

# Validation Checklist

Lodgement Number : **LDG-061085-23**  
Case Number: **ABP-315708-23**  
Custodian: **Raphoe Community in Action c/o Mary Harte and others**



An  
Bord  
Pleanála

Lodgement Date: **08/02/2023 13:52:00**  
Validation Officer: **Aisling Reilly**  
PA Name: **Donegal County Council**  
PA Reg Ref: **2250933**  
Case Type: **Normal Planning Appeal PDA2000**  
Lodgement Type: **Appeal**

*Multiple appeal*

Validation Checklist	Value
Confirm Classification	Confirmed - Correct
Confirm ABP Case Link	Confirmed-Correct
Fee/Payment	Valid – Correct
Name and Address available	Yes
Agent Name and Address available (if engaged)	Yes
Subject Matter available	Yes
Grounds	Yes
Sufficient Fee Received	Yes
Received On time	Yes
3rd Party Acknowledgement	Yes
Eligible to make lodgement	Yes
Completeness Check of Documentation	Yes
Valid Lodgement Channel	Yes

• BBIM Task No: 317002-23 - enclose copy of receipts and enclose copy of other 3rd party appeals (enclose 6 other appeals)

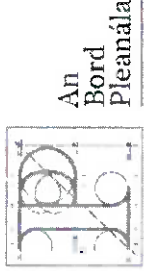
Run at: 09/02/2023 12:39

Run by: Aisling Reilly

Lodgement Cover Sheet - LDG-061085-23

ABR-315708-23

Multiple appeal



An Bord Pleanála

Details

Lodgement Date	08/02/2023
Customer	Raphoe Community in Action c/o Mary Harfe
Lodgement Channel	Post
Lodgement by Agent	Yes
Agent Name	Gerard Convie Planning Services
Correspondence Primarily Sent to	Agent
Registered Post Reference	

Lodgement ID	LDG-061085-23
Map ID	
Created By	Robyn Hayden
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	
PA Reg Ref	

Categorisation

Lodgement Type	Appeal
Section	Processing

PA Name	Donegal County Council
Case Type (3rd Level Category)	

2250933

Fee and Payments

Specified Body	No
Oral Hearing	No
Fee Calculation Method	System
Currency	Euro
Fee Value	0.00
Refund Amount	0.00

Observation/Objection Allowed?	
Payment	PMT-047816-23
Related Payment Details Record	PD-047706-23

BPM Task No: 317002-23

Appeal

Run at: 08/02/2023 13:57  
Run by: Robyn Hayden

Date of decision: 13/01/2023 last day: 09/02/2023

PA Case Details Manual	
PA Case Number	
PA Decision	
PA Decision Date	
Lodgement Deadline	
Development Description	
Development Address	

Appeals Type	
--------------	--

## GERARD CONVIE

M.Sc. Environ. Man. (Distinction);  
B.A. (Hons);  
Dip. Town and Country Planning.



UNIT F,  
15 LOWER MAIN STREET,  
LETTERKENNY,  
CO. DONEGAL

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Email: gerard@planningservices.ie

Mobile: 086-3895359

The Secretary,

An Bord Pleanála,

64 Marlborough Street,

Dublin 1.

D01 V902

7<sup>th</sup> February 2023

Dear Madam/Sir,

**Re : Our Clients Raphoe Community In Action, C/O Mary Harte, Volte House, Raphoe, Co Donegal & Rev Canon John Merrick, Chairperson, B.O.M. The Royal & Prior Comprehensive School, Raphoe, Lifford, Co Donegal**

**Appeal Against The Planning Decision By Donegal County Council To Grant Planning Permission In Respect of .P.A. Reg Ref 22/50933.**

We act for the above-named in lodging this appeal in respect of the above-mentioned planning decision. Please send all correspondence regarding same to the above address.

We enclose the fee of €220 along with the acknowledgements received in respect of submissions by both named parties.

Also enclosed are the grounds of appeal along with relevant maps and photographs.

Yours Sincerely,

Gerard Convie Planning Services

<b>AN BORD PLEANÁLA</b>	
LDG-	<u>061085-23</u>
ABP-	
<b>08 FEB 2023</b>	
Fee: € <u>220</u>	Type: <u>Cheque</u>
Time: _____	By: <u>Reg Post</u>





Donegal County Council  
Cash Office  
Three Rivers Centre  
Lifford  
Co. Donegal  
074 9153900  
04/07/2022 09:53:59

Receipt No. : LA01/0/89986

REV CANNON JOHN MERRICK  
CHAIRPERSON OF BOARD OF MANAGERS  
ROYAL & PRIOR  
RAPHOE  
CO DONEGAL  
REF: 22/50933

PLANNING OBJECTION FEE	20
GOODS	20.00
VAT Exempt/Non-vatable	

Total : 20.00 EUR  
15.75 IEP

Tendered :  
Cash 20.00

Change : 0.00

Issued By : Denise Duffy  
From : Cash Office  
Vat reg No.IE8F28103W



Donegal County Council  
Cash Office  
Three Rivers Centre  
Lifford  
Co. Donegal  
074 9153900  
29/06/2022 10:38:16

Receipt No. : LA01/0/89904

MR GERARD CONNIE  
UNIT F,15 LOWER MAIN STREET  
LETTERKENNY  
LETTERKENNY PO  
CO DONEGAL  
PLAN REF - 22/50933

PLANNING OBJECTION FEE	20
GOODS	20.00
VAT Exempt/Non-vatable	

Total : 20.00 EUR  
15.75 IEP

Tendered :  
Cheque 20.00

Change : 0.00

Issued By : Rosemary Coyle  
From : Cash Office  
Vat reg No.IE8F28103W

**PLANNING AND DEVELOPMENT REGULATIONS 2001 (AS AMENDED)**

**Acknowledgement of Receipt of Submission or Observation  
on a Planning Application**

**THIS IS AN IMPORTANT DOCUMENT**

**KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO PRODUCE THIS ACKNOWLEDGEMENT TO AN BORD PLEANALA IF YOU WISH TO APPEAL THE DECISION OF THE PLANNING AUTHORITY. IT IS THE ONLY FORM OF EVIDENCE THAT WILL BE ACCEPTED BY AN BORD PLEANALA THAT A SUBMISSION OR OBSERVATION HAS BEEN MADE TO THE PLANNING AUTHORITY ON THE PLANNING APPLICATION.**

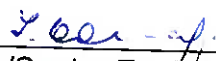
PLANNING AUTHORITY: **DONEGAL COUNTY COUNCIL**

PLANNING APPLICATION REF.NO: 22/50933

A submission/observation in writing, has been received from Gerard Convie, Unit F, 15 Lower Main Street, Letterkenny, Co. Donegal, on behalf of Raphoe Community in Action (RCIA) on 28<sup>th</sup> June 2022 in relation to the above planning application.

