



An
Bord
Pleanála

Inspector's Report 307590-20

Development	Continuation of existing operational quarry for a 25-year period
Location	Devlinmore Townland, Cranford, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2050298
Applicant(s)	Martin McGee
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Francis Friel and Bernadette Friel
Observer(s)	None
Date of Site Inspection	22 nd September 2020
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Devlinmore, Cranford, Co. Donegal, approx. 22 km north of Letterkenny, on the western side of Mulroy Bay SAC. The main land use in the vicinity of the application site is agricultural, with dispersed rural housing.
- 1.2. The site is occupied by Cranford Stone Quarry, which produces decorative chips, sands, stones and road building material. The overall operational quarry has a stated area of 5.8 ha, with the extraction area having a stated area of 2.62 ha. The site levels generally decrease in a north/north-easterly direction across the site towards the entrance.
- 1.3. The site is accessed via Regional Road R245, with the quarry entrance being set back approx. 95 m within the site. The internal road access includes a spur which extends in a south-easterly direction through the overall quarry site and provides access to 2 no. detached residential dwellings which adjoin the south-eastern boundary. This road is characterised by screen planting and post and wire fencing along both sides.
- 1.4. The internal road also has a north-westerly spur which provides access to 3 no. detached dwellings adjacent to the north-western boundary. This spur forms part of a loop road which provides separate access for these dwellings to the R245.
- 1.5. A weighing bridge / wheel wash area is located inside the site entrance. A concrete batching plant "Cranford Concrete" is located in the north-western corner of the site but is excluded from this planning application.
- 1.6. The extraction area is generally located in the centre of the overall quarry site and is characterised by a sand plant, cone crusher, washer/screener, a wash and water recycle plant, other items of mobile quarry equipment, stockpiles of materials and storage areas. Quarrying works were ongoing at the western site boundary at the time of the inspection. The southern boundary of the extraction area is bounded by a mature landscaped belt which provides screening to the quarrying activities. A two-storey dwelling is elevated above the southern boundary at a set-back of approx. 100m from the quarry extraction area.

1.7. The storm water attenuation and settlement ponds (6 no.) are located on the eastern portion of the overall site. A stream which is known as “Cranford Stream” extends along the eastern site boundary and discharges to Mulroy Bay SAC. Two further residential dwellings are located to the south-east of the settlement pond area, at a set-back of approx. 70 – 100 m.

2.0 Proposed Development

2.1. Planning permission is sought for the continuation of the existing operational quarry for a 25-year period. Operations will include:

(a) extraction, blasting and rock breaking within 2.62 hectares previously permitted quarrying area in a downward direction;

(b) processing of rock, screening and washing of material, including sand;

(c) the continuation of use of all structures and other ancillary facilities;

(d) proposed water treatment plant to clean and recycle water;

(e) previously permitted site access; and

(f) all related operations, including blasting and extraction and all associated site works; and,

(g) ancillary and associated developments, all at the permitted/operational quarry (previous Planning Authority Reg. Refs. 09/40336 and 13/50841 and 07/51043).

2.2. The planning application documentation confirms that the quarry extracted and processed approx. 350,000 tonnes of materials during the previous 10-year period. This excavation reached the level of Phase 1 (35 m OD, with a small section of quarry extracted to 23 m OD) as submitted with the Further Information Response for the previous planning application on the site (Planning Authority Reg. Ref. 13/50841). The 3 no. previously identified extraction phases have been carried over and submitted as part of this application.

2.3. Phase II (extraction to 25.5 m OD) and Phase III (extraction to 5 m OD) will yield approx. 1,184,400 tonnes of material, which will last for the requested permission timeframe of 25 years and beyond. It is noted that the rate of material extraction will depend on demand.

- 2.4. The stated hours of operation of the quarry are 8 am – 6pm Monday to Friday and 8 am – 4 pm on Saturday.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission subject to 25 no. conditions issued on 18th June 2020.
- 3.1.2. Condition no. 5 restricts on-site activities to between 08.00 - 20.00 hours Monday to Friday and between 08.00 - 16.00 hours on Saturday only.
- 3.1.3. Condition no. 6 restricts blasting to between 10.00 -16.00 hours Monday to Friday only and limited to no more than 1 in any calendar month. It also requires monitoring of the noise and vibration from the blasting, to include an annual review to be submitted to the Planning Authority.
- 3.1.4. Condition no. 7 controls vibration levels from blasting operations and requires the undertaking of a vibration monitoring programme, including an annual review to be submitted to the Planning Authority.
- 3.1.5. Condition no. 8 controls noise levels within the boundaries of the site and requires monthly noise monitoring, including an annual review to be submitted to the Planning Authority.
- 3.1.6. Condition no. 11 controls dust levels at the site boundary, including the undertaking of a dust monitoring programme, with an annual review to be submitted to the Planning Authority.
- 3.1.7. Condition no. 19 requires the submission to the Planning Authority of a comprehensive restoration plan for the site following the cessation of quarrying works.
- 3.1.8. Condition no. 21 requires the developer to establish a local consultation group to address any operational issues associated with the quarry.
- 3.1.9. Condition no. 22 requires the developer to provide all landowners within 500 m of the site with appropriate contact details to be used to report any incident or make a complaint in respect of any aspect of the quarry operation.

3.1.10. Condition no. 23 requires the provision of a bond, cash deposit or other security in the sum of €50,000 to remain in place for the lifetime of the permission.

