Inspector's Report
ABP-314181-22

Development	Development consisting of a quarry.
Location	Trentaghmucklagh, St. Johnston, Co. Donegal
Planning Authority	Donegal County Council
Applicant(s)	Ian Tinney
Type of Application	Substitute Consent
Date of Site Inspection	9th August 2023
Inspector	Hugh D. Morrison

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1.0 Site Location

1.1. The site is located c. 4km to the west of St. Johnston, and in the townland of Treantaghmucklagh. This site lies in an area of undulating countryside. The St. Johnston Stream flows through a narrow valley to the north-west of the site, beyond which is situated the distinctive landform of Doolish Mountain. The site is accessed off the northern side of the L1264-4 via the L-5414, a lane, which serves the gated entrance to the quarry, and which initially has a concrete surface. On the western side of the lane lies a farmyard and several dwelling houses lie along the local road in the vicinity of its junction with the lane. This lane continues eastwards to the south of the quarry and its adjoining neighbouring quarry to the east.

2.0 The proposal

2.1. The site encompasses the existing quarry. This site is of irregular shape, and it extends over an area of 9.9 hectares, of which 7.7 hectares has been/is being extracted. Essentially, the site sub-divides into three distinct parts, which can loosely be described as the southern, central, and northern portions.

- Within the southern portion, extraction of rock has occurred most recently, and, indeed, continues. The submitted plans show the extensive quarry floor as being c. 107m OD. This floor is accessed by means of a ramp, which descends from the vicinity of the quarry entrance, and which accompanies the quarry face beside the southern boundary. This boundary is denoted by means of an earthen embankment with a hedgerow on top of it. A strip of higher land separates the southern portion of the site from the adjoining neighbouring quarry to the east. Within the vicinity of the quarry entrance, there is a 16.24 sqm container, and a weighbridge.
- Within the central portion, there is an extensive settlement pond with a surface level of 117.16m OD. A continuous area of higher land separates this portion of the quarry from the southern portion, from where a pump is used to remove surplus water to the settlement pond.
- Within the northern portion, there are smaller ponds and a wetland area. The ponds have a surface level of 114.20m OD, and they ultimately discharge to

the St. Johnston Stream, which passes to the north-west and which runs in a south-westerly direction.

2.2. The applicant outlines typical quarrying activities. Thus, blasting occurs once or twice a year, stone shale is extracted by a mechanical digger, and these materials are crushed/graded using mobile plant before being either stockpiled or moved directly off-site. No washing of materials is undertaken. Weekday hours of operation are 08:00 to 18:00, and occasional Saturday work is between 08:00 and 14:00.

2.3. The applicant has set out the following list of plant and machinery, which he uses in the quarry:

- 4 track machines/excavators (maximum of 2 used together),
- 1 crusher (up to 3 hours daily),
- 1 screener (up to 3 hours daily),
- 1 loading shovel,
- 2 lorries (used for deliveries),
- 1 generator (used up to 1 hour each morning during wet periods), and
- 1 water pump (used up to 1 hour each morning during wet periods).

2.4. The proposal seeks to regularise the planning status of the quarry as depicted on the submitted plans.

3.0 **Planning History**

Site

- 04/6411: Retention of quarry entrance and access road and associated works: Permitted.
- QY44: Quarry registered under Section 261: The case planner's report, dated 28th March 2007, stated that the overall area was c. 11 hectares with c. 4.1 hectares under extraction: Conditioning did not ensue.
- QB0024: Under Section 261A(2)(a), the PA determined that development had occurred post-1990, which would have required an EIS, and post-February 1997, which would have required an AA. The case planner's report estimated

from a 2010 aerial photograph that c. 9 hectares were under extraction. Under Section 261(A)(3), a notice dated 29th June 2012 was served on the applicant to apply for substitute consent.

- PL05.SH0011: The Board granted a request for an extension in time for making a substitute consent application until 21st January 2013.
- EUQY44 & PL05E.SU0010: Substitute consent sought for the existing quarry, site office, store, weighbridge, and gravel screening unit, all within a 13.17-hectare site, which includes extraction over 10.17 hectares. The Board issued a request for further information. However, the applicant did not respond, and so substitute consent was not granted by the Board on 30th October 2015 for the following reason:

  On the basis of the information submitted in support of the application for substitute consent, the Board is not satisfied that the information contained in the remedial environmental impact statement and associated documentation on file is adequate to allow the Board to undertake an assessment of the effects of the development on the environment. It is considered that there is insufficient information on the receiving environment, and that the effects of the development in relation to human beings, water, ecology, air, noise and the landscape have not been adequately identified or analysed. Furthermore, the Board is not satisfied that the cumulative effects of the quarry in association with the existing adjoining quarry to the east have been sufficiently assessed. In the absence of completion of an environmental impact assessment, it is considered that the Board is precluded from giving further consideration to the granting of substitute consent for the development the subject of the application.

- UD 2061: Enforcement notice served on 3rd July 2020 requiring that quarrying cease on the site.
- ABP-310041-21: The Board granted leave to apply for substitute consent on 12th November 2021, having regard to the following considerations:
  - *This application for leave to apply for substitute consent has demonstrated that the regularisation of the quarry would not circumvent the purposes and objectives of the Environmental Impact Assessment Directive or of the Habitats Directive, because it would allow for the provision of information and an analysis of the likely*

significant environmental effects of the development and the effects of the development on the integrity of European sites,

- *Notwithstanding submission of a substitute consent application (ABP ref. 05E.SU0010) inferring that the applicant acknowledged that there was no planning permission for the quarry, prior to receipt of the Planning Authority's enforcement notice under reference UD 2061 dated the 3rd day of July, 2020, the applicant could reasonably have had a belief that the quarrying development that took place was not unauthorised, particularly as the Planning Authority had failed to take enforcement action following the initial registration of the quarry and as the retention of an access road to specifically serve the quarry had been granted by the Planning Authority in 2005 (DCC ref. 04/6411),*
- *The ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment and to carry out an appropriate assessment has not been substantially impaired, and that public participation in such assessments has not been substantially impaired, and*
- *A remedial environmental impact assessment would allow for the remediation of actual or likely significant effects on the environment and a remedial Natura Impact Statement would allow for the remediation of any adverse effects on the integrity of a European site.*

- ABP-312853-22: The Board granted a request for an extension in time for making a substitute consent application until 20th June 2022.
- ABP-313753-22: The Board granted a request for an extension in time for making a substitute consent application until 18th July 2022.

Adjoining site to the east:

- PL05E.SU0006: Substitute consent for a slate quarry on a 6.2-hecatre site. Substitute consent was granted by the Board on 26th February 2015.

