An Bord Pleanála

# Inspector's Report

# ABP-318071-23

| | |
|---|---|
| **Development** | (1) Extraction of rock and gravel through mechanical excavation for a period of 20 years; (2) construction of (a) on-site settlement ponds and (b) on-site wheel wash and (3) all associated site development works. |
| **Location** | Derryreel, Falcarragh, Co. Donegal. |
| **Planning Authority** | Donegal County Council |
| **Planning Authority Reg. Ref.** | 22/51050 |
| **Applicant(s)** | Moyle Plant Ltd |
| **Type of Application** | Permission |
| **Planning Authority Decision** | Grant, subject to 20 conditions |
| **Type of Appeal** | Third Party -v- Decision |
| **Appellant(s)** | Cloughaneely Angling Association |
| **Observer(s)** | None |

| | |
|---|---|
| **Date of Site Inspection** | 20th March 2024 |
| **Inspector** | Hugh D. Morrison |

# Contents

## 1.0 Site Location and Description

1.1. The site is located to the south of that portion of the N56 which runs between Dunfanaghy, 6km to the north-east, and Falcarragh, 4.2km to the west. It is accessed off the L-5143-1 and via a series of forest roads, which run through woodlands at Ballyboe. The applicant's existing quarry and processing plant at Fawnmore lies 0.7km to the north of the site. This quarry is accessed directly off the southern side of the national secondary road. Lands between it and the site and lands to the east of the site are in predominantly agricultural use, which is served by a dispersed pattern of dwelling houses and farmsteads.

1.2. This site lies to the east of woodlands, which are bound by the Derryreel Stream that flows between Derryreel Lough, 0.9km to the south-east, and the Ray River, 2.1km to the west north-west. Forest roads cross this Stream in two places en-route to the site. The northern crossing comprises a culvert/bridge with an accompanying wheel wash, which marks the interface between the initial hard surfaced portion of roadway and subsequent gravel or unsurfaced portions. The southern crossing comprises a culvert/bridge, which on its eastern side is followed by the gated access point to the main body of the site.

1.3. The northern portion of the site is amorphous, while the southern portion is roughly regular in shape. This site extends over an area of 4.48 hectares of which 0.71 hectares comprises a former quarry sited in its southern portion. The site exhibits the legacy of earlier quarrying activities, e.g., the access road through the site is on lands elevated above lower lying wetland beside the Derryreel Stream, settlement ponds, which served the former quarry, are sited within the vicinity of the southern culvert/bridge, and berms have been formed to the east and south-east at some remove from the void left by the former quarry. A small pond lies in a sunken position to the west of this void and two ruined buildings are sited to its south.

## 2.0 Proposed Development

2.1. The proposal comprises the following elements:

- The extraction of rock and gravel by means of mechanical excavation at the rate of 20,000 tonnes per annum over a 20-year period,

- The construction of on-site settlement ponds,
- The construction of an on-site wheel wash, and
- All associated site development works.

2.2. The submitted plans show that the proposed extraction area would overlap with the former quarry and entail its further excavation to the east and to the south-east. As originally submitted, these plans showed a series of proposed settlement ponds. Under revised plans, a single settlement pond is now proposed, which would be sited towards the centre of the northern portion of the site. The proposed wheel wash would be sited to the west of the existing void left by the former quarry.

2.3. The applicant states that the proposed quarry would operate to the following hours: weekdays 07.30 – 17.30, and Saturdays 07.30 – 13.00. It also states that this quarry would generate trips by operational vehicles at a rate of 25 – 30 weekly or 5 daily, or 8 daily, if 2 staff and 1 oil tanker are allowed for, i.e., both operational and non-operational vehicles.

2.4. The submitted plans show that works would be undertaken to the route through the woodlands to the site. Thus, the existing wheel wash beside the northern stream crossing would be removed and the stream would be returned to its original course in conjunction with the construction of a new culvert/bridge crossing. Passing places would also be constructed at intervals along the route.

## 3.0 Planning Authority Decision

### 3.1. Decision

Following receipt of further information, permission was granted subject to 20 no. conditions. These conditions included the following:

- Condition No. 2: Twenty-year period for quarrying plus an extra two years for site restoration and landscaping.
- Condition No. 3: Output from the applicant's proposed and existing quarries to continue to be capped at 60,000 tonnes pa.

- Condition No. 4: In-stream works, including construction of new bridge to occur prior to the commencement of quarrying.
- Condition No. 5: No excavations below 48m OD.
- Condition No. 6: Prescribed visibility splays to be in-situ at the junction between the L-5143-1 and the site access road prior to the commencement of quarrying. HGVs to use the identified site access road only.
- Condition No. 7: Widening of the L-5143-1 to be constructed and improved sightlines at the junction between the N56 and the L-5143-1 to be in-situ prior to the commencement of quarrying.
- Condition No. 9: Improvements to the site access road to be undertaken prior to the commencement of quarrying.
- Condition No. 10: Quarrying hours restricted to 08.00 – 18.00 on weekdays and 08.00 – 14.00 on Saturdays.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

Given the historic use of the site for quarrying, and notwithstanding the location of the site in an area of high scenic amenity, the PA accepted the principle of the proposal. It sought the following further information:

- A Screening Report for EIA.
- Stage 1 & 2 Road Safety Audit (RSA).
- Auto track analysis of HGV turning movements at the junction between the L-5143-1 and the access road to the site.
- Speed assessment of vehicles on the L-5143-1, and plan of appropriate sightlines at the aforementioned junction.
- Four passing bays to be added to the access road to the site, specification of surface works to this access road, and stormwater drainage arrangements for it.

- Breakdown of all material exported from the applicant's existing quarry at Fawnmore.
- Clarification of water usage for wheel washing and dust suppression.
- Integrated phased development and restoration plan for aftercare/re-use of the site. This plan to include costings, and a commentary on any structural interventions. Its provisions are to be depicted on a site layout plan.
- Site layout plan to show existing disused wheel wash and concrete pipes on the access road to the site. These items to be removed and replaced with an oversized clear span bridge over the Derryreel Stream. IFI to advise on stream channel and riverbank. All these works to be assessed by the NIS.
- Invasive species prevention and eradication plan.
- Lining and signing of the above cited junction.
- Site-specific flood risk assessment, giving particular attention to the proposed settlement ponds.
- Noise impact report.
- Dust study and monitoring programme.
- Water management and monitoring programme.
- Site layout plan to show all site-specific mitigation measures.
- Construction environmental management plan.
- NIS, giving particular attention to the need to ensure that suspended solids are intercepted (upper limit of 25mg per litre), buffer zones and silt curtains and traps are specified, and Derryreel Stream and ponds to be surveyed for otter and juvenile salmonoids.

The applicant submitted the above cited further information, and the PA was satisfied with its response in all respects.

3.2.2. Other Technical Reports

- Donegal County Council:
  - NRDO: No objection.

- Area Engineer: Following receipt of further information, no objection, subject to conditions with respect to the widening of the L-5143-1, improving the eastern sightline at the junction between the N56 and the L-5143-1, and the provision of advance warning signs.
- Scientist: Following receipt of further information, no objection. Specifically, he endorses the submitted Surface Water Management and Monitoring Plan, and he refers to conditions that would be attached to a trade effluent licence.

