



An  
Bord  
Pleanála

## Inspector's Report ABP-308326-20

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<b>Development</b>	Quarry and associated development
<b>Location</b>	Magherasolis and Craig townlands, Raphoe, County Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	19/52015
<b>Applicant(s)</b>	Patrick Bonar
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	1.) Raphoe Community in Action Ltd, Chairperson Mary Harte Nolan 2.) An Taisce
<b>Observer(s)</b>	Rachel and Hugh White
<b>Date of Site Inspection</b>	25 <sup>th</sup> May 2021
<b>Inspector</b>	Colm McLoughlin

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## **1.0 Site Location and Description**

- 1.1.** The appeal site is located approximately 450m northeast of Raphoe in the northeast of County Donegal. It is stated to measure 4.81ha and currently comprises a disused quarry extraction area, as well as agricultural land. Vehicular access to this quarry is available from the east off a single-lane local road (L-23749-0) with an 80km/hr speed limit, which is gated approximately 200m to the east of the site and links to the R236 regional road 400m to the southeast, marginally inside the 50km/hr urban speed limit zone. The quarry is situated within a landholding encompassing and surrounding a property known as Ashfield House. The quarry area features disused structures in the lower entrance area outside of the quarry void featuring steeply-sloping exposed rock faces, overgrown vegetation and ponding water.
- 1.2.** The lands adjoining and surrounding the site are characterised by a patchwork pattern of fields on gently rolling hills, interspersed with one-off housing and with the lands primarily used for agriculture and commercial forestry. The ground immediate to the site increases in height in an east to west direction, with the entrance area on the lower east side 52m below the highest point on the western boundary of the site. The quarry access road leading west into the quarry initially rises before dropping slightly into the relatively level quarry void, featuring two benches on the northern side.

## **2.0 Proposed Development**

- 2.1.** A 25-year permission, excluding the final one-year restoration phase, is sought for the proposed development, which can be summarised as follows:
- the recommencement and operation of a redundant quarry stated to have been in operation prior to 1970;
  - the construction of primary and secondary settlement lagoons;
  - aggregate from the quarry would be initially processed by drilling, blasting, crushing and screening in the quarry void before being transported via heavy goods vehicles (HGVs);
  - provision of a site office with ancillary staff facilities measuring a stated 71sq.m, including a canteen, drying room and a ticketing office;

- provision of a car parking area, a weighbridge facility, a wheel-wash facility and the installation of a wastewater treatment system;
- landscaping, including a 3m-high soil berm;
- widening works, passing bays and piping of a drain along the L-23749 local road, as well as upgrade works at the junction of the L-23749 local road and R236 regional road;
- restoration of the site to natural habitat area;
- hours of operation from 07:00 to 18:00 hours Monday to Friday and 07:00 to 13:00 hours on Saturdays with no operations on Sundays or Bank Holidays.

**2.2.** In addition to the standard documentation and drawings, the planning application was accompanied by letters of consent from the landowner consenting to the application, the undertaking of maintenance to roadside verges to facilitate safe vision lines along the R236 regional road and the provision of lay-bys along the local road (L-23749), if necessary. Other details provided with the planning application included a 'Site Suitability Assessment Report for a Wastewater Treatment System' and correspondence regarding testing to assess the suitability of the materials to be quarried on site. Following a request for further information, additional details were submitted, including:

- Environmental Impact Assessment (EIA) Screening Report;
- Appropriate Assessment (AA) Screening Report;
- Traffic Survey;
- Noise and Dust Report;
- Blast Vibration Report;
- Quarry Restoration Plan;
- Archaeological Report;
- Water Management Proposals Report.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The planning authority decided to grant permission for the proposed development, subject to 24 conditions, the following of which are of note:

- condition 7(a) – blasting operations to be confined to 12:00 hours to 16:00 hours Monday to Friday;
- condition 7(b) to (c) – blasting operations requirements and restrictions;
- condition 8(a) to (c) – vibration limits and monitoring;
- condition 9(a) to (c) – noise limits and monitoring;
- condition 10 – junction upgrade works to be completed before the commencement of quarrying;
- condition 19 – submit a bond related to the restoration plan;
- condition 20 – submit a bond related to road improvements;
- condition 23 – wastewater treatment system details.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The initial report of the planning authority (February 2020) recommended seeking further information and can be summarised as follows:

- a quarry had operated at this site and the principle of the development is accepted;
- proposals provide a viable proposition in reusing a previous quarry;
- the existing quarry has minimal visual impact owing to perimeter vegetative growth;
- excavation shall not take place below the depth of the existing quarry floor;
- there is a need for a Screening Report for Environmental Impact Assessment (EIA) and Appropriate Assessment (AA);

- neighbouring recorded monuments are listed and an archaeological assessment is required;
- further details addressing the roads access and movement along this access road are required;
- dust abatement measures should be outlined, as well as noise, vibration and water supply details;
- financial contributions are applicable.

The second report of the planning authority (June 2020) recommended seeking clarification of further information in relation to the following:

- water management proposals;
- fuel interceptor details;
- revised local / regional road junction proposals;
- consent of landowners to undertake necessary passing bays, junction and vision line improvements and details of same.

The applicant was requested to re-advertise the application in July of 2020. The recommendation within the final planning report (September 2020) reflects the decision of the planning authority and noted that the planning authority was satisfied with the responses submitted, including the following:

- revised details for the local road/regional road junction, local road upgrade proposals and the consent for the associated works;
- revised proposals for surface water management and fuel interception have been provided, including a two stage settlement pond/lagoon and an oil interceptor near fuel storage areas;
- potential for archaeological finds would be unlikely given the extent of previous overburden removed at the quarry;
- details regarding noise, dust, vibration, blasting and operational hours are noted and these would be controlled by conditions;
- cognisant of the guidance contained in the Quarries and Ancillary Activities – Guidelines for Planning Authorities 2004, the objectors concerns with respect

to structural damage to neighbouring properties are not a sustainable point of objection;

- the refusal of planning permission based on past failures of the applicant to comply with certain matters that have progressed to enforcement proceedings would be premature pending the outcome of an ongoing High Court action relating to this;
- a contractual issue between the Local Authority and the owner of the subject lands is not a matter for assessment in this planning application;
- the submitted Screening Report for AA states that there is not direct connectivity from the site to the qualifying interests in respect of European sites;
- the information contained in the EIA Screening Report adequately identifies and describes the direct and indirect effects of the proposed development on the environment and an EIA report is not required.

### 3.2.2. Other Technical Reports

- Area Engineer (Roads) – no objection, subject to conditions, including conditions requiring details of how vision lines would be achieved, measures to control drainage, road drainage and repair details. Planner's report refers to Executive Engineer having no objection following the submission clarifying the further information response;
- Roads Design Office – further information was initially requested regarding HGV manoeuvrability, passing bays details, local road upgrade and maintenance proposals, surface water drainage and consent for works outside the site. Following this concerns were raised regarding HGV movements at the local/regional road junction, as well as the need for local road upgrade proposals and road signage;
- Senior Executive Chemist – conditions recommended addressing the need for a discharge licence, the control of effluent, fuel bunding, noise levels and operational times. Following submission of further information concerns were outlined regarding the practise of mobile fuelling, the need for a secondary

lined lagoon, conditions impacting on the functionality of the proposed infiltration area for wastewater treatment and the impacts on water supplies, restriction of operational hours and clarification regarding daily HGV movements;

- Waste Recycling Officer – no response.

### **3.3. Prescribed Bodies**

- Health Service Executive (HSE) – further information is required regarding dust monitoring and mitigation measures, as well as the potential noise, vibration and hydrological impacts. Following submission of further information recommendations regarding emissions limits, complaints procedures and drinking water quality, as well as conditions addressing noise and dust mitigation, operation hours and wastewater treatment, including use of a sand-polishing filter;
- An Taisce - screening for EIA is required and given the lapse in time since previous quarrying took place, the site context requires due consideration. Following receipt of clarification of further information, concerns were raised regarding the suitability of the vehicular access;
- Minister for Culture, Heritage and the Gaeltacht (National Parks & Wildlife Service) – advised that screening both for appropriate assessment (AA) and environmental impact assessment (EIA) should be undertaken;
- Minister for Culture, Heritage and the Gaeltacht (National Monuments Service) – no response;
- Loughs Agency – no objection subject to water management, site management, use of a sustainable / infiltration drainage systems, fuel bunds and use of various environmental control measures;
- Inland Fisheries Ireland (IFI) – no response;
- Irish Water – a watermain would need to be laid to connect to the water supply on the regional road.



### **3.4. Third-Party Observations**

- 3.4.1. One observation was initially received during consideration of the application by the planning authority, from a person with an address in Grange, County Sligo, which is approximately 80km to the southwest of the appeal site. Following re-advertisement of the planning application, the planning authority state that an additional 22 observations were received with four of these from local representative groups. The issues raised in these observations are similar to those raised in the grounds of appeal and they are collectively summarised under the heading 'Grounds of Appeal' below.

## **4.0 Planning History**

### **4.1. Appeal Site**

- 4.1.1. I am not aware of any planning applications, quarry registrations or pre-planning consultations with the planning authority relating to the appeal site.

### **4.2. Surrounding Sites**

- 4.2.1. Planning applications in the surrounding area relate to a variety of development proposals, including those of a residential and agricultural nature. The following recent planning applications relate to a telecommunications tower located on a site 130m to the southwest of the appeal site:

- Reg. Ref. 06/40626 – in November 2011 permission was granted by the planning authority for a five-year period for a 24m-high lattice tower, equipment container, fencing, gate and access track;
- Reg. Ref. 12/60069 – retention permission was granted in June 2012 by the planning authority for a 24m-high lattice tower carrying antennas and link dishes, with ground level equipment, fencing and access track.

## **5.0 Policy & Context**

### **5.1. National & Regional Guidelines**

- 5.1.1. Project Ireland 2040 - National Planning Framework (NPF) sets out a vision for the future development of the country, including support for the sustainable development

of rural areas by encouraging growth. National Policy Objective (NPO) 23 seeks to facilitate the development of the rural economy.

