

Section 4 Description of Development and Policy Context

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4. DESCRIPTION OF EXISTING DEVELOPMENT AND POLICY CONTEXT

4.1 Site Location and Description

The site is located in the townland of Trentaghmucklagh approximately 4 km west of St Johnstown in Co Donegal. The area is one of undulating rural countryside where the predominant land use is agriculture. The quarry is located on the top of a hill that is 140m above sea level. The quarry is surrounded by agricultural land, except to the north-eastern side where a high bank separates it from a quarry in different ownership. Residential development is in the form of one-off houses along the local road network. The nearest residential properties are located adjacent to the site entrance.

The quarry operation is located on the north side of the local road (L-5414). It is accessed by a purpose built roadway, the lower sections of which are concreted. Closer to the quarry operation the access road has a rough maintenance surface. The quarry comprises a series of topographical hollows, some of which hold ponded water. Surface water discharges via a series of ponds to a stream located to the west of the site. There is a small complex of buildings/structures located close to the entrance, which includes a small lean-to building formerly used as a canteen, a container type structure which functions as an office. The weighbridge is located beside the office.

The quarry operation extracts stone and shale using a mechanical digger. Blasting is carried out one or two times per year. The extracted stone is crushed/graded on site as required using mobile crusher/screening plant. Materials are either removed directly off site or stored prior to removal off site. No washing of stone or other processing takes place on the site. The site is accessed by a purpose built access road that extends in a northerly direction off local road L-5414.

The general location of Tinney's Quarry relative to the towns of Letterkenny, Lifford/Strabane and Derry is shown in Figure 4.1, while in Figure 2.2 the quarry subject to this application for Substitute Consent application is shown in red, the overall landholding is outlined in blue and the immediately adjacent quarry to the north-east is outlined in green. The full map from which Figure 4.1 is extracted, is included as part of the application.

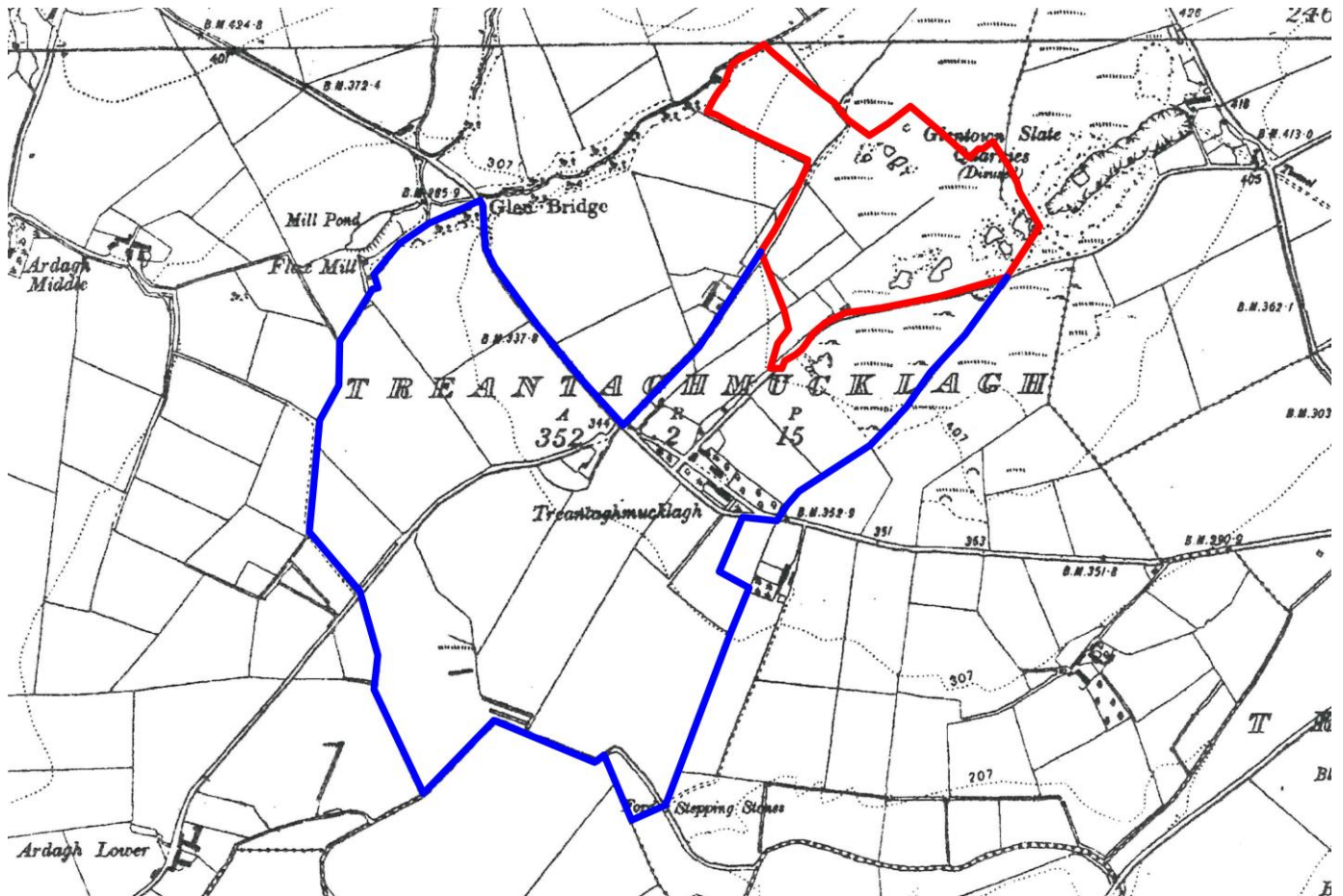


Figure 4.1 Site of Tinney's Quarry from www.openstreetmap.org



Figure 4.2 Tinney's Quarry (red adapted from www.openstreetmap.org)

The site that is the subject of this application for substitute consent covers an area of c9.9 hectares with an area of extraction of c7.7ha. The site includes the extracted area, the area cleared of overburden, areas where overburden has been used to create perimeter landscaped berms that have been colonised by vegetation, weighbridge, office, the settlement lagoon area as well as the access road from the local road to the quarry. Other lands within the operator's ownership which have not been cleared of overburden, do not form part of the working quarry, but are outlined in blue on the site location map.

The site, which is irregular in shape, runs generally uphill in a southwest to northeast direction from the adjoining local road to the southwest of the quarry.

Undulating agricultural land lies to the south, east and west of the quarry while an area of commercial forest is located on more elevation lands to the north at Dooish Mountain while views are available from the north east, north west and east the topography generally provides a backdrop to the quarry and limits the visual impact thereof.

The operational quarry is accessed via a previously permitted vehicular entrance that permits HGV's to drive completely off the road without interfering with traffic on the local road. A small steel container is used as the site office adjacent to a redundant lean to shed. They are located in front of a weigh bridge on the western side of the access road into the quarry. A number of vehicles including trucks, track machines, loading shovel, pump, lorries and quarry equipment for breaking, crushing and grading of stone are located within the site.

A private access track leading from the entrance area runs along the western boundary and leads to the forested lands to the north while a flat area with agricultural sheds is also located proximate to the northern face of the quarry.

A number of one off houses are located along the local road network, both to the northeast and southeast of the quarry, the nearest of which is located c120m south of the nearest part of the working quarry. The nearest houses are shown in figure 4.3 and this is also addressed in Sections 12 and 13 'Material Assets'.

The impact that the quarry has had on these houses will be examined in other sections of the rEIAR.



Figure 4.3 Houses within 500m radius of the quarry

4.2 Extent of Quarry in 2022

When assessing the previous application for substitute consent under section 261A, the Board Inspector stated: -

I wish to draw the attention of the Board to discrepancies in the site area between the current application and that detailed for registration under section 261. The details submitted in support of the application for registration indicated that the overall quarry extended to 11 Ha, with an active extraction area of 4.1 Ha. The discrepancy in site area was noted during the Section 261A assessment when it was established that the excavated area extended to approximately 9 Ha. This remains somewhat at variance with the details submitted in current application which suggest an overall land area of 13.17 Ha which includes an active extraction rate of 10.17 Ha and a further 3 Ha of adjacent undeveloped land. I also note that the boundaries of the site as shown on the submitted drawings are not entirely consistent with those submitted in respect of the registration process.

The actual area that was quarried at the time the previous Section 261A application for Substitute Consent was submitted was smaller than the area quarried as the land in the southern corner had not been quarried at that time (or since) and that was reflected in the request for further information issued by the Board (see 4.7.2 below). In the eight years since the S261A application, the footprint of the quarry has not changed since the previous application for Substitute Consent and extends to 9.9177ha with an overall extraction area of 7.6855ha within the landholding that extends to 49.53ha. The overall landholding is shown in figure 4.1.

4.3 Summary of Chronological History of the Tinney's Quarry

As a summary, this section will address the following matters: -

- Historic evidence of the quarrying on the subject lands.
- A 2004 application for a new access road to the quarry.
- The quarry registration under Section 261 of the Planning and Development Act 2000 (as amended).
- In assessing the quarry under Section 261A, Donegal County Council concluded that the quarry had commenced operation prior to 1st October 1964 and that the requirements in relation to registration under *section 261* were fulfilled and directed that an application for Substitute Consent be submitted to the Board.
- An application for Substitute Consent was submitted to the Board (SU 05E.SY0010), but a detailed request for further information was issue and was not addressed by Tinney's Quarry, following which the Board decided to refuse the application for Substitute Consent.
- In 2021 an application was made to the Board for leave to apply for Substitute Consent and the Board granted leave in November 2021.

4.4 Planning History - Pre 1964, Pre EIA Directive and Pre Habitats Directive

As per the S261A report prepared by Donegal County Council in 2012 there is evidence of quarrying being carried out on the subject lands in OSI maps from the 1840's and the 1930's, and in response to the question of whether or not the quarry commenced operation pre 1st October 1964, the Planning Officer's S261A report stated: -

Under the quarry registration process the operator stated that quarrying commenced before 1st October 1964. No evidence was submitted to substantiate this claim, however from old OS maps (dated 1840's and 1930's) there is evidence of a quarry at this location.

Extracts from the referred to maps are shown in figures 4.4, 4.5 and 4.6 below.

4.4.1 OSI 1837-1842

In Figure 4.4 which is an extract from the OSI's 'Historic Map 6-inch Colour (1837-1842)', it is evident that the site of Tinney's Quarry was in operation as a quarry at that time. The note associated with the map series on www.osi.ie states that: -

Between 1829 and 1842 Ordnance Survey Ireland completed the first ever large-scale survey of an entire country. Acclaimed for their accuracy, these maps are regarded by cartographers as amongst the finest ever produced.

Figure 4.5 is the same map and an overlay of a digital photograph from OSI and shows that the modern quarrying has all been carried out in areas that were historically uses for quarrying on the landholding.



Figure 4.4 SI Map 1983-1842 from www.osi.ie



Figure 4.5 Aerial Photo overlaid on OSI Map 1983-1842 from www.osi.ie

4.4.2 OSI 1888-1913

By the time the 1888-1913 mapping was carried out the quarries were stated to be disused as per figure 4.6 below, but the quarries areas were still evident.

