shown in Table 10.11 and 10.14 at blast monitoring points in Figure 10.3 and 10.4. Again emission limits are within the values set out under PL02.219928 (ppv 12mm/s and air pressure no more than 125dB).

8.4.37. Predicted noise levels, from crushing and blasting, for each of the 20 sensitive receptors within 500m of the site are set out in Table 10.12. Emissions are within current emission limit values, with any exceedances due to road traffic, and within levels to protect human health (section 10.98). Blasting will be carried out on average two times a year. It is stated that based on the past performance of the quarry blasting will also remain within emission limit values.

8.4.38. No ecological impacts are predicted based on the high threshold for impacts (section 10.25 and 10.26 of EIAR) and the distance of the appeal site from sensitive habitats

(>9km). No traffic related noise effects are predicted as there will be no significant change to traffic volumes.

8.4.39. Mitigation measures for noise impacts are set out in section 10.107 of the EIAR. The EIAR concludes that subject to implementation of mitigation measures, no significant residual noise or vibrational impacts will arise at sensitive receptors from blasting or crushing (moderate impacts are identified at Receptors 1 and 2, during blasting). No cumulative impacts are identified, and I would accept that the proposed development is substantially removed from other quarrying activity to give rise to cumulative impacts.

8.4.40. Having regard to the foregoing, I am mindful that some aspects of the impact predication exercise are weak and that monitoring information on the past performance of the quarry is poor. Notwithstanding this, from my inspection of the appeal site, the location of the quarry relative to surrounding residential property, the existence of the current quarry on the site, the nature of proposed on-site activities, monitoring information that is available, the impact prediction exercise contained in the EIAR and the absence of concerns raised by the planning authority or third parties, I would accept that the proposed development is not likely to result in significant impacts on sensitive human or ecological receptors.

Material Assets, Cultural Heritage and the Landscape

8.4.41. **Material assets.** Chapter 11 of the EIAR deals with material assets and waste management. Existing services on the quarry site include electrical power, telecommunications, septic tank and well water. Waste produced on site includes scrap metal, used oils and filters, used batters and canteen waste. It is stated that all products and by products from extraction have a commercial value and that any waste materials from the site will be stored and disposed of in accordance with the requirements of the planning authority. No other planned developments are proposed in the vicinity of the sites and no cumulative impacts are anticipated to arise.

8.4.42. Having regard to the foregoing, my inspection of the appeal site, the nature, scale and form of the proposed development I would accept the conclusions of the EIAR in respect of material assets and I do not consider that the proposed development is likely to have a significant impact on material assets. Impacts on the quarried

material will also be insignificant give the size of the resource. Positive benefits to natural resources would arise from the restoration of the quarry (biodiversity of the site).

8.4.43. **Cultural Heritage.** Impacts on cultural heritage are dealt with in Chapter 12 of the EIAR. The assessment is based on desk study and investigation of the site carried out in December 2017. Appendix I of the Chapter provides an inventory of archaeological constraints in the vicinity of the site identified principally from the Sites and Monuments Record, Record of Monuments and Places and database of the National Monument's Service. It is evident from this that multi-period archaeological and cultural heritage remains lie in the vicinity of the site (Appendix 1, Figures 12.3 to 12.12.7), but no known remains or surface features within the development site itself.

8.4.44. Within close proximity to the site are an enclosure, on the summit of Ardkill More (SMR No. CV031-060) approximately 150m to the south east of the appeal site, and Worm Ditch or Black Pig's Dyke (SMR No. CV031-004) approximately 80m to the south west of the proposed extension area. This archaeological feature comprises a ditch that runs alongside the lower slopes of the Ardkill More for c.2km. It is stated in the EIAR that c.1.36km of feature survive to the south/south east of the quarry but not to the north. It is described as '*a large and rare monument of national significance*' (section 12.37).

8.4.45. Earlier extraction of materials from the quarry has removed a 150m section of the monument (see Figure 12.11 of the EIAR) and in 1997 an archaeological investigation of Black Pig's Dyke, where it had been damaged by the construction of the quarry, identified sub-surface remains of the sub-soil cut ditch associated with the earthwork (Figures 12.11 and 12.14) and the potential for sub-surface survival of archaeological remains.

