



An
Bord
Pleanála

Inspector's Report

ABP-315708-23

Development

Demolition of existing concrete structure and the quarrying of 5.37 hectares which will be subject to extraction and processing of rock through drilling, blasting, crushing and screening and all associated ancillary facilities/works over a 25-year period. An Environmental Impact Assessment Report and Natura Impact Statement accompanies this application.

Location

Magherasolis and Craigs, Raphoe, Lifford PO, Co. Donegal.

Planning Authority

Donegal County Council

Planning Authority Reg. Ref.

22/50933

Applicant(s)

Patrick Bonar

Type of Application

Permission

Planning Authority Decision

Grant, subject to 24 conditions

Type of Appeal

Third Parties -v- Decision

Appellant(s)

Rachel & Hugh White & Others

An Taisce
Lady Heather Robinson
David Fisher
Leslie Brown
Raphoe Community in Action & Rev.
Cannon John Merrick Chairperson of
Board of Management of the Royal &
Prior Comprehensive School Raphoe
Gerard Moyne & Others
Board of Management Raphoe
Central National School

Observer(s)

Date of Site Inspection

8th August 2023

Inspector

Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located on lands that rise generally from the east south-east to the west north-west. These lands lie between c. 107m and 165m ASL. The floor of the former quarry lies at 128/129m ASL and the Craigs to the north-west form a local high point at 171m ASL, with the forested lands beyond it rising further to the 284m ASL summit of Mongorry Hill. To the south and east lie extensive areas of farmland, through which flows the Swilly Burn and its tributaries. The town of Raphoe lies to the south south-west, with its centre being 0.95 km from the site.
- 1.2. The site is accessed by means of the local road L-23749-0, which runs to the north-west from its junction with the R-236-6 on the north-eastern edge of Raphoe. This local road is a cul-de-sac, which in addition to the site, affords access to three dwelling houses and a farm yard.
- 1.3. The site encompasses a former quarry, which has been abandoned, and portions of adjoining fields. This site is of irregular shape, and it extends over an area of 7.95 hectares.

2.0 Proposed Development

- 2.1. Under the proposal, a 25-year planning permission is sought for quarrying over 5.37 hectares of the site, which would include the former quarry. Quarrying activities would entail the extraction and processing of rock through drilling, blasting, crushing, and screening. An estimated 2.75 million tonnes of rock would be quarried over 5 phases at the following rates:
 - Daily extraction: 350 – 400 tonnes (c. 18 – 20 loads), and
 - Annual extraction: 100 – 110,000 tonnes.
- 2.2. An existing concrete structure on the site in the south-eastern portion of the site would be demolished, while a small existing building would be retained for the storage of oil and hydraulic liquids. Two new buildings with a combined floorspace of 289.2 sqm would be constructed in the south-eastern portion of the site. One is described as a “shed”. It would be a portal steel frame building and it would include a pit to facilitate the inspection of the underside of vehicles. This shed would be accompanied by bunded fuel tanks. The other building would comprise office,

kitchen, drying, and toilet facilities, and it would be sited adjacent to a weighbridge and wheel wash and beside and opposite parking areas.

- 2.3. The south-eastern most portion of the site would be laid out to provide a series of lagoons and wetland ponds, which would discharge via an oil/petrol interceptor and monitoring station into an existing land drain, which would be piped. This drain runs along the side of the existing access road. Water from the extraction area would pass through these lagoons and ponds.
- 2.4. The majority of the overall extraction area/site boundary would be the subject of a 3m high berm, which would be planted by means of 2 no. rows of quick growing willow and 2 no. rows of alder. Additionally, berms and tree planting are proposed for the exposed edges of the south-eastern portion of the site.
- 2.5. The existing access road (L-23749-0) to the former quarry would be adapted for use by quarry traffic, and its junction with the R-236-6 would be re-sited further to the north-east of the existing one.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted, subject to 24 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Consideration of the application was interrupted, as the PA served a notice upon the applicant, under Section 35(1) of the Planning and Development Act 2000 (as amended), in which it expressed the opinion that “there is real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with such permission if granted”. This opinion was based on the applicant’s non-compliance with previous permissions and his undertaking of unauthorised developments. The applicant was invited to respond to this notice, which he duly did. In the light of this response and in consultation with the Planning

Enforcement Section, the decision was taken to resume consideration of the application.

The following further information was requested:

- A detailed, integrated, and phased restoration plan for the site with costings.
- Clarification of water supply arrangements.
- Revised proposals for the junction between the L-23749-0 and the R-236-6 and the turning head at the end of the L-23749-0. Written consents of landowners to the works arising and accompanying sightlines.
- Clarification of water supply arrangements for the three residential properties along the L-23749-0.

The applicant submitted the requested restoration plan, revised proposals, and written consents. He clarified that the water supply for the proposed quarry would be from a bore hole well, and he also clarified that the three residential properties are supplied by water from the public mains.

3.2.2. Other Technical Reports

- Donegal County Council:
 - NRO: National roads projects would be unaffected.
 - Area Engineer: Following receipt of further information, no objection, subject to conditions.

3.3. Prescribed Bodies

- Irish Water: No objection plus note concerning any supply of non-domestic water that may be needed from the public main in the R236.
- TII: No observations.
- HSE (EHS): Advice concludes with the following recommendations:
 - Several with respect to on-going public consultation, including that the applicant should appoint a community liaison officer, and operate a dedicated website.

- Attention is drawn to the environmental impacts of the proposal upon sensitive receptors, especially that of noise and blasting upon the residents of the HSE's Ballytrim House.
- Source of potable water to dwelling houses off the L-23749-0 to be checked, and mitigation measures proposed as appropriate.
- Details of proposed monitoring of surface and ground waters needed.
- Other water related mitigation measures set out in Table 8.8.8 should be conditioned.
- How will guidance on the management of dust be implemented?
- Air quality monitoring should be undertaken at the nearest sensitive receptors, including St. Enda's National School.
- Additional dust deposition ameliorative measures are requested with respect to the haul roads, vehicular and machinery maintenance, and the covering of all loads.
- Noise mitigation measures to be conditioned.
- Construction Environmental Management Plan needed, including within it a Pest Control Plan.
- DoH LGH (Archaeology): Recommends that pre-development testing by means of trenches be undertaken in the greenfield areas of the site.
- DoH LG (Nature Conservation): Recommends that pre-commencement floral and faunal surveys are conditioned to any consent to ensure that wild flora, bird and/or animal populations occurring on site are provided with adequate protection throughout the five phases of development.
- An Taisce: Objects, see grounds of appeal.

3.4. Third Party Observations

See appellants' grounds of appeal.

4.0 Planning History

Site

- **19/52015**: 25-year permission sought for quarrying and ancillary facilities: Refused at appeal (**ABP-308326-20**) on the following grounds:
 - The applicant failed to demonstrate adequate proposals for the management of surface water and so an unacceptable risk of environmental pollution would arise, and
 - The consequent risk posed to the River Foyle and Tributaries SAC and the River Finn SAC.

A note added that, in the light of the above, significant effects on the environment could arise, and so an EIAR may be necessary.

- **Pre-application consultation** occurred on 25th October 2021.

Neighbouring site

- **06/40626**: Erection of 24m high lattice tower with associated telecommunications equipment: Permitted for 5 years. Subsequently renewed for 5 years under **12/60069** and granted retention permission under **22/50087**.

5.0 Policy Context

5.1. National Policy

National Planning Framework (NPF)

Under the heading “Aggregates and Minerals” the following commentary is set out:

Extractive industries are important for the supply of aggregates and construction materials and minerals to a variety of sectors, for both domestic requirements and for export. The planning process will play a key role in realising the potential of the extractive industries sector by identifying and protecting important reserves of aggregates and minerals from development that might prejudice their utilisation. Aggregates and minerals extraction will continue to be enabled where this is compatible with the protection of the environment in terms of air and water quality, natural and cultural heritage, the quality of life of residents in the vicinity, and provides for appropriate site rehabilitation.

Furthermore, Objective 23 states the following:

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

The Quarry and Ancillary Activities Guidelines advise on planning and environmental aspects of quarrying.

5.2. Development Plan

Under the Donegal County Development Plan **2018 – 2024** (CDP 1), the site, including the means of access to it along the L-23749-0, was shown as lying outside the settlement framework boundary of Raphoe, and in an area of high scenic amenity, which lies within the Laggan Valley landscape character area.

Chapter 8 of CDP 1 addressed natural resource development and Section 8.1 addressed extractive industry and geology. Policies EX-P-1 – 6 were of relevance. They can be summarised as follows:

- EX-P-1: Proposals for extractive industry are to accord with the Quarry and Ancillary Activities Guidelines and the EPA's Environmental Management Guidelines – Environmental Management in the Extractive Industry (Non-scheduled minerals) 2006.
- EX-P-2: Proposals for new extractive industry in areas of Especially High Scenic Amenity or in areas of High Scenic Amenity will not be permitted...
- EX-P-3: Proposals for quarry and ancillary facilities to demonstrate that they would not result in a significant threat of pollution to the environment including, siltation and sedimentation of receiving downstream surface waters...
- EX-P-4: Proposals for extractive industry are to be accompanied by an integrated phased development and restoration plan for aftercare/re-use of the site...

- EX-P-5: Where proposals for extractive industry would occur within 300m of a recorded monument/archaeological site or they would have a material impact on their visual amenities, an archaeological assessment is needed.
- EX-P-6: Proposals for extractive industry to demonstrate the suitability of the road network in terms of width, alignment and carrying capacity and to require that any identified deficiencies can be addressed at the applicant's expense.

The Donegal County Development Plan **2024 – 2030** (CDP 2) was adopted on 16th May 2024, and it came into effect on 27th June 2024. Under this Plan, the site continues to lie outside the settlement framework boundary of Raphoe, and in an area of high scenic amenity, which lies within the Laggan Valley landscape character area. Policy L-P-2 is of relevance. It states the following objective: “To protect areas identified as ‘High Scenic Amenity’ and ‘Moderate Scenic Amenity’ on Map 11.1 ‘Scenic Amenity’. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.”

Under Chapter 9 of CDP 2, the extractive industry is addressed. The PA states that “Aggregates are a significant and necessary natural resource for the continued economic development of Donegal including job creation and are essential materials for construction industry. The Plan needs to make provision for the sustainable and appropriate extraction of minerals including clays, gravels, sands, stone, and aggregates subject to compliance with pertaining legislation and guidelines. Specifically, factors that must be considered in order to minimise the impact of any extractions include, but are not limited to noise, vibration, dust, water quality, the North-west River Basin Management Plan, natural and cultural heritage, landscape, and waste materials.”

An accompanying Objective and Policies are denoted as EX-O-1 and EX-P-1 – 3. Significantly, under Policy EX-P-1, the principle of excluding new extractive industries in areas of high scenic amenity has been omitted and so their exclusion would be limited to areas of especially high scenic amenity. This Objective and these Policies are set out below:

- *EX-O-1: To facilitate extractive industries subject to the protection of residential and natural amenities, the prevention of pollution, and the safeguarding of aquifers and groundwater.*
- *EX-P-1: It is a policy of the Council that the principle of proposed new extractive industries, shall generally be accepted where such deposits exist save:*
 - a. *for the following areas/designations where such development shall not be supported:*
 - i. *Areas designated as Especially High Scenic Amenity;*
 - ii. *Designated Natura 2000 sites, Natural Heritage Areas, Nature Reserves or other areas of importance for the conservation of flora and fauna; or*
 - iii. *Areas of significant archaeological potential.*
 - b. *In the following scenarios, unless it can be clearly demonstrated that the development would not have significant adverse impacts on the amenities or the environment;*
 - i. *identified Views and Prospects, Greenways, Blueways and tourist routes.*
- *EX-P-2: It is a policy of the Council to only support development proposals for extractive industry developments where such proposals identify relevant robust and effective mitigation measures in respect of the anticipated environmental impacts of such development in accordance with the DEHLG Quarries and Ancillary Activities Guidelines for Planning Authorities 2004 and the EPA Environmental Management in the Extractive Industry (non-scheduled minerals) Guidelines, 2006. Such impacts to be considered shall include: noise and vibration; dust deposition/air quality; water supplies and groundwater; natural heritage; landscape; traffic and roads impact; cultural heritage; waste management; environmental management systems; and site restoration plan.*
- *G-P-1: It is a policy of the Council to protect County Geological Sites (CGS). Accordingly, the Council will adopt a precautionary approach to development proposals with the potential to impact upon a CGS. Proposals should be accompanied by a detailed report from a competent person setting out the potential impact to ensure that an informed decision can be made. Where significant harm to the CGS is deemed likely, planning permission will not be granted unless there are overriding considerations of public importance to the County.*

5.3. Natural Heritage Designations

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

5.4. EIA Screening

Under Item 2(b) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2023, where the extraction area of a stone quarry exceeds 5 hectares the need for mandatory EIA arises. Under the proposal, the extraction area would be 5.37 hectares and so EIA is needed. To this end, the applicant has submitted an EIAR.

6.0 The Appeal

6.1. Grounds of Appeal

(Please note that the CDP referred to by appellants is the Donegal County Development Plan 2018 – 2014).

(a) Rachel & Hugh White and Others

- The quarry on the site closed over 40 years ago. Since then Raphoe has been recognised as a heritage town, and it has expanded. Given the proximity of the site to the town, it is an inappropriate location for quarrying.
- Under the CDP, the site lies within the Laggan Valley landscape character area, within which development should not alter its character, something which quarrying would do.
- Nearby residents and farmers are concerned that quarrying would damage properties and adversely affect wells. Dust and noise emissions would adversely affect the health of humans and livestock, and they may exacerbate existing health conditions. Properties would be devalued and may prove difficult to sell.
- The site was used as an illegal domestic waste dump, the disturbance of which would potentially have adverse effects upon human health.

- A nature walk runs to the north of the site. Quarrying would undermine its attractiveness, e.g., its tranquillity and wildlife interest, for the foreseeable future.
- To reopen the quarry on the scale proposed would generate HCV traffic along roads traversed by children, who are encouraged to walk or cycle to school. The safety of these children would be jeopardised, and the appeal of local schools may be harmed. The environmental impact of quarrying may be disruptive to classes, too.
- A telecommunications mast may be adversely affected by quarrying nearby.
- Quarrying may adversely affect the conservation interest of Raphoe, including archaeological features such as St. Eunan's holy well. Concern is expressed that a popular natural spring fed water spout may become contaminated. Concern is also expressed over HCV traffic passing through the town's narrow streets.
- Quarrying may adversely affect Oakfield Park and railway, a popular local visitor attraction.
- Concern is expressed over the applicant's past history of quarrying.

(b) An Taisce

- The PA's assessment of the proposal under the EIA Directive is considered to be defective, e.g., lack of interaction with the submissions of third parties, especially with respect to the following topics: human beings, water, landscape, and cultural heritage.
- The PA's appropriate assessment is considered to be defective, e.g., how the hydrological regime might affect the Finn River SAC.
- The site lies within Raphoe's urban environs, e.g., it is served by a local road, which is accessed off a regional road that is in a 50 kmph zone. Since quarrying last occurred, the town has expanded towards the site and Oakfield Park has opened to the public. Critically, previous quarrying met local needs, and it bore no comparison with the scale and environmental impact of what is now proposed.