4.0 Policy and Context

4.1. National Policy and Advice

- National Planning Framework
- Quarries and Ancillary Activities Guidelines

- The EPA's Guidelines on the information to be contained in Environmental Impact Assessment Reports
- The EPA's Environmental Management in the Extractive Industry (Non-Scheduled Minerals)
- The NPWS's Appropriate Assessment of Plans and Projects in Ireland Guidance

4.2. Development Plan

The operative development plan for the site is the Donegal County Development Plan 2018 – 2024 (CDP). This Plan shows the site as lying within a stronger rural area of high scenic amenity. Under Section 8.1 of it, the extractive industry is addressed, and three objectives and six policies are set out.

4.3. Natural Heritage Designations

- River Fynn SAC (002301)
- River Foyle and Tributaries SAC (UK 0030320)

5.0 Submissions

5.1. Prescribed bodies

- IAA: No observations.
- TII: Advises that "Having regard to the extent of the operations presented in the rEIAR and the location of the subject quarry operations accessing the local road network, the Authority has no specific comment to make in relation to the subject development in terms of impacts relating to the safe and efficient operation of the existing or planned road network in the area."
- HSE: Environmental Health Service (EHS): Critiques are provided of the following subjects in the rEIAR: noise and vibration, dust, and ground and surface water. The clarity of the overall conclusion is questioned.

5.2. Further Responses

The applicant responded to each of the prescribed bodies comments, and in particular, the comments of the HSE (EHS).

5.3. HSE (EHS)'s comments and the applicant's responses

For ease of reference, I have summarised below the HSE (EHS)'s comments in italics and the applicant's responses.

- Noise and vibration
  - *The use of an absolute noise exposure limit at each noise sensitive receptors fails to delineate the impact of the quarry.*

    The use of an absolute noise exposure limit establishes the overall noise climate at the noise sensitive receptors.
  - *Attenuation afforded by the deepening void arose from the progression of quarrying and should not be relied upon in the rEIA.*

    Modelling excluded the attenuation afforded by topography to create a "worse case" scenario at noise sensitive receptors. Nevertheless, current limits would be complied with, and so it can reasonably be assumed that this would have been so historically, too.
  - *Clarification is needed as to what noise mitigation measures were in-situ historically.*

    These measures included acoustic berms where feasible on-site boundaries, the use of crushing/screening plant on the quarry floor, the regular maintenance of plant and machinery, the avoidance of leaving plant and machinery idling, and operating procedures that avoided dropping materials from unnecessary heights.
- Dust emissions
  - *Dust monitoring should include dry summer months.*

    Due to time constraints on the submission of the application, only June 2022 was included as a summer month for dust monitoring. However, March 2022, which was also included, was an exceptional dry month.

- *Rather than a monthly average, daily levels should be recorded to identify any dust nuisance.*

  The Quarries and Ancillary Activities Guidelines recommend a dust deposition limit of 350 mg/sqm/day based on the Bergerhoff Method. Dust monitoring points returned levels much lower than this limit. Daily analysis would be impractical.

- Groundwater

- *The applicant's conclusion of no significant adverse effect upon either surface or groundwater relies on the implementation of mitigation measures: were they implemented?*

  Yes

6.0 Planning Assessment

6.1. The proposal needs to be the subject of Environmental Impact Assessment (EIA) and Appropriate Assessment (AA). To these ends, the applicant has submitted a remedial EIAR and a remedial NIS, which I will draw upon under subsequent headings. Under the current heading, I have reviewed the proposal in the light of the National Planning Framework (NPF), and the Quarry and Ancillary Activities Guidelines, the Cavan County Development Plan 2014 – 2020 (CDP). Accordingly, I consider that this application for substitute consent should be assessed for planning purposes under the following headings:

(i) Planning policies, and planning history, and

(ii) Compliance issues.

(i) Land use, planning policies, and planning history

6.2. The NPF and the CDP recognise quarries as a national resource that are of key importance in their provision of aggregates to the construction sector and in their provision of employment within the rural economy. They also recognise that aggregates are a finite resource, which needs to be safeguarded. The Quarries and Ancillary Activities Guidelines recognise, too, the land use reality that "aggregates can only be worked where they occur" and the economic reality that in order to limit transportation costs quarries need to be excavated throughout the country.

6.3. The planning history of the site indicates that retention permission was received in 2004 for the existing access arrangements to the site from the L1264-4. This permission addressed by condition improvements to the local road and sightlines at the access point from this local road.

6.4. The planning history of the site also indicates that it was registered under Section 261 in 2007 and that the applicant was advised by the planning authority in 2012 of the need to obtain substitute consent. An application was duly made. However, the Board did not grant substitute consent on the ground that further information was required. Such information was not forthcoming. In 2020, the planning authority served an enforcement notice upon the applicant requiring that quarrying cease on the site. In 2021, the applicant applied to the Board for leave to apply for substitute consent. This was granted, and the current application was subsequently made.

(ii) Compliance issues

6.5. The applicant refers in the rEIAR to his compliance with the above cited condition attached to the retention permission. While I accept that such compliance has occurred, during my site visit, I observed that the western sightline at the access point has become overgrown, and so it needs to be the subject of a further condition that requires its availability in perpetuity. Such a condition would be feasible, as the land concerned lies under the applicant's control, i.e., it is within the blue edge of the site location map.

6.6. During my site visit, I also observed that, notwithstanding the above cited enforcement notice, quarrying activities were continuing. While I recognise that matters of enforcement are not within the Board's remit, I recognise, too, that the current application addresses only quarrying activities undertaken prior to its lodgement on 22nd July 2022. If what I observed during my site visit is representative of what has been occurring since that date, then any substitute consent granted to the current application would not be capable of authorising all the quarrying activities that have ensued, i.e., it would only authorise those undertaken prior to the date upon which it was lodged.

6.7. I conclude that the above cited compliance issues do not prevent the Board from assessing/determining this application in the normal manner.

7.0 Environmental Impact Assessment

Introduction

7.1. The applicant has submitted a remedial Environmental Impact Assessment Report (rEIAR), and a non-technical summary, which were prepared under the EIA Directive (2014/52/EU) and the corresponding provisions in the Planning and Development Act, 2000 – 2023 (hereafter referred to as "The Act"), and the Planning and Regulations, 2001 – 2023 (hereafter referred to as "The Regulations").

7.2. I have examined the information submitted by the applicant in its rEIAR and the submissions made by the external consultees of the Planning Authority, i.e., the IAA, the TII, and the HSE: Environmental Health Service (EHS). I have summarised them in Section 5.0 of my report. Issues raised by the HSE(EHS) relate to noise and vibration, dust, and groundwater, and they are responded to by the applicant and discussed further under the headings of "Noise and vibration", "Air", and "Water" below.

7.3. The rEIAR contains the information specified under Schedule 6 to Article 94 of the Planning and Development Regulations, 2001 – 2023 (hereafter referred to as the Regulations). It identifies, describes, and assesses the likely effects of the project on the environment, along with accompanying references, and it lists the experts and their qualifications who contributed to the rEIAR.

