



An  
Bord  
Pleanála

## Inspector's Report ABP-316144-23

### Development

Application for substitute consent  
under Section 177E for Quarry

### Location

On lands at Aghnaskew (Dartree by),  
Scotshouse, Co. Monaghan.

### Planning Authority

Monaghan County Council

### Applicant(s)

Scotshouse Quarries Limited

### Type of Application

Substitute Consent

### Observer(s)

None

### Date of Site Inspection

14<sup>th</sup> February 2025

**Inspector**

Ronan O'Connor

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## 1.0 Introduction

- 1.1.1. This current application for Substitute Consent, under s177E of the Planning and Development Act, 2000 (as amended) was made following the Board's decision to grant Leave to Apply for Substitute Consent under ABP-311755-21 on the 11<sup>th</sup> March 2021 and ABP-313585-22 'Extension of Time Request' dated 17<sup>th</sup> May 2022 which extended the time to the 31<sup>st</sup> March 2023 for an application to be lodged. The application was lodged on 24<sup>th</sup> March 2023. The application relates to unauthorised quarrying which occurred beyond the originally permitted area such to offend the EIA Directive<sup>1</sup>. In granting 'Leave to Apply' under Section 177D, the Board confirmed that an EIA offence only existed (ABP Ref 311755-21 refers).
- 1.1.2. I would draw the Board's attention to the fact that there is also a current s37L application for an extension to the quarry which includes both the Substitute Consent area, and lands to the south of same (ABP Ref 319612-24 refers). The s37L application is to be considered 'in conjunction' with this Substitute Consent application (as per the provisions of the Planning and Development, Maritime and Valuation (Amendment) Act 2022. As such, this Substitute Consent application is travelling with the associated s37L application.

## 2.0 Site Location and Background to Quarry Operation

- 2.1.1. The site is situated c1km south-east of Scotshouse Village, in Co. Monaghan. The working quarry area (hereinafter referred to as 'the Permitted Area') is an area of 3.3 Ha which received planning permission for extraction of minerals in 1983 (PA Ref 83/09). There is a further excavated area which is the subject of this current Substitute Consent application (hereinafter referred to as 'the Site') and this is c5.6 Ha in area. The entirety of the landholding, including the 'Permitted Area' and 'the Site' is referred to as 'the Registered Area' (see discussion on quarry registration below) and extends to an area of c11.5ha.
- 2.1.2. The L6280 forms the north-eastern boundary of Scotshouse Quarry and adjoins the R212 to the west. This road is the main haul route for HGVs accessing and egressing the existing quarry. The immediate surrounding area is agricultural in

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<sup>1</sup> EU's Environmental Impact Assessment (EIA) Directive (2011/92/EU as amended by 2014/52/EU)

nature, with residential development present in the form of scattered single house developments, with the nearest such dwelling located c135m from the northern site boundary.

### **3.0 Proposed Development**

- 3.1.1. Permission is sought for substitute consent for a quarry development. The application relates to a previous extension of quarrying activities to the southwest of the Permitted Area and covers an area of c5.6ha. Topsoil and overburden have been removed over time as the excavated area has been expanded. The average extracted depth is to c105m OD (the average ridge height is 130m OD). During the operations within the Site, the development consisted of the excavation of rock, which was carried out by way of blasting, before the rock is removed to the Permitted Area for processing. Blasted rock was removed from the quarry floor by way of a 30-ton excavator. The aggregate chippings were used for surface dressing and macadam, or other different grades of crushed stone (for fill) and aggregates that are tailored to customer requirements.
- 3.1.2. The application is accompanied by a Remedial Environmental Impact Assessment (rEIAR). It is set out within same that in previous years the excavated and processed volumes of aggregates from the Registered Area have been up to 350,000 tonnes per annum (Section 3.2.1 of the rEIAR refers).

### **4.0 Planning History**

#### **Planning Applications**

ABP Ref 319612-24 – Current Application (within the Registered Area)- Application under section 37L of the Planning and Development Acts, 2000-2015 for Further Development of a Quarry

PA Ref 83/09: Develop quarry c. 3.3 hectares: Permitted on 25th July 1983. (the Permitted Area)

#### **Leave to Apply for Substitute Consent**

**ABP 311755-21** Application granted 11/03/2022 for Section 177C Leave to Apply for Substitute Consent application for extraction/ quarrying development. The Board Order noted that an EIA was required in respect of the development concerned.

### **Substitute Consent – Extension of Time**

**ABP 313585-22** Application granted 24/06/2022 for Extension of time for lodging an application for substitute consent (until 31<sup>st</sup> March 2023).

### **Section 261 Registration**

PA Ref QY1: Section 261 registration of a 11.5-hectare quarry with an extraction area of 10 hectares: Registration confirmed by the Planning Authority on 12th April 2005.

PA Ref Q04/3002: Section 261(6)(a)(ii) conditions attached to operation of quarry on 24th March 2006. Pursuant to Condition 3 a restoration plan for the 11.5-hectare quarry was submitted to and agreed in writing by the Planning Authority on 6th November 2006.

### **Enforcement**

Section 261A(2)(a): In 2012, the Planning Authority prepared a “Quarry Assessment – Internal Report”, which addressed the need for EIA and NIA and which recommended that “no further action is required”.

Enforcement report dated 21st March 2014 following site visit on 14th March 2014: No unauthorised quarrying recorded and no non-compliance with conditions recorded.

Enforcement enquiry E1760: Enforcement report dated 24th October 2017 concluded that “the quarry is operating within the boundaries/site area registered under ref. 4/3002 and compliant with subsequent permissions.”

Enforcement enquiry E82.2019: Warning letters issued on 2nd October 2019 and 20th February 2020 concerning extension to quarry and quarrying on lands without planning permission and a subsequent enforcement notice was issued on 2nd June 2020.

### **Other Planning Applications**

Other planning applications are summarised below, all of which were made by the current applicant:

- 08/787: Existing floodlights: Retention permission granted.
- 09/618: Portal frame workshop: Permitted.
- 10/127: Prefabricated single storey office building, weighbridge, and 2.4m high roadside boundary palisade fence: Retention permission granted.
- 14/124: Crushing plant facility: Retention permission granted.
- 14/157: Site office, wastewater treatment unit and associated raised filter percolation area, 7-space car park, storm drainage, foul drainage and all other associated site works: Permitted and subsequent application 19/9011 for extension of duration of permission granted until 27th August 2024.
- 15/113: Coated road stone plant: Permitted.
- 18/485: ESB sub-station and customer switch room: Permitted.

## **5.0 Policy Context**

### **5.1. Local Policy**

### **5.2. Monaghan County Development Plan 2019-2025**

- 5.2.1. The relevant Development Plan is the Monaghan County Development Plan 2019-2025. Relevant Policies are as follows.

#### **Mineral Extraction Policies**

ERP 1 - To safeguard for future extraction all identified locations of major mineral deposits in the County

ERP 2 - To promote development involving the extraction of mineral reserves and their associated processes, where the Planning Authority is satisfied that any such development will be carried out in a sustainable manner that does not adversely impact on the environment or on other land uses. Consideration in this regard shall be given to the impact of the development on the local economy.

#### **Policies for Extractive Industry**

EIP 1 To require all applications for extractive development to submit the following as part of the planning applications;

- a) Map detailing total site area, area of excavation, any ancillary proposed development and nearest dwelling and/or any other development within 1km of the application site.
- b) Description of the aggregate to be extracted, method of extraction, any ancillary processes (crushing etc), equipment to be used, stockpiles, storage of soil and overburden and storage of waste materials.
- c) Total and annual tonnage of extracted aggregates, expected life time of the extraction, maximum extent and depth of working and a phasing programme.
- d) Details of water courses, water table depth and hydrological impacts, natural and cultural heritage impacts, traffic impact and waste management.
- e) Assessment of cumulative impact when taken with any other extractive operations in the vicinity.
- f) Likely environmental effects, proposed mitigation measures and restoration and after- care proposals.

EIP 4 To restrict extractive developments that may have a detrimental impact on the natural or built environment or matters of acknowledged public importance including the use of public rights of way

#### Water Protection Policies

WPP 1 In assessing applications for developments, the Council will consider the impact on the quality of surface waters and will have regard to targets and measures set out in the River Basin Management Plan for Ireland 2018-2021 and any subsequent local or regional plans.

WPP 2 In assessing applications for development, the planning authority shall ensure compliance with the European Communities Environmental Objectives (Surface Waters) Regulations, 2009 (S.I. No 272 of 2009) and the European Communities Environmental Objectives (Groundwater Regulations, 2010 (S.I. No. 9 of 2010).

WPP 3 To protect known and potential groundwater reserves in the county. In assessing applications for developments, the planning authority will consider the impact on the quality of water reserves and will have regard to the recommended approach in the Groundwater Protection Response Schemes published by GSI. The employment of the methodology identified in the 'Groundwater Protection Scheme Reports for County Monaghan public supply sources' (available at [www.gsi.ie](http://www.gsi.ie)) and 'Guidance on the Authorisation of Discharges to Groundwater' (available at [www.epa.ie](http://www.epa.ie)) will be required where appropriate.

WPP 4 To require submission of a water protection plan and detailed site drainage plans with all planning applications. Maps of sensitive areas waters, a Water Protection Plan Checklist (Appendix 7) and latest water body status information at [www.catchments.ie](http://www.catchments.ie) will assist in the preparation of plans at application stage.

WPP11 Development which would have an unacceptable impact on the water environment, including surface water and groundwater quality and quantity, river corridors and associated wetlands will not be permitted.

WPP 15 To protect waterbodies and watercourses from inappropriate development, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains. This will include protection buffers in riverine and wetland areas as appropriate.

#### Other Relevant Policies

LP 1 To control lighting in urban and rural areas and in sensitive locations, in order to minimise impacts on residential amenity and habitats and species of importance.

NP 1 To promote the implementation of the Noise Directive 2002/49/EC and associated Environmental Noise Regulations 2006.

AQP 1 Quality and Cleaner Air for Europe (CAFE) Directive (2008/50/EC) and ensure that all air emissions associated with new developments are within Environmental Quality Standards as out in the Air Quality Standards Regulations 2011 (SI No. 180 of 2011) (or any updated/superseding documents). Promote the preservation of best ambient air quality compatible with sustainable development in accordance with the EU Ambient Air.

AQP 2 To contribute towards compliance with air quality legislation; greenhouse gas emission targets; management of noise levels; and reductions in energy usage.

#### Industrial and Commercial Development

Section 15.13.7 Residential Amenity All developments must have regard to the potential impact upon the residential amenity of existing and permitted residential land uses in the vicinity of the development.

Policy RDP 24 Development which has the potential to detrimentally impact on the residential amenity of properties in the vicinity of the development, by reason of overshadowing, overbearing, dominance, emissions or general disturbance shall be resisted

#### Section 15.19 Landscaping (Urban and Rural) and Policy LCP 1 'Landscaping Policy'

LCP 1 To require all planning applications to include a comprehensive landscaping plan commensurate to the scale of development on site in accordance with the specifications set out in Section 15.19 of Chapter 15 of the Monaghan County Development Plan 2019-2025.

LCP 2 Developments which necessitate the removal of extensive hedgerow and trees shall only be permitted in exceptional circumstances. In these instances, a comprehensive landscape plan must be submitted with the proposal which includes a replanting schedule along with the replacement of planting being lost.

### 5.3. National Policy and Guidance

### 5.4. Climate Action Plan 2024

The Government of Ireland's Climate Action Plan was first published in June 2019 by the Department of Communications, Climate Action and Environment. The Climate Action Plan 2024 (CAP24) is the third annual update to Ireland's Climate Action Plan 2019. This plan is prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and following the introduction, in 2022, of economy-wide carbon budgets and sectoral emissions ceilings.

### 5.5. Climate Action and Low Carbon Development (Amendment) Act 2021

This Act amends the Climate Action and Low Carbon Development Act 2015. It sets out the national objective of transitioning to a low carbon, climate resilient and environmentally sustainable economy in the period up to 2050. The Act commits us, in law, to a move to a climate resilient and climate neutral economy by 2050.

An Bord Pleanála is a relevant body for the purposes of the Climate Act. As a result, the obligation of the Board is to make all decisions in a manner that is consistent with the Climate Act.

#### **5.6. Ireland's 4<sup>th</sup> National Biodiversity Action Plan 2023–2030**

Ireland's 4<sup>th</sup> National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature. The NBAP will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity,
- Objective 2 - Meet Urgent Conservation and Restoration Needs,
- Objective 3 - Secure Nature's Contribution to People,
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity
- Objective 5-Strengthen Ireland's Contribution to International Biodiversity Initiatives.

#### **5.7. National Planning Framework (Project Ireland 2040) and National Development Plan 2018-2027**

These joint documents set out a vision for the future development of the country and in particular, to support the sustainable development of rural areas by encouraging growth.

#### **Section 5.4 Planning and Investment to Support Rural Job Creation**

Aggregates and Minerals 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.

**National Policy Objective 23** seeks to facilitate the development of the rural economy through supporting, amongst other sectors, a sustainable and economically efficient extractive industry sector, whilst at the same time noting the importance of maintaining and protecting the natural landscape and built heritage, which are recognised as being vital to rural tourism.

#### **5.8. Draft First Revision to the National Planning Framework July 2024 (and Updated Draft Revised NPF November 2024)**

The updated Draft Revised NPF published 5<sup>th</sup> November 2024, references the Circular Economy and Miscellaneous Provisions Act 2022 and the National Circular Economy Strategy 2022, and that the Circular Economy as playing a much more significant role.

**National Policy Objective 76** seeks to 'sustainably manage waste generation including construction and demolition waste, invest in different types of waste treatments and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment economy and society'.

#### **5.9. Regional Policy**

##### **Northern & Western Regional Assembly - Regional Spatial and Economic Strategy 2020-2032**

The primary statutory purpose of the Strategy is to support the implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and the ten year National Development Plan (NDP) - including the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the region.

#### **5.10. Other Relevant Policy/Directives/Guideline**

##### **European Union Water Framework Directive**

The European Union Water Framework Directive 2000/60/EC (WFD) was adopted in 2000 as a single piece of legislation covering rivers, lakes, groundwater and transitional (estuarine) and coastal waters and includes heavily modified and artificial waterbodies. The overarching aim of the WFD is to prevent further deterioration of and to protect, enhance and restore the status of all bodies of water with the aim of achieving at least 'good' ecological status by 2015 (or where certain derogations have been justified to 2021 or 2027).

### **Quarries and Ancillary Activities Guidelines for Planning Authorities (2004), DOEHLG**

These Guidelines were issued to offer guidance to planning authorities and An Bord Pleanála for the quarrying industry through the Development Plan and determining planning applications for planning permission for quarrying and ancillary activities and for the implementation of Section 261 of the Planning and Development Act, 2000.

The guidelines note the economic importance of quarries and the demand for aggregates arising from the needs of the construction industry with reference to house building and infrastructure provision. It is further noted that aggregates can only be worked where they occur and that many pits and quarries tend to be located within 25km of urban areas where most construction takes place.

**Section 3.2** notes that extractive industries are associated with many noise-generating activities including the removal of topsoil and overburden, excavation with machinery, drilling and blasting of rock, crushing and screening of aggregates, transport of raw materials and finished products within the site and on public roads.

The Guidelines set out a recommended standard of 55dB(A)  $L_{Aeq}$  (1 h) for daytime noise and 45 dBA  $L_{Aeq}$  (1 h) for night-time at the nearest sensitive receptor. The guidelines also note that it may be appropriate to permit higher noise Environmental Limit Values (ELVs) for short-term temporary activities such as construction of screening bunds, etc, where these activities will result in a considerable environmental benefit.

**Section 3.3** sets out a number of best practice mitigation measures to prevent dust creation at source, one such measure includes paving road surfaces. As the predicted dust levels in all scenarios, at sensitive locations, are within the criteria set

out in national guidelines, I am satisfied that the impact would not be significant and there is no requirement for the paving of roads within the quarry site.

**Section 3.6** notes the development plan will indicate areas of high landscape quality, together with proposed geological Natural Heritage Areas, where quarrying will not normally be permitted. While Quaternary landscape features such as eskers and moraines comprise valuable sediments, they also represent non-renewable records of past climate and environmental change and should be afforded some protection.

**Section 3.7** notes in relation to traffic impact best practice/possible mitigation measures: Some related mitigation measures (e.g. in relation to noise and dust) have been outlined above. Specific traffic-related measures may include:

- The improvement of sightlines at the site entrance;
- The strengthening/widening of local roads;
- Limiting HGV traffic to specified routes to and from the site;
- Queuing of vehicles with engines running at quarry sites in the early morning can impact on residential amenity, and must be avoided;
- Provision of footpaths/pedestrian refuges as well as passing bays for vehicles on rural roads in the vicinity of the site.

**Section 4.9** states that when considering whether a further permission should be granted, the planning authority should have regard (inter alia) to the extent of the remaining mineral resources and the extent of existing capital investment in infrastructure, equipment, etc.