- Within the context of Donegal’s experience of unauthorised quarries and lack of compliance with planning conditions, the PA’s service of a Section 35 notice on the applicant was welcome. Its subsequent decision not to proceed with this notice is unexplained. The view is expressed that the Board is “obliged to determine the procedural validity of the initial application and decision notification”. The view is also expressed that, in the absence of the said explanation, the status of the decision notification is impugned.

(c) Lady Heather Robinson

- Quarrying would lead to water borne sediments and dust causing irreparable damage to rivers, risking flooding and harm to biodiversity. The efficacy of proposed mitigation is questioned, and concern is expressed over the prospects of its implementation.
- Quarrying would lead to multiple noise and vibration sources. Given the elevated position of the site above Raphoe, these impacts would be widespread with adverse effects upon residents and school goers, as well as livestock and wildlife. Again, concern is expressed over whether noise would be monitored/noise levels enforced.
- Quarrying would lead to HCV traffic movements in Raphoe, where the streets were not designed for such movements and pedestrians and cyclists would be placed at risk in terms of road safety and pollution.
- The scale of the proposed quarrying would leave a visual scar on the landscape of Raphoe and it would be at cross purposes with the conservation work that has been carried out and is planned for this heritage town. Oakfield Park on the edge of the town would, likewise, be adversely affected.

(d) David Fisher

Procedural

- Disquiet is expressed that the Section 35 notice did not proceed.
- Attention is drawn to pre-application meetings, and enquiry made as to records of the same.

Location

- Attention is drawn to Oakfield Park, which is downstream of the site. This visitor attraction welcomed 60,000 people in 2022 and it affords employment to c. 100 people per annum. The Park comprises wetlands and woodlands and it is known for its peaceful tranquillity.
- The proposed quarry would be “hid” by token tree planting, which would do little to lessen its impact upon the landscape.
- The effects of dust and vibrations are recalled by locals of longstanding from when a small-scale quarry operated. Two schools now lie near to the site, which is no longer an appropriate location for quarrying.

Landscape

- Attention is drawn to Raphoe, which is a heritage town, and to the surrounding Laggan Valley, which is a high scenic area. Attention is also drawn to the Zone of Archaeological Potential which is understood to coincide with the town’s footprint, as defined by 50 kmph speed limits. Given that the means of access to the site would fall within this footprint, where is the consent of the National Monuments Service to the proposal?
- The site is elevated above the town and so it is readily viewed from the same. The EIAR states that the north of Raphoe is 1km away – this is a significant overestimate. Consequently, proposed screening would be wholly inadequate.

Infrastructural

- If it is assumed that 50% of vehicular movements would pass through Raphoe town centre, then the “pinch-point” outside the recently restored St. Eunan’s Cathedral would be a prime example of where HCVs and other vehicles would be in conflict and where pedestrians and cyclists would be imperilled.
- Attention is drawn to the posting of the site notice not at the foot of the local road with the R236 but at the publicly accessible head of this road.

Environmental

- Of the 107 proposed mitigation measures, 41 would address biodiversity and water. Questions are asked as to whether these numbers of measures

represent sustainable development and whether they would in practise be implemented.

- The EIAR identifies the risk of species disturbance or displacement: in particular, bats are cited, and the question is asked as to whether they have been adequately surveyed.
- Given the topography of the area, noise from quarrying would be extensively heard, and dust would be dispersed.
- Policy EX-P-2 of the CDP is cited. This policy refers to areas of high scenic amenity and areas of importance for the protection of flora and fauna, both of which apply to the site within its context. New extractive industry proposals are disallowed in these areas, and so the proposal would contravene this Policy.

Water resources

- Attention is drawn to the fact that the entirety of water run-off from the site would pass through Oakfield Park's water bodies before flowing on into the River Foyle and Tributaries SAC. The appellant testifies to how pollution originating upstream, including in the site, has affected these water bodies.
- The accuracy of Figure 8.22 of the EIAR is questioned insofar as it omits St. Eunan's well. Other domestic wells within a 1km radius of the site are omitted, too. While the well in Oakfield Park is shown, its current usage is not acknowledged.
- The EIAR fails to acknowledge the landfill that developed in the old quarry following its closure. The disturbance of this landfill would lead to the release of leachate into Oakfield Park's water bodies.
- A hydrological link exists between the site and the River Finn SAC and the River Foyle and Tributaries SAC via the Swilly Burn. Quarrying on the site would lead to adverse impacts on these SACs.
- Raphoe, including Oakfield Park, has experienced flooding in recent years. A flood study has been undertaken and mitigation measures identified. This study did not take into account the water run-off from the proposed quarry.

Such run-off would lack natural attenuation and so it would pose a threat to Oakfield Park.

Archaeology/historical features

- Attention is drawn to known archaeological/historical features and the potential that further such features will be discovered in Raphoe and its hinterland. Various initiatives to conserve buildings in the town are cited and the view is expressed that the proposal would be at cross purposes with these.

Economic

- The economic benefits of the proposal are questioned, and, by contrast, the economic harm that it risks to visitor attractions, such as Oakfield Park, are cited.
- Policy ED-P-14 of the CDP sets out criteria which need to be satisfied if economic development is to proceed. The proposal would meet none of these criteria.

(e) Leslie Brown

- Priorities for Raphoe stem from its heritage town status and the high scenic value of its setting. The proposal would be at cross purposes with these.
- The appellant expresses the view that the applicant's quarrying history is one of not co-operating with public bodies and agencies.
- The EIAR has been prepared from the applicant's perspective rather than that of other interests, e.g., the local community, heritage, and wildlife.
- The PA's permission contravenes its own CDP's designations of the site.
- Quarrying would lead to the dispersal of dust with adverse effects on grazing.
- Alternatives have not been explored, e.g., sites with less environmental and heritage impacts. Against the backdrop of existing quarries, the current need for another quarry has not been established.
- Blasting would threaten historic buildings in Raphoe and nearby dwelling houses.

- Ensuing traffic congestion in Raphoe would have road safety and public health implications.
- Noise from quarrying would adversely affect residential amenity.
- Procedural concerns exist over the PA's handling of the application and its adherence to its CDP in the decision reached.

(f) Raphoe Community in Action & Rev. Cannon John Merrick Chairperson of Board of Management of the Royal & Prior Comprehensive School Raphoe

The appellant begins by providing a critical commentary on the PA's handling of the Section 35 notice under the current application. It then proceeds to cite the following grounds of appeal:

Location

- The appellant states that both the applicant and the PA underestimate the proximity of the site to surrounding sensitive receptors. It states that the following separation distances exist between the site and the edge of Raphoe 289.4m, the Royal and Prior Comprehensive School 291.7m, Oakfield Park 623m, and the nearest dwelling houses to the east 182.2m and to the west 210.8m.
- The site lies within the Laggan Valley landscape character area and close to the town of Raphoe.

The proposal

- To refer to the site, which is in a rural area, as a brownfield site sends an unwarranted signal that it should be redeveloped.
- While quarrying did occur on the site almost 50 years ago, it was small scale in nature and met local needs. What is now proposed is a large-scale commercial quarry, which would have a far greater environmental impact, and which would generate significant numbers of HCV movements. The intensification of use would thus cause it to be materially different to what pertained previously and so in that sense it would be a new extractive industry.

Landscape

- Under the CDP, the site lies within an area of high scenic amenity and close to Raphoe, a town that has grown considerably since quarrying was last undertaken.
- Policy EX-P-2 of the CDP prohibits new extractive industry proposals in areas of high scenic amenity. (This Policy reflects advice in the Quarries and Ancillary Activities Guidelines). It is applicable in the light of the intensification of use that would ensue. Understanding the PA's non-application of the Policy is hampered by the absence of publicly accessible records of pre-planning meetings.
- The site is elevated and the proposal, both the quarry and the widened access road, would be intrusive and obtrusive within its landscape setting. Views of the developed site would be available, e.g., from the Castlegrove housing estate in Raphoe.
- The former quarry on the site is abandoned and it has largely returned to nature. Its presence within the landscape did not impede its designation as an area of high scenic amenity.
- The approach of seeking to lessen the visual impact of the proposal by the use of berms is critiqued on the basis that this is disavowed when considering one-off dwelling houses in the countryside.
- Ironically, under Section 8.2.1(3) of the CDP, a wind farm on the site would be likely to be refused on the grounds of landscape sensitivity.

Rural economic development

- The appellant cites Policies ED-P-8, 10, 11 & 14 of the CDP. It considers the proposal in the light of these Policies, and it concludes that this proposal would contravene them.

Population and human health

- The employment potential of the proposal is set within the context of the likelihood that it would be staffed by relocated existing employees.

- Any suggestion that stone quarried from the site would replace stone “imported” from Northern Ireland needs to be viewed within the context of the existing 31 no. stone quarries in Donegal and the promotion of cross-border economic activity.
- Local residents would be warned of blasting 24 hours in advance. Schools and businesses would not be similarly warned.
- Noise, vibration, and dust emanating from the proposal would change the ambience of surrounding residential and agricultural areas. The efficacy of proposed mitigation measures and adherence to them over the projected 25-year life of the quarry are questioned. Resulting adverse effects upon residents and school goers and upon farming practices would ensue. In these respects, the precautionary principle should have been applied, and alternative sites sought.
- The applicant asserts but does not demonstrate that the impact of the proposal upon tourism would be “imperceptible”. In this respect, its impact upon Oakfield Park and the heritage town of Raphoe, with its historic buildings, has not been examined. The PA also failed to be sufficiently informed, e.g., it did not consult the County Heritage Officer or Bord Failte, and its decision does not reflect the CDP’s commitment to Raphoe’s tourism potential.
- Chapter 3 of the CDP emphasises the importance of towns such as Raphoe in their own right and in their important role in servicing their rural hinterlands.

Cultural heritage

- The proposal would generate HCV traffic movements, some of which would pass through Raphoe’s historic town centre. Their potential impact on historic buildings, in terms of noise, dust, and vibrations, has not been addressed.
- The applicant’s archaeological report should have included Raphoe’s Zone of Archaeological Potential within its ambit. It is premature in concluding that “it is highly unlikely that anything of archaeological interest was ever on the site as it is not suitable for human habitation”, as this elevated site could have been used for religious purposes.

- The report of a locally resident archaeologist identifies the existence of an archaeological feature to the west of the site, which should be investigated. Quarrying can adversely affect such features to a greater extent than other types of development.

Material assets

- The appellant considers that quarrying would be neither optimum nor sustainable. The site was originally used for agriculture and, while it was used as a small-scale quarry up until the 70s, the proposed large scale commercial quarry would not accord with the maxim of sustainability.

Traffic

- Traffic generated by the proposal would amount to 40 HCV movements daily or more during periods of high demand. While the L-23749 and R236 could accommodate these movements, its impact on Raphoe has not been addressed, i.e., traffic going and coming to the south and west of the County would pass through the town. (The CDP lists roads projects in the south-west of the County, which would require stone of the grade available in the proposed quarry). Within the town centre, streets narrow to less than the recommended 6m for HCVs. Passing HCVs may damage historic buildings and structures by the ensuing noise, dust, and vibrations. Under a Traffic and Transport Assessment (TTA), the capacity of these streets and environmental impacts could have been examined.

Biodiversity

- The appellant dissents from the EIAR's conclusion that the proposal would have negligible impact on biodiversity. Attention is drawn to the Habitat Survey, which was submitted to the previous application 19/52015 for the site. Attention is also drawn to the applicant's survey, which was undertaken at a sub-optimal time for the identification of flora and fauna.
- The site contains an abandoned quarry, which is returning to nature, and which should be left to continue to do so.
- The applicant identifies two hydrological links between the site and European sites. He proposes 47 no. mitigation measures to ensure that these sites

would not be adversely affected by his proposal. The monitoring/inspection regime envisaged thereby is not seen as credible over the 25-year life for the proposed quarry.

- In addition to the identified hydrological links, existing or future fissures in the rock may pose the risk of water borne pollutants reaching the European sites.
- Locals testify to dumping on the site since quarrying ceased, and the PA acknowledges the same insofar as a condition of the sale of the site was that it was to be cleaned up. Much of the waste deposited has been covered by soil. Its disturbance could have impacts upon the health of humans, livestock, and wildlife. Nevertheless, the applicant's drilling exercises to determine the level of the water table may have encountered this waste, only no mention is made of it. The EIAR in omitting to discuss the issue of waste on the site is incomplete.
- Attention is drawn to the decisions of the Board to refuse permission for two quarries in Wexford at Belcarrighill and Ballycanew on the grounds that contamination of surface and groundwaters could ensue. A similar concern arises in the present case.

Land, soil, and geology

- The applicant reports that the rock on site contains sulphur, a pollutant. He also reports that this rock is high grade, and so pressure may arise in the future to extend the quarry still further.
- The applicant reports that the soil on the site is highly productive, and so the appellant considers that agriculture would be the best use of it.

Noise and vibration

- The noise and vibration, which would emanate from quarrying activities, would impact local residents and farmers. These impacts are the subject of considerable local concern. One resident/farmer, who resides in a stone built dwelling house which is located on the same rock seam as the quarry, recalls the impacts of previous blasting and anticipates with trepidation their resumption. Yet because his dwelling house is 761m away from the site it is not identified in the EIAR.

Conditions and mitigation

- The appellant expresses concern that neither the psychological effects of the proposal on the local populace nor the effects upon Raphoe as a heritage town/tourist destination have been explored.
- The appellant also expresses concern that the 147 no. mitigation measures along with the PA's 24 no. conditions may not over the 25-year life of the proposed quarry be attended to. And yet they need to be if negative impacts are to be avoided, e.g., to European sites. The enforceability, in practise, of conditions is questioned.

(g) Gerard Moyne & Others

- The appellant asks which Patrick Bonar is the applicant. (Evidently there are two quarrymen in Donegal of this name, one who was born on 16/04/54 and one on 02/02/82).
- Reference is made to a Patrick Bonar who is involved in quarrying in Moya Glebe, Falcarragh, Co. Donegal, which is the subject of enforcement action. Reference is also made to a Patrick Bonar who was the subject of enforcement actions that were outlined by way of background to the PA's Section 35 notice. Why this notice was not allowed to proceed remains an unanswered question.
- A hydrological link connects the site to Lough Foyle SPA. Under the ESPOO Convention, as this SPA lies within Northern Ireland, and the proposal could pose a risk to it, the provisions of this Convention apply, and so to grant permission would be premature.
- Account needs to be taken of the Nitrates derogation operative in the site's locality, which places water courses under greater pressure.
- Attention is drawn to the PA's failure to date to maintain an Extraction Industries Register.
- Concern is expressed that, as in other situations, the landowner, as distinct from the applicant, would be liable under any enforcement action that may become necessary in the future.

6.2. Applicant Response

The applicant begins by reviewing the planning history of the site and the policy hierarchy of relevance to the proposal. He then proceeds to respond to several of the appellants as follows:

Appellant (g)

Applicant details

- Questions as to the identity of the applicant are irrelevant. The conclusion of the PA's Section 35 exercise is referenced in this respect.

Impact of the quarry on waterways

- Attention is drawn to relevant portions of the EIAR and NIS. Attention is also drawn to the mitigation measures that would be in place from the outset, e.g., settlement tanks, wetlands, and silt fencing around berms. The final discharge would be the subject of a trade discharge licence.

Restoration concerns

- The PA's Condition No. 20 would address these concerns by means of a bond.

Appellant (b)

Determination of the application under the EIA Directive

- Attention is drawn to the EIAR and NIS, which establish how the site can be quarried without adverse effects on the recipient environment.