### 3.3. Prescribed Bodies

- An Taisce: Advises that water quality is of good status in the Derryreel Stream, and that this status needs to be protected under the Water Framework Directive. Likewise, downstream conservation objectives in the Ballyness Bay SAC need to be protected.
- DoHLGH (nature conservation): Advises that screening for EIA is needed.
- DoHLGH (archaeology): Advises that an archaeological assessment should be conditioned.
- TII: Following receipt of further information, TII maintains its original objection. It advises that insufficient information has been submitted to demonstrate that the proposal would not have a detrimental impact on the capacity, safety, or operational efficiency of the N56.
- IFI: Following receipt of further information, IFI reiterates its original advice as to the measures needed throughout the preparatory and operational phases of the proposed quarry. The Derryreel Stream is a tributary of the River Ray network, which is part of the Gweebarra-Sheephaven Sub-catchment. This sub-catchment is reported to be under pressure from quarries. The River Ray network provides valuable nursery areas and spawning habitat for various species of freshwater fish. The discharge of contaminated surface water ladened with suspended solids and other deleterious matter such as oils, effluent and chemicals have the potential to result in a loss of invertebrates

and plant life and it can impact all life stages of fish, which inevitably leads to detrimental effects on biodiversity.

### 3.4. Third Party Observations

See summary in case planner's original report.

## 4.0 Planning History

Site:

- 04/3249: Development of a quarry on a site of 2.3 hectares for the extraction of 80,000 cubic metres of aggregates was refused by the PA and granted on appeal PL05B.209626 by the Board, subject to conditions, including a 5-year time period from 18th May 2005.
- 05/30486: Alternative vehicular access road to the above cited quarry from the L-5143-1: Permitted.
- 07/31124: This application relates to a site largely adjoining the current application site to the north/north-east. It comprised two parts:
    - Retention of the extraction of gravel and an access road and all associated site works: Refused on the grounds of conflict with outstanding conditions attached to the permission granted to 04/3249, and in the light of permission granted to 05/30486, and possible pollution risk to Derryreel Stream.
    - Permission sought for development of quarry including wheel wash, settlement ponds, and associated site works: Refused on the grounds of serious injury to residential amenity, and possible pollution risk to Derryreel Stream.
- Enforcement notice served, which required the restoration of the lands, erection of boundary treatment, and re-grading/re-profiling of the lands. This notice was complied with, and the case was closed on 5th February 2014.
- Under Section 261A(4)(a), the PA issued a notice of determination on 20th August 2012.

Applicant's sites to the south-east of the junction between the L-5143-1 and the quarry access road:

- 20/50817: Retention of land filling with stone and soil for an agricultural after use: Permitted.
- 21/51303: Filling of site with stone, soil, and earth with all associated site works: Permitted.

Applicant's site nearby at Fawnmore Quarry:

- Substitute consent (05E.SU.0042) granted.
- 15/50132: Continuation of sand and gravel extraction and rock quarrying over 4.379 hectares together with all ancillary facilities and associated works: Granted at appeal (PL05E.246791) for 20 years, subject to conditions, including a cap of 60,000 tonnes pa on output from the site.
- 17/50513: Extension of quarry over 2.72 hectares for 10 years: Permitted, subject to conditions, including a cap of 60,000 tonnes pa on output from the site.

## 5.0 Policy Context

### 5.1. National Policy

Quarries and Ancillary Activities Guidelines

### 5.2. Development Plan

Under the Donegal County Development Plan **2018 – 2024** (CDP 1), the site lay within an area of high scenic amenity. Policy NH-P-7 was therefore of relevance. It stated the following: "It is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape."

Under Chapter 8 of CDP 1, the extractive industry was addressed. The PA's aim was "To facilitate the appropriate and sustainable extraction of locally sourced aggregates and/or minerals that contribute to the local economy and ensuring that such activity does not adversely affect issues of acknowledged importance including

water quality, natural habitats, important areas of landscape character, views and prospects, areas of geological interest or human health and residential amenity." Accompanying Objectives and Policies were denoted as EX-O-1 – 3 and EX-P-1 – 6.

Under Chapter 5 of CDP 1, water was addressed. Objectives WES-O-4 – 6 related, variously, to implementing the Water Framework Directive, maintaining, protecting, improving, and enhancing the quality of surface waters and ground water, and environmental protection.

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

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

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

Under Chapter 8 of CDP 2, water is addressed. The following Objective and Policy are of relevance. They effectively replace Objectives WES-O-4 – 6 of CDP 1.

WW-O-1:

*To maintain, improve and enhance the quality of surface and ground waters as appropriate in accordance with the requirements of:*

*a. The EU Water Framework Directive including implementing the Programme of Measures contained with the River Basin Management Plan 2022-2027 and any subsequent plan.*

*b. The European Communities (Surface Water) Regulations 2009.*

*c. The European Communities (Ground Water) Regulations 2010.*

WW-P-2:

*Ensure that new developments:*

*a. do not have an adverse impact on surface and ground water quality, drinking water supplies, Bathing Waters and aquatic ecology (including Water dependent qualifying interests within Natura 2000 sites); and*

*b. do not hinder the achievement of, and are not contrary to:*

*i. The objectives of the EU Water Framework Directive.*

*ii. EU Habitats and Bird Directives.*

*iii. The associated Programme of Measures in the River Basin Management Plan 2022-2027 including any associated Water Protection or Restoration Programmes. iv. Drinking Water Safety Plan.*

*v. The Guidelines on the Protection of Fisheries During Construction Works In and Adjacent To Waters (IFI, 2016).*

## 5.3. Natural Heritage Designations

- Ballyness Bay SAC (001090)
- Falcarragh to Meenlaragh SPA (004149)

## 5.4. EIA Screening

Under Parts 1 and 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2023, criteria are set out to enable mandatory EIA projects to be identified. Under Item 19 of Part 1, quarries where the surface of the site exceeds 25

hectares are cited, and, under Item 2(b) of Part 2, quarries where stone and gravel would be extracted over an area greater than 5 hectares are cited.

Under the proposal, the applicant proposes a quarry with an extraction area of 0.71 hectares, which would be well below the above cited thresholds for mandatory EIA.

The applicant has submitted an EIA screening report for the proposal which concludes that sub-threshold EIA is not required. Given the applicant's submission, under Article 109(2B)(a) of the aforementioned Regulations, the Board is obliged to undertake its own screening, too. I have, therefore, undertaken a screening exercise, which reached the following conclusion:

Having regard to:

- Item 19 of Part 1 and Item 2(b) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2023, the proposed quarry would fall well below the thresholds cited in these Items,
- The nature and scale of the proposal,
- The criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 – 2023,
- The location of the site outside any sensitive location specified in Article 109(4)(a) of the Planning and Development Regulations, 2001 – 2023, and
- The reliance of the proposed quarry upon established facilities in the applicant's existing processing plant nearby at Fawnmore,

It is considered that the proposed quarry would not be likely to have significant effects on the environment and that the preparation and submission of an EIAR is not therefore required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant begins by drawing attention to the absence of an assessment of the project under the Water Framework Directive, and yet the site is located within a

catchment that has a high-status objective waterbody. Likewise, it is not the subject of a Water Status Impact Assessment.