5.1.2. Various guidance documents are referred to throughout the assessments below in relation to specific subjects and the following guidance documents are of particular relevance to this application and appeal:

- Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly (2020);
- River Basin Management Plan 2018-2021;
- Design Manual for Urban Roads and Streets (2019);
- The Planning System and Flood Risk Management: Guidelines for Planning Authorities (including the associated Technical Appendices) (2009);
- EPA Guidelines on Environmental Management in the Extractive Industry (2006);
- Quarries and Ancillary Activities – Guidelines for Planning Authorities (2004);
- Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development (2003).

## **5.2. Donegal County Development Plan 2018-2024**

### Policy

Chapter 8 of the Development Plan outlines the aims for natural resource development in the County, with section 8.1 addressing the extractive industry and geology. A host of objectives and policies aimed at controlling the locations and the impacts of quarry developments are also listed respectively within sections 8.1.2 and 8.1.3 of the Development Plan.

### Development Guidelines

Development guidelines and technical standards relevant to the access proposals for the subject proposed development are outlined in section 6 of Part B to Appendix 3 of the Plan.

## Landscape Designation

To conserve, protect and manage the County's natural heritage for future generations and encourage appreciation and enjoyment of these resources, section 7.1 of the Plan categorises the landscape of the County into three areas, as illustrated in Map 7.1.1 of the Plan, including areas of 'Especially High Scenic Amenity' (EHSA), 'High Scenic Amenity' (HSA) and 'Moderate Scenic Amenity' (MSA), none of which are considered to be of low landscape value. The appeal site is situated within the middle tier, a HSA area, which is defined in the Plan as comprising:

- 'landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan'.

Policy NH-P-7 of the Plan highlights that subject to other Plan objectives and policies, within an area of HSA it is policy to facilitate development of a nature, scale and location that allows the development to integrate within and reflect the character and amenity designation of the landscape.

## Biodiversity

Section 7.1 of the Development Plan includes objectives and policies conserving, protecting and managing the County's natural heritage, including the following:

- NH-O-1: To protect, sustainably manage and enhance the rich biodiversity of County Donegal for present and future generations;
- NH-O-3: To maintain the conservation value of all existing and/or proposed SACs, SPAs, NHAs and RAMSAR sites;
- NH-P-5: It is a policy of the Council to require consideration of the impact of potential development on habitats of natural value that are key features of the County's ecological network and to incorporate appropriate mitigating biodiversity measures into development proposals.

### 5.3. Natural Heritage Designations

5.3.1. The distance and direction to the nearest European sites to the appeal site, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), are listed in table 1 below.

**Table 1.** European Sites

Site Code	Site Name	Distance	Direction
002287	Lough Swilly SAC	7.6km	north
004075	Lough Swilly SPA	8.3km	north
002301	River Finn SAC	9.2km	south/east
UK0030320	River Foyle and Tributaries SAC	9.3km	east

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. Two third-party appeals have been lodged, one from An Taisce and another from a local representative group stated to be supported by the names of 426 residents of the Raphoe area. The grounds of appeal can be summarised as follows:

#### Residential & Visual Amenities

- the previous quarrying operations on site had significant impacts on the amenities of the neighbouring area, including the town of Raphoe, and this long-abandoned small-scale operation does not justify the recommencement proposals;
- noise and rock blasting would have significant impacts for locals, including the residential properties 300m to 778m from the site;
- health risks would arise from the resultant dust emissions, which would not be addressed by the suggested mitigation measures;
- contrary to Development Plan provisions, including Policy EX-P-2, negative visual impacts would arise for highly scenic landscapes, including the Laggan Valley Landscape Character Area (LCA) and tourist amenities in the area, such as Oakfield Park;

- proposals would result in disruption and nuisance for local residents and patrons, including persons more sensitive to such impacts;
- mitigation measures to address impacts on humans would be unlikely to be continually undertaken throughout the 25-year life of the permission;

### Environment

- while being subthreshold for EIA purposes based on the site area (4.81 hectares) and the extraction area (2.51 hectares), the proposals are likely to have very significant negative impacts for the receiving environment and a precautionary approach should have been adhered to;
- EIAR is required in view of the site sensitivity and the range of receptors that would be impacted, including local wildlife, wildflower sanctuaries, forestry habitat and raptor bird species;
- sufficient details regarding phasing, extraction volumes, levels and restoration have not been provided;
- details of the potential for landslides have not been provided, despite the area having moderately high susceptibility of same;
- failure to assess the potential negative impacts of the proposed development on the ecology of European sites, including mitigation measures to address these impacts;
- the impacts of dust on farmland need due consideration;
- threat to habitat of pollinators, with a report included titled 'Habitat Survey for Pollinators in Raphoe';

### Water Quality

- absence of details regarding groundwater impacts, including the potential for dewatering;
- the proposals for surface water management do not appropriately address the potential for hydrocarbons, chemicals or suspended soils to be discharged from the site;

- the volume and source of water required for processing is not outlined, which is contrary to the Water Environment (Abstractions) Bill, 2018, and the volume needed would be unlikely to be achieved based on the 'poor aquifer' bedrock conditions on site;
- drinking water proposals and impacts on local well supplies are omitted, including the potential impacts of the high sulphides level in the quarried rock;
- the assimilative capacity of the receiving waters for the quarry discharge has not been assessed;
- the site and immediate area drain to the Foyle and Finn basins, with downstream hydraulic connectivity to SACs and an SPA;
- the site may have previously been used as a waste landfill by Donegal County Council and subsequently for illicit dumping, before being sold to the present owner. Consequently, the leachate arising could impact on human health and wildlife, including aquatic species, with correspondence stated to be from an expert on the risk posed by chemicals to humans and the environment, provided in evidence of this;
- during heavy rains the lagoons could overflow leading to contaminated water discharging to waters draining to European sites;

#### Roads and Traffic

- the local road serving the site does not have capacity to serve this development, which would be to the detriment of the condition of the road and traffic safety;
- increased traffic in the area, including HGV movements through Raphoe, would increase risks to the health and safety of school children, as well as resulting in congestion and damage to buildings;
- local road surfaces would be severely damaged;

#### Other Matters

- the application is absent of a sound socio-economic basis for the development and there are other more suitable locations for the development

avoiding highly-productive agricultural lands and in less sensitive parts of the county;

- alternative locations for rock extraction have not been considered with the subject rock on a similar rock seam to neighbouring buildings;
- proposals would lead to significant disturbance for neighbouring schools and prime agriculture lands;
- proposals would provide for very limited economic benefits, as staff would be likely to be relocated from other operations of the applicant;
- structural impacts arising from blasting and HGV movements would impact on local properties and the built heritage of Raphoe, including the Cathedral of St. Eunan, the Bishop's Castle, the town clock, buildings on the Diamond and along traffic routes, neighbouring lands with development potential and a large commercial glasshouse structure;
- an assessment is required addressing the high potential for archaeology in the area, including impacts on unknown archaeology, previously identified rock art and various archaeological sites, with expert advice appended to the appeal from qualified archaeologists;
- Raphoe cultural heritage town and neighbouring structures listed in the record of protected structures, the register of monuments and places and the National Inventory of Architectural Heritage (NIAH) need to be considered, including the potential structural impacts;
- the applicant has been subject of a High Court action and refused permission by An Bord Pleanála for the continuation of quarrying on another site in Donegal, due to environmental impacts and section 35 of the Planning and Development Act 2000, as amended, providing for refusal planning permission for past failures to comply with conditions of a permission should be invoked;
- reduction in the value of properties;
- increased fire hazard and flood risk in Raphoe;

- the planning authority's assessment is non-compliant with the Aarhus Convention, the Habitats Directive and the Clean Water Directive;
- concerns regarding the positioning of site notices and the failure to consult Fáilte Ireland regarding the application.

## **6.2. Applicant's Response**

6.2.1. The applicant's responses to the grounds of appeal, which was accompanied by photographs, supplementary consultants' reports and test results for the quarry aggregates, can be summarised as follows:

- an outline of the applicant's quarrying operations in the Donegal is provided with reference to the ceasing of materials extraction at Calhame townland, the site subject of a recent High Court action;
- the applicant considered various other potential sites for a quarry before progressing with the subject proposals and rationale for same has been presented;
- the lands were disposed to the current owner from Donegal County Council in 2014 and the current extent of discarded material on site relates to agricultural trailers and tractor tyres associated with a roads service yard;
- evidence to support the requirement for EIA is not provided and the applicant has provided sufficient information to justify the permission;
- there is a need for quarries in Donegal due to ceasing of various quarry operations with only seven quarries in the County having extant permissions, given NPF policy objectives supporting population growth and major infrastructural growth in the northwest, the limited viability of importing materials from across the border and the absence of policy protecting construction materials;
- quarries are generally found in rural areas such as this and the Development Plan allows for exceptions where quarries would be permissible in highly scenic amenity areas;
- the proposed berm would reduce the visual and noise impacts of the proposed development on the school located 600m to the south and the



expected noise and vibration levels would be well within the limits at the nearest sensitive locations;

- blasts times can be arranged not to coincide with school-going times;
- it is not reasonable to assert that the development would impact on tourism in the area, given the existing level of tourist activity, the existing screening provided to Oakfield Park and the distance to amenity sites, such as the Beltany Stone circle 3.65km to the south;
- all quarry traffic would not be routed through Raphoe, given the location of the N14 to the northeast, including the Ten-T route corridor;
- road improvements would be provided at the local road junction with the R236 regional road and there is already HGV traffic routed through Raphoe;
- impacts on the nearest house to the west would be screened by the topography and the two closest houses to the site are properties owned by the landowner, who has consented to the application and a member of the landholder's family who does not object to the proposals;
- the site is at a remove from the nearest European sites and the receiving surface waters are given an 'unassigned' status for the purposes of the Water Framework Directive and these waters are not at risk according to this Environmental Protection Agency (EPA) status;
- the stormwater drain flowing downhill from the site to an unnamed tributary of the Swilly Burn is not within the hydrological areas impacting Raphoe, and it is therefore inaccurate to suggest that the proposed development would lead to increased flood risk within Raphoe;
- agriculture poses a greater threat than the proposed development to the conservation objectives of the River Finn SAC and the gravel resources could be used for cowpaths within local dairy farms;
- ecological and hydrological impacts have been considered and addressed as part of the application;
- vibration and noise levels would be within limits at the nearest house and therefore would not logically exceed the limits at housing further than this.