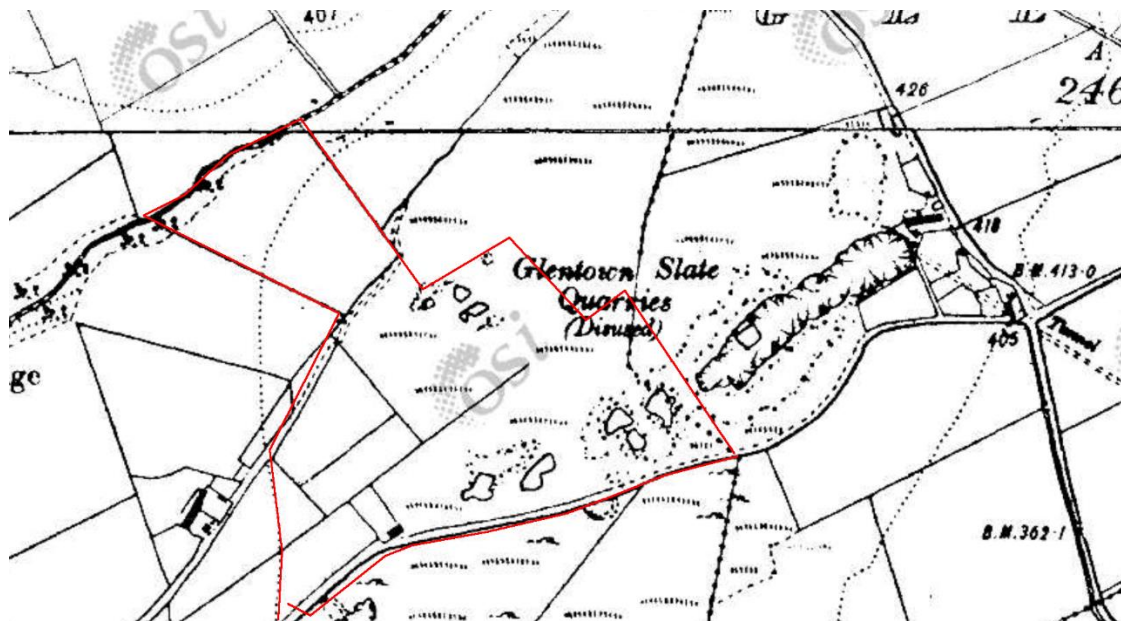


Figure 4.6 OSI map from 1888-1913 showing parts of Tinney's Quarry quarried from www.osi.ie

4.4.3 Planning Reg. Ref. 04/6411

On 24th June 2004, Ian Tinney, the owner and operator of the Tinney's Quarry, applied to Donegal County Council for permission for the following development: -

Retention for quarry entrance and access road and associated site works

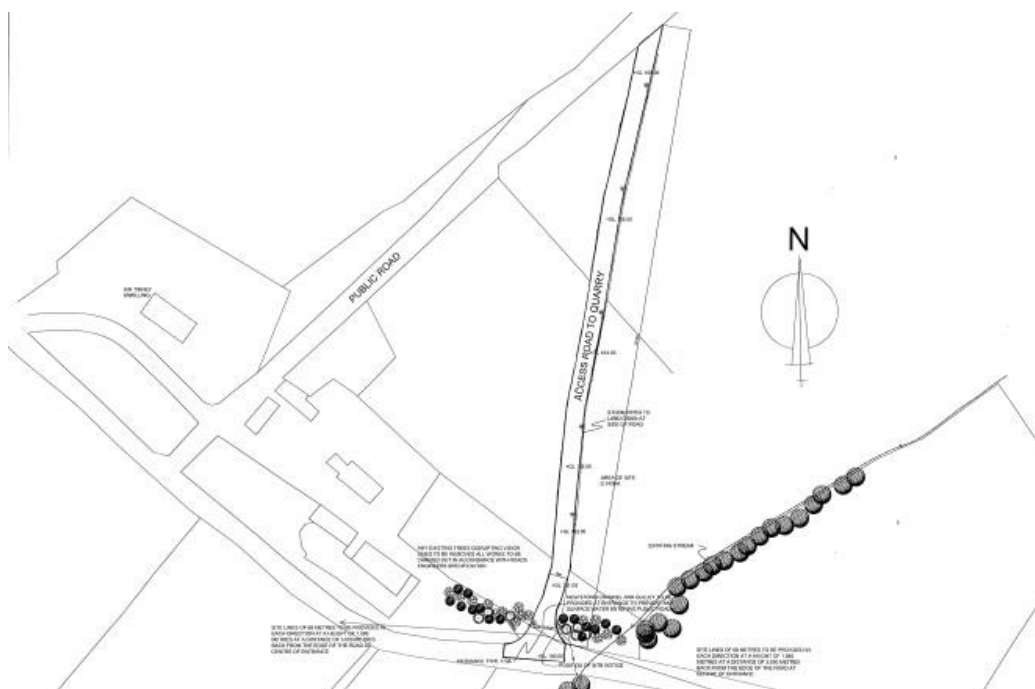


Figure 4.7

Site Layout from 04/6411

Extract from the first Planning Officer's report are set out below. None of the comments referred to the quarry being potentially unauthorised. The first comment stated that: -

Comments:

- Permission is sought for the retention of quarry entrance and access road and all associated site work to service the existing quarry at Glentown. This private access road will provide for a more appropriate means of access to the quarry, thus alleviating pressure on the local public road network.

The request for further information¹ sought the following information.

1. Applicant to submit detailed proposals for upgrade of:

- (1) Main Ardagh to St. Johnston County Road from former Trentaghmucklagh National School to boundary of applicant's overall landholding to the west of the proposed access road (distance of 520 metres in total). The overlaying of this road shall include the right hand turning lane and shall comprise of basecourse regulating material and 100mm basecourse macadam.
- (2) County Road (labelled 'old access road to quarry' on site layout plan submitted) from the junction with the main Ardagh to St. Johnston County Road for a distance of 880 metres along its route in a northeasterly direction. The overlaying of this road shall comprise of 150mm wetmix, double surface dressing using 14mm and 6mm chips and polymer modified binder (80).

Details submitted shall include specific construction details and a solicitor's letter detailing a timescale for completion of said works. If said works are located over third party lands, then it will be necessary to submit documentary evidence of consent from overall landowner(s) to the carrying out of the said proposals.

- 2.a Applicant to submit details of storm drainage collection along entire length of access road. Proposals should provide for the installation of cattle grid at junction of access road and County Road (main Ardagh to St. Johnston Road) to the satisfaction of the Executive Engineer for the area. (Tel. 074-9194200)
- b. Applicant to submit details of storm water collection on the overlaid main Ardagh to St. Johnston Road, to include the provision of spigot and socket piping including manholes and gullies, to the satisfaction of the executive Engineer for the area. (Tel. 074-9194200)
3. Applicant to submit proposals for provision of right turning lane on County Road at junction of access road and County Road (main Ardagh to St. Johnston Road). Proposals should provide for widening of County Road to facilitate right turning lane. If said works are located over third party lands, then it will be necessary to submit documentary evidence of consent from overall landowner(s) to the carrying out of the said proposals.

¹ <http://www.eplanning.ie/DonegalCC/AppFileRefDetails/046411/0>

4. Applicant to submit revised site layout plan to appropriate scale providing for the following omission of gates proposed for closing off existing County Road (labelled 'old access road to quarry' on site layout plan submitted).
5. Applicant to submit details of all dust control measures to be implemented.

The applicant responded as follows: -

1. (a.) The client agrees to overlay 520 metres of the Main Ardagh to St. Johnston County Road. The Roads Engineer agreed that a right hand turning lane is not required. The timescale for completion of this work is the end of June 2005, the client is currently awaiting information back from sub contractors and this will be forwarded when received. Sub contractors will implement a traffic management system so as to cause as little disruption as possible during the works. These works do not affect any 3rd party lands.
(b.) It was further agreed that the Client would pay development fees of €10,000 and this would cover the cost of the overlaying of 880 metres of the County Road (labelled 'old access road to quarry' on site layout plan).
2. (a.) Enclosed revised site layout plan showing details of storm drainage collection (agreed with Roads Engineer during site visit of 07/01/05).
(b.) Enclosed revised site layout plan showing details of storm water collection on the overlaid main Ardagh to St. Johnston Road – 12" spigot and socket, 40 m centres to gullies.
3. Agreed by Roads Engineer that item 3 would not be required.
4. Revised site layout plan showing the removal of gates.
5. **Dust Control Measures:** Measures currently employed by the applicants are as follows:
 - i. Tyres of vehicles are washed before they exit from the quarry onto the public road reducing the amount of mud, dirt etc. transported.
 - ii. The access road is regularly cleaned.

Donegal County Council issued a decision to grant permission for the development on 18th February 2005 and the final grant of permission was issued on 5th April 2005. Donegal County Council attached three conditions to the grant of permission.

While this application referred to the entrance road to the quarry, it is an integral part of the quarry and the Planning Authority, being the competent authority operating within the statutory framework of the Planning and Development Acts 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) as enacted by the Oireachtas, did not at any point in time during the processing of the application raise any concerns with Mr Tinney that the quarry may be deemed to be unauthorised.

Therefore, there was no basis upon which Mr Tinney could have thought that the quarry was unauthorised.

4.5 Section 261 Registration

The next step following from the 2004 planning application comes in the form of Section 261 of the Planning and Development Act 2000 which came into effect on 28th April 2004 and required that: -

261.—(1) The owner or operator of a quarry to which this section applies shall, not later than one year from the coming into operation of this section, provide to the planning authority, in whose functional area the quarry is situated, information relating to the operation of the quarry at the commencement of this section, and on receipt of such information the planning authority shall, in accordance with *section 7*, enter it in the register.

The Quarry Guidelines published in April 2004 by the DOECLG to coincide with the commencement of S261 state that '*Section 261 of the Planning and Development Act, 2000 introduced a new system of once-off registration for all quarries. Only those for which planning permission was granted in the 5 years before section 261 became operative are excluded*².

As required by the Act, Ian Tinney sought to register Tinney's Quarry prior to April 2005. The registration was accepted by Donegal County Council and it is recorded as quarry QY44 on the official Donegal County Council register which contains 186 quarries.

The total quarry area as per the registration form was stated to be 11ha while, the area of extraction area was stated to be 4.1ha, which is consistent with the 2005 Aerial photograph available on www.osi.ie.

6.	Total site area of quarry (hectares): 11 hectares
7.	Extraction area of quarry (hectares): 4.1 HECTARES
8.	Types of material being extracted: STONE
9.	Details of processes, if any, within the site: Gravel grading Digger, Extraction and Crushing

The following further information was requested by Donegal County Council on 7th November 2005: -

1. Applicant shall submit 4 no. copies of site layout at a minimum scale of 1:500 which illustrates:
 - (a) full extent of the landholding of the quarry
 - (b) exact location of the quarry face and the proposed area to be excavated
 - (c) exact means of storm drainage and all outlet points
 - (d) entrance arrangements serving the quarry
2. Applicant shall submit details on the levels of noise and dust generated by the operations in the quarry.