The appellant proceeds to cite the following grounds of appeal:

- An examination of the original and revised plans shows that significant changes were made to the substantive proposal. Thus, the depiction of the proposal changes radically, e.g., the length and depth of the area to be excavated, and the datum reference points differ, militating against any comparison.
- The original and revised plans indicate extraction volumes that would translate into either 3750 tonnes per annum or 8500 tonnes per annum, and yet the proposal is for 20,000 tonnes per annum. These differing rates would give rise to differing impacts.
- Cumulative impacts arising from the applicant's existing quarry at Fawnmore and his landfill projects near the site have not been allowed for in the NIS.
- The CEMP refers to water turbidity monitoring when needed. Such monitoring only involved 8 samples from the applicant's existing quarry between 2019 and 2022. Continuous monitoring is needed.
- The applicant's restoration plan is not comprehensive. The applicant's claim that a geotechnical assessment is not needed is contested. Depicted slopes would be too steep, and, notwithstanding the applicant's claim to the contrary, landscaping would be likely to require the importation of soil. As the quarry floor would be likely to be susceptible to flooding, its suitability for vegetation is questioned, and the applicant's planting selections are critiqued, i.e., the inclusion of unsuitable and non-native species.
- The applicant's landscape maintenance proposals are critiqued, i.e., references to weeding and the use of fertilisers/herbicides. Its restoration plans do not address the future of the proposed settlement pond, they do not envisage the establishment of an area of high biodiversity amenity, and the amount cited in the relevant bond would be inadequate.
- The applicants EIA screening is critiqued. Notwithstanding the applicant's undertaking to work only in the hours of daylight, the proposed operating

hours would allow for working in darkness during the winter. The applicant's claim with respect to net biodiversity gain is unsubstantiated. How passive drainage from deposits would work needs to be clarified.

- Surface water should be managed so that all soiled water passes through the proposed settlement pond, as distinct from existing ones, which have been abandoned. Surface water run-off from the haul route could end up in the Derryreel Stream.

## 6.2. Applicant Response

The applicant's architect and environmental consultant have responded to the applicant's grounds of appeal.

- Under the proposal, total suspended solids (TSS) would be the potential contaminant of the Derryreel Stream. With mitigation measures in place, the submitted Surface Water Management and Monitoring Plan demonstrates that the assimilative capacity of this Stream would be capable of absorbing any residual TSS without a deterioration in water quality status.

  Under the proposal, the existing wheel wash would be removed, and a new bridge would be constructed, all with the approval of the IFI. These measures would yield immediate benefits for the hydrology and the aquatic ecology of the Stream.

  Under the PA's permission, biological and chemical monitoring of the Stream would be required downstream of the site on a regular basis.

  The applicant's reference to Water Status Impact Assessment anticipates a provision of the planning system that is, as yet, future.

- The original plans were based on a historic survey of the site and a local datum. The revised plans are based on a recent survey, and they show site levels above the Ordnance Datum of sea level. These plans were the subject of a further public consultation exercise.

- Under the proposal, a maximum of 20,000 tonnes would be extracted annually. The applicant anticipates that some years considerably less may be extracted. The aggregate thus extracted would be crushed, screened, and

processed at the applicant's existing quarry at Fawnmore, which is subject to a 60,000-tonne cap on its output.

- Under the NIS, cumulative impacts from the cited projects were considered. Thus, the first of the two landfill projects is complete, and the second would incorporate mitigation measures. Likewise, the extant permissions at the applicant's quarry are subject to mitigation measures, too. On this basis, no cumulative impacts with the current proposal would arise.
- The applicant anticipates that the submitted outline CEMP would be enlarged upon prior to the commencement of development. This CEMP would address monitoring during the preparatory stage of the project, where more frequent monitoring of water quality would be appropriate. During the operational phase, monitoring on a 3-monthly basis is the norm with quarries.
- The decision not to undertake a geotechnical survey was informed by the various reports prepared for the proposal.

  With respect to the details of the landscaping scheme, the applicant draws attention to the re-categorisation of some species as indigenous in the light of recent historical research. It also agrees to re-specify several proposed species to indigenous equivalents.

  Proposed weeding and use of Ground Mineral Rock Phosphate would occur only until planting becomes established.

  Under the restoration plan, the site would be rewilded rather than used as a public amenity space. Water bodies would be retained for their biodiversity value. Soil from existing berms would be deployed at the restoration stage, and supplemented, as appropriate, by imported soils.

  The applicant invites a landscaping condition to provide the opportunity to incorporate revisions/additions to the submitted scheme. It contests the appellant's contention that the restoration bond would be inadequate. In this respect, attention is drawn to the applicant's track record that has not involved the PA in having recourse to such a bond.
- The working hours conditioned represent maximum periods. In the winter the applicant would not work when it is dark.

The removal of invasive species from the site would contribute to its environmental improvement.

On-site evidence suggests that ponding on the historic quarry floor arises from surface water run-off and incidental rainfall. As seepage from groundwater cannot be ruled out, if, under the proposal it is a factor, then it would passively drain from gravel deposits at the working face into the proposed stormwater collective system and be routed thereby through the settlement pond.

- The only silted surface water to by-pass the proposed settlement pond would be from the access road between the bridge and this settlement pond. This surface water would be relatively clean, as HGVs leaving the quarry would have passed over the wheel wash, and it would discharge into the existing settlement ponds, rather than directly into the Derryreel Stream.

  Elsewhere, surface water run-off from the access road through the forest would be subject to check dams in the roadside drains, and it would move slowly through the forest. Silt would not therefore reach the Derryreel Stream.

### 6.3. Planning Authority Response

The PA considers that the matters raised in the appellant's grounds of appeal were addressed in the case planner's reports.

### 6.4. Observations

None

### 6.5. Further Responses

None

## 7.0 Assessment

7.1. I have reviewed the proposal in the light of the National Planning Framework, Quarries and Ancillary Activities Guidelines, County Donegal Development Plans 2018 – 2024 (CDP 1) and 2024 – 2030 (CDP 2), relevant planning history, the

submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

(i) Planning policies and planning history,

(ii) Land use, traffic generation, access, and road safety,

(iii) Landscape and visual impacts,

(iv) Environmental impacts affecting amenity,

(v) Water, and

(vi) Appropriate assessment.

**(i) Planning policies and planning history**

7.2. The NPF and the CDP 1 & 2 recognise quarries as a national resource that are of key importance in their provision of aggregates to the construction sector and in their provision of employment within the rural economy. They also recognise that aggregates are a finite resource, which needs to be safeguarded. The Quarries and Ancillary Activities Guidelines recognise, too, the land use reality that "aggregates can only be worked where they occur" and the economic reality that, in order to limit transportation costs, quarries need to be excavated throughout the country.