### **6.3. Planning Authority Response**

6.3.1. The planning authority's response to the grounds of appeal largely reaffirm and refer to their previous assessments, including the following:

- while the site is in a high-scenic amenity area and policy EX-P-2 of the Development Plan does not provide for new quarry activities in such areas, this is a brownfield former quarry site;
- as is evidenced in the various reports, the planning authority has given consideration to the impacts of noise, dust and blasting, as well as the amenity and heritage value of Raphoe;
- all quarry traffic would not be routed through Raphoe, particularly given the access to the neighbouring N14 national road;
- there is no connectivity from the site to the qualifying interests of the SACs and SPA sites.

### **6.4. Observations**

6.4.1. An observation was received from residents who state their home is located approximately 320m to the west of the appeal site. The observation largely supports and reaffirms matters raised in the grounds of appeal, while specifically referring to the potential impacts of the development on wildlife, including bats, and their well water supply and the implications of dust emissions for household members, including those with sensitive conditions.

### **6.5. Further Submissions**

6.5.1. The response of the appellant, An Taisce, to the grounds of appeal of the other appellant representing local residents, can be summarised as follows:

- the appellants comments are supported and costs against the planning authority will be sought in this matter;
- An Taisce is independently seeking investigation of quarrying matters in Donegal and awaits a response on planning irregularities raised in Donegal.

6.5.2. In response to the applicant's response to the grounds of appeal, the appellant that is stated to represent a group of local residents responded by reaffirming many matters raised in their appeal, while also stating that:

- the applicant has failed to outline any new matters and has reinforced the reasons for the permission to be refused given that it is an abandoned quarry in a highly scenic area;
- proposals would invariably diminish the amenities of the area and the use of the site as a dumping ground is attested to by local objectors;
- where there is doubt regarding the impacts on SACs and SPAs, precautionary principles should apply;
- quarry operations should only take place in appropriate locations from societal and environmental perspectives;
- the town of Raphoe does possess tourism, agriculture and archaeological potential, which the development would impact on;
- while the applicant refers to pre-planning discussions with the planning authority, there is no record of same and this raises serious concerns as to how the planning decision was arrived at.

6.5.3. Following consultation by An Bord Pleanála with the Minister for Communications, Marine and Natural Resources, no further submissions were received.

## **7.0 Planning Assessment**

### **7.1 Introduction**

7.1.1. There is no planning history associated with this site and while there is unambiguous evidence of quarrying having previously been undertaken on site, it is stated that this was undertaken by Donegal County Council and ended during the 1970s. The site was sold by Donegal County Council to the present landowner in 2014 and they have consented to the subject applicant making the application. The subject landowner also owns the lands along both sides of the local road serving the quarry, as well as almost all the immediately adjoining lands to the overall quarry site.

7.1.2. The existing quarry floor dips into the brow of a hill and is stated to be currently on average at 128m to 129m (ordnance datum) OD with the lower bench (1) on the northside at 137.5m OD and a higher bench above this at approximately 152m and 155m OD. The proposed additional quarry extraction area primarily comprises the area to the north of the existing void area, including agricultural pastures. The quarry floor area would accommodate the processing area consisting of fixed screening and crushing equipment, as well as a primary settlement lagoon and an area for the parking of plant and HGVs. Drilling and controlled blasting into the rock face would initially occur, prior to transporting materials to a crusher and screening for uniform stone size. Stone materials would then be stockpiled in the quarry floor area and it is not intended to wash the stone, nor would further processing associated with the extraction activity take place. According to the applicant, the stone materials would be suitable for road infrastructure projects. Situated above the quarry floor at 122m OD along the eastern side of the site, the main entrance area would generally accommodate the ancillary areas for the quarry operations, including storage buildings, office building with staff welfare facilities, staff and visitor car parking, a wheel-wash facility, as well as the secondary surface water settlement lagoon. Based on the applicant's Noise and Dust Report the stated output from the quarry would be 400 tonnes per day, which would result in an estimated annual rate of extraction of 100,800 tonnes of crushed stone over the working year.

7.1.3. I consider the substantive issues arising in determining of the appeal to be as follows:

- Planning Policies and Objectives;
- Local Amenities;
- Landscape and Visual Impacts;
- Water;
- Biodiversity;
- Traffic;
- Cultural Heritage.

## **7.2. Planning Policies and Objectives**

- 7.2.1. National Policy Objective 23 of the NPF seeks to facilitate the development of the rural economy through supporting, amongst other sectors, a sustainable and economically efficient extractive industry sector, whilst at the same time noting the importance of maintaining and protecting the natural landscape and the built heritage, which are recognised as being vital to rural tourism. The Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly supports the implementation of the NPF, for the future physical, economic and social development of the region. Guidelines for Planning Authorities on Quarries and Ancillary Activities (hereinafter referred to as ‘the Quarry Guidelines’) acknowledge that extractive industries make an important contribution to economic development in Ireland, while emphasising the continued need for aggregates. The Quarry Guidelines also note that quarrying operations can give rise to land use and environmental issues that require mitigation and control through the planning system.
- 7.2.2. Donegal County Development Plan 2018-2024 identifies the appeal site as being located within an area of ‘high-scenic amenity’ and, based on the initial provisions of policy EX-P-2 of the Development Plan 2018-2024, new extractive industry proposals are restricted in principle in such areas. This policy and other Development Plan policies, such as EX-P-3 to EX-P-6, also restrict the development of extractive industries, subject to applicants demonstrating that they would not impinge on various environmental parameters, as well as addressing archaeological potential and roads infrastructure requirements, which are matters I address further below. The appeal site comprises a former quarry, as acknowledged through the application and appeal documentation, where the extraction of stone is stated to have ended in the 1970s. While I am not aware of any planning permission with respect to this former quarry operation, or any other activity on site for that matter, and a considerable period of time has elapsed since previous extraction is stated to have taken place, I am satisfied that the proposals would not introduce a ‘new’ extractive industry activity at this location and, accordingly, the proposals could not reasonably be considered to materially contravene the initial terms of policy EX-P-2 of the Development Plan. The grounds of appeal also refer to the potential for alternative locations for the proposed development and in response to this the

applicant outlined their rationale for proposing to use the subject site. By their very nature in attempting to extract ground deposits, the extractive industries are location dependent. The appeal site comprises a previous extraction area and agricultural ground in an expansive agricultural area and I am satisfied for a variety of planning reasons, including those addressed below, it would be more preferable to utilise an existing extracted area, as opposed to a completely new extraction area, albeit subject to measures being incorporated into the proposals to suitably address the potential impacts arising.

7.2.3. Having regard to the above, the proposed development is supported in broad terms by current planning policy, however, the overall acceptability or otherwise of the proposed development requires detailed consideration of the environmental impacts and an appropriate assessment of the proposed development.

7.2.4. Permission is sought to undertake extraction for a period of 25 years, which would be exclusive of the estimated one-year restoration phase. The Quarry Guidelines set out circumstances where it would be appropriate to grant permission to allow extraction for a period in excess of five years. Other than provide a section drawing (no.07) to show the existing quarry depths and the proposed depths at completion of the extraction, as well as outlining that 400 tonnes of stone would be extracted per day, it is not clear that the rate of extraction and the available rock resource would warrant a 25-year extraction period. The applicant has not provided sufficient justification for the length of the extraction period for the development sought based on the resources available, and in such circumstances, if the Board are minded to grant permission, it would only be appropriate to allow for a standard five-year life of the permission upon the commencement of the development. Development contributions would also apply in the event of a grant of permission for the proposed development. In relation to the alleged irregularities in terms of the positioning of a site notice, I note that this matter was considered acceptable by the planning authority and I am satisfied that this did not prevent the concerned parties from making representations. Notwithstanding this, my assessment represents a de novo consideration of all planning issues material to the proposed development. Furthermore, having regard to the nature, scale and location of the proposed development, I am satisfied that all relevant parties have been consulted with respect to the proposed development.

7.2.5. The appellants submit that planning permission should be refused in this instance on the basis of past failures of the applicant to comply with reference to quarrying at Calhame, Letterkenny, County Donegal. The applicant states that they have ceased extraction of materials at the Calhame site and equipment is also being removed from the site. I acknowledge the High Court judgement (Donegal County Council and P Bonar Plant Hire Ltd. t/a Bonar's Quarry [2020 No.137 MCA]), comprising an interlocutory injunction restraining the applicant from carrying out unauthorised quarrying at the referenced quarry in Calhame. The final determination of this legal case, which does not relate to a permission for development, is pending. In such circumstances, I am satisfied that at present this case cannot be relied upon for the purposes of Section 35 of the Planning and Development Act 2000, as amended, to provide sufficient justification that the applicant has failed to comply with the conditions of a previous permission and, therefore, to substantiate that real or substantial risks would arise from the subject development on the basis of the applicant's previous actions.

### **7.3. Local Amenities**

7.3.1. The EIA Screening document identifies a sample of sensitive neighbouring receptors to the appeal site, including houses, Oakfield Manor house and the Royal and Prior Secondary School, that are situated within 270m and 800m of the quarry site. There are derelict buildings and agricultural structures closer to the quarry than the closest of the identified sensitive receptors. The closest house is stated to be located 270m to the northwest of the site, while there are other houses proximate to the east, the closest of which is 300m from the site and is the residence of the appeal site landowner, who has consented to the application.

#### Dust

7.3.2. The main emission to air arising from the quarry would be from dust, the impact of which can be measured based on the amount of particulate matter in the air in micrograms. The grounds of appeal assert that the potential dust emissions arising would impact on neighbouring sensitive properties, including houses, schools and agricultural farmland, as well as biodiversity. Background air quality data, such as dust monitoring, has not been collated, although the appellants do not refer to the subject former quarry impacting on local air quality, while the applicant's screening

report refers to the site being located in a 'good' air quality region largely as a consequence of weather conditions. Dust emissions would be likely to arise from vibrating screeners, traffic on quarry roads in dry periods, stockpiled materials and drilling. Modelling of the potential impacts of the project on human and ecological receptors arising from deposition and concentration of dust has not been undertaken.