The PA's AA under the Habitats Directive

- The applicant undertook a Stage 1 screening and a Stage 2 NIS of the proposal. It concluded that, provided mitigation measures are taken, no significant adverse effects on European sites would ensue.
- The PA also undertook an AA, which was informed by the applicant's NIS and the advice of internal and external consultees. The same conclusion was reached.
- Under the OPR's Practice Note, the PA correctly consulted with the NPWS.

Unsuitability of the site in principle

- Attention is drawn to the history of the site, which was quarried up until the 1970s and 1980s and so it is presently dormant.

Appellant (d)

Principle of development

- Again, the dormant status of the site as a quarry is emphasised, as acknowledged by the case planner, who quotes the inspector who reported on ABP-308326-20.

Landscape

- Attention is drawn to the EIAR's mitigation measures, e.g., new planted berms, the case planner's acceptance of these measures, and the previous inspector's acceptance of the equivalent measures under ABP-308326-20.

Infrastructure and traffic

- Operational and non-operational traffic generated by the proposal would not add significantly to traffic on the R236.

Environment and noise

- The EIAR's predicted noise levels would be below those recommended in the EPA's Environmental Management Guidelines for Quarries.

Water resources

- The mitigation measures designed to safeguard water quality off-site are cited and attention is drawn to their depiction in Figure 8.27 of the EIAR. These measures would include wetlands, which would act as a final polishing filter, e.g., potential suspended sediment would be reduced from 25 mg/l to 15 mg/l.
- Past quarrying indicates that the cone of depression affecting groundwater is steep. Renewed quarrying would replicate this pattern and groundwater levels outside the site would not be significantly affected.
- Mitigation measures cited in the EIAR to address the construction phase, the risk posed by hydrocarbons, and the risk posed by wastewater from the office block are cited. Such measures would not be necessary for the proposed well,

due to the limited volume of water abstraction, and for the disrupted surface water ditch on the northern boundary, due to its low ecological value and the continuity in the destination of surface water run-off, i.e., to the Swilly Burn River.

- The appellant's concerns are not evidenced base.

Flood risk

- Section 8.5.9 of the EIAR addresses flood risk satisfactorily.

Archaeology

- The previously quarried portion of the site does not contain any archaeology. The greenfield portion has shallow soils that have been farmed for generations and so it is unlikely to contain any archaeology.
- The nearest protected structure is over 800m away and so its setting would not be directly affected. Traffic already affects the heritage town of Raphoe. Within this context, the additional traffic generated would not be significant.

Socio-economic impact and overall project background

- Section 5 of the EIAR is relevant, insofar as it addresses population and human health.

Appellant (f)

Section 35

- Attention is drawn to the applicant's detailed letter of response.

Proximity to neighbouring lands

- The site is surrounded by farmland and forestry. The nearest dwelling house is 270m west of the site's boundary (370m from the quarry face).
- Section 5.7 of the EIAR is cited, which addresses noise and vibration and how these would be controlled and monitored to be within recognised parameters, thereby safeguarding human health and buildings in the locality.

Landscape

- Attention is drawn to the EIAR's mitigation measures, e.g., new planted berms, the case planner's acceptance of these measures, and the previous inspector's acceptance of the equivalent measures under ABP-308326-20.

Quarry operations

- Concerns over blasting, extraction volumes, traffic levels, and water impact are all addressed in the EIAR.

Population and human health

- The EIAR's predicted noise levels would be below those recommended in the EPA's Environmental Management Guidelines for Quarries.
- Reference to a quarry outside Letterkenny is not one that is operated by the applicant.
- The PA raised no objection to the environmental impacts of traffic generated by the proposal.

Tourism

- Noise and landscape mitigating measures and the separation distances between the site and Raphoe and Oakfield Park would ensure the compatibility of the proposal with tourism.

Archaeology

- The previously quarried portion of the site does not contain any archaeology. The greenfield portion has shallow soils that have been farmed for generations and so it is unlikely to contain any archaeology.
- The nearest protected structure is over 800m away and so its setting would not be directly affected. Traffic already affects the heritage town of Raphoe. Within this context, the additional traffic generated would not be significant.

Cultural heritage and material assets

- See under tourism above.

Traffic

- Operational and non-operational traffic generated by the proposal would not add significantly to traffic on the R236.

Biodiversity

- Attention is drawn to Section 6.10 of the EIAR, which addresses biodiversity.

Land, soils, and geology

- The only impacts would be through quarrying, where there would be an inevitable permanent negative impact on the bedrock geology, and soils, where their loss would, following mitigation, have a slight impact.

Conclusion

- The applicant states that the previous reasons for refusal would, under the current proposal, be overcome.

6.3. Planning Authority Response

The PA has responded to the appellants' grounds of appeal as follows:

Site notices

- The PA considers that they were posted satisfactorily.

Traffic safety

- As revised, the proposal would ensure that a satisfactory means of access is available to the site.
- Vehicle movements are likely to be via that portion of the R296 which runs northwards to the N14.

Visual impact/structural impact

- The site is well screened from public view, and it would be seen against the backdrop of forested rolling hills.
- The archaeological interest of the site within its context has been assessed and only one archaeological feature of interest has been identified within the recommended 300m of the site.

- The site was previously quarried and so it is a brownfield one upon which the resumption of quarrying can be considered. Accordingly, the CDP's Policy EX-P-2 would not be contravened, as was accepted by the Board's inspector under ABP-308326-20.
- Alternative sites were considered under the EIAR. However, quarrying is site-specific, and the site has an established quarrying use.

Residential amenity

- Noise, vibration, and dust would be subject to conditions that represent best practice. Likewise, operating hours would be conditioned.
- Separation distances between the site and the nearest dwelling houses would be sufficient to ensure that damage would not ensue.
- Public rights of way for walkers do not impinge upon the site.

Water quality

- The hydrological connectivity of the site is addressed under the EIAR and NIS.
- Habitat surveys were conducted over a 6-month period. Advice from the DoHLGH would be conditioned.
- The applicant advises that the three dwelling houses along the L-23749-0 are supplied with water from the public mains. The PA confirms from planning records that this is so for one of the three. It also advises that residents in all three are related to the landowner.
- The proposal would be supplied by water from a new well. The estimated daily requirement would not exceed 500 litres. While an extraction licence would not be needed, the water would be tested to ensure its suitability.
- Water quality would be safeguarded by means of wetlands and a hydrocarbon interceptor. The final discharge from the site would be the subject of a trade discharge licence from Donegal County Council.

Tourism

- The PA states that, while the site is in an area of high scenic amenity, it is a brownfield one. The resumption of quarrying would be the subject of controls and mitigation measures.

Flooding/run-off

- The site is not at risk of flooding and run-off is addressed under the EIAR and NIS.

Allegations of illegal dumping

- The sale of the site was the subject of a condition requiring that it be cleaned up and that proof of the same be submitted to Donegal County Council. The PA states that this is a separate matter from the current application.

Ecological concerns

- The PA conducted an AA and it is satisfied that European sites would not be adversely affected.
- Noise and dust emissions would be conditioned.

Adjacent telecommunications mast

- The operator made no submissions concerning the mast.

EIAR

- The EIAR complies with the requirements set out under Schedule 6 of the Planning and Development Regulations 2001 (as amended).

Pre-planning meeting records

- The PA reports that requests under Fol and access to information on the environment (AIE) have been made and are being dealt with.

Section 35

- The PA served a Section 35 notice on the applicant, to which he responded. Following further consideration of the matter, including updates on enforcement actions, the PA decided not to proceed with this notice.

6.4. Observations

The Board of Management Raphoe Central National School objects to the proposal on the following grounds:

- Raphoe has grown since quarrying last occurred on the site.
- The site lies within an agricultural landscape: the proposal would be an invasive industrial development.
- Concern is expressed that noise, vibrations, and dust would disrupt the education of pupils.
- HCV movements generated by the proposal would pose risks to pedestrians and cyclists in Raphoe's narrow streets.
- The school enjoys green flag status: the environmental and ecological impacts of the proposal would adversely affect water bodies and flora and fauna.

6.5. Further Responses

Appellant (a) expresses support for the grounds of appeal of the other appellants.

7.0 Additional Information

7.1. Under a Section 132 notice issued to the applicant on 15th December 2023, the following additional information was requested:

1. *The alleged dumping of domestic waste within the former quarry has not been addressed in the planning application or the EIAR. Please investigate this dumping in order to identify its contents and estimate its extent and volume. Measures for its remediation shall be proposed, including how the quality of water discharging from the site would be safeguarded during remediation.*
2. *Sections 8.4.10 and 8.6.2.2 of the EIAR address groundwater in conjunction with the preferential flow within the former quarry. Please clarify the basis for the calculation/ estimation of the volume of groundwater within this flow at present and under the proposed quarry, especially.*

3. *Please state the volumes of water that would discharge from the water management proposals into the land drain under normal and storm surge scenarios. Provide details of this drain, i.e., its exact position, specification, and condition, and demonstrate its adequacy to receive the envisaged discharge.*
4. *Please clarify how, under the site restoration plan, water would drain from the lowered quarry floor to the “original” drainage system, i.e., the one that would pre-date the water management proposals.*
5. *Please clarify the improvements proposed for the means of access to the site, i.e., the local road and its onward extension into the site, by means of a detailed site survey plan and elucidating cross-sections. This plan and these cross-sections shall indicate how the means of access would be drained and the relationship between it and the land drain, which would receive the discharge from the site. Any removal of existing vegetation to improve forward visibility shall be specified, too.*
6. *Please clarify the following proposed operational phase aspects of the proposal:*
 - a) *The sump shown in Phase 1 of the proposed quarry would be suspended in conjunction with the lowering of the quarry floor. Elucidate how this sump would be suspended during such lowering and demonstrate its compatibility with the maintenance of access to the proposed quarry.*
 - b) *Under the “Noise and Dust” chapter of the EIAR, the processing plant is described as being static within Zone 1, which would encompass Phase 1 of the proposed quarry. Elucidate how this plant would remain operational during the lowering of the quarry floor.*

7.2. The applicant responded to this request on 15th March 2024. A summary of the additional information thus submitted is set out below.

Item 1

7.3. The applicant states that historically household waste, tyres, and grass cuttings were dumped on the site. However, as a condition of sale to the local landowner, these materials were removed to a registered waste facility in 2015. A copy of a receipt to this effect is submitted with the applicant’s response. Since then no further dumping

has occurred and access to the site is now gated. Accordingly, the applicant's ecologist, who contributed to the EIAR, did not encounter these materials when surveying the site. The applicant invites a condition that would allow the PA's Environment Section to inspect the site prior to any development to satisfy itself that the site has remained waste free.

Item 2

- 7.4. The applicant reiterates its observations that water flows from the geological contact between the meta-dolerite and meta-sedimentary rocks in the southern faces of the former quarry and that this water contributes to the overall flow of water from the void. Conductivity tests indicate that it is groundwater, and the GSI advises that groundwater is likely to be concentrated in the upper layer of meta-dolerite rocks.
- 7.5. The overall flow of water from the void was monitored during the winter months of October 2021 – March 2022. This flow was greater than the average rainfall rate would have suggested, and so the "excess" was regarded as groundwater. The contribution of groundwater to the overall flow of water from the proposed quarry is predicted to increase proportionately with the resulting enlargement of the existing void, i.e., the observed flow regime of groundwater is not expected to change.

Item 3

- 7.6. The normal discharge from the water management proposals would be 3 l/s. Under a worst-case scenario, i.e., a 1 in 100-year 6-hour storm event during Phase 1 when there would be no temporary sumps in the proposed quarry, the attenuation volume would be 1118 cubic metres and 1131 cubic metres would be available in the wetland ponds, assuming a discharge of 9 l/s. This discharge would initially be to a 450mm diameter pipe, which would run along the widened access road to the site, before discharging to an existing land drain (cf. drawing no. 24). The applicant estimates that the resulting discharge would represent c. 1.5% of the available cross section of this land drain.

Item 4

- 7.7. Under the restoration plan, the void would be allowed to flood. An outlet to this void would be formed at c. 10m above the proposed quarry floor. Water overflowing from

the void through this outlet would be directed to the retained water management proposals.

Item 5

7.8. Proposed upgrades of the access road from the R-236 to the site would entail the following works:

- Four passing places would be formed at intervals along the access road (cf. drawing no. 24). These passing places would be screened by means of native planting,
- Rock armour would be placed in gabion cages where needed to ensure the stability of the access road,
- A dip in the access road would be raised to improve forward visibility, and
- The junction between the access road (L-23749) and the R-236 would be re-sited to the north-east of its existing position to ensure adequate sightlines/ forward visibility (cf. drawing no. 23).

Item 6(a)

7.9. When the need arises for the primary sump in the quarry floor to be lowered a secondary sump would be formed in advance to ensure continuity in the provision of sumps until the primary one is operational again (cf. drawing no. 10). (Pumps serving primary and secondary sumps are easily transferred, and so the necessary connection with the water management proposals would be assured).

Item 6(b)

7.10. Under Phase 1, a mobile processing plant would be used. Once Phase 1 is complete, a static processing plant would be installed in Phase 1 for the duration of Phases 2 – 5 (inclusive).

7.11. The applicant's response was considered to be significant and so, under Section 131, the parties to the appeal were notified.

8.0 Public consultation on additional information

- 8.1. The additional information received from the applicant was the subject of a public consultation exercise. The PA's submission stated that it had no further comment to make on the proposal. Several submissions received reiterated previously cited grounds of appeal and observations. These submissions were made by Hazel Willoughby, Kathleen McElhinney, Appellant (a) Rachel & Hugh White, E & J Brennan, Fred & Avril Blackburn, Monica McGinley, Appellant (f) The Royal & Prior Comprehensive School, and Appellant (g) Gerard Moyne.
- 8.2. Several submissions interacted with the additional information. These submissions are summarised below.

Appellant (f): Raphoe Community in Action c/o Mary Harte & Others

- Item 1: The applicant's response to the issue of waste on the site is critiqued on the basis that its extent, quantity, and content remains undisclosed, and no site investigations have been undertaken with a view to detecting any seepage of pollutants.
- Item 2: Attention is drawn to the rate of climate change and the resulting higher incidence of storm events. The adequacy of the water management proposals to cope with such events is therefore questioned, especially during Phase 1, when it is anticipated that insufficient water management measures would be in place.

Attention is also drawn to the relevant watershed which is more extensive than the site itself. Consequently, the appellant is not confident that the applicant's water run-off calculations are accurate, or that future fissures resulting from blasting have been allowed for.

- Item 3: The flooding of the ultimate quarry void under the now proposed restoration plan is critiqued on the basis that it has not been thought through from either ecological or public safety perspectives. Concern is also expressed over the on-going management of its drainage arrangements.
- Item 4: Attention is drawn to the sightline with a y distance of 72m, which is proposed for the re-sited junction between the L-2374 and the R-236. Under CDP standards this distance should be between 120 and 160m. Attention is

also drawn to an alleged incursion of this sightline onto lands without the consent of the relevant landowner.

- Item 5: A lack of confidence is expressed in the satisfactory working of the sump arrangements for the proposed quarry.
- Item 6: Concern is expressed over the proposed initial operation of mobile crushing and screening plant insofar as its siting and impacts have not been allowed for in the applicant's assessment.