7.3. The planning history of the site is summarised under Section 4.0 of my report. This history indicates that the site received permission at appeal (04/3249 & PL05B.209626) for the extraction of 80,000 cubic metres of aggregate over a 5-year period from 2004. A subsequent application (07/31124) to retain an additional extraction area to the north of the permitted area was refused on the grounds of (i) conflict with outstanding conditions attached to the permission granted to 04/3249, and a further permission granted to 05/30486 for an alternative means of access, and (ii) possible pollution risk to Derryreel Stream. This area of unauthorised extraction appears to have been the subject of a successful enforcement action.

7.4. The site lies within an area of high scenic amenity. Under Policy EX-P-2 of CDP 1, the PA undertook not to permit new extractive industry proposals in areas of high scenic amenity. Under Policy EX-P-1 of CDP 2 this position has now been rescinded.

7.5. The current proposal is for effectively the extension of a former quarry. Elsewhere in the County, the Board has accepted that, in comparable circumstances, e.g., under ABP-308326-20, such extension to a former quarry, would not contravene Policy EX-P-2. Precedent, therefore, exists for accepting the principle of the current proposal.

7.6. I conclude that, in the light of Policy EX-P-1 of CPD 2, the proposal can be accepted in-principle, notwithstanding the site's location in an area of high scenic amenity.

**(ii) Land use, traffic generation, access, and road safety**

7.7. The site is largely overgrown and unused. Formerly quarrying was undertaken in conjunction with the applicant's nearby quarry and processing plant at Fawnmore. Under the current proposal, this relationship would be reactivated with excavated materials being transported from the site to this quarry by means of forest roads, the L-5143-1, and the N56. The applicant's Fawnmore site operates under permissions granted to 15/50132 & PL05E.246791 and 17/50513, which place a cap of 60,000 tonnes per annum upon output from this site. Table No. 1 in the applicant's letter of support to this current application shows that output from the Fawnmore site is presently running at 36,000 tonnes per annum, and so the projected through put of 20,000 tonnes per annum from the application site would not exceed its cap.

7.8. Under the proposal, the applicant answers question 25 of the planning application form by stating that "It is estimated that there will be a maximum of 25 – 30 loads per week leaving the extraction area, which will give an average of 5 loads per day leaving and returning empty to the site." The applicant's letter of support states that it would use "six-wheel lorries or a tractor and dump trailer" to transport excavated materials from the application site to its Fawnmore site, and that a maximum of 20,000 tonnes would be transported annually[1].

7.9. The planning history of the site indicates that, while originally access from the public road network was off the N56, it was subsequently rearranged, and so access was off the L-5143-1. Under the current proposal, this rearranged access would be utilised.

[1] Typically, a six-wheel lorry can transport 16 tonnes, and it can be assumed that the proposed quarry would operation for 48 weeks annually. If the applicant's maximum of 25 – 30 loads a week is applied to these figures, then 25 – 30 trips x 16 tonnes x 48 weeks = 19,200 – 23,040 tonnes annually.

7.10. The applicant has submitted a traffic survey of the L-5143-1, which was undertaken in the vicinity of the access point to the forestry road which ultimately serves the site. This survey was carried out on Thursday 9th March 2023 between 12.30 and 15.00. It indicates that the 85-percentile speed of vehicles on the local road is 41.33 kmph. Under Table 16.3 of CDP 2, this speed should be accompanied by sightlines with x and y dimensions of 3m and 50m. The applicant advises that such sightlines would be available to drivers exiting from the forestry road onto the local road.

7.11. The applicant has also submitted a Road Safety Audit (RSA) Stage 1 & 2, which, under Paragraph 2.5, states that the 85-percentile speed of vehicles on the N56, presumably in the vicinity of its junction with the L-5143-1, is 82.57 kmph. Under Table 16.3 of CDP 2, this speed should be accompanied by sightlines with x and y dimensions of 3m and 160m. Neither the applicant nor the PA have confirmed the availability of such sightlines. Instead, under Paragraph 3.8 of the RSA, attention is given to the need to ensure that the available sightlines "on the ground" are not obstructed. Under Condition No. 7(b) attached to the PA's permission, the roadside verge to the east of the said junction would be levelled to improve the sightline over it. During my site visit, I observed that such levelling would be of assistance. I also observed that, to the west, the national secondary road curves away from the junction and dips downwards. The verge on the far side of this road is narrow, and so there is negligible scope for any improvement to the western sightline.

7.12. The TII raised objection to the proposal at the original application and further information stages on the grounds that insufficient information has been submitted to demonstrate that the proposal would not have a detrimental impact on the capacity, safety, or operational efficiency of the N56. It did not, however, appeal the PA's permission. During my site visit, I observed that the sightlines at the junction between the L-5143-1 and the N56 fall short of the standard normally required, and, as described above, the opportunity for improvement is constrained. While the projected increase in the use of this junction would be below the threshold of significance, the right-hand turning movements of ladened trucks onto the N56 would be potentially hazardous due to the constrained westerly sightline and, by the same token, the limited forward visibility available to road users approaching from the west.

7.13. Under further information, the applicant submitted plans (drawing no. 04B) which show the erection of warning signs on the L-5143-1 on the approach to this local

road's junction with the access point to the forestry road, which serves the site. During my site visit, I observed that such signage is in-situ on the N56, further to the east, in connection with the applicant's Fawnmore site. If similar signage was to be erected on the N56's approaches to its junction with the L-5143-1, then road users would be alerted to the above cited hazard. If the Board is minded to grant, then such signage should be conditioned.

7.14. The portion of the L-5143-1 between the access point to the forestry road and the N56 is of narrow width, and it passes over a mildly humped back bridge. The access point is adjoined to the north-west by an informal passing place. Under the PA's permission, Condition No. 7(a) requires that the carriageway be widened to 6.3m beyond this passing place and over the portion of the local road in question. It also requires that the existing bridge be replaced with one of modern design, e.g., an adequately sized box culvert.

7.15. Turning to the forestry road, under further information, the applicant submitted drawing no. 03, which shows the addition of four passing places to the forestry road. The applicant undertakes to finish the unsurfaced forestry road with compacted stone, which would be permeable and durable. The applicant also submitted drawing no. 08, which shows the replacement of the existing wheel wash facility with a new box culvert/bridge in conjunction with the return of the Derryreel Stream to its original course.

7.16. The applicant proposes to provide a replacement wheel wash within the application site for vehicles exiting the same. From an operational perspective, the siting of this wheel wash would be sub-optimal, i.e., exiting vehicles would still have to use the forestry road. In this respect, the siting of the existing wheel wash is optimum, as it is positioned just before the final portion of the forestry road, which has a concrete surface. However, the relationship between this wheel wash and the Derryreel Stream is highly problematic from an ecological perspective, and so its removal is welcome. I, therefore, consider that the optimum location for a wheel wash from operational and ecological perspectives would be a self-contained unit sited adjacent to the concrete surfaced stretch of the forest road just before its junction with the L-5143-1.