- 7.3.3. The design of the development would see the fixed plant equipment and stockpile materials only positioned within the quarry extraction area, which would be beneficial in limiting the spread of dust emissions. A suite of dust control and minimisation measures addressing earthworks, processing, storage and trackout movement activities are set out in section 5.6.2 of the EIA Screening Report. These measures are comparable to those found in other quarry developments. The implementation of the measures outlined, including the use of a mobile bowser and the installation of a wheel-wash facility at the entrance area to the quarry, would assist in limiting dust emissions. The applicant proposes cleaning of the access roads to the quarry, which I am satisfied should be confirmed via condition in the event of a permission specifically requiring the use of a road sweeper along the local road accessing the site, including at the entrance to the local road off the regional road.
- 7.3.4. The Air Quality Standards Regulations 2011, as amended, set specific limits for pollutants, including PM<sub>10</sub>, which are fine particles with a diameter of 10 micrometres (10µm). Deposits of less than 350 micrograms per sq.m per day of non-hazardous dusts averaged over a 30-day period and subject to criteria, are allowed for based on thresholds set out in the Quarries Guidelines. Below these thresholds dust problems are considered less likely and the applicant references these standards in their Noise and Dust Report submitted as part of the application.
- 7.3.5. The Quarry Guidelines acknowledge the potential for areas within 500m of a quarry to be affected by quarrying, although continual or severe concerns about dust are most likely to be experienced within about 100m of the dust source. Within 500m of the quarry there would be three houses, the closest of which would be 270m from the quarry. The applicant has the consent from the owner of the majority of the agricultural lands adjoining the site to make the application and undertake the development. Based on the nature and scale of the development, the background air conditions for the wider area, the quarry context relative to sensitive receptors



and the indicators outlined within the Quarry Guidelines, I am satisfied that forecast modelling would not be necessary in these circumstances.

- 7.3.6. In addition to the proposed mitigation measures, to address any potential dust emissions thresholds exceedances, as part of the broader suite of environmental monitoring programme, the applicant should carry out dust monitoring every quarter at sensitive locations surrounding the quarry area and the submission and location of these tests should be agreed with the planning authority by condition. Where exceedances occur additional dust suppression measures may be needed. In conclusion, an acceptable to moderate adverse risk arising from dust deposition would arise for sensitive human and ecological receptors within 500m of the dust-generating activities and sensitive receptors would not be likely to be significantly affected by the deposition of fugitive dust arising from the proposed development.

#### Noise

- 7.3.7. The applicant refers to noise standards within the British Standard (BS) 5228: 2009+A1:2014 - Code of Practice for Noise Control on Construction and Open Sites (Part 1: Noise), the National Roads Authority 'Guidelines for Noise and Vibration in National Road Schemes' and the EPA 'Environmental Management Guidelines for the Extractive Industry'. In relation to quarry developments and ancillary activities, the EPA guidelines recommend that noise levels from the activities on site should not exceed LAeq(1 hour) = 55dBA during daytimes and LAeq(1 hour) = 45dBA during night time at the nearest noise-sensitive receptor.
- 7.3.8. Baseline noise monitoring was not undertaken and the applicant has justified ambient levels for the purposes of their modelling based on levels experienced at set distances from similar plant within existing quarries. The sources of noise associated with the proposed development and within the planning application area are listed as those primarily relating to activity at the quarry face and the plant operations, including shot hole drilling rig, excavator, dumper/heavy goods vehicle (HGV), screeners and crushers. Predicted operational noise levels arising from the stone extraction activities are presented in table 5 of the EIA Screening Report with cumulative impacts listed in table 6. The applicant anticipates that noise limits arising at the nearest sensitive receptors would not be exceeded and would be below the limits recommended by the EPA. The estimated additional noise from the

increase in road traffic associated with the proposed operations, including HGV traffic, are stated to be negligible at all receptors. Substantive technical justification to the contrary has not been presented. According to the planning authority, there would be limited intermittent impact of audible noise from operations, including from blasting, but this would not be substantive given the separation distances to neighbouring sensitive receptors.

- 7.3.9. The planning authority proposes restricting the operation of the quarry between the hours of 08:00 and 18:00 hours Monday to Friday, as well as between 08:00 and 16:00 hours on Saturdays, with no quarrying, processing or associated activities being permitted on Sundays or public holiday. With the exception of the Saturday times, these hours would not fall outside those recommended in the Quarry Guidelines. The Quarry Guidelines suggest the hours are restricted to between 07:00 and 14:00 hours on Saturdays, while the applicant had sought opening from 07:00 to 13:00 on Saturdays. Consequently, based on the appropriate guidance and the application proposals, the operational hours of the facility should be attached as a condition to the permission, with Saturday times restricted to between 07:00 and 13:00 hours. Outside of regulating the times of operations and despite the applicant's conclusions that no significant impacts would arise, further ameliorative measures to address noise levels are set out, including the provision of a 3m-high berm, good-housekeeping measures such as regular maintenance, powering off and the meeting of compliance standards for machinery, as well as locating of mobile crushing and screening plant within the quarry void. Noise monitoring is proposed to be carried out, although the applicant does not specify when and where this would occur, therefore, in the event of a grant of permission, a condition similar to that required by the planning authority should be attached in this respect.
- 7.3.10. I am satisfied that given the distance from plant and extraction areas within the quarry void to the nearest sensitive residential receptors, the ameliorative measures and monitoring required via condition, the cumulative impact of the development on noise levels in the area would not be significant and would not result in unnecessary nuisance for residents and others human receptors in the area.

## Vibration

- 7.3.11. The potential for elevated levels of vibration at neighbouring sensitive locations during construction and operation is typically limited to rock-breaking, blasting operations and HGV movements on uneven road surfaces. The local road serving the site from the regional road is to be upgraded, including resurfacing, based on the requirements of the planning authority. The potentially more significant elements of the operational activities is the vibration from blasting operations. In addressing the potential vibration impacts of the project, the applicant refers to EPA guidance for environmental management in the extraction industry setting acceptable limits for air overpressure at 125dB (Lin) peak value with a 95% confidence limit and a peak particle velocity of 12mm/s.
- 7.3.12. The aforementioned EPA extractive industry guidelines recommend that blasting is only carried out during 09:00 to 18:00 hours, Monday to Friday inclusive, and the applicant proposes blasting between 11:00 and 18:00 hours would be complied with. The planning authority attached a condition to their decision limiting blasting on site between 12:00 to 16:00 hours, Monday to Friday inclusive, and the applicant did not contest these hours. Further detailed mitigation measures are included in section 5.7.2 of the EIA Screening Report and section 6.3 of the applicant's Blast Vibration Report, including the design and methodology for the blasting operations to be optimised to be within the recommended limits, with notification of residents in advance of all proposed blasting schedules through correspondence and signage. Blasting procedures, including measures to ensure compliance with regulatory requirements are also outlined in the Blast Vibration Report, and I am satisfied that these would adhere to standard practise in ensuring safety during blasting activities.
- 7.3.13. The applicant states that there would be typically one to two blast events per month. These blasts would be of short-term duration and would be transient in nature. With respect to concerns raised by appellants regarding potential for structural impacts to neighbouring buildings that are at a remove from the site, the Quarry Guidelines outline that the levels of vibration caused by blasting are generally well below those that can cause structural damage to properties. The potential for elevated levels of vibration at the neighbouring sensitive locations arising from plant associated with the processing activities would not be likely to be significant. I am satisfied that the significance of effects on human health that would arise from adverse impacts as a

result of blasting operations, based on the anticipated blast numbers and following the various detailed mitigation measures, would be no greater than 'slight' and confined to an area immediate to the quarry site, where the blast operations would be most audible.

- 7.3.14. The applicant outlines that monitoring would be submitted on a regular basis to the planning authority for recording purposes and I am satisfied that this would be necessary at locations to be agreed with the planning authority and for each blast, to ensure that impacts would not be adverse, would be within the prescribed limitations and would be in accordance with the provisions of the Quarry Guidelines. To address the proximity to sensitive receptors, including the school grounds 450m to the south of the site on the edge of Raphoe, the applicant stated that they would be willing to undertake further restrictions on blast times to address school opening hours, however, I do not consider that these would be necessary given the conclusions outlined above.
- 7.3.15. There is an overhead electricity powerline traversing the northeast corner of the site and the applicant should be requested via condition to outline specific proposals to address this infrastructure from a health and safety perspective.
- 7.3.16. With the attachment of conditions it is reasonable to conclude that the proposed quarrying activities would not result in any significant dust, noise and vibration impacts and there would be no significant adverse impacts on sensitive receptors arising from the proposed operations. Consequently, the proposed development would not be likely to result in substantive devaluation of property in the area and the proposed development should not be refused permission relating to the impacts on local amenities arising from dust, noise and vibration emissions.

#### **7.4. Landscape and Visual Impacts**

- 7.4.1. Both the applicant and the appellants have provided various photographs to illustrate the position of the quarry relative to neighbouring areas. The substantive visual elements of the proposed development would comprise, the broadening of the extraction area, the installation of plant equipment, the upgrade of the local road, including the removal of hedgerows, and the provision of ancillary structures and buildings at the quarry entrance area. As noted above, the appeal site and the

immediately surrounding area, is identified in the Development Plan as being within an area of high scenic amenity (HSA) and it is stated in the Development Plan that such areas have the capacity to absorb sensitively-located development of a scale, design and use that would enable assimilation into the receiving landscape.

- 7.4.2. The Development Plan outlines that the Landscape Character Assessment (LCA) for Donegal provides a narrative for character areas and provides an evidence-base for the future development of policy. Policy NH-P-13 of the Development Plan requires consideration of proposals in the context of landscape classifications, views and prospects. The LCA identifies that the proposed development would be located within the Laggan Valley LCA, primarily comprising a vast undulating agricultural landscape of good quality pasture and arable land. There are no protected views in the immediate area and the site comprises a former quarry in a rural area, where agriculture and forestry is the predominant land use.
- 7.4.3. While scaled plans of the actual worked out areas of the quarry have not been provided with the planning application, some inference regarding the final extraction area is provided via section D-D of the 'Re-instatement Layout' drawing (no.08) and map 5 of the EIA Screening Report. This gives limited scope to consider the potential visual impacts of the extraction works when viewed from the surrounding area.
- 7.4.4. Given the nature of the proposed works and the position of the site elevated on the south eastern slopes visibility of the quarry and associated development would be largely confined to the lower lands to the south, east and southeast. The quarry would not be visible from much of the neighbouring area due to the natural topography, areas of wooded land cover and various physical features, such as hedgerows marking field boundaries. The proposed plant equipment would not be visible from the wider area, due to the restricted views into the quarry void. Much of the initial extraction works within the quarry void would also not be visible from the wider area, including the lower lands to the south. As the quarry is extended north and eastwards, the higher exposed northern rock face would become increasingly more visible from the wider areas, particularly as the existing vegetative cover on exposed slopes is cleared.