8.4.46. The proposed development is removed from the location of the nearby enclosure and Black Pig's Dyke and will have no direct effect on these remains. However, it is stated in the EIAR, it is likely that archaeological remains associated with these and the settlement of the area, are situated in the vicinity. The report therefore recommends archaeological supervision of topsoil removal. Geophysical survey is

considered to be challenging due to the nature of the vegetation, outcropping rock and soils on site

8.4.47. In observations on the planning application, the Department's Development Applications Unit recommend an archaeological assessment, including geophysical survey, given the proximity of sites of archaeological interest (Recorded Monuments CV031-004 and CV031-060). In response by further information (Archaeological Assessment, Appendix B to FI), the applicant reiterated his previous conclusion that the site was unsuitable for geophysical survey for the reasons previously stated, supported by the technical view of a geophysical survey contractor (see Appendix 3 of Archaeological Assessment).

8.4.48. The appellant argues that there has been no assessment/landscape assessment of the regional impact of the proposed development on the linear earthwork, no assessment of its landscape impact on nearby archaeological monuments and insufficient information on impact of continued quarrying on cultural heritage.

8.4.49. From the information on file, and the supporting data on archaeological monuments in the vicinity of the site, I consider that the applicant has identified the features of cultural heritage interest in the vicinity of the site which may be affected by the proposed development. Further, the development is physically removed from these and, therefore, will have no direct effects on them. Archaeological monitoring will prevent any impacts on surface/sub-surface deposits which are currently unknown.

8.4.50. Indirectly, I would accept that adverse effects may arise as a consequence of changes to the landscape context for protected monuments. In particular, as stated below in the Landscape section of this report, I consider that the development is likely to erode the integrity of Ardkill More, when viewed from the southwest, and therefore to give rise to a permanent impact on the setting of the archaeological monuments in the vicinity of the site.

8.4.51. **Traffic.** Traffic impacts are addressed principally in Chapter 14 of the EIAR. Access to the appeal site is from the L2517 and from a section of the road where the speed limit is 80km/hr. At the junction of the access road and the L2517 sightlines are restricted to the south due to an embankment and vegetation.

8.4.52. The applicant's impact assessment is based on a site visit carried out in June 2018 and desk studies. Year of opening was 2018 and future assessment years were

2023 and 2033. Baseline traffic flows are shown in Table 14.1. Peak hours do not appear to correspond with the peak hours stated in section 14.17 of the EIAR.

8.4.53. Table 14.2 provides an estimate of the likely loads per day to be leaving the quarry (6.5) based on the export of 40,000 tonnes of material per annum in 20 tonne loads. This is less than the anticipated extraction capacity of the quarry of 50,000 tonnes per annum. Estimated trips associated with the transport of materials, staff and miscellaneous items are set out in Table 14.3. Total numbers are similar to the observed hourly trip generation rate of the existing quarry (Table 14.1). The assignment of trips on the local road network is stated to be based on an assessment of existing flows.

8.4.54. In conjunction with background flows in 2018, 2023 and 2033 the junction of the quarry with the local road L2517 is predicted to work well within capacity. This conclusion seems reasonable based on my inspection of the site, predicted flows and observed flows on the local road.

8.4.55. The EIAR identifies that the deficient sightlines at the entrance to the site could give rise to a risk of traffic hazard. It proposes mitigation measures to address this risk (section 14.44 EIAR) including setting back and lowering the existing roadside verge on the eastern side of the L2157 to the south of the site entrance to provide an appropriate egress visibility splay and reprofiling the existing entrance to raise its topographical level and improve visibility. Details of the revised sightline were submitted to the planning authority as further information (drawing no. PL17-169-06) and would provide a 120m sightline to the south.

8.4.56. Having regard to the foregoing, I would consider that the proposed development would not give rise to significant direct, indirect or in combination effects on road traffic.

8.4.57. **Landscape**. Chapter 13 of the EIAR deals with landscape. The site lies within the Drumlin Belt and Uplands of East Cavan. The EIAR describes the landscape as having moderate value based on its positive character and sense of place, largely due to the integrity of its landform, including the steeply sloping contours of Ardkill More.