The appropriate fee of €20.00 has been paid.

The submission/observation is in accordance with the appropriate provisions of the Planning & Development Regulations, 2001 (as amended) and will be taken into account by the Planning Authority in its determination of the planning application.

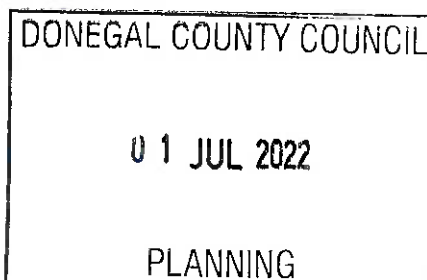
  
For A/Senior Ex. Planner  
Planning Services

1<sup>st</sup> July 2022

Donegal County Council  
Stamp.



**Comhairle Contae  
Dhún na nGall**  
Donegal County Council



**PLANNING AND DEVELOPMENT REGULATIONS 2001 (AS AMENDED)**

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PLANNING AUTHORITY: **DONEGAL COUNTY COUNCIL**

PLANNING APPLICATION REF.NO: 22/50933

RECEIVED

- 2 AUG 2022

THE ROYAL & PRIOR SCHOOL

A submission/observation in writing, has been received from The Rev Canon John Merrick, Chairperson, B.O.M. The Royal & Prior Comprehensive School, Raphoe, Lifford, Co.Donegal on 30<sup>th</sup> June 2022 in relation to the above planning application.

The appropriate fee of €20.00 has been paid.

The submission/observation is in accordance with the appropriate provisions of the Planning & Development Regulations, 2001 (as amended) and will be taken into account by the Planning Authority in its determination of the planning application.

*Y. O'Connell*  
For A/Senior Ex. Planner  
Planning Services

4<sup>th</sup> July 2022



**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

Donegal County Council  
Stamp.

DONEGAL COUNTY COUNCIL

- 4 JUL 2022

PLANNING

RE : OUR CLIENTS : [1] RAPHOE COMMUNITY IN ACTION C/O MARY HARTE,

VOLTE HOUSE RAPHOE COUNT DONEGAL;

[2] THE REV CANON JOHN MERRICK, CHAIRPERSON B.O.M.

THE ROYAL & PRIOR COMPREHENSIVE SCHOOL, RAPHOE, LIFFORD,  
CO DONEGAL.

APPEAL AGAINST THE DECISION BY DONEGAL COUNTY COUNCIL TO GRANT  
PERMISSION IN RESPECT OF A PROPOSED QUARRY ET AL AT MAGHERASOLIS &  
CRAIGS RAPHOE LIFFORD PO CO. DONEGAL FOR MR PATRICK BONAR ;

P.A. REG REF 22/50933

#### GROUND OF APPEAL

*Before commencing with the substantive grounds of appeal against the decision by Donegal County Council, we consider it important to bring to the attention of An Bord Pleanála concerns regarding the handling of this planning application. Whilst the following matters may not legally be taken account of by the Bord [or perhaps they may be] in its determination of this appeal, nonetheless, it is argued that they have negatively impacted on the determinations by the planning authority by way of the plethora of planning conditions which the planning authority has imposed so that a planning permission could be shoe-horned onto a proposal which ought never to have even been considered. Accordingly, we respectfully ask that these matters be put before the Members of the Bord on presentation of the case by the appointed inspector.*

*Our contention is that factors, as yet unknown, but which may eventually become clear if the case is referred to an appropriate authority hereafter, have operated to ensure that a favourable decision would be granted to Mr Bonar [the applicant,] no matter what. In that regard, we mention the following facts :*

- *On 22<sup>nd</sup> July 2022, the applicant was issued with a S.35 Notice pursuant to the Planning & Development Act 2000, as amended, informing him that : " ... the Planning Authority has good grounds to be able to form the opinion under S.35 [1] of the Act that there is a real and substantial risk that the development in respect*

***of which permission is sought would not be completed in accordance with such permission if granted or with a condition to which such permission if granted would be subject and accordingly that planning permission should not be granted in respect of the development sought ... "***

- This S.35 Notice was issued to the applicant on foot of our submission to the planning authority dated 28<sup>th</sup> June 2022, as well as a report from the Council's own Quarry Officer [and council planning officer,] DOC 1 enclosed, who has dealt extensively over a protracted period with Mr Bonar and his litany of unauthorised quarrying and extensive non-compliance with planning conditions pertaining to his quarrying activities in Co Donegal as well as his non-compliance with Orders of the High Court pertaining to same and his ignoring of decisions by An Bord Pleanala.
- The report from the Council's own Quarry Officer spells out in graphic detail that Mr Bonar is a serial offender under the Planning and Development Acts in respect of his quarrying activities : [N.B. the Case Numbers below refer to the reference numbers applied by Donegal County Council to the various Cases relating to Mr Bonar's unauthorised quarrying development.]
- ***e.g. Case No. UD 14107 \*significant unauthorised development \* unresolved and no resolution imminent;***
- ***Case No. UD 14125 \* High Court Order obtained \* Mr Bonar found guilty of non-compliance; \* still non compliance;***
- ***Case No. UD 19117 \* continued quarrying despite refusal of permission from An Bord Pleanala [Bord Ref No. ABP/302276/18] \* continued unauthorised quarrying despite several enforcement notices \* the applicant's [Mr Bonar's] response was that he would NOT cease his unauthorised quarrying until he obtained planning permission elsewhere [hence this current planning application] \* High Court Order obtained \* Mr Bonar and his wife had to be arrested and brought before the High Court in Dublin where they confirmed that they would comply with the High Court Order \* however, the High Court Order was never complied with \* MR JUSTICE BARR, PRESIDING, STATED THAT MR BONAR HAD " ... ARTICULATED A CLEAR INTENTION TO FLOUT THE PLANNING LAWS AND THE ENVIRONMENTAL PROTECTIONS THEREIN ... " \* Mr Bonar continues to procrastinate and deliberately***