- 7.4.5. The applicant has proposed a 3m-high berm to be planted with native trees along sections of the northern, southern and eastern boundaries of the extraction area to screen views of the quarry, including views from the R236 (see drawing no.08 'Reinstatement Layout'). The berm along the northern boundary would be of limited merit from a visual perspective, as this is the highest part of the appeal site and a berm should be provided along the eastern side of the new extraction area approximately between the 135m and 137m OD contour marked on the plans submitted, given that this area new area would become visible from areas along the R236 to the east of the site. As a condition in the event of a permission, given the elevated position of the quarry, the berms should be put in place as part of the initial phase of the project. With these in place and planting matured, the visual impact of the quarry would not be significant with much of the extraction area being screened by the wider ground levels. As part of the project the applicant's restoration plan illustrates that the steep side slopes and benches would be reseeded. Field boundaries, including hedgerow and trees would be removed or trimmed back along the access to the quarry to facilitate orderly and safe access. Policy NH-P-10 of the Development Plan seeks to protect traditional field boundaries such as stone walls, hedgerows, tree lines, banks and ditches. A condition should be attached requiring replacement hedgerows and trees to be planted along the stretches of the local road where the existing traditional field boundaries would be removed to facilitate the upgraded access.
- 7.4.6. There are a number of buildings and structures at the entrance to the site. While one of these building would be demolished and one would be reused for storage purposes, there would be at least three redundant structures situated along the hillside. These structures are of limited amenity value and they should be demolished and removed from the site as part of the proposed development. Furthermore, boundary treatments have not been submitted and details of safety measures for the land above the quarry, to include warning signs and stock proof fencing should be provided as a condition in the event of a permission. Screening for the office building and the other structures, including the secondary lagoon, should also be provided as a condition in the event of a permission.
- 7.4.7. In conclusion, I recognise that aspects of the development could be addressed via conditions and the natural qualities of the landscape have been modified by the

previous quarrying operations. However, with the incorporation of the suggested mitigation measures, the proposed quarrying activities would not have a significant impact on the landscape or on the visual amenities of the area.

## **7.5. Water**

- 7.5.1. Surface, groundwater and water supplies are primarily addressed in the EIA Screening report submitted with the application, as well as in a Water Management Proposals report and a response to further information specifically addressing the quarry water requirement.
- 7.5.2. The quarry site is situated between 115m and 166m OD within the Johnston Stream sub-catchment, featuring lands generally draining east into the River Foyle. Lands along the northern side of the quarry drain northeast into a ditch that subsequently flows into a stream that runs through Oakfield Park to the east of the site and onwards to a tributary of the Swilly Burn river to the southeast of the site. Ponding waters within the quarry floor are allowed to percolate to ground at present, while some waters flow via a culverted pipe from the quarry void to an outbuilding situated within the quarry entrance area. There was a reasonable flow of water in this culvert pipe during my site visit and these waters are stated to drain into a drainage channel that is covered, culverted and open for various sections running along the local road serving the site. The drainage channel drops below the surface approximately 160m from the regional road (R236) and based on topography, it is likely to drain northeast to also feed into the stream flowing through Oakfield Park.
- 7.5.3. The site is underlain by a poor aquifer with bedrock that is generally unproductive except for local zones (PI). Where rock has been exposed at or near the surface, the quarry is categorised as 'extremely vulnerable' with no protection from potential pollution. Other quarry areas are categorised as 'extremely vulnerable' due to the thin cover of moderately permeable soils, which the applicant states measured 2.3m in depth based on the site suitability assessment undertaken for the project wastewater treatment system.
- 7.5.4. The most recent EU Water Framework Directive (2000/60/EC)(WFD) risk classification for the subject Raphoe underlying groundwater bodies identifies it as being 'not at risk', while the water quality status of this waterbody is assigned as

'good'. The WFD risk classification and water quality status for the receiving surface waters, including the drainage ditch leading northeast from the site, the stream through Oakfield Park and the Swilly Burn (WFD ref. Swilly Burn\_020), is 'unassigned'.

- 7.5.5. Stormwater and surface water on the quarry floor would initially be directed to a primary lagoon constructed from concrete on the eastside of the quarry void and set into the quarry floor. The invert level of the outflow pipe in the primary lagoon would be at 128.2m OD with lagoon base at 126m OD. Water would drain from this by gravity through a 225mm-diameter culvert pipe towards a secondary lagoon close to the quarry entrance area with inflow invert at approximately 121m OD. This secondary lagoon would feature five chambers to allow suspended sediments in stormwater and surface water to settle out, before flowing to a hydrocarbon interceptor and final discharge to the roadside drain. The applicant asserts that the sizing of the holding lagoons has been calculated to account for average rainfall, the catchment, groundwater recharge levels, sedimentation settling times and a freeboard for heavy rainfall events.
- 7.5.6. The primary lagoon would have capacity for 240 cubic metres. According to the applicant's EIA Screening report, in calculating the volume needed to be catered for in the primary lagoon, a conservative estimate of the drainage catchment was used. The applicant states that the quarry drainage catchment measures 1.8 hectares, despite stating in their Water Management Proposals report that the existing void catchment measures 2.2 hectares and the proposed new extraction area measures an additional 2.51 hectares. Mapping for this area and a walkover survey of the north east boundaries of the site reveals drains and ditches in the vicinity of the new extraction area. While the new quarry extraction area would not appear to absorb the drains in the northeast area, the catchment for the quarry would nevertheless increase with the broadening of the extraction processes. The overall drainage catchment area for the quarry should also account for the zone of drawdown from higher ground outside the existing and proposed quarry extraction area. While there is some overlap in terms of the existing quarry void and the new extraction area, the final excavated quarry would measure in excess of four hectares and the drainage catchment would extend further beyond this, however, the applicant's surface water



management proposals have been designed to cater for a catchment at least half this size.

- 7.5.7. Site investigations, including drilling of three rotary boreholes along the north and east benches of the quarry revealed that the water table was not reached at depths of 15m to 21m below the level of the proposed quarry floor. Copies of the borehole test results are not provided with the application documentation. None of these test boreholes have actually been undertaken in the area that is intended to form the new extraction area or its surrounding area, despite there being sufficient scope for additional boreholes to be undertaken. As the quarry expands horizontally, creating a deeper wedge into the hill, there is an increasing potential for the water table to be encountered. Furthermore, the information presented, including reference to 75% of the quarry floor featuring lying water to depths of 0.4m in March 2020, indicates the likelihood of seasonal variations in the water table. The applicant states that they have used Darcy's Law to estimate the impacts of the development on water flows and an average recharge level has been applied based on the aquifer classification, however these calculations are not individual to the site and there is reasonable level of uncertainty in the level of information presented based on the surveys undertaken.
- 7.5.8. While the applicant suggests that a conservative approach has been undertaken to address the need for quarry waters to settle and to be discharged from the site, the information available does not suggest this to be the case. I am not satisfied that the applicant has provided a clear conceptual understanding of the water environment based on detailed information relating to hydrogeology, such as anticipated yield flow rates from the relevant catchment, the seasonal flux in the water table and the potential to draw additional water from the drainage catchment along the northeast of the site. The applicant has therefore not included sufficient capacity within their proposals over the lifespan of the project to manage storm waters and surface water, which would present uncertainty and would have implications for other aspects of the development and the environment, as discussed below.
- 7.5.9. After passing through the lagoons and a hydrocarbon interceptor, storm and surface waters from the quarry would be discharged to a drain along the entrance road to the quarry. A discharge licence would be required for this and the applicant states that the discharge of waters from the quarry void would be undertaken in compliance with the emission limit values set and specified within the discharge licence. According to

the applicant, based on water analysis dating from March 2020, the levels of biological oxygen demand (BOD), pH and suspended solids for the drain along the entrance road to the site are currently within acceptable limits. An exceedance of BOD was recorded for the land drain/ditch at the northern boundary of the site, but this was asserted to be the result of cattle slurry been dumped nearby and/or decaying pine needles from a commercial forest.

- 7.5.10. The grounds of appeal refer to the site as having previously been used for dumping. The EPA records for this area do not identify the site as being an historical landfill or subject of illegal dumping. The applicant refers to the area previously been used as a yard area by Donegal County Council and not for dumping of domestic or hazardous waste, and a clean-up of the site took place approximately three years ago with disused machinery and other apparatus removed. During my visit I did note various materials and effects that appeared to be primarily associated with agricultural operations, strewn throughout the quarry and associated area. I also noted the remains of what appeared to be cattle slurry or silage in the area of the new quarry extraction area on ground above the drain on the northern boundary. While it is accepted that the current conditions on site regarding these materials and effects is not ideal, their removal to facilitate the project would be necessary as part of the project, and in the event of a permission a condition should be attached to ensure their safe removal and disposal of these unnecessary materials prior to the commencement of the development.
- 7.5.11. The containment and control measures to address the potential for chemical, oil or fuel spills, including various avoidance measures and actions to address potential contamination to surface waters and groundwater are proposed within the Water Management Proposals report. Operational measures to control hydrocarbons and suspended solids are also contained in the EIA Screening Report. A wheel-wash facility, fed by rainwater harvested from the roof of the proposed office building, would also be installed along the quarry access track. The local road accessing the site would be resurfaced and an aqua channel would be installed across the entrance road to the quarry feeding into the roadside drain.
- 7.5.12. While the applicant has identified that an oil and petrol interceptor would be installed along the piped drain gathering surface water from the area of the building to be used for the storage of fuels and they have stated that all petroleum-based products

would be stored in a bunded area to prevent pollution, details of the location and the built capacity of the bund have not been provided. These details should be provided as a condition in the event of a permission. The existing quarry floor is surveyed at being between 128.3m and 130.1m OD and is draining by gravity to a culvert pipe leading northeast and the details provided do not suggest that the proposed surface water drainage system would be upgraded to increase the rate of drainage outflow from the quarry void. Should the level of flooding witnessed in March 2020 arise within the quarry area, this would impact on the fixed plant and the parking of quarry vehicles within the void and details to address such a scenario have not been presented. Water levels potentially up to 0.4m above the quarry floor could therefore exceed the level of the primary settlement lagoon, thereby making this a redundant aspect of surface water management. Revised proposals for the lagoon are required to exclude waters following heavy rainfall and to account for the actual catchment, but this is dependent upon more precise data relating to the local water regime. Failure to address this would lead to high concentrations of suspended solids and hydrocarbons within the surface water leading to the secondary lagoon, which could potentially lead to the release of sediment-laden discharges to the receiving waters. There needs to be certainty that the proposed drainage system can suitably and reliably manage discharges to surface water and the information presented does not appear to show that this would be the case.