7.4. The applicant reports that it encountered no difficulties in preparing its rEIAR.

7.5. I conclude that the applicant's rEIAR complies with the provisions of Article 94. I will draw upon it in undertaking an EIA of the proposal. In doing so, I will assess each subject in turn before looking at their interactions with one another.

Alternatives

7.6. The current application is for substitute consent and so it addresses development that has already occurred on the site. In these circumstances, the need to consider alternatives does not arise.

(i) Population and human health

7.7. The quarry lies within one of three small areas that comprise the Trentaghmucklagh Electoral Division. The population of this small area (057145003) remained stable

between the 2011 and 2016 Census, i.e., 212 and 210, respectively. Persons at work within this small area numbered 100 in 2016. The housing stock within this small area numbered 92 dwellings in 2016 of which 74 were occupied. The corresponding occupancy rate was 2.83.

7.8. Historically, 10 people were employed in the quarry. Presently, 4 people are employed. The grant of substitute consent and any future application to continue quarrying would secure these jobs and the contribution they make to the local economy, along with the provision of aggregates to building and farm drainage projects in the locality.

7.9. Land uses within 500m of the quarry comprise agriculture and forestry, the adjoining quarry to the east, and 21 dwelling houses, the nearest of which is c. 120m to the south-west of the quarry. Under table 5.4, the 21 planning applications made on sites within 1km of the quarry since 1998 are summarised. These comprised proposals for dwelling houses, domestic extensions, and agricultural buildings.

7.10. Impacts from the quarry with the potential to affect human health include dust, noise, blasting, ground stability, and water quality. These impacts are considered further under their relevant individual subject headings.

7.11. Unplanned events, such as accidents and flooding, are addressed in the rEIAR. In relation to the former, the small workforce and the relative proximity of hospitals in Letterkenny and Derry City are cited. In relation to the latter, the hilltop location of the quarry and settlement ponds within it mean that it is not at risk of flooding.

7.12. I conclude that the quarry has provided employment, which has contributed to the local economy.

(ii) Biodiversity

7.13. The applicant's ecologist undertook desktop studies. Map 6.1 shows the site in the north-western corner of the Hectad C30. Information for fauna and flora in this Hectad was accessed, along with that in Hectads C29, C30, and C31 for mammals, including bats.

7.14. The applicant's ecologist undertook field studies, which allowed the habitats of the site to be mapped (Figure 6.3 and Table 6.10) and commented upon. Mammal and

bird surveys were undertaken, too. The presence of mammals was not identified. Fourteen bird species were identified, although none of them are formally protected.

7.15. Arising from the foregoing the applicant's ecologist identified, in Table 6.11, the following key ecological receptors (KER):

- Of international importance: River Finn SAC (002301) and River Foyle and Tributaries SAC (UK 0030320),
- Of national importance: River Foyle, Mongavlin to Carrigans pNHA, and
- Of local importance (higher value): St. Johnston Stream, which drains the site, and which flows into the River Foyle, and bird species and their on-site habitats.

The applicant's remedial Natura Impact Statement (rNIS) addresses the potential effects of the proposal on the above cited SACs. As the River Finn SAC overlaps with the River Foyle, Mongavlin to Carrigans pNHA, the potential effects upon this pNHA are covered by the rNIS, too.

7.16. Under Table 6.12, impacts arising from the quarry are identified, along with the above cited KERs of local importance. These impacts are described as follows:

- Surface water quality impacts from suspended sediment load,
- Loss of habitat from stripping works for quarrying activities,
- Impact of dust from quarrying on wildlife, and
- Impact of noise from quarrying on wildlife.

7.17. Each impact is described, along with the sensitivity of the environment, and the resulting significance of the impact. Pre-mitigation, the levels of significance assigned are in each case moderate, and, post-mitigation, the levels of significance assigned are in each case imperceptible. The mitigation measures cited are those that are also cited under the subject headings of water, landscape and restoration, air, and noise and vibration.

7.18. The rEIAR concludes that "historic expansion of quarry activities within the subject site have had no significant residual effects, assuming the mitigation measures outlined in the chapter on biodiversity were, and continue to be, adhered to. I concur

with this conclusion with the proviso that the, as yet, future mitigation measures, i.e., the quarry restoration plan, be included, too.

(iii) Lands, soils, and geology

7.19. Ordnance Survey maps from 1829 – 1841 show the site as being partially excavated, along with the more extensive excavation of the adjoining neighbouring lands to the north-east. Intermittent excavation was undertaken on the site until 1939, with a resumption in excavation under the current owner in 1978.

7.20. While there are no undisturbed soils left on the site, the GSI website shows the three acidic soil types that would have historically been present, i.e., Admin SW, PD, and DW. These soils have been reused in the berms that have been formed along some of the site boundaries.

7.21. The geology of the site originated in the Cambrian Age and all the exposed strata in the quarry comprise slates. The accompanying geologist's report advises that, as the slate is flaky, it is unsuitable for use in concrete, but it is suitable as an aggregate in the construction of farm and forestry roads and drainage schemes.

7.22. Under Tables 7.12 and 7.14, the impact of the loss of bedrock geology as extracted rock is acknowledged. This impact is described, along with the sensitivity of the environment, and the resulting significance of the impact. Values of high, low, and moderate are assigned in both pre and post mitigation stages. The rEIAR invites this impact to be weighed in the context of the economic and environmental benefits that ensue for the locality from having a local source of aggregate.

7.23. Under Tables 7.12 and 7.14, the impacts of the loss of soils/sub-soils due to extraction and hydrocarbon contamination through accidental spillages/leaks are described, along with the sensitivity of the environment, and the resulting significance of the impacts. The significance of the former impact changes from moderate to slight with mitigation and the significance of the latter impact changes from slight to imperceptible with mitigation. The former mitigation comprises measures cited under landscape and restoration, and the latter mitigation involves best practice protocols for the storage of and refuelling with hydrocarbons.

7.24. The rEIAR concludes by acknowledging the "inevitable moderate permanent negative impact due to the extraction of bedrock geology." I concur with this conclusion.

(iv) Water

7.25. Figures 8.3 and 8.4 show the sub-catchments within the site and the existing water movement on the site. The sub-catchments comprise the southern portion of the site and the combined central and northern portions, except for an elevated area to the north of the site entrance, which forms a small third sub-catchment. The water movement shows how the southern portion of the site is pumped out, when needed, to the central portion, where the extensive settlement pond 1 is located. From there overspill water drains to the northern portion, where settlement pond 2 is located. Overspill from this pond flows down a vegetated channel to the St. Johnston Stream.

7.26. The applicant's hydrologist has calculated that the average daily outflow from the site to the St. Johnston Stream is 270 cubic metres[1] of which 207 cubic metres is rainwater and 67 cubic metres is groundwater. (Four cubic metres is abstracted). Since 2009, the outflow from the site has been the subject of a trade discharge licence. The results of monitoring by the applicant's hydrologist and monitoring under the trade discharge licence are presented in Tables 8.2 and 8.3. These results show compliance with the conditions of the trade discharge licence.