### **Supplementary Guidelines for Planning Authorities July 2012 DOEHLG**

These guidelines support and clarify the legislative arrangements relating to the control of quarries through the planning system following the enactment of Section 261A of the Planning and Development Act. 2000 and related provisions.

### **Environmental Management in the Extractive Industry, Environmental Protection Agency, 2006**

These guidelines provide a summary of environmental management practices for quarries and ancillary facilities. Key environmental management issues have been identified and addressed.

**Section 3.5** notes that noise and vibration are present in many normal everyday activities. In relation to quarry developments and ancillary activities, it is recommended

that noise from the activities on site shall not exceed the following noise ELVs at the nearest noise-sensitive receptor: Daytime: 08:00–20:00 h LAeq (1 h) = 55 dBA Night-time: 20:00–08:00 h LAeq (1 h) = 45 dBA.

In relation to blasting activities within quarry development, it is recommended that the following vibration and air overpressure ELVs are adopted and applied at the nearest vibration and air overpressure sensitive location (e.g. a residential property): Ground-borne vibration: Peak particle velocity = 12 mm/s, measured in any of the three mutually orthogonal directions at the receiving location (for vibration with a frequency of less than 40 Hz). Air overpressure: 125 dB (linear maximum peak value), with a 95% confidence limit.

### **5.11. Natural Heritage Designations**

5.11.1. The site itself is not a designated site. It does not directly adjoin a designated site.

The nearest such sites are as follows:

- Drumcor Lough pNHA (site code 001841) 1.1km to the north-west of site
- Upper Lough Erne SPA (site code UK9020071) 4km north-west of site
- Upper Lough Erne SAC (site code UK0016614) 4km north-west of site
- Lough Oughter and Associated Loughs SAC (site code 000007) c5.3km north-west of site.

## **6.0 Legislative Context**

6.1.1. The basis for substitute consent is set out in Part XA (Section 177A – Q) of the Planning and Development Act, 2000, as amended.

6.1.2. Of particular importance is the need for the applicant to demonstrate that exceptional circumstances apply. This is set out in Section 30 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022 Act, which amends Section 177K of the 2000 Act.

6.1.3. The Planning and Development, Maritime and Valuation (Amendment) Act 2022 (Commencement of Certain Provisions) (No.2) Order 2023 (S.I. 645 of 2023) came into effect on the 16<sup>th</sup> day of December 2023.

Section 30 of the 2022 Act amends Section 177K of the 2000 Act as follows:

(a) by the insertion of the following subsection after subsection (1) (i):

“(1J) In considering whether exceptional circumstances exist under subsection (1A)

(a) the Board shall have regard to the following matters:

(a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive.

(b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised.

(c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired.

(d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development.

(e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated.

(f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development.

(g) such other matters as the Board considers relevant.”

## **7.0 Exceptional Circumstances**

7.1. Section 177K(1)(J) of the Planning and Development Act 2000 as amended, provides that the Board may grant leave to apply for substitute consent where exceptional circumstances apply, as set out in section 6 of this report.

7.1.1. I would note at the outset that the Board have previously considered that exceptional circumstances exist, such that it would be appropriate to allow regularisation of the development by granting leave to apply for substitute consent under ABP Ref 311755-21. The life of the leave to apply for substitute consent was extended under a subsequent application for extension of duration extending to 31<sup>st</sup> March 2023.

This current application for Substitute Consent (SC) was lodged on 24<sup>th</sup> March 2023 prior to the expiration of the extension of duration permission.

- 7.1.2. I note also that the leave to apply application stage was not open to public consultation. However, in relation to this Substitute Consent application, Exceptional Circumstances were subject to a specific round of public consultations. No third-party observations were received in relation to this Substitute Consent application nor were any submissions received from Prescribed Bodies<sup>2</sup>. The Planning Authority has made a submission on this SC application which I have summarised in Section 8 below.
- 7.1.3. This section of my report will test how the development for SC is assessed against the criteria as set out within this part of the Act as follows: I note that the applicant has submitted a 'Statement of Exceptional Circumstances' (March 2023) and I have regard to same below.

***Whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive.***

- 7.2. The EIA Directive seeks to provide for an assessment of the likely significant effects of a development on the environment prior to decision making, and to take account of these effects in the decision-making process. The Habitats Directive seeks to ensure the conservation of a wide range of rare, threatened or endemic animal and plant species and the conservation of rare and characteristic habitat types.
- 7.2.1. Any decision by the Board to grant or refuse permission for substitute consent for development carried outside the previously permitted areas of the site would be made on the basis of an assessment of the likely effects of the development on the environment and the likelihood of any significant effects on European sites, as a result of past works.
- 7.2.2. In this regard, and in relation to an assessment of the likely effects of the development on the environment, I note that a Remedial Environmental Impact Assessment Report (rEIAR) has been submitted with the application. I am of the view that the submission of an rEIAR will allow a detailed consideration of impacts

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<sup>2</sup> I note that submissions from An Taisce and the DAU were received in relation to the associated s37 application (319612 refers).

on the environment that have resulted from the development, and as such will uphold the purpose and objectives of the EIA Directive.

- 7.2.3. In relation to the Habitats Directive, and the likelihood of any significant effects on European sites, I refer the Board to Section 4 of this report which notes that the Board has previously not identified an offence of the Habitats Directive when determining the 'Leave to Apply' application (311755-21 refers).
- 7.2.4. Notwithstanding this previous determination, and noting the Board's role as the competent authority for the purposes of Appropriate Assessment, I have carried out a Stage 1 AA Screening in Appendix 2 of this report (and summarised in Section 11), where I have concluded that the development would not have had a likely significant effect on any European Site either alone or in combination with other plans or projects. I have therefore concluded that that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

***Whether the applicant had or could reasonably have had a belief that the development was not unauthorized***

- 7.2.5. Within the applicant's Statement of Exceptional Circumstances, the applicant has set out that errors by the Planning Authority during the Section 261 process and again at Section 261A process have led to the situation as it is at present.
- 7.2.6. These timelines and actions are set out in the applicant's Statement and I have summarised same here.
- 7.2.7. It is stated that quarrying at this site dates back to pre-1963. However, for reasons unknown to the applicant (who was not the owner of the quarry at this time) a planning permission was applied for and granted on a site of c3.3 ha (83/09 refers-granted 25th July 1983) within a landholding of 11.5 ha.
- 7.2.8. The wider landholding site was registered under section 261 (See Appendix II of the Statement of Exceptional Circumstances) with a submission date of 11<sup>th</sup> November 2004 and a completion date of 05<sup>th</sup> April 2005. Conditions were attached to same. This registration included details of eventual extraction of c10 ha of the 11.6 ha landholding. The applicant notes that the area granted under 83/09 had been exceeded by the time of the section 261 application. The applicant states that this was then seen as a permission by Monaghan County Council (MCC), i.e. as if under

Section 34, with MCC including conditions requiring *inter alia* compliance with the original permission and with the details as submitted under section 261. The applicant states that this approach was further confirmed by MCC through the written acceptance of a Restoration Plan in 2006, submitted in compliance with Condition 3 of the section 261. In 2006, Monaghan County Council (MCC) re-stated, modified or added to the original permission under the provisions of section 261(6)(a)(ii).

- 7.2.9. Further permissions were granted on the site including floodlighting, with the site map indicating the extent of the quarry (ref 08/787 refers), a workshop building (09/618), an office building, weighbridge and 2.4m roadside boundary palisade fencing (10/127 refers) with each of these showing the quarry extent.
- 7.2.10. The applicant then sets out that, in 2012, MCC assessed the site in accordance with the provisions of section 261A and found that neither EIA Directive or Habitats Directive offences existed on the site (i.e. that an EIAR or an Appropriate Assessment was required). The applicant sets out that, given the extent of the extraction (to approximately 5.7 ha on site) this should have triggered a Section 261A(2)(i) determination with regard to a mandatory EIA requirement, and consequently, a Section 261A(3) decision that Substitute Consent was required to be applied for, accompanied by a rEIAR. The applicants state that the outcome of 'No Further Action' by MCC was proof that MCC's view was that the modified permission provided for the extraction of the Registered Area. Reference is made also to the further permissions, which would not have been granted if MCC deemed the ongoing quarrying as unauthorised.
- 7.2.11. The applicant notes that, following a complaint in 2019 to the Planning Authority, MCC reviewed its actions in section 261 and 261A and decided that the existing permission as modified by Section 261(6)(a)(ii) was defective. A Warning Letter was then issued to the applicant on 2<sup>nd</sup> June 2020.
- 7.2.12. It is the applicant's contention that the above actions led the operator to understand that the quarry registration process was sound and the extended area of extraction was permitted, and had purchased the site during the section 261 process on this basis.
- 7.2.13. Having regard to the totality of information on file, I am satisfied that the current quarry owners had a reasonable basis to believe that there was a valid registration of

the site under Section 261 of the Act, and that the quarry operated in accordance with the Section 261 decision. This was further reinforced by the subsequent grants of permission by the Planning Authority, which are as detailed in Section 4 above. I would note that the submission of the Planning Authority has not sought to refute any of the evidence as set out by the applicant in the Statement of Exceptional Circumstances (see summary of the Planning Authority's submission in Section 8 below). I am, therefore, of the opinion that the applicant could reasonably have had a belief that the development was not unauthorised.

***Whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired***

- 7.2.14. Under the current process, where the applicant is seeking substitute consent and includes the submission of an rEIAR as part of the planning documentation, there is provision for Prescribed Bodies and interested third parties to make submissions and to become formally involved in the process. The assessment of same would not be substantially impaired in such an event.
- 7.2.15. I further note that the S261A process also provided an opportunity for public participation and conditions were attached to same.

***The actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development***

- 7.2.16. An AA Screening Report was submitted as part of the 'Leave to Apply for Substitute Consent' ABP-311755-21. Under the Leave to Apply for Substitute Consent ABP-311755-21, as reflected in the Board Order signed 11th March 2022, the Board did not identify that the development in question was one that required the submission of a Remedial Natura Impact Statement (rNIS).
- 7.2.17. Notwithstanding, I have carried out an AA Screening in Appendix 2 of this report (and summarised same in Section 11 of this report), wherein I have concluded there have been no likely significant negative effects on any European Sites.

***The extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated***

7.2.18. I note the applicants' submission of an rEIAR, which has identified potential significant impacts (as per my assessment in Section 9 of this report), and sets out a suite of mitigation measures in order to reduce the significance of same. I would also note that the applicant intends to implement a Restoration Plan should works not continue on the site.<sup>3</sup> The Restoration Plan proposed under this Substitute Consent application is included in Appendix 3-2 of the rEIAR and, in summary, involves partial infilling of the extracted area and reseedling of grassland, and planting of replacement trees and hedgerow around the boundaries of the site. The implementation of the Restoration Plan will further serve to remediate any potential significant effects identified in the rEIAR.

7.2.19. No adverse effects on the integrity of a European Site have been identified therefore no remediation in relation to same is required.

***Whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development***

7.2.20. I would note the submission of the Planning Authority on this Substitute Consent application (dated 7<sup>th</sup> June 2023). It is stated that the Planning Authority are pursuing enforcement with respect to the extension to a quarry and/or unauthorized quarrying (which is now the subject of this Substitute Consent Application).

7.2.21. The planning history of the site, as set out in Section 4 of this report, includes a number of retention applications (14/124 and 08/787 refer). Retention permission was subsequently applied for and granted for same. The Planning Authority have not pointed to any other previous history of non-compliance on the site, nor have the Planning Authority stated that there is any other continuing unauthorised development on the site, aside from that which is under consideration under this SC application.

7.2.22. Section 5 of the applicant's Statement of Exceptional Circumstances sets out that throughout the Section 261 and Section 261A processes, the Planning Authority have treated the site as fully authorised. It is further set out that since the applicants

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<sup>3</sup> I would note the Restoration Plan as submitted under this SC application differs from that submitted under the s37L application (ABP 319612 refers). See further discussion of same in the relevant sections of this report.

have been made aware of the status of the works/development they have sought to pursue various avenues to regularize the status of same, culminating with the lodgment of a Leave to Apply for Substitute Consent to An Bord Pleanála under ABP 316144. I would also note that the Legal Opinion as submitted by the applicant (Appendix VII of The Statement of Exceptional Circumstances) states that, as of 18<sup>th</sup> June 2021, extraction has ceased outside the originally authorised area following works undertaken to ensure the benches are left in a safe condition, and as such it would appear that no continuing unauthorised quarrying is taking place within the Site.

7.2.23. In this regard, it is reasonable to conclude that the applicant is making appropriate efforts to regularise this development by engaging in the substitute consent process.

#### **7.2.7 Such other matters as the Board considers relevant.**

7.2.24. I do not consider that there are other matters that the Board should consider relevant.

### **7.3. Conclusion in relation to Exceptional Circumstances**

7.3.1. Having regard to the foregoing and the applicant's submission relating to exceptional circumstances. I conclude that there is no legal impediment to prevent the Board from proceeding to assess/determine the current application for substitute consent in the normal manner. I also conclude that the application meets the exceptional circumstances test.

## **8.0 Submissions**

### **8.1. Planning Authority Submission**

8.1.1. A submission from the Planning Authority was received on 7<sup>th</sup> June 2023 and is summarised below:

- Note PA are pursuing enforcement with respect to the extension to a quarry and/or unauthorised quarrying/matter is at prosecution stage.
- Note relevant policies.

- States that the Quarry is located within the Gortnana\_010 Waterbody/Waterbody is at Moderate Status (2013-2018)/Sites lies on a poor aquifer on an area of extreme groundwater vulnerability.
- Note that applicant has been licenced under Section 4 of the Local Government (Water Pollution) Act 1977 as amended, since 2015.
- Trade effluent is generated onsite from a number of processes/passes through settlement points and a hydrocarbon interceptor to discharge to surface waters.
- Site Inspection was carried out on 2<sup>nd</sup> May 2023 under the Section 4 monitoring programme/site appeared well managed/all effluents collected/contained and treated.
- Watercourse at the discharge point and further downstream was inspected/no visual evidence of contamination was noted.
- Conditions are set out in the event of a grant of substitute consent.
- Planning Authority have no objection to substitute consent being granted for the development if ABP consider it appropriate to do so.

Encl:

Appendix 1 – Planning History; Appendix 2 – Conditions

## **8.2. Prescribed Bodies**

8.2.1. None.

## **8.3. Observer submissions**

8.3.1. None received.

## **9.0 Assessment**

### **9.1. Introduction**

9.1.1. The basis for substitute consent is set out in Part XA (Section 177K (1J)) of the Planning and Development Act 2000 (as amended). This section of the Act states that when making its decision in relation to an application for substitute consent, the

Board shall consider the proper planning and sustainable development of the area having regard to a number of matters, listed as (a) to (g), within Section 177K(1J), regarding 'Exceptional Circumstances'. I have considered the issue of Exceptional Circumstances' in Section 7 of my report. The assessment will concentrate on the relevant planning and environmental issues.

- 9.1.2. In the current application documentation, it is stated that the extraction activities had extended beyond the Permitted Area, with c4.1Ha open by 1999<sup>4</sup> (the Permitted Area is 3.3Ha in area) with the last activities recorded on the Site on the 18<sup>th</sup> June 2021. The Board's determination of this case can only be made in respect of the development that has already been carried out. i.e., the determination must be confined solely to the works undertaken on site, and for which substitute consent is being sought.
- 9.1.3. Notwithstanding, this assessment on the application for substitute consent, as made under section 177E of the Act, should be read in association with the parallel application for further quarrying, as made under section 37L of the Act (ref. ABP-319612-24), a case which is travelling with this file.
- 9.1.4. I would note that the Planning Authority has made a submission on this SC application and have stated that they have no objection to substitute consent being granted for the development if ABP consider it appropriate to do so, and in the event of a grant, a number of conditions are recommended.
- 9.1.5. Submissions were invited from prescribed bodies but none were received specifically in relation to this Substitute Consent application.
- 9.1.6. The assessment below is set out in three sections under the following headings.
- Section 10 - Planning Assessment
  - Section 11 - Environmental Impact Assessment
  - Section 12 - Appropriate Assessment

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<sup>4</sup> Section 12.4.1.2 of the rEIAR refers

## 10.0 Planning Assessment

10.1.1. I have reviewed the proposal in the light of the National Planning Framework, the Monaghan County Development Plan 2019-2025, relevant national and regional guidance, the planning history of the site, the submissions of the applicant, the Planning Authority, and my own site visit.

10.1.2. Accordingly, I consider that this application for substitute consent should be assessed under the following headings:

- Principle of Development
- Planning Authority Submission and Conditions

### 10.2. Principle of Development

10.2.1. In relation to the principle of development, I have reviewed the proposal in the light of the National Planning Framework, the Monaghan County Development Plan 2019-2025 and other relevant national and regional guidance, the planning history of the site, the submissions of the applicant, the Planning Authority, and from prescribed bodies, and my own site visit.

#### *Policy*

10.2.2. Within the National Planning Framework (NPF), National Policy Objective 23 seeks to facilitate the development of the rural economy through supporting, amongst other sectors, a sustainable and economically efficient extractive industry sector, whilst at the same time noting the importance of maintaining and protecting the natural landscape and built heritage, which are recognised as being vital to rural tourism. The Regional Spatial & Economic Strategy for the northern and western region, supports the implementation of the NPF, for the future physical, economic and social developments for the western and northern regions.