7.5.13. There are no GSI groundwater source protection zones immediate to the site. The grounds of appeal refer to private wells serving houses within 500m of the quarry, the nearest of which appears to be 270m to the west. The GSI maps for this area identify a number of recorded groundwater wells and springs in the immediate area, including one centred on Oakfield Park. All of the wells would be located below the level of the quarry floor and well outside the zone of influence of the quarry. Given the separation distances to these wells, the proposed development would not impact on supplies to these wells. A wastewater treatment system would be installed, which would not be required to deal with substantial wastewater volumes. A site suitability assessment has been submitted to show capacity to comply with EPA standards in this regard and I am satisfied that this part of the proposals would be appropriate based on the information provided. A potable water supply to serve the staff facilities

is proposed 20m up-gradient of the percolation area for the wastewater treatment system.

- 7.5.14. The Office of Public Works (OPW) flood maps for this area, do not identify the appeal site as being susceptible to flooding and the nearest flood events are stated to relate to flooding in 2006 in Raphoe and along the Swilly Burn, 1.5km to the southeast of the site. The proposed development would not be likely to result in significant change in the volume of water discharged to the wider water environment, including the Swilly Burn, and as such would not present an increased flood risk in the area.
- 7.5.15. With the increase in the catchment area due to the expanded extraction area, the proposed development has the potential for a reduction in the baseflow to the surface water feature draining northeast from the site. Such a reduced flow would only arise for approximately a 1.5km section of the surface water feature leading northeast length, as the roadside drain that the proposed development would drain into, would appear to feed back into this surface water feature prior to it crossing the under the R236 regional road. Notwithstanding this, a reduction in the baseflow can affect both the flow and level of this feature, with consequent impacts for surface water in terms of ecology and dilution of contaminants that may be otherwise present in the water body.
- 7.5.16. In accordance with the WFD, proposals that have the potential to impact 'waterbodies' are required to demonstrate that actions would not result in a deterioration in 'ecological status' and would not result in the relevant waterbodies being unable to achieve the relevant target ecological status. The River Basin Management Plan 2018-2021 require waterbodies in the catchment to achieve 'good' status and I am not satisfied that the proposed development would not lead to a deterioration in ecological status of local waterbodies and the achievement of the relevant target ecological status, based upon the observations and findings set out above. Notwithstanding the proposed measures to address surface water management and the various conditions that would also need to be addressed and complied with, the recommencement of quarrying operations would present uncertainty regarding the significance of the effects on the receiving surface waters, which could potentially be to the detriment of the ecological status of local waterbodies, including the achievement of the relevant target ecological status under

the WFD. To accord with Article 5 of the European Communities Environmental Objectives (Surface Waters) Regulations, 2009, as amended, public authorities should not undertake functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status or the ecological potential of a body of surface water. Based on the details provided, to permit the subject development would be contrary to these legislative provisions.

## **7.6. Biodiversity**

- 7.6.1. The applicant's assessment of biodiversity includes a collection of baseline ecological data, a habitat survey and a bird survey. The zone of influence included all national and EU designated sites located within a 5km radius of the quarry.
- 7.6.2. The applicant asserts that there is not a hydrological or ecological connection between the appeal site and European sites, including those listed in table 1 of Section 5.3 to this report. There is a hydrological connection between the quarry extraction area surface water discharges, which flow into a tributary of the Swilly Burn, which discharges to the River Foyle. Assessment of the effects on the conservation objectives of all relevant designated sites is undertaken in section 9 of this report addressing 'Appropriate Assessment'.
- 7.6.3. The closest Natural Heritage Area (NHA) is the Feddyglass Woods proposed NHA (Site Code: 001129), an ancient or possible ancient woodland site situated 3.8km to the east and upstream of the appeal site. The River Foyle Mongavlin to Carrigans proposed NHA (Site Code: 002067) is situated downstream and approximately 9km to the northeast of the site. Visual impacts on the receiving landscape, including from the wider area, have not been considered to be substantive above (see section 7.4 above).
- 7.6.4. A summary of habitats recorded on and adjacent to the quarry site is provided in the EIA Screening Report, and these habitats are considered to be of low ecological value and conservation status, including ED4 (active quarry), GA1 (improved grassland), GS1 (dry calcareous and neutral grassland), WL1/WL2 (hedgerows and treelines), WS1 (scrub), WD4 (conifer plantation), ED3 (recolonising bare ground) and FW4 (drainage ditches). No rare or protected fauna were found during the habitat survey and it was considered that no loss of important habitat for species

recorded within a 1km grid of the quarry or recorded in the last 15 years by the National Biodiversity Data Centre (NBDC), for example, pygmy shrew, Leisler's bat and soprano pipistrelle bat would arise as a result of the proposed works. Mature tree stands, invasive plant species or suitable roost areas for bats were not found on the quarry site. Other than records of birds, no evidence of mammals observed using the site were recorded. The birds using the site are not listed for protection.

- 7.6.5. Potential effects of the development on existing habitats on site would be imperceptible in the long term, having regard to the low ecological value of the site. Potential effects from fugitive dust leaving the site and subsequently becoming deposited on adjoining habitats would be low, with scope to monitor levels (as referred to in section 7.3 above). Noise emissions arising from the operations to the nearest ecological sites would not reasonably exceed the prescribed noise limits for the protection of wildlife, given the separation distances involved. The surveys undertaken suggest that the site is of very limited ecological value and the commencement of quarrying on site would not directly impact protected species based on the evidence provided. However, concerns have been raised above in section 7.5 regarding the capacity to safely manage surface waters on site and the potential indirect impacts of the development on water quality in receiving waters, including those ultimately draining to a tributary of the Swilly Burn. Any alterations in the water quality of the local surface water catchment may have potential implications for the respective aquatic ecology, a matter that is addressed further below under the heading 'Appropriate Assessment'. There would also be some variation in the volume of water leading to the land drain/ditch to the northeast of the site, although this would be unlikely to be significant based on the existing flow rates in the land drain/ditch.

## **7.7. Traffic**

- 7.7.1. The applicant's examination of the traffic impacts are set out in the EIA Screening Report, as well as a traffic survey report. The grounds of appeal assert that the resulting additional traffic, including the HGV movements, would increase risks to road-users, would increase traffic congestion and would have detrimental impacts to the setting of Raphoe. Trips to and from the entrance to the quarry would only be along the 600m stretch of the L-23749 local road connecting with the R236 regional

road. The local road serves one house at the junction with the regional road, as well as the appeal site owner's Ashfield House, agricultural lands and farmyard. At the local and regional road junction quarry trips would either be towards the N14 national road, 2.4km to the northeast, or to the southwest into Raphoe.

7.7.2. The impact that the proposed development is forecast to have on traffic flows on the surrounding road network during the operational phase is based on a mix of census data, local traffic knowledge, projections based on destinations within Raphoe and a 2017 traffic survey prepared for Donegal County Council on a neighbouring section of the R236. It is understood that this traffic survey was presented in a Transport Modelling Report (2019) as part of the TEN-T Priority Route Improvement Project for Donegal. The baseline average annual daily traffic figure for this stretch of the R236 east of Raphoe is stated as being 4,800 and this is referenced in Table 10 of the EIA Screening Report. It is submitted that there would be approximately 18 HGV movements both in and out of the quarry site in any working day and this would not result in a significant increase in road traffic. While, the applicant has failed to consider traffic movements associated with the eight to ten employees working at the site or any additional miscellaneous trips, for example trips associated with operations, maintenance and site inspections, the scale and nature of the quarry would not be one that would attract substantial traffic volumes. Other than the local road access to the site, the existing road network already caters for HGV traffic without undue impacts for road users. Furthermore, the additional traffic that would be generated by the proposed development would have a negligible impact on the traffic volumes along the R236 regional road, including through Raphoe, based on the existing and anticipated traffic volumes, as referenced by the applicant.

7.7.3. Improvements to the local road (L-23749) to serve the quarry have been sought and the applicant has addressed this via the provision of four passing bays, resurfacing and widening of the road to 6m and the cutting back of roadside planting to improve visibility. Such improvements would be necessary given the existing condition of this road and the anticipated increase and type of traffic. Two of the passing bays would appear to utilise part of the existing set down areas at the farmyard and house accesses. As noted above mature hedgerows and trees would be removed to facilitate the upgrade works and a condition is required to provide replacement planting to address the visual impacts of this.

7.7.4. The planning authority initially raised several concerns relative to the Design Manual for Urban Roads and Streets (DMURS) regarding the design and layout of the local road and regional road junction, which is just within the 50km/hr urban-speed limit zone. In response to this, the applicant proposed various safety works and improvement measures at the junction, including a widened local road, amended road radius, revised and additional road markings, gullies and signage. Visibility onto the R236 regional road would be achievable for a distance of 160m in a northeast direction and 72m in a southwest direction. Visibility and manoeuvrability for HGVs along the local road and at the junction of the regional road junction are addressed by the applicant within the further information drawing nos.09 and 10 and the planning authority clarified that the works at the junction would be acceptable, subject to conditions, including the need for the works to be undertaken in advance of the operation of the quarry and compliance with the DMURS. Other relevant mitigation measures, include a condition for a street sweeper to be employed twice daily along the public roads accessing the quarry site have been sought by the planning authority and are reasonable.