3.1.11. All other conditions are generally standard in nature.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

3.2.3. **Other Technical Reports**

3.2.4. **Planning Control Services (23rd March 2020):** No objection subject to conditions.

3.2.5. **Road Design (26th March 2020):** No objection subject to conditions.

3.2.6. **Building Control (24th March 2020):** No objection subject to conditions.

3.2.7. **Fire Services Section (27th March 2020):** No objection.

3.2.8. **Environmental Health Officer:** No comment.

3.2.9. **Executive Engineer (14th April 2020):** No objection subject to condition.

3.3. **Prescribed Bodies**

3.3.1. **An Taisce:** A submission was received from An Taisce on 29th July 2020. It is submitted that all issues relating to compliance with the existing permission should be addressed and resolved. It is further submitted that consideration should be given to any change in circumstances since the original permission for quarrying on the site, such as new housing which could face a residential amenity conflict. An Taisce considers that quarry permissions should be limited to no more than 10 years to allow for review of operations and site suitability for continued quarrying, with the proposed 25-year term considered inappropriate.

3.3.2. **Irish Water:** No response.

3.3.3. **Department of Culture, Heritage and the Gaeltacht:** No response.

3.4. **Third Party Observations**

3.4.1. 1 no. third party observation was made on the application by Francis Friel of Devlinmore, Cranford, Letterkenny, Co. Donegal. The observation was also made on

behalf of Bernadette Friel, Mary Doherty, Siobhan Doherty, Michelle Doherty and Aoife Doherty.

- 3.4.2. The content of the observation largely reflects that of the appeal submission. It is also noted that predatory wildlife has been observed in the vicinity of the appeal site, including pine martens, stoats, cuckoos and corncrakes.

4.0 Planning History

- 4.1. **Planning Authority Reg. Ref. 13/50841; ABP Ref. PL05E.243588:** Planning permission granted by An Bord Pleanála on 17th November 2014 for a 0.32 ha extension to the existing permitted quarry for a 10-year period.
- 4.2. Condition no. 2 confirms that the permission expires on 28th July 2020 to coincide with the expiration of the quarry permission granted under PL05D.236048.
- 4.3. **Planning Authority Reg. Ref. 09/40336; ABP Ref. PL05D.236048:** Planning permission sought for a 10-year period for, inter alia, the continuation of quarrying and blasting use previously permitted under Planning Authority Reg. Ref. 05/7069 and a 1.99 ha extension to the area for quarrying and blasting use.
- 4.4. Donegal County Council issued a split decision on 22nd January 2010 whereby permission was granted for the continuation of the quarrying and blasting use and permission was refused for the proposed quarry extension.
- 4.5. This decision was subsequently subject to 2 no. third party appeals, following which, the extension element of the application was withdrawn by the applicant. An Bord Pleanála granted permission for the continuation of quarrying on the site on 29th July 2010. Condition no. 1 of this permission limited the duration of the period to 10 years.
- 4.6. **Planning Authority Reg. Ref. 07/51043:** Planning permission granted in March 2008 for a 5-year period for the construction of a new entrance and road access connecting to the regional road R245-17 to service the existing operational quarry.
- 4.7. **Planning Authority Reg. Ref. 06/51517:** Planning permission granted on 7th August 2007 for a concrete batching plant and associated site works.
- 4.8. **Planning Authority Reg. Ref. 05/7069:** Planning permission granted in May 2005 for a 5-year period for: (a) the continuation of quarrying and blasting use as

previously approved under Planning Authority Reg. Refs. 99/3418 & 01/7650; (b) the extension of the approved quarrying and blasting areas; (c) retention of 3 no. settlement ponds and 1 no. water supply pond, 1 no. overflow pond, oil storage, storage container and wheel wash.

- 4.9. **Planning Authority Reg. Ref. 01/7650; ABP Ref. PL05.130847:** Planning permission granted on 26th June 2003 for retention of existing access, relocation of office, 2 no. settlement ponds and blasting area.
- 4.10. **Planning Authority Reg. Ref. 99/3418:** Planning permission granted in April 2005 for the continuation of use of the existing quarry for a 5-year period.
- 4.11. **Planning Authority Reg. Ref. 96/1133:** Planning permission refused in October 1996 for the retention and continuation of stone quarrying.
- 4.12. **Planning Authority Reg. Ref. T.286/93:** Planning permission granted in October 1994 for the retention and extension of the existing quarry for a 5-year period.
- 4.13. **Section 261(A) Determination Planning Authority Ref. EUQY142:** The determination concluded that as the existing quarry had the benefit of planning permission, with post 1990 development authorised by successive grants of planning permission which were supported by the necessary EIA and environmental reports, it did not require Appropriate Assessment under Section 261(A), and that the existing quarry did not meet the criteria for a determination under Section 261(A) of the Planning and Development Act, 2000 (as amended).

5.0 Policy and Context

5.1. National Planning Framework (NPF)

- 5.1.1. Section 5.4 of the NPF notes that extractive industries are important for the supply of aggregates and construction materials and minerals to a variety of sectors, for both domestic requirements and for export. Aggregates and minerals extraction will continue to be enabled where it is compatible with the protection of the environment, the quality of life of residents in the vicinity, and provides for appropriate site rehabilitation.
- 5.1.2. **National Policy Objective 23:** Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food

sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

5.2. **Quarries and Ancillary Activities Guidelines for Planning Authorities (2004)**

- 5.2.1. These guidelines provide guidance to planning authorities on planning for the quarrying industry through the development plan and determining applications for planning permission for quarrying and ancillary activities.
- 5.2.2. The Guidelines note that aggregates are a significant natural resource and that the extractive industries make an important contribution to economic development in Ireland. It is further noted that the operation of quarries can give rise to land use and environmental issues which require to be mitigated and controlled through the planning system. The Guidelines provide an overview of the various environmental impacts and guidance on best practice and possible mitigation measures under each environmental heading.