The Planning Officers S261 report is dated 28th March 2007 and recommended that conditions be imposed in relation on the future operation of aspects of the quarry, which was one of the options available to the Planning Authority under Section 261 (6) of the Planning and Development Act 2000 (as amended), which states: -

*(6) (a) Not later than 2 years from the registration of a quarry under this section, **a planning authority may**, in the interests of proper planning and sustainable development, and having regard to the development plan and submissions or observations (if any) made pursuant to a notice under subsection (4) or (5)—*

(i) in relation to a quarry which commenced operation before 1 October 1964, impose conditions on the operation of that quarry, or

However, further correspondence dated 26th October 2007 indicated that the Planning Authority decided to not impose conditions on the operation of the quarry. In fact, it would appear from this letter (extracts of which are set out below) that the Planning Authority did not consider the options set out in Section 261 (4)(b)(iii) of the Planning and Development Act 2000 (as amended), which provided the following options to the Planning Authority: -

(b) (iii) where planning permission has not been granted in respect of the quarry, that it has not been so granted and whether the planning authority is considering—

*(I) imposing conditions on the operation of the quarry in accordance with subsection (6)(a)(i),
or*

(II) requiring the making of a planning application and the preparation of an environmental impact statement in respect of the quarry in accordance with subsection (7),

Instead of imposing conditions or requiring the submission of an application accompanied by an EIS Donegal County Council stated that: -

I wish to emphasise that the registration procedure is simply the registration of information submitted and does not confer a planning consent/permission for the continued operation of the quarry. That can only be achieved by

successfully applying for planning permission in accordance with the normal planning process. In your case and every other case where registration has been applied for, where -

- there is no current planning permission authorising the quarry operation and the time limit for enforcement action has not passed,

- and/or there is evidence of abandonment of the previous use of the quarry,
- and/or there is evidence of intensification of the previous use such as of itself to require a separate planning permission.

the Council may take appropriate enforcement action.

The Council intends now to inspect again all registered quarries and where it disagrees with the registered information provided by the Applicant and/or it intends to take enforcement action as aforesaid, operators will be notified accordingly.

Mr Tinney did not receive any further correspondence from Donegal County Council in respect of S261 following from the letter of October 2008.

As no conditions were imposed upon the continued operation of Tinney's Quarry and no further correspondence was received following from the Section 261 registration, Mr Tinney could not have been of the opinion, that the ongoing operations at the quarry constituted unauthorised development.

4.6 Section 261A (EUQY 0044)

Rarely if ever since the commencement of the modern planning system in 1964 has a piece of legislation created as much confusion within the planning profession as have the provisions of Section 261A of the Planning and Development Act 2000 (as amended) which came into effect on 15th November 2011 by way of the Planning and Development (Amendment) Act 2010 (30/2010), s. 75, S.I. No. 582 of 2011.

Donegal County Council carried out its required functions in accordance with the provisions of S261A and on 29th June 2012 wrote to Mr Ian Tinney to inform him of its determination and decision under S261A (A)(3) that directed Mr Tinney to apply to An Bord Pleanala for Substitute Consent.

The determination of Donegal County Council was that: -

Development at the quarry commence operation prior to 1st October 1964 and the registration under Section 261 of the Planning and Development Act 2000 was fulfilled. In this instance the Planning Authority is satisfied that quarrying activity took place post 1st February 1990 & Post 26th February 1997 that:

- (i) A determination as to whether an EIA was required*
- (ii) An Appropriate Assessment was required*

4.7 Application for Substitute Consent ABP Reference 05E.SU0010

Mr Tinney commissioned the preparation of an application for Substitute Consent accompanied by a remedial EIS and Appropriate Assessment.

The Board Inspector's report summarised the administrative steps in making the application for Substitute Consent as follows: -

The application is pursuant to a notice issued by Donegal County Council under Section 261A(3) of the Planning and Development Act 2000-2010 directing the applicant to apply for substitute consent for the quarry development under Section 177E of the Planning and Development Act 2000-2010. The period for making the application was extended by the Board to 21st January, 2013 (05.SH0011 refers).

The application which was submitted to the Board on January 21st, 2013 seeks substitute consent for the (a) existing quarry (b) site office (c) store (d) weighbridge and (e) gravel screening unit. The application is supported by a Remedial Environmental Impact Statement and a Remedial Natura Impact Statement. The area the subject of the application is 13.1 Ha. Details of the application site (outlined in red) are shown on Drawing No. IT-09-016, which accompanies the application.

A key point of note is that the Inspector noted that: -

The application is supported by a Remedial Environmental Impact Statement and a Remedial Natura Impact Statement.

Under the heading of 'Submissions to An Bord Pleanala' the Inspector noted that: -

The planning authority has no objection in principle to An Bord Pleanala approving the application subject to a number of conditions detailed in the report and the mitigation measures proposed in the EIS.

4.7.1 Bord Pleanala Inspectors Assessment

The Board Inspector assessed the application for Substitute Consent under the following three headings: -

- Legal issues
- Site Area
- Environmental Impact Assessment

We will examine these headings in more details below.

4.7.1.1 Legal Issues

'Legal issues' refers to An Taisce raising the issue of 'Exceptional Circumstances' which will be addressed separately in the accompanying planning report.

4.7.1.2 Site Area

The Inspector pointed out that there were inconsistencies between the area that was subject to the S261 registration, the S261A review and the S261A application with the latter stating an overall area of 13.17ha with 10.17ha subject to extraction and a further 3ha of adjacent undeveloped land.

The Inspector also stated that: -

I also note that the boundaries of the site as shown on the submitted drawings are not entirely consistent with those submitted in respect of the registration process.

This matter has been addressed in Section 2.1 above.

4.7.2 Bord Pleanala Request for Further Information (261A)

Having carried out an initial assessment of the remedial EIS and NIS, the Board issued a request for further information on 23rd March 2015 in which they sought the following further information: -

1. Revised site boundaries, indicating the areas worked to date only.
2. A map of neighbouring dwellings, both existing and permitted.
3. A revised noise survey at the nearest dwellings, to be undertaken by a professional with appropriate qualifications and experience, and utilising standard/recognised methodologies; monitoring shall be undertaken at peak quarry activity and for a duration reflecting EPA Guidance; the machinery in operation shall be clearly stated; appropriate noise modelling may be used to supplement monitoring if considered necessary to give an accurate reflection of peak quarry activity.
4. A revised dust survey at the boundaries of the site and nearest dwellings, also to be undertaken by a professional with appropriate qualifications and experience, and using a standard/recognised methodology; a minimum survey duration of one month is required; the nature and scale of activity of the quarry over that time period shall be clearly described.
5. Details of sanitary facilities provided at the quarry, including an assessment of the location and operation of the waste water treatment system and percolation area, if any.
6. A revised series of water quality testing in each of the quarry voids/ponds and in the stream to which the quarry discharges.
7. A revised, in-depth survey and analysis of hydrology, which shall include but not be limited to:
 - (i) a clear analysis of the existing system of management of surface water within the site, including the means of connection from Pond 2 to Pond 3 and the approximate volumes of water involved at each stage of management,
 - (ii) analysis of the fate of surface water arising within the quarry, whether discharged to groundwater and/or surface water, or retained within the quarry void, or released to evaporation; estimated volumes of each shall be provided,
 - (iii) identification of surface water discharge volumes to the stream, of the hydrological capacity of the stream, and an analysis of the impact of that discharge on both the capacity and water quality of the stream,
 - (iv) details of the Discharge Licence, and
 - (v) revised proposals for the management of Pond 3.

8. A revised, in-depth survey and analysis of hydrogeology, which shall include but not be limited to:
 - (i) identification of the depths and gradient of groundwater; a site investigation (boreholes) will require to be undertaken in this regard, and
 - (ii) the interaction between surface water and groundwater at this quarry.
9. A revised, thorough and comprehensive ecology survey, undertaken by an appropriately qualified and experienced ecologist.
10. A slope stability assessment, undertaken by a chartered geotechnical engineer.
11. More detailed, revised landscaping proposals.
12. Detailed proposals and a programme for the restoration of the quarry, including drawings and sections; the environmental impacts of the proposed restoration, including potential impacts on water quality, will also require to be addressed.
13. In relation to the above, cumulative impacts with other development, including the neighbouring quarry, shall also be addressed where relevant.
14. New public notices will be required. Please submit draft copy of new site and public notices to David Curran, Senior Executive Officer (d.curran@pleanala.ie) for confirmation of wording before their issue.

A response to the above RFI was required to be submitted to the Board on or before 14th July 2015 and as no response was submitted, the Board then proceeded to issue a decision on the application. It was clear from the issues addressed in the RFI that the remedial EIS submitted to the Board was deemed inadequate and Mr Tinney was clearly not aware of the potential implications of failing to address the Boards request in the time provided by the Board.

4.7.3 Planning Inspector's Report

The following section contains extracts from the Board Inspector's report on the application for Substitute Consent and follows on from the issues raised in the Board's Request for Further Information.

4.7.3.1 Environmental Impact Assessment

In their report the Inspector raised concerns about the quality of the information in the Remedial EIS where they stated: -

I have concerns regarding the adequacy of the Remedial Environmental Impact Statement (REIS) submitted in support of the application

The Inspector then went on in their assessment to list a series of concerns that they had under series of headings and was critical of the level of detail provided in the individual chapters, including the following extracts: -

Human Beings

*It **recognises** that the **adverse impacts** on the local population are associated with noise, dust, odour, visual impact and traffic (discussed in separate sections). It **lacks background information** on land use, employment etc., providing an overall picture of the existence, activities etc. of local inhabitants, which would normally form part of this section of the EIS. Other than reference to low housing density in the vicinity, there is no other information provided on the number of habitable houses within a defined radius (usually 500m), community buildings etc with the potential to be adversely impacted by the quarry both in the past and as a result of its on-going operation.*

Ecology (Flora & Fauna)

This section of the REIS is **very limited**...The significant ponds of water, which appear to a permanent feature of the site, **have not been assessed** for their ecological significance. **No effort has been made to identify the habitats present** using a recognised common standard scheme of classification. **This leaves gaps in the information** provided. **The REIS, therefore, fails to provide an understanding of the ecology of the area.**

Soils & Geology

I consider that **the information presented** in this section **is not sufficiently comprehensive to provide an understanding of the site...no evidence of any consultation** with the GSI....There is **no evidence** of mapping, core sampling, trial pits etc. and no geotechnical appraisal of rock properties/soil characteristics, depth to bedrock etc. I consider that an appropriate geological/soil investigation of the site is a fundamental part of the determination of the existing environment...**more detailed information is required.**

Water

The **description** ...is **highly generalised**, is **not site specific**, and is **not supported** by any published maps or information from the GSI or other databases...There is **no evidence** of an investigative work to establish groundwater levels, water quality, flow rates etc. **No information** is provided on the character, significance, status or sensitivity of the water environment, water usage, beneficial uses, or, its importance as a habitat...**unclear** how water levels are controlled...**no formal drainage system in evidence**...The REIS provides **no information** on the capacity of the ponds or their adequacy for storm water attenuation...The volume of water discharging to the stream or the capacity of the stream to accommodate these discharges has **not been clarified**...**no evidence** of a septic tank/percolation area

Noise

A noise report is appended to the back of the REIS and it is dated February 2006. According to the REIS, it remains valid as the monitoring was carried out when the level of activity at the quarry far exceeded current levels...**I am not satisfied that the report is adequate** as contended by the applicant. **I consider that the report is entirely inadequate in terms of providing baseline data** on existing conditions and, accordingly, the conclusion reached in the REIS that noise emissions generated by operations have no

significant impact outside the quarry boundary have not been substantiated.