*frustrate the long list of High Court Orders arising from his successful prosecution with the result that unauthorised development remains unauthorised and for a considerable number of years.*

- *Case No. UD 2072 \* refers to non compliance with planning conditions in association with Case No. UD 19117; ; remains unresolved;*
- *Case No. UD 20167 \* unauthorised development; enforcement notice never complied with;*
- *Case No. UD 20201 \* relates to an unauthorised quarry opening by Mr Bonar; enforcement notice has been ignored;*
- *Case No. UD 20269 \* relates to yet further unauthorised quarrying by Mr Bonar \* the case remains unresolved despite the serving of an enforcement notice.*
- *The report from the Council's Quarry Officer concluded that a notice in respect of S.35 of the Planning & Development Act 2000 [as amended] be served on Mr Bonar, the applicant.*
- *That was duly executed and the applicant responded on 13<sup>th</sup> September 2022; essentially, the response sought to dismiss the serious and substantial nature of the planning transgressions by Mr Bonar outlined above and to question the constitutionality of S. 35 [which is a matter for the Courts] and, even so, S.35 remains an integral section in the Planning Acts [amended in 2010] and it is open to any Planning Authority to use it or not. The Department had an opportunity to review the constitutionality or otherwise of S.35 on the amendment to the 2000 Act in 2010 and, presumably on advice from the Attorney General, decided to essentially retain the section.*
- *However, despite the concerns raised by the planning authority in its correspondence to Mr Bonar on 22<sup>nd</sup> July 2022 in respect of S.35, and despite the recommendation by the Council's Quarry Officer, it, incredibly and without any satisfactory explanation, performed a volte face, bought the assertions by Mr Bonar that his transgressions were amounted to no more than stealing a lollipop from the corner shop, and proceeded to decide to grant planning permission. A reasonable explanation for the volte face would be that someone or some particular body has exerted pressure on the planning authority.*

- *Whilst it seems that An Bord Pleanála may or may not involve itself in S.35 matters, it may be up to another relevant authority to deal with what the planning authority has just done and to seek satisfactory explanations. On any casual observation by anyone, it would seem that if any case was ever deserving of the full execution of S.35, it is this current planning application.*
- *And, if An Bord Pleanála does not involve itself in S.35 matters, nonetheless, this entire unsavory episode should serve as a guidance to the Bord when considering the outcome of this appeal and in considering if environmental, residential and human factors, et al, can ever be protected by any amount of planning conditions, no matter how many. What we have here for consideration by the Bord is an application for a massive quarrying operation by an applicant who openly declared that he would not CEASE his unauthorised quarrying activities including his total disregard for the environment, who has defied umpteen Court Orders, who has defied decisions by An Bord Pleanála which refused one of his planning applications but where he decided that he would open a quarry notwithstanding, and where a High Court Judge declared in open Court that Mr Bonar showed a total disregard for planning laws and the environment.*
- *And yet, this same applicant promises the sun, moon and the stars to the planning authority by way of a multitude of mitigation measures and the planning office is convinced [assumedly] that all will be complied with [for a period of 25 years!] and decides to grant permission to Mr Bonar for yet another quarry in yet another part of Co Donegal. And the hundreds of local objectors [between this current application and the previous refused application, P.A Reg Ref 19/52015; An Bord Pleanála Ref ABP – 308326 – 20] are expected to believe that, this time, Mr Bonar has experienced a Damascene conversion and that he will be an exemplary quarry operator; it is simply not credible.*
- *In the EIAR submitted, the applicant was keen to impress upon the planning authority of his more than 30 years in the quarrying business. This was to assure the planning authority of his credentials in this activity and that he could be entrusted with complying with planning conditions and the law. However, he makes no mention whatsoever how he [mis]conducted his business and that he*

*apparently had little regard for planning laws and regulations or for the environment or for Court orders et al. It is unfortunate that the planning authority seems to have learned nothing.*

- *Regarding S.35 and the attitude of An Bord Pleanála to it, we would like to refer to the Inspector's Report in the previous application for this development, P.A. Reg Ref 19/52015; ABP 308326-20, where it was stated that the Court Case mentioned in our previous planning appeal could not be relied on for the purposes of S.35 as justification that the applicant had not complied with the planning code in previous cases. [This seemingly was in deference to the report by the planning authority dated 09/09/20 on P.A. Reg Ref. 19/52015; ABP Ref. 308326-20, which stated that the options open to it under S.35 were premature and not merited at that time; however, that cannot be said now.] Indeed, the attached DOC 1 should leave no doubt in the mind of the Bord that the applicant, despite what might be contended on his behalf, will never comply with any planning permission. S.35 should have been forcefully applied by the planning authority.*
- *It is noteworthy that, while devoting a section in the EIAR which deals with the applicant, no reference whatsoever is made of his past [and still possibly recurring] malpractice in his quarrying activities in Co Donegal.*
- *The matter of planning conditions will be referred to below.*

## **SUBSTANTIVE GROUNDS OF APPEAL :**

### **1.00 INTRODUCTION**

1.01 A decision to grant planning permission for the above proposed quarry development was made by Donegal County Council on 13<sup>th</sup> January 2023 subject to 24 no. conditions and constituent conditions numbering 45 no. Copy of decision enclosed, Doc 2.

### **2.00 LOCATION OF PROPOSED QUARRY**

2.01 The proposed quarry is located adjacent to the regional road, R236, approx. 289.4 m. north east of the town of Raphoe in Co Donegal, Map 1; [the Royal & Prior School is the closest development in Raphoe Town to the proposed site. The site straddles the elevated townlands

of Craigs and Magherasolis along the 150 contour; refer to the Photos No's 7, 10 and 11 presented by the Applicant in the Environmental Impact Assessment Screening Report, [Greentrack Environmental Consultants April 2020.]