5.3. **Donegal County Development Plan 2018-2024**

5.4. **Natural Resource Development**

- 5.4.1. The policies concerning natural resource development are set out in chapter 8 of the development plan. It is acknowledged that aggregates are a significant and necessary natural resource for the continued economic development of Donegal, including job creation, and are essential materials for building and infrastructure projects. As such, there is a need to facilitate the sustainable extraction of appropriate materials, with due regard for social and environmental impacts.
- 5.4.2. **Policy EX-P-1:** It is a policy of the Council to require that development proposals for extractive industry are in accordance with DEHLG Quarries and Ancillary Activities Guidelines for Planning Authorities 2004 and the EPA Environmental Management Guidelines – Environmental Management in the Extractive Industry (Non-scheduled minerals) 2006.
- 5.4.3. **Policy EX-P-3:** It is a policy of the Council not to permit development proposals for quarry and ancillary facilities unless it has been evidenced that the development shall not result in a significant threat of pollution to the environment including,

siltation and sedimentation of receiving downstream surface waters, having regard to the vulnerabilities identified within the River Basin Management Plan, and any relevant Fresh Water Pearl Mussel Sub-basin Plan and to ensure that extractive industry proposals do not result in significant adverse impact upon the environment, including surface water and groundwater (aquifers) quality and quantity, river corridors, associated wetlands and River Basin Management Districts.

- 5.4.4. **Policy EX-P-4:** It is a policy of the Council to require all applications for extractive industry proposals to be accompanied by an integrated phased development and restoration plan for aftercare/re-use of the site. Any restoration plan must comply with Article 6 of the Habitats Directive and have regard to the relevant conservation objectives, qualifying interests and threats to the integrity of a Natura 2000 site.
- 5.4.5. **Policy EX-P-6:** It is a policy of the Council to require that development proposals for extractive industries are accompanied by evidence of the suitability of the road network in terms of width, alignment and carrying capacity and to require that any identified deficiencies can be addressed at the applicant's expense and in compliance with the Habitats Directive.

5.5. Natural Heritage

- 5.5.1. The site is substantially located in an area of "Moderate Scenic Amenity", with a small section adjacent to the entrance located in an area of "High Scenic Amenity".
- 5.5.2. There are no recorded monuments/archaeological sites within the site boundary.
- 5.5.3. **Policy NH-P-1:** It is a policy of the Council to ensure that development proposals do not damage or destroy any sites of international or national importance, designated for their wildlife/habitat significance in accordance with European and National legislation including: SACs, Special SPAs, NHAs, Ramsar Sites and Statutory Nature Reserves.
- 5.5.4. **Policy NH-P-7:** Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies of this Plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.

5.6. Natural Heritage Designations

5.6.1. The application site is located approx. 300 metres to the west and south of Mulroy Bay SAC (site code 002159).

5.7. EIA Screening

5.7.1. Schedule 5, Part 2 (2)(b) of the Planning and Development Regulations, 2001 (as amended) confirm that the extraction of stone, gravel, sand or clay, where the area of extraction would be greater than 5 hectares, requires EIA. The subject site has an area of 2.62 hectares and as such, is sub-threshold for the purposes of EIA.

5.7.2. Having regard to existing developed nature of the site for quarrying activities and the nature and scale of the proposed development, which seeks permission to continue these activities as permitted, it is considered that the proposed development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal has been lodged by Francis Friel and Bernadette Friel of Devlinmore, Cranford, Letterkenny, Co. Donegal. The appeal has also been lodged on behalf of Mary Doherty, Siobhan Doherty, Michelle Doherty and Aoife Doherty and can be summarised as follows:

- The application poses a threat to the appellants' wellbeing and enjoyment of their private property;
- In seeking permission for rock blasting and breaking in a downward direction, the applicant is seeking to intensify the use of the quarry, rather than continue the use as stated;
- Past failures to comply with conditions attached to previous planning permissions;

- Serious risks associated with sheer cliff faces, unguarded settlement ponds and standing water pools as a result of the proposed lowering of the quarry floor;
- The installation of fencing by the applicant along a shared right-of-way, has narrowed the roadway and blocked existing laybys making it difficult for 2 no. vehicles to pass. The fencing also restricts the maintenance of an existing water table and caused serious deterioration of the existing road surface;
- Previous rock breaking/blasting activities have caused significant structural damage to the appellants' home;
- Dust levels expose the appellants' family to major health risks, while a constant level of quarry noise throughout the day impinges on the enjoyment of their private property;
- The application documentation does not contain sufficient details of the mitigation of impacts on the surrounding environment;
- Any future grants of permission on the site should relate to shorter time periods of 3-years. The granting of permission for a 25-year period would greatly reduce surrounding property values, while increasing the value of the applicant's land;
- Additional details are required in relation to the water treatment plant to ensure it will not impose a significant impact on the appellants' family and the surrounding environment.