8.4.58. The EIAR provides contradictory information on the study area for the landscape assessment, stating in paragraph 13.27 that it is 1km and elsewhere in the same

paragraph that it is 3km. Survey work comprised desk study and site visit. Direct landscape effects are identified as arising from the extraction of material from the 1.04ha area. Effects are considered to be very limited as they relate to a small extension area and would involve no loss of landscape elements e.g. farmland or wooded vegetation. It is stated that proposed planting on site boundaries would further reduce these effects. Impacts on visual receptors are assessed from 6 viewpoints along the public roads in the vicinity of the site (see Figure 13.6). Impacts are generally considered to be low due to the proposed landscaping (e.g. woodland planting on boundary) and small proportion of the view affected, with an overall slight beneficial magnitude of change with proposed woodland enhancing landscape character (viewpoints 1, 2, 3 and 4). No impacts are predicted for viewpoints 5 and 6 as the quarry is not visible from these locations.

8.4.59. The EIAR refers to the proposed Landscape Mitigation and Restoration Plan (Drawing no. PL17-169-03 received 26th November 2019). It provides a 5m buffer zone to be fenced and planted around the perimeter of the site and natural regeneration of worked steep side slopes and flat areas. I note that some of these measures were proposed and conditioned under PL02.219928. The Landscape Restoration Plan (Figure 13.4 and drawing no. PL17-169-05) shows restoration of the quarry, as a whole, in five phases, with the proposed extraction area scheduled for restoration as a final phase. Timescale for implementation is Spring 2020 onwards (see point 10 of Traynor response to further information submitted on the 26th November 2019).

8.4.60. With the restoration of the quarry, the EIAR anticipates some beneficial effects on the surrounding landscape compared to the current existing baseline with biodiversity and ecological benefits.

8.4.61. From my inspection of the appeal site, I consider that the existing quarry is generally visible from a small number of vantage points in the public road network, in the immediate vicinity of the appeal site, notably from the north west, west and south west (photographs 1, 2, 20 and 21). The proposed extraction area will extend the quarry to the south east with potential views of these works from the south west of the site. If the proposed boundary planting is established, including at the entrance to the site behind the new sightline, I would accept that many of views of the quarry void from the public road network are unlikely to be significant. Notwithstanding this

conclusion, I have the following reservation. The proposed development comprises the extraction of rock on the upper slopes of Ardkill More. Photographs 20 and 21 are taken from the local road network to the south west of the quarry. The existing quarry faces are visible on the upper reaches of the hill (photograph 21). I consider that the additional opening up of the quarry, as proposed, will increase the visibility of the existing quarry faces, to the north of the proposed extraction area, with the loss of the visually protective foreground. This effect of the development is not explored or depicted in the EIS and I would be concerned that the development would therefore increase the cumulative visual effect of quarrying and, importantly, the integrity of Ardkill More hill. Further, given the height of the resultant exposed faces, I would consider that it would be increasingly difficult to mitigate the visual effects of the development with perimeter planting. I would also have concerns regarding the ability of the applicant to establish the 5m buffer zone proposed on some of the steep perimeter slopes/narrow margins of the quarry (as shown in the Landscape Mitigation and Restoration Plan).

Interactions

8.4.62. I have reviewed the main interactions identified in Chapter 15 of the EIAR and consider that all of these have been assessed in the individual topic reports and considered in this assessment.

Reasoned Conclusion

8.4.63. Having regard to the examination of environmental information contained above, in particular to the EIAR and the supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies, appellants and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are:

- **Water and Biodiversity**: A risk of significant negative effects on surface and groundwater bodies, and water dependent habitats and species, having regard to the limited baseline information on the water environment within the quarry and the adequacy of arrangements for the management and discharge of water.
- **Landscape and Cultural Heritage**: Significant negative direct and cumulative effects on the landscape character of Ardkill More and the setting

of archaeological monuments in the vicinity of the site, given the elevated position of the proposed development, the location and nature of the proposed works and the absence of robust measures to mitigate such effects.

8.4.64. Having regard to the foregoing, I am not satisfied that the environmental effects of the proposed development have been satisfactorily identified, described and assessed or that the development would not have any unacceptable direct or indirect effects on the environment.