10.2.3. Guidelines for Planning Authorities on Quarries and Ancillary Activities (DoEHLG,2004) acknowledge that extractive industries make an important contribution to economic development in Ireland and the guidelines emphasise the continued need for aggregates. The guidelines note that such operations can give rise to land use and environmental issues which require mitigation and control through the planning system. Corresponding policies of the Monaghan County

Development Plan 2019-2025 support, in principle, the exploitation of aggregate resources in the county, where it can be demonstrated that the development would not adversely impact on the environment and other land uses (Policies ERP 1 and ERP 2, EIP 4 refer). I have considered such land use and environmental issues in Section 8.0 below.

- 10.2.4. Policy EIP 1 sets out required documentation that is required to be submitted with applications such as these that such application (criteria a to f). I would note that all of the required information has been submitted within the rEIAR, and other supporting documentation and I am satisfied that the development complies with this policy.
- 10.2.5. Having regard to the above, the previous quarrying development is clearly supported within the current planning policy context. It is, therefore, reasonable to conclude that the consequences for proper planning and sustainable development in the area are largely positive. This is contingent on ensuring that the effects on the environment of the development which took place, by itself and in combination with other development in the vicinity, was, and is acceptable. I have set out my considerations of this issue in the following section of my assessment, under the heading of Environmental Impact Assessment.

### **10.3. Development Contributions**

- 10.3.1. In the event of granting Substitute Consent, I would recommend that the Board impose a condition requiring payment of a development contribution in accordance with the Development Contribution Scheme for County Monaghan, and as recommended in the Planning Authority's submission. The current County Monaghan Development Contribution Scheme 2021-2026 refers to a contribution for quarrying of 'other minerals/materials' of €3,160 per Ha or part thereof. There are no exemptions or reductions for a development of this nature.
- 10.3.2. However, I would recommend the wording of the condition should take account of the associated s37L application for further quarrying (ABP 319612 refers). In relation to same, I would note that the area proposed to be extracted overlaps the area that is the subject of this Substitute Consent. I am of the view that it would not be reasonable to impose development contributions relating to the area for Substitute Consent, and the area relating to the s37L application, should the Board be minded

to grant the s37L application, noting that such an approach would result in the contributions being charged twice for the same area of land.

#### **10.4. Planning Authority Submission and Conditions**

- 10.4.1. I note that the Planning Authority's submission set outs a total of 10 no. recommended conditions which the Planning Authority suggest are appropriate to attach to any grant of Substitute Consent. I would be of the view that a number of the conditions therein (Conditions 2, 3, 4 and 5) would be not be appropriate in this instance, given that the conditions refer to future development on the site (and may be more appropriate to a s37L permission, should the Board be minded to grant same). However, where I have considered appropriate, I have included a number of these conditions, or modified versions of same, in my recommendation below. I have set out further consideration of these remaining conditions in this section.
- 10.4.2. PA recommended Condition 1 refers to Development Contributions which I have considered above. I am satisfied a modified version of this condition would be appropriate taking account of the considerations above (see recommended Condition 7 below).
- 10.4.3. I am of the view that PA recommended Conditions 6 and 7 (which relate to restoration and possible decommissioning), Condition 8 which relates to waste management and Condition 9 which relates to a Security Bond are appropriate to impose on any permission here, should the Board be minded to grant permission. PA recommended Condition 10 is a standard condition which is captured by Condition 1 of my recommendation below.

#### **11.0 AA Screening**

- 11.1. Screening for AA was carried out under Leave to Apply for Substitute Consent ABP-311755-21. Under the Leave to Apply for Substitute Consent ABP-311755-21, as reflected in the Board Order signed 11<sup>th</sup> March 2022, the Board has not identified that the development in question was one that required the submission of a Remedial Natura Impact Statement (rNIS).

11.2. Notwithstanding I have carried out an Appropriate Assessment Screening in relation to the development. Please refer to Appendix 2 (AA Screening) of this report which contains an AA Screening Report where I have concluded the following:

On the basis of objective information, I conclude that the development would not have had a likely significant effect on any European Site either alone or in combination with other plans or projects. Accordingly, a Stage 2 Appropriate Assessment is not required to determine if the historic development was likely to have affected the integrity of these sites.

This conclusion is based on:

- Standard pollution controls that would be employed regardless of proximity to a European site, and effectiveness of same (at construction/site preparation, operational and restoration phases).
- Distance from European Sites.

11.3. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

## **12.0 Environmental Impact Assessment**

### **12.1. Introduction and Statutory Provisions**

12.1.1. This application was submitted to the Board on the 24th day of March 2023. A Remedial Environmental Impact Assessment Report (rEIAR) accompanied the application. It is laid out in three volumes including the non-technical summary (Volume 1). The main volume (Volume 2) and the appendices (Volume 3). The appendices are as follows:

- Appendix 2-1: Permission 83-09; Appendix 2-2: QY1 Section 261; Appendix 2-3: Section 261A Report 2012; Appendix 2-4: Legal Opinion by Dr. Mary Moran-Long; Appendix 2-5: ABP Inspector's Report; Appendix 3-1: Contour Plan; Appendix 3-2: Restoration Plan; Appendix 7-1: Borehole Logs (GW1 GW2); Appendix 8-1: Water Assessment Criteria + Lab Reports; Appendix 8-2: Slug Test Data (GW1 GW2); Appendix 8-3: OPW Flood Report; Appendix 9-1: Mineral Dust Risk Assessment; Appendix 11-1: Acoustic Glossary of Terms; Appendix 11-2: Sources and receivers; Appendix 11-3 Daytime contours; Appendix 11-4:

BHP Noise Report 2022 & 2023; Appendix 13-1: Recorded Monuments in the study area; Appendix 14-1: Scoping Doc; Appendix 14-2: Traffic Count; Appendix 14-3: Junction Access PICADY

12.1.2. Chapter 1 of Volume 2 provides an introduction and sets out the format of the report, its methodology and an overview of the various subject chapters. It includes a table setting out the names of the rEIAR study team and details of their competencies and expertise. The Planning and Policy Context is set out in Chapter 2.

12.1.3. A detailed description of development is set out in Chapter 3. This sets out the operational activities which have occurred within the 'Permitted Area' (83/09 refers) and those which have occurred within the 'Substitute Consent' site (hereinafter referred to as 'the Site'). In terms of the Permitted Area, this consists of a quarry covering c3.3ha. The Permitted Area, along with the overall 'Registered Area' has been in possession of the Applicant since 2006 and has continued to be in regular use since the purchase of same. Within the Permitted Area is an office, canteen, wheel wash and weighbridge. The workshop and associated settlement tanks are located in the north-central portion of the Permitted Area, with the crushing and screening plant, and hot-mix macadam manufacturing plant located in the south-eastern portion of the permitted area. The settlement ponds are located in the western portion of the Permitted Area.

12.1.4. In terms of the activities within the Permitted area, the area has been and is excavated by blasting and the blasted rock is then processed. This represents the main activity of the quarry. Planning was granted for a crushing facility (PA Ref 14/124) which included various plant which aids processing of the rock. The site produces aggregate chippings for use in surface dressing and macadam, crushed stone for fill and tailored aggregates. The crushing plant is powered from the ESB grid. It is set out that up to 350,000 tonnes per annum of processed aggregates from the 'Registered Area' have been produced.

12.1.5. As of 2015 the Permitted Area also includes a hot-mix macadam plant (PA Ref 15/113). It is set out that the hot-mix macadam plant is substantially sourced from the quarry. Bitumen, some stone and small volumes of limestone are imported to the quarry for used in the macadman plant.

- 12.1.6. In relation to current activities on the wider landholding, it is stated that since the identification of planning issues at the Site, quarrying has been restricted to the Permitted Area until the Site is regularised. It is stated that the last working blast on the site took place in April 2021. Rock blasting was carried out on the Site prior to this, and removed to the Permitted Area for processing.
- 12.1.7. In terms of the development that is the subject of this Substitute Consent (the Site), the site area in question is c5.6ha. Topsoil and overburden have been removed from the Site over time. It is set out in the rEIAR that the 3.3Ha Permitted Area for quarrying was predominantly opened by 1995. This area increased then increased beyond the Permitted Area, and c4.1 ha was open by 1999, increasing to 5.4ha by 2005. By 2015, the open area of quarrying was 7ha. The total area of the quarry is now 9.6 to 10ha (Section 12.4.1.2 of the rEIAR refers).

## **12.2. EIA Structure**

- 12.2.1. This section of the report comprises the environmental impact assessment of the development in accordance with Planning and Development Act 2000 (as amended) and the associated Regulations, which incorporate the European directives on environmental impact assessment (Directive 2011/92/EU as amended by 2014/52/EU). Section 171 of the Planning and Development Act, 2000 (as amended) defines EIA as:
- a. consisting of the preparation of an EIAR by the applicant, the carrying out of consultations, the examination of the EIAR and relevant supplementary information by the Board, the reasoned conclusions of the Board and the integration of the reasoned conclusion into the decision of the Board, and
  - b. includes an examination, analysis and evaluation, by the Board, that identifies, describes and assesses the likely direct and indirect significant effects of the proposed development on defined environmental parameters and the interaction of these factors, and which includes significant effects arising from the vulnerability of the project to risks of major accidents and/or disasters.
- 12.2.2. Article 94 of the Planning and Development Regulations, 2001 and associated Schedule 6 set out requirements on the contents of an EIAR.

12.2.3. This EIA section of the report is, therefore, divided into two sections. The first section assesses compliance with the requirements of Article 94 and Schedule 6 of the Regulations. The second section provides an examination, analysis and evaluation of the development and an assessment of the likely direct and indirect significant effects of it on the following defined environmental parameters, having regard to the rEIAR and relevant supplementary information:

- alternatives,
- population and human health,
- biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive,
- land, soil, water, air and climate,
- material assets, cultural heritage and the landscape,
- the interaction between the above factors, and
- the vulnerability of the proposed development to risks of major accidents and/or disasters.

12.2.4. The assessment provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Boards decision, should they agree with the recommendation made.

### 12.3. **Compliance with the Requirements of Article 94 and Schedule 6 of the Regulations 2001**

12.3.1. Compliance with the requirements of Article 94 and Schedule 6 of the Regulations is assessed below.

Table 11.4.1

| <b>Article 94 (a) Information to be contained in an EIAR (Schedule 6, paragraph 1)</b>                                                                                                                                    |                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A description of the proposed development comprising information on the site, design, size and other relevant features of the proposed development (including the additional information referred to under section 94(b). | The development is described in detail in Chapter 3 of the rEIAR and associated drawings that accompany the application. Information is included on the site, design, size and features of the development. The rEIAR also details the |

|                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                     | <p>historic activities within the site . The rEIAR also includes details of a Restoration Plan (in Appendix 3-2 of the rEIAR). I am satisfied that adequate historic and contemporary detail has been provided to enable decision making, noting that the Board can also condition final details of a Restoration Plan, should the Board be minded to grant Substitute Consent.</p>                                               |
| <p>A description of the likely significant effects on the environment of the proposed development (including the additional information referred to under section 94(b)).</p>                                                                                                                                       | <p>A description of the likely significant effects on the environment are included in each of the technical chapters of the rEIAR. The rEIAR has also considered any cumulative and In-Combination effect, where relevant.</p> <p>Therefore, I am satisfied that the rEIAR has provided adequate information on the likely direct, indirect, and cumulative effects of the proposed development on the receiving environment.</p> |
| <p>A description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment of the development (including the additional information referred to under section 94(b)).</p> | <p>Mitigation measures, where appropriate, are included in each of the technical chapters of the rEIAR and the associated appendices of the rEIAR.</p> <p>I am satisfied that adequate historic and contemporary detail has been provided to enable decision making.</p>                                                                                                                                                          |
| <p>A description of the reasonable alternatives studied by the person or persons who prepared the rEIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects</p>                          | <p>Chapter 4 refers to 'Alternative Considered' and this chapter considers alternative locations, alternative layout and alternative responses to enforcement as well as a 'do-nothing' option.</p>                                                                                                                                                                                                                               |

|                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| of the proposed development on the environment (including the additional information referred to under section 94(b))                                                                                                                                                                                         | I consider that the description of alternatives is reasonable, and in the context of the application for substitute consent for development already carried out, is satisfactory.                                                                                                                                                                                                                                                                                                                   |
| <b>Section 94(b) Additional information, relevant to the specific characteristics of the development and to the environmental features likely to be affected (Schedule 6, Paragraph 2)</b>                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| A description of the baseline environment and likely evolution in the absence of the development                                                                                                                                                                                                              | A detailed description of the baseline environment is included in each of the technical chapters of the rEIAR, and in the context of the application for substitute consent for development already carried out, I am satisfied that the description of same is sufficient to enable the assessment of likely effects and to enable decision making.                                                                                                                                                |
| A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information, and the main uncertainties involved. | A description of difficulties encountered in compiling specified information is identified in each technical chapter. For an application of this nature, the main difficulty which I note is the limited baseline information available from which to assess the likely impacts of the past development, for example in relation to impacts on past landscapes. However, and as noted above, I am satisfied that there are no significant or fundamental deficiencies that prevent decision making. |
| A description of the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters which are relevant to it.                                                                                               | Section 5.4.2.1 and 5.5.2.2 of the rEIAR considers the issues of 'Safety' and 'Unplanned Events'. I am satisfied that the rEIAR has considered the risks of major accidents and disasters that are relevant to the nature of the previous quarrying development.                                                                                                                                                                                                                                    |

|                                                                          |                                                                                                                                                                                                         |
|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A summary of the information in non-technical language.                  | A non-technical summary of the rEIAR is provided by the applicant and satisfactorily describes the likely environmental effects of the development.                                                     |
| Sources used for the description and the assessments used in the report. | Sources used for the description and assessment of environmental effects are included in Chapter 17 'References' of the rEIAR. Volume 3 of the eEIAR contains a number of Appendices as detailed above. |
| A list of the experts who contributed to the preparation of the report.  | Experts and relevant qualifications are identified in section 1.11 of the rEIAR.                                                                                                                        |

## 12.4. Alternatives

12.4.1. Chapter 4 of the rEIAR considers 'Alternatives'. I note that Article 5(1)(d) of the 2014 EIA Directive requires:

*“(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;”*

12.4.2. Annex IV of the Directive (Information for the EIAR) provides more detail on 'reasonable alternatives':

*“A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.”*

12.4.3. In terms of location, it is set out that the nearest high PSV aggregate source in regular production is in north Longford, with lesser quality materials available elsewhere in the north-west. It is stated that, in order to maintain future supply, alternative site locations were not readily available. In terms of alternative layouts, it

is set out that the current arrangement of plant within the site is the optimal approach for such operations. In terms of alternative responses to Enforcement, it is set out that the applicant's preferred option is to obtain Substitute Consent and this would ensure the future viability of the quality within its valuable natural resources protected for suitable use. It is stated that the closure of the Site would result in the cessation of the operations within the Permitted Area, leading to the loss of employment and a loss of supply of nationally important aggregates.

12.4.4. In relation to alternatives, and in the context of this Substitute Consent application for quarrying activities that have already occurred, I am satisfied that all reasonable alternatives have been considered.

## **12.5. Major accidents and/or Disasters**

12.5.1. Directive 2014/52/EU requires that the development is assessed in terms of vulnerability to the risks of major accidents and/or disasters which are relevant to the project. Having regard to the nature and scale of the past development which took place and the nature of the receiving environment, and while unplanned events and accidents cannot be ruled out, these, if they occurred would have been dealt with in their own right outside of the planning process, including adherence to Health and Safety requirements and emergency response planning. Otherwise, within the meaning of the Directive, and considering the effects on the environment, the project is not of a nature which would have resulted in it generating a risk of major accidents and/or natural disasters and no such major accidents and/or natural disasters have been referenced, so it is reasonable to assume none have occurred as a result of the past quarrying activities. Notwithstanding, Section 5.4.2.1 and 5.5.2.2 of the rEIAR considers the issues of 'Safety' and 'Unplanned Events'. It is set out that the use of on-site explosives has been carried out in a carefully controlled manner by expert specialist companies, and that no explosives have been stored on-site. Activities on site have had regard to best practice guidance. It is set out in the rEIAR that there has been no previous accidents or incidents associated with the development. I am satisfied that the rEIAR has considered the risks of major accidents and disasters that are relevant to the nature of the proposed development.

## **12.6. Compliance.**

12.6.1. I am satisfied that the information contained in the rEIAR, and supplementary information provided by the developer is sufficient to comply with Article 94 of the Planning and Development Regulations 2001 (as amended).

## **12.7. Assessment of Likely Significant Effects**

12.7.1. In accordance with section 171A of the Act, this assessment includes an examination, analysis and evaluation of the application documents, including the rEIAR, the associated drawings, documents/appendices and the submissions received, and identifies, describes and assesses the likely direct and indirect significant effects (including cumulative effects) of the development on the environmental parameters set out in the Regulations and the interaction of these. Each topic section is generally structured under the following headings, where appropriate:

- Issues raised.
- Examination of the rEIAR.
- Potential Effects
- Evaluation and Assessment: Direct and Indirect effects.
- Conclusion.