6.2. Applicant's Response

6.2.1. A response to the appeal was received from Canavan Associates Ltd. on behalf of the applicant on 12th August 2020, which can be summarised as follows:

- The appellants' dwelling house is located south of the quarry and was constructed after the quarry commenced operation. As such, the appellants would have been aware there was a commercial quarry nearby;
- The 2 no. dwelling houses to the south-east are accessed via a 12 ft. wide road from the quarry which has vegetation and double fencing;

- The current application is not a spatial extension or intensification of quarrying activities, but rather constitutes downward quarrying;
- The operations sanctioned on the site over the past 26 years are now greatly reduced. The operator intends to make sand production the future main priority as this particular type of sand is a scarce commodity in Co. Donegal, with the current supply being from Northern Ireland;
- The quarry has been in operation since before 1964, with a number of successive planning permissions granted by the Planning Authority (since 1994) and the Board (over the last 20 years). Thus, the principle of quarrying development and related activities is well-established and has been historically permitted on this site;
- There is no record of any enforcement action or any known recent complaints from the public regarding the operation of the quarry;
- A permission period of 25-years is required to develop the remaining mineral resources and will ensure the viability of quarrying, secure funding loans and repay the operator's substantial investment in machinery and plant over this time scale and protect long-term employment;
- The planning conditions allow for ongoing environmental monitoring, submission of environmental surveys and local consultations for the duration of the permission;
- Planning Authorities and the Board regularly grant permission for quarrying over a 25-year duration, including Planning Authority Reg. Refs. 18/50967 and 19/51534;
- There is strong demand for material from the quarry, with a number of quarries in Co. Donegal having closed in recent years;
- The quarry extracted and processed approx. 350,000 tonnes during the previous 10 years. The excavation reached the level of Phase 1, details of which were submitted as part of the Further Information response for the previous application (Planning Authority Reg. Ref. 13/50841). These phases have now been carried over and submitted with this application, with Phases

2 and 3 expected to yield 1,184,400 tonnes over the requested 25 years and beyond;

- Compliance documentation has been submitted to the Planning Authority in relation to Planning Reg. Refs. 13/50841 and 09/40336;
- The accompanying NIS is a proper and thorough ecological assessment of the potential for the proposed development to have significant impacts on the Mulroy Bay SAC;
- The NIS concludes that, subject to ongoing implementation and monitoring of the on-site water management system, the development will not cause any significant impact on Natura 2000 sites;
- The operational quarry has a total consented extraction area of 2.62 ha, which is below the 5 ha threshold for a mandatory EIA;
- The proposed continuation of the development, would not have significant effects on the environment above that which has already been assessed by Donegal County Council in its Section 261A determination;
- The recent supreme court judgement concerning substitute consent applications is not relevant to this case;
- The appellants' claims that there will be a risk to life regarding the quarry walls and settlement ponds is disputed. The overall quarry site has perimeter fencing, gates and warning signs, while the settlement ponds do not need to be individually fenced;
- No complaints about site safety have been made to the applicant. The quarry operates a Health and Safety Plan, which is regularly updated. All staff are inducted in accordance with the relevant legislation and receive training on potential site hazards, with appropriate protection equipment provided;
- Dust has not been an issue at the quarry and is managed in accordance with a Dust Management Plan, including mitigation measures. Dust suppression measures will be undertaken during extended periods of dry weather to prevent dust from becoming a nuisance;

- The quarry operates within blasting, noise and vibration limits as defined in the planning conditions, with no complaints ever recorded in relation to structural damage to nearby houses;
- Blasting takes place approx. 4 times per year, with local houses notified in advance. Monitoring is carried out by a competent authority, with the blasts being in accordance with the set parameters and reports submitted to the Planning Authority;
- The right-of-way access track is in good condition, with a tarmacadam and compacted hard surface, with no evident deterioration. There is no evidence of damage from fencing, water table interference or drainage blockage affecting the access track surface;
- The quarry has installed a mobile water recycling plant, to intercept and clean surface water from the quarry floor and remove suspended sediments. This was installed to reduce water usage and recycle as much water as possible within the quarry, with the treated water being of high quality and standards;
- The quarry operator has installed considerable landscaping including berms and tree planting, with many evergreen trees providing all-year visual screening of the site. There is also substantive planting close to residential properties, with all houses being a minimum of 100 m from the quarrying operations;
- The proposed development complies with national, regional and local planning policy documents as they relate to the extractive industry;
- It is requested that the Planning Authority's Notification of the Decision to Grant Permission be upheld in this instance.

6.2.2. The response is accompanied by a copy of the Planning Officer's report, site photographs and location map and a copy of Site Section Drawing No. 4.