***N.B. At this point, it is important to raise the serious matter of the distance of the proposed quarry site from various properties in the receiving environment and to correct some distances of the proposed site from neighbouring properties which we inadvertently got wrong in the previous planning appeal, ABP 308326 – 20, where we underestimated the proximity of those homes and schools. We enclose maps prepared from the website of the planning authority which accurately sets out those distances; we would point out that discrepancy between these accurate measurements and those given by the applicant and the planning authority in its report. The proximity of the proposed quarry site to these properties is the subject of some of the objections presented here and by others in separate appeals/objections to the proposed development.***

- ***The proposed quarry site is measured as being 289.4 m. from the boundary of Raphoe, MAP 1, enclosed; see photos 1 & 2 enclosed. N.B. the applicant stated that Raphoe Town was 900 m. from the quarry and 780 m. from the quarry boundary; the planning authority stated that Raphoe Town was 450 m. from the site; it would be a reasonable assumption that any extension to the built environment of Raphoe Town would bring it much closer to the proposed site.***
- ***The proposed quarry boundary would be located 291.7 m. from the Royal & Prior Comprehensive School, MAP 2, enclosed; see photos 3, 4 & 5 enclosed. N.B. the applicant states that the quarry would be 540m. from the school; the planning authority also states that the quarry would be 540 m. from the school, deferring to what the applicant states. [please note that, in their submission to the planning authority regarding the proposed quarry, the school had inadvertently mistook the extent of the proposed quarry site and assumed that it would encroach further towards the school than it would; however, being less than 300 steps from the school would present real difficulties for the delivery of the educational needs of the institution ]***
- ***The proposed quarry boundary would be 623m. from the parklands of Oakfield Manor House, MAP 3, enclosed; see Photo 5, enclosed. N.B. the planning authority states that the quarry would be 800 m. from Oakfield Manor property. Please note that the house at Oakfield Manor itself is not the attraction here which attracts up on 50,000 visitors every year; rather it is the parklands with the walk-ways throughout the parkland and the children's attractions therein. More of this anon.***
- ***The closest house to the west [home of the White family who are objectors and appellants to this decision] is only 210.8 m. from the proposed quarry boundary; MAP 4, enclosed; see photo 6, enclosed. N.B. the planning authority claims that the closest house is 270 m. from the quarry site; that is plainly untrue and even the home of McGee, to the east of the proposed site, is only 182.2 m. from the proposed quarry boundary, MAP 5, enclosed, Photo 7, enclosed, whereas the planning authority that the nearest house to the east is 300 m. from the proposed site. The planning authority seems to claim that as the McGee's are leasing the land of the proposed quarry to the applicant and don't object to the proposal, there can be no objections***

***to such a proposal close their home. Such a claim and determination is contrary to every planning principle in the book. Planning decisions must be based on the proper planning and sustainable development of the area having regard to planning policies. Ownership of any given house is irrelevant and planning decisions must not be based on whether or not objections from any quarter are received. It is simply ridiculous to decide in favour of any planning application because a next-door house did not object, [or, indeed, to refuse any planning application because a neighbouring house objected.]***

2.02 The Bord is urged to clarify these measurements for itself and, indeed, carry out other similar measurements itself using the website of the planning authority. It is very disappointing that the planning authority would brush aside the objections from locals and local schools living and trying to run a school within ear-shot of such a proposal on their door-step. The home of Mr & Mrs White is only 210.8 short steps from the quarry boundary while the McGee home is only 182.2 steps away. The consequences for all these properties are simply awful; [and please also refer to Fig 5.1 of the applicant's own EIAR, copy enclosed for ease of reference. The coloured dots represent dwellings within 500 m. from the centre of the proposed quarry; the number would be far greater if measured from the proposed site boundary. That a planning authority would even consider deciding to grant planning permission for such a noxious activity within such an environment, is simply unconscionable. One wonders how many officials in the planning office would want to live within 200-300 m. of this quarry, especially given the public track record of the quarry owner and operator.

2.03 Being situated in the heart of the area of Co Donegal known as the Laggan Valley, this part of Co Donegal is vastly different from the landscapes usually associated with the county, i.e. ones of dramatic and panoramic vistas of mountains, sea and dramatic coastlines. The Landscape Characteristic Assessment [LCA] [Donegal County Council May 2016] describes the Laggan Valley thus :

***Laggan Valley LCA is a vast undulating agricultural landscape of good quality pasture and arable land characterised by large, geometric, hedge trimmed agricultural fields extending over a wide geographical area, with a long shore along Lough Swilly. Often described as a 'Plantation Landscape', this good quality farming land was confiscated from Gaelic Lords in the early 1600s and colonised by settlers from England and Scotland as part of the wider colonisation of Ulster. This LCA is permeated by a network of national, regional and county roads that connect the large farms and plantation towns of Manorcunningham, Convooy and Raphoe to each other and to the wider hinterland.***

2.04 [The enclosed Document entitled "***A Brief History Of Raphoe***" prepared by Raphoe Community In Action, the Appellant in this Case, is a good illustration of the significance of Raphoe Town in the setting of the Laggan Valley, Doc.3]

2.05 The Laggan, while not possessing the typical Donegal landscape characteristics, nonetheless presents a sublime agricultural landscape hewn out and fashioned by centuries of farming practices, from the hunter-gatherers of the Mesolithic Period to early settlers of Neolithic farmers, to the monastic population, to the Plantation settlers - all who realised the vast potential of this fertile valley and built their towns of Convooy, Drumoghill, Manorcunningham and ***Raphoe*** in this valley.



### 3.00 PROPOSED DEVELOPMENT

- 3.01 [i] Demolition of existing concrete structure;
- [ii] Quarrying of 5.37 ha. Which will be subject to extraction and processing of rock by drilling, blasting, crushing and screening; [N.B. the overall site area is given as 7.95 Ha.]
- [iii] Construction of settlement ponds and constructed wetlands;
- [iv] Construction of shed for the purposes of storage for the facility including on-site machinery maintenance;
- [v] Erection of site office with canteen, toilet and drying facilities;
- [vi] Installation of waste water treatment system & percolation area;
- [vii] Provision of wheel wash and weigh bridge;
- [viii] Landscaping of the quarry during the operational phase and restoration of the quarry on completion of extraction;
- [ix] All associated ancillary facilities/works over a 25 year period.