7.27. The applicant's hydrologist has calculated that the St. Johnston Stream has the capacity to assimilate the outflow from the site. Thus, during maximum outflow conditions, i.e., those experienced 1% of the time, it would account for c. 6% of the Stream's flow.

7.28. The applicant's hydrologist examined the chemistry of water samples from a point upstream and points downstream of the discharge point from the site into the St. Johnston Stream. Water quality was good at all three locations. Likewise, the EPA reports that groundwater in the relevant River Foyle Groundwater Body for 2013 – 2018 was of good quality status.

7.29. The applicant's hydrologist proposes that the route along which water flows between settlement ponds 1 and 2 should be changed from that of a redundant haul road to that of a pipe with a hydrocarbon interceptor at its western end. He also proposes that a permanent monitoring point be established at the discharge point from settlement pond 2.

[1] This figure is based on the estimated catchment area of the site, i.e., 79,975 sqm, cited on Page 12 of the rEIAR Sections 8 – 17.

7.30. The applicant's hydrologist utilised four boreholes within the site (Figure 8.9) to ascertain the characteristics of local groundwater. He thereby detected very low transmissivity rates through the slate, which is further evidenced by the limited incidence of and slow seepage of groundwater between bedded units of slate. Consequently, while quarrying has affected the distribution of groundwater within the site, this is not expected to have affected the distribution of groundwater outside the site. Furthermore, while quarrying has obviously exposed the bedrock of the site, its general impermeability is estimated by the GSI to mean that groundwater recharge is capped at 100mm/year. The zone of influence of the site is thus limited and it does not extend as far as any local wells.

7.31. Groundwater samples were found to be of very good water quality, i.e., no exceedances of values/standards for drinking water were detected. Conductivity tests were also carried out to detect the presence of ground water in the site (Figure 8.15), i.e., higher values show the greater presence of ground water. The interaction of groundwater and surface water occurs within ponds that are formed in the southern portion of the site and in settlement pond 1 in the central portion.

7.32. The applicant's hydrologist calculates that the combined volume of the two settlement ponds is 23,113 cubic metres. He calculates, too, that, if the average daily run-off rate is 190 cubic metres[2], then a residence time of c. 122 days would arise. He also calculates that, under a worst-case scenario of a 1 in 100-year storm, residence time of 5.7 days would still be available. He thus concludes that, while the design of these settlement ponds is not ideal, i.e., they do not have smooth sides and floors, this is compensated for by their generous volume. He further considers a historic worse-case scenario within which settlement pond 1 was much smaller and settlement pond 2 was not in-situ. He estimates that the residence time would have been 19.6 hours, i.e., an adequate period for most particles to settle, as those with a diameter greater than 0.006mm need over 11 hours and those with a diameter greater than 0.004mm need 24 hours.

7.33. The chapter on water within the rEIAR concludes with an impact assessment, which I have summarised below.

[2] This figure is based on the estimated drainage area of the site, i.e., 69,257 sqm, cited on Page 40 of the rEIAR Sections 8 – 17.

- Impacts upon surface water quality: Source – suspended sediment in run-off generated by soil stripping and berm construction:
    - Receptor: St. Johnston Stream
    - Pathway: Surface water discharge to St. Johnston Stream
    - Pre-mitigation: Moderate, short-term, negative impact
    - Existing mitigation: Settlement ponds, single discharge point, and, since 2009, Trade Discharge Licence
    - Residual: Imperceptible, short-term, negative impact
- Impacts upon surface water quality: Source – suspended sediment in run-off generated by extraction and processing activities:
    - Receptor: St. Johnston Stream
    - Pathway: Surface water discharge to St. Johnston Stream
    - Pre-mitigation: Moderate, short-term, negative impact
    - Existing mitigation: Settlement ponds, including their maintenance, cessation of work during red level rainfall alerts, single discharge point, including its monitoring, and, since 2009, Trade Discharge Licence
    - Proposed mitigation: Pipe between settlement ponds 1 and 2
    - Residual: Imperceptible, short-term, negative impact
- Impacts upon surface and groundwater quality: Source – hydrocarbons
    - Receptor: St. Johnston Stream and local groundwater body
    - Pathway: Surface water discharge to St. Johnston Stream and discharge directly to groundwater
    - Pre-mitigation impact: Moderate, short-term, negative impact
    - Existing mitigation: Standard protocols over the storage of hydrocarbons, and their handling during refuelling, regular inspections of plant and machinery, visual monitoring of all surface waters on-site
    - Proposed mitigation: Emergency spill kit to be stored on-site and installation of hydrocarbon interceptor between settlement ponds 1 and 2

- Residual: Imperceptible, short-term, negative impact

- Impacts upon surface and groundwater quality: Source – wastewater from canteen and toilet facilities
  - Receptor: St. Johnston Stream and local groundwater body
  - Pathway: Percolation to surface water drainage system and percolation to groundwater
  - Pre-mitigation impact: Imperceptible, short-term, negative impact
  - Existing mitigation: Canteen and toilet facilities closed on-site: they are now available in the applicant's farmhouse in the vicinity of the site
  - Residual: Imperceptible, short-term, negative impact
- Impacts upon groundwater quality: Source – extraction below the water table
  - Receptor: Local groundwater body
  - Pathway: Direct due to removal of bedrock
  - Pre-mitigation: Imperceptible, permanent, negative impact
  - Existing mitigation: None: Volume of groundwater in the bedrock is low and transmissivity is extremely low. Consequently, no negative impact expected outside the site.
  - Residual: Imperceptible, permanent, negative impact
- Impacts upon surface water ecology: Source – alterations to water movement within the catchment of the St. Johnston Stream arising from the quarry
  - Receptor: St. Johnston Stream
  - Pathway: Direct due to alterations in water supply to the Stream
  - Pre-mitigation: Imperceptible, permanent, negative impact
  - Existing mitigation: None: Volume of water reaching the Stream, as distinct from its nature and distribution, is not expected to have changed with the resumption of quarrying in 1978
  - Residual: Imperceptible, permanent, negative impact

7.34. The applicant's hydrologist comments on cumulative impacts. He acknowledges the presence of the adjoining neighbouring quarry to the north-east. This quarry does not appear to have a surface water discharge point to any watercourse beyond its boundaries. Groundwater testing within the applicant's quarry indicates that water quality is good. No adverse impact from groundwater in the neighbouring quarry has been detected.