7.17. I conclude that, subject to the erection of warning signs on the N56, traffic generated by the proposal would be capable of being accommodated satisfactorily on the public road network. I also conclude that the proposed re-sited wheel wash would be in a sub-optimal location for ensuring that dirt is not conveyed onto the public road network.

**(iii) Landscape and visual impacts**

7.18. Under CDP 1 & 2's Landscape Character Assessment, the site is shown as lying within the Tory Sound Gaeltacht Landscape Character Area (LCA 26) and within Landscape Character Types (LCT) agricultural riverbed and agricultural grassland. CDP 1 & 2 also shows the site as lying within an area of high scenic amenity. The site is unaffected by any protected views. Policy L-P-2 of the CDP 2 states the following objective: "To protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan." This Policy replaces NH-P-7 of CDP 1.

7.19. The above cited LCTs correspond to the lower lying ground within the western and northern portions of the site that accompanies the Derryreel Stream and the ground in the central and eastern portions of the site, which rises at moderate and gentle gradients to the east. Further to the west lies a mixed deciduous and coniferous forest and further to the east lies agricultural lands, which are served by farmsteads and dwelling houses. The overall landscape of the area has a strong horizontal emphasis.

7.20. Under the proposal, a former quarry on the site would be extended to the east and to the south-east and deepened. While this former quarry has been recolonised by natural vegetation, its void is still apparent within the landscape. It is accompanied, too, by berms to the east and the south-east.

7.21. The applicant's letter of support expresses the view that the topography of the site means that it is unobtrusive within the surrounding landscape. To the east, views from public vantage points override the site and so the presence of the void is not detected. To the west, views from forest roads are effectively screened by trees.

7.22. Under the proposal, the existing void would be enlarged. The applicant proposes to retain the existing berms. Under the proposed restoration and landscaping plan, the existing berm to the east would be filled out and planted with 2 no. rows of quick growing willow and 2 no. rows of alder. (The existing berm to the south-east is accompanied by conifer planting on its southern side, which would be retained). Under this plan, too, benches and the final quarry floor would be reinstated with overburden from phase 1 of the proposal and returned to pasture.

7.23. I consider that the landscape and visual impacts of the former quarry, which has revegetated, are limited to largely its immediate vicinity. I consider that, under the proposal, while these impacts would increase for the duration of the works, the prospect exists of their subsequent easing under the proposed restoration and landscaping plan.

7.24. Given that aggregates can only be excavated where they are found, the inevitability of some landscape and visual impacts attendant upon their excavation arises. That said the site within its surrounding setting would be capable of absorbing these impacts without any significant loss of landscape character and visual amenity to the wider area.

7.25. The appellant critiques the applicant's document, which is entitled "Outline landscape and restoration proposal", on several grounds, two of which overlap with considerations that I will address under headings (iv) and (v) of my assessment, i.e., slope stability and the likely flooding of the final sunken floor of the proposed quarry. Other grounds relate to the need to supplement stored soil with imported soil, the appropriateness of (a) species included within the planting scheme and (b) subsequent maintenance proposals, and the adequacy of the bond set by the PA.

7.26. The applicant has responded to these other grounds by accepting that some supplementary soil importation may be necessary, and by agreeing to respecify any non-native species in its "Outline landscape and restoration proposal" as native species. Its maintenance proposals would only run until planting becomes established and it considers that the bond cited by the PA would suffice.

7.27. I recognise a measure of agreement between the appellant and the applicant over these other grounds. I recognise, too, that the PA is best placed to set the level of the bond at issue.

7.28. The applicant acknowledges the presence of the invasive species (*Rhododendron ponticum*) on the site, and it has submitted an "Invasive Species Prevention and Eradication Plan" to deal with this species and any other invasive species that may arise.

7.29. I conclude that, subject to a revised and detailed landscape and restoration proposal, the landscape and visual impacts of the proposal would not be significant within the wider area of the site.

**(iv) Environmental impacts affecting amenity**

7.30. Under the proposal, rock and gravel would be excavated at the rate of 20,000 tonnes per annum over a 20-year period. Excavation would be by means of a mechanical digger and/or a loading shovel. Blasting would not be undertaken. Excavated materials would be transported to the applicant's nearby Fawnmore Quarry, where they would be crushed, screened, and processed. This Quarry is the subject of an annual cap of 60,000 tonnes upon its output.

7.31. The appellant draws attention to the originally submitted and revised plans of the proposal. It calculates that the former plans indicate an extraction volume, which would translate into 75,000 tonnes or 3750 tonnes per annum over a 20-year period. It calculates that the latter plans indicate an extraction volume, which would translate into 170,000 tonnes or 8500 tonnes per annum over a 20-year period. In either instance, the tonnage would fall well short of the 20,000 tonnes per annum cited by the applicant.

7.32. The applicant has responded by stating that the former plans were based on an earlier survey of the site that employed a local datum point, whereas the latter plans employ the Ordnance Survey's above sea level (ASL) datum point. However, the change of datum point employed does not fully explain the difference in the depiction of the proposal under the two sets of plans, e.g., the former does not indicate a deepening of the former quarry site, whereas the latter does.

7.33. The applicant also states that the citation of 20,000 tonnes per annum should be regarded as a maximum, as fluctuations year-on-year in the demand for aggregates can be anticipated. However, it is unforthcoming as to the total tonnage that it estimates lies within the identified excavation area.

7.34. I consider the appellant's estimate of 170,000 tonnes to be realistic, and, in the circumstances outlined above, I consider that weight should be given to it. I note that, while the applicant seeks a 20-year permission, this tonnage could be excavated at less than the maximum rate of 20,000 tonnes per annum in a 10-year period, thus bringing forward in time the site's restoration and the discontinuance of the inevitable amenity impacts arising from its excavation. I, therefore, consider that, if the Board is minded to grant, any permission should be conditioned for 10 rather than 20 years.

7.35. The appellant also draws attention to the absence of a geo-technical assessment of the site. It expresses concern over the gradient of the envisaged sloping sides to the final void, e.g., approaching or exceeding 4: 1, and hence their stability and the feasibility of their proposed planting. The applicant has responded by stating that it takes the view, in the light of the documentation that informs the proposal, that a geo-technical assessment is not needed. I consider that, if the Board is minded to grant, then a condition should be attached requiring the submission of a detailed and comprehensive design of the finished slopes of the quarry.

7.36. Turning to the environmental impacts of the proposal affecting amenity, I will consider noise, dust, and light spillage arising from the proposal on the site. I will also consider the more general dis-amenity of vehicular use of forest roads frequented by recreational users.

7.37. The applicant has submitted an Environmental Noise Impact Assessment. This Assessment is based on a noise survey that was conducted on Friday 26th August and Thursday 1st September 2022, at the nearest noise sensitive locations (NSL) to the north, east, south, and west of the site, i.e., the nearest dwelling houses on the four points of the compass. Background noise readings were taken at each of these NSLs in the morning, at mid-day, and in the evening.