3.01 In essence, these proposals constitute a substantial and large-scale commercial quarry operation and nothing near what existed on the site almost 50 years ago. However, the planning authority continuously refers to the site as “**a brownfield site**” as if that conferred on it an absolute right to development for anything, and especially for resurrecting quarrying activity. Of course, there is no absolute right to any development on such a site just because it was once used for quarrying. The term **brownfield site** in planning parlance is one which usually refers to urban areas and refers to derelict industrial or commercial land which may be contaminated. In some western countries, it may have development potential, **but the relevant planning regulations in those countries specifically excludes those abandoned sites formerly used for mineral extraction [and dumping, meaning that they could not be used for those purposes again.]**

3.02 In Ireland, there is no specific regulation or policy dealing with brownfield sites other than the aspiration contained in the National Planning Framework [Project Ireland 40] where objectives to utilise **brownfield sites** in urban and village settings for housing are set out. Outside of that use of the term, there is no such assumption [or law or regulation] that a brownfield site can be used again for the purpose it was last used for or for anything else. So, the assumption by the planning authority in this instance is flawed, it is argued.

3.03 The planning authority seems to draw confidence in its determination to grant permission for this proposal from a conclusion in the inspector's report in the previous planning application, [P.A. Reg Ref 19/52015, ABP Ref 308326-20,] that the proposal would not introduce a new extractive industry at this location. And, of course, it wouldn't – we agree that the site was previously used for quarrying. However, what is new is :

- The introduction of modern and more advanced quarry machinery, compared with what the county council operated on, viz : • Pegson Jaw Crusher • 3 Cone crushers • 4 Screeners • 2 Excavators • 2 Loading Shovels • 2 Dump Trucks, [S.3.2.5 EIAR]
- Blasting is proposed to be around 15 per annum; however, the planning authority has conditioned it at one per month; ***however, in what may yet be another act of deference to the applicant, a nod of approval is given to him to increase the frequency of blasting should he need to;*** anecdotally, blasting by the county council in its former operations was confined to a Friday after 6 p.m. on an infrequent basis, whereas the planning authority is happy to permit this applicant to blast away any day between Monday and Friday between 12:00 and 16:00 hours with notification to some dwellings in the area conditioned and absolutely no mention of any requirement to notify schools, businesses, institutions; in that regard, we must bring to the attention of the Bord the report to the planning authority by the Health Service Executive dated 1<sup>st</sup> July 2022 on the planning file, where they specifically set out their concerns of the possible negative impact of blasting in particular on occupants of Ballytrim House , care home, [although 829.2 m. from the quarry boundary, MAP 11, enclosed.] The planning authority has been deaf to the concerns of the HSE as it has been to the real fears expressed in the heart-felt letters of objections [and subsequent appeals] against the proposed quarrying in their midst; e.g. the concerns of the HSE in respect of neighbour notification in accordance with good practice has been ignored; as as the concerns that no base-line data is available in respect of dust and noise. The HSE states in its report,

***" ... this is a quiet rural area; it is the change in the noise environment which is likely to have the greatest impact on sensitive receptors ..."***

- the scale of what is proposed, [see above] in that the blasting, now being introduced in this proposal, is a massive ***intensification*** of what previously existed;
- drilling and blasting is being massively increased to produce a rock yield of nearly 3 million tons of rock over the life-span of the proposed quarry;
- crushing is exponentially increased to cater for the increased yield;
- similarly, screening is now being increased along with washing being introduced;
- the area of the proposed quarry has increased from approx. 2,500 sq.m. previously quarried, to 1,020,000 sq.m. over 25 years [figs. from Table A, Non-Technical Summary of the EIAR]. The existing area of the quarry stated is greatly exaggerated as being over 2ha. Certainly the extracted area is no more than 2,500 sq.m. See Photos 8, 9 and 10, enclosed.
- the propose tonnage to be quarried is being increased to 2,754, 000 [over 25 years] from the paltry amounts quarried previously [figures not available but Donegal County Council took stone from the quarry around 50 years ago on a needs only basis to fulfil a local need; so, the amount quarried cannot be great given the small area quarried and visible with two small benches visible among the vegetation growth.]
- The applicant states that there will be around 40 truck movements per day. However, the report to the planning authority from the Health Service Executive dated 1<sup>st</sup> July

2022, more accurately states that, added to staff traffic, there will be around 60 vehicular movements per day. Compare that to what would have been the traffic generated by the county council operation pre-1970 –probably one lorry load every week or so or when needed, or even less.

- So, the determination that the proposal does not represent a new extractive industry into this area is not correct, it is argued. The proposal as set out above and amplified in the applicant's EIAR, indicates an intensification of a former use of this site to such a degree that it is indeed a new extractive industry and far removed from what existed before.
- Photos 8, 9 and 10 show the small extent of the former quarry activity, the two quarried platforms and the small extent of the former quarry floor. However, the photos also show how the natural vegetation is being regenerated in the former quarry and now offers habitats for local wild-life, including the red squirrel, see photo 11, enclosed.
- It is proposed to extend the former quarry area to 5.37 ha. [within an overall area of 7.95 ha.] and to excavate to a depth of 10m. below the existing quarry floor level [S.10.3 EIAR] and to introduce all the infrastructure and activities associated with a large-scale commercial quarrying operation. It is hard to believe that, if this application is permitted, the rest of the 7.95 area won't also be subject to quarrying. ***The excavation to that proposed depth alone [i.e. 10 m. below the existing quarry floor] ought to have alerted the planning authority that what is now proposed is vastly different from that which previously existed as the proposed quarry will have significant impacts on ground water which has the potential to negatively impact on the hydrological system in this area and, thence, on Natura Sites in Donegal. The HSE noted the interaction between surface and ground water which may impact on local wells and/or the hydrological linkages.*** It is simply difficult to imagine how the planning authority could ever equate all of that with what existed on this site previously when the county council used it. Indeed, the council's activity can only be described as benign and almost artisan, when compared with this new proposal, as their small-scale activities blended well with the local landscape.

#### 4.00 LANDSCAPE

4.01 Both the Applicant and the Planning Authority have correctly stated that the subject site is designated as an area of High Scenic Amenity in the CDP, Chapter 7, Natural Heritage. It defines such areas thus :

***"Areas of High Scenic Amenity are landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively [sic] located development of scale, design and use that will enable assimilation***

***into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan."***

4.02 This designation is also confirmed in the Donegal Landscape Character Assessment and there is special mention of the character of the Lagan Valley as ***unique***. To sustain this character, the CDP has set out key policies and objectives, e.g.