## **12.8. Population and Human Health**

### *Issues Raised*

12.8.1. No third-party submissions to this SC application were received and no issues were raised by prescribed bodies. The PA have not raised any issues and conditions recommended to be attached to a grant of SC are noted.

### ***Examination of the rEIAR***

#### *Context*

12.8.2. Chapter 5 considers 'Population and Human Health'. It is noted that the closest settlement is the village of Scotshouse, which is 1.5km from the site. Within 1km of the boundary of the Registered Area it is noted that there are 193 residential dwellings, 12 non-residential buildings and 39 buildings in other uses.

#### *Potential Effects*

- 12.8.3. It is noted that the site employed 20-26 people prior to enforcement proceedings, which has been reduced as a result of efforts to regularize the site. It is stated that this has had a negative impact on local employment. The significance of same is not stated. In respect of human health, it is noted within the rEIAR that there has been no complaints lodged to either MCC or the Applicant in respect of nuisance associated with the development. It is further noted that impacts on health are considered in other chapters including Chapter 8 (Water), Chapter 9 (Air Quality), Chapter 10 (Climate), Chapter 11 (Acoustics – Noise and Vibration), Chapter 12 (Landscape and Visual) and Chapter 14 (Material Assets – Traffic and Transport).
- 12.8.4. In terms of safety, the use of explosives is noted on site, although no explosives are stored on site. Operations are carried out in accordance with best practice guidance. It is considered no significant impacts have occurred on human health.

*Inspector's Evaluation and Assessment: Direct and Indirect Effects*

- 12.8.5. I have examined, analysed and evaluated Chapter 3 of the rEIAR and all of the associated documentation and submissions on file in respect of population and human health. I am satisfied that the information submitted in the rEIAR adequately demonstrates an understanding of the retrospective potential impacts and provides suitably comprehensive range of mitigation and monitoring measures to reduce any potential impacts. Air and noise emissions, emissions to water and from traffic associated with day to day activities will be addressed later within this assessment
- 12.8.6. In relation to the conclusions as set out in the rEIAR, I concur with the conclusions of same, in that the previous quarrying on the Site has not adversely impacted on human health or population and has resulted in overall beneficial impact upon human health and population, in terms of supporting employment, noting that the site has employed up to 26 no. persons on site. As such, I conclude that, overall, the development has had a positive impact in terms of supporting the local community and benefited local employment, although I would not define this impact as 'significant'.

*Conclusion: Direct and Indirect Effects*

- 12.8.7. Having regard to the examination of environmental information provided in respect of population and human health, in particular in Chapter 3 of the rEIAR it is considered

that there was no potential for significant environmental effects on population and human health.

## 12.9. Biodiversity

### *Issues Raised*

No third-party submissions to this SC application were received. No submissions from Prescribed Bodies have been received. The PA have not raised any issues, and conditions recommended to be attached to a grant of SC are noted.

### ***Examination of the rEIAR***

#### *Context*

- 12.9.1. Chapter 6 considers Biodiversity. An ecological survey was carried out in September 2022. It is set out that the current habitat within the Site is an open quarry. Previous habitats were agricultural grassland (GA1), hedgerow (WL1) and a small patch of mature trees. It is set out the grassland was of low ecological value. The hedgerow and mixed broadleaved woodland previously on Site was considered to be of mixed ecological value, but overall were considered of Local Ecological Value due to their function as ecological corridors and/or steppingstones. The receiving surface water is a drainage ditch, that is slow flowing and flows partially underground into the neighboring field. It is deemed to be of 'site ecological importance'. The Site as it previously was considered to have limited potential to support mammals, with the site limited to commuting and foraging. Protected species such as Otter and Badger would have been unlikely to have used the Site for anything other than commuting due to the excavation works (blasting) of the Permitted Area. In relation to bats, it is stated that they may have potentially used the a small area of mature trees on the northern boundary of the site for roosting, and the rEIAR notes that these trees have since been removed. The hedgerow boundary remains in place and this may be used as commuting and foraging habitats. It is set out that there would not have been any habitat to support the Annex I Lesser Horseshoe Bat. Prior to the excavation works, the Site was considered to have been of Local Ecological Importance for bats.
- 12.9.2. In relation to birds, the Site was considered to be primarily suitable for general passerine and corvid species using the hedgerows surrounding the site.

### *Current Conditions*

- 12.9.3. Current habitats of note are the hedgerows to the southern boundary and the drainage ditch referred to above. No evidence of badger or otter was found. The rEIAR notes that modelling suggest that the Site is of moderate landscape suitability for bats. However, there was no evidence of bat presence found or observed during the survey, and the structures on site are not suitable roosting features for bats, and there are no trees within the site boundary. There is potential for the hedgerow on the boundary to support commuting and foraging bat species.

### *Potential Effects*

- 12.9.4. In relation to retrospective effects, the rEIAR sets out that loss of the habitats on Site is not considered to have been negative but not significant, given the low ecological value of same. In terms of impacts on water quality (which is I have considered in Section 12.12 of this report), it is noted that runoff within the Site drains overland to the Permitted Area which is subject to surface water drainage measures and has been granted a discharge license. No significant impacts were highlighted.
- 12.9.5. In relation to bats, the site was considered to be of 'site' ecological importance for bats, noting in particular the potential of the hedgerow to support commuting and foraging bat species. Bats are identified as a key ecological receptor within the rEIAR. The rEIAR sets that there was potential for the small area of adjacent woodland to provide a roosting habitat for bats, and the loss of same could have been negative, irreversible, permanent and significant in a local context. However, it is set out that the Permitted Area was in use for numerous years prior to the development taking place, including the use of blasting and the use of quarry plant machinery. It is therefore assumed that due to the proximity of due to the proximity of these trees to the Permitted Area, and the potential roosting habitats within the wider surrounding area, bats species would have utilised roosting habitats further afield. The direct impacts would therefore have been 'imperceptible' in a local context.
- 12.9.6. In terms of indirect impacts on bats, as a result of loss of foraging habitat as well as from noise, vibration and lighting, would have been negative, reversible, permanent and significant in a local context. However, due to the replacement of treelines and hedgerow as part of the permitted development and the existing boundary

hedgerows being retained, the indirect effects are concluded to have been imperceptible in a local context.

- 12.9.7. No significant cumulative effects were considered to have occurred, noting the nearest other quarry to this one is c10km from the site

#### *Restoration*

- 12.9.8. In terms of the proposed restoration of the site, it is noted that the proposed restoration plan (as included in Appendix 3.2 of the rEIAR) includes the seeding of c. 4 ha of grassland and planting of hedgerow and treelines, with the site graded to bring a uniform and even grade, allowing for a similar state (grazing grassland) to that prior to works being undertaken. Impacts from the restoration plan will be Neutral in the local context, having regard to the pre-operational use by fauna, and significant positive in the local context with regards to the site in its current status.

#### *Mitigation*

- 12.9.9. Section 6.6 sets out Mitigation Measures. Previous and existing mitigation includes, but are not limited to, the retention and enhancement of the treeline and hedgerow around the boundary of the site which has increased potential roosting and foraging habitat for mammal and bird species. Proposed mitigation is also set out in Chapters 8, 9 and 11 (relating to water quality, dust and noise).

#### *Residual Effects*

- 12.9.10. Residual effects, with the above mitigation measures in place, were deemed to be imperceptible. With the implementation of the restoration plan, it is concluded within the rEIAR that there will be a neutral to positive effect at the site post development, with significant positive at the local level in the long term.

#### ***Evaluation and Assessment: Direct and Indirect Effects***

- 12.9.11. I have examined, analysed and evaluated the information provided in Chapter 4 and all the associated documents and submissions on file in respect of Biodiversity.

#### *Habitats*

- 12.9.12. I note that there has been habitat loss due to the removal of the overburden and pasture with the extension of the quarry over time. However, the dominant

habitat that was on the site was 'Improved Agriculture Grassland' that is concluded to be of 'Site Ecological Importance' 'and I conclude that the loss of same would not have resulted in a significant negative impact, due to its low ecological value and the ubiquity of such habitat in the wider area. I would note that, as set out in the rEIAR that the southern hedgerow boundaries have remained intact throughout operations on the site, although it would appear that the 'gappy hedgerow' that formed the field boundaries within the site, and the small area of woodland has been removed (both of which were designated as of 'Local Ecological Importance' with the rEIAR). However, I would concur with the conclusions of the rEIAR, in that given the low ecological value of these habitats which were removed, and the limited extent of same, as well as the wider availability of similar habitat in the wider area, I am satisfied that the potential retrospective effects on these habitat can be concluded to have been negative, but not significant.

#### *Terrestrial Mammals*

- 12.9.13. I would concur with the conclusions of the rEIAR in that Site would have had limited potential to support mammals due to the to the excavation works (blasting) of the Permitted Area, although it is likely that the loss of habitat, as described above, would have resulted in some reduced foraging opportunities for mammals. I would note, however, that similar habitats are widely available in the surrounding rural landscape, and in the long term the restoration phase is likely to create replacement habitats. Given the nature and characteristics of the Site as it was, I am satisfied that the impact on terrestrial mammals would not have been significant.

#### *Bats*

- 12.9.14. The site was considered to be of 'site' ecological importance for bats, noting in particular the potential of the hedgerow to support commuting and foraging bat species. Bats are identified as a key ecological receptor within the rEIAR. I note that the rEIAR notes the potential for local, significant negative direct and indirect impacts on bats, as a result of loss of the roosting habitat (direct impacts) and as a result of loss of foraging habitat, and impacts from noise, vibration and lighting. However, I would concur with the conclusion of the rEIAR that the operation of the quarry within the Permitted Area would have reduced the likelihood of potential roosting habitats within the immediate surrounding area. In addition, the implementation of previous

and existing mitigation measures, most notably the replacement and enhancement of the hedgerow and tree habitats, would have reduced the significance of this impact to 'imperceptible in a local context'.

*Birds:*

- 12.9.15. I would note that Site was considered to be primarily suitable for general passerine and corvid species using the hedgerows surrounding the site. Overall, I am satisfied that the species recorded in the vicinity of the site were common species and that quarrying activities would not have had a significant impact on the local conservation status of any of the bird species associated with the site.

*Aquatic Ecology:*

- 12.9.16. I have considered impacts on water quality (and impacts on aquatic ecology) in Section 12.13 of this report.

*Restoration Plan*

- 12.9.17. In relation to the Restoration Plan, I am satisfied that the implementation of same would have a neutral impact, having regard to the site's previous condition, and a locally significant positive effect over the long term, relative to the site's current condition, given it is providing additional habitat, within the site and along the boundaries of the site, and subsequently providing additional roosting, foraging and commuting opportunities.
- 12.9.18. I would note that the Restoration Plan as proposed under the s37L application (ABP Ref 319612 refers) for further quarrying differs from that proposed here, in that the s37L Restoration Plan involves a larger area of extraction, which is to be infilled with water ingress over time, and includes planting on the boundaries of the site. Both plans include significant planting around the boundaries of the site. I have considered the s37 Restoration Plan in my report on the s37L application. In any event, I would note that the Board can condition final details of a Restoration Plan should the Board be minded to grant Substitute Consent.
- 12.9.19. I note the condition recommended by the PA to be attached to a grant of SC in respect of the submission of a Quarry Restoration Plan. Given the nature of the SC quarry application, and need to enhance the ecological value of the site, if the Board are minded permitting the application, I consider it appropriate that a updated

Restoration plan for the Site, based solely on the extent of quarry extraction that has taken place to date, should be agreed with the planning authority would ensure the enhancement of the ecological value of the site.

***Conclusion: Direct and Indirect***

12.9.20. Having regard to the examination of environmental information provided in respect of biodiversity, in particular in Chapter 4 of the rEIAR, and having regard to the previous mitigation measures implemented, which included the retention and enhancement of boundary hedgerows and trees, I am satisfied that there were no significant environmental adverse effects on biodiversity.

12.9.21. The implementation of a suitable Restoration Plan has the potential to result in significant positive effects on biodiversity over the longer term, relative to the current condition of the site.

**12.10. Land, Soil, Water, Air and Climate**

12.10.1. The format of my assessment follows the headings as set out in the Planning and Development Acts, (as amended). Having regard to the information provided in the applicants rEIAR the following sub-headings are used;

- Land, Soils and Geology
- Water (Surface and Groundwater)
- Air and Climate
- Noise and Vibration

**12.11. Land, Soils and Geology**

***Issues Raised***

12.11.1. No third-party submissions to this SC application were received and no issues were raised by prescribed bodies. The PA have not raised any issues and conditions recommended to be attached to a grant of SC are noted.

***Examination of the rEIAR***

***Context***

12.11.2. Chapter 7 considers Land, Soils and Geology. It is set out that an intrusive site investigation was undertaken in November 2022, to investigate the geological and hydrogeological environment. Two groundwater monitoring wells (GW1 and

GW2) were installed, with GW1 installed in the Permitted Area and GW2 installed in the Site. In order to avoid unnecessary duplication, I have considered effects on groundwater in Section 12.12 of this report. The rEIAR notes that the site has been extracted to a depth of 105m AOD. Observations on the adjoining site would support an historic landform higher within the southern portion of the Site and falling towards the north and northwest. In terms of the underlying geology, the bedrock beneath the site comprises of pale to dark green, non-calcareous greywackes with beds of red shale.

### *Potential Effects*

- 12.11.3. It is set out that the impact of the soil removal was negative and moderate. In terms of geological heritage, it is noted that the site lies within the 'Scotshouse-Redhills Cross-Cutting Ribbed Moraines, a Monaghan County Geological Site (CGS), which covers an area of c4,280 ha. It is noted that these moraines are unique in that it is the only moraine field in the world to record two separate ice-flows. However, the extraction of same was not considered to be significant, rather it was concluded to have had a slight, long term negative impact on the geology and geomorphology within the CGS, noting that the total area covered by the Registered Area represents less than 0.25% of the total area of the CGS (and the total area which has been extracted representing less than this). While this moraine has high extractive potential, no significant adverse cumulative impacts are noted, with this quarry being the only active quarry within the CGS.

### *Mitigation*

- 12.11.4. Section 7.5 sets out Mitigation Measures. Therein, it is noted that mitigation measures have been employed at the Registered Area and the Site (where applicable) and include, but are not limited to, measures to prevent soil and groundwater contamination, including appropriate handling of fuels. For the purposes of the restoration works, similar measures are proposed, although of note is that the soils that were previously extracted, and used in berm construction, will be reused and seeded. No significant residual impacts are recorded.

### ***Evaluation and Assessment: Direct and Indirect Effects***

- 12.11.5. I have examined, analysed and evaluated the information provided in Chapter 5 and all the associated documents and submissions on file in respect of Land, Soils and

Geology. I am satisfied that the information submitted in the rEIAR adequately demonstrates an understanding of the retrospective potential impacts.

12.11.6. Having regard to the nature of the quarrying work carried out, it is inevitable there was an impact on soils, given the extensive removal of same to facilitate the works, and this impact is irreversible. The soil previously formed part of the agricultural landscape. However, I concur that the size of the site, relative to the availability of such agricultural pasture in Ireland, would mean that the removal of same is not significant. I would note that this soil has been utilised to facilitate the creation of berms as described above (Section 8.7 refers) and the overall impact on same are as described in the rEIAR (i.e. slight, negative, irreversible). I note that the Scotshouse-Redhills CGS is a geological attribute of 'high importance' and previous extraction activities have taken place within same. However, the extracted area represents less than 0.25% of same and as such, I concur that the impact on this feature is not significant.

12.11.7. The previous quarrying activities involved the extraction of rock which has resulted in the loss of a geological resource. However, this resource has been used as road surface dressing and macadam, crushed stone for fill and tailored aggregates and I am of the opinion that this represented a beneficial impact to the local and regional economy and is supported by national and local planning policy, as outlined under in Section 9 of this report.

12.11.8. I accept that there has been previous potential for contamination of exposed bedrock from spillages or leakages from machinery or stored substances. However, pollution control measures which have been put in place, as set out in the rEIAR have served to reduce the risk of soil and bedrock contamination, and I concur the works have not resulted in significant residual effects on soils and geology (see also detailed discussion in relation to groundwater in Section 9.5 below) noting also the proposed restoration works which will reuse the extracted soil to beneficial effect as this soil will be re-used as part of the Restoration Plan, where they will be respread and seeded.

***Conclusion: Direct and Indirect***

12.11.9. Having regard to the above, I would agree with the conclusion reached in Chapter 5 of the rEIAR that the previous quarrying operations did not give rise to direct nor

indirect adverse impacts, and that significant adverse impacts on land, soil and geology can be ruled out.

## **12.12. Water (Surface Water and Groundwater)**

### *Issues Raised*

- 12.12.1. No third-party submissions to this SC application were received. The PA have not raised any issues and conditions recommended to be attached to a grant of SC are noted. Submissions were invited from Prescribed Bodies but none were received specifically in relation to this Substitute Consent application.