7.35. I note that, under the second and third impacts summarised above, the applicant's hydrologist has not explicitly stated whether the existing mitigation cited would be sufficient on its own to achieve the residual results recorded. I note, too, that the proposed mitigation measures were discussed by him elsewhere in the chapter on water. Thus, on Page 38, he presents the proposed pipe and hydrocarbon interceptor as being precautionary measures rather than ones in response to any historic hydrocarbon contamination. Accordingly, I consider that the amalgamation of the existing and proposed mitigation measures in arriving at the residual results recorded does not warrant objection.

7.36. During my site visit, I observed the settlement ponds 1 and 2 in the central and northern portions of the site. I also observed that there was a considerable quantity of water ponding in the southern portion of the site. My site visit took place on 9th August 2023 following weeks of rainfall. Even so the quantity of water was greater than I would have expected. The applicant indicated that the pump used to remove water from the southern portion of the site to settlement pond 1 was not working and that this was the reason for the quantity of water evident. He was intent on ensuring that the pump was fixed. The need for a standby pump was thereby illustrated and so the environmental management system proposed by the rEIAR should include the same.

7.37. In the light of his assessment of water, the applicant's hydrologist concludes that "with the implementation of the mitigation measures listed, the implementation of the project as outlined will not have caused a significant negative effect on the surface water of groundwater environments." I concur with this conclusion.

(v) Noise and vibration

7.38. The applicant's quarry operates between 08:00 and 18:00 on weekdays and 08:00 and 14:00 on Saturdays. Given these operating hours, his acoustic consultant cites

recommended noise limits for noise sensitive receptors within the vicinity of the site. Of these noise limits, the lowest is that cited by the EPA, i.e., the daytime (08:00 – 20:00) limit of $L_{Aeq,\ 1\text{-hour}}$ = 55 dBA, in its document "Environmental Management in the Extractive Industry (Non-Scheduled Minerals), 2006.

7.39. The applicant's acoustic consultant undertook a noise survey, which recorded noise levels over a 1-hour period at five noise sensitive receptors within the vicinity of the site. This survey was undertaken when the quarry was fully operational on 15th and 16th June 2022, i.e., the following plant and machinery were operational: "mobile crusher/screener, excavator ripping bedrock, excavator loading crusher, loading shovel moving product and loading lorries, and lorries transporting product off site."

7.40. A report on the noise survey is appended to chapter 9 of the rEIAR on noise and vibration. Noise levels were highest at noise sensitive locations (NSLs) 2 and 3.

- NSL 2 is 300m to the west of the quarry entrance and it lies at a level of c. 102m OD.
- NSL 3 is 330m to the north of the northern boundary of the quarry and it lies at a level of c. 140m OD. There is a clear line of sight between the two dwelling houses at this NSL and the quarry.

The noise levels at these two NSLs are summarised below.

Receptor	$L_{Aeq,\ 1\text{-hour}}$	L_{AF90}	L_{AF10}	L_{AFmax}
NSL 2	56.6	37.3	50.9	86.6
NSL 3	61.1	39.6	56.9	89.5

Tables 5.2 and 5.3 of the report provide a commentary on the above noise levels.

- With respect to NSL 2, noise from the quarry was audible at c. 36 – 39 dBA and two quarry related HGVs passed by and contributed to the L_{AFmax}.
- With respect to NSL 3, noise from the quarry was audible at c. 45 dBA, lorries climbing out of the quarry were audible at 40 dBA, and rock breakers in the adjoining neighbouring quarry were audible at 39 dBA. Non-quarry related tractors contributed to the L_{AFmax}.

7.41. The applicant's acoustic consultant acknowledges that when the central and northern portions of the site were being quarried the noise impact at NSL 3 would have been greater than at present, i.e., the retained raised ground between the southern and central portions of the site shields noise breakout from current quarry activities to a considerable extent. He estimates that the comparable $L_{Aeq, 1\text{-hour}}$ noise level would have been 53.6 dBA. He also estimates that this noise level would have been 53.8 dBA if shot hole drilling was occurring, too, an activity that would have preceded blasting twice a year.

7.42. The applicant's acoustic consultant reports that, whereas current HGV traffic movements run to 5 loads daily, historically, 20 loads daily would have been the norm. The L1264-4, which serves the site, and which passes NSL 2, is lightly trafficked at 14 vehicles per hour. Over the 10-hour operating day of the quarry, an average of 1 vehicle an hour would be contributed. Historically, this would have risen to 4 vehicles an hour. The acoustic consultant states that, as a rule of thumb, doubling traffic levels adds 3 dBA to the $L_{Aeq, 1\text{-hour}}$. He suggests that historically traffic levels may have been higher and so the additional quarry-related traffic would have been subsumed within overall higher traffic levels. He, therefore, concludes that the added 3 dBA would have occurred, although it would not have been solely attributed to quarry-related traffic.

7.43. I remain to be persuaded that traffic levels would have been higher historically on the L1264-4, as generally traffic levels are rising overtime. If it is assumed that the contemporary 14 vehicles an hour is greater than heretofore, then it is conceivable that the addition of 4 vehicles an hour would have doubled the numbers, but highly unlikely.

7.44. The acoustic consultant identifies the following noise mitigation measures:

- Acoustic berms (2.5 – 3m high) on the boundaries of the site, where feasible,
- Crushers/screeners to operate only on the quarry floor,
- Screeners to be housed in an envelope,
- Plant and machinery to incorporate silencers and to be well maintained,
- Plant and machinery not to be left idling, and

- The need to limit noise emissions to be a factor in the purchase of plant and machinery.

7.45. Tables 9.13.1 & 3 conclude that with the aforementioned mitigation measures in place, the significance of noise from the quarry is reduced from “slight” to “not significant”. He, therefore, concludes that no significant noise impact has arisen from the quarry.

7.46. I note that in response to the HSE EHO’s critique, the applicant has confirmed that the mitigation measures were operational historically. I note, too, that their efficacy would have varied with the progression of quarrying. Thus, for example, when the active quarry floor was higher, presumably the scope for noise breakout would have been greater. The applicant has acknowledged this insofar as his acoustic consultant has estimated what the $L_{Aeq,\ 1\text{-}hour}$ might then have been at NSL 3. I, therefore, concur with the applicant’s conclusion.

7.47. The applicant has submitted a “Blast Vibration Report”. This report states that blasting typically occurred once or twice a year “when a particularly hard piece of lithology was encountered.” It also states that, while such blasting was not monitored, retrospective predictions of blast vibration levels at the nearest residential properties to the north and south of the quarry (Plate 1) indicate that these levels would have been consistently below the recommended limit of 12 mm/second (Appendix). Mitigation measures employed to address ground vibration, air-overpressure, and fly rock are set out (Paragraph 9.25). No complaints were made concerning blasting in the past. The applicant undertakes to carry out monitoring of any future blasting.