Appellant (d): David Fisher

- Item 1: Concern is expressed that the waste removed would have represented only a fraction of that dumped in the former quarry. Since then road construction waste and farm yard manure has been deposited on the site, as depicted in submitted photographs.
- Items 2: Concern is expressed that any increase in water run-off from the site would lead to flooding downstream at Oakfield House. Recent flood events have affected the grounds of this House and illustrated their vulnerability.
- Item 3: Concern is expressed over current incidences of polluted waters flowing through the grounds of Oakfield House, and the likelihood that such incidences would increase under the proposal.
- Item 4: Attention is drawn to the sightline with a y distance of 72m, which is proposed for the re-sited junction between the L-2374 and the R-236. Under CDP standards this distance should be between 120 and 160m. Attention is also drawn to hedge trimming that would be required to maintain this sightline.
- Item 5: For the proposed sumps to operate satisfactorily, proper pump maintenance would be critical.
- Item 6: It is inevitable that the proposal would adversely affect the ambience and amenities of Raphoe and its environs, including Oakfield House.

Appellant (c): Lady Heather Robinson

- Item 1: Dumping may reoccur, and the prospect of enforcement is remote.

- Item 2: With climate change, rainfall will increase. The extensive water attenuation measures installed in the grounds of Oakfield House are already under strain. Under the proposal, such strain would only increase.
- Item 3: The adequacy of a 30% allowance for climate change is questioned. Increased volumes of water run-off from the proposal would be likely to jeopardise the grounds of Oakfield House and the habitat that they afford to wildlife.
- Item 4: The ultimate flooding of the site, under the applicant's restoration plan, would pose a risk to local children.
- Item 5: Under the proposal, works to upgrade local roads would be disproportionate, and the impact of HCVs upon Raphoe would not be capable of mitigation.
- Item 6: It is inevitable that the proposal would adversely affect the ambience and amenities of Raphoe and its environs, including Oakfield House.

Appellant (b): An Taisce

- Item 1: Noted
- Item 2: Submitted photographs show the waterlogged floor of the former quarry, and yet they are presented without date or commentary as to weather conditions. Concern is expressed over the three-phase water processing system and its compatibility with excavations and ability to cope with storm surges.
- Item 3: The view is expressed that the submitted access details testify to the previous lack of attention to this aspect of the proposal.
- Item 4: The view is expressed that responses to individual operational issues risks overlooking cumulative impacts.

Appellant (e) Leslie Brown

- Item 1: The risk of dumping persists.
- Item 2: Attention is drawn to the difficulties attendant upon rainfall predictions in an era of climate change, and groundwater calculations.

- Item 3: Likewise, attention is drawn to the difficulties attendant upon making water discharge predictions.
- Item 4: The full implementation of site restoration and landscaping plans is questioned.
- Item 5: It is not possible to relieve the impact that HCV generated by the proposal would have upon Raphoe.
- Item 6: It is inevitable that the proposal would adversely affect the ambience and amenities of Raphoe and its environs.

9.0 Planning Assessment

9.1. The proposal needs to be the subject of Environmental Impact Assessment (EIA) and Appropriate Assessment (AA). I will undertake these Assessments following my planning assessment.

9.2. I have reviewed the proposal in the light of the National Planning Framework (NPF), the Quarry and Ancillary Activities Guidelines, the Donegal County Development Plan 2018 – 2024 (CDP 1) and Donegal County Development Plan 2024 – 2030 (CDP 2), relevant planning history, the submissions of the parties and the observer, and my own site visit. Accordingly, I consider that this application/appeal should be assessed for planning purposes under the following headings:

- (i) Legalities, and
- (ii) Land use, planning policies, and planning history.

Other subjects will be addressed under the EIA.

(i) Legalities

9.3. Appellants express concern over the following issues:

- The non-availability of the minutes of pre-planning consultations,
- The location of the posted site notice at the head of the L-23749-0 rather than at its foot, and
- The identity of the applicant.

- 9.4. The PA has responded to these concerns by stating that the Minutes are the subject of Fol and AIE requests, which it is progressing, the location of the posted site notice was considered appropriate, and so the application was validated, and it has confidence that the identity of the applicant is known.
- 9.5. At the application stage, the PA's consideration of the current proposal was interrupted by the service of a notice, under Section 35 of the Planning and Development Act, 2000 (as amended), (hereafter referred to as the Act) upon the applicant. He responded to the PA, which subsequently withdrew the said notice.
- 9.6. Several appellants express concern over the sequence of events set out in the foregoing paragraph, and, in particular, to the absence of a clear explanation as to why the notice was withdrawn. The PA has responded by stating that, after a review of enforcement cases involving the applicant, it withdrew the notice.
- 9.7. Under Section 35, service of the notice in question is the prerogative of the PA only. Likewise, all matters of enforcement are for the PA, as distinct from the Board, to deal with.
- 9.8. I, therefore, conclude that there are no legal impediments to the Board assessing/determining the current application/appeal in the normal manner.

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

- 9.9. The NPF and CDPs 1 & 2 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.
- 9.10. Appellant (e) states that, against the backdrop of 31 no. quarries in Donegal, the need for the proposal should be established. I note that, while there is no onus upon the applicant to demonstrate such "need", there is a lack of County-wide information on quarries, including their reserves and rates of output, and the likely future demand for aggregates. (In this respect, e.g., appellant (g) draws attention to the absence of

entries for Donegal in the EPA’s Extraction Industries Register). I note, too, that such lack risks a situation wherein “surplus” quarries could exist at any one time.

9.11. Under CDPs 1 & 2, the site, including the means of access to it along the L-23749-0, is shown as lying outside the settlement framework boundary of Raphoe, and in an area of high scenic amenity, which lies within the Laggan Valley landscape character area.

9.12. The site is centred upon a former quarry, which was referred to in a GSI publication as being operational in 1985 for the purpose of supplying crushed rock for road construction. Donegal County Council operated the quarry, and it is thought to have closed in the late 1980s. Some of the ancillary structures/buildings from such operation remain in-situ.

9.13. The majority of the site was the subject of planning application 19/52015, which was permitted, but subsequently refused at appeal (ABP-308326-20), on the following grounds:

- The applicant failed to demonstrate adequate proposals for the management of surface water and so an unacceptable risk of environmental pollution would arise, and
- The consequent risk posed to the River Foyle and Tributaries SAC and the River Finn SAC.

A note added that, in the light of the above, significant effects on the environment could arise, and so an EIAR may be necessary.

9.14. The current proposal seeks to overcome these grounds of refusal. It also seeks permission for the deeper and more extensive extraction of rock from within an enlarged site, albeit at a similar rate of extraction to that which was previously envisaged. The key quantitative differences between the previous proposal and the current one are summarised below.

	Previous proposal	Current proposal
Site area	4.81 hectares	7.95 hectares
Extraction area	2.51 hectares	5.37 hectares

Final depth of quarry floor	128 or 129m ASL (as at present)	119m ASL
Total rock extracted	441,390 tonnes ¹	2,754,000 tonnes
Annual extraction rate	100,000 – 110,000 tonnes	100,000 – 110,000 tonnes

- 9.15. If comparable cross sections submitted under the previous and current applications are examined, e.g., cross section A-A from the former application and cross section B-B from the latter application, then it becomes apparent that the site would extend mainly to the north-east under Phase 4. The contribution of this extended area is illustrated by the total rock extraction, which would have occurred under the previous proposal, if it had entailed dropping to a depth of 119m ASL, i.e., 1,299,444 tonnes.² Thus, the extended area would more than double the output from the quarry over that which would have arisen had the previous proposal entailed a comparable depth to that which is now envisaged.
- 9.16. A straight comparison between the total rock, which would have been extracted under the previous proposal, and that which would now be extracted shows that more than a sixfold increase in output would arise. Given that the extraction rate would remain constant between the two proposals, the previous one would have required 5 years,³ while the current one would require 25 years.
- 9.17. The tonnage figures for the previous proposal are cited in the submitted Geological Report, which forms Appendix 7.1 to the EIAR. These figures were calculated by reference to the drawings of the applicant's architect. The equivalent figures for the current proposal are stated in the description of the proposal on Page 42 of the EIAR.
- 9.18. Under Section 4.9 of the Quarrying and Ancillary Activities Guidelines, the duration of any permission is linked to the expected life of the reserves within the site. These Guidelines go on to state that "The purpose of setting a finite period is not to

¹ Cited in Page 148 of the EIAR in Appendix 7.1: Geological Report.

² Cited in Page 148 of the EIAR in Appendix 7.1: Geological Report.

³ This bears out the opinion of the reporting inspector, as stated on Page 22 of his report on ABP-308326-20.

anticipate that extraction should not continue after the expiry of that period, but rather to enable the planning authority, in conjunction with the developer and environmental authorities, to review changes in environmental standards and technology over a decade or more since the original permission was granted.”

- 9.19. In the light of the foregoing advice, I consider that, while *prima facie* the applicant’s proposal would warrant a 25-year permission, a shorter-period would be in order to ensure that any changes in environmental standards and technology can be availed of in the future. In this respect, I note that each of the five phases is allocated a five-year period. If permission was thus granted for the first two phases, 1,323,000 tonnes of rock would be excavated over a notional 10-year period. If the annual output was to approximate to 110,000 tonnes, then a 12-year permission would be appropriate. This period could reasonably be conditioned along with all consequential adjustments to the proposal, and so I consider that it should be.
- 9.20. Policy EX-P-2 of CDP 1 stated that proposals for new extractive industry in areas of High Scenic Amenity will not be permitted. The site is located within an area of High Scenic Amenity and so the provisions of this Policy were considered by the reporting inspector under ABP-308326-20, the reporting inspector considered Policy EX-P-2, and he commented as follows: “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.”⁴ The subsequent Board decision effectively endorsed this position.
- 9.21. Significantly, replacement Policy EX-P-1 of CDP 2 omits the reference to areas of High Scenic Amenity and instead only refers to areas of Especially High Scenic Amenity.
- 9.22. Several appellants draw attention to changes that have occurred since quarrying was last undertaken on site, e.g., Raphoe has been designated a heritage town, it has expanded to be closer to the former quarry, and the nearby Oakfield House has

⁴ Page 21 of the report on ABP-308326-20.

opened to the public and become a popular visitor attraction. They also draw attention to the nature of quarrying, which formally was small scale, intermittent, and intent on meeting local needs, whereas under the current proposal a large-scale commercial quarry is envisaged. The former quarry was abandoned and allowed to return to nature, whereas, under its proposed reactivation, it would be quarried to a far greater intensity than heretofore.

- 9.23. I have reviewed the previous application/appeal for the majority of the site. I consider that the local factors cited in the foregoing paragraph were reported upon, and so they would have been apparent to the Board. However, I note that the current proposal would, due to its depth and the extent of its extraction area, entail more than a six-fold increase in the output of the reactivated quarry compared to that of its predecessor. The contrast with former quarrying would be that much greater again. Consequently, the impact upon the landscape would increase, and so its compatibility with its high scenic amenity designation is one that I will consider below under the EIA.
- 9.24. Appellants cite economic development policies from the CDP 1, and, in particular, ED-P-14, which sets out criteria for assessment. These criteria are effectively covered by the EIA.
- 9.25. I conclude that (a) while there is historic precedent for quarrying on the site, the depth and extent of quarrying now proposed requires to be considered in terms of its landscape impact, and (b), notwithstanding the case for a 25-year permission, advice set out in Section 4.9 of the Quarrying and Ancillary Activities Guidelines, would prompt a 12-year permission for Phases 1 & 2 only.

10.0 **Environmental Impact Assessment**

Introduction

- 10.1. I have carried out an examination of the information presented by the applicant, including his EIAR, and the submissions made during the course of the application and appeal. A summary of the results of the submissions made by the PA, prescribed bodies, appellants and observer, has been set out at Section 6.0 of my report. The main issues raised, which are specific to the EIA, can be summarised as follows:

(a) Population & human health

- (i) The employment potential of the proposal would be affected by the likely relocated of existing employees.
- (ii) The psychological impact upon residents of having their heritage town accompanied by the proposal has not been assessed.

(b) Biodiversity

- (i) The possible presence of bats has been insufficiently surveyed.

(c) Land, soils & geology

N/a

(d) Water

- (i) Water borne sediments would risk river pollution and downstream flooding.
- (ii) Insufficient account has been taken of wells in the surrounding area.

(e) Noise & dust

- (i) The elevated position of the site would heighten the impact of noise and dust.
- (ii) Human and animal health would be affected, and underlying health conditions would be exacerbated.

(f) Blast & vibration

- (i) The impact on a nearby telecommunications mast has not been assessed.
- (ii) The proposed extent of blast warnings would be inadequate.

(g) Climate

N/a

(h) Material assets – traffic

- (i) Traffic would pose a risk to pedestrians and cyclists.
- (ii) The environmental impact of traffic upon historic buildings has not been assessed.

(i) Material assets – site services

N/a

(j) Cultural heritage

(i) Insufficient account has been taken of the conservation interest attendant upon Raphoe, a heritage town.

(ii) The tranquil appeal of Oakfield Park would be adversely affected.

(iii) Potential archaeological features have been insufficiently assessed.

(k) Landscaping & restoration

(i) The proposal, including its access road, would alter/scar the character of the high scenic landscape of the site within its setting.

(ii) Proposed tree planting would provide an insufficient screen.

These issues are addressed below under the relevant headings, and, as appropriate, in the reasoned conclusion and recommendation, including conditions.

10.2. Several of the appellants state that the former quarry was used for illegal dumping, which has not been addressed under the EIAR. The PA has commented on this subject to the effect that the site was sold subject to a condition that it be cleaned up and that proof of the same be submitted to Donegal County Council. It considers that this matter can be handled separately from the current application.

10.3. Under further information, the issue of illegal dumping within the void of the former quarry was raised with the applicant. He has clarified that the waste in question was removed in 2015. Several appellants express concern that not all the waste may have been removed and so there may be a risk that leachate is released once excavation commences. They refer to photographic evidence to this effect. However, none has been submitted.

10.4. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct, indirect and cumulative effects of the proposal on the environment and complies with Article 94 of the Planning and Development Act, 2000 – 2023.

Reasonable alternatives

10.5. The applicant's EIAR refers to the following three alternative sites:

- Option A: A disused quarry (c. 3.22 hectares) in the townland of Mondooy Upper, c. 3km to the north of Raphoe. Additional rock is evident within the existing void. However, extant permission exists for overhead powerlines to be erected over the disused quarry, which is located within 1km of the proposed Donegal Trans-European Transport Network (TEN-T). Additionally, the landowner indicated that he was not in a position to sell or offer a long-term lease.
- Option B: The site (4.81 hectares), which was the subject of 19/52015 & ABP-308326-20. While this application was permitted by the PA, it was subsequently refused by ABP. An agreement was reached with the landowner for a long-term lease.
- Option C: The current application site (7.95 hectares), which comprises the Option B site and additional lands to the north and the east. The lands to the east would be used to accommodate a comprehensive settlement pond and wetland system. An agreement has been reached with the landowner for a long-term lease.

10.6. Option C was selected for the following reasons:

- The proposed comprehensive settlement pond and wetland system would overcome ABP's previous reason for refusal.
- The elevated position of the disused quarry would ensure that renewed quarrying would be capable of being screened from the R236.
- An agreement to enter into a long-term lease exists.
- The disused quarry contains very good reserves of rock with which to serve the local aggregate market.

10.7. I note the above three alternative sites. I note, too, that, under Option C, the addition of lands to the north of the Option B site is not explained, as distinct from the addition of the lands to the east.