### *Specialist (Environmental Scientist) Report*

- 12.12.2. I would draw the Board's attention to the Specialist (Environmental Scientist) Report on file which has been prepared by the Inspectorate's Environment Scientist and which has been appended to my Planning Report as 'Appendix 1<sup>5</sup>'. I will make reference to same in my assessment below.

## ***Examination of the rEIAR***

### *Context*

- 12.12.3. Chapter 8 considers water, which assesses potential impacts on surface water and groundwater, which has occurred or which can be reasonably be expected to occur because of the Development.

### Surface Water and Groundwater

- 12.12.4. The rEIAR sets out that the potential sources of impact are to groundwater and surface water quality and availability, as well as the infiltration of contaminants such as hydrocarbons and nutrients such as ammonia into the bedrock aquifer and nearby surface waters, through the potential spillages from machinery or explosives used in extracting the bedrock aggregates. In relation to groundwater, the pathway is via the underlying bedrock that is exposed during blasting and extraction, and for surface water, the pathway is the discharge point which discharges directly into an unnamed stream which is hydrologically connected to Dunsrim Lough. The primary receptors are the underlying bedrock aquifer, local wells in the vicinity of the site, groundwater source protection areas (Clones Scotshouse PWS) and local surface

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<sup>5</sup> This appendix has been attached to my report as a separate document.

water receptors downstream of the discharge point (Dunstrim Lough, River GORTNANA\_010).

#### *Groundwater*

12.12.5. In relation to groundwater, it is set out that the site sits above the Cavan groundwater body (GWB). In the WFD 2016-2021 monitoring round it was assigned a 'Good' status, and is currently considered 'not at risk' of meeting its environmental objectives.

12.12.6. In relation to site investigations, it is noted that groundwater monitoring took place at GW2 (groundwater well within the Site) in December 2022, and within GW1 (within the Permitted Area) and GW2 in January 2023. A well from a private dwelling north of the registered area was sampled in February 2023. Surface Water monitoring at the Site was carried out historically, by Monaghan County Council (MCC) between May 2016 and November 2019, with more recent monitoring, carried out by the applicant, occurring between October 2022 and February 2023. In relation to the bedrock aquifer, it is noted that the entire Registered Area is underlain by a Poor Aquifer (PI), bedrock which is Generally Unproductive except for Local Zones. In terms of groundwater vulnerability, it is set out that the south-western part of the Site is classified as having Extreme vulnerability, whereas the north-eastern section, along with a small section in the north-western corner of the Site, is classified as having Rock at or near Surface or Karst (X). Due to extraction activities at the site, the rock is now exposed (i.e. rock at surface vulnerability) throughout the site. The Source Inner (SI) and Source Outer (SO) of the Clones Scotshouse Public Water Supply Source Protection Area are located c1.7km and 1.3km north-west of the site, respectively, as indicated in Figure 8.4 of the rEIAR. 19 no. registered wells were identified within 2km of the site.

#### *Potential effects on groundwater*

12.12.7. Groundwater flow was considered to be likely to the north, towards Dunstrim Lough, and within the Registered Area from Groundwater Monitoring Point GW2 (within the Site) to Groundwater Monitoring Point GW1 (within the Permitted Area)[See Chapter 7 Fig 7.2 of the rEIAR for location of groundwater monitoring wells]. The water levels at GW1 and GW2 demonstrated that the activities associated with the Development have likely resulted in the quarry floor being below

the water table. It is noted that the excavation has resulted in a change in the hydraulic gradient.

12.12.8. In relation to monitoring, samples were taken in December 2022 and January 2023, with the full results of same set out in Appendix 8.1 of the rEIAR. These results were then compared with relevant Groundwater Regulation Values (S.I. No. 9 of 2010, as amended) [GAC]. No detections of pesticides or hydrocarbons above laboratory detection limits were recorded. 1 no. exceedance of GAC limits for sulphate was recorded at GW2 during the December monitoring event (GAC Limit 187.5 mg/l, recorded result 219.2 mg/l) and 2 no. exceedances of EPA Interim Guideline Values (IGVs) at GW2 - for sulphate (IGV 187.5 mg/l) and for water hardness (as  $\text{CaCO}_3$ ) (IGV is 200 mg/l; recorded result 279 mg/l). In relation to water hardness, the rEIAR sets out that this is an indication of the naturally occurring hard water that underlies the site. Furthermore, it is stated that such hardness does not present a risk to human health. In relation to the levels of sulphate, it is set out that the elevated concentrations of same are likely to be associated with the evaporitic lenses found in the Cooldaragh Limestones, as described in Section 8.3.1.3 of the rEIAR, and which is further evidenced in other reports relating to the underlying groundwater in the area (i.e. the Clones Source Protection Report Draft, 2002). It is also set out that such levels of sulphate are below drinking water standard (250mg/l) and as such does not present a risk to human health. It is concluded that past activities have not posed a risk to the bedrock aquifer beneath the site.

12.12.9. In relation to groundwater flow and permeability, slug tests carried out indicate that the bedrock is unlikely to be conveying significant quantities of groundwater, with quarrying operations concluded to have a negligible impact on surface water flow rates. The low permeability of the bedrock will also mean that the quarrying operations are unlikely to have resulted in any significant impacts to the off-site hydrogeological regime or off-site groundwater abstractions.

#### *Surface Water*

12.12.10. In terms of surface water, it is set out that the River Gortnana is located c453m to the north, within the Finn[Monaghan] sub-catchment. There is a larger number of lake/lough waterbodies located to the west and southeast of the site, with the majority of the western lakes being recurring in nature. The closest lake is

Dunstrim Lough, located north of the Site. There is no data on the EPA database in relation to this waterbody and is accounted for within the River GORTNANA\_010 dataset.

12.12.11. The lough is located downstream of the licensed discharge point for the Registered Area and is connected via drainage ditches feeding into unnamed streams that connect to Dunstrim Lough through local wetlands. These are the main receptors for potential surface water impacts, and could act as a secondary source of impacts on the River GORTNANA\_010 which lies downstream. This surface water discharge passes through settlement tanks and then through a hydrocarbon class interceptor before discharge (Detailed surface water measures are set out in Section 3.5.3 and 3.5.5 of the rEIAR). A discharge limit of 360m<sup>3</sup> a day applies to the discharge license. Limited monitoring in January and Feb 2023 indicate a discharge of c99 m<sup>3</sup> per day, indicating a relatively small volume of water leaving the site compared to the permitted discharge volume.

12.12.12. Reference is made in the rEIAR to monitoring (grab samples) which was carried out by Monaghan County Council (MCC) at 8 no occasions between May 2016 and November 2019. No exceedances of the Emission Limit Values (ELVs) were recorded for pH, BOD and molybdate reactive phosphate (as P). In relation to suspended solids (ELV is 20 mg/l), exceedances of the ELV were noted in 4 no. monitoring events, with a maximum value of 49 mg/l occurring in November 2018. In relation to total ammonia (as N)(ELV is 0.3mg/l) exceedances of same were recorded in 5 no. monitoring events, with a maximum value of 1.06 mg/l occurring in July 2019 and November 2019. In relation to S.I. No. 272/2009 (Surface Water Regulations), the total ammonia exceeded surface water acceptance criteria (SWACs) for 'Good' quality total ammonia (as N) in all monitoring events. (SWAC is <0.065mg/L N annual mean).

12.12.13. Further monitoring carried out by the applicant, in late 2022 and early 2023, at six different locations indicated an exceedance of the suspended solids ELV at the discharge point (SW2) in Dec 2022 (ELV 20mg/l; recorded value 34 mg/l). 2 no ELV exceedances for total ammonia (as N) (ELV is 0.3 mg/l) were recorded at the same point in Oct 2022 (0.31 mg/l) and November 2022 (0.32mg/l). All discharges at SW2 exceeded SWACS for 'Good' quality total ammonia (as N), with concentrations ranging from 0.11 to 0.32 mg/l N.

12.12.14. At point SW4 (directly downstream of the discharge), there was exceedance of the relevant SWAC for 'Good' quality total ammonia (as N) for all 2022 monitoring events, with concentrations ranging from 0.12 to 0.2 mg/l N. Upstream, at point SW3, and further downstream (at SW5 and SW6) monitoring events showed no detections above the laboratory detection limit (<0.1mg/l).

12.12.15. A single exceedance of the SWAC for molybdate reactive phosphate (as P) at SW6 (water flowing from the wetlands to Dunsrum Lough) in January 2023 was recorded although as no exceedances were recorded closer to the discharge point this was considered to be unrelated to activities on the Site.

#### *Potential effects on Surface Water*

12.12.16. The rEIAR provides further commentary on the above surface water monitoring results. It is stated that the results show a slight negative impact on water quality as a result of the exceedances of the SWAC for total ammonia (as N) within the drainage ditch close to the discharge point. It is stated, however, that as the drainage ditch approaches the wetland total ammonia (as N) concentrations decrease and this impact becomes imperceptible before the waterway merges with Dunsrim Lough. It is stated that the wetland is likely to provide a form of natural attenuation and assimilates some of the nutrients before they can reach Dunsrim Lough, and the impact on water quality in the lough is therefore considered 'not significant'. As a result, the impact on the River Gortnana further downstream is concluded to be imperceptible. It is stated that with the implementation of the restoration plan, the potential for suspended solids and ammonia entering the discharge from the site will be minimal, as a result of the reduced presence of sediment and decreased potential for run-off.

#### *Cumulative effects*

12.12.17. In relation to cumulative effects, it is noted within the eEIAR that agricultural activities in the surrounding farmland may have added additional total ammonia (as N) into surrounding waters, although the significance of same is not stated. I am satisfied that, given the groundwater and surface water monitoring results as set out above, such impacts are not likely to be significant, and note that agricultural activities, such as stocking rates and land spreading are controlled by other regulations. No significant residual impacts were identified.

### *Mitigation*

- 12.12.18. It is set out in the rEIAR that mitigation measures, in relation to both groundwater and surface water protection measures, have been adhered to on the site and such measures are set out in Section 8.5 of the rEIAR and include appropriate refueling measures, appropriate storage, available of spill kits. Similar measures will be in place for the restoration works.

### ***Evaluation and Assessment: Direct and Indirect Effects***

- 12.12.19. I have examined, analysed and evaluated the information provided in Chapter 8 and all the associated documents and submissions on file in respect of Water. I am satisfied that the information submitted in the rEIAR adequately demonstrates an understanding of the retrospective potential impacts and provides suitably comprehensive range of mitigation and monitoring measures in Section 8.5 to reduce any potential impacts.

### *Groundwater*

- 12.12.20. The potential effects on groundwater are twofold, impacts on quantity (impacts on off-site hydrological regime and off-site groundwater abstractions) and impacts on groundwater quality.
- 12.12.21. Specifically, in relation to effects on groundwater quantity, the limited permeability of the bedrock means that groundwater flow is minimal, and it has been shown to be such through testing carried out on site. As such, I concur that there would have been a very limited impact on downstream wells, and there is limited groundwater ingress into the site currently. As such, it can be concluded that previous activities on site are unlikely to have resulted in sufficient impacts on groundwater quantity (i.e. impacts on off-site hydrological regime or off-site groundwater abstractions). I would note that the Specialist (Environmental Scientist) Report on file (Appendix 1 refers) also supports this conclusion (see Section 2.3 of same).
- 12.12.22. In relation to groundwater quality, I would note that groundwater monitoring has identified a number of exceedances in GAC limits for sulphate and for water hardness within groundwater underlying the site, as described above. I would accept that exceedances of sulphate are likely to be associated with the underlying geology of the area, as described in Section 8.3.1.3 of the rEIAR. I note that the levels of

sulphate are below drinking water standard (which is 250mg/l) and as such does not present a risk to human health. The Specialist (Environmental Scientist) Report on file notes that a mean value for the two sulphate samples is preferred option of assigning a value for sulphate rather than a single sample report and this mean value is calculated 128.5 mg/l, which is below the relevant standard.

12.12.23. I would also accept that exceedances in water hardness are an indication of the naturally occurring hard water that underlies the site and I would note that such hardness does not present a risk to human health.

12.12.24. I would note that the removal of the overburden and quarrying activities has increased the risk to groundwater resulting from hydrocarbons and other pollutants associated with plant and machinery. I am satisfied however that the mitigation measures that are currently in place, and previously put in place, as set out in the rEIAR, has ensured that any residual effects are not significant.

12.12.25. I accept, therefore, that past activities have not had a significant impact on groundwater beneath the site. I refer the Board also to the Specialist (Environmental Scientist) Report on file (Appendix 1 refers) which also supports this conclusion (see Section 2.3 of same).

12.12.26. In relation to the closest public water scheme (Clones Scotshouse PWS), I note the site lies outside the source protection areas relating to same, and I would further note that this water scheme draws its water from a different groundwater body (the Clones GWB, as described in the EIAR submitted with the the S37L application - ABP 319612 refers), to be considered in parallel with this application for Substitute Consent). As such, and having regard to the wider groundwater considerations as set out above, I am satisfied that past activities could not have had an impact on the water quality or quantity being drawn from this public water scheme.

12.12.27. Specifically in relation to the Water Framework Directive, I refer to the report of the Specialist (Environmental Scientist) Report on file (Appendix 1 refers) wherein it is concluded that past activities on the site did not have significant impact on groundwater quality. In terms of groundwater quantity, it is noted that the Cavan Groundwater body covers an area of 1,409.5km<sup>2</sup> and the quarry site in question is 0.08 km<sup>2</sup> which represents 0.005% of the entire waterbody in area, and it is noted

that, in any case, water abstracted from the groundwater is discharged to the surface waters adjacent to the site where it can recharge to groundwater or supply surface waters, remaining within the same hydrological system. Therefore, it can be concluded that past activities did not impact on Water Framework Directive (WFD) status of the CAVAN GWB underlying the site.

#### *Surface Water*

- 12.12.28. The surface water monitoring has demonstrated that there were historic exceedances of ELVs and SWACs for ammonia (as N) at the discharge point. However, it is shown that as the drainage ditch approaches the wetland, total ammonia (as N) concentrations decrease and this impact becomes imperceptible before the waterway merges with Dunsrim Lough.
- 12.12.29. In relation to suspended solids, I would note that 4 no. exceedances (of a total of 8 no. samples) of the relevant ELV were recorded by MCC via historic monitoring (between the period 2016 to 2019). I refer to the Specialist (Environmental Scientist) Report on file (Appendix 1 refers) wherein it is stated that the mean value of the 8 no. samples obtained was 21.5 mg/l (noting the ELV is 20 mg/l), and wherein it is noted that achieving the emission limit value was problematic during this period. In relation to ammonia, 6 no. exceedances were recorded of a total of 8 no. samples) by MCC during the same period, with the mean value of the 8 no. samples being 0.6 mg/l as N (ELV value 0.3 mg/L as N). Again, the Specialist (Environmental Scientist) Report on file has stated that achieving the ELVs was problematic during this period. However, it is noted therein that the exceedances do not automatically infer a significant impact on receiving surface waters.
- 12.12.30. With reference to Appendix 8-1 of the rEIAR, the comparison of MCCs grab samples with 'Surface Water Acceptance Criteria' is not an appropriate method of assessing impacts, noting that the comparison of a result from a single sample episode against an annual arithmetic mean is not best practice (Section 3.1.11 of the Specialist (Environmental Scientist) Report on file refers). As such, the reported exceedances of SWACs as noted in the eEIAR, and as summarised above cannot be relied upon as an indication of surface water impacts resulting from the quarrying activities for the period in question.

- 12.12.31. With reference to the considerations above, the monitoring carried out by Monaghan County Council between the period 2016-2019 would have captured impacts from both the Permitted Area and from the Substitute Consent Area. The data indicates that there have been localised impacts on surface water, at the point of discharge, as a result of elevated levels of ammonia and suspended solids, as a result of quarrying activities for the period in question. These localised impacts are not considered to have been significant, however. The more recent monitoring data from points further downstream (at SW5 and SW6), which capture the impacts of the ongoing quarrying works within the Permitted Area, show that levels of ammonia and suspended solids decrease to below method detection limits, as one moves downstream from the surface water discharge point (SW2). I am satisfied that this data can be inferred as indicating that no significant adverse impacts on surrounding downstream surface waters from the operation of the quarry within the Substitute Consent area are likely to have occurred, given that the operational activities within the two areas (the Permitted Area and the Substitute Consent Area) would have been similar in nature and extent (i.e. involve blasting and extraction activities while working one particular area of the quarry site), with similar subsequent impacts.
- 12.12.32. In relation to the levels of sulphate recorded, it is accepted that levels of same result from the nature of the underlying bedrock, as discussed above.
- 12.12.33. Specifically in relation to the algae growth noted in Section 6.3.6.5 of the rEIAR, I refer to the Specialist (Environmental Scientist) Report on file (Appendix 1 refers) which notes that such growth is not unusual as the discharge contains the permitted levels of nutrients, and the growth of same does not indicate a significant impact.
- 12.12.34. As such, and taking into consideration all of the information on file, including that within the rEIAR and associated appendices, and the Specialist (Environmental Scientist) Report on file (Appendix 1 refers), I am satisfied that, while there has been some localised impacts on surface water quality close to the surface water discharge point, the impact of past activities on surface water quality downstream of the site (i.e. in Dunsrim Lough and beyond) can be considered 'not significant'.