6.3. **Planning Authority Response**

6.3.1. A response was received from the Planning Authority on 10th August 2020, which can be summarised as follows:

- A 25-year permission is deemed appropriate in this instance as quarrying activities require developer certainty to manage the financial feasibility and commitment of such an operation. Two recent permissions have been granted for a 25-year period by Donegal County Council (Planning Authority Reg. Refs. 19/51534 and 18/50967 refer);
- In the event An Bord Pleanála disagrees with this position, it is considered that a minimum period of 10 years should apply, which is consistent with the timeframes of the parent permissions (Planning Authority Reg. Refs. 09/40336 and 13/50841);
- The planning application documentation does not suggest any intensification of use as asserted by the appellant;
- The applicant has complied with the requirements of previous planning conditions attached to the parent permission (condition nos. 4; 8(a), (b), (c); 9 (a), (b), 10, 11 and 13).
- The Planning Authority has no concerns regarding the existing cliff faces, settlement ponds and pools having regard to the proposed boundary treatments and the location of the ponds, which are conditioned accordingly;
- The erection of the fence along the right-of-way is a civil matter. Notwithstanding the foregoing, it is understood that the fence was agreed and approved under the previous planning permission;
- Structural damage to properties is not a material planning consideration. It is considered that the requirement to establish a local consultation group will provide a communication medium to address such matters;
- The appellants' concerns in relation to dust and noise are noted. It is considered that ongoing compliance with the agreed monitoring programmes will continue to safeguard residential amenity to a satisfactory level and minimise any significant impacts;
- The recent Supreme Court ruling regarding the substitute consent process does not relate to the current appeal case and third-party rights have not been compromised;

- Quarrying on the site pre-dates the erection of many of the residential properties in the immediate vicinity. The Planning Authority is of the opinion that there are no grounds to refuse the application due to adverse impacts on property values;
- The water treatment system is a mitigation measure in the context of Appropriate Assessment and is essential to ensure the proposed development will not cause significant negative impacts on the Mulroy Bay Natura 2000 site. The submitted documentation confirms that the system provides a high level of treatment and that the levels of suspended sediment discharging into the Cranford Stream are negligible;
- The Planning Authority requests that the Board uphold their decision to grant permission in this instance.

6.4. **Observations**

6.4.1. None.

7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Principle of the Development
- Adequacy of Planning Application Information / Impact on Residential Amenity
- Duration of Permission
- Works to Right-of-Way
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

7.3. **Principle of the Development**

7.3.1. This application seeks permission for a 25-year period for the continuation of the existing operational quarry, to include, inter alia, extraction, blasting and rock breaking in a downward direction within the 2.62 ha previously permitted quarrying area. The appellants submit that, by seeking permission for rock blasting and

breaking in a downward direction, the applicant is seeking to intensify the use of the quarry, rather than continue the use as stated.

- 7.3.2. In my opinion, the current application does not seek to intensify the use of the quarry. In reaching this conclusion, I note that the statutory notices explicitly seek permission for “the continuation of the existing operational quarry” which is confirmed with reference to the application drawings. I also note that the existing quarry extraction area has already been assessed and deemed appropriate as granted under 2 no. parent applications (Reg. Ref. 13/50841; ABP Ref. PL05E.243588 and Planning Authority Reg. Ref. 09/40336; ABP Ref. PL05D.236048 refer).
- 7.3.3. The application documents and drawings confirm that future extraction will continue within the previously identified phases. Phase 1 of 3 no. extraction phases has been reached (35 m OD, with a small section of quarry extracted to 23 m OD) and planning permission is now sought to carry these phases over for a further 25 years. Thus, in my opinion, there is no ambiguity regarding the nature of the proposed development as described.
- 7.3.4. In addition, while the appellants submit that planning permission should be refused in this instance on the basis of past failures to comply, I note the planning authority’s confirmation that the applicant has complied with the requirements of previous planning conditions attached to the parent permissions.
- 7.3.5. On the basis of the foregoing, I consider that the proposed development is acceptable in principle in this instance.

7.4. Adequacy of Planning Application Information / Impact on Residential Amenity

- 7.4.1. The appellants submit that the planning application documentation does not contain sufficient details regarding the mitigation of impacts on the surrounding environment. It is submitted that dust levels from the quarry expose the appellants’ family to major health risks, while a constant level of quarry noise throughout the day, impinges on their enjoyment of their private property. It is further submitted that previous rock breaking and blasting activities have caused significant structural damage to their home.
- 7.4.2. The appellants also contend that serious risks are associated with sheer cliff faces, unguarded settlement ponds and standing water pools as a result of the proposed lowering of the quarry floor. It is also considered that additional details are required

in relation to the on-site water treatment plant, to ensure it will not impose a significant impact on the appellants' family and the surrounding environment.

7.4.3. In considering the issues which have been raised by the appellants, I note in the first instance that the application is accompanied by a hydrologist report and details in relation to the dust, noise and blast programmes and monitoring. The content of these submissions is considered further below.

7.4.4. **Hydrogeology and Hydrology**

- **Water Treatment Unit**

7.4.5. A hydrogeology and hydrology report as prepared by Tynan Environmental accompanies the application. The report confirms that a water treatment unit has been added to the process plant. The unit allows 85-90% of the process water to be recirculated immediately back through the plant from the integrated treatment unit, instead of being recycled through the settlement pond system. This process has reduced the volume of process water being recycled through the settlement pond system from 540 m³/day to 0 m³/day. Thus, the risk associated with the overflow to the water environment of this previous volume of high sediment content process water has been removed.

7.4.6. The process water which is not recycled in the process plant (70 m³/day) is distributed as follows: (1) approx. 50% is contained in stockpiled processed material; (2) approx. 5% falls around the processing plant and is collected in an adjacent sump, from which it is sent to the water treatment unit and recycled back in the processing plant; and (3) approx. 45% is contained in the sludge which is pumped into the sludge settlement ponds. Following settlement over a period of 24 hours, the water is recycled back into the processing plant.

- **Surface Water and Storm Water Management**

7.4.7. The storm water management system is capable of attenuating run-off generated by the critical 1 in 100-year return period storm, which significantly reduces the risk of an overflow. A flow control will limit discharge from the system to the site greenfield run-off rate of 22.59 l/s.