(a) Population & human health

- 10.8. The site lies in the townlands of Craigs and Magherasolis. Under the 2016 Census, the population of these townlands was 210 and that of the nearby town of Raphoe was 1089. Under the 2016 Census, too, employment figures for the townlands indicate a significant level of unemployment, i.e., as 69.6% of the workforce were in employment, 30.4% were unemployed.
- 10.9. Under the proposal, the reopened quarry would provide 8 – 10 new jobs for local people. Appellants critique these figures on the basis that some or all of the jobs would be relocated from other quarries operated by the applicant. However, the EIAR describes them as “new” jobs, and so it does not appear to envisage relocation. It also draws attention to the high percentage of local commuters who travel less than 15 minutes to work/school. The provision of local jobs would enhance this percentage.
- 10.10. Paragraph 5.7.1.3 acknowledges that homes and schools are sensitive receptors to quarrying. Figure 5.2 of the EIAR identifies schools within Raphoe. The HSE (EHS) draws attention to an additional school, St. Enda’s National School, and to its residential facility, Ballytrim House in the Castle Grove housing estate, which is also a sensitive receptor.
- 10.11. Table 5.8 draws upon the findings of other chapters of the EIAR to include that the post-mitigation significance of the impacts of noise & vibration, air quality & climate, and traffic would be “imperceptible” upon the local community. Each of these impacts is assessed more fully below.
- 10.12. Appellants raise the wider issue of the psychological impact of the proposal upon residents of Raphoe, a heritage town, the implication being that their perceptions of the town would be affected by the resumption of quarrying on the site. The applicant has not addressed this public health concern directly, but, insofar as it may arise cumulatively from concerns over the aforementioned impacts, I consider that it is addressed indirectly.
- 10.13. Sections 5.7.1.4 & 6 address site safety and unplanned events, i.e., accidents and disasters, e.g., the collapse of a quarry face. In relation to the former, the applicant undertakes to abide by all legal and best practice standards pertaining to the

operation of the quarry. In relation to the latter, he undertakes to have emergency plans and procedures in place.

10.14. I conclude that the proposal would *prima facie* provide local employment, and, to anticipate my assessment of related impacts below, it would be capable of being operated in a manner compatible with public health and safety.

(b) Biodiversity

10.15. The applicant's ecologist undertook baseline studies of the site within its wider context. The presence of nationally designated ecological sites was thereby identified (Figure 6.5) and flora and fauna data from the national biodiversity map was accessed (Hectad C20, which includes the site, and the neighbouring Hectads H29 & H30). The only nationally designated ecological site linked to the site by a source/pathway/receptor route is the River Foyle, Mongavlin to Carrigans pNHA (002067). However, as this pNHA forms part of the River Finn SAC (002301), I will consider this link under my Appropriate Assessment below. The fauna data includes information on bats, which indicates that Hectad 20 has, on a scale of 0 to 59, an all-bat suitability index of 20.48.

10.16. The applicant's ecologist also undertook multiple field surveys of the site within its context between October 2021 and February 2022. These surveys resulted in, amongst other things, an accurate understanding of the surface water drainage of the site (Figure 6.4), which confirms that the site does drain to the Swilly Burn, and the preparation of a habitats map (Figure 6.7), which indicates that, under the proposal, 2 hectares of grassland would be lost along with a hedgerow between phases 3 and 4.

10.17. Mammal, bat, and bird surveys were undertaken.

- The mammal survey identified the presence of red deer and grey squirrel to the south of the former quarry. It noted the absence of any evidence of badgers, and the unsuitable nature of drainage ditches to provide habitat for otters.
- The bat survey inspected trees throughout the site on 25th February 2022. No evidence of bats was detected, but several trees would provide potential roosts. Appellants query the adequacy of this survey. However, it was

undertaken at an appropriate time of the year. Under the proposal, trees around the perimeter of the site would be retained, and bat boxes would be installed.

- The bird survey did not identify any protected species on the site.

Under Paragraph 6.5.3.5, the applicant's ecologist acknowledges that no amphibian and reptile survey was undertaken, as the species concerned would have been hibernating during October 2021 to February 2022. She states that prior to site stripping works, survey work would be undertaken. The DoHLGH recommends that pre-commencement floral and faunal surveys are conditioned to any consent to ensure that wild flora, bird and/or animal populations, including reptiles and amphibians, occurring on site are provided with adequate protection throughout the five phases of development.

10.18. Under Table 6.11, Key Ecological Receptors (KERs) are identified. If the link with the above cited pNHA and SAC is set to one side, the remaining KERs are categorised as being of local importance and of either lower or higher value within this category.

10.19. Under Section 6.7, an ecological impact assessment (EclA) is undertaken. This EclA assesses the potential effects upon KERs during the construction phase and the operational phase. (Under the proposed restoration plan, potential effects upon KERs during the decommissioning phase are not anticipated, as the site would be returned to agricultural use)⁵.

- Under the construction phase, the KERs assessed are the Swilly Burn and its sensitive aquatic faunal species, the hedgerows/treelines on the site, and birds and other fauna, which nest/forage in the site. Prior to mitigation, the impact of construction works is in each case judged to be short-term and negative. After mitigation, no residual effects are predicted.
- Under the operational phase, the KERs assessed are the Swilly Burn, the above cited 2 hectares of grassland on the site, and birds and other fauna, which nest/forage in the site. Prior to mitigation, the impact of the operational phase is judged to be, variously, moderately adverse, long-term permanent negative, and moderately adverse. After mitigation, no residual effects are

⁵ Under further information, the applicant indicated that the site would be allowed to flood following its decommissioning.

predicted for the Swilly Burn and birds and other fauna. However, the loss of grassland would be a slight adverse impact.

No cumulative impact is anticipated with any other projects in the surrounding area. The only cumulative impact anticipated is internal to the proposal with the progression through the five phases.

10.20. The EclA concludes that the proposal would have no significant residual impacts once the identified mitigation measures are strictly adhered to.

10.21. I conclude that the applicant's assessment of biodiversity impacts arising from the project is reasonable and that these impacts would not lead to significant effects upon the key ecological receptors.

(c) Land, soils & geology

10.22. The land comprised in the site rises from c. 107m ASL in the south-east to 170m ASL in the north-west. Results from boreholes drilled throughout the site indicate the presence of rock to a depth of 100m. Results from borehole no. 3 within phase 3 show the presence of made-up ground to a depth of 7m, which is probably overburden from historic quarrying activities. Teagasc classifies the soils present in the site as loamy drift with igneous and metamorphic stones. Trial holes dug by the applicant indicate a good depth of such soils in the eastern portions of the site, while in the north-western portion they are thinner.

10.23. The applicant's geologist refers to two figures from the GSI's map viewer. The first, Figure 7.2, highlights the former quarry on the site, and the second, Figure 7.3, flags the site's potential for the extraction of crushed rock aggregate. He further states in his Geological Report (Appendix 7.1 to the EIAR) that, based on the applicant's testing of sample rock to date, it would appear to be S.R.16 & 21 compliant, and so suitable for use as an aggregate in concrete and as hardcore under concrete slabs and footpaths.

10.24. Under Section 7.6, construction and operational phase impacts are identified, along with relevant mitigation measures. Sections 7.12 – 7.14 summarise these impacts before and after mitigation. The significance of hydrocarbon contamination through accidental spillages/leaks would be capable of being mitigated from slight to imperceptible. The significance of the loss of soils/sub-soils due to extraction would

be capable of being mitigated, primarily by the use of overburden in the formation of berms, from moderate to slight. By contrast, the loss of bedrock geology as an extracted product would, in the nature of the case, be incapable of mitigation and so it would give rise to a moderate permanent negative impact.

10.25. I conclude that the loss of bedrock geology inherent to the project would be a significant impact, which needs to be weighed against the necessary supply of aggregates to the construction industry.

(d) Water

10.26. The previous application/appeal (19/52015 & ABP-308326-20) was refused essentially because the surface water management proposals were judged to be of an inadequate specification to avoid an unacceptable risk of pollutants entering the receiving waters beyond the site comprised in the Swilly Burn system. The applicant seeks to overcome this reason for refusal, albeit his current application is for a more extensive and deeper quarry than previously envisaged.

10.27. Chapter 8 of the applicant's EIAR addresses water. It begins with the following summary of the site investigations, which were undertaken:

- Walkover surveys and hydrological mapping of the site,
- Surface water monitoring, sampling, and analysis from September 2021 to March 2022,
- Monitoring of groundwater by means of boreholes over a three-month period, and
- A rudimentary assessment of the transmissivity of the aquifer under the site.

The chapter then proceeds to describe the site, the receiving environment, and the water management proposals, before concluding with an impact assessment. I will summarise each of these sections and interact with them.

The site

10.28. Figures 8.3 and 8.4 show the existing sub-catchments affecting surface water run-off from the site and existing site drainage patterns. Essentially, as this site lies towards the top of a hill, it receives very little run-off from elsewhere. Its northern portion (8637 sqm) drains to a ditch/stream, which flows to the east towards the Swilly Burn,

while its central portion, i.e., centred on the floor of the former quarry (25,418 sqm), drains via a culvert to a ditch/stream, which flows to the north-east to connect with the Swilly Burn. Pooling of water within the floor of the former quarry comprises both surface water and groundwater.

10.29. Figure 8.5 shows a sampling point on each of the above cited water channels.

- The upper channel was calculated as having an average winter's day input of incident effective rainfall of 22.5 cubic metres and a recorded daily output of 21.6 cubic metres, i.e., only a small proportion contributes to groundwater recharge.
- The lower channel was calculated as having an average winter's day input of incident effective rainfall of 66 cubic metres and a recorded daily output of 149 cubic metres. In this respect, the applicant comments that a preferential flow path along the foot of the southern face of the former quarry arises from the juxtaposition of two distinct rock groups, i.e., the meta-sedimentaries and the meta-dolerites, and that the related zone of contribution may extend beyond the quarry void catchment to the north and west of the site. Consequently, the "additional" 83 cubic metres comprises surface water and groundwater.

10.30. Table 8.2 displays the surface water quality analysis findings of samples taken at the above cited sampling points. The accompanying commentary states that water quality is of high ecological status, acceptable pH, and below the recognised 25 mg/l threshold for suspended sediments.

10.31. Figure 8.11 shows inferred groundwater contours based on readings during winter months when the water table would be at its highest. These readings were taken from six boreholes, the sitings of which are shown on Figure 8.8. Recharge tests were undertaken at three of the boreholes, and the results of these tests informed "crude estimates of transmissivity". Thus,

- Borehole No.1 in the meta-sediment rock group, in the south-western corner of phase 1 of the site, was estimated to have a transmissivity of 19.9 sqm daily,
- Borehole No. 2 in the meta-dolerite rock group, in phase 5 of the site, was estimated to have a transmissivity of 5.5 sqm daily, and

- Borehole No. 3 in the meta-dolerite rock group, in phase 4 of the site, was estimated to have a transmissivity of 2.3 sqm daily.

Aquifer parameters defined by the GSI indicate that poorly productive aquifers have a transmissivity rate of less than 10 sqm daily and productive fissured aquifers range from 20 to 30 sqm daily.

10.32. Table 8.3 displays groundwater chemical analysis of samples taken from each of the three above cited boreholes. Overall groundwater quality was found to be very good with no exceedances of relevant recognised thresholds.

10.33. Figures 8.29 & 30 display schematically the pre-quarrying, quarrying to date, and proposed quarrying groundwater levels underneath the site. The applicant observes that the water table outside the former quarry lies at relatively shallow levels, i.e., 5 – 10m below ground level, and so the cone of depression accompanying the former quarry is steep. He anticipates that, under the current proposal, the same pattern would be reproduced.

Receiving environment

10.34. The GSI data map shows the site as lying within an area wherein the underlying bedrock is that of the Killiter Quartzite Formation, i.e., meta-sedimentary rocks. However, the site itself is composed of meta-dolerite rocks, which resulted from a volcanic intrusion. The former rocks are classified by the GSI as being a poor aquifer. Groundwater recharge is limited by the general impermeability of the meta-sedimentary rocks, i.e., it is estimated to be no more than 100 mm annually. The latter rocks are similarly impermeable, maybe more so.

10.35. Figure 8.21 displays the aquifer vulnerability classification. The majority of the site is shown as having either exposed rock or thin soil cover, while the remaining north-eastern and south-eastern portions, where soil cover is deeper, are classified as extreme.

10.36. The site lies within the Raphoe Groundwater Body. The EPA's monitoring of this Body indicates that it is of good quality status and "not at risk". The site does not lie within 5km of any source protection area. Figure 8.22 shows the presence of 8 no. groundwater wells within 5km of the site, including one in Oakfield Park. However, none of these wells lie within the site's zone of influence. The applicant refers to St.

Eunan's Well, which is shown on historic maps as being 290m to the south-west of the site. He comments that there is no evidence that this Well is still active. Under the PA's further information request, the applicant clarified that the three residential properties, which are accessed off the local road to the site, are supplied by water from the public mains. While appellants express concern that insufficient account has been taken of wells in the surrounding area, from the evidence before me, I do not consider that this is so.

10.37. Figure 8.23 displays the Swilly Burn network, including the tributary of the Swilly Burn that surface water from the site discharges to. The Swilly Burn is the subject of five monitoring points, the latest Q values from which are in each case 3, i.e., poor ecological status. The applicant undertook a kick sample on the relevant tributary of the Swilly Burn. Analysis of this sample indicates a Q value of 2 – 3.

10.38. The site and the surrounding area are not shown as being the subject of any formally recognised flood risk in the OPW's flood maps.

Water management proposals

10.39. Figure 8.27 displays a schematic layout of the proposed water management proposals designed to deal with suspended sediments in water run-off from the site. The extraction area would drain to a primary sump adjacent to the access point to the former quarry. This sump would discharge by gravity to three settlement lagoons, which would in turn discharge to three wetland ponds. These lagoons and wetlands would be laid out in the south-eastern portion of the site, which would be the subject of significant cut and fill earthworks to facilitate their installation. The discharge from the final wetland would be via a hydro-carbon interceptor and a water quality monitoring point into an existing land drain, which accompanies the access road to the site. This land drain flows into a ditch/stream and onwards to the Swilly Burn.

10.40. Initially the aforementioned primary sump would be flush with the existing floor level of the former quarry. However, as the proposal is to extract to a depth of 10m below this level, it would need to be lowered, too. To ensure continuity in the provision of a sump, a temporary one would be formed in advance of the lowering of the primary one. Both sumps would be served by a mobile pump, which would convey water to the primary lagoon sited adjacent to the entrance ramp into the quarry.

10.41. The aforementioned system of lagoons and wetlands would also serve surface water run-off from hard surfaces formed by the circulation and parking areas associated with the proposed office and vehicular shed. (Rainwater from the roofs of these buildings would be captured separately for use in the wheel wash and for dust suppression). A hydro-carbon interceptor would be installed prior to water entering the first of the lagoons from these hard surfaces.

10.42. The applicant presents calculations to illustrate the adequacy of his water management proposals under various scenarios. These calculations are summarised below.