12.12.35. Specifically in relation to the Water Framework Directive, I would note that the quarry is located within the River GORTNANA\_010 waterbody which has a WFD rating of “At Risk” for the WFD cycle 3. The environmental objective for the waterbody is to achieve Good Status and it is currently not on target to achieve this status. I refer to the report of the Specialist (Environmental Scientist) Report on file (Appendix 1 refers) wherein it is concluded that the data as submitted in the rEIAR, when considered along with EPA’s surface water data, have demonstrated that past activities on the site did not have significant impact on surface water quality. It can also be concluded, therefore, that past activities on the site did not have an impact on the WFD status of the River GORTNANA\_010 waterbody, or other waterbodies downstream of the site.

***Conclusion: Direct and Indirect Effects***

12.12.36. I am satisfied that sufficient historic and contemporary information has been provided to inform the consideration of effects in respect of water resources and hydrology. Having regard to the considerations above, I would agree with the conclusions reached in Chapter 8 of the rEIAR that the previous quarrying operations did not give rise to significant direct nor indirect adverse impacts on surface water or groundwater.

**12.13. Air and Climate**

***Issues Raised***

12.13.1. No third-party submissions to this SC application were received and no issues were raised by prescribed bodies. The PA have not raised any issues and conditions recommended to be attached to a grant of SC are noted.

***Examination of the rEIAR***

***Context and potential effects***

***Air Quality***

12.13.2. Chapter 9 of the rEIAR considers the impacts of the development on air quality in the vicinity of the site. It is noted that the main potential impacts from the historical activities associated with the Development are airborne particulate matter (PM<sub>10</sub>) and nuisance dust deposition. A Dust Risk Assessment was completed in order to provide an estimation of the risks associated with the Development and past

activities. It is set out that there are currently no Irish Statutory limits or Guidelines relating specifically to dust deposition thresholds. However, the Bergerhoff Method (German TA Luft Air Quality Standard) is typically used for dust deposition in Ireland. The TA Luft deposition limit value of 350mg/m<sup>2</sup>/day (when averaged over a 30-day period) is typically set as a limit along all site boundaries associated with quarry developments. Air Quality standards are set in the Air Quality Directive (2008/50/EC) and transposed into Irish law in 2011 (S.I. No. 180 of 2011) and the relevant limits are set out in Table 9.1 of the rEIAR.

### *Dust Monitoring and Disamenity Dust Assessment*

#### *Dust Monitoring*

12.13.3. In relation to dust, dust deposition monitoring was conducted at 6 no. locations around the boundary of the Registered Area between November 2022 and January 2023. No exceedance of the TA Luft deposition limit value of 350mg/m<sup>2</sup>/day were recorded, with concentrations ranging from 32 mg/m<sup>2</sup>/day to 308 mg/m<sup>2</sup>/day.

12.13.4. The rEIAR refers to best practice guidance<sup>6</sup> in relation to hard rock quarrying, in which it is stated that that adverse impacts are uncommon beyond 400m from such sites. Receptors within a 400m radius from the Site were identified, and a total of 10 no. were recorded (9 no. residential dwellings, 1 no. farm/storage facility). In addition the gardens of 2 no. additional dwellings fell within the 400m radius and were included in the assessment. Background concentrations of PM<sub>10</sub> were determined from the 8 year average of PM<sub>10</sub> concentrations at Zone D monitoring stations (for rural Ireland), which is set out in Table 9.2 of the rEIAR. Between 2013 to 2020 the Zone D average was 12.2µg/m<sup>3</sup>. Taking the maximum process contribution of 15µg/m<sup>3</sup> associated with the activity (as determined by IAQM Guidance), the predicted environment concentration was 27.2 µg/m<sup>3</sup>. Reference is made to the IAQM Guidance which states that there is little risk of the annual AQS limit been exceeded if the predicted environment concentration is less than 32 µg/m<sup>3</sup>. It is concluded, therefore, that the development posed little risk of exceeding the annual AQS based on the data above.

#### *Disamenity Dust Assessment*

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<sup>6</sup> IAQM – The Assessment of Mineral Dust Impacts for Planning

12.13.5. A 'Disamenity Dust Assessment' was also carried out which considered such factors as the magnitude of works on the Site (source), the frequency of wind speeds (pathway) and the distance of receptors to the source. Utilising historical metrological data, the number of days where weather conditions were suitable for transporting dust (wind speeds of greater than 5.5m/s and on dry days within rainfall less than 0.2mm) was determined. Impacts were determined as being 'negligible' for all 11 no. sensitive receptors considered.

#### *Mitigation*

12.13.6. In relation to mitigation measures, it is noted that no record of dust complaints have been received by the applicants or MCC as a result of activities associated with the Development. Table 9.11 sets out the mitigation measures that were implemented during the Development operations and include the utilisation of a wheel wash, with boundaries and public roads being inspected regularly for dust. Mitigation for the restoration phase are also set out and include dust suppression measures for routes, berms and stockpiles. No significant cumulative impacts were expected.

#### *Climate*

12.13.7. Chapter 10 considers Climate. Historical emissions from the Development during a period of peak activity (2010 to 2020) are examined, with greenhouse gas (GHG) emissions associated with the permitted area examined cumulatively. It is noted that the machinery used for crushing and blasting would contribute to carbon emissions due to the use of diesel in such machinery. It is noted that power was obtained from onsite diesel generators until 2018/2019 after which power was sourced from the national grid via a substation. The generators powered the crushing and macadam plants located within the Permitted Area and the impact of same is considered as part of the cumulative impact. The primary source of CHG emissions associated with the Development is the operation of machinery and movement of HGVs. HGV movements attributed with the Development were estimated as 20% of the total HGVs used per day (total = 56 no.). Potential CHG emissions from the operation of 11 no. HGVs was assessed, with the reminder considered in a cumulative capacity. The nature of the machinery used historically on the Site is set out, with estimations of fuel consumption and operating hours set

out. For HGV movements the destinations of the aggregate materials were considered to be similar to those currently proposed.

#### *Potential effects on Climate*

- 12.13.8. At a national level, it is set out that the annual GHG emissions for Ireland in 2020 was estimated to be 57.7 million tonnes of carbon dioxide equivalent. The transport sector currently accounts for 20% of Ireland's GHG emissions, with road transportation accounting for 96% in total (11.1 Mt) . The total emissions from the plant and equipment, and HGV movements was estimated to be 0.00094 Mt CO<sub>2</sub> for a typical year. The percentage contribution from the development of the total CO<sub>2</sub> emitted from the transport sector was determined to be 0.008%, and as such was not considered to be significant. Notwithstanding, mitigation measures such as the use of low energy equipment, would have served to reduce emissions historically. In terms of cumulative impacts, in terms of the Site and the Permitted area, the total emissions were estimated to be 0.0032 Mt CO<sub>2</sub>, and therefore would have contributed to 0.03% of the total emissions from the transport sector, and there impact of same was concluded to be imperceptible. Overall residual impacts were concluded to be 'imperceptible'.

#### ***Evaluation and Assessment: Direct and Indirect Effects***

- 12.13.9. I have examined, analysed and evaluated the information provided in Chapters 9 and 10, and all the associated documents and submissions on file in respect of Air Quality and Climate. I am satisfied that the information submitted in the rEIAR adequately demonstrates an understanding of the retrospective potential impacts generated by the development and provides a suitable range of mitigation and monitoring measures, which are already in place at the quarry site.
- 12.13.10. I note the results of the dust deposition monitoring conducted between November 2022 and January 2023, with no exceedance of the TA Luft deposition limit value of 350mg/m<sup>2</sup>/day were recorded, with concentrations ranging from 32 mg/m<sup>2</sup>/day to 308 mg/m<sup>2</sup>/day. While this would not have captured impacts from the works on the Site (which ceased in 2021), it would have captured impacts from the Permitted Area, and I am satisfied it gives an reliable indicator of previous impacts resulting from works on the Site. The Disamenity Dust Assessment has utilised historical metrological data and has shown that previous impacts of dust on

neighbouring receptors has been 'negligible. In relation particulate concentrations (PM<sub>10</sub> concentrations) the rEIAR has set out the development posed little risk of exceeding the relevant annual Air Quality Standard, with reference to background and predicted PM<sub>10</sub> concentrations, noting that the predicted environment concentration was 27.2 µg/m<sup>3</sup>, which is below that cited in IAQM Guidance.

12.13.11. In relation to air quality, therefore, I note conclusions of the rEIAR, I would concur with same, noting that the result of dust monitoring, and the dust assessment, which support the conclusion that previous impacts on amenity from predicted dust generation were not significant. I would also note that predicted PM<sub>10</sub> levels associated with past activity are below the recommended best practice guidelines, Notwithstanding, I note that mitigation in relation to dust generation is set out in the rEIAR and these are measures that have been put in place for the previous activities on the site (as well as the current permitted area). I am satisfied same will have ensured that no significant impacts on surrounding amenity have resulted as a result of dust deposition or from adverse impacts on air quality.

12.13.12. In relation to Climate, I am satisfied that the conclusions of the rEIAR, in relation to previous impacts on climate change, are sound, and that the effect of the development on national GHG emissions was insignificant in and therefore had no significant impact on climate. Notwithstanding, the mitigation measures that have been adhered to would have reduced carbon emissions from activities associated with the quarrying activity.

## **12.14. Noise and Vibration**

### *Issues Raised*

12.14.1. No third-party submissions to this SC application were received and no issues were raised by prescribed bodies. The PA have not raised any issues and conditions recommended to be attached to a grant of SC are noted.

### ***Examination of the rEIAR***

12.14.2. Chapter 11 considers 'Noise and Vibration'. The chapter carries out an assessment on the likely historical changes to the acoustic environment at noise sensitive receptors, an assessment on the likely historical site-specific noise emissions that were audible at sensitive receptors rated against industry standard

limits for noise nuisance and a review of complaints/enforcements as relates to noise.

#### *Potential effects*

- 12.14.3. Noise from the previous activity relates to operational activities including blasting. Noise sensitive receptors are tabled in Table 11.3 with the closest residential property (NSR 1) being located c159m from the Site. Acoustic surveys were carried out in 2022 and 2023, with the results of same set out in Table 11.4 and 11.5 of the rEIAR. It was found that generally higher levels of ambient acoustic sound were found at NM2 and NM3 due to the macadam plant, and the movement of vehicles. It is set out that the macadam plant was considered a noise source separate from the quarry as it is not controlled by the S261 conditions. It is concluded that the ambient noise levels surrounding the site are low to moderate. It is further stated that the levels are in line with historic sound levels based on the limited development or change, and the long operational history of the Permitted Area within the Registered Area.
- 12.14.4. It is noted that, historically within the site, processing included primary crushing and primary screening, along with stockpiling, with mobile plant equipment utilised. Site preparation noises would have differed from operational noise and would have been associated with the removal of the topsoil and overburden, and the construction of soil embankments, utilising a bulldozer along with an excavator unit. It was concluded that the noise levels associated with these activities at the nearest NSR's would have been below the relevant noise threshold ( $L_{Aeq,1hr}$  65dB), as tabled in Table 11.7 of the rEIAR.
- 12.14.5. In relation to operational blast events, all blast events on the Site were recorded as a matter of course, for both air over-pressure and vibration, with measurements taken from NSR06. The threshold is set out as being <125 dB, with Table 11.8 setting out the historical records. The rEIAR states that such events were found to be compliant with the threshold. I would note that 2 no. events were recorded as being at 125 dB, which is at the threshold level (and not below same). Vibration records as set out in Table 11.9 set out that vibration levels associated with blasting events were below industry standard compliance limit as set out in Section 10.3.6.

12.14.6. In relation to noise levels associated with plant activities, Table 11.11 sets out predicted levels at the relevant NSR's and it is shown that noise levels from same were below noise nuisance criteria (55 dB).

12.14.7. No significant noise impacts were predicted to arise from the restoration phase.

*Mitigation*

12.14.8. It is noted that no noise complaints were received by the applicant as a result of operations associated with the Development. The mitigation measures that have historically been put in place are set out in Section 11.5 and include appropriate maintenance of plant and machinery, as well as communications and public relations as relates to any blast events, with advance notification of any blast events to nearby residents. Residential impacts are concluded to be not significant on a local level, and imperceptible in the wider environment.

***Evaluation and Assessment: Direct and Indirect Effects***

12.14.9. I have examined, analysed and evaluated the information provided in Chapter 11 and all the associated documents and submissions on file in respect of Noise and Vibration. I have inspected the site and the surrounding area. I am satisfied that the information submitted in the rEIAR adequately demonstrates an understanding of the retrospective potential impacts generated by the development and provides a suitable range of mitigation and monitoring measures, which are already in place at the quarry site.

12.14.10. In relation to the conclusions of the rEIAR, I concur with same and I am satisfied that the information submitted in the rEIAR has adequately set out the potential impacts of the development on noise and vibration. The most likely effect that would have occurred as a result of the activity would have emanated from blasting events, and the rEIAR has set out that previous events have not exceeded acceptable noise or vibration limits. Appropriate mitigation measure have been adhered to however which seek to minimise noise and vibration impacts on the surrounding environment. Therefore, I am satisfied that no significant effects on the noise and vibration environment have resulted from the development.

**12.15. Landscape and Visual**

### ***Issues Raised***

- 12.15.1. No third-party submissions to this SC application were received and no issues were raised by prescribed bodies. The PA have not raised any issues and conditions recommended to be attached to a grant of SC are noted.

### ***Examination of the rEIAR***

#### ***Context***

- 12.15.2. Chapter 12 considers Landscape and Visual. The chapter uses the pre-Development landscape as a baseline for the assessment. In the current Monaghan County Development Plan, with landscape character type is defined as 'Farmed Foothills', as per the Monaghan Landscape Character Assessment. The site is within Landscape Character Area 5 (LCA5) 'Monaghan Drumlin Uplands'. The relevant provisions of the previous Monaghan County Development Plan 2013 – 2019 are also referred to, as relates to policies for the protection of the landscape. In addition, the 3km study area also incorporates an area of County Cavan and as such the provisions of the Cavan County Development Plan are also referred to, noting that there are no designated Co. Cavan scenic viewpoints or scenic routes, or other scenic designations within the study area.
- 12.15.3. Historical aerial maps were utilised to determine the landscape context pre-development, with the earliest available aerial map dating from 1995. From the aerial maps it can be determined that noticeable changes to the Site occur from 2005 onward. The open area of quarrying activity was around 5.4ha by 2005. Prior the quarrying activity the land was used for agricultural purposes, likely as rough pasture for grazing livestock.

#### ***Potential Effects***

- 12.15.4. The existing land surrounding the Registered Area is characterised as sloping, small pastoral fields with mature hedgerow lining the fields. A local road is located to the northeast and north of the quarry. The wider study is one of low rolling hill and drumlins, with the nearest settlement to the Site being Scothouse Village. The visual receptors with the most potential to have been impacted by the Development are local residents and users of the local road network. For the purposes of the visual impact assessment, a total of 3 no. viewpoints were determined as follows:

- VP1 – Residences to the north of entrance to the Registered Area
- VP2 – Scotshouse Village
- VP3 – Local road northeast of the Registered Area

12.15.5. Pre-development, the Site and immediate vicinity would have been influenced by the existing quarry and the landscape sensitivity was deemed to be low as a result of same. The wider study area was determined to be of medium-low sensitivity pre-Development. In terms of determining the magnitude of change, the rEIAR notes that the excavated area has more than doubled in size since 1995. The 3.3ha Permitted Area was predominantly open by 1995. By 2015 the open area of quarrying was 7ha, and at present the total area of the quarry is 9.6-10 ha. However, it is noted that the quarry is not overtly visible from most receptors within the local landscape, with the exception of visibility from the northeast.

12.15.6. In terms of the effects which have occurred, the landscape effect is concluded to be moderate, taking account of the low sensitivity of the landscape, factored with the impact on the immediate landscape, which is deemed to be high. On the wider landscape, while it is noted that the quarry has at least doubled in extent, it is still not a strongly influential feature in the wider landscape. The overall effect on the landscape was concluded to be slight-imperceptible.

12.15.7. In terms of the ongoing effects, it is noted that quarrying ceased outside of the permitted area in April 2021, and therefore ongoing effects related to the ongoing quarrying activity in the permitted area (i.e. movement of machinery to and from the Site etc) and the significance of such effects are considered to be slight-imperceptible.

12.15.8. In terms of visual effects, it is noted that potential for visibility is limited to the north of the site, with the topography screening the site when viewed from the south. From VP1 – Residences to the north of entrance to the Registered Area and VP3 – Local road northeast of the Registered Area, the visual effect was considered to be slight adverse.

12.15.9. No cumulative landscape or visual impacts were noted. It is concluded that the restoration plan will have an overall positive, long term visual impact on the Site and the Permitted Area.