***Policy NH-0-4: 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.***

***Policy NH-0-5: 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.***

***Policy 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.***

***Policy NH-P-8: It is the policy of the Council to safeguard the scenic context, cultural landscape significance, and recreational and environmental amenities of the County's coastline from inappropriate development.***

***Policy 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.***

***Policy NH-P-13: It is a policy of the Council to protect, conserve and manage landscapes having regard to the nature of the proposed development and the degree to which it can be accommodated into the receiving landscape. In this regard the proposal must be considered in the context of the landscape classifications, and views and prospects contained within this Plan and as illustrated on Map 7.1.1: 'Scenic Amenity'.***

4.03 It has to be pointed out that the landscape around Raphoe and around this site has changed a lot since the County Council quit its operations in the quarry, see Maps 6, 7, 8 & 9 enclosed which show the increase in planning applications from before 2000 to post-2010. The number of houses has increased and the rural population has grown, giving rise to an increase in school numbers as well. So, the current proposal would be operating within a landscape totally changed from that which existed when the County Council drew stone from the now-abandoned quarry.

4.04 It is argued that the proposal to establish a quarry and associated activities, extensively changed in scale and nature from the quarry activities which previously existed two generations ago in this area of High Scenic Amenity would be contrary to the stated policies and objectives as outlined above. ***It is argued that the substantial number of policies regarding the preservation of landscapes, which ought to have militated against this proposal, and which ought to inform all planning decisions in the Laggan Valley, makes it***

***difficult to understand how the planning authority can possibly justify its decision and its deference to the applicant [especially with his record in the quarrying field] and whatever agreement may or may not have been made with him prior to the submission of his application and when it was extant. That this proposal would extensively alter the landscape character of this area cannot be denied. Even the proposal to widen the access and the county road leading to the site would inform anyone that the access is leading to a major industrial undertaking, alien to this quiet, rural and pastoral landscape. Please note that the access to the site is inside the speed limits to Raphoe Town, MAP 10.***

4.05 However, the over-riding consideration in the assessment of this planning application vis-à-vis landscape, and which ought to be the defining determinant in this application, is the fact that in Chapter 8 of the CDP, Extractive Industries, it is stated :

***EX-P-2: It is a policy of the Council not to permit new extractive industry proposals in areas of Especially High Scenic Amenity or in areas of High Scenic Amenity.***

4.06 The Appellants remain baffled and confused how this proposal ever got past first base. In fact, in consideration of the proposal initially, the Planning Authority in its assessment dated 07/10/2022, quite correctly assessed that the Site is located within an Area of High Scenic Amenity and that extractive industry proposals would not be permitted in such areas. However, in an unexplained deference to the applicant, the planning authority excuses the proposal on the grounds that quarrying existed on the site in a previous age. We contend that it has been comprehensively set out in the preceding paragraphs how this current proposal is a different animal from the one which previously existed.

4.07 However, the reason for such a favourable judgement might become apparent if there was some record of the pre-planning discussions which took place between the Applicant and/or his Agents and officials/officers of the Planning Authority as per S.247 of the Planning & Development Act 2000 [as amended.] The legislation requires the keeping of a record of such an event but, in this case, there does not appear to be any. Records were requested from the planning authority but the response was that there are no records. On appeal, this was confirmed. However, on a further appeal to the Information Commissioner [OIC], the planning authority admitted that there were in fact records of meetings which took place with the applicant/his agents but that there was still no record of what transpired at those meetings. The OIC has also been further requested to find out about meetings which may have taken place between the applicant/his agents and staff from the county council's road's sections or other. As of yet, there has been no response from the OIC. All this only adds to unease amongst the objectors and appellants to this proposal and the perception of what decisions/agreements might have transpired between the applicant and planning/roads staff in Donegal County Council. [Please note there is no inference of impropriety by anyone. Rather, these are simply matters of fact.]

4.08 The policies relating to landscape conservation are based on the Guidelines to Planning Authorities by the Department for Housing, Planning & Local Government [to which Planning Authorities are bound under S.29, Planning & Development Act 2000, as amended] which require that quarries should not be permitted in landscapes of high scenic quality.

4.09 And yet, there seems to have been no hesitation on behalf of the Planning Authority in its assessment of this proposal from the get-go and from the first contact between the



planning authority and the applicant and/or his agent[s] in total disregard to the landscape category and the policies governing any development in such a landscape.

4.10 The site commands extensive views over the Laggan Valley and Raphoe Town, being elevated at one of the highest points in this area, [see photos 1 & 2, enclosed] [that's why a telecoms mast has been erected beside the proposed site; P.A. Reg Ref 22/50087.] It is contended that, contrary to the claim by the planning authority, any development on the site would indeed be both obtrusive and intrusive when viewed from local properties and from the town itself, e.g. Photos 12 & 13 and Map 12 shows how the proposed quarry would intrude on views from Castlegrove Estate. Furthermore, it is proposed to extensively widen the access into the quarry from the regional road, an access which, in fact, is situated *inside* the 50 kph speed limits as well as proposals to widen the local county road leading to the site. Along with the amount of industrial quarry traffic generated, no industrial proposal could be any more visible in this agricultural environment. The fact there is an abandoned quarry within the site is no justification for the quarrying that is now proposed. The abandoned quarry, small in size, [according to the planning authority's own report dated 07/10/2022,] has now returned to its natural state, overgrown with scrub, trees and native vegetation [see photos 8, 9, 10 & 11, enclosed] and is grazed by sheep, home to an unknown quantity of wild life species, and is indiscernible from the adjoining environs of this agricultural area – that's why the Planning Authority designated this area, including the abandoned quarry, as an Area of High Scenic Amenity. The local population has an expectation and, indeed, every right, to expect, in view of the policies in the CDP, that there would be no contravention of this designation, and, certainly, not without public consultation as provided for by statute.