7.38. Under the proposal, noisy activities at the site would typically entail lorries pulling up and pulling off and the use of tracked excavators. Noise generated by these vehicles was identified and amalgamated with the background noise readings at the NSLs and an allowance was made for the intervening distances. Predicted combined noise levels were arrived at thereby. These levels would be highest at the two dwelling houses nearest to the site, i.e., NSL Nos. 1 & 2 to the south and east. However, they

would not exceed the EPA's recommended daytime noise limit of 55 dB, and so the applicant concludes that the need for mitigation would not arise.

7.39. I note that the applicant states that its assessment is based on a worst-case scenario insofar as "the noise prediction model assumes the excavator and lorries are running continuously." I note, too, that the applicant's "Outline Construction Environmental Management Plan" (CEMP) sets out measures that would be pursued to minimise noise and vibration impacts from the operational site.

7.40. The applicant has submitted a "Dust Study and Monitoring Programme". This Study draws upon dust monitoring, which was undertaken in three locations within the site during the period from September 2022 to February 2023. The results of this monitoring are set out in Table 1 of the Study. They show that deposits were low relative to the commonly accepted dust threshold limit of 350 mg/sqm/day.

7.41. The Study also draws upon meteorological information, which indicates that the locality of the site experiences a high incidence of rainfall, i.e., 1mm or more falls, on average, for 287 days a year. This information also indicates that the prevailing wind is from the south south-west, south-west, and west south-west direction. Of the ten residential properties within 500m of the site, seven lie down wind of the site, at distances of between 158m and 460m.

7.42. In the light of the foregoing, the Study comments that, under the proposal, dust generation would be suppressed for much of the time due to rainfall. Larger coarser grained dust particles disturbed by excavation would settle within the site, while smaller finer grained dust particles would settle within 500m of the site. The depression formed by increasing excavation would tend to contain disturbed dust particles, and so the Study identifies the early stage of excavation as being the one when a temporary minor negative impact may arise at residential properties during dry windy conditions. It also identifies the potential for dust to be generated by vehicles using the forest roads to and from the site.

7.43. Under Table 6 of the Study, proposed mitigation measures are set out. Of these measures, those that entail the timing of excavation to avoid adverse weather conditions and the regular maintenance of the hardcore surfaced forest roads to and from the site would be of the most significance. If the Board is minded to grant, then a condition should be attached requiring that excavation cease during wind weather

warnings, and a further condition should address the need for on-going dust monitoring of the site.

7.44. The appellant draws attention to the proposed hours of operation, which would on weekdays be between 07.30 and 17.30, and so it anticipates that in winter months the need for lighting would arise. The applicant has responded by undertaking not to work when it is dark. If the Board is minded to grant, then a condition to reflect sunrise and sunset times for the months of November to February (inclusive) should be attached that would allow operations between 08.30 and 16.30, to avert the need for artificial lighting.

7.45. At the application stage, public disquiet was voiced over the use by operational traffic of the forest roads between the L5143-1 and the site and the adverse impact that such traffic would have on their amenity value to recreational users. The PA, too, recognised the incidence of public use of the forest roads in question. However, such usage is not the subject of any legally recognised public rights of way, and so the PA concluded that it is the landowner's prerogative how these roads are used.

7.46. I note that the landowner Coillte has a Recreation Policy[2], which encourages public use of forest roads for recreation. I note, too, that demand for such use is likely to be greater at the weekends. Given that the applicant would use the roads in question throughout the working week, I consider that it would be a reasonable application of the said Recreation Policy to disallow the proposed operation of the site on Saturdays. If the Board is minded to grant, then the hours of operation should be restricted to weekdays by condition.

7.47. I conclude that, subject to conditions, the identified environmental impacts of the proposal upon the amenities of the area would not be excessive.

**(v) Water**

7.48. Under the proposal, excavated aggregates would be transported to the applicant's nearby processing facility at Fawnmore Quarry, where any needed washing would be undertaken. Likewise, staff welfare facilities would be provided there, too. Accordingly, water usage on the site would be limited to that needed to service the proposed wheel wash facility. As originally submitted, the applicant proposed to draw

[2] www.coillte.ie/media/2017/04/Recreation-Policy.pdf accessed on 26/04/24.

water from the Derryreel Stream for this purpose. However, as revised, it proposes to recycle water from the proposed settlement pond. Details of how this would be done have not been submitted. If the Board is minded to grant, then they should be the subject of a condition.

7.49. As originally submitted, the applicant proposed to install a series of 4 no. settlement ponds, which would have received the overflow from the wheel wash and presumably the excavated site, and which would have been sited adjacent to the Derryreel Stream. These ponds would have been sized at 2121 cubic metres to cope with a 6-hour 1 in 100-year storm event, and they would have discharged over the eastern bank to the Derryreel Stream in the vicinity of existing settlement ponds on the southern side of the on-site access road. As revised, one settlement pond would be installed on higher ground to the east of the Derryreel Stream. It would be sized at 330 cubic metres to cope with a 6-hour 1 in 20-year storm event. Surface water run-off from the excavation area would be directed to this pond, and it would discharge to a grass swale to the east of the Derryreel Stream. A silt fence would be routed along the eastern side of this Stream where it corresponds with this grass swale.

7.50. As revised, the applicant's site layout – surface water management plan (drawing no. 6A) shows that the proposed drainage arrangements for the site would entail the separation of clean water and silted water with the former by-passing the proposed settlement pond and discharging to the above cited grass swale and the latter being directed largely to this pond. (Silted water from a portion of the on-site access road would be directed to the existing settlement pond on the southern side of this road). Consequently, the proposed settlement pond would only receive silted water.

7.51. The applicant has submitted a "Surface Water Management and Monitoring Plan". Under Section 2.1.3 of this Plan, the parameters for its design are set out, e.g., the efficiency rates for removing fine sand (100%), and silt and clay (31%). Likewise, the efficiency rate of the swale grass buffer zone is cited with respect to the removal of remaining silt and clay (97%). The background concentration of total suspended solids (TSS) in the Derryreel Stream is stated as being 6 mg/l, and the TSS of water discharging to this Stream via the proposed settlement pond and buffer zone is calculated to be 5.4 mg/l, i.e., the background concentration would be greater and so

no encroachment on headroom is anticipated. The Stream's good water status would thereby be maintained.

7.52. The County Scientist commented upon the "Surface Water Management and Monitoring Plan". He signals his acceptance of this Plan, and he anticipates that the applicant would obtain a trade effluent licence, under which monitoring of the discharge from the settlement ponds[3] would be undertaken.

7.53. I have reviewed the applicant's revised drainage arrangements for the site and its "Surface Water Management and Monitoring Plan". While I welcome the separation of clean and silted water proposals, this Plan does not demonstrate that the revised settlement pond would be of sufficient size and design to cope with silted surface water run-off from the excavated area under its three phases, and it does not explain why its size was switched from a 1 in 100-year storm event to a 1 in 20-year one. Furthermore, the applicant states that disturbed ground water would be directed through the proposed settlement pond, too.