(vi) Air

7.48. The applicant undertook a dust monitoring exercise from January to May 2022, when quarrying activities were reported “to represent average output” since the resumption of excavation in 1978. This exercise overlapped with the windier period of the year, which Met Eireann advises is from 11th October to 29th March. It utilised four locations around the site’s boundaries. The results of the exercise are presented in tabular and graphic form (Table 10.2 and Figure 10.3). The EPA recommends a dust deposit limit of 350 mg/sqm/day. The results fall well below this limit.

7.49. Under Tables 10.12 and 10.14, the impact of dust on local dwellings, human beings, and local vegetation is presented pre and post-mitigation. The significance at the pre-mitigation stage is stated to be slight, moderate, and slight, respectively. The significance at the post-mitigation stage is stated to be imperceptible in each case. The mitigation measures cited include existing and proposed ones. I have disaggregated them as follows:

- Existing:
    - The timing of operations optimised in relation to meteorological conditions,
    - Screening berms grass-seeded and planted to eliminate wind-blown dust,
    - Internal haul roads compacted and maintained, and
    - 20 kmph speed limit on the access road and within the quarry to limit generation of fugitive dust.
- Proposed:
    - Stockpiled materials will be dampened down with water during dry/windy periods and stockpiles will be sited in sheltered locations, and
    - A wheel wash will be installed at the site entrance/exit.

7.50. The applicant concludes that “the impact on air quality and in particular dust generation and dust deposition from the site is assessed as having no significant negative effects.” I concur with this conclusion.

(vii) Climate

7.51. The applicant considers the impact arising from the proposal in terms of greenhouse gases and the climate. In terms of their generation, he considers the emissions of plant and vehicles during the preparatory stage of the quarry, i.e., “the construction phase”, and the operational stage. In terms of their absorption, he considers the loss of vegetation. In relation to plant and vehicle emissions, pre-mitigation their significance is stated as not significant, and post-mitigation their significance is stated as imperceptible. In relation to the loss of vegetation, pre-mitigation their significance is stated as slight, and post-mitigation their significance is stated as neutral.

7.52. The applicant states that the following mitigation measures have been implemented:

- No idling of plant and vehicles,
- Regular servicing of plant and vehicles,
- When vehicles upgraded, energy consumption and emission levels considered, and
- Landscaping plan.

7.53. I note that some aspects of the landscaping plan have yet to be implemented. I note, too, that the applicant expects that "a slight positive impact on climate" would occur, based on the full implementation of this plan and the view that vehicle emissions may in net terms be reduced, due to the supply of aggregates to the locality by the quarry, i.e., in its absence longer journeys would be required for the delivery of aggregates from other quarries. I consider that insufficient information has been submitted to substantiate this expected outcome. Nevertheless, I agree with the post-mitigation significance level of imperceptible for plant and vehicle emissions and I consider that the same significance level of imperceptible for loss of vegetation would, in the absence of more detailed information, be reasonable.

(viii) Material assets – traffic

7.54. The applicant undertook a traffic survey from Sunday 12th June to 14th Tuesday June 2022 between 08:00 and 18:00. This survey revealed that considerably more westbound vehicles pass the access point to the L5414 leading to the site than eastbound ones. It also revealed that on average 14 vehicles pass this access point daily.

7.55. At present, the applicant delivers an average of 5 loads daily, which generates 10 vehicle movements. These occur throughout the above cited hours on weekdays, and so on average 1 vehicle movement is added hourly thereby to traffic levels on the L1264-4. Historically, as many as 20 loads daily were delivered, i.e., 40 vehicle moments or 4 per hour. If traffic then was comparable to how it is now, then this would have been notionally significant insofar as over 10% would have been added to traffic levels. However, given the low absolute numbers of vehicles on the L1264-4, in practise, no significant impact would have arisen then or now.

(ix) Material assets – site services

7.56. The site is not served directly by any of the utilities. The applicant's nearby farmhouse is used as the site office, and it provides welfare facilities for staff. This farmhouse has electricity and telecommunication connections, and it is served by the public water mains and a septic tank and percolation area.

7.57. Insofar as water is needed to dampen down stockpiles of materials during dry/windy weather, it is abstracted from settlement pond 1. Insofar as the proposed wheel wash would require to be supplied by water, it, too, would be abstracted from settlement pond 1.

(x) Cultural heritage

7.58. The applicant has identified that the nearest recorded archaeological monument to the site is a standing stone (DG062-039), which is located c. 850m to the south-east. It is unaffected by the quarry. He has also identified that the nearest protected structures lie well in excess of a 1km radius of the site, i.e., beyond any possible zone of influence.

(xi) Landscape and restoration

7.59. The applicant undertook a landscape and visual assessment of the site. This assessment draws upon 17 viewpoints (Figure 15.5), within which the quarry is visible in 5 viewpoints, to the north, north-east and north-west of the site. Within one further viewpoint, No. 16, the quarry is visible. This viewpoint is from the lane (L5414), which passes to the south of the site.

7.60. The applicant's assessment takes account of the CDP's designation of the site as lying within an area of high landscape value and of the duration of quarrying at the site, which extends further back in time than the surrounding dwelling houses. This assessment does not delineate the landscape and visual impacts at each of the viewpoints. Instead, Tables 15.12 and 15.14 provide an overview, which considers the significance of the following impacts at the pre and post mitigation stages:

- Negative visual impact on landscape character of quarrying activities on residents in the vicinity of the site,
- Loss of wildlife habitat,
- Loss of soils/sub-soils, and

- Loss of bedrock.

7.61. Pre-mitigation the level of significance assigned to each of these impacts is moderate. Post mitigation the level of significance assigned reduces to imperceptible for the first and second impact, and slight for the third impact. The level of significance assigned to the fourth impact remains unchanged.

7.62. The mitigation measures proposed are summarised as follows:

- Berms to the north of the quarry to be planted with a mix of native trees, during the winter months, and under the supervision of an Ecological Clerk of Works,
- Existing berms to be monitored and maintained, and
- Submission of a comprehensive restoration plan.

7.63. During my site visit, I observed that, while the hill-top location of the site ensures that the quarry is largely concealed, the open form of the northern portion of the site does afford views from the north into the central portion where settlement pond 1 is. The proposed planting of a mix of native trees on existing berms would provide a partial screen of the central portion, i.e., as depicted in Photographs 15.18 and 15.19, the width of the view into this portion would be reduced. I consider that this reduction would be such that the level of significance would change from moderate to slight rather than imperceptible. I also consider that the existing berms may be in need of strengthening if they are to provide both adequate ground conditions for successful planting and height in their own right.

7.64. Viewpoint No. 16 illustrates that the existing screening afforded by the berm and hedgerow along the southern boundary of the site is not as consistent as it might be. This boundary abuts the L5414, which has the form and construction of an informal lane. I anticipate that it is used occasionally by vehicles and walkers, and so consistent screening of the site is of importance. A survey of the existing southern boundary treatment should therefore be undertaken with proposals for its strengthening as appropriate.