- The extraction area at its maximum would have an area of 51,400 sqm, the circulation and parking areas would have an area of 1650 sqm, and so a total area of 53,050 sqm needs to be served by the water management proposals.
- The sump, lagoons, and wetlands would have capacities of 432 cubic metres, 840 cubic metres x 3 = 2520 cubic metres, and a combined footprint of 1616 square metres x depth of 0.3 = 485 cubic metres, respectively. Total capacity would thus be 3437 cubic metres.
- The estimated daily run-off rate for incidental rain would be 150 cubic metres. However, an allowance needs to be made for the flow of water along the foot of the southern quarry, which originates to the north and west of the site, i.e., 35 cubic metres. The combined volume of water would thus be 185 cubic metres daily.

Under Paragraph 10.29 of my EIA, the flow of water along the foot of the southern quarry is stated as being 83 cubic metres at present. This figure combines surface water and ground water components. Under the proposal the existing void (25,418 sqm) would be extended and deepened and so it is reasonable to deduce that the majority of this flow would be subsumed within the figure of 150 cubic metres, i.e., leaving an estimated 35 cubic metres as the residual preferential flow rate.

- The residence time of 185 cubic metres passing through the sump, lagoons, and wetlands with a capacity of 3437 cubic metres would be 18 days. Given that the recommended times for particles with diameters greater than 0.006

and 0.004mm would be 11 and 24 hours, respectively, 18 days would be ample residence time.

- If a 30% allowance is factored-in for climate change, then the volume of water would rise to 257 cubic metres and the residence time would contract to 13 days.
- If a 1 in 100-year 6-hour storm event is factored-in, then the volume of water would rise to 2757 cubic metres and the residence time would contract to 29.9 hours. (Additionally, the capacity of the wetlands would be designed to allow for additional capacity on a temporary basis, i.e., the 0.3m depth would increase to 1m to give an additional storage capacity of 1131 cubic metres).

10.43. While appellants express concern that water borne sediments would risk river pollution and downstream flooding, I consider that the water management proposals would address these potential impacts.

Impacts

10.44. During the construction phase, earthworks and berm formation would lead to suspended sediment in water run-off, which could affect water quality in the Swilly Burn.

- Pre-mitigation the impact would be moderate, short-term, and negative.
- Mitigation measures would entail the use of temporary silt traps and channels, and the use of silt fences until slopes have become vegetated.
- Post-mitigation the impact would be imperceptible, short-term, and negative.

10.45. During the operational phase, quarrying would lead to suspended sediment in water run-off, which could affect water quality in the Swilly Burn.

- Pre-mitigation the impact would be moderate, short-term, and negative.
- Mitigation measures would entail the installation and subsequent maintenance of the above cited water management proposals, and the discharge point from the water management proposals would be monitored under a trade water discharge licence.
- Post-mitigation the impact would be imperceptible, short-term, and negative.

10.46. During the construction phase, the risk of hydro-carbon spillages/leaks to water run-off could affect water quality in the Swilly Burn. The applicant has not addressed this impact. However, it could be addressed as part of a construction management plan.

10.47. During the operational phase, the risk of hydro-carbon spillages/leaks to water run-off could affect water quality in the Swilly Burn.

- Pre-mitigation the impact would be moderate, short-term, and negative.
- Mitigation measures would entail the use of bunded storage facilities, the installation and maintenance of hydro-carbon interceptors, the use of drip trays, the availability of emergency spill kits, and the inspection and maintenance of plant, machinery, and vehicles.
- Post-mitigation the impact would be imperceptible, short-term, and negative.

10.48. During the operational phase, the discharge of effluent from the proposed WWTS and polishing filter could pose a risk to groundwater. In this respect, the applicant has submitted a Site Suitability Assessment Report, the main findings of which are summarised below:

- The aquifer is poor and of extreme vulnerability. The groundwater protection response is R2₁. Appendix E of the EPA's CoP DWWTSS states that this response is "Acceptable subject to normal good practice..."
- Local groundwater flows to the east.
- The trial hole was dug to a depth of 2.2m. Top-soil consists of silt/clay, and sub-soil consists of sandy silt. Groundwater was not encountered.
- The "T" (sub-surface/depth of 600mm) test results were 30.61 min/25mm and 21.53 min/25mm, respectively. Accordingly, the sub-soil has suitable percolation properties.

10.49. The applicant proposes to install a packaged wastewater treatment system (WWTS) and polishing filter to a specification that would reflect the projected workforce of 10 people. The polishing filter would be sited downslope from a gravel filled land drain, which would be designed to intercept surface water run-off before it reaches the polishing filter. Provided the WWTS and polishing filter are installed and maintained properly, no significant risk to groundwater would arise.

- 10.50. During the operational phase, extraction below the water table could pose a risk to groundwater. These impacts would be imperceptible, permanent, and negative. No mitigation measures are proposed. However, the applicant observes that the volumes and transmissivity rates of groundwater in the rock are low and very low, respectively. Also, some water that would have percolated to groundwater would pass through the water management proposals.
- 10.51. During the operational phase, the loss of catchment areas to the upper stream would reduce its base flow and its ecology. The resulting impacts would be imperceptible permanent and negative. No mitigation measures are proposed. However, the applicant observes that the upper stream is of low/poor ecological value as it is, and the waters diverted from it through the site would continue to discharge into the Swilly Burn network further upstream.
- 10.52. The applicant concludes that, subject to the proposed mitigation measures, the proposal would not have a significant effect on either surface water or groundwater.
- 10.53. I conclude that the applicant's assessment of water impacts arising from the project is reasonable. I also conclude that this impact would not be significant.

(e) Noise & dust

- 10.54. The applicant's acoustic consultant describes the noise generating activities that would occur during the construction and operational phases. Under Tables 9.2 and 9.4, he identifies the main noise sources during these phases. He also distinguishes the noise sources in the operational phase that would remain static and that would be mobile. The former he refers to as "Zone 1", i.e., the fixed processing plant (cone crushers and screeners) located on the quarry floor and attendant excavators, loading shovels, and trucks, and the latter as "Zone 2", i.e., the primary crusher and screeners located on the active quarry face and attendant excavators and loading shovels. Zone 2 would also entail shot hole drilling.
- 10.55. Under Figure 9.1, the nearest noise sensitive locations (NSLs) are identified. Part 1 of BS 5228: 2009 entitled "Code of Practice for Noise and Vibration Control on Construction and Open Sites" is referred to. This Code cites thresholds of significance for construction phase noise. The acoustic consultant predicts maximum construction phase noise levels at the NSLs, which take account of ground

absorption and air attenuation. The resulting levels would fall well below the thresholds of significance.

- 10.56. The hours of operation of the proposed quarry would be 0800 to 1800 on weekdays and 0800 to 1300 on Saturdays. The EPA's Guidelines entitled "Environmental Management in the Extractive Industry (Non-Scheduled Minerals), 2006," state that during these hours of operation noise shall not exceed LAeq (1h) 55 dBA. Under Table 9.6, the maximum cumulative noise level at each of the NSLs is predicted, including when drilling shot holes. This level would be consistently below LAeq (1h) 55 dBA. It factors-in the attenuation afforded by the proposed acoustic berms. Other ameliorative measures include the location of the processing plant on the quarry floor, the housing of its screeners, and the regular maintenance of its motors and pulleys.
- 10.57. The acoustic consultant envisages that the "Zone 1" processing plant would be erected under the construction phase, and it would remain in-situ on the Phase 1 quarry floor thereafter. The level of the quarry floor would thus be the existing level of the former quarry. Clearly, there is a tension between this understanding and the proposed lowering of the level of the Phase 1 quarry floor that is depicted in the submitted cross sections.
- 10.58. Under further information, the applicant has clarified the above cited situation by stating that, under Phase 1, a mobile processing plant would be used. Once Phase 1 is complete, a static processing plant would be installed on the lowered quarry floor of Phase 1 for the duration of Phases 2 – 5 (inclusive).
- 10.59. The acoustic consultant addresses road traffic noise impacts. He undertook a traffic survey on Wednesday 10th November 2021 at the junction between the R231 and L23749. Vehicle numbers and noise levels were recorded over a 1.5-hour period. Under a traffic count from 2017, daily vehicle numbers on the R231 are 4800. If 10% of this daily number are assumed to be HCVs, i.e., 480, then the projected contribution of 36 – 40 HCV movements from the proposed quarry would be less than a 10% addition.
- 10.60. The acoustic consultant states that "typically doubling the traffic flow will increase noise levels by 3 dBA". Clearly, the projected contribution of HCV movements would

be far less than this, and so he predicts that the increase in vehicular noise would be negligible at the NSLs.

10.61. Figure 9.2 displays the proposed locations for the Bergerhoff dust monitors. These monitors would be analysed monthly against the recognised total dust deposition limit of 350 mg/sqm/day averaged over a 30-day period. Proposed ameliorative measures would include the housing of screeners, spraying roads and stockpiles during dry windy weather, and use of a wheel wash and a filter bag on drilling rigs.

10.62. Appellants express concern that the elevated position of the site would heighten the impact of noise and dust and that human and animal health would be adversely affected. By way of response, as outlined above, the construction phase would entail the formation of acoustic berms to attenuate noise. During their formation, noise would increase temporarily. Thereafter, during the operational phase, the attenuation afforded by these berms and the quarry sides would limit noise breakout from the site. The ameliorative measures outlined above would limit the risk posed by dust deposition. The emission value limits (EVLs) discussed above are designed to safeguard human health. Livestock in surrounding fields could be expected to habituate to the presence of the quarry.

10.63. Under Tables 9.16.1 & 3, significance levels before and after the application of mitigation measures are stated. Construction and operational phase noise would change from "slight" to "not significant", and dust deposition would change from "not significant" to "imperceptible". The acoustic consultant, thus, concludes that there would be no significant negative impact from noise or dust.

10.64. I conclude that the applicant's assessment of noise and dust impacts arising from the project is reasonable. I also conclude that these impacts would not be significant.

(f) Blast vibration

10.65. The acoustic consultant states that blasting would occur up to 15 times annually. He discusses ground vibration and air overpressure.

- With respect to ground vibration, the above cited EPA Guidelines recommend a limit of 12 mm/sec measured in any of the three orthogonal directions, i.e., horizontal longitudinal, vertical, and horizontal traverse. The acoustic

consultant states that, under the proposed quarry, limits of 100 mm/sec, and 6 mm/sec for Oakfield Manor, would be adhered to.

- With respect to air overpressure, the above cited EPA Guidelines recommend a limit of 128 dB (linear peak value) with a 95% confidence level. The acoustic consultant states that, under the proposed quarry, a limit of 125 dB (linear peak value) with a 95% confidence level, would be adhered to.

10.66. The acoustic consultant recognises that air blasts are affected by the following factors:

- The type and quantity of explosives,
- The degree and type of inert material, which confines the explosives within the borehole,
- The method of initiation,
- Atmospheric conditions, and
- Local geology, topography, and distance from NSLs.

10.67. The first three of these factors would be under the quarry operator's control. The fourth factor would be capable of being influenced by the first three, e.g., by choice of time of day, controlling the degree of confinement, and selection of means of initiation. The fifth factor, as a site specific one, would be addressed by initially undertaking small blasts, which would be monitored to establish the appropriate maximum instantaneous charge of explosives consistent with compliance with the above cited ground vibration limits.

10.68. The acoustic consultant discusses the subject of flyrock. He advises that measures taken to control ground vibration and air overpressure would also counteract the possibility of flyrock.

10.69. Appellants express concern over the impact of blast vibrations on the telecommunications mast, which is sited c. 140m to the south-west of the site at a height of c. 120m ASL. While this potential impact has not been addressed by the applicant's acoustic consultant, I anticipate that the mast, which has a lattice tower structure designed to remain operational during high winds, would be unlikely to be adversely affected by blast vibrations.

10.70. Appellants also express concern over the proposed extent of blast warnings. As proposed, these would be issued to local residents only, 24 hours in advance. Clearly, local businesses, local schools, and the HSE's Ballytrim House should be issued with blast warnings, too.

10.71. Under Tables 10.16 & 18, significance levels before and after the application of mitigation measures are stated. Thus, this level would change from "slight" to "not significant" with the application of mitigation measures, which comprise a range of standard management and good practice methodologies and procedures. The acoustic consultant, thus, concludes that there would be no significant negative impact from blast vibration.

10.72. I conclude that the applicant's assessment of blast vibration impact arising from the project is reasonable. I also conclude that this impact would not be significant.

(g) Climate

10.73. The applicant acknowledges the existence of climate change and the contribution made by greenhouse gases. He also acknowledges the reality of occasional extreme weather events.

10.74. Under Section 11.5, the applicant identifies the construction and operational phase impacts of plant and vehicle emissions and the loss of vegetation from the site. He identifies, too, mitigation measures with respect to good practice in the operating, maintaining, and purchase of plant and machinery, and with respect to the site restoration plan, which would entail a wetland and tree planting. Consequently, the significance of the impact of emissions would change from not significant to imperceptible and the significance of the impact of loss of vegetation would change from slight to neutral.

10.75. Under the PA's further information, the applicant's restoration plan envisaged returning the site to agricultural use, as grazing land. While such usage would reproduce the pre-quarrying use of the site, its efficacy as such would be reduced. However, under the Board's further information request, the applicant reverted to its original proposal to allow the decommissioned quarry to flood. Under either scenario, I question the applicant's neutral prediction insofar as it suggests that the proposal would result in an outcome no different from a "do nothing" scenario. Over the long-term imperceptible may be a more likely outcome.

10.76. Under Paragraph 11.5.3, the applicant undertakes to stop working during red weather warnings. With respect to the risk posed by storms, he undertakes to inspect buildings for structural integrity and to secure loose items.

10.77. I conclude that the applicant's assessment of climate impact arising from the project is reasonable. I also conclude that this impact would not be significant.

(h) Material assets – traffic

10.78. The site is accessed off the end of the L-23749-0, a local road, which forms a cul-de-sac off the R-236-6. The junction between these two roads lies at a point some 2.45km to the south-west of the junction between the N14 and the R236. It also lies at the north-eastern extremity of Raphoe, a town with two primary and two secondary schools and a livestock mart, which holds sales on Mondays and Thursdays. One of these secondary schools, the Royal and Prior Comprehensive School, and the livestock mart are located, variously, 590m and 680m to the south-west of the junction between the R-236-6 and the L-23749-0.

10.79. The applicant undertook a traffic survey of vehicle numbers and speeds passing the junction between the L-23749-0 and the R-236-6 on Monday 9th March 2020 from 12:30 to 15:00. This survey recorded 77 vehicles and average speeds of 42.3 kmph on the part of vehicles leaving the town and 81.8 kmph on the part of vehicles entering the town. These speeds informed the applicant's original sightline proposals for the junction.

10.80. The applicant also undertook traffic surveys between 08:30 and 10:30 on Thursday 10th February 2022, Thursday 3rd March 2022, and Friday 11th March 2022. These surveys indicate that an average of 400 vehicles per hour pass along the R-236-6 in the vicinity of its junction with the L-23749-0. Under the proposal, 40 HCV movements a day are predicted from/to the proposed quarry and 20 staff car movements a day are predicted, too. Over the working day, the average hourly number of HCV movements would be 4.5. Staff car movements would be likely to be concentrated in the first and final hours of the day. The contribution to traffic on the R236 would thus be imperceptible.

10.81. Appellants express concern over the risk that traffic generated by the proposal would pose to pedestrians and cyclists. They also express concern over the environmental impact of traffic upon historic buildings in Raphoe. The applicant's above

“imperceptible” conclusion is of relevance to these concerns. Clearly, existing traffic poses a risk to pedestrians and cyclists and, insofar as traffic generated by the proposed quarry would not add significantly to such traffic, existing risk levels would not rise appreciably. The same logic applies to the environmental impact cited. In this respect, the PA expresses the view that traffic generated by the quarry would tend to use the N14 to the north-east and so it would avoid Raphoe to the south-west.