7.4.8. Interceptor drainage and associated pipework is maintained along the eastern boundary of the quarry working area to convey storm water run-off to the settlement

ponds. Stormwater is attenuated in 3 of the ponds which have a combined volume of 2,615 m³. This exceeds the storage requirement of 1,142 m³ for the 1 in 100-year storm. The ponds have a combined retention time of 33-hours, which exceeds the EPA maximum guidance value of 24-hours for the settlement of fine silt particles.

- 7.4.9. The results of 17 no. samples for suspended solids and pH in the receiving waters (Cranford Stream) between 2011 and 2019 indicate that 16 no. of the 17 samples complied with previous and current discharge licence limits, with 1 no. sample having a slightly elevated level of suspended solids (25 mg/l v. 20 mg/l).
- 7.4.10. No process water is recycled through the settlement ponds, from which discharge to the adjacent water course occurs. Therefore, no water originating in the process is now discharged to the environment. Water contained in the sludge pumped from the treatment system is recycled back into the processing plant as part of the required top-up water. Suspended solids in the discharge from the settlement ponds, in 2 no. samples taken post October 2019, were below the limits of detection.
- 7.4.11. The report concludes that these results indicate that current and future discharges from the quarry are / will be managed to have no negative impact on the environmental quality standards required to be achieved in the Cranford Stream. I note that an ongoing surface water management programme is also undertaken by Willow Environmental to monitor and ensure compliance with the discharge licence granted under Section 4 of the Local Government (Water Pollution) Acts 1977 – 1990 to discharge into the Cranford Stream, which in turn discharges to Mulroy Bay.
- 7.4.12. In the event planning permission is granted for the proposed development, I consider it appropriate that a condition be attached which requires that surface, storm and process water be managed as described in the accompanying report from Tynan Environmental.

- **Groundwater**

- 7.4.13. Groundwater will be pumped from the excavation below the groundwater table. The maximum estimated flux into the quarry at full excavation depth is estimated to be 5.5 m³/d including climate change allowance. This future low rate of groundwater influx can be stored and attenuated in the existing settlement pond infrastructure. There are no groundwater supplies or groundwater dependent terrestrial ecosystems in the area potentially affected by the reduction in groundwater level. The risk to the

adjacent watercourse is considered insignificant due to its natural water balance characteristics. Groundwater will be discharged at the influx rate to the watercourse, to additionally mitigate against any potential impacts.

7.4.14. Having regard to the foregoing, I consider that the planning application contains appropriate descriptive information regarding the potential impact of the proposed development on the water environment of the site. I further consider that appropriate descriptive information is included in relation to the water treatment unit, which I note has eliminated the risk of overflow of high sediment process water to the receiving environment. Thus, in my opinion, the appellants' concerns in this regard are unfounded.

- **Noise**

7.4.15. The application includes results of **noise monitoring** which was undertaken at 2 no. noise sensitive locations (NS1 and NS2) during quarry operating hours on 5th – 11th October 2019. While the Noise Report prepared by Magnus Environmental & Safety Consultants concludes that no recorded values were above 55dB at NS1 or NS2, I note that 1 no. exceedance occurred at NL2 between the hours of 14.00 and 15.00 on 5th October 2019, with an average LAeq of 56.7 dB recorded. All other results are within the required 55dB parameter.

7.4.16. On balance, I consider that the noise monitoring results demonstrate that the quarry is substantially operating within the required noise limits and that continued monitoring will ensure future compliance in this regard. This matter can be addressed by condition in the event the Board grants planning permission in this instance. As such, I consider that the appellants assertions regarding noise impacts associated with the quarry are unfounded.

7.4.17. The application also includes details of the ongoing **blasting monitoring** programme for the quarry as prepared by Rocblast Ltd. The annual blasting reports for 2014-2018 are included, which confirm that all blasts were within the required limits for ground vibration and air overpressure. The requirement for continued blast monitoring and the restricting of blasting to specified periods will ensure that no undue impacts arise in this regard on foot of the proposed development. This matter can be addressed by condition in the event the Board grants planning permission in this instance.

7.4.18. While I note that the appellants assert that previous rock breaking and blasting activities have caused significant structural damage to their home, in my opinion, this is not a relevant planning consideration in the context of this appeal case.

- **Dust**

7.4.19. A dust monitoring programme is ongoing on site which monitors dust levels at 3 no. locations adjacent to the site boundary. Dust deposition levels are assessed in relation to a limit of 350 mg/m² averaged over a continuous period of 30-days. The results which accompany the application for the period between October 2016 and November 2019 confirm that dust levels on the site are within the specified parameters. Having regard to the foregoing, I consider that the appellants concerns in relation to dust levels at the site are unfounded and that continued monitoring will ensure that no undue impacts arise in the future. This matter can be addressed by planning condition.

- **Boundary Treatments**

7.4.20. The appellants also submit that serious risks are associated with sheer cliff faces, unguarded settlement ponds and standing water pools as a result of the proposed lowering of the quarry floor.

7.4.21. Section 6 of the planning application cover letter confirms that landscape planting and screening is already well established and any dead or dying trees will be removed and replaced as they occur. In addition, berms, screening and fencing are in place and will be maintained during the operational life of the quarry. The location of existing fencing and warning signage is illustrated on the Site Layout Map which accompanies the application (Drawing No. 02).