7.54. In the applicant's response to the appellant's grounds of appeal, it states that ponding on the floor of the former quarry may be contributed to by ground water seepage. This floor is at 56.5m ASL. While under phase 1 of the proposal, this level would be maintained, under phases 2 and 3 it would fall to 48m ASL. The submitted layout plans also show the existing level of the Derryreel Stream, which is at c.53m ASL as it passes to the west of the proposed excavation area.

7.55. The PA's Condition No. 4(d) attached to its permission states that excavation should not occur below 48m ASL "unless it is clearly demonstrated to the PA that the natural ground water table will not be above a lower excavated level and written consent from the PA to excavate lower is obtained". This Condition implies that the water table would not be encountered above 48m ASL. Ordinarily, I would expect the level of this water table to approximate to that of the Derryreel Stream, c. 53m ASL. Clearly, if the above cited seepage is from ground water, then the water table may well be higher than 53m ASL. Under either scenario, the level would be well above 48m ASL, and so, in the absence of any other information on ground water, the PA's Condition 4 No. (d) appears misplaced.

[3] His comments refer to settlement ponds plural and so they appear to refer to both the proposed settlement pond and the existing ones discussed under Paragraph 7.55 of my assessment.

7.56. The GSI indicates that the site lies within an area wherein ground water vulnerability is high and the aquifer is poor. In the light of this information and in the light of the above ground water considerations, I take the view that, in the absence of any investigation of ground water within the site, its presence and likely disturbance under the proposal remain largely unknown and so the adequacy or otherwise of the proposed settlement pond to handle any ensuing de-watering satisfactorily cannot be verified.

7.57. Under the proposal, the silted water collection drain would be connected to both the proposed settlement pond and the existing settlement ponds, which lie on the southern side of the on-site access road in a position adjacent to the southern bridge/culvert. The proposed excavated area and part of the site access road would thereby drain to the proposed settlement pond, while the remainder of the site access road would drain to the existing settlement ponds. No information has been submitted concerning these abandoned settlement ponds and whether they would be capable of being restored to use as envisaged. Furthermore, they were refused permission under application 07/31124, and so they are unauthorised development.

7.58. Under the proposal, the applicant undertakes to remove the wheel wash beside the northern bridge/culvert. This wheel wash was the subject of application 07/31124, too. It was refused permission and so it is unauthorised development. In conjunction with the removal of the wheel wash, the applicant would construct a new bridge/ culvert that would allow the Derryreel Stream to return to its original course.

7.59. The applicant has submitted a document entitled “Derryreel Stream Co. Donegal: Proposed culvert and wheel wash removal: Fisheries significance and recommendations for stream restoration”. This document outlines how the existing wheel wash and culverted stream effectively obstruct access upstream to salmon, trout, and possibly some eel. Under the proposed removal of these items and their replacement with a new bridge/culvert, such access would be restored. It also outlines a methodology for the envisaged works, which the IFI is supportive of. These works would clearly be of considerable ecological value in overturning the current harmful situation.

7.60. The applicant has submitted a Flood Risk Assessment (FRA) Report. Under this Report, the need to re-site the originally proposed settlement ponds is identified to

ensure that they are not affected by any potential flooding of the Derryreel Stream. In the event, a single pond is now proposed, as outlined above. It also recognises that the removal of the existing wheel wash and culvert and their replacement with a new bridge/culvert would reduce the flood risk attendant upon the Stream.

7.61. The FRA advises that an existing pond immediately to the west of the former quarry and adjacent to the siting of the proposed wheel wash discharges over land to the Derryreel Stream. Under the proposal, this pond would be retained for its biodiversity value. Such retention would be welcome provided the pond is fully safeguarded against the reception of silted water from the reopened quarry and/or the wheel wash, i.e., the efficacy of the proposed silted water collection drain would need to be demonstrated beyond simply being shown on the submitted site layout plans. In the absence of such demonstrable efficacy the risk exists that this pond would become polluted and, as it overflows to the Derryreel Stream, water quality in this Stream would be jeopardised.

7.62. I conclude that the applicant has failed to demonstrate that (a) its proposed settlement pond would be of an appropriate size and design to ensure that silted surface water and disturbed ground water run-off would be capable of being handled satisfactorily, (b) its proposed re-use of abandoned, unauthorised, existing settlement ponds would be capable of handling silted surface water run-off from the on-site access road satisfactorily, and (c) the proposed silted water collection drainage system would be adequate to avert the pollution of an existing pond that overflows to the Derryreel Stream. In these circumstances, the discharge of water to the Derryreel Stream from these ponds may not be consistent with maintaining its good water status.

**(vi) Appropriate Assessment**

7.63. The applicant's original Screening Report for AA (May 2022) concluded that a Stage 2 AA was not required. The PA undertook its own screening exercise, which concluded that one was required, and so, under further information, the applicant submitted a revised Screening Report (April 2023) and a NIS (April 2023). I will draw upon the applicant's April 2023 documentation and the NPWS's website in undertaking my own screening exercise and AA below.

**Stage 1 screening determination**

**(a) Description of the project**

7.64. I have considered the proposed rock and gravel quarry at Derryreel in the light of the requirements of Section 177U of the Planning and Development Act 2000 (as amended).

7.65. The subject site is located 2.91 km to the south-east of the Ballyness SAC (001090) and 3.22 km away from the Falcarragh to Meenlaragh SPA (004149). Under the proposal, the site of a former quarry would be extended and deepened. This former quarry has revegetated, and the habitats comprised in the overall site are identified in Figure 4.1 and Table 4.1 of the applicant's NIS.

7.66. I have provided a detailed description of the development under Section 1.0 of my report. In summary, it would comprise the following elements:

- The extraction of rock and gravel by means of mechanical excavation at the rate of a maximum of 20,000 tonnes per annum over a 20-year period,
- The construction of an on-site settlement pond and the utilisation of existing settlement ponds,
- The removal of an existing wheel wash and culvert, and the return of the Derryreel Stream to its original course in conjunction with the construction of a new bridge/culvert,
- The construction of an on-site wheel wash, and
- All associated site development works.

**(b) Potential effect mechanisms from the project**

7.67. The proposed development would not result in any direct effects such as habitat loss on any European Site.

7.68. The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the proposed quarry development.

7.69. Sources of impact include:

- In-stream and bankside works would release sediments during the removal of existing wheel wash and culvert and construction of replacement box culvert/bridge.
- Plant and machinery would risk the spillage or leakage of hydrocarbons during the removal of existing wheel wash and culvert and construction of replacement box culvert/bridge.
- Release of silt and sediment with the removal of trees and soil to allow for the extension of the former quarry. With surface water run-off, some of these materials would be conveyed to receiving waters.
- Release of silt and sediment with the excavation of rock and gravel from the extended former quarry. With surface and disturbed ground water run-off, some of these materials would be conveyed to receiving waters.
- Release of hydrocarbons from refuelling operations. With surface water run-off, some of these liquids would be conveyed to receiving waters.
- Spread of the invasive species *Rhododendron ponticum* which is present on the site and can be conveyed by water.

Where an ecological pathway exists, these indirect impacts could negatively alter the quality of the existing environment, negatively affecting qualifying interest species and habitats that depend on high water quality and that require maintenance of natural vegetation composition.