- 10.82. Under further information, the applicant submitted revised plans for the junction between the L-23749-0 and the R-236-6. Thus, this junction would be re-sited to the north-east to facilitate the provision of improved sightlines, i.e., a “x” distance of 4.5m rather than 2.4m and y distances to the north-east of 160m (80 kmph speed zone) and to south-west of 72m (50 kmph speed zone). Appellants question whether the south-western sightline could be provided without incursion onto lands that the applicant has not obtained the consent of the landowner to encroach upon. I have examined the submitted plans in this respect and I am satisfied that this would not be the case, i.e., the lands in question lie within the paved roadside.
- 10.83. Condition No. 3 of the PA’s permission further revises the diverted alignment of the L-23749-0 in connection with the re-sited junction by requiring that it begin 50m further to the north-west, i.e., behind the rear boundary of an adjacent residential property. I consider that this further revision would be necessary.
- 10.84. The L-23749-0 is a single lane local road of variable horizontal and vertical alignment. It forms a cul-de-sac, which ends beside a farm yard within the same ownership as the site. Beyond this road, the site itself is accessed by an extension to the cul-de-sac of single lane width, variable alignment, and broken surface.
- 10.85. The applicant outlines improvements that would be made to the local road and its extension towards/into the site. These improvements are set out under the heading “Road finishes to L-23749 at Raphoe”, and they are illustrated on the drawing entitled “Site layout passing places” (drawing no. 24). Essentially, they would entail the provision of 4 no. passing places along the local road, the use of rock armour to support this road, the piping of an existing drain, and the cutting back of trees and vegetation. Beyond the local road, the access road would be widened, surfaced, and an existing drain would be piped.

10.86. Under further information, the applicant has elucidated the envisaged improvements to the L-23749 (cf. drawings nos. 23 & 24). He illustrates thereby how the raising of a dip in this local road would facilitate an improvement in forward visibility and how the siting of passing places along its length would ease the flow of traffic movements along the single carriageway.

10.87. I conclude that the applicant's assessment of material assets - traffic impacts arising from the project is reasonable, and such impacts would not be significant.

(i) Material assets – site services

10.88. At present the former quarry site is not serviced by utilities. Under the proposal, water supply, wastewater treatment, electricity, and telecommunications utilities would be introduced.

- Potable water would be supplied by means of a well that would be formed by means of a deep drilled borehole.
- Non-potable water would be harvested from the roofs of the proposed office and vehicular shed, and it would be supplemented by pumping water from the settlement tanks. Such water would be used in the proposed wheel wash and to suppress dust on the site.
- Wastewater would be treated on-site by means of a WWTS, which is informed by the applicant's site characterisation exercise.
- Electricity and telecommunications would be connected to the proposed office.

10.89. Insofar as the above utilities would entail connecting to public ones, they would have an imperceptible impact.

10.90. I conclude that the applicant's assessment of material assets – site services impacts arising from the project is reasonable. I also conclude that these impacts would not be significant.

(j) Cultural heritage

10.91. Figures 14.1 & 2 display the recorded national monuments and protected structures within a 1km radius of the site.

- 10.92. Four recorded national monuments lie to the south of the site. The applicant's archaeologist draws attention to how the former quarry would, under the proposal, be worked to the north of its existing southern face and so this quarry would not extend any closer to these monuments than at present. A berm would be formed above the southern face and so the new workings would be screened. The settings of these monuments would thereby be protected.
- 10.93. I note that, under the proposal, ancillary facilities for the reopened quarry would be sited to the south-east and so they would be potentially visible within the settings of the recorded national monuments. I note, too, that these facilities would also be screened by means of berms (cf. Figure 15.6).
- 10.94. In his Archaeological Report, the applicant's archaeologist comments on the footprint of the former quarry to the effect that its overburden has been removed and so any archaeological remains would have been lost. Insofar as the proposal would entail the stripping of further overburden on agricultural fields, the view is expressed that this would be unlikely to contain any archaeological remains, as the soil is shallow, and its location would have been unlikely to have been inhabited historically. Notwithstanding this view, the precautionary advice of the DoHLGH is that pre-development testing by means of trenches should be undertaken in these fields.
- 10.95. Four protected structures lie to the south-west of the site in the town centre. (There are other protected structures in Raphoe, but they lie at a greater distance than 1km from the site). To the east lies Oakfield Manor, which is a protected structure, too. The proximity of this historic house was considered under blasting vibrations.
- 10.96. Appellants draw attention to its conservation interest attendant upon Raphoe and the tranquil appeal of Oakfield Manor within its parkland setting. By way of response, the applicant has identified buildings and structures of conservation interest within 1km of the site, and under the heading of "Material Assets – Traffic" the environmental impact of traffic has been considered. Likewise, noise breakout from the site has been considered under the heading of "Noise and Dust".
- 10.97. Appellants also draw attention to the archaeological commentary provided. They considered that this commentary is insufficient. By way of response, the DoHLGH's precautionary advice is of relevance in this respect.

10.98. I conclude that the applicant's assessment of cultural heritage impacts arising from the project is reasonable. I also conclude that this impact would not be significant.

(k) Landscaping & restoration

10.99. Under the CDP, the site is shown as lying outside the settlement framework boundary of Raphoe, and in an area of high scenic amenity, which lies within the Laggan Valley landscape character area.

10.100. The applicant has undertaken a landscape and visual impact assessment of the proposal. This assessment has been informed by a field survey of 10 no. viewpoints of the site from within the surrounding area. These viewpoints are displayed in Figure 15.5, and they are accompanied by a commentary in Table 15.7, which reports that "No aspect of the development is visible from this site due to the existing boundary planting which aids in screening the site."

10.101. The applicant's landscape impact assessment (LIA) expresses the view that, while the site lies in an area of high scenic amenity, due to the presence of the former quarry, the surrounding landscape would be "reasonably tolerant to change". Given this baseline, the proposed expansion of the former quarry would have a "medium" magnitude of landscape resource change, and so the significance of the landscape impact would be "slight/moderate".

10.102. I note that the above LIA relies upon the categories set out in Tables 15.1, 2 & 3. I note, too, the applicant's judgement that the surrounding landscape would be "reasonably tolerant to change" appears to have led to the selection of a "low" rather than a "medium" landscape sensitivity rating. The former is described as "A relatively unimportant landscape, the nature of which is potentially tolerant to substantially change", while the latter is described as "A landscape of moderately valued characteristics reasonably tolerant to change." I consider that the latter rather than the former rating is appropriate and so the significance of the landscape impact would be "moderate".

10.103. The applicant's visual impact assessment (VIA) draws upon the above cited 10 no. viewpoints of the site from within the surrounding area. While views of the former quarry and its proposed expansion to the north of its southern face would be largely screened by a combination of "existing boundary planting" and the proposed berms displayed in Figure 15.6, such screening would not be complete. Thus, for

example, Viewpoint No. 9 from the local road to the east (L-1084) would afford middle distant views of Phase 4 of the proposed quarry through existing boundary trees and new trees planted on the proposed eastern berm. I also anticipate that the proposed quarry would be visible, too, in long distant views, e.g., available to northbound traffic on the R265 approaching Raphoe from the south.

10.104. Section 15.8.2 states that in addition to the planting of the proposed berms with native trees, two clusters of tree planting would be included within the south-eastern portion of the site to assist with screening the proposed ancillary buildings and parking areas.

10.105. The applicant's VIA categorises visual receptor sensitivity as "medium", due to the presence of residential properties in the surrounding area of high scenic amenity. It categorises the likely magnitude of visual impact as "medium", again in recognition of the baseline provided by the disruption to the landscape stemming from the former quarry. Thus, under Table 15.6, the significance of the visual impact would be "moderate". However, with the above cited mitigating measures of berms and tree planting in place, this impact would change to "imperceptible". In the light of my commentary on Viewpoint No. 9 and long-distance views, I consider that this change would be "slight".

10.106. Under the PA's further information request, the applicant submitted a restoration plan for the site, which states that the overburden used to form the proposed berms would be redeployed to provide soil for the final quarry for sowing with grass seed. The site would thus be returned to agricultural use. However, under the Board's further information request, the applicant indicated that the decommissioned quarry would be allowed to flood to a depth of c. 10m. In these circumstances, the berms and the tree planting upon them could be retained in-situ and so their screening properties would persist.

10.107. I conclude that the applicant's assessment of landscaping and restoration impacts arising from the project is reasonable. I also conclude that these impacts would not be significant.

Interactions and inter-relationships

10.108. Table 16.1 identifies interactions between impacts. These interactions are discussed. No additional significant effects would arise as a result of these

interactions over and above those effects already identified on an individual subject basis, and so no additional mitigation measures would be necessary.

Reasoned conclusion

10.109. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary/additional information submitted by the applicant, the submissions of the Planning Authority, prescribed bodies, the appellants, and the observer, I consider that the main significant direct and indirect effects of the proposal on the environment are:

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

Significant direct and indirect effects would not arise in relation to climate, material assets, and cultural heritage.

I am, therefore, satisfied that the proposal would not have any unacceptable direct or indirect effects on the environment.

11.0 **Appropriate Assessment**

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

11.1. 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 adversely affect the integrity of the European site before planning consent can be given.

Screening the need for appropriate assessment

11.2. The applicant has submitted a screening report for appropriate assessment as part of its NIS, which is entitled "Screening Report for Appropriate Assessment for Patrick Bonar for 25-year permission to extract and blast rock and all other associate works as detailed in the planning application at Magherasolis and Craigs, County Donegal", and which is dated May 2022.

11.3. 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:

Following the assessment as detailed in this AA Screening Report, it is concluded that significant effects on the Natura 2000 network arising from the proposed development, either individually or in combination with other plans or projects, cannot be excluded at this stage. Therefore Stage 2 Appropriate Assessment is required.

11.4. 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.

11.5. The applicant provides a description of the project on Page 40 of its Screening Report. This description goes beyond that which is set out in the title of this Report to state the following:

The project can be considered in two distinct stages:

- *Construction stage:*
 - *Site clearance and stripping works,*
 - *Installation of infrastructure which includes the drainage network, new settlement tank and wetland system,*
 - *Installation of the new foul effluent treatment system,*
 - *Berm construction,*
 - *Construction of office block and maintenance shed, and*
 - *Planting of native trees and shrubs around the site boundaries.*
- *Operational stage:*
 - *Standard day-to-day operation of the quarry.*

11.6. The applicant also provides a description of the site on Page 41 of its Screening Report: “The proposed development is located in the townlands of Magherasolis and Craigs...The entire site measures 7.95 hectares with the proposed extraction area totalling 5.37 hectares...The quarry is served by the L-23749 which is a county road and is in good condition. This road leads directly onto the R236 regional road.”

11.7. Taking account of the characteristics of the development in terms of its location and the scale of operations, the following issues are considered for examination in terms of implications for likely significant effects on European sites: “...the surface water pathway on site representing an avenue for indirect effects, such as deterioration of water resource quality.”

11.8. The site is 8.94km upstream from the European sites, i.e., River Finn SAC (002301) and River Foyle and Tributaries SAC (UK0030320).

River Finn SAC

11.9. 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 (Salmon)* [1106] – M
- *Lutra lutra (Otter)* [1355] – M

River Foyle and Tributaries SAC

11.10. The qualifying interests and their threat status are listed below.

- *Lampern (Lampetra fluviatilis)* [1099] – least concern
- *Brook lamprey (Lampetra planeri)* [1096] – least concern
- *Eurasian otter (Lutra lutra)* [1355] – near threatened
- *Freshwater Pearl Mussel (Margaritifera margaritifera)* [1029] – critically endangered
- *Great sea lamprey (Petromyzon marinus)* [1095] – least concern
- *Black salmon (Salmo salar)* [1106] - vulnerable

11.11. During the construction and operational phases, “The surface water pathway on site represents an avenue for negative effects such as deterioration of water resource quality.” The qualifying interests that could be affected by a deterioration in water quality would be as follows:

- In the River Finn SAC: Salmon and Otter, and
- In the River Foyle and Tributaries SAC: Lampern, Brook lamprey, Eurasian otter, Freshwater pearl mussel, Great sea lamprey, and Black salmon.

11.12. In-combination effects from other development sites could potentially arise.

11.13. 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.

11.14. 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 a significant effect on European sites Nos. 002301 and UK0030320, in view of their conservation objectives, and appropriate assessment is therefore required.

The NIS

11.15. The application included a NIS, which is entitled “Natura Impact Statement in relation to planning application by Patrick Bonar for 25-year permission to extract and blast rock and all other associate works as detailed in the planning application at Magherasolis and Craigs, County Donegal”, and which is dated May 2022. The NIS examines and assesses potential adverse effects of the proposed development on the following European sites:

- River Finn SAC
- River Foyle and Tributaries SAC

11.16. The NIS was prepared in line with current best practice guidance, and it concluded that “The proposed project as detailed, either individually or in combination with other plans and projects, will have no significant adverse effects on the integrity of any Europeans sites if all mitigating measures as outlined in Section 6 are implemented. The proposed development as described will not alter the structure or function of any Natura 2000 site or negatively impact the conservation of any qualifying interest/special conservation interest therein.”

11.17. Having reviewed the NIS, 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)
- River Foyle and Tributaries SAC (UK0030320)

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

11.18. 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.

11.19. The following sites are subject to appropriate assessment:

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

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

11.21. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites are: “The surface water pathway on site represents an avenue for negative effects such as deterioration of water resource quality.”

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

- In the River Finn SAC: Salmon and Otter, and
- In the River Foyle and Tributaries SAC: Lampern, Brook lamprey, Eurasian otter, Freshwater pearl mussel, Great sea lamprey, and Black salmon.

11.23. The applicant’s NIS sets out a series of existing mitigation measures, which would address the factors, which could adversely affect the integrity of the identified European sites. These mitigation measures are set out in Table 6.1, and they can be summarised as follows:

Construction phase:

Threats	Mitigation
Earthworks and dust build-up leading to suspended sediments in ground and surface water run-off	<p>Implementation of water management proposals</p> <p>Managed removal of overburden for berm construction</p> <p>Use of silt fences to intercept sediments in water run-off from newly constructed berms</p> <p>Planting of newly constructed berms</p> <p>Dampening down of stockpiles in dry weather</p> <p>Road cleaning</p> <p>Cessation of works during orange weather warnings</p>

Operational phase:

Threats	Mitigation
Quarry activities leading to suspended sediments in ground and surface water run-off	<p>Maintenance of water management proposals</p> <p>Adherence to the conditions of any trade water discharge licence</p>
Dust build-up leading to suspended sediments in ground and surface water run-off	<p>Use of dust bags in drill rigs</p> <p>Use of dust suppression system in processing plant</p> <p>Dampening down of stockpiles in dry weather</p> <p>Road cleaning</p>

Hydrocarbons in surface water run-off	<p>Maintenance of water management proposals, including hydrocarbon interceptors</p> <p>Bunded storage of hydrocarbons</p> <p>Waste fluids to be labelled and disposed of to approved waste facilities</p> <p>Use of drip trays</p> <p>Availability of spill kits</p> <p>Adherence to the conditions of any trade water discharge licence</p> <p>On completion of operational phase, all hydrocarbons, waste fluids, mechanical and electrical equipment to be removed from the site</p>
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11.24. With the above cited mitigation measures in place, no residual impacts are foreseen.