7.65. The strengthening of existing berms discussed in the two foregoing paragraphs should be pursued in advance of any comprehensive restoration plan, i.e., they should be conditioned for short-term implementation. With respect to any

comprehensive restoration plan, under Paragraph 15.10.2, the applicant states that "Top-soil could be imported and spread on the available benches against the bottom of the quarry face creating a buttress of c. 0.5m – 1m in height. This buttress will provide a foot hold for vegetation to become established at the bottom of the quarry face to improve biodiversity."

7.66. The applicant observes that from some viewpoints the adjoining neighbouring quarry is also visible and so cumulative impact arises at present. The proposed tree planting would reduce such visibility and so this cumulative impact would ease.

7.67. I conclude that historically the landscape and visual impacts of the quarry would have been moderate in their significance. I also conclude, too, that based on short- and long-term mitigation, such impacts can be considerably reduced in all but that of the loss of bedrock.

Interactions

7.68. Interactions between factors are discussed under each of the above headings. The applicant identifies these interactions in Table 16.1, and he summarises them in accompanying paragraphs to chapter 16 of the rEIAR.

Reasoned conclusion

7.69. Having regard to the examination of environmental information contained above, and in particular to the rEIAR, the submissions of the external consultees, and the applicant, I consider that the main significant direct and indirect effects of the proposal on the environment, along with their existing and proposed mitigation, have been:

- The impact on biodiversity from loss of habitat, which has been mitigated by hedgerow planting on berms, and which would be further mitigated by additional hedgerow planting and a comprehensive restoration plan. The environmental effects of quarrying in terms of risk to water quality, noise and vibration, and dust, have also impacted biodiversity. Mitigation of these effects are described below.
- The impact on water quality in the St. Johnston Stream arising from suspended sediment and hydrocarbons in surface water run-off, which has been mitigated by the settlement ponds and which would be further

implemented by the installation of a pipe and a hydrocarbon interceptor between these ponds.

- The impact of noise and vibration, which has been mitigated by the changing configuration of the quarry, the formation of berms, and the adoption of relevant protocols by plant and machinery operators.
- The impact of dust on air quality, which has been mitigated by the formation of berms, and the adoption of relevant protocols by plant and machinery operators, and which would be further mitigated by dampening down stockpiles during dry/windy weather and the installation of a wheel wash.
- Landscape and visual impacts, which would be mitigated by berm formation and tree planting and a comprehensive restoration plan.

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

8.0 Appropriate Assessment

Compliance with Article 6(3) of the EU Habitats Directive

8.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have had a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal would not have adversely affected the integrity of the European site before substitute consent can be given.

Screening the need for appropriate assessment

8.2. The applicant has submitted a screening report for appropriate assessment as part of its rNIS, which is entitled "Remedial Natura Impact Statement in relation to planning application by Tinney's Quarry for substitute consent for the quarry located at Trentaghmucklagh, St. Johnston, County Donegal", and which is dated July 2022.

8.3. The screening report was prepared in line with current best practice guidance and provides a description of the development and identifies European sites within a possible zone of influence of the development. This report concludes as follows:

> *…significant effects in the Natura 2000 network arising from the development, either individually or in combination with other plans or projects, cannot be excluded at this stage. Therefore stage 2 Appropriate Assessment is required.*

8.4. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

8.5. The applicant provides a description of the project on Page 14 of its rNIS. Essentially, this project has comprised quarrying activities by the applicant in a historic quarry. These activities comprise:

> *…the extraction, crushing and screening of rock and transport to market. The requirement for blasting has been infrequent and most extraction has taken place by mechanical means. Mobile crushers/screeners have been employed moving around the site following extraction activity. Stockpiles of product were generally located near the screeners and transport to market was via rigid lorry. Customers could also bring their own transportation and purchase product directly from the site. No washing of product took place on this site.*

8.6. The applicant also provides a description of the site on Page 5 of its rNIS: “The subject site covers an area of 9.9 hectares which includes the extracted areas, the area cleared of overburden, areas where overburden has been stockpiled for later reuse and the settlement lagoon area...”

8.7. Taking account of the characteristics of the development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites: Pollution of surface water during the preparatory and operational phases of the development and, due to its run-off into the St. Johnston Stream, the contamination of the River Foyle into which this Stream flows.

8.8. The site is not located in or immediately adjacent to a European site. The closest European site is 3.8km to the east, i.e., River Finn SAC (002301), closely followed by River Foyle and Tributaries SAC (UK0030320).

River Finn SAC

The qualifying interests and conservation objectives, i.e., M – maintain their favourable conservation condition, or R – restore their favourable conservation condition, are listed below.

Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110] – R

Northern Atlantic wet heaths with Erica tetralix [4010] – R

Blanket bogs (if active bog) [7130] – R*

Transition mires and quaking bogs [7140] – R

Salmo salar (Atlantic Salmon) [1106] – M

Lutra lutra (Otter) [1355] – M

River Foyle and Tributaries SAC

Salmo salar (Atlantic Salmon) [1106]

- *Maintain and, if possible, expand existing population numbers and distribution (preferably through natural recruitment), and improve age structure of population.*
- *Maintain and, if possible, enhance the extent and quality of suitable salmon habitat – particularly the chemical and biological quality of the water and the condition of the river channel substrate.*

Lutra lutra (Otter) [1355]

- *Maintain and, if possible, expand existing population numbers and distribution.*
- *Maintain the extent and quality of suitable otter habitat, in particular the chemical and biological quality of the water and all associated wetland habitats.*

Water courses of plain to montane levels with the Ranunculus fluitans and Callitricho-Batrachion vegetation [3260]

- *Maintain and, if possible, enhance extent and composition of community.*
- *Improve water quality.*
- *Improve channel substrate quality by reducing siltation.*
- *Maintain and, if feasible, enhance the river morphology.*

8.9. During the preparatory and operational phases of the quarry, pollutants, such as suspended sediments and hydrocarbon fuels and lubricants could have been carried by surface water run-off from the site into the St. Johnston River and onward into the River Foyle. Water quality could thereby have been adversely affected.

8.10. The qualifying interests that could have been affected by a deterioration in water quality would be as follows:

- In the River Finn SAC: Atlantic Salmon and Otter, and
- In the River Foyle and Tributaries SAC: Atlantic Salmon and Otter.

8.11. In-combination effects from other development sites could potentially have arisen.

8.12. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

8.13. The 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 either individually or in combination with other plans and projects could have had a significant effect on European sites Nos. 002301 and UK0030320, in view of their conservation objectives, and appropriate assessment is therefore required.

The rNIS

8.14. The application included a rNIS, which is entitled “Remedial Natura Impact Statement in relation to planning application by Tinney’s Quarry for substitute consent for the quarry located at Trentaghmucklagh, St. Johnston, County Donegal”, and which is dated July 2022. The rNIS examines and assesses potential adverse effects of the proposed development on the following European sites:

- River Finn SAC (002301), and
- River Foyle and Tributaries SAC (UK0030320).