4.11 The contention by the Applicant and the planning authority that there will be no visual impact on the visual character of this area is roundly rejected. The Bord will observe from the photographs accompanying this Appeal, as well as on a site visit, the outstanding landscape character of this area which led to the Laggan Valley being afforded its own section in the Landscape Character Assessment as well as being designated an area of High Scenic Amenity in the CDP. The Applicant has relied on photographs presented in the Screening Report to defend his assertion that there would be no negative impact on the landscape; however, even those photographs indicate how the landscape will change for the worse if quarrying along with all its paraphernalia is permitted to scar this hillside and how it will impact on adjoining properties, some of which are less than 200 footsteps from the proposed Site.

4.12 It is also argued that it is very doubtful if planning permission would have been granted to locate even a dwelling house on this site given the elevation and the amount of berm creation to attempt to "hide" the quarry activities, ref, **the CDP. Part B, Appendix 4, Building a House in Rural Donegal – A Location Siting and Design Guide.**

Policy RH-P-2 of the CDP states, with regard to building a single house in rural County Donegal:

**Guidance on the Location of New Developments in Rural Areas \***

*" The Donegal countryside is a unique resource. It is a recreational resource and a considerable tourist asset. The landscape also relates to quality of life and 'sense of identity' and 'sense of place' for residents of Donegal. It contains landscapes of considerable quality and amenity, is significant in terms of nature conservation and biodiversity by providing habitats for wildlife, flora and fauna; and incorporates indications of our cultural heritage. It is vital that in accommodating new rural residential development, care is taken to ensure*

***that it integrates successfully and does not result in detriment to the character of the rural area. The determination of whether a new rural dwelling integrates into the landscape is not a test of invisibility; rather it requires an assessment of the extent to which the development of the proposed site, including necessary site works, will blend in with its immediate and wider surroundings. The assessment of integration will be judged from the landscape classification ... "***

It seems remarkable that, when adjudicating an application for a single dwelling in rural county Donegal, the planning authority goes to extraordinary [and, it is argued, quite necessary] lengths to ensure integration with the natural landscape, while prohibiting the use of any methods to "hide" the house like digging a hole for it or by use of banks/berms, etc. while it now condones the decision to grant permission for an extensive quarry activities in an area of High Scenic Amenity, as so zoned in the CDP, and where the landscape has been designated as outstanding in the Landscape Character Assessment.

4.13 And it should be pointed out that planning permission is unlikely to be granted for wind turbines at this location and elevation; S.8.2.1 CDP states,

***(3) 'Not acceptable': Locations where Wind Farm Development would be unacceptable. Areas where wind energy proposals would be unacceptable have been identified having regard to their significant environmental, heritage and landscape constraints. These include; Special Areas of Conservation (SAC's) and Special Protection Areas (Natura 2000) sites, Natural Heritage Areas, areas identified as high and medium landscape sensitivity ...***

4.14 Consequently, if applications for green energy production would likely be refused in this landscape, it is difficult to reconcile how quarrying is acceptable.

## **5.00 ECONOMIC DEVELOPMENT IN RURAL CO DONEGAL**

It has been set out in the preceding paragraphs that the proposed quarrying cannot reasonably be considered as the carrying on of the same activity that used to occupy the site. Indeed, to determine that, would be a perversion of the statement "***more of the same.***" That being the case, then the policies governing economic development in rural Co Donegal must be applied to this planning application

5.01 The CDP also sets out policies in respect of Economic Development in the County :

***Policy ED-P-8 "All ... proposals for economic development in the countryside will only be permitted in exceptional circumstances where the proposal comprises a development of regional or national significance and no suitable site exists within a settlement in the locality which can accommodate the proposal."***

This proposal is not of either regional or national significance and stone of this calibre is available in other areas less sensitive to the factors under consideration.

***Policy ED-P-10: "It is a policy of the Council to consider proposals for the expansion or re-development of an existing economic development in the countryside provided the scale and nature of the resultant development will contribute positively to the long-term sustainability of the existing enterprise, subject to compliance with all relevant provisions***

**of Policy ED-P-14. A proposal which would not meet these criteria will only be permitted in exceptional circumstances where it can be demonstrated that:**

- **The proposal would provide for consolidation and/or remediation of the existing facilities;**
- **Where relocation of the enterprise would not be possible;**
- **The proposal would make a significant contribution to the local economy;**
- **The development would maintain the existing rural character of the area;**
- **and where infrastructural improvements are required that a developer-led solution can be identified and delivered.**

It is submitted that the proposal does not meet any of these criteria. There is no existing working quarry on this site; rather, quarrying activity on this site ceased two generations ago and the former quarrying activity is long-abandoned; in any event, what is now proposed bears no resemblance whatsoever to what formerly existed.

**Policy ED-P-11: It is a policy of the Council to consider proposals for a major industry/enterprise in the countryside which makes a significant contribution to the economy of the County where it is demonstrated that the proposal, due to its site specific requirements or size, requires a countryside location. An application for a development proposed under this policy must be accompanied by evidence to support the case of economic benefit to the economy of the County and in the case of rural location on the grounds of size, detailed information on the search conducted to secure a suitable site within the boundary of a settlement. The provisions of Policy ED-P-14 will also be taken into account and a Travel Plan must be prepared to address the issue of accessibility by various modes of transport. Developer-led infrastructural improvements will be conditioned in appropriate cases. Development proposals will be assessed in the light of all relevant material planning considerations, relevant policies of the County Development Plan and other regional and national guidance/policy, relevant environmental designations including demonstration of compliance with Article 6 of the Habitats Directive.**

The Applicant has not fulfilled any of these requirements and, therefore, there must remain significant doubt about the location of a fully functioning quarry in this rural countryside. The Applicant might argue that the above policies refer only to enterprises like a factory, for example, However, there is no distinction between types of enterprises which are governed by these policies in the CDP.

**Policy ED-P-14: It is a policy of the Council that any proposal for economic development use, in addition to other policy provisions of this Plan, will be required to meet all the following criteria;**

- (a) It is compatible with surrounding land uses existing or approved;**
- (b) It would not be detrimental to the character of any area designated as being of especially high scenic amenity (ehsa);**
- (c) It does not harm the amenities of nearby residents;**
- (e) The existing road network can safely handle any extra vehicular traffic generated by the proposed development or suitable developer-led improvements are identified and delivered to overcome any road problems;**

***(g) It does not create a noise nuisance;***

***(h) It is capable of dealing satisfactorily with any emission(s);***

***(i) It does not adversely affect important features of the built heritage or natural heritage including natura 2000 sites;***

***(k) The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;***

***(m) In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape;***

***(n) It does not compromise water quality nor conflict with the programme of measures contained within the current north western river basin (nwirbd) management plan.***

5.02 It is contended that this application, which amounts to an application for industrial development, [quarrying is defined as an industrial undertaking] fails to meet any of the above as set out in both the preceding and succeeding sections of this Appeal.