11.25. In-combination effects are considered by the NIS. The PA's planning register for 2018 – 2024 indicates that there are no extant permissions relevant to cumulative effects.

11.26. I am therefore able to ascertain with confidence that the project would not adversely affect the integrity of the River Finn SAC, and the River Foyle and Tributaries SAC.

11.27. The project has been considered in light of the assessment of the requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended.

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

the integrity of the European Sites Nos. 002031 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. 002031 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. 002031 and UK0030320.

12.0 Recommendation

That permission be granted.

13.0 Reasons and Considerations

Having regard to the following:

- The National Planning Framework,
- The Quarry and Ancillary Activities Guidelines,
- The County Donegal Development Plan 2024 – 2030, and
- The planning history of the site,

It is considered that, subject to compliance with conditions, the proposal would be acceptable in principle from a land use perspective. In the light of advice set out in Section 4.9 of the Quarry and Ancillary Activities Guidelines, a 12-year permission for Phases 1 & 2 of the proposal would be appropriate. The environmental impacts of the proposal in terms of noise, dust, and vibration levels within the surrounding area would be capable of being satisfactorily mitigated, thereby safeguarding the amenities of this area. Likewise, the proposal would, subject to mitigation, be compatible with biodiversity and the maintenance of water quality in receiving

waters. Landscape and visual impacts would be mitigated by the provision of berms and tree planting within the site. Traffic generated by the proposal would, subject to improvements to the L-23749 and the resiting of the junction between the R-236 and the L-23749, be capable of being accommodated satisfactorily on the public road network. Under environmental impact assessment, the significant effects of the proposal would be capable of being satisfactorily mitigated, and, once mitigated, this proposal would not adversely affect the integrity of any European site. It would, thus, accord with the proper planning and sustainable development of the area.

14.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23rd day of November 2022 and by the further plans and particulars received by An Bord Pleanála on the 15th day of March 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The development hereby permitted is for Phases 1 & 2 of the proposed quarry only. Prior to the commencement of development, plans showing all consequential changes to (i) the quarry faces, and (ii) the restoration scheme for the site shall be submitted to, and agreed in writing with, the Planning Authority.</p> <p>(b) The permission hereby granted shall be for a 12-year period commencing with the date of this order, at which time, all quarrying operations shall cease, and the site shall be fully restored within one year of the date of cessation, unless a further planning permission has been granted for continued operation.</p>

	<p>Reason: In order to afford the Planning Authority the opportunity to assess any further planning application for Phases 3, 4 & 5 in accordance with contemporaneous environmental standards and technology as advised by Section 4.9 of the Quarrying and Ancillary Activities Guidelines.</p>
3.	<p>Annual output from the proposed quarry shall not exceed 110,000 tonnes of rock. Records of daily output shall be kept, and such records shall be submitted to the Planning Authority annually.</p> <p>Reason: In the interests of clarity, good traffic management, and the amenities of the area.</p>
4.	<p>(a) Excavations shall not occur below a level of 119 metres AOD.</p> <p>(b) Prior to the commencement of development, details of the siting and design of a benchmark referenced to Ordnance Datum shall be submitted by the developer to, and agreed in writing with, the Planning Authority, and, thereafter, the benchmark shall be immediately installed and retained in-situ for the duration of the development.</p> <p>(c) A topographical survey of the site shall be submitted by the developer to the Planning Authority on an annual basis.</p> <p>Reason: In the interests of clarity, and orderly development.</p>
5.	<p>The quarry, and all activities occurring therein, shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.</p> <p>Reason: In order to protect the residential amenities of property in the vicinity.</p>
6.	<p>The development shall be operated and managed strictly in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This EMS shall incorporate all the mitigation measures, and, where relevant, attendant timelines that were set out in the Environmental Impact Assessment Report dated 2022, which was submitted by the applicant to the Planning</p>

	<p>Authority. It shall also incorporate the requirements of relevant conditions set out in this order.</p> <p>Reason: In order to safeguard biodiversity, water quality, and the amenities of the surrounding area.</p>
7.	<p>(a) Prior to the commencement of development, the developer shall submit to, and agree in writing with, the Planning Authority a scheme providing details of all proposed revisions to the L-23749. These details shall reflect the plans submitted to the Planning Authority under further information on the 23rd day of November 2022, except for a further realignment of the L-23749, such that it begins to diverge from its existing alignment at a point 50 metres further to the north-west of the entrance to the residential property adjacent to the existing junction between the L-23749 and the R236.</p> <p>(b) Prior to the commencement of any other development, the developer shall fully implement the agreed scheme of revisions to the L-23749.</p> <p>(c) Prior to the commencement of use of the re-sited junction between the L-23749 and the R236, permanent visibility splays of 160 metres to the north-east and 72 metres to the south-west shall be provided to the nearside road edge at a point 4.5 metres back from the edge of the carriageway at the junction of the L-23749 with the R236. Within these splays, no object above 1.05 metres in height shall remain.</p> <p>Reason: In order to ensure that satisfactory access to the site is available at all times.</p>
8.	<p>(i) The applicant is required to engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930 – 2004) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent.</p> <p>(ii) The archaeologist is required to notify the Department of Housing, Local Government and Heritage in writing at least four weeks prior to the</p>

	<p>commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.</p> <p>(iii) The archaeologist shall carry out any relevant documentary research and may excavate test trenches at locations chosen by him/her, having consulted the plans of the proposed development.</p> <p>(iv) Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the Department of Housing, Local Government and Heritage.</p> <p>(v) Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record (excavation) and/or monitoring may be required, the Department of Housing, Local Government and Heritage will advise the applicant/developer with regard to these matters.</p> <p>(vi) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with the Department of Housing, Local Government and Heritage.</p> <p>Reason: To ensure the continued preservation (either in-situ or by record) of places, caves, sites, features or other objects of archaeological interest.</p>
9.	<p>Prior to the commencement of the development of each phase of the proposal, the following biodiversity surveys of the site shall be undertaken:</p> <p>(i) A flora and habitat survey, including the identification of any invasive species,</p> <p>(ii) A breeding bird survey,</p> <p>(iii) A mammal survey, and</p> <p>(iv) An amphibian and reptile survey.</p> <p>Such surveys shall be submitted to, and agreed in writing with, the Planning Authority. They shall include a timetable for the commencement of the development of each phase of the proposal, which is informed by their findings.</p> <p>Reason: In order to protect biodiversity.</p>

10.	<p>The site shall be screened in accordance with a scheme of screening measures and boundary treatment in respect of the site, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the timeframe, specific location(s), and final form and height of proposed screening berms, details of all planting proposed on existing and proposed screen berms, details of the ongoing care and management of such planting, details of a phased programme of landscaping within the quarry, details of an adequate barrier to prevent unrestricted access to the top of the quarry face from adjacent lands, and details of warning signage to be installed on such a barrier.</p> <p>Reason: In the interest of visual amenity and to safeguard the amenities of property in the vicinity during the operating phase of the development.</p>
11.	<p>Prior to the commencement of development, a construction management plan shall be submitted to, and agreed in writing with, the Planning Authority. This plan shall address the construction phase of the buildings and structures, which would be ancillary to the proposed quarry, and it shall include a comprehensive scheme for the management of surface water during this phase.</p> <p>Reason: In order to control the amount and quality of water entering the off-site receiving waters.</p>
12.	<p>(a) Prior to the commencement of quarrying, the water management proposals shall be constructed, fully completed, and commissioned for use. The resulting operational water management system shall be retained in-situ for the duration of quarrying and, thereafter, as a means of serving any overflow of water from the decommissioned quarry.</p> <p>(b) The flow of water discharging from the water management system shall not exceed 9 litres per second.</p> <p>(c) Prior to the commencement of quarrying, the developer shall submit to, and agree in writing with, the Planning Authority a scheme for the</p>

	<p>maintenance of the water management system, and, thereafter, the agreed scheme shall be adhered to at all times.</p> <p>Reason: In order to control the amount and quality of water entering the off-site receiving waters.</p>
13.	<p>The water supply to serve the proposed staff welfare facilities shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of use of the staff welfare facilities.</p> <p>Reason: To ensure that adequate water is provided to serve the proposed staff welfare facilities, in the interest of public health.</p>
14.	<p>(a) The treatment plant and polishing filter shall be located, constructed, and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the commencement of use of the staff welfare facilities and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>(d) Surface water soakways shall be located such that the drainage from</p>

	<p>the staff welfare facilities and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>(e) Within three months of the commencement of use of the staff welfare facilities, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
15.	<p>All loads of dry fine materials shall be either sprayed with water or covered/sheeted prior to exiting the quarry.</p> <p>Reason: In order to prevent dust emissions, in the interest of amenity and traffic safety.</p>
16.	<p>(a) The wheel and undersides of all vehicles transporting aggregate from the site onto the public road shall, shall prior to the exit of such vehicles onto the public road, be washed in a wheel wash facility.</p> <p>(b) The site access road shall be provided with a sealed surface between the wheel wash facility and the public road.</p> <p>(c) In dry conditions, all roads within the site and the active working face shall be sprayed with water at least three times a day.</p> <p>Reason: In the interest of road safety, and to protect the amenities of the area.</p>
17.	<p>Details of the materials, colours, and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
18.	<p>Oils or chemicals stored within the site shall be stored within bunded areas and such substances shall not be discharged or allowed to discharge into</p>

	<p>surface or ground waters on site. Oil interception traps shall be provided on drainage lines serving areas where oil products are stored or used in accordance with the plans and details received by the Planning Authority with the original application.</p> <p>Reason: In order to avoid pollution.</p>
19.	<p>All external lights shall be adequate hooded and aligned so as to prevent direct spillage of light beyond the site.</p> <p>Reason: In order to safeguard the amenities of the area.</p>
20.	<p>(a) Free-field noise levels attributable to the operation of the quarry, when measured at the nearest noise sensitive locations, i.e., NSL 1 & 2 in Figure 9.1 of the Environmental Impact Statement May 2022 submitted by the applicant to the Planning Authority, shall not exceed 55 dB(A) Leq, 1h during permitted operating hours and shall not exceed 45 dB(A) Leq, 15 min at any other time.</p> <p>(b) Notwithstanding (a) above, where any temporary quarry activity is expected to exceed the noise limits above, this shall be notified in advance to the planning authority, and to residents in the vicinity, indicating the reason for such activity, and its likely duration. No such exceedance of noise limits shall occur without the prior written agreement of the planning authority.</p> <p>(c) A noise survey and assessment programme shall be undertaken to assess the impact of noise emissions arising from the operation of the quarry. The scope and methodology of this survey and assessment programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. The results obtained from the programme shall be submitted for review at quarterly intervals to the planning authority. The developer shall carry out any amendments to the programme required by the planning authority, following this review.</p>

	<p>Reason: In order to protect the residential amenities of property in the vicinity.</p>
21.	<p>(a) Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.</p> <p>(b) A monthly survey and monitoring programme of dust and particulate emissions shall be undertaken to provide for compliance with these limits. Details of this programme, including the location of dust monitoring stations, and details of dust suppression measures to be carried out within the site, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall include an annual review of all dust monitoring data, to be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.</p> <p>Reason: To control dust emissions arising from the development and in the interest of the amenity of the area.</p>
22.	<p>(a) Blasting operations shall take place only between 1200 hours and 1600 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays. Monitoring of the noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the planning authority. Annual reports of such monitoring shall be submitted to, and agreed in writing with, the planning authority within</p>

	<p>two weeks of their completion. The developer shall carry out any amendments to its blasting operations required by the planning authority following this annual review.</p> <p>(b) Prior to the firing of any blast, the developer shall give 24-hour advance notice of his intention to the occupiers of all dwellings, schools, and businesses within 500 metres of the site, and, in addition, the HSE's Ballytrim House. An audible alarm for a minimum period of one minute shall be sounded. This alarm shall be of sufficient power to be heard at all such dwellings, schools, and businesses.</p> <p>Reason: In the interest of public safety and residential amenity.</p>
23.	<p>(a) Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres/second, when measured in any three mutually orthogonal directions at any sensitive location. The peak particle velocity relates to low frequency vibration of less than 40 hertz where blasting occurs no more than once in seven continuous days. Where blasting operations are more frequent, the peak particle velocity limit is reduced to eight millimetres per second. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin)max peak with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin).</p> <p>(b) A monitoring programme, which shall include reviews to be undertaken at annual intervals, shall be developed to assess the impact of quarry blasts. Details of this programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.</p>

	<p>Reason: To protect the residential amenity of property in the vicinity.</p>
24.	<p>(a) The developer shall monitor and record groundwater, surface water flow, noise, ground vibration, and dust deposition levels at monitoring and recording stations, the location of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Monitoring results shall be submitted to the planning authority at monthly intervals for groundwater, surface water, noise and ground vibration.</p> <p>(b) On an annual basis, for the lifetime of the facility within two months of each year end, the developer shall submit to the planning authority five copies of an environmental audit. Independent environmental auditors approved in writing by the planning authority shall carry out this audit. This audit shall be carried out at the expense of the developer and shall be made available for public inspection at the offices of the planning authority and at such other locations as may be agreed in writing with the authority. This report shall contain:</p> <p>(i) A written record derived from the on-site weighbridge of the quantity of material leaving the site. This quantity shall be specified in tonnes.</p> <p>(ii) An annual topographical survey carried out by an independent qualified surveyor approved in writing by the planning authority. This survey shall show all areas excavated and restored. On the basis of this, a full materials balance shall be provided to the planning authority.</p> <p>(iii) A record of groundwater levels measured at monthly intervals.</p> <p>(iv) A written record of all complaints, including actions taken in response to each complaint.</p>

	<p>(c) In addition to this annual audit, the developer shall submit quarterly reports with full records of dust monitoring, noise monitoring, surface water quality monitoring, and groundwater monitoring. Details of such information shall be agreed in writing with the planning authority. Notwithstanding this requirement, all incidents where levels of noise or dust exceed specified levels shall be notified to the planning authority within two working days. Incidents of surface or groundwater pollution or incidents that may result in groundwater pollution, shall be notified to the planning authority without delay.</p> <p>(d) Following submission of the audit or of such reports, or where such incidents occur, the developer shall comply with any requirements that the planning authority may impose in writing in order to bring the development into compliance with the conditions of this permission.</p> <p>Reason: In the interest of protecting residential amenities and ensuring a sustainable use of non-renewable resources.</p>
25.	<p>The developer shall provide all landowners within 500 metres of the site with appropriate contact details which may be used in the event that any such landowner wishes to inform the developer of any incident, or otherwise to make a complaint in respect of an aspect of quarry operation.</p> <p>Reason: In the interest of the protection of residential amenity and planning control.</p>
26.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for</p>

	<p>determination.</p> <p>Reason: To ensure the satisfactory restoration of the site in the interest of visual and residential amenity.</p>
27.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of road works, and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The security to be lodged shall be as follows -</p> <p>(a) an approved insurance company bond in the sum of €75,000 (seventy-five thousand euro), or</p> <p>(b) a cash sum of €75,000 (seventy-five thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or</p> <p>(c) such other security as may be accepted in writing by the planning authority.</p> <p>Reason: To ensure the satisfactory upgrade of the means of access to the site.</p>
28.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable</p>

<p>indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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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

27th June 2024