7.4.22. The applicant disputes the appellants' claims in relation to site safety and notes that there is no record of any enforcement action or any known recent complaints from the public. The applicant also notes there is no requirement to fence the individual settlement ponds.

7.4.23. In considering the issues which have been raised, I note that the quarry is a long-established use at this location. My on-site observations confirmed the site to be well-managed, with fencing, warning signage and screen landscaping noted throughout. As such, in my opinion, the appellants' concerns in relation to risks

associated with the quarry site are without substance and are not relevant to the assessment of this appeal case.

7.5. Duration of Permission

- 7.5.1. This application seeks planning permission for the continuation of quarrying for 25 years. The appellants submit that any future grants of permission should be for 3-years, to allow for the proper and safe restoration of the site. The appellants further submit that the granting of permission for 25-years, would greatly reduce surrounding property values, while increasing the value of the applicant's land. An Taisce also considers that the permission should be limited to no more than 10 years to allow for a review of the site suitability for continued quarrying.
- 7.5.2. The applicant's agent submits that there are sufficient existing material reserves to last 25 years and beyond. This period will provide developer certainty to manage the financial feasibility and commitment of the operation. The applicant's agent highlights significant recent investment in new quarry machinery and plant. In the event An Bord Pleanála grants permission, but considers a 25-year timeframe is inappropriate, it is highlighted that a permission of at least 10-years would reflect the timeframe of both parent applications.
- 7.5.3. In recommending that permission be granted for 25-years, Donegal County Council's Planning Officer considered that this term was not unreasonable subject to continued monitoring, given the need for developer certainty and the demand for stone materials in the county and region.
- 7.5.4. In considering the issue at hand, I note that "The Quarries and Ancillary Activities Guidelines for Planning Authorities" (2004) state that, in deciding the length of planning permissions for quarries, it will normally be appropriate to grant permission for a longer period of 10-20 years and that regard should be had to the expected life of the site reserves. The purpose of setting a finite period is not to anticipate that extraction should not continue after the expiry of that period, but rather to enable the planning authority, in conjunction with the developer and environmental authorities, to review changes in environmental standards and technology over a decade or more since the original permission was granted.
- 7.5.5. I note that the current application seeks permission to continue the permitted quarrying activities and that no extension of the quarry area is proposed. I further

note that the planning application documentation confirms that the quarry is operating in accordance with its permitted conditions. In the event planning permission is granted in this instance, the requirement for ongoing monitoring will ensure no undue impacts will arise going forward. I also note the significant recent investment which has been made by the applicant in the quarry operations, including the installation of a water treatment unit, to eliminate impacts on the receiving water environment. While I acknowledge the permission timeframes which have been requested by the appellants and An Taisce, I consider that the granting of permission for a 25-year period would be appropriate having regard to the nature and scope of the development. This matter can be addressed by condition.

7.6. Works to Right-of-Way

7.6.1. The appellants assert that fencing which has been installed by the applicant along a right-of-way has narrowed the roadway and blocked existing laybys, making it difficult for 2 no. vehicles to pass. This right-of-way is the south-easterly spur road which extends through the overall quarry site and provides access to 2 no. dwellings. The appellants further submit that the fencing restricts the maintenance of an existing water table and has caused serious deterioration of the road surface. In my opinion, the issue which has been raised by the appellants is a civil matter which is not relevant to the assessment of this appeal case.

7.6.2. Notwithstanding the foregoing, I note that Condition Nos. 21 and 22 of the Notification of the Decision to Grant Permission require the developer to establish a local consultation group to discuss and address any operational issues associated with the quarry and to provide all landowners within 500 m of the site with appropriate contact details to inform the developer of any quarry-related incidents or complaints. These requirements are reasonable in my opinion and I recommend that appropriate conditions be attached in the event planning permission is granted for the proposed development.

7.7. Appropriate Assessment (AA) Screening

7.7.1. The subject site is not located within or adjacent to any Natura 2000 sites. As such, there is no potential for direct impacts on any such site.

7.7.2. The site is located approx. 300 metres to the west and south of Mulroy Bay SAC (site code 2159). The Cranford Stream extends along the eastern site boundary and

is the discharge point for treated surface water from the development. The stream flows north and reaches the coast at Mulroy Bay SAC approx. 1 km downstream.

- 7.7.3. The surface-water connection between the site and Mulroy Bay SAC provides a pathway through which water-borne pollutants could reach aquatic habitats and fauna. Therefore, the carrying out of an Appropriate Assessment of the proposed development is necessary.
- 7.7.4. There are distant hydrological connections to other Natura 2000 sites located in the outer sections of Mulroy Bay. Given the distance of these sites from the development, it is considered that there is no potential for likely significant impacts to arise and therefore an Appropriate Assessment is not required in relation to same.