Air

I have **reservations** regarding the dust monitoring report. It provides **no indication of monitoring locations** and was **extremely limited in scope**, being restricted to one and half days. In terms of sensitive receptors, it limits its consideration to two houses...a **wheel wash does not exist** on the site, nor is one proposed, which would help to mitigate impacts. I am **not satisfied** that the report submitted in support of the application provides an accurate description of the existing air environment and that the **impacts have been properly assessed**.

Traffic

The **REIS remains deficient** in terms of its **assessment of the existing road network**, existing traffic levels and the capacity to cater for quarry generated traffic. The **local roads** in the vicinity are **narrow and suffer from poor alignment** and the **restricted visibility** at the quarry entrance, particularly to the west, has significant safety implications.

Landscape & Visual Impact

I accept that due to the undulating nature of the topography in the vicinity of the site, the **visual impact** of the quarry **is highly localised**... **no proposals for restoration/aftercare** have been considered in the REIS, which would help to ameliorate long terms impacts. **No reference** is made **to the development plan** to landscape designations, views or prospects to be preserved etc. **This aspect of the REIS is seriously deficient** in terms of description of the existing environment and measures to mitigate visual impact throughout the operating life of the quarry and following closure.

Material Assets

It is normal practice that known archaeological features or potential sites in the vicinity (if any) are identified,.. **The REIS refers to desktop studies** in relation to archaeological sites/monuments, **which are not included** as support documents.

Interactions

Based on the inadequacy of the REIS it is unclear how it is concluded that 'the quarry has operated in harmony with the local community and the environment'. **This approach suggests a poor understanding of the whole EIA process.**

Cumulative Impacts

The REIS acknowledges the existence of the adjoining quarry to the north but **fails to provide an assessment of cumulative impacts**. The quarry is also the subject of an application for substitute consent (SU0006).

All of the matters raised in the Inspectors report have been dealt with in the technical sections of this rEIAR.

We will have a brief look at how the Board dealt with SU0006 in section 4.8.

Natura Impact Assessment

With respect to the NIS, the Inspector stated: -

I consider that the main threat arising from the quarry operation is the discharge of water with high levels of suspended solids. As noted in the preceding paragraphs, large quantities of water are stored in the ponds on the site. **Provided the ponds are adequate** to cater for storm events and the discharge rates are controlled, **it is unlikely that significant untreated discharges will end up in the adjoining stream.**

The potential, therefore, does exist for the discharge of suspended solids to the adjoining stream. Given the separation distance of 4 km, I would consider that **it is unlikely** that such **discharges would result in significant adverse impacts on the qualifying interests of the River Finn SAC.**

A new NIS has been prepared and is submitted as part of this application for Substitute Consent.

4.7.4 Bord Pleanala Substitute Consent Decision (Tinney's Quarry)

The Board did not technically refuse the application for Substitute Consent but determined that it was precluded from giving further consideration to the granting of Substitute Consent because the information contained in the remedial Environmental Impact Statement and associated documentation on file is (was) adequate to allow the Board to undertake an assessment of the effects of the development on the environment.

The Board conclusion stated: -

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

This represents a second opportunity to respond to the matters raised in requests for further information.

4.8 Substitute Consent application on adjacent quarry (SU0006)

The adjacent quarry to the north-east was also required to submit an application for Substitute Consent in 2012 following the S261A review by Donegal County Council.

The Inspector's report stated: -

The application was submitted to the Board on November 30th, 2012 seeking substitute consent for a slate stone quarry on a 6.2 ha site. It was supported by an Environmental Report and a Natura 2000 Screening Report. The application was considered deficient. On July 12th, 2013 the Board sought further information to enable it to determine the application, which included the submission of a Remedial Environmental Impact Statement (rEIS) in accordance with the provisions of section 177(F) of the Planning and Development Act 2001, as amended. The information was received by the Board on January 15th, 2014.

The Inspector concluded that: -

1. The Board is not satisfied on the basis of the information submitted in support of the application for substitute consent, that the information contained in the Remedial Environmental Impact Statement is adequate and that an appropriate assessment of the effects of the development on the environment has been carried out. It is considered that there is insufficient information on the existing environment and that the significant effects of the development both past and on-going in relation in particular to hydrology and hydrogeology, human beings and traffic and their interactions have not been adequately addressed and that the cumulative effects of the operation of the of the quarry in association with the existing adjoining quarry to the south have not been duly considered. The Board is not satisfied therefore that past and current operations at the quarry have not, and will not result in significant adverse effects on the environment. The development is, therefore, contrary to the proper planning and sustainable development of the area.

In its decision, the Board took the following into consideration: -

The Inspector raised concerns in relation to the potential for or possibility of various impacts to have arisen as a result of the quarry development. The Board considered those potential or possible impacts, and was satisfied that there is sufficient information on the file as a whole to conclude that it was not likely that any such impacts arose to an extent that was significant. In coming to its conclusions, the Board had regard to the entirety of the documentation on file, including the quarry registration and review history, which also incorporated information on historical environmental operations at the quarry. The Board was satisfied for all these reasons that it was not necessary to request further information in order to come to its conclusions.

The Board completed an environmental impact assessment in relation to the subject development, and concluded that the development of the quarry, by itself and in cumulation with similar such development in the vicinity, did not have and would not be likely to have significant effects on the environment.

The reference to cumulative impacts indicates the Board considered that Tinney's Quarry *did not have and would not be likely to have significant effects on the environment*. The Board conclusion stated: -

The Board considered the nature, location, moderate scale of operation and seasonal use of the subject development, the documentation submitted with the application and further information generally, the registration and quarry review history of the subject site, the submissions on file, and the Inspector's report. In coming to its decision, the Board had regard to the substantial historical extent of this quarry, the distances to houses, the absence of blasting, the absence of water discharge from the quarry, the character and sensitivity of the landscape of the area, the absence of enforcement history, and the absence of evidence on file of environmental impacts arising from the subject development. The Board is satisfied that the subject development did not and does not result in serious injury to the amenities of the area or of property in the vicinity, was acceptable in terms of traffic safety and convenience, and did not and would not give rise to risk of water pollution. The Board therefore considered that the subject development was and would be in accordance with the proper planning and sustainable development of the area.

The key difference in that quarry and Tinney's Quarry is that Tinney's quarry does include water discharges and occasional blasting, but the Inspectors S261A rNIS review in respect of Tinney's Quarry concluded that it is unlikely that such discharges would result in significant adverse impacts on the qualifying interests of the River Finn SAC. This is examined in detail the section 8 'Water' of this rEIAR.

4.9 Application for leave to apply for Substitute Consent - April 2021

An application was submitted to An Bord Pleanála in April 2021 for leave to apply for Substitute Consent in accordance with Section 177C (Part XA) of the Planning and Development Act 2000 (as amended) (where notice not served by Planning Authority). (LS05E.310041) A case for 'Exceptional Circumstances' was included in the application. In granting leave to apply for Substitute Consent the Board set out the following 'Reasons and Considerations'

Having regard to sections 177C and 177D of the Planning and Development Act, 2000, as amended, the Board is satisfied that an Environmental Impact Assessment Report and an Appropriate Assessment are required in this case.

Furthermore, the Board examined whether or not exceptional circumstances exist such that it would

be appropriate to allow the opportunity for regularisation of the development by granting leave to apply for substitute consent.

In this regard, the Board considered that:

- i) this application for leave to apply for substitute consent has demonstrated that the regularisation of the quarry would not circumvent the purposes and objectives of the Environmental Impact Assessment Directive or of the Habitats Directive, because it would allow for the provision of information and an analysis of the likely significant environmental effects of the development and the effects of the development on the integrity of European sites,
- ii) notwithstanding the submission of a substitute consent application (An Bord Pleanála reference number 05E.SU0010) inferring that the applicant acknowledged that there was no planning permission for the quarry, prior to receipt of the planning authority's enforcement notice under reference UD 2061 dated the 3rd day of July 2020, the applicant could reasonably have had a belief that the quarrying development that took place was not unauthorised, particularly as the planning authority had failed to take enforcement action following the initial registration of the quarry and as the retention of an access road to specifically serve the quarry had been granted by the planning authority in 2005 (Donegal County Council planning register reference number 04/6411),
- iii) the ability to carry out an assessment of the environmental impacts of the development for the purpose of an Environmental Impact Assessment and to carry out an Appropriate Assessment has not been substantially impaired, and that public participation in such assessments has not been substantially impaired, and
- iv) a remedial environmental impact assessment would allow for the remediation of actual or likely significant effects on the environment and a remedial Natura Impact Statement would allow for the remediation of any adverse effects on the integrity of a European site.

Having regard to the foregoing, it is considered that exceptional circumstances do exist regarding this quarry and it is addressed in the planning report accompanying the application.

4.10 Description of Operation

4.10.1 Overburden Removal

Since the quarry commenced operating, the topsoil and subsoil layers that have been progressively cleared from the surface to reveal the stone layers beneath, which lies close to the surface, has been used to construct landscaped berms around the perimeter of the quarry.



Figure 4.8

Rock lies close to the surface of the quarry

4.10.1 Type of Stone Extracted

The product extracted from the quarry is shale rock (slate) which is extracted by means of mechanical extraction by means of two diggers with ripper toes, with blasting being carried out one or two times per year. A loader is then used to transport the material directly to one of two lorries that Mr Tinney owns and is transported directly off site or is taken to the on-site stone crusher/screener.

The extracted material is often transported directly to site for road fill in Counties Donegal and Derry. The material is registered as "Shale" for cross border export. No washing of stone takes place on site. One stone crusher and grader is used to grade material to 2" of 6" depending on demand. This crushed material is mainly used in agricultural drainage.

All stone products are removed from the site using two trucks owned by the quarry operators. The operator previously operated a third truck but as of 2022 uses only two trucks to transport material.

4.10.2 Plant and Machinery and Duration of Use

The following is a list of all machinery, both mobile and fixed, that is used in the quarry and the maximum number of hours that they may be in use on any given day. Not all machinery is used simultaneously or for the duration stated.