### ***Evaluation and Assessment: Direct and Indirect Effects***

12.15.10. I have examined, analysed and evaluated the information provided in Chapter 12 and all the associated documents including the proposed restoration plan. I have inspected the site and the surrounding area. I am satisfied that the information submitted in the rEIAR adequately demonstrates an understanding of the retrospective potential effects of the development on landscape and visual impact.

12.15.11. In relation to the conclusions of the rEIAR, I concur with same. I would note that the Site, and the existing quarry, are generally screened from surrounding views, by virtue of the topography and vegetation, save for the visibility afforded towards the site from the north-east. While there has been substantial change at a very localised level, by virtue of the extraction activities, I would agree that that the overall impact on the wider landscape is as described in the rEIAR (i.e. slight-imperceptible) by virtue of this very limited visibility towards the site. I concur that the visual impact of the development, when viewed from residences to the northeast, is slight adverse, but not significant, noting that the site would read as an extension to the existing permitted quarry, and as such the context of the overall site has not changed significantly.

### **12.16. Cultural Heritage**

#### ***Issues Raised***

12.16.1. No third-party submissions to this SC application were received and no issues were raised by prescribed bodies. The PA have not raised any issues and conditions recommended to be attached to a grant of SC are noted.

#### ***Examination of the rEIAR***

##### *Context*

12.16.2. Chapter 13 of the rEIAR considers the retrospective potential effects of the development on Cultural Heritage. It is noted that there are no Recorded Monuments in the Site, although the area of notification of one Recorded Monument extends into the Site (MO021-006 Ahhnaskew Ringfort-rath). This monument is external but contiguous to the site on its eastern side (as indicated in Figure 13.1) It is set out within the rEIAR that the monument is not indicted on any edition of the Ordnance Survey mapping. On the ground the interior is uneven and does not present as the type of level, circular to oval area usually associated with a ringfort,

and it is stated that the site may have been identified as a monument in error. The next closest recorded monument is MO021-008 Lattacrossan Ringfort-rath which is located 0.25km to the east of the site. It is stated that this has not been impacted by the quarrying at the site.

- 12.16.3. The Sites and Monuments Record (SMR) indicated that there are no SMRs in the Site or the study area. No archaeological sites were identified utilising aerial photography dating from 1995 to 2022. No licensed excavations have been carried out in the Site. A field inspection was carried out on 17<sup>th</sup> November 2022.

#### *Potential effects*

- 12.16.4. In terms of potential effects, the rEIAR sets out that the impacts on the setting of the Recorded Monument MO21-006, in the absence of mitigation, are significant, permanent, as a result of the proximity to same. No other significant effects are considered to have been likely.

#### *Mitigation*

- 12.16.5. Mitigation recommended in relation to same includes the construction of a 3m high landscaped screening mound on the western side of the site. It is stated that there will be no residual impacts heritage present within the Site or the vicinity, with mitigation in place.

#### *Evaluation and Assessment: Direct and Indirect Effects*

- 12.16.6. I have examined, analysed and evaluated the information provided in Chapter 13 and all the associated documents and submissions on file in respect of Archaeology and Cultural Heritage. I am satisfied that the information submitted in the rEIAR adequately demonstrates an understanding of the retrospective potential impacts on same.
- 12.16.7. In relation to the conclusions of the rEIAR, I would generally concur with the conclusions of same. From the evidence provided in the rEIAR, there would appear to be very little evidence of the Recorded Monument (MO021-006 Ahhnaskew Ringfort-rath) save for the drystone wall visible in Figure 13.12 of the rEIAR. Notwithstanding, it remains as a mapped Recorded Monument, and is subject to the related protections afforded to same. I would note that said monument is not on the site but is directly contiguous to same. As such, I concur the extraction activities

have had a significant effect on the setting of this monument. However, with the construction of the perimeter planted berm the impact on the setting of the monument will be reduced to permanent, moderate and adverse in my view (rather than no residual impact as recorded in the rEIAR), given the proximity of the berm to the monument, with the setting of same being permanently altered. Given the nature of the existing monument, in which very little of same is visible, I am not of the view the residual impact on the setting of same would be significant. I am satisfied that no other features of archaeological significance within the immediate vicinity of the site have been adversely affected by the development.

- 12.16.8. Overall, I am of the opinion that it is reasonable to conclude that the previous activities within the substitute consent quarry site did not result in any significant impacts on and that no significant adverse impact arose from the operations within the substitute consent area in relation to archaeological and cultural heritage. I am satisfied that the quarrying operations had no direct, permanent and significant negative impact archaeological and cultural heritage as a result of the historic quarrying activities on-site. I am satisfied that there are no other features of archaeological significance within the site or in its immediate vicinity.

## **12.17. Material Assets – Traffic and Transport**

### ***Issues Raised***

- 12.17.1. No third-party submissions to this SC application were received and no issues were raised by prescribed bodies. The PA have not raised any issues and conditions recommended to be attached to a grant of SC are noted.

### ***Examination of the rEIAR***

#### ***Context and Potential Effects***

- 12.18. Chapter 14 considers Traffic and Transport. In terms of impacts as a result of the operational phase, it is set out that the quarry produced c350,000 tonnes per annum, which was transported via 80% rigid truck and 20% artic truck. The traffic movements per day comprised of 15-20 staff cars, 54 rigid trucks and 11 artic trucks. Utilising industry standard PICADY software it was shown that the junction of the quarry access onto the L6280 operated within capacity up to and including 2023. It is stated that no overspill parking occurred as sufficient car parking is provided on the

site. It is concluded that the traffic impacts of the historic quarry activities were negligible.

### *Mitigation*

12.19. Mitigation measures that have been put in place at the quarry include the provision of sufficient car parking spaces, the provision of sufficient space at the access point to allow for passing of a HGV, the maintenance of visibility splays and provision of a wheel wash.

### ***Evaluation and Assessment: Direct and Indirect Effects***

12.19.1. I have examined, analysed and evaluated the information provided in Chapter 11 and all the associated documents and submissions on file in respect of Traffic. I have inspected the site and the surrounding area. I am satisfied that the information submitted in the rEIAR adequately demonstrates an understanding of the retrospective potential impacts generated by the development and provides a suitable range of mitigation and monitoring measures, which are already in place at the quarry site.

12.19.2. In relation to the conclusions of the rEIAR, I concur with same. The local road network appears to have accommodated the minor to negligible increase in HGV and other traffic generated without significant incidents, including insignificant impacts on the carrying capacity of the road network, interference with traffic flows, creation of hazard and direct contribution to accidents. In light of this, I consider that it is reasonable to conclude that the impact, in traffic and transportation terms, of the quarrying and associated activities which are the subject of this substitute consent application were not likely to have resulted in any significant environmental impact.

12.19.3. Having regard to the examination of environmental information provided in respect of traffic, in particular in Chapter 14 of the rEIAR it is considered that there is no potential for significant environmental effects on traffic.

### **12.20. Cumulative Impacts and Interactions**

12.20.1. Cumulative impacts have been covered, where applicable, under the relevant chapters within the rEIAR. The quarry area is located within a rural landscape which has seen only relatively small scale development including rural one off dwellings and some agricultural development. I am satisfied that given the separation

distances to other developments, which would be regulated such that no significant effects as a result of cumulative impacts with these or any other developments are likely to have arisen.

12.20.2. Chapter 15 addresses, via a matrix table, the main interactions between the various aspects of the environment that may have been affected as a result of the quarry development. The major interactions between the environmental topics have been covered, where applicable, under the relevant chapters within the rEIAR. Quarrying can give rise to inevitable and unavoidable impacts on the environment and many of these impacts interact with each other. The main area of concern relates to the effects of the extraction and processing works which may have impacted on population and human health, hydrology and hydrogeology and the interaction with soils and geology and surface water processes, ecology, archaeology and on the landscape. As the development is unlikely to have had a significant effect on the environmental factors assessed above, with mitigation where relevant, there are no other significant effects on the environment that are likely to arise from the development due to the interaction between those factors.

12.20.3. I am satisfied that that no significant effects are envisaged from interactions between the historic quarrying and any associated activities and any of the environmental factors or as a result of cumulative impacts.

## **12.21. Reasoned Conclusion**

12.21.1. Having regard to the examination of environmental information contained above, in particular to the rEIAR and supplementary information provided by the applicant and the report received from the Planning Authority, as well as having regard to the Special (Environmental Scientist) Report on file (and as included in Appendix 1 of this report), it is considered that the main significant direct and indirect effects of the historic development on the environment and measures to avoid, prevent or reduce such effects are likely to have been as follows:

Water: Monitoring carried out by Monaghan County Council, with the results of same set out in the rEIAR, indicates that that there have been localised impacts on surface water, at the point of discharge, as a result of elevated levels of ammonia and suspended solids, as a result of quarrying activities for the period in question. These localised impacts are not considered to have been significant, however. More recent

monitoring data from points further downstream, which capture the impacts of the ongoing quarrying works within the Permitted Area, show that levels of ammonia and suspended solids decrease to below method detection limits, indicating that no significant adverse impacts on surrounding downstream surface waters from the operation of the quarry within the Substitute Consent area are likely to have occurred, given that the operational activities within the two areas (the Permitted Area and the Substitute Consent Area) are similar in nature and extent (i.e. involve blasting and extraction activities). It is concluded also that the quarrying activities for the period in question have not had a significant effect on groundwater quality nor has the activity had a significant effect on the off-site hydrogeologic regime or off-site groundwater abstractions.

**Biodiversity:** The loss of potential roosting, commuting and foraging habitat, as well as potential impacts from noise, vibration and lighting could have resulted in a potential significant negative direct and indirect impacts on bats in a local context. However, due to the replacement of treelines and hedgerows as part of the permitted development, and the retention of a portion of the existing boundary hedgerows, and due to the likely impacts occurring as a result of the activities within the 'Permitted Area', the residual direct and indirect effects on bats are concluded to have been imperceptible in a local context. With the implementation of the restoration plan it is concluded that there will be significant positive effect on biodiversity at the local level in the long term.

**Land, soil and geology:** The quarrying activities within the application site have resulted in a permanent loss of a geological resource and loss of land for agricultural purposes. However, such losses are not unacceptable, having regard to the primary function of the quarrying activities to extract the resource which itself brings benefits to the construction sectors and the wider economy. The loss of agricultural lands and soil overburden would have been imperceptible in size and scale when taken in context with the available agricultural lands in the area. Mitigation measures to prevent soil and groundwater contamination have been implemented on the Site. It can be concluded that there has been no significant effects on land, soil and geology.

**Landscape and Visual:** While the quarrying activities altered the landscape locally, given the enclosed nature of the site, which is well screened, it is concluded such

impacts are slight-imperceptible. It is concluded that the visual impact of the development, when viewed from residences to the northeast, is slight adverse, but not significant.

Archaeology: The potential impacts on the setting of the Recorded Monument MO21-006, in the absence of mitigation could have been significant, given the proximity of the development to same. However, with the construction of the perimeter planted berm the impact on the setting of the monument has been reduced to permanent, moderate and adverse.

### **13.0 Recommendation**

I recommend that substitute consent be permitted for the reasons and considerations below:

### **14.0 Reasons and Considerations**

Having regard to:

- (a) the provisions of the Planning and Development Act, 2000, as amended, and in particular Part XA (Substitute Consent) and the provisions of the Planning and Development Regulations, 2001, as amended,
- (b) the policies and objectives of the Monaghan County Development Plan 2019-2025 that seek to support the Extractive Industry in rural areas of the County Monaghan,
- (c) the Climate Action Plan 2024,
- (d) Ireland's 4<sup>th</sup> National Biodiversity Action Plan 2023–2030,
- (e) National Planning Framework (Project Ireland 2040),
- (f) Regional Spatial and Economic Strategy for the Northern and Western Region
- (g) the Quarries and Ancillary Activities - Guidelines for Planning Authorities 2004,
- (h) the remedial Environmental Impact Assessment Report (rEIAR) submitted with the application for substitute consent, and documentation on file generally,

- (i) the distance to dwellings or other sensitive receptors,
- (j) the report and the opinion of the planning authority under section 177I of the Planning and Development Act 2000, as amended,
- (k) The previous, and continuing, consequences for the environment and the proper planning and sustainable development of the area in which the development is located, and the previous and continuing likely significant effects of the proposed development on European Sites,
- (l) the nature and scale of the development as carried out, as set out in planning application documentation and the pattern of development in the surrounding area,
- (m) the Inspector's assessment as set out in the Inspector's Report;
- (n) the Specialist (Environmental Scientist) Report on file (as included in Appendix 1 of the Inspector's Report),

it is concluded that subject to compliance with the conditions set out below, the development has not resulted in, and will not result in significant adverse effects on the environment, including biodiversity, water, air quality, landscape and cultural heritage, has not seriously injured the residential amenities of the area, in particular with respect to associated noise impacts and is acceptable in terms of traffic safety and convenience. Subject to compliance with the conditions set out below, the development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 15.0 Conditions

1. This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála on the 24th day of March 2023 and relates solely to the area as outlined in red on the drawings submitted with the application, except as may otherwise be required to comply with the following conditions.

**Reason:** In the interest of clarity and conservation of the environment.

2. The mitigation measures identified in the Remedial Environmental Impact Assessment Report (rEIAR) submitted, in and other plans and particulars submitted with the application, shall be implemented in full by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this permission.

**Reason:** To protect the environment.

3. A detailed plan for the restoration of the area the subject of this Substitute Consent application shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this Order, unless, prior to that time, a planning permission has been granted for the further quarry development within the area covered by this grant of substitute consent.

**Reason:** In the interest of visual amenity and in order to enhance ecological value and to ensure public safety.

4. A programme and timescale for ongoing monitoring of water quality shall be submitted to and agreed in writing with the Planning Authority. It shall include proposals for monitoring to be undertaken to establish a baseline and for the period during the restoration/revegetation works. Reports on the findings should be submitted to the Planning Authority.

**Reason:** To ensure protection of water quality.

5. No soils shall be imported onto the lands without required consent of a Waste Permit Licence and/or planning permission.

**Reason:** In the interest of proper planning.

6. Unless permission is granted for the further quarry development within the area covered by this grant of substitute consent has been granted prior to that date, the developer shall lodge with the planning authority, within 6 months of the date of this Order, a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration/revegetation of the site, coupled with an agreement empowering the local authority to apply

such security or part thereof to the satisfactory restoration/revegetation of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory restoration of the site.

6. Unless permission is granted for the further quarry development within the area covered by this grant of substitute consent has been granted within 6 months of this order, 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 within 6 months of the date of this permission or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**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.

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.

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Ronan O'Connor  
Senior Planning Inspector  
31<sup>st</sup> March 2025

## **Appendix 1 – Specialist (Environmental Scientist) Report**

The Board will note that Appendix 1 is attached as a separate document to this report and I refer the Board to same. The report is entitled 'Technical Report to Inspector ABP-316144-23\_App1'.

## Appendix 2 Appropriate Assessment Screening Determination (Stage 1)

### Screening for Appropriate Assessment

#### Screening Determination

##### Step 1: Proposed Development

The development is described in Section 3 of this report. In summary the development involved an extension to the southwest of the Permitted Area. It covers an area of c5.6ha. Topsoil and overburden have been removed over time as the excavated area has been expanded. The average extracted depth is to c105mOD (the average ridge height is 130m OD).

I note that Screening for AA was carried out under Leave to Apply for Substitute Consent ABP-311755-21. The Leave to Apply application included an AA Screening Report. Under the Leave to Apply for Substitute Consent ABP-311755-21 BD-01077-22 (Board Direction), as reflected in the Board Order signed 11<sup>th</sup> March 2022, the Board has not identified that the development in question was one that required the submission of a Remedial Natura Impact Statement (rNIS).

Notwithstanding, I have role of the Board as the competent authority, with reference to the Habitats Directive, and I have carried out an Appropriate Assessment Screening, as per the assessment below.

I would note that this application for Substitute Consent does not include an Appropriate Assessment Screening Report. I would note that Section 6.3.1 of the rEIAR states that a remedial Appropriate Assessment Screening (rAAS) is included with the application. This however is not the case, and this report is not referred to in the applicant's Cover Letter dated 23<sup>rd</sup> March 2023 which lists the contents of the Substitute Consent Application. However, I would note that there is no mandatory requirement for an Appropriate Assessment Screening Report.

I do note that the current s37L application, for an extension of quarry development (Ref ABP 319612) includes an Appropriate Assessment Screening Report. I note that this

application is to be considered 'in conjunction' with this current application. I am the reporting Inspector for this s37L application and where relevant and/or appropriate in this AA Screening I have referred to the s37L AA Screening Report, most notably in relation to determining the Zone of Influence (ZOI) of the project, and the information therein as relates to the potential foraging range of bird species associated with Natura Sites within the ZOI. I have also utilised the detailed information as contained in the Remedial Environmental Impact Assessment Report (rEIAR) on file, as well as publicly accessible information on the NPWS website<sup>7</sup>, the Department of Agriculture and Rural Affairs<sup>8</sup> (as relates to the Upper Lough Erne SPA in Northern Ireland) and the EPA Appropriate Assessment tool.<sup>9</sup> Overall, I am satisfied that there is sufficient information available to me in order to screen for Appropriate Assessment.