8.15. The rNIS was prepared in line with current best practice guidance, and it concluded that “The existing project as detailed, either individually or in combination with other plans or projects, has not had any significant adverse effects on the integrity of any European sites with the implementation of remedial measures as outlined…Further mitigation measures must be implemented moving forward to ensure that the existing development will continue to have no significant negative effects on the Natura 2000 network.”

8.16. Having reviewed the rNIS, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation of the following European sites alone, or in combination with other plans and projects:

- River Finn SAC (002301), and
- River Foyle and Tributaries SAC (UK0030320).

Appropriate assessment of implications of the proposed development on each European site

8.17. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could have resulted in significant effects are assessed, and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

8.18. The following sites are subject to appropriate assessment:

- River Finn SAC (002301), and
- River Foyle and Tributaries SAC (UK0030320).

The qualifying interests and conservation objectives for these sites are set out above under my screening exercise.

8.19. The main aspects of the proposed development that could have adversely affected the conservation objectives of European sites are: During the preparatory and operational phases of the quarry, pollutants, such as suspended sediments and hydrocarbon fuels and lubricants could have been carried by surface water run-off from the site into the St. Johnston River and onward into the River Foyle. Water quality could thereby have been adversely affected.

8.20. The qualifying interests that could have been affected by a deterioration in water quality would be as follows:

- In the River Finn SAC: Atlantic Salmon and Otter, and
- In the River Foyle and Tributaries SAC: Atlantic Salmon and Otter.

8.21. The applicant's rNIS sets out a series of existing mitigation measures, which would have addressed the factors, which could have adversely affected the integrity of the identified European sites.

- Settlement ponds, including their maintenance,
- Single discharge point, and, since 2009, Trade Discharge Licence,
- Cessation of work during red level rainfall alerts,
- Standard protocols over the storage of hydrocarbons, and their handling during refuelling,
- Regular inspections of plant and machinery, and
- Visual monitoring of all surface waters on-site.

8.22. The applicant's rNIS also sets out a series of proposed mitigation measures, which would reinforce the existing measures in ensuring that the quarry would not adversely affect the integrity of the identified European sites in the future.

- Pipe between settlement ponds 1 and 2, and the installation of a hydrocarbon interceptor between these ponds, and
- Emergency spill kit to be stored on-site.

8.23. With the above cited mitigation measures in place, no residual impacts are foreseen.

8.24. In-combination effects from the adjoining neighbouring quarry to the east could potentially have arisen. However, this quarry does not have a surface water discharge point, and so it is self-contained with respect to surface water run-off.

8.25. I am therefore able to ascertain with confidence that the project would not have adversely affected the integrity of the River Finn SAC and the River Foyle and Tributaries SAC.

8.26. The Tinney's Quarry project has been considered in light of the assessment of the requirements of Section 177U & G of the Planning and Development Act 2000, as amended.

Having carried out screening for appropriate assessment, it was concluded that it may have had a significant effect on the River Finn SAC (002301), and the River Foyle and Tributaries SAC (UK0030320). Consequently, an appropriate assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives.

Following an appropriate assessment, it has been ascertained that the development, individually or in combination with other plans or projects would not have adversely affected the integrity of the European Sites Nos. 002301 and UK0030320, or any other European site, in view of the sites' conservation objectives.

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

- A full and detailed assessment of the project, including mitigation measures, in relation to the conservation objectives of European Sites Nos. 002301 and UK0030320.
- An assessment of in combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of European Sites Nos. 002301 and UK0030320.

9.0 Recommendation

That substitute consent be granted.

10.0 Reasons and Considerations

Having regard to:

- The National Planning Framework,
- The Quarries and Ancillary Activities Guidelines,
- The Donegal County Development Plan 2018 – 2024,
- The planning history of the site,
- The submitted remedial Environmental Impact Assessment Report, and
- The submitted remedial Natura Impact Statement,

It is considered that the quarry following mitigation has not had a significant effect on the environment nor has it had a significant adverse effect on nearby European sites. It is further considered that, subject to compliance with the conditions set out below, it would have neither a significant effect on the environment nor a significant adverse

effect on nearby European sites in the future. Thus, to grant substitute consent to this quarry would accord with the proper planning and sustainable development of the area.

11.0 **Conditions**

1.	(a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application on the 22nd day of July, 2022, as amended by the further response received by An Bord Pleanála on the 7th day of February, 2023, except as may otherwise be required in order to comply with the following conditions. (b) This grant of substitute consent relates only to development undertaken, as described in the application, and does not authorise any future development, including excavation, on the subject site. **Reason:** In the interest of clarity.
2.	(a) All environmental mitigation measures identified within the remedial Environmental Impact Assessment Report and the remedial Natura Impact Statement shall be implemented in full, except as may otherwise be required in order to comply with the conditions attaching to this order. (b) An additional standby water pump shall be retained at all times for use in the site. (c) Within three months of the date of this order, a timetable for the implementation of (a) and (b) shall be submitted to and agreed in writing with the planning authority. **Reason:** To protect the environment and amenities of the area, to ensure that flooding can at all times be tackled, and in the interest of the proper planning and sustainable development of the area.
3.	Within three months of the date of this order, a plan to ensure that a western sightline is available to drivers exiting from the L5414 onto the L1264 in perpetuity shall be submitted to and agreed in writing with the planning authority. This sightline shall have an x distance of 3.05m and a y

	distance of 68m and it shall ensure that no obstruction exists above 1.06m. The agreed plan shall be fully implemented within 1 month of its written agreement. **Reason:** In the interest of road safety.
4.	(a) Within six months of the date of this order, a survey of the hedgerow along the southern boundary of the site shall be submitted to and agreed in writing with the planning authority. This survey shall identify any dead or dying hedging and any gaps in the existing hedgerow. The numbers and types of replacement and additional hedging shall be specified, and a timetable for the planting of such hedging shall be stated. (b) Within six months of the date of this order, a survey of the berms within the site identified for tree planting shall be submitted to and agreed in writing with the planning authority. This survey shall identify where the strengthening of these berms may be required to ensure that they provide suitable ground conditions for tree planting. They shall also be of a minimum height of 2 metres. The numbers and types of trees to be planted shall be specified, and a timetable for the strengthening of the berms and the planting of these trees shall be stated. **Reason:** In order to screen the quarry in the interest of visual amenity and in order to promote biodiversity.
5.	. Within six months of the date of this order a comprehensive restoration plan for the site shall be submitted to and agreed in writing with the planning authority. This plan shall state the timetable proposed for all restoration works. **Reason:** In the interests of visual amenity, public safety, and biodiversity.
6.	Within three months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be

	as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination. **Reason:** To ensure the satisfactory restoration of the site.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Hugh D. Morrison
Planning Inspector

4th October 2023