7.7.5. It can be concluded that given the relatively low volumes of traffic that would be likely to be generated by the quarry operations, the proposed development would only have a slight impact on the existing local and regional road network in terms of traffic flow. With the proposed upgrade works the road network in the area is capable of carrying the additional traffic that would be generated without jeopardising road safety.

## **7.8. Cultural Heritage**

7.8.1. The grounds of appeal refer to the potential impacts of the development on the archaeology of the area and the potential for additional archaeology to be found. An archaeological assessment report was submitted as part of the application and this identifies the Recorded Monuments and Places (RMPs) situated within the area surrounding the quarry site, the closest of which relates to an enclosure (ref. DG-062-031) located 100m to the south of the appeal site boundary and with its area of notification outside the appeal site. In addition to this, a standing stone (ref. DG-062-032) and a holy well (ref. DG-062-030) are situated 340m and 300m respectively to the southwest of the site. Other RMPs in the area, including Beltany stone circle



(ref. DG070-026001) situated 3.6km to the south, are of sufficient distance from the quarry site, not to be impacted directly or indirectly by the proposed development. A walkover study by the applicant's archaeologist revealed nothing of archaeological significance was encountered on site. Due to the possibility of the survival of previously unknown sub-surface archaeological deposits or finds within new areas that have not been subject to extraction, as a mitigation measure, any topsoil-stripping should be monitored by a qualified archaeologist. In the event of a grant of permission, this measure should be secured by way of the attachment of a suitable archaeological-monitoring planning condition.

- 7.8.2. The closest structures listed in the National Inventory of Architectural Heritage (NIAH) and buildings listed in the Record of Protected Structures appended to the Development Plan, including Oakfield House, are over 800m from the appeal site. Given the substantive separation distances to the appeal site, the integrity and setting of these buildings and structures would not be directly impacted by the proposed quarrying activities. The grounds of appeal refer to the indirect impacts of the additional traffic, including HGV traffic, on buildings and structures of cultural merit within Raphoe. While it is recognised above that there would be some additional traffic arising on the local road network, these roads already accommodate substantive volumes of traffic, including HGVs, and the project would not reasonably lead to a substantive increase in traffic that would affect the integrity and setting of buildings and structures of merit.

## **8.0 Environmental Impact Assessment Screening**

- 8.1.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within an EIA screening report and I have had regard to same in this screening assessment. This report contained information required under Schedule 7A of the Planning and Development Regulations 2001-2020 (hereinafter 'the Regulations'). The EIA screening report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Where an application is made for sub-threshold development and Schedule 7A information is submitted by the applicant, the Board must carry out a screening determination, therefore, it cannot screen out the need for EIA at preliminary examination.

8.1.2. This proposed development, is of a class of development included in Schedule 5 to the Regulations. Class 2(b) of Schedule 5 to Part 2 of the Regulations provides that mandatory EIA is required for the following class of development:

- extraction of stone, gravel, sand or clay, where the area of extraction would be greater than 5 hectares.

8.1.3. The existing quarry void is stated to measure 2.2 hectares and it is proposed to undertake extraction of a further 2.51 hectares, which would appear to slightly overlap along the exposed quarry rock faces, although the gross site area, including ancillary entrance area would be a stated 4.81 hectares. Having regard to class 2(b) of Schedule 5 to Part 2 of the Regulations, the proposed development is therefore sub-threshold in terms of the mandatory submission of an EIA.

8.1.4. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report, and I recommend to the Board that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an EIA report would therefore be required having regard to the following main reasons and considerations:

- the nature and scale of the proposed development, which is below the threshold in respect of class 2(b) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2020,
- the existing development and history of the site;
- the pattern of development in the surrounding area;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001-2020;
- the guidance set out in the Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2020, and;

- the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment;
- and the potential significant effects to the receiving surface water as a result of the uncertainty of the proposals to adequately and reliably manage the storm and surface waters arising.

8.1.5. It is considered that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an EIA report would therefore be required. An EIA report has not been provided and in these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development the subject of the application.

## **9.0 Appropriate Assessment**

### **9.1. Stage 1 - Screening**

9.1.1. The site location is described in section 1 of this report above. A description of the proposed development is provided in section 2 of this report and expanded upon below where relevant. A Screening Report for Appropriate Assessment was submitted with the application and this asserted that avenues between the nearest European sites and the appeal site do not exist and that the project would not be likely to have a significant effect on any European site.

9.1.2. Consultation with the National Parks and Wildlife Service (NPWS) of the Department of Culture, Heritage and the Gaeltacht highlighted that the site was within the catchment of the River Finn SAC (Site Code: 002301) and AA screening was recommended.

### **9.2. Potential Direct, Indirect or Secondary Impacts**

9.2.1. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:

- alterations to water quality, for example, through accidental spills or the release of suspended solids to ground and surface water;
- alterations to the hydrological regime and hydromorphology;
- loss, disturbance or fragmentation of habitat and/or species.

### 9.3. Relevant European Sites

9.3.1. Relevant European sites proximate to the quarry site and in the wider area are listed in section 5.3 above. Having regard to the information and submissions available, the nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source-pathway-receptor principle and the sensitivities of the ecological receptors, the following European Sites in table 2 were considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment. All other European sites can be discounted by virtue of distance from the appeal site and the lack of a pathway to the appeal site. The applicant's Screening Report for AA did not refer to the River Foyle and Tributaries SAC (Site Code: UK0030320).

**Table 2.** Details of European Sites considered for Stage 1 Screening

Site Name	Qualifying Interests	Source-pathway-receptor	Consider further in Screening
Lough Swilly SAC	<ul style="list-style-type: none"> <li>• Coastal lagoons;</li> <li>• Atlantic salt meadows;</li> <li>• Molinia meadows on calcareous, peaty or clayey-silt-laden soils;</li> <li>• Old sessile oak woods with Ilex and Blechnum in the British Isles;</li> <li>• Lutra Lutra (Otter).</li> </ul>	No hydrological link	No
Lough Swilly SPA	<ul style="list-style-type: none"> <li>• Great Crested Grebe;</li> <li>• Grey Heron;</li> <li>• Whooper Swan;</li> <li>• Greylag Goose;</li> <li>• Shelduck;</li> </ul>	No hydrological link, appeal site is not a suitable ex situ habitat and the European site is outside of	No

	<ul style="list-style-type: none"> <li>• Wigeon;</li> <li>• Teal;</li> <li>• Mallard;</li> <li>• Shoveler;</li> <li>• Scaup;</li> <li>• Goldeneye;</li> <li>• Red-breasted Merganser;</li> <li>• Coot;</li> <li>• Oystercatcher;</li> <li>• Knot;</li> <li>• Dunlin;</li> <li>• Curlew;</li> <li>• Redshank;</li> <li>• Greenshank;</li> <li>• Black-headed Gull;</li> <li>• Common Gull;</li> <li>• Sandwich Tern;</li> <li>• Common Tern;</li> <li>• Greenland White-fronted Goose;</li> <li>• Wetland and Waterbirds.</li> </ul>	range of noise or other disturbance impacts	
River Finn SAC	<ul style="list-style-type: none"> <li>• Oligotrophic waters containing very few minerals of sandy plains;</li> <li>• Northern Atlantic wet heaths with Erica tetralix;</li> <li>• Blanket bogs (* if active bog);</li> <li>• Transition mires and quaking bogs;</li> <li>• Salmo salar (Salmon);</li> <li>• Lutra Lutra (Otter).</li> </ul>	Hydrological link via surface water drainage to Swilly Burn connected to River Finn.	<b>Yes</b> - Potential for significant effects arising from contaminated surface water runoff.
River Foyle and Tributaries SAC	<ul style="list-style-type: none"> <li>• Lutra Lutra (Otter)</li> <li>• Salmo salar (Salmon)</li> <li>• Water courses of plain to montane levels with the</li> </ul>	Hydrological link via surface water drainage to Swilly Burn connected to River Finn	<b>Yes</b> - Potential for significant effects arising from

	Ranunculion fluitantis and Callitricho-Batrachion vegetation		contaminated surface water runoff.
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#### 9.4. Is the Project necessary to the Management of European sites?

9.4.1. The project is not necessary to the management of a European site.

#### 9.5. Potential Direct and Indirect Effects

9.5.1. Conservation objectives for the sites connected with the appeal site, the River Finn SAC and the River Foyle and Tributaries SAC, are listed in tables 3 and 4 respectively below.

**Table 3.** Conservation Objectives for River Finn SAC

To restore the favourable conservation condition of Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> )
To restore the favourable conservation condition of Northern Atlantic wet heaths with <i>Erica tetralix</i>
To restore the favourable conservation condition of Blanket bogs (*if active bog)
To restore the favourable conservation condition of Transition mires and quaking bogs
To maintain the favourable conservation condition of Salmon
To maintain the favourable conservation condition of Otter

**Table 4.** Conservation Objectives for River Foyle and Tributaries SAC

To maintain (or restore where appropriate) the otter to favourable condition
To maintain (or restore where appropriate) Atlantic salmon to favourable condition
To maintain (or restore where appropriate) the water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation to favourable condition

9.5.2. Based on the information available and provided with the applicant's Screening Report for AA, in light of the conservation objectives for European sites and the separation distance over land to European sites, direct effects as a result of the loss, disturbance or fragmentation of habitat and/or species would not be likely to arise.

Based on the source-pathway-receptor model, there is potential for indirect effects via surface water discharge from the quarry on the downstream waters in the St. Johnston stream sub-catchment and the River Foyle catchment. As noted in section 7.5 above the quarrying operations would present uncertainty regarding the significance of the effects on the receiving surface waters, which could potentially be to the detriment of the ecological status of local waterbodies, including those forming part of the River Finn SAC and River Foyle and Tributaries SAC. Consequently, the proposals could be to the detriment of water quality in the SACs and the maintaining of the favourable conservation condition of salmon and otter reliant on these waters. Indirect effects via alterations to the hydrological regime and hydromorphology of waters forming part of the River Finn SAC and River Foyle and Tributaries SAC would not arise as the quarry would continue to drain all waters into the tributary flowing into the Swilly Burn stream connecting with the River Foyle.