7.8. **Appropriate Assessment**

- 7.8.1. The conservation objectives for Mulroy Bay SAC are: (1) to maintain the favourable conservation condition of large shallow inlets and bays [1140], [1160]; (2) to maintain the favourable conservation condition of reefs [1170]; and, (3) to restore the favourable conservation condition of otter (lutra lutra) [1355]. The “large shallows and inlet bays” habitat is the only qualifying interest for which pollution is identified as a threat.
- 7.8.2. The surface water connection between the site and Mulroy Bay has the potential for **indirect impacts** on the SAC. As such, appropriate mitigation measures are required to avoid or reduce the impacts of potential pollution incidents.
- 7.8.3. The on-site water management system is considered as a mitigation measure in the context of AA. As discussed in sections 7.4.4 – 7.4.13 of this report above, this system provides a high level of treatment, with negligible levels of suspended sediment discharging to the Cranford Stream. Subject to ongoing implementation and monitoring of the water management system, I can conclude that the proposed development will not cause any significant negative impacts on Mulroy Bay SAC. I note that this reflects the conclusions of the NIS which accompanies the application.
- 7.8.4. The site is not zoned under the development plan, and given its location in a rural area, is not likely to be subject to development pressure in the future. No developments were identified in the surrounding area that could lead to potential **in-combination effects** with the proposed development.

7.8.5. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of Mulroy Bay SAC (2159), or any other European site, in view of the site's Conservation Objectives.

8.0 Recommendation

8.1. I recommend that planning permission be granted in this instance.

9.0 Reasons and Considerations

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

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The period during which the development hereby permitted may be carried out shall be 25 years from the date of this order. The quarry use shall then cease, with all related structures removed and remedial works including reinstatement works to be carried out to the satisfaction of the planning</p>

	<p>authority, unless prior to the end of that period, planning permission has been granted for the continuance of the use for a further specified period.</p> <p>Reason: To allow for a review of the development having regard to the circumstances then pertaining.</p>
3.	<p>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.</p> <p>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.</p>
4.	<p>Within six months from the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p>

	<p>Reason: To ensure the satisfactory restoration of the site in the interest of visual and residential amenity.</p>
5.	<p>The quarry, and all activities occurring therein, shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1600 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.</p> <p>Reason: In order to protect the residential amenities of property in the vicinity.</p>
6.	<p>A comprehensive plan for the restoration of the site following the cessation of quarrying works shall be submitted to, and agreed in writing with, the planning authority within six months from the date of this order. This plan shall include proposals for re-use of the quarry and measures to ensure public safety therein. The developer shall commence implementation of the agreed site restoration plan within the area of the site within one month of cessation of extraction in this area and shall have completed this part of the plan within 12 months of commencement.</p> <p>Reason: In the interest of public amenity and public safety.</p>
7.	<p>The management of all surface water, storm water and process water shall be in accordance with the Hydrogeology and Hydrology report prepared by Tynan Environmental as submitted to the planning authority on 11th March 2020.</p> <p>Reason: To prevent water pollution.</p>
8.	<p>(a) During the operational phase of the development, the noise levels from within the boundaries of the site, measured at noise sensitive locations in the vicinity, shall not exceed 55 dB(A) Leq,1hr. When measuring the specific noise, the time shall be any one-hour period during which the sound emission from the quarry is at its maximum level.</p> <p>(b) A noise survey and assessment programme shall be undertaken to assess the impact of noise emissions arising from the operation of the development. The scope and methodology of this survey and assessment programme shall be submitted to, and agreed in writing with, the planning authority within 6 months of the date of this order. The results obtained</p>

	<p>from the programme shall be submitted for review at annual intervals to the planning authority. The developer shall carry out any amendments to the programme required by the planning authority, following this review.</p> <p>Reason: In order to protect the residential amenities of property in the vicinity.</p>
9.	<p>(a) Blasting operations shall take place only between 1000 hours and 1700 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.</p> <p>(b) Prior to the firing of any blast, the developer shall give notice of his intention to the occupiers of all dwellings within 500 metres of the site. An audible alarm for a minimum period of one minute shall be sounded. This alarm shall be of sufficient power to be heard at all such dwellings.</p> <p>Reason: In the interest of public safety and residential amenity.</p>
10.	<p>(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.</p> <p>(b) 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).</p> <p>(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 within 6 months of the date of this order. 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</p>

	<p>developer shall carry out any amendments to the programme required by the planning authority following this annual review.</p> <p>Reason: To protect the residential amenity of property in the vicinity.</p>
11.	<p>(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 within 6 months of the date of this order. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.</p> <p>(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 within 6 months of the date of this order. 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.</p> <p>Reason: To control dust emissions arising from the development and in the interest of the amenity of the area.</p>
12.	<p>All loads of dry fine materials shall be either sprayed with water or covered/sheeted prior to exiting the quarry.</p> <p>Reason: In order to prevent dust emissions, in the interest of amenity and traffic safety.</p>
13.	<p>The wheels and undersides of all vehicles transporting aggregate from the site onto the public road shall, prior to the exit of such vehicles onto the public road, be washed in the existing wheel-washing facility.</p>

	Reason: In the interest of traffic safety and convenience, and to protect the amenities of the area.
14.	Scrap metal and other waste material shall be removed at least annually from the site in accordance with the written requirements of the planning authority. Such materials shall be deemed to include scrapped trucks, other scrapped vehicles, empty oil barrels, broken or otherwise unusable truck bodies, worn out conveyor belts/chains, worn out batteries, unusable tyres and worn out conveyor/roller shafts. Reason: To protect the amenities of the area.
15.	The developer shall provide all landowners within 500 metres of the entire quarry complex 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.
16.	Within six months from the date of this order, the developer shall establish a local consultative group, including representatives of the developer, and members and representatives of the local community. This group shall constitute a forum to address operational issues of the quarry which are considered to impact upon local amenity. Reason: In the interest of the protection of residential amenity and planning control.

Louise Treacy
Planning Inspector

18th November 2020