I would note that both the rEIAR and the s37L AA Screening Report refer to an indirect surface water link to Lough Oughter and Associated Loughs SAC as a result of surface water discharge to a stream to the north-east of the quarry. This stream flows in a northern direction to an open area of wetland with a c12km downstream connection to the Lough Oughter and Associated Loughs SAC, to the south.

Within the s37L AA Screening Report, the Zone of Influence (Zoi) was determined as being c12km from the site, given the identified hydrological link. I considered that this is a reasonable Zone of Influence for this current Substitute Consent application, noting that impact mechanisms would be as per the s37L application.

A total of 8 no. Natura 2000 sites (I have not included Ramsar sites as referenced in the s37L AA Screening Report) were identified. I have had regard to this and I consider the following European Sites relevant for the screening assessment:

- Upper Lough Erne SPA Site Code UK9020071- 4km north-west of site
- Upper Lough Erne SAC Site Code UK0016614 - 4km north-west of site
- Lough Oughter and Associated Loughs SAC Site Code 000007 – 5km west of the site
- Kilroosky Lough Cluster SAC Site Code 001789- 8km north of the site

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<sup>7</sup> [Protected Sites in Ireland | National Parks & Wildlife Service](#)

<sup>8</sup> [Upper Lough Erne SPA | Department of Agriculture, Environment and Rural Affairs](#)

<sup>9</sup> <https://gis.epa.ie/EPAMaps/AAGeoTool>

- Magheraveely Marl Loughs SAC Site Code UK0016621 – 9km northwest
- Lough Oughter Complex SPA Site Code 004049 – 12km southwest

Previous habitats on the site are described in the rEIAR and have included agricultural grassland (GA1), hedgerow (WL1) and a small patch of mature trees. It is set out within the rEIAR the grassland was of low ecological value. The hedgerow and mixed broadleaved woodland previously on the Site was considered to be of mixed ecological value, but overall were considered of Local Ecological Value due to their function as ecological corridors and/or steppingstones. The hedgerow boundary remains in place and this may be used as commuting and foraging habitats. In relation to birds, the Site was considered to be primarily suitable for general passerine and corvid species using the hedgerows surrounding the site. Current habitats of note are the hedgerows to the southern boundary and the drainage ditch referred to above. In relation to impacts, the loss of the habitats on Site is considered to have been negative but not significant, given the low ecological value of same. There is no reference in the rEIAR to the site being suitable for any birds of qualifying interests associated with the Natura 2000 Sites listed above. In relation to otter, a qualifying interest of Lough Oughter and Associated Loughs SAC, it is stated within the rEIAR that protected species such as Otter would have been unlikely to have used the Site for anything other than commuting due to the excavation works (blasting) of the Permitted Area. In any case the site lies at some distance from this SAC (5km) and as such I am satisfied that *ex-situ* impacts on otter were unlikely, and continue to be unlikely.

With reference to s37L AA Screening Report, I note that the site lies within the core range of the Whooper Swan, which is c4km up to 5km, and is the only listed qualifying interest of Upper Lough Erne SPA, located c4km from the site. I have considered potential impacts on same below.

#### **Potential impact mechanisms from the project**

Noting the nature of the project, and the distance from the site to those European Sites identified above, and noting the entirety of the documentation available to me, including the s37L AA Screening Report submitted for ABP Ref-319612-24, and including the rEIAR submitted as part of this SC applicaiton, I am of the view that impact mechanisms could reasonably have included the following:

Construction/site preparation stage:

- Surface water pollution (silt/ hydrocarbon/ construction related) from site preparation/soil removal works resulting in changes to environmental conditions such as water quality/ habitat degradation.
- Ground water pollution as a result of the removal of overburden and/or as a result of pollutants from activities on the site including from vehicles and plant.
- *Ex-situ* Habitat loss and/or deterioration

Operational Phase:

- Surface water pollution (silt/ hydrocarbons from vehicles and plant/other activities including blasting, resulting in changes to environmental conditions such as water quality/ habitat degradation.
- Ground water pollution as result of pollutants from vehicle and plant and other activities including blasting/Alteration of groundwater flows with subsequent effects on groundwater habitats.

### Step 3: European Sites at Risk

**Table 1 European Sites at risk from impacts of the project**

| Effect Mechanism        | Impact Pathway/Zone of influence                       | European Site(s)                                 | Qualifying Features at risk <sup>10</sup>                                                                                                                              |
|-------------------------|--------------------------------------------------------|--------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Surface Water Pollution | Indirect hydrological link via surface water discharge | Lough Oughter and Associated Loughs SAC (000007) | <u>Lough Oughter and Associated Loughs SAC</u><br><br>Natural eutrophic lakes with <i>Magnopotamion</i> or <i>Hydrocharition</i> - type vegetation<br><br>Bog woodland |

<sup>10</sup> With reference to NPWS

|                                                             |                                                                                                                                             |                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                             |                                                                                                                                             |                                                                                                                      | <i>Lutra lutra</i> (Otter)                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Groundwater<br/>Pollution/Groundwater<br/>alteration</b> | <b>Indirect<br/>groundwater<br/>impacts via<br/>underlying<br/>groundwater<br/>body (GWB) on<br/>groundwater<br/>dependant<br/>habitats</b> | Lough Oughter<br>and Associated<br>Loughs SAC<br>(000007)<br><br>Lough Oughter<br>Complex SPA<br>Site Code<br>004049 | <u>Lough Oughter<br/>and Associated<br/>Loughs SAC</u><br><br>Natural eutrophic<br>lakes with<br><i>Magnopotamion</i><br>or <i>Hydrocharition</i><br>- type vegetation<br><br>Bog woodland<br><br><i>Lutra lutra</i> (Otter)<br><br><u>Lough Oughter<br/>Complex SPA</u><br><br>Great Crested<br>Grebe ( <i>Podiceps<br/>cristatus</i> )<br><br>Whooper Swan<br>( <i>Cygnus cygnus</i> )<br><br>Wigeon ( <i>Anas<br/>penelope</i> )<br><br>Wetland and<br>Waterbirds |
| <i>Ex-situ</i> Habitat loss and/or<br>deterioration         | <b>Loss of habitat<br/>associated with<br/>bird species<br/>associated with<br/>a European</b>                                              | Upper Lough<br>Erne SPA Site<br>Code<br>UK9020071                                                                    | <i>Cygnus cygnus</i><br>(Whooper Swan)<br>wintering<br>population                                                                                                                                                                                                                                                                                                                                                                                                    |

|  |                                                               |  |  |
|--|---------------------------------------------------------------|--|--|
|  | <b>Site/Within<br/>foraging range<br/>of Whooper<br/>Swan</b> |  |  |
|--|---------------------------------------------------------------|--|--|

### **Step 3: Site Synopsis'**

In relation to the 3 no. sites above, the relevant site synopsis are summarised below:

#### Lough Oughter and Associated Loughs SAC<sup>11</sup>

Lough Oughter and its associated loughs occupy much of the lowland drumlin belt in north and central Cavan between Upper Lough Erne, Killeshandra and Cavan town. The site is a maze of waterways, islands, small lakes and peninsulas including some 90 inter-drumlin lakes and 14 basins in the course of the Erne River. As well as the habitats and species listed above (in Table 1), the site also contains areas of dry woodland, marsh, reedbed and wet pasture. The main threats to the quality of the site are water polluting activities (such as run-off from fertiliser and slurry application, and sewage discharge) which have raised the nutrient status of some lakes to hypertrophic.

#### Lough Oughter Complex SPA<sup>12</sup>

Lough Oughter and its associated loughs occupy much of the lowland drumlin belt in north and central Co. Cavan between Belturbet, Killashandra and Cavan town. This area comprises a maze of waterways, islands, small lakes and peninsulas. The Lough Oughter Complex is of importance for a range of wintering waterfowl.

#### Upper Lough Erne SPA<sup>13</sup>

Upper Lough Erne Lough is situated in County Fermanagh in the west of Northern Ireland and is a very large and complex freshwater system. A series of flooded drumlins in the course of the River Erne give rise to a complex of islands, bays and

<sup>11</sup> For the full site synopsis, see <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000007.pdf>

<sup>12</sup> For the full site synopsis, see <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004049.pdf>

<sup>13</sup> <https://www.daera-ni.gov.uk/sites/default/files/publications/doe/upper-lough-erne-spa-conservation-objectives-2015.pdf>

many lakes bordered by damp pastures, fens, reedswamp, alder/willow carr and oak woodland.

#### Step 4: Likely Significant Effects on the European sites 'alone'

| Table 2: Could the project undermine the conservation objectives 'alone'                              |                                                                                                                                                                                                                                                                                                                                                                                                |                                                        |                                                |                      |  |
|-------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|------------------------------------------------|----------------------|--|
| European Site and qualifying feature                                                                  | Conservation objective (summary)                                                                                                                                                                                                                                                                                                                                                               | Could the conservation objectives be undermined (Y/N)? |                                                |                      |  |
|                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                | Surface Water Pollution                                | Groundwater Pollution / Groundwater alteration | Ex-situ Habitat loss |  |
| Lough Oughter and Associated Loughs SAC (000007)<br><br>Lough Oughter Complex SPA<br>Site Code 004049 | <u>Lough Oughter and Associated Loughs SAC</u> <sup>14</sup><br><br>To restore the favourable conservation condition of: Natural eutrophic lakes with <i>Magnopotamion</i> or <i>Hydrocharition</i> - type vegetation<br><br>To maintain the favourable conservation condition of:<br><br>Bog woodland<br><br><i>Lutra lutra</i> (Otter)<br><br><u>Lough Oughter Complex SPA</u> <sup>15</sup> | No. See discussion below.                              | No. See discussion below.                      | n/a.                 |  |

<sup>14</sup> For the full text of the conservation objectives, please refer to [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO000007.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000007.pdf)

<sup>15</sup> For the full text of the conservation objectives, please refer to [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO004049.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004049.pdf)

|                                                |                                                                                                                                                                                                       |     |     |                          |  |
|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|--------------------------|--|
|                                                | <p>To maintain the favourable conservation condition of:</p> <p>Great Crested Grebe</p> <p>Wigeon</p> <p>Wetlands</p> <p>To restore the favourable conservation condition of:</p> <p>Whooper Swan</p> |     |     |                          |  |
| Upper Lough Erne SPA<br>Site Code<br>UK9020071 | To maintain each feature (whooper swan) in favourable conservation condition. <sup>16</sup>                                                                                                           | n/a | n/a | No. See discussion below |  |

I would note that there are no Natura 2000 sites located within the Site and as such there was no direct impacts from land-take from the previous quarrying development under consideration here. The removal of the grassland habitat, hedgerow and treelines will have had the potential to directly and indirectly impact species associated with Natura 2000 sites. There was also potential to impact water quality and sensitive aquatic species. With reference to the rEIAR, I note the that surface water was treated on site (via settling ponds and a hydrocarbon interceptor) prior to discharge to a stream to the north-east of the quarry. This stream flows in a northern direction to an open area of wetland with a distant c12km connection with Natura 2000 sites to the south.

<sup>16</sup> For the full text of the conservation objectives, please refer to <https://www.daera-ni.gov.uk/sites/default/files/publications/doe/upper-lough-erne-spa-conservation-objectives-2015.pdf>

I am satisfied that any impacts on Upper Lough Erne SAC, Kilroosky Lough Cluster SAC, Magheraveely Marl Loughs SAC can be ruled out due to a lack of any evident hydrological link to same from the site.

With reference to the information as set out in the s37L AA Screening Report, I am satisfied that impacts on bird species associated with Lough Oughter Complex SPA Site Code can be ruled out as development site is located outside the potential foraging range of SCI species associated with the SPA.

#### Surface Water

A hydrological connection to Lough Oughter and Associated Loughs SAC is identified in the s37L AA Screening Report and in the rEIAR. The surface discharge point to the north of the quarry is described as discharging into a drain that flows north towards the Gortnana River. This river then connects to the River Finn c. 5km downstream and then to Lough Oughter and Associated Loughs SAC c12km downstream. With reference to information within the rEIAR, I would note that the discharge is monitored by Monaghan County Council and the licence restricts the discharged water to 360m<sup>3</sup> per day and it is a condition of the licence that this discharge should not exceed certain water quality parameters.

I would note that the rEIAR has identified some previous exceedances in some parameters within the surface water discharge (ammonia levels and suspended solids) at monitoring points proximate to the surface discharge point. These exceedances were not recorded at monitoring points further downstream however, with natural attenuation occurring within the wetlands further downstream, as well as dilution effects from the transport downstream accounting for same. As such, the impact of such exceedances were shown to be localised (see further discussion on same in Section 12 of this report). I would note that the rEIAR has ruled out any significant effects on surface water either at construction/site preparation stage, at operational phase, or at restoration phase. I refer also to the Specialist (Environmental Scientist) Report on file (Appendix 1 refers) which concludes that the previous activities have not had a significant impact on surrounding surface waters. As such I am satisfied that any identified exceedances would not have had a likely significant effect on Lough Oughter and Associated Loughs SAC, located some 12km downstream of the site.

The surface water pollution control measures that have been previously put in place at the quarry, such as the monitoring of the surface water discharge, the hydrocarbon interceptor and the settling ponds are standard pollution control measures that would be put in place for a development of this nature and would be put in place regardless of any proximity to any Natura 2000 site and any mitigation measures in the rEIAR, are standard in construction and operation and not intended to mitigate any significant effects on any European site. I am satisfied that even in the event of pollutants entering the surface water, the hydrological distance to Lough Oughter and Associated Loughs SAC is some 12km and this will ensure that dilution of same would take place within the surface water network, so as to ensure that any effects on Lough Oughter and Associated Loughs SAC would have been rendered insignificant.

#### Groundwater

With reference to information within the rEIAR, the site overlies the Cavan GWB (groundwater body), and given the nature of the proposed activities, there was some potential to impact on groundwater quality, and subsequently to impact on any sites with groundwater dependant species that overlie the same groundwater body. In relation to same, and with reference to EPA mapping, I would note that the only 2 no. sites that overlie the same groundwater body are Lough Oughter and Associated Loughs SAC (located 5km west the site) and Lough Oughter Complex SPA (located 12m from the site). I would note that bog woodland, a qualifying interest of the Lough Oughter and Associated Loughs SAC is a groundwater dependant habitat. Wetlands are as a qualifying interest for Lough Oughter Complex SPA. I would also note that there is a detailed assessment of potential groundwater impacts set out in Chapter 8 of the rEIAR and within same significant impacts on groundwater are ruled out. I refer also to the Specialist (Environmental Scientist) Report on file which concludes that the previous activities have not had a significant impact on groundwater. I would note also the extent of the Cavan GWB (as cited in the Environmental Scientist Report) which covers an area of 1,409.5km<sup>2</sup> and the quarry site in question is 0.08 km<sup>2</sup>, which represents 0.005% of the entire waterbody in area. I note also distance from the site to Lough Oughter and Associated Loughs SAC, which is some 5km west of the site, at its closest point, noting that this SAC has a considerable geographic area. I note also the distance to Lough Oughter Complex SPA, which is 12km from the site at its closest

point. I am of the view, then, even if any pollutants or nutrients have entered the groundwater system, the extent of the GWB, combined with the distance to the 2 no. Natura sites, would mean that there have not been likely significant effects on same, given the dilution of said pollutants or nutrients that would have occurred.

As such I am satisfied that it can be concluded that there have been no likely significant effects on groundwater dependant habitats within the Lough Oughter and Associated Loughs SAC and the Lough Oughter Complex SPA.

#### Ex-situ Impacts on Whooper Swan

In relation to the Upper Lough Erne, SPA, I note that the core range of the Whooper Swan, the only listed qualifying interest of same, is c4km up to 5km. In relation to same, the rEIAR rules out the Whooper Swan as a key ecological receptor, noting that while there is potential feeding habitat surrounding the site, there exists large areas of similar habitat within the local area for the species to feed, and that no roosting or nesting sites were recorded within the site (Tabled 6.11 Summary of Avifauna Evaluations and Selection as Key Ecological Receptors). As such, I am satisfied that previous significant *ex-situ* impacts on same can be ruled out.

#### Conclusion

I conclude that the development would not likely have had any significant effect 'alone' on any qualifying feature(s) of Lough Oughter and Associated Loughs SAC, Lough Oughter Complex SPA or Upper Lough Erne SPA. Further AA screening in-combination with other plans and projects is required.

#### **Step 5: Likely significant effects on European sites 'in combination with other plans and projects'.**

There is no evidence on file of any plans or projects that were previously permitted that could impact in combination with the development and as such no in-combination issues arise, noting that the Scothouse Quarry is the only quarry within a 10k radius of the site, with the nearest quarry located 10km to the south. I would note that the rEIAR has also rule out any significant cumulative or 'in-combination' effects.

I conclude, therefore, that the development would not have had likely significant effects in combination with other plans and projects on the qualifying features of any European sites. No further assessment is required for the project.

### **Overall Conclusion- Screening Determination**

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that that the development would not have had a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- Standard pollution controls that would be employed regardless of proximity to a European site, and effectiveness of same (at construction and operational phases).
- Distance from European Sites.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.