8.5. Appropriate Assessment

8.5.1. The application for the proposed development includes a Screening Report for appropriate assessment. It examines the likely effect of the development on European sites and concludes that the proposed development does not have the potential to affect the conservation objectives of any such site. The conclusions of the report are based on the modest scale of the development, distance from European sites and lack of connectivity. For the reasons set out below, I disagree with the assumptions which underpin the report, but draw similar conclusions.

8.5.2. **European sites**. The subject site lies in a rural area, that is generally removed from European sites. The nearest sites lie c.9km to the north west and comprise Lough Oughter SPA (site code 004049) and Lough Oughter and Associated Loughs SAC (site code 000007). The applicant's Screening Report refers to Ardkill More stream c.730m to the south east of the application site and the location of the appeal site within the catchment of the Erne River Sub-basin (Erne_020). Whilst I would accept that the proposed extraction area lies within this sub-basin, the information on file which indicates that the settlement ponds discharge to a watercourse to the north of the site (Figure 7.16), which together with the active quarry, lie within the Ballinagh Sub-basin (Ballinagh_010). Further from the information on file, OS and EPA maps (attached) which identify water bodies in the vicinity of the site and direction of flow, I would conclude that the discharge stream outfalls into Ballinagh_010 (unassigned WFD status), which ultimately outfalls into Lough Oughter. The appeal site is therefore hydrologically connected to the Lough complex.

8.5.3. The proposed extension area, and existing quarry, lies in the of the Cavan ground waterbody (IE_NW_G_061). This waterbody conjoins the Killashandra waterbody that is associated with the Lough Oughter complex.

8.5.4. **Conservation objectives**. Qualifying interests for Lough Oughter SPA and SAC are set out below:

European Site	**Qualifying Interests**
Lough Oughter Complex SPA (site code 004049)	Great Crested Grebe (Podiceps cristatus) Whooper Swan (Cygnus cygnus) Wigeon (Anas penelope) Wetland and Waterbirds
Lough Oughter and Associated Loughs (site code 00007)	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation Bog woodland Lutra lutra (Otter)

8.5.5. Conservation objectives for Lough Oughter SPA and SAC generic, to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interest/Annex I habitats and/or Annex II species for which the site has been selected.

8.5.6. **Potential Effects**. The appeal site is significantly removed from the European sites and no direct or indirect effects will arise by way of land take, noise, disturbance or air pollution. Potential effects arise from the discharge of contaminated water into the waterbody adjoining the site, which ultimately outfalls into Lough Oughter.

8.5.7. **Likely effects (direct, indirect and cumulative).** In the course of the planning application the applicant refers to a number of mitigation measures in order to minimise discharge of contaminated waters from the appeal site and Inland Fisheries Ireland refer to measures to protect water quality in their observations on the development. Notwithstanding these i.e. in the absence of all mitigation measures referred to in the course of the planning application and appeal, significant effects are highly unlikely due to the significant distance between the appeal site and

European sites, the natural settlement of fines and likely dilution and attenuation of pollutants over distance.

8.5.8. **In combination effects.** In combination effects are also highly unlikely given the absence of other substantial like development in the vicinity of the appeal site.

8.5.9. **Appropriate Assessment Screening Conclusion.** Having regard to the foregoing, I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Lough Oughter Complex SPA (site code 004049), Lough Oughter and Associated Loughs (site code 00007), or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

9.1. Having regard to the foregoing, and in the absence of further information, I recommend that permission for the development be refused for the two reasons set out below.

10.0 Reasons and Considerations

1. Having regard to the topography of the appeal site, the elevated position of the proposed development, the absence of clarity regarding the likely cumulative effects of the development and the efficacy of proposed mitigation measures with regard to landscaping, and the proximity of the appeal site to features of archaeological interest, it is considered that the proposed development would form a discordant and visually obtrusive feature on the landscape at this location and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information submitted with the appeal, the Board is not satisfied that the applicant has demonstrated that the arrangements for the management and discharge of water are adequate to cater for the proposed development, without giving rise to the risk of environmental pollution. The

proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann

Planning Inspector

14th September 2020