## **9.6. In combination impacts**

- 9.6.1. There are no projects which can act in combination with the development which could give rise to significant effects to European sites within the zone of influence.

## **9.7. Stage 1 – Screening Conclusion**

- 9.7.1. It is reasonable to conclude on the basis of the information on the file, which I consider to be satisfactory 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 Swilly SAC (Site Code: 002287) and Lough Swilly SPA (Site Code: 004075) given the absence of any pathway between these sites and the appeal site, as well as the separation distances.
- 9.7.2. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually could have a significant effect on River Foyle and Tributaries SAC (Site Code: UK0030320) and River Finn SAC (Site Code: 002301), in view of the

sites' Conservation Objectives, and Appropriate Assessment and submission of a Natura Impact Statement is therefore required.

## **10.0 Recommendation**

**10.1.** I recommend that planning permission for the proposed development should be refused for the reasons and considerations set out directly below.

## **11.0 Reasons and Considerations**

1. The documentation and details submitted with the planning application and appeal has not demonstrated adequate proposals for the proper and satisfactory management of surface water at the proposed development. In the absence of such information and having regard to Article 5 of the European Communities Environmental Objectives (Surface Waters) Regulations, 2009, as amended, which requires that a public authority, in the performance of its functions, shall not undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status, or the ecological potential of a body of surface water, it is considered that the proposed development would pose an unacceptable risk of environmental pollution and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the surface water management proposals and the potential for impacts arising for receiving surface water bodies, to the criteria set out in Schedule 7 of those Regulations, to the provisions of the document 'Guidance for Consent Authorities regarding Sub-threshold Development' issued by the Department of the Environment, Heritage and Local Government in August 2003, it is considered that the proposed development would be likely to have significant effects on the environment and should be subject to an environmental impact assessment within the meaning of Part X of the Planning and Development Act 2000, as amended. The proposed development would, therefore, require an Environmental Impact Assessment Report, which should contain the information set out in Schedule 6 of the said Regulations. In these circumstances, it is considered that the Board is



precluded from giving further consideration to the granting of permission for the development the subject of the application.

3. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually could have a significant effect on River Foyle and Tributaries SAC (Site Code: UK0030320) and River Finn SAC (Site Code: 002301), in view of the sites' Conservation Objectives, and Appropriate Assessment and submission of a Natura Impact Statement is therefore required.

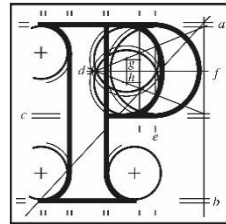
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Colm McLoughlin  
Planning Inspector

1<sup>st</sup> July 2021

## Appendices

### Appendix A: EIA Screening



An  
Bord  
Pleanála

#### EIA - Screening Determination

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>		ABP-308326-20
<b>Development Summary</b>		Quarry and associated development on a site area of 4.81 hectares at Magherasolis and Craig townlands, Raphoe, County Donegal.
	<b>Yes / No / N/A</b>	
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Report and Screening Report for AA was submitted with the application
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	

<p>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</p>	<p>Yes</p>	<p>SEA undertaken in respect of the Donegal County Development Plan 2018-2024.</p>
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<p><b>B. EXAMINATION</b></p>	<p><b>Yes/ No/ Uncertain</b></p>	<p><b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b></p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> <p><b>Mitigation measures</b> –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p><b>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</b></p>
<p><b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b></p>			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No</p>	<p>The development comprises the recommencement of quarrying on site and extension of the extraction area, the demolition of an outbuilding, the reuse of one building for fuel storage and new buildings and structures. The wider area is characterised by structures of similar size and scale, albeit differing uses, and the proposed development is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development.</p>	<p>No</p>

<p><b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>Such changes in land use and form are not considered to be out of character with the pattern of development in the surrounding rural area. Physical changes in topography would be localised and would be addressed through restoration.</p>	<p>No</p>
<p><b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>The loss of natural resources or local biodiversity as a result of the development of the site is not regarded as significant in nature given the present site condition, the nature of the rock resource and the existing land use of the site. Project operations would not use additional waters and the rock materials to be sourced are not in short supply given the various quarrying operations in the wider area.</p>	<p>No</p>
<p><b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Operation activities will require the use of potentially harmful materials, such as fuels and other substances, including explosives for blasting. Secure storage for fuels on-site and various methods for their use has been set out, while blasting materials would not be stored on site and detailed safety protocols would be followed to address potentially harmful effects on humans.</p>	<p>No</p>

<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Operational activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Noise and dust emissions, as well as polluting materials from blasting during operation are likely. Such operational impacts would be local in nature and implementation of a measures stated in the application documentation, as well as suggested conditions, would satisfactorily mitigate potential impacts. Operational waste will be managed by a Waste Management Plan to obviate potential environmental impacts.</p>	<p>No</p>
<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Yes</p>	<p>There is a connection from the site to surface waters with a direct discharge proposed. The operational development would be subject to a discharge licence and would employ a surface water management system, including settlement lagoons and hydro-carbon interceptor, although it has not been satisfactorily shown that this would suitably and reliably mitigate the surface water emissions. Without suitable measures in place to address surface water management, there would be potential for pollutants to enter receiving surface waters which could have significant effects for the environment.</p>	<p>Yes</p>

<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for operation activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by conditions and the operation of an Environmental Management and Monitoring Plan.</p>	<p>No</p>
<p><b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Yes</p>	<p>Operation activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of an Environmental Management and Monitoring Plan would satisfactorily address potential impacts on human health.</p>	<p>No</p>
<p><b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>Yes</p>	<p>Any risk arising from operations, such as rock fall/landslide will be localised, temporary in nature and distant from sensitive receptors. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p>No</p>
<p><b>1.10</b> Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Recommencement of quarrying would not impact on population and would provide a low level of employment.</p>	<p>No</p>
<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>Yes</p>	<p>The development is part of the recommencement of an existing quarry on an overall site measuring 4.81 hectares and would not have any additional cumulative effects on the environment to those listed above.</p>	<p>No</p>
<p><b>2. Location of proposed development</b></p>			

<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> <li>1. European site (SAC/ SPA/ cSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> <li>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ol>	No	<p>No designated natural heritage sites are located in the vicinity of the site. The nearest European sites are listed in Table 1 of section 5.3 above. The closest NHA is the Feddyglass Woods proposed Natural Heritage Area (pNHA) (Site Code: 001129) situated 3.8km to the east and upstream of the appeal site and the River Foyle Mongavlin to Carrigans pNHA (Site Code: 002067) situated downstream and approximately 9km to the northeast of the site. Annex II habitats or habitat suitable for protected species of plants were not found on site during ecological surveys. It is uncertain if the proposed development would result in significant impacts to downstream European sites as a result of the surface water management proposals.</p>	Uncertain
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	Yes	<p>The lands are not suitable for substantive numbers of wintering wetland or wading birds associated with coastal inlets and estuaries and a bird survey did not identify the lands being used by such birds of protected status. Suitable habitat for frogs, newt, fish or protected invertebrate were not identified on site during ecological surveys. Bats or other protected mammal species were not recorded using the site or its adjoining area.</p>	No

<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes</p>	<p>The development site sits on the southside of hill overlooking the Laggan valley landscape character area in an area of high landscape amenity, although not featuring views identified in the Development Plan for protection. The proposed development would not have an effect on known archaeological monuments and a condition can be applied to address potential for unknown archaeology.</p>	<p>No</p>
<p><b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>	<p>The site is surrounded by expansive areas of agricultural and commercial forestry.</p>	<p>No</p>
<p><b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>There is a connection from the site to surface waters with a direct discharge proposed. The operational development would employ a surface water management system, including settlement lagoons and hydro-carbon interceptor, although it has not been satisfactorily shown that this would suitably and reliably mitigate the surface water outflow particularly following heavy rains. Failure of the surface water management proposals could have significant effects on the water quality of receiving surface waters due to excess volumes of sediment not being settled out. The development would not increase risk of flooding to other lands. Furthermore, there is some potential for an alteration in the volume of waters to the land drain/ditch to the north east of the site, which could have significant effects on the ecological and hydrological status of these waters.</p>	<p>Yes/Uncertain</p>



<p><b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?</p>	<p>Yes</p>	<p>The bedrock geology of the site is listed as fine grained slightly impure quartzite with beds typically 5cm thick and occasional pebbly beds. Bedrock is predominantly overlain by metamorphic rocks with the exposed part of the site dominated by metadolerite rock. The only evidence of landslide or erosion is within the quarry void, which features steeply sloping exposed rock and benches. Operational management and monitoring can adequately mitigate any risks arising in this regard.</p>	<p>No</p>
<p><b>2.7</b> Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>The site is served by a local urban and rural road network, with improvements to the local road and its regional road junction proposed.</p>	<p>No</p>
<p><b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>The Royal and Prior School grounds are located 450m to the south of the site, as well as other community facilities within the environs of Raphoe. Significant operational impacts are not anticipated. Operational management proposals would ensure that no significant emissions or traffic impacts arise.</p>	<p>No</p>

**3. Any other factors that should be considered which could lead to environmental impacts**

<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	There is an existing former quarry on site and the proposed development and other minor developments in the vicinity would not give rise to significant cumulative environmental effects.	No
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise	No
<b>3.3</b> Are there any other relevant considerations?	No		No

### C. CONCLUSION

No real likelihood of significant effects on the environment.		EIAR Not Required	
Real likelihood of significant effects on the environment.	✓	EIAR Required	✓

### D. MAIN REASONS AND CONSIDERATIONS

Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of class 2(b) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2020,
- the existing development and history of the site;
- the pattern of development in the surrounding area;

- the location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001-2020;
- the guidance set out in the Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2020, and;
- the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment;
- and the potential significant effects to the receiving surface water as a result of the uncertainty of the proposals to adequately and reliably manage the storm and surface waters arising.

It is considered that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an EIA report would therefore be required. An EIA report has not been provided and in these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development the subject of the application.

Inspector: \_\_\_\_\_ **Colm McLoughlin**

Date: 1<sup>st</sup> July 2021