Machinery on quarry floor

The following machinery is used in the quarry operation: -

- 4 track machines / excavators (maximum of 2 used together)
- 1 Crusher (up to 3 hours a day)
- 1 Screener (up to 3 hours a day)
- 1 Loading Shovel (used to fill trucks/ screener / crusher)
- 2 Lorries (used to move material off site)
- 1 Generator (used up to 1 hour each morning during wet periods)
- 1 Water pump (used up to 1 hour each morning during wet periods)



Figure 4.9 Plant and machinery on quarry floor

4.11 Existing Environmental Management

4.11.1 Trade Emissions

The applicant has in place a licence to discharge effluent under section 4 of the Local Government (Water Pollution) Acts 1977 & 1990. This has been issued by Donegal County Council and been monitored by council staff on an annual basis since 2009. This discharge from the tertiary settlement lagoon to the stream has always been found to be compliant. Periodic monitoring for the Discharge of Trade Emission (License No. LWat63) shows that the quarry has operated the treatment of trade discharge in compliance with parameters as set by the local authority Donegal County Council and EPA.

The discharge of trade emission to waters after settlement, is via the St. Johnstown stream and tributary of the River Finn SAC and this is addressed in chapter 6 'Water' of this rEiAR.

4.11.2 Dust Monitoring

Dust monitoring was initially carried out between January and June 2022 and the result so it are referred to in Air section. The location the dust monitoring locations are shown in figure 4.10.



Figure 4.10

Dust monitoring locations (Greentrack)

4.11.2 Wheel Wash

There is no wheel wash installed at the quarry. It is proposed that one will be installed close to the site entrance in the location shown in Figure 4.11, as part of the mitigation measures.

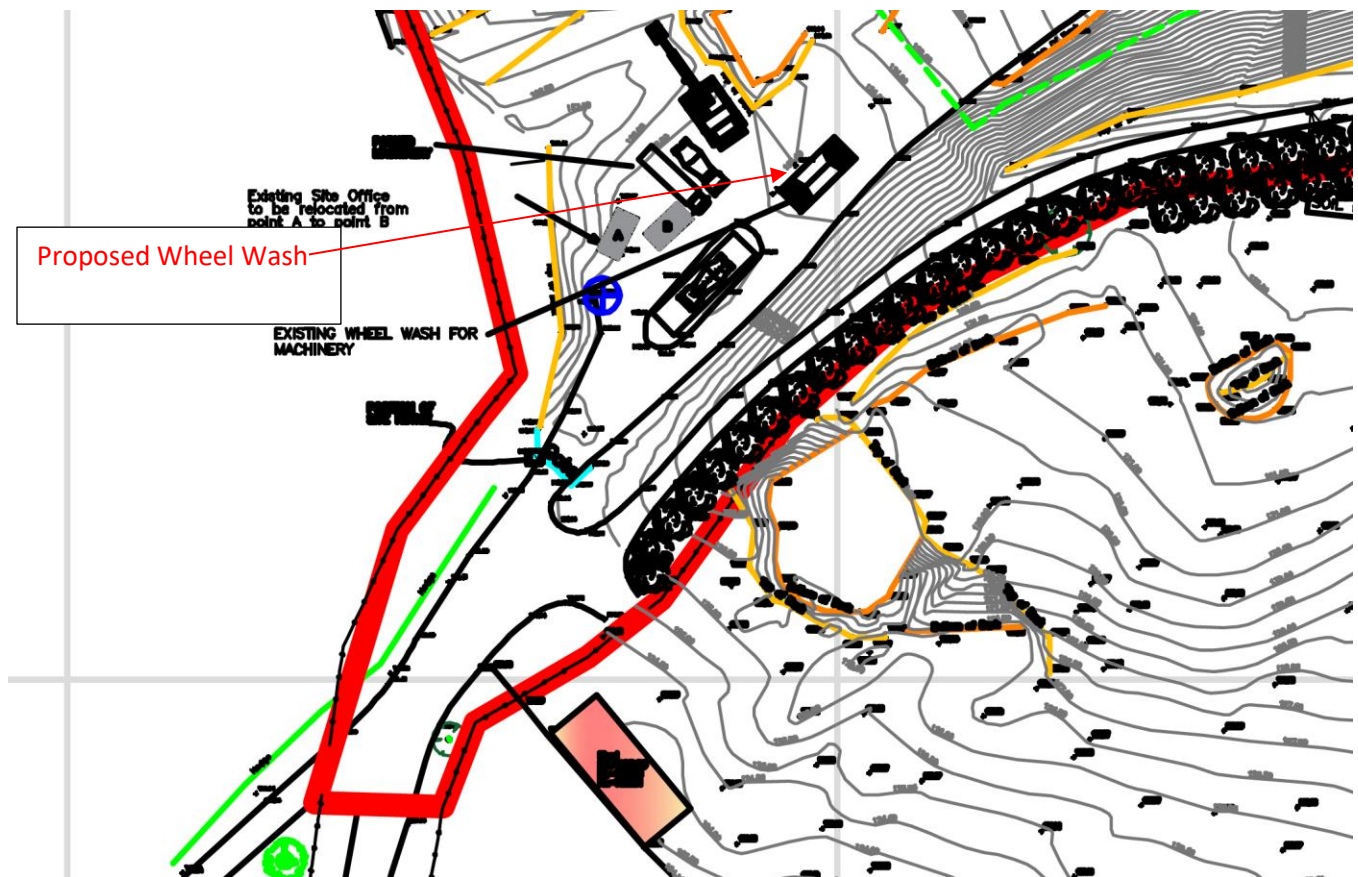


Figure 4.11 Proposed wheel wash location within the quarry Dominic Whoriskey Architects

4.12 Land Drainage Regime

4.12.1 Surface Water Collection and Disposal

Surface water from the quarry floor is pumped into a settlement pond 1 that has been created by excavations carried out on the site at a higher level (Pond 1 in figures 4.13 and 4.14). Due to its size and volume, the settlement pond filters high levels of siltation and from there the water flows uncontrolled overground to a worked out section of the quarry at the northern end where there is another informal settlement pond with reeds (Pond 2 in figures 4.15 and 4.16). The adjacent Glenstone Quarry is also visible.

Water flows from the second pond in a north western direction to the local drainage network. These matters are dealt with in detail in the water chapter of this rEiAR.

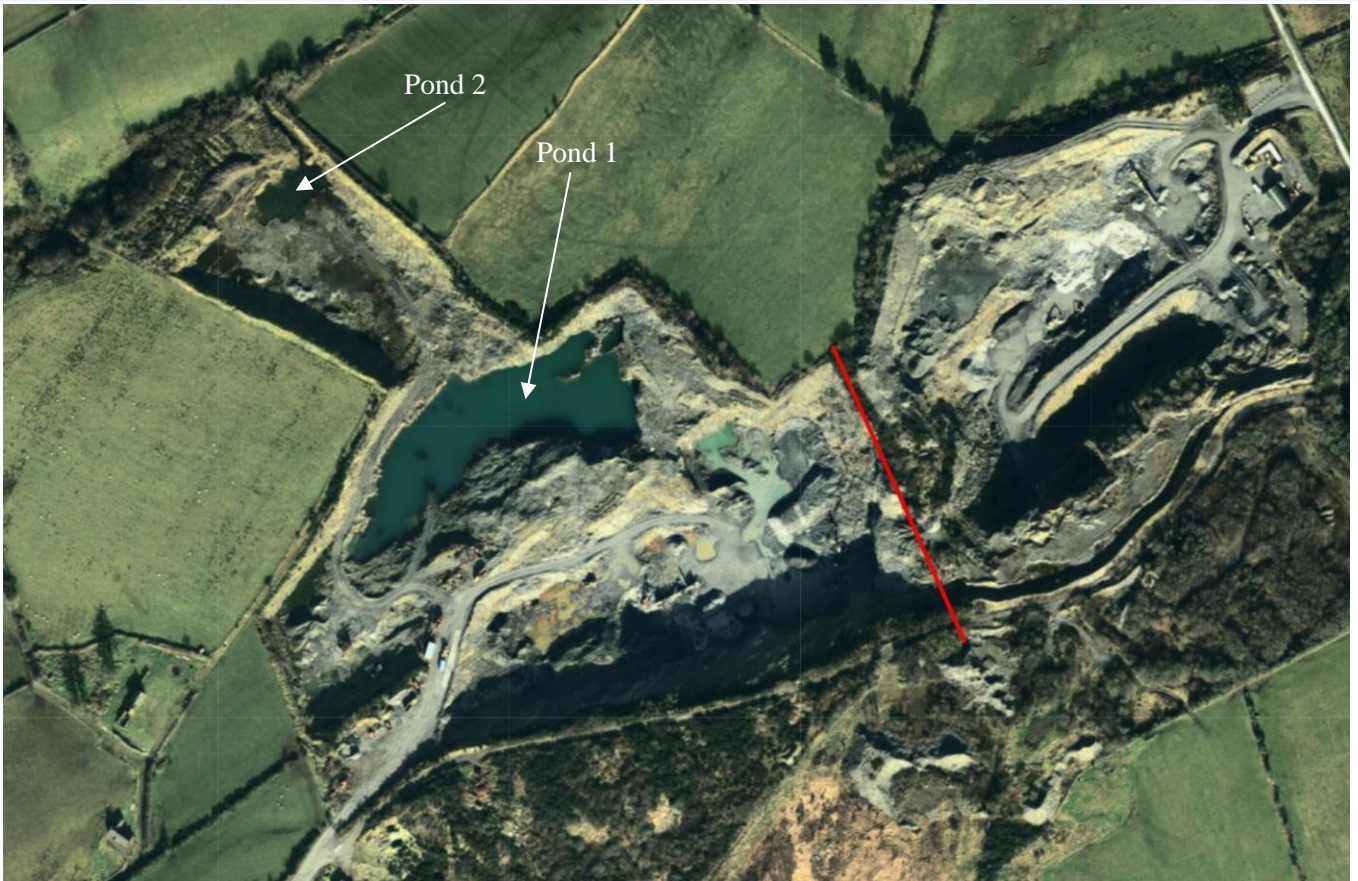


Figure 4.12 Settlement ponds in 2013 adapted from www.googlemaps.com



Figure 4.13 Settlement ponds in 2022 adapted from www.googlemaps.com



Figure 4.14 Primary Settlement pond (Pond 1)



Figure 4.15 Second Settlement pond and reeds (Pond 2)



Figure 4.16 Second Settlement pond and reeds (Pond 2)

4.13 Oil Interceptors and mud traps

Maintenance of site machinery is unavoidable on site due to need for servicing or because of breakdown and the use of oil interceptors to trap leaks is advisable. Care is taken to intercept possible oil spill or oil contamination of the quarry floor. If accidental spill or leak should occur, an immediate clean-up of contaminated sand gravels takes place involving the safe disposal of contaminated material..

As part of the water chapter it has been advised that an interceptor be installed before the final discharge into the stream.

4.14 Buildings

The quarry site contains a redundant lean to shed building and a porta-cabin structure that houses the site office. The weighbridge is located in the same part of the site near to the entrance and the buildings and weighbridge are shown in Figure 4.17 below. Staff welfare facilities are located in the applicants home close to the site entrance.