**(c) European Sites at risk**

7.70. The Derryreel Stream flows through the site. Downstream it joins the Carrowcanon Stream, which flows into the River Ray and onwards into Tory Sound at a point where the coastline is designated Ballyness SAC. Accordingly, there is a hydrological link between the site and this SAC. Water borne pollutants such as silt, sediments, and hydrocarbons, which enter the Derryreel Stream during the implementation stage of the project, could therefore lead to a deterioration of water quality in the SAC. Qualifying interests and their conservation objectives in this SAC, which depend on high water quality, could be negatively affected.

7.71. The applicant's Screening Report for AA identifies all European Sites within a 15km radius of the project site. I have reviewed these sites, and I conclude that only the

above cited SAC has a relevant pathway to it from the project site. Accordingly, all the other European Sites can be screened out.

**(d) Likely significant effects on European Site "alone"**

7.72. The Ballyness SAC has the following qualifying interests:

*Estuaries [1130]*

*Mudflats and sandflats not covered by seawater at low tide [1140]*

*Embryonic shifting dunes [2110]*

*Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]*

*Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]*

*Humid dune slacks [2190]*

*Vertigo geyeri (Geyer's Whorl Snail) [1013]*

The conservation objectives for all of these qualifying interests apart from 2130 is to maintain its favourable conservation interest. In the case of 2130, it is to restore its favourable conservation interest.

7.73. Qualifying interests 2120, 2130, and 1140 are represented on the stretch of coastline that accompanies the mouth of the River Ray. These interests would be most likely to be affected by any loss of water quality in this River, as a result of the project.

7.74. I conclude that the proposed project would have a likely significant effect "alone" on qualifying interests 2110, 2130, and 1140 of Ballyness SAC from effects associated with water borne pollutants such as silt, sediments, and hydrocarbons.

**Stage 2 Appropriate assessment**

7.75. In the light of my screening determination, appropriate assessment is required. The applicant has submitted a Natura Impact Statement (NIS) (April 2023), which was prepared in line with current best practice guidelines. This NIS concludes that,

*The proposed project as detailed, considered either individually or in combination with other plans or projects, will have no significant adverse effects on the integrity of any European Sites following the implementation of all mitigating measures as outlined…The proposed project as described will not alter the structure or function of any Natura 2000 site or negatively impact the conservation of any qualifying interest/special conservation interest therein.*

7.76. One of the prescribed bodies, An Taisce, draws attention to Ballyness Bay SAC, and the conservation objectives of this water dependent European Site.

7.77. Having reviewed the NIS, I am satisfied that the information allows for a complete assessment of any adverse effects of the project on the conservation objectives of the Ballyness SAC alone or in-combination with other plans and projects.

7.78. The project, its impacts, and the qualifying interests and accompanying conservation objectives of the Ballyness SAC are all as set out above under my screening determination.

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

Construction phase: Removal of existing wheel wash and culvert and construction of replacement box culvert/bridge.

| Threats | Mitigation |
|---|---|
| In-stream and bankside works would release sediments with adverse implications for water quality in the downstream SAC. | Methodologies set out in the document entitled "Fisheries significance and recommendations for stream restoration" to be adhered to. |
| Plant and machinery would risk the spillage or leakage of hydrocarbons with adverse implications for water quality in the downstream SAC. | Plant and machinery to be refuelled and maintained in accordance with protocols in the CEMP. |

Operational phase: Proposed quarry

| Threats | Mitigation |
|---|---|
| Release of silt and sediment with the removal of trees and soil to allow for the extension of the former quarry. With surface water run-off, some of these | Proposals in the surface water management and monitoring plan would |

| | |
|---|---|
| materials would be conveyed to receiving waters. | be implemented prior to the removal of materials from the excavation area. |
| Release of silt and sediment with the excavation of rock and gravel from the extended former quarry. With surface and disturbed ground water run-off, some of these materials would be conveyed to receiving waters. | Proposals in the surface water management and monitoring plan would be implemented prior to the removal of materials from the excavation area. |
| Release of hydrocarbons from refuelling operations. With surface water run-off, some of these liquids would be conveyed to receiving waters. | Plant and machinery to be refuelled and maintained in accordance with protocols in the CEMP. |
| Spread of the invasive species *Rhododendron ponticum* which is present on the site and can be conveyed by water. | Methodologies set out in the document entitled "Invasive species prevention and eradication plan" to be adhered to. |

7.80. With the above cited mitigation measures in place, no residual impacts are foreseen by the NIS. Notwithstanding the discussion of "Water" in my planning assessment, I concur with this conclusion of the NIS, as even in the presence of flawed water management proposals, the network of intervening watercourses between the site and the Ballyness SAC would afford a significant dilution factor for any silt, sediments, and hydrocarbon pollutants. Furthermore, the estuarine nature of the SAC would differ from the riparian nature of these watercourses in its robustness.

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

7.82. Excavated materials would be transported from the site to the applicant's processing plant at Fawnmore Quarry. The importation of these materials would not lead to output from this Quarry exceeding its annual cap of 60,000 tonnes, and they would compensate for the reserves of materials in it, which are being exhausted.

7.83. I am therefore able to ascertain with confidence that the project would not adversely affect the integrity of the Ballyness SAC.

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

7.85. Having carried out screening for appropriate assessment, it was concluded that it may have a significant effect on the Ballyness SAC (001090). Consequently, an appropriate assessment is required of the implications of the project on the qualifying features of this site in light of their conservation objectives.

7.86. Following an appropriate assessment, it has been ascertained that the development, individually or in combination with other plans or projects would not adversely affect the integrity of the European Sites No. 001090, or any other European site, in view of the site's conservation objectives.

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

- A full and detailed assessment of the project, including mitigation measures, in relation to the conservation objectives of European Site No. 001090.
- An assessment of in combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of European Sites No. 001090.

## 8.0 Recommendation

That permission be refused.

## 9.0 Reasons and Considerations

Having regard to Objective WW-O-1 and Policy WW-P-2 of the County Donegal Development Plan 2024 – 2030, the applicant has failed to demonstrate the following:

(a) That its proposed settlement pond would be of an appropriate size and design to ensure that silted surface water and any disturbed ground water run-off

from the proposed quarry would be capable of being handled satisfactorily, especially during storm events, during all phases of the proposal,

(b) That its proposed re-use of abandoned, unauthorised, existing settlement ponds would be capable of handling silted surface water run-off from the on-site access road satisfactorily, especially during storm events, and

(c) That its proposed silted water collection drainage system would be adequate to avert the risk of pollution to an existing pond adjacent to the siting of the proposed wheel wash.

As all of these ponds would discharge to the Derryreel Stream, the applicant has not established that its proposal would be consistent with maintaining, improving, and enhancing the quality of surface water in this Stream. In these circumstances, it would be premature to grant planning permission, as to do so would risk the contravention of Objective WW-O-1 and Policy WW-P-2 and the deterioration of water quality in the Derryreel Stream. The proposal would thus be contrary to the proper planning and sustainable development of the area.

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

Hugh D. Morrison
Planning Inspector

27th June 2024