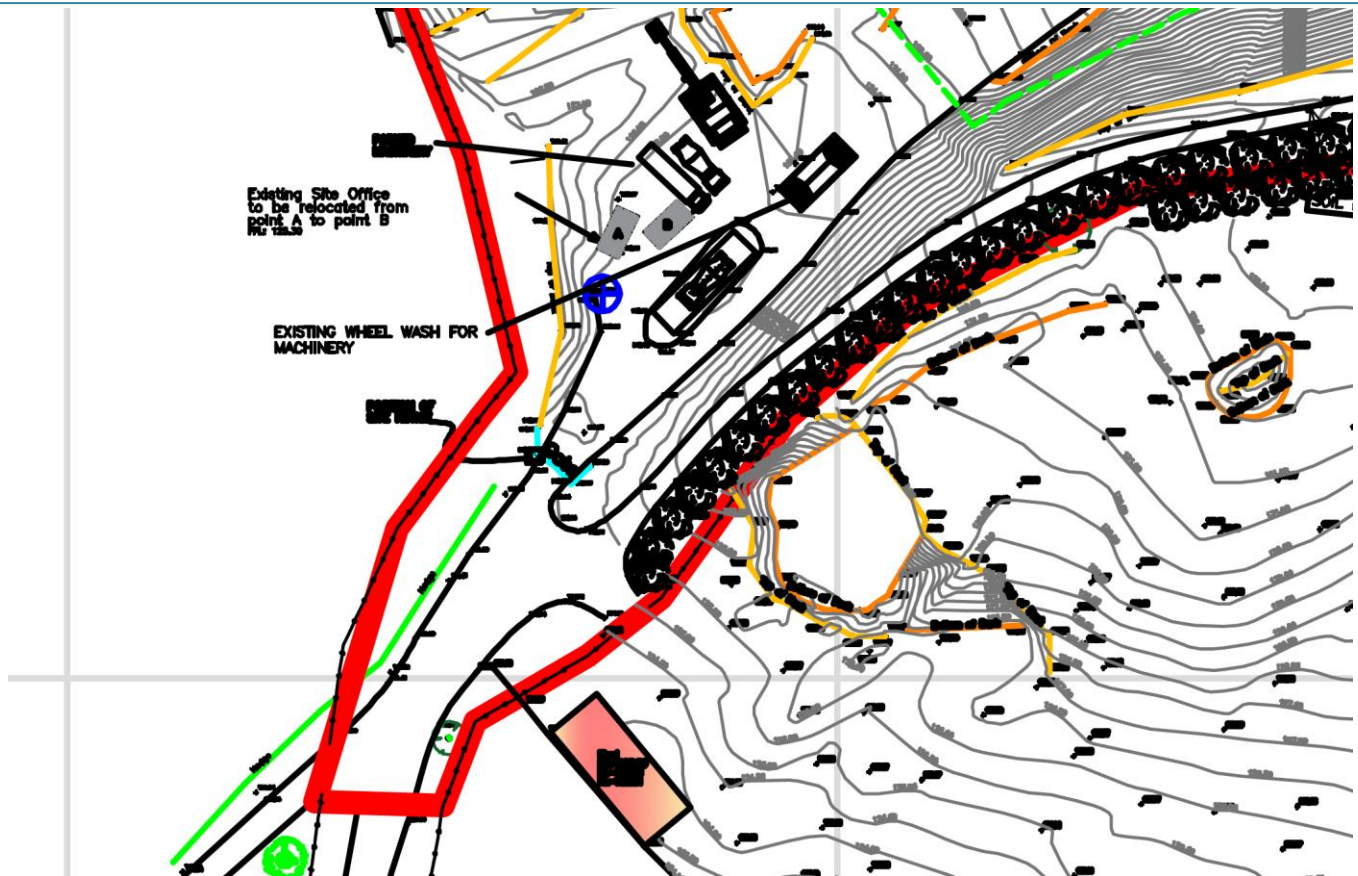


Figure 4.17 Weighbridge

Dominic Whoriskey Architects

4.15 Quarry Management Area (QMA)

The former office and canteen facilities that were located close to the quarry entrance are no longer in use but remain on site. The daily running of the quarry management takes place from the applicant's home, which is located approximately 200m southwest of the quarry entrance. The weigh bridge is located close to the former office and all loads leaving are weighed on departure. It is proposed to slightly adjust the location of the steel container at some point in the future as shown on the site layout plan accompanying the application.

Warning site notices are located at the site entrance to the site. Warning notices are also erected to inform drivers and road users of the quarry entrance ahead, that heavy goods vehicles are emerging from the site entrance. Other site hazard warnings are placed within the site include: -

- No unauthorised personal beyond this point
- Hazardous areas
- Reminders to wear protective clothing and hard hats
- Warning information to remind employees to wear mandatory protective clothing and hard hats in accordance with Health Safety and Welfare at Work Guidelines 2005.

4.16 Existing Quarry Working Area (QWA)

This section refers to the main operations area of quarry.

4.16.1 Transfer of Materials off-site

Site traffic includes internal site vehicles for the operation of digging, screening, and crushing of won materials and two haulage lorries.

Daily Traffic volumes were submitted with planning application 04/6411 to Donegal County Council which was for the 'Retention for quarry entrance and access road and associated site works' showing the impact that the quarry activity had on the local road network at that time. Planning permission was subsequently granted with the condition that portions of the main Ardagh to St. Johnston road be upgraded by the applicant at and close to the exit from the quarry access road onto the local road. This was completed in accordance with the planning conditions.

Since that time the volume of traffic has reduced from an average of twenty lorry loads per day to five loads per day leaving the quarry, therefore the impact of traffic levels on the local road network has not been detrimental to the local road network.

Traffic is addressed in detail in the Section 12 'Material Assets – Traffic' of this rEiAR.

4.17 Overview of Emissions and Residues

Extraction of quarry stone crushed rock aggregate operations produce a degree of particulate emissions from diesel engines operating at the quarry face and around the site. Also a volume of dust particulates is created during the extraction of stone process. During dry weather period it is important that dust is kept to a minimum, use of browser for regular water sprinkling to settle dust is essential to limit fly dust and to limit exit trail dust from visiting cars, and avoid dust depositing on vegetation foliage. Atmospheric dust chokes plant leaf ability to photosynthesise, causing plant dieback, sometimes up to 40m from the quarry site¹.

Dust is addressed in the Section 10 'Air' of the rEiAR.

4.18 Description of Trade Emission Discharge Management

The River Finn is co-managed via the Lough Agency based in Derry city, Northern Ireland and the EPA in the Republic of Ireland. Trade Emissions License Lwat 67, which refers to the ongoing monitoring for this quarry has remained compliant in all tests since 2009.. This matter is addressed in more detail in Section 8 'Water'.

4.19 Working Hours and Employment

The quarry operates from 08:00 to 18:00 Monday to Friday and is does not generally operate at weekends with

¹ IAQM (2014) Guidance on the Assessment from dust in Construction and Demolition sites. Iaqm.co.uk

occasional Saturday work carried out between 08:00 and 14:00. Crushing is carried out for up to 3 hours per day.

The quarry currently has four full time staff working on different aspects of the quarrying works, with two drivers, one machine driver and one general operator. Indirect periodic employment is also generated in terms of maintenance fitters, fuel delivery personnel and general suppliers of goods and services.

There is a parking area for the employees adjacent to the site office.

4.20 Landscaping and Rehabilitation

A section at the top of the quarry is visible on approach from the west as per figure 4.18 below as is part of the adjacent Glenstone quarry. This figure was captured c1km west of the quarry with the red box indicating the quarry as well as capturing the quarry buildings and part of the adjacent Glenstone Quarry.



Figure 4.18 View of quarry from 1km to the west

Figure 4.19 is a close up view of that part of the quarry face that is visible as is the adjacent Glenstone Quarry.



Figure 4.19 Part of quarry face visible from western approach

Further details are provided in Section 15 Landscape and Restoration.

4.21 Waste Management

All stone excavated from the quarry is used in some form or another within the construction/building industry. The primary use of the stone is in the making of roads, agricultural drainage and as general construction fill. The stone is crushed to a number of different sizes and moved off site to order. At the time of preparing this rEiAR, in 2022, there were limited stockpiles on the site as activity is generally only carried out to order for a number of years. All stone extracted is eventually used and no waste stone is generated.

The level of overburden generated from site clearance was shallow and limited as the rock was at or close to the surface and the soil cleared from the top of the quarry was used to create perimeter berms. No waste has been generated via this activity.

The main waste generated on site consists of machinery parts such as tyres, engine parts, spent oils and general wastes. All metal waste is removed periodically by waste operators who hold relevant waste collection permits. Oils are drained from machinery during routine servicing and are removed from the site by a local waste contractor.

4.22 Utilities and Services

There are no wastewater facilities on the site and the workers utilise the toilet facilities in Tinney family home adjacent to the quarry. The septic tank and percolation are that were previously located on site, were decommissioned and removed in 2015

Water needs at the site are limited to the requirements of the office canteen. This water is taken on site as needed.

Lorries are washed off site at a local washing facility.

4.23 Health and Safety Plan

The quarry manager has the responsibility of keeping the health and safety statement and policies on site in line with legislative requirements. This is also a requirement under his current insurance cover.

In the case of a fire there is a defined, clearly marked fire assembly point in the yard. The risk levels, thought low, is reassessed annually. The fire brigade, Garda and County Council and EPA will be notified in the case of an emergency.

Blasting is carried out one or two times per year.

4.24 POLICY CONTEXT

4.24.1 Project Ireland 2040 - National Planning Framework

The National Planning Framework was approved in 2018 and is a strategic planning framework which 'is the Government's high-level strategic plan for shaping the future growth and development of our country out to the year 2040'².

It goes on to state that: -

It is a framework to guide public and private investment, to create and promote opportunities for our people, and to protect and enhance our environment - from our villages to our cities, and everything around and in between.

and that

By 2040 there will be roughly an extra one million people living in our country. This population growth will require hundreds of thousands of new jobs and new homes. If we fail to plan for this growth and for the demands it will place on our built and natural environment, as well as on our social and economic fabric, then we will certainly fail in our responsibility to future generations of Irish men and Irish women.

The additional growth was calculated on projections prepared by ESRI for a 20 year period and noted that on a business as usual model: -

'Ireland's population will grow by just under 900,000 people, to almost 5.7 million people by 2040'

900,000 over 22 years would equate to an annual increase of 40,909 people.

However, it goes on to state that in order: -

To account for the possibility of higher net in migration over the period to 2040, an allowance is made in the NPF to enable ambition and flexibility in planning for future growth. This means that full achievement of the targets set out in this Framework would accommodate around 1.1 million additional people in Ireland to 2040, which is approximately 25% more than the ESRI baseline projection.

An increase of 1.1 million over 22 years is an average of 55,000 per annum and would leave the population at 5.9 million, up from 4.8 million in 2018.

It is noted that the preliminary population figures from Census 2022 indicates that the population of Ireland has grown to 5,123,536 in April 2022 at a growth rate of 60,278 per annum over 6 years or 9.59% higher than the highest projection in the NPF and if this rate of growth continues the 2040 population would be 47% higher than the ESRI's growth projections.

² Page 10 of the National Planning Framework

Chapter 5 addresses 'Planning for Diverse Rural Places' and states that: -

Rural areas make a major contribution to Ireland's identity and to overall national development in economic, social, cultural and environmental terms

and that: -

'Rural areas, ...hold much of Ireland's natural resources, biodiversity, environmental qualities and landscape and contribute in a unique way to Ireland's culture.

It goes on to set out that: -

Accordingly, building on Government policy and the 2017 Action Plan for Rural Development, the National Planning Framework will place a major focus on rural areas in relation to: -

- Strengthening Ireland's rural fabric and supporting the communities who live there;
- Putting in place planning and investment policies to support job creation in the rural economy;

Section 5.4 addressed 'Planning and Investment to Support Rural Job Creation' and includes a section on 'Aggregates and Minerals' that is restated in full below, followed by a relevant specific 'National Policy Objective 23.

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.

These matters are addressed in the technical sections of this rEIAR.

National Policy Objective 23

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

4.24.2 Regional Spatial and Economic Strategy 2010-2022

The Regional Spatial and Economic Strategy (RSES) 2020-2032, is described as: -

a high-level development framework for the Northern and Western Region that supports the implementation of the National Planning Framework (NPF) and the relevant economic policies and objectives of Government. It provides a 12-year strategy to deliver the transformational change that is necessary to achieve the objectives and vision of the Assembly.

Chapter 5.1 Economic Progress and Environmental Impacts states

Justifying the integrated approach under our 'Growth Framework' it is necessary to consider the interdependence of population growth, economic development, resource management and environmental impacts.

Growth and development in this region have caused a wide range of environmental impacts, some irreversible. The region's abundant natural resources have been used for industry and employment. Our land, water, and landscapes have been harnessed to support the growth of national and local settlements, business and industry.

A sustainable future, for the region, is one that ensures the well-being of all living things, carefully integrating human activities with larger patterns and systems of the natural world. This translates into avoiding the waste of energy, water, and raw natural resources. A unifying vision of the ways our efforts interconnect at the regional level would be a valuable contribution to environmental management activities.

A sustainable approach also prevents the degradation of land, air, and water, while creating built environments that are liveable, comfortable, safe and healthy, as well as promoting/accommodating increased productivity.

4.24.3 Quarries and Ancillary Activities - Guidelines for Planning Authorities (2004)

The Guidelines are intended to offer guidance to planning authorities on planning for the quarrying industry through the Development Plan and determining applications for planning permission for quarrying and ancillary activities. They also note that aggregates are a significant natural resource and that extractive industries make an important contribution to economic development in Ireland. However, the operation of quarries can give rise to land use and environmental issues which require to be mitigated and controlled through the planning system.

Section 3 of the guidelines addresses the following environmental implications of quarry development: -

- Noise and vibration
- Dust deposition/air quality
- Water supplies and groundwater

- Natural heritage
- Landscape
- Traffic impact
- Cultural heritage
- Waste management

All of these topics have been considered as part of the EIA and will be addressed in the following sections of this rEiAR.

The guidelines also note that *construction aggregates and dimension stone are basic materials for the construction industry* and that *over 100 million tonnes are used annually in the manufacture of concrete products, road materials, and other ancillary products*. Activity in the construction sector has fluctuated since the guidelines were published in 2004, in parallel with the overall economy, however, nevertheless there continues to be a demand for aggregates now and in the future.

By their nature, aggregates can only be worked where they occur. Sand and stone have a low value-to-weight ratio, and therefore it is generally neither economically nor environmentally sustainable to transport them any great distance to their market due to increased transport costs. Many pits and quarries tend to be located within 25 km of urban areas, where most construction takes place.

There will be a continuing need for some new or expanded aggregate quarrying operations on land to meet regional and local requirements. There is thus a need to identify and protect aggregate resource areas through the planning system, to ensure an adequate supply of aggregates to meet the likely scale of future demand, while at the same time protecting Ireland's natural and cultural heritage.

Following from the Guidelines, the County Development Plans have set out specific policies and objectives in relation to quarrying in Donegal and the technical sections of this rEiAR have taken into consideration the issues raised in the Guidelines and the Development Plan.

4.24.4 EPA Environmental Management Guidelines – Environmental Management in the Extractive Industry (2006)

These guidelines are principally aimed at surface developments within the extractive industry such as the quarry at Trentaghmucklagh, St. Johnstown, Co Donegal.

They apply to surface developments that are extracting and processing construction aggregates and dimension stone (i.e. quarries and ancillary facilities), i.e. typically those regulated by Section 261 of the Planning & Development Act 2000.

The guidelines ... provide general advice and guidance in relation to environmental issues to practitioners involved in the planning, design, development, operation and restoration of quarry developments and ancillary facilities. It should be noted that each individual quarry location will have site-specific issues to be addressed.

The guidelines noted that of the 20 quarries visited as part of the preparation of the guidelines *those quarry operations with an EMS in place or in preparation addressed environmental issues in a more proactive manner.*

The EPA believes that these guidelines will contribute to a more environmentally sustainable quarry & pit industrial sector, greater protection for the environment and human health, and thereby a greater public confidence in such operations.

The Environment Management Guidelines address the following topics: -

- Ecology
- Surface Water
- Groundwater
- Air Quality
- Noise & Vibration
- Waste Management
- Archaeological Heritage
- Transport and Traffic

All of the issues referred to above will be addressed in detail in this rEIAR.

For sites where an Environmental Impact Statement has been carried out, this will have generated all of the necessary environmental information for an EMS. Compliance with planning conditions forms a major part of the EMS.

The applicant has indicated that they will prepare an EMS on receipt of a grant of Substitute consent, using the information gathered in this rEIAR process as the baseline for the EM as part of new application to continue quarrying .

4.25 Donegal County Development Plan 2018-2024

The Donegal County Development Plan 2018-2024 includes out a number of Objectives and Policies that are considered relevant to the development subject to this rEIAR. Each of the policies and objectives set out below will be addressed in the context of the relevant Chapters of this rEIAR.

4.25.1 Extractive Industry and Geology

Chapter 8 of the Donegal County Development Plan 2018-2024 addresses 'Natural Resource Development'.

Section 8.1 'Extractive Industry and Geology' is relevant to the proposed development.

The Aim of Section 8.1 is: -

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.

Section 8.1.1 provides a context within which the winning of natural resources will be considered in Donegal and states that: -

Donegal has a strong tradition of using local stone as a road, paving and house building material and notes that aggregates are a significant and necessary natural resource for the continued economic development of Donegal, including job creation and are essential materials for building as well as essential components of infrastructure projects. Therefore there is a need to facilitate the sustainable extraction of appropriate materials such as clays, gravels, sands and aggregates with due regard for it's social and environmental impact.

The Plan goes on to state that: -

The Council recognises the need to minimise any adverse impacts upon the natural environment, landscape, road network, heritage and communities. Impacts which must be taken into consideration include the following; noise, vibration, dust, water quality, lowering of the water table, natural and cultural heritage, landscape, traffic and waste materials.

Each of the issues referred to above are addressed in the later sections of this rEIAR.

Section 8.1.2 of the County Development Plan 2018-2024, sets out the Council's Objectives, while Section 8.1.3 lists Policies, in relation to the *Extractive Industry*.

The Plan contains three *Extractive Industry* Objectives, which are reproduced in full below: -

- EX-0-1:** To conserve and protect the environment, including in particular, the archaeological and natural heritage and conservation and protection of European designated sites and any other sites, which are prescribed.
- EX-0-2:** To preserve the character of the landscape where and to the extent that, the proper planning and sustainable development of the area requires it, including the preservation of identified views and prospects, cultural features and the amenities of places and features of natural beauty or interest.
- EX-0-3:** To protect and preserve the quality of the environment, so as to ensure no significant adverse effects including the prevention, limitation, elimination, abatement or reduction of environmental

pollution and the protection of waters, groundwater, the seashore and the atmosphere.

All five Policies are set out below: -

EX-P-1 It is a policy of the Council to require that development proposals for extractive industry are in accordance with DEHLG Quarries and Ancillary Activities Guidelines for Planning Authorities 2004 and the EPA Environmental Management Guidelines – Environmental Management in the Extractive Industry (Non-scheduled minerals) 2006.

EX-P-2 It is a policy of the Council to not normally permit new extractive industry proposals in areas of Especially High Scenic Amenity or in areas of High Scenic Amenity. Furthermore, such proposals will not normally be permitted where they would adversely impact upon any Natura 2000 site, Natural Heritage Area, Nature Reserve, Groundwater Protection Area (Aquifer), Freshwater Pearl Mussel Catchment or other areas of importance for the protection of flora and fauna, or areas of significant archaeological potential, unless it can be clearly demonstrated that such extractive industries would not have significant adverse impacts on amenities or the environment, and comply with Article 6 of the Habitats Directive.

All extractive industry proposals in designated Freshwater Pearl Mussel Catchments will be subject to a Habitats Directive Assessment and will comply with the objectives and practices set out in the relevant Freshwater Pearl Mussel Sub-basin Plan, and any relevant codes of practice

EX-P-3 It is a policy of the Council not to permit development proposals for quarry and ancillary facilities unless it has been evidenced that the development shall not result in a significant threat of pollution to the environment including, siltation and sedimentation of receiving downstream surface waters, having regard to the vulnerabilities identified within the River Basin Management Plan, and any relevant Fresh Water Pearl Mussel Sub-basin Plan and to ensure that extractive industry proposals do not result in significant adverse impact upon the environment, including surface water and groundwater (aquifers) quality and quantity, river corridors, associated wetlands and River Basin Management Districts.

EX-P-4 It is a policy of the Council to require all applications for extractive industry proposals to be accompanied by an integrated phased development and restoration plan for aftercare/re-use of the site. Any restoration plan must comply with Article 6 of the Habitats Directive and have regard to the relevant conservation objectives, qualifying interests and threats to the integrity of a Natura 2000 site. Restoration plans should comply with the following policies EX-P-1 and EX-P-2 and objectives EX-O-1, EX-O-2 and EX-O-3.

EX-P-5 It is a policy of the Council to require that, where an extractive industry development is

proposed within 300m of a recorded monument/archaeological site or is likely to have a material impact of the visual amenities of the monument/site, the applicants/operators shall engage the services of an archaeologist or suitably qualified person to undertake archaeological assessment of the site. The assessment to be submitted in full with the planning application for development.

EX-P-6 It is a policy of the Council to require that development proposals are accompanied by evidence of the suitability of the road network in terms of width, alignment and carrying capacity and to require that any identified deficiencies can be addresses at the applicant's expense.

Where mitigation works are required to upgrade or realign roads infrastructure, they must comply with Article 6 of the Habitats Directive and have regard to the relevant conservation objectives, qualifying interests and threats to the integrity of a Natura 2000 site, and will comply with the objectives and practices set in any relevant Freshwater Pearl Mussel Sub-basin Plan, and any relevant codes of practice, insofar as reasonably possible taking into consideration the safety of future road users.

4.25.2 Geology

Section 8.1 of the Development Plan also contains a specific Policy relating to Geology, which is set out below: -

G-P-1 It is a policy of the Council to protect County Geology Sites (CGS). Accordingly the Council will adopt a precautionary approach to development proposals with the potential to impact upon a CGS. Proposals should be accompanied by a detailed report from a competent person setting out the potential impact to ensure that an informed decision can be made. Where significant harm to the CGS is deemed likely, planning permission will not be granted unless there are overriding considerations of public importance to the County.

4.25.3 Transportation

The Donegal County Development Plan 2018-2024 also contains Transportation related Objectives and Policies in section 5.1.2, several of which are considered relevant to this quarry development, as many refer to a number of major roads projects that are planned in the area, within a short distance from the quarry.

T-O-1: To deliver improvements to the Trans European Transport Network (TEN-T), (as required by EU Regulation (EU) No.1 315/2013 "Guidelines for the development of the Trans European Transport Network (TEN-T)") as part of the core and comprehensive transport network of Ireland. In this regard it is a specific objective of the Council to:

a) Progress and ultimately carry out/implement the TEN-T Priority Route Improvement Project, Donegal as one of critical strategic importance to Donegal subject to the granting of the required statutory approvals for same and the terms and conditions of any such approvals (if granted).

b) Reserve the preferred route corridors of the TEN-T Priority Route Improvement Project, Donegal as shown on maps 5.1.4, 5.1.5, and 5.1.6 for the purposes of the project and the ancillary facilities to service the same and not to permit other development within those corridors where such development may prejudice the carrying out/implementation of the said project.

T-O-1A: Should there be any ostensible or apparent conflict between, on the one hand, the Objectives, Policies and/or provisions of the development plan herein providing for the development of the TEN-T Priority Route Improvement Project, Donegal (TEN-T PRIPD) and, on the other hand, any other Objectives, Policies and/or provisions of the development plan, those Objectives, Policies and Provisions which provide for the development of the TEN-T PRIPD shall take priority over all or any other provisions of the development plan and any such other provisions or Objectives shall be read and construed as subservient to and not in any material way contravening so much of the Objectives, Policies and provisions contained within this development plan as provide for the development of the TEN-T PRIPD. 6

T-O-6: To safeguard the carrying capacity and safety of National roads and other Regional routes.

T-O-7: To protect the corridors and routes and acquire the lands necessary for transportation improvement projects as identified in Table 5.1B.

T-O-12: To strengthen cross border transportation links (including the A5 Western Transport Corridor) and support the development of new links to and within the North West City Region

T-P-1: It is a policy of the Council to support and facilitate the appropriate development, extension and improvement of the TEN-T network (Map 5.1.1 refers) within Donegal in accordance with the Core Strategy and subject to environmental, safety and other planning considerations. In this regard it is a specific policy of the Council to:

a) Progress and ultimately carry out/implement the TEN-T Priority Route Improvement Project, Donegal as one of critical strategic importance to Donegal subject to the granting of the required statutory approvals for same and the terms and conditions of any such approvals (if granted).

b) Reserve the preferred route corridors of the TEN-T Priority Route Improvement Project, Donegal as shown on maps 5.1.4, 5.1.5, and 5.1.6 for the purposes of the project and the ancillary facilities to service the same and not to permit other development within those corridors where such development may prejudice the carrying out/implementation of the said project

T-P-2: It is a policy of the Council to support and facilitate the appropriate development, extension and

improvement of Donegal's transport network, including the Strategic Road Network (Map 5.1.2 refers), and roads identified in Table 5.1 in accordance with the Core Strategy and subject to environmental, safety and other planning considerations.

T-P-3: It is a policy of the Council to work in partnership with the Northern Ireland authorities to strengthen and improve existing cross border transportation links (including walking and cycling routes) and support the development of new links (including walking and cycling routes) to enable the targeted spatial and economic development of the North West City Region.

T-P-4: It is a policy of the Council not to permit developments requiring new accesses or which would result in the adverse intensification of existing access points onto National Roads where the speed limit is greater than 60 kph or roads treated to National Roads Standards namely (Map 5.1.3 refers):

R238 Bridgend-Buncrana Road (where the speed limit is greater than 60 kph)

Notwithstanding the foregoing, in exceptional circumstances, developments of national and regional strategic importance may be considered where the locations concerned have specific characteristics that make them particularly suitable for the developments proposed, subject to such developments being provided for through the Local Area Plan or Development Plan making process, including in consultation with the TII.

T-P-08 It is a policy of the Council to require a Traffic and Transport Assessment and Road Safety Audit for any development proposing access onto the Strategic Road Network.

T-P-10: It is the policy of the Council not to permit development that would prejudice the implementation of a transport scheme identified in the development plan.

T-P-12: It is a policy of the Council to seek provision, improvement and extension of footpaths and lighting at appropriate locations subject to environmental, safety and amenity considerations.

The quarry although located close to the TEN-T routes, has not affected the preferred routes.

4.25.4 Water and Environmental Services

The following objectives and policies from the Water and Environmental Services Section 5.2.2 of the County Development Plan are considered relevant: -

WES-O-5: To maintain, protect, improve and enhance the quality of surface waters and ground waters in accordance with the Programme of Measures contained within the relevant River Basin

Management Plan.

WES-O-6: To provide for environmental protection, through: -

- The protection of surface water and ground water from pollution in accordance with the relevant River Basin Management Plan, Groundwater Protection Scheme and Source Protection Plans for public water supplies.
- The protection against soil contamination;
- Minimising air and noise pollution;
- Supporting remediation of all existing pollution; and
- Ensuring full compliance with relevant EU directives, and National and European Policies and Regulations, and through monitoring and control of relevant activities.

The following Groundwater Protection Policy is also relevant: -

WES-P-8 It is the policy of the Council to protect all waters, including any sites on the Water Framework Directive Register of Protected Areas, through supporting and facilitating Irish Water with its environmental protection programme (including the Programme of Measures contained within the relevant River Basin Management Plan; and through the land use planning system.

Controls will be based on a risk management approach, which seeks to establish the nature of the hazard, the vulnerability of the groundwater body and the potential consequences of a contamination event. Within Donegal there are a number of locally important aquifers, which store large quantities of water and are capable of storing water for small group and village schemes. (Public Groundwater Abstraction points and associated Groundwater Protection Plans can be viewed on the Councils website.

4.25.5 Natural Heritage

The following Natural Heritage Objectives and Policies are considered in the rEiAR: -

- NH-O-1:** To protect, sustainably manage and enhance the rich biodiversity of County Donegal for present and future generations.
- NH-O-2:** To comply with Article 6 of the Habitats Directive (92/43/EEC) and have regard to the relevant conservation objectives, management plans, qualifying interests and threats to the integrity of Natura 2000 sites.
- NH-O-3:** To maintain the conservation value of all existing and/or proposed SACs, SPAs, NHAs and RAMSAR sites including those plant and animal species that have been identified for protection under the EU Habitats Directive (92/43/EEC), EU Birds Directive (79/409/EEC as amended by 2009/147/EC), the Wildlife Acts (1976-2014) and the Flora Protection Order (2015).

- NH-O-4:** To ensure the protection and management of the landscape in accordance with current legislation, ministerial and regional guidelines and having regard to the European Landscape Convention 2000.
- NH-O-5:** To protect, manage and conserve the character, quality and value of the landscape having regard to the proper planning and development of the area, including consideration of the scenic amenity designations of this plan, the preservation of views and prospects and the amenities of places and features of natural, cultural, social or historic interest.
- NH-O-6:** To protect and improve the integrity and quality of Designated Shellfish Waters, and Freshwater Pearl Mussel Basins and to take account of any relevant Shellfish Reduction Program or Fresh Water Pearl Mussel Sub-Basin Plan.
- NH-O-7:** To protect the areas of Especially High Scenic Amenity from intrusive and/or unsympathetic developments.
- NH-O-8:** To ensure where appropriate the protection and conservation of hedgerows, stone walls and traditional field boundaries as natural heritage corridors and migration routes for wildlife where they are shown to play a significant heritage role
- NH-O-10:** To maintain and restore ecosystems and to conserve valuable or threatened habitats and species in order to prevent further loss of biodiversity and to meet the EU's target to halt biodiversity loss by 2020 through the implementation of the EU Biodiversity Strategy (2011) or as updated.
- NH-P-1:** It is a policy of the Council to ensure that development proposals do not damage or destroy any sites of international or national importance, designated for their wildlife/habitat significance in accordance with European and National legislation including: SACs, Special SPAs, NHAs, Ramsar Sites and Statutory Nature Reserves.
- NH-P-2:** It is the policy of the Council to protect the habitats of species listed for protection through the prevention and management of the spread of invasive plant and animal species in the County in accordance with European and National legislation.
- NH-P-3** It is a policy of the Council to require the consideration of Designated Shellfish Waters and their Shellfish Pollution Reduction Programmes in all development proposals that fall within their catchment.
- NH-P-4** It is a policy of the Council to require the consideration of Freshwater Pearl Mussel and any relevant Freshwater Pearl Mussel Sub-basin Plans in all development proposals that fall within

their basin of catchment.

NH-P-5: It is a policy of the Council to require consideration of the impact of potential development on habitats of natural value that are key features of the County's ecological network and to incorporate appropriate mitigating biodiversity measures into development proposals.

NH-P-6: It is a policy of the Council to protect areas identified as Especially High Scenic Amenity on Map 7.1.1: 'Scenic Amenity'. Within these areas, only developments assessed to be of strategic importance or developments that are provided for by policy elsewhere in this Plan shall be considered.

NH-P-7: Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies of this Plan, 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.

NH-P-9: It is the policy of the Council to manage the local landscape and natural environment, including the seascape, by ensuring any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of the area.

NH-P-17: It is a policy of the Council to seek to preserve the views and prospects of special amenity value and interest, in particular, views between public roads and the sea, lakes and rivers. In this regard, development proposals situated on lands between the road and the sea, lakes or rivers shall be considered on the basis of the following criteria:

- Importance value of the view in question.
- Whether the integrity of the view has been affected to date by existing development.
- Whether the development would intrude significantly on the view.
- Whether the development would materially alter the view.

In operating the policy, a reasonable and balanced approach shall be implemented so as to ensure that the policy does not act as a blanket ban on developments between the road and the sea, lakes and rivers.

NH-P-19: It is a policy of the Council to protect County Geological Sites (CGS) through a precautionary approach to development proposals with the potential to impact upon a CGS. Proposals should

be accompanied by a detailed report from a competent person setting out the potential impact to ensure that an informed decision can be made. Where significant harm to the CGS is deemed likely, planning permission will not be granted unless there are overriding considerations of public importance to the County.

The following Archaeological Heritage Objective and Policy are relevant: -

AH-O-1: To conserve and protect the County's archaeological heritage for present and future generations.

AH-P-2: It is a policy of the Council to:

- a) Protect the character of National Monuments and Recorded Monuments and to manage development which would be considered to (physically) intrude upon or inhibit the enjoyment of the amenities of these sites.

4.25.6 Conclusion

All of the policies and objectives of the planning documents governing quarry development from national to County level have been taken into consideration in the preparation of this remedial Environmental Impact Assessment Report.