5.03 It is contended, therefore, that the proposed quarry with its ancillary paraphernalia of buildings, rock screening equipment, the formation of bare rock faces, etc. would be detrimental to the visual amenities of this area, would contravene the CDP in respect of quarrying in areas of High Scenic Amenity and in respect of the policies pertaining to the location of industry in the countryside and would, therefore, be contrary to the proper planning and sustainable development of the area. Even if the applicant were to construct mile-high berms to "hide" his development, that, in itself, would be detrimental to the visual amenities existing in the area.

5.04 In addition to the paragraphs above and accompanying photos, the section in the EIAR which deals with landscape, S.15, supplies further accurate photos of the visual impact of the proposed quarry on individual houses, on the Royal & Prior, on the Livestock Mart, et al. The agricultural and pastoral and residential character of the Laggan Valley is undeniable. Any alien activity like the extensive quarrying proposed would be detrimental to this character and must be resisted. No amount of screening or planting or construction of berms etc. would make the visual impact of the proposal disappear. It will result in a perpetual blight on the landscape, not just for the 25 years proposed life-span of the quarrying activities, but for ever.

5.05 Therefore, we reject the conclusions in the EIAR that this landscape "... ***would be reasonably tolerant to change, S. 15.7.1*** and that the significance of the impact of the proposal on the landscape would be moderate or slight.

## **6.00 POPULATION & HUMAN HEALTH**

6.01 The Applicant argues that the quarry operation will be a positive addition to employment in the area; this is refuted as there seems little doubt that the staff currently employed by the Applicant will simply be relocated to this quarry ***[please note that the Applicant's quarry outside Letterkenny has had to cease operation on foot of an Injunction Order of the High Court, [Irish Legal News Ltd 2020;] refer to the opening paragraphs of this appeal. At the Court Hearing, the Applicant argued that he would not cease his***

***unauthorised development and that he must be permitted to continue quarrying at the Letterkenny site until he could carry out his commercial activities at another location – the “other location” being the subject Site.]***

6.02 The Applicant argues that the quarry would replace stone currently brought into Donegal from N Ireland. It must be pointed out that, as far as can be ascertained from the Register of Quarries in Co. Donegal, there are currently 31 no. other quarries supplying stone. Furthermore, the Appellants are baffled by the suggestion that stone for use in Co Donegal should not be brought in over the border from N Ireland. This seems to imply that Donegal projects should use Donegal stone. However, such sentiment does not rest easy with S.1.4 and chapter 2B of the CDP where cross-border co-operation, in economic, financial and environmental matters, is singled out as a necessity for the economic well-being of Co Donegal. In fact, a regional partnership approach is advocated in the CDP. And that is sensible, given the 181km. border with Counties Derry and Tyrone. This has also been emphasised in the efforts by both Donegal County Council and Derry/Strabane Council, e.g. the CDP points out that :

***... the collaborative response to Brexit of Donegal County Council and Derry City & Strabane District Council is being provided through the North West Strategic Growth Partnership and the North West City Region Initiative. Significant work has been undertaken to date to consider the challenges and opportunities that are presented including the publication in February 2017 of a draft report entitled, ‘Initial Analysis of the Challenges [sic] and Opportunities of Brexit for the Derry City & Strabane and Donegal County Council areas - The North West City Region.’ The outputs of this work to date demonstrate that there is an even greater imperative to ensure that key, regionally significant growth priorities are realised such as the A5 and A6 roads projects. The enabling role of the Development Plan in identifying, coordinating and prioritising critical infrastructural investment, together with appropriately guiding the location of economic development, is a critical component of economic recovery in County Donegal and has direct links to the priorities set out in the County Donegal Local Economic & Community Plan (LECP) 2016- 2022. [CDP, Chapter 2B, The Border Dimension]***

From that point of view, i.e. simply employing to same workers who currently work for the Applicant on a different quarry, it is contended that there is no real extra economic benefit to the local population.

It is felt that the applicant’s claim that he is assisting the fight against climate change because stone would not have to be hauled any distance to the Donegal market must be “tongue in cheek” given his known attitude to the environment [as remarked on by a High Court Judge] and one wonders if he would refuse any order from the proposed quarry to go in the opposite direction, i.e. to N Ireland.

6.03 The Applicant admits that the quarry activities will add to traffic, noise, vibrations and dust in the immediate vicinity, EIAR, May 2022, and proposes mitigation, whilst also admitting that the residences closest to the proposed quarry as well as the Royal & Prior Comprehensive School [the nearest school] with 593 students and 80 members of staff may suffer “slight” adverse effects in terms of noise/vibration, but goes on the state that they will be pre-warned about the blasting; ***[please note that the planning authority has determined that there is no need to fore-warn the school or any other school.]*** It is difficult to imagine anything more



disconcerting than, once having been pre-warned, say 24 hours in advance, putting one's life almost on hold until after the blast. No school, or any individual, can be asked to live their lives like that just to appease this applicant. And that is something that would have to be tolerated for 25 no. years if planning permission is granted. The photos and maps which accompany this appeal indicate the proximity of the proposal to homes, schools etc. in this area.

6.04 It is contended that this factor alone demonstrates that this is the wrong location for quarrying operations, i.e. in the heart of an agricultural community, close to residences, schools and community facilities.

6.05 The impact of noise, no matter how low level, cannot be easily dismissed. This is recognised in the founding Environmental Impact Assessment, EU Directive [85/337] which gave rise to the Irish Legislation on the environment. In that respect, it follows from the third and eleventh recitals in the preamble to Directive 85/337 that the purpose of that directive is to achieve one of the European Union's objectives in the sphere of the protection of the environment and the quality of life and that the effects of a project on the environment must be assessed in order to take account of the concerns to contribute by means of a better environment to the quality of life. In circumstances where exposure to noise resulting from a project covered by Article 4 Link between Articles 2(1) and 3, even a small-scale project can have significant effects on the environment if it is in a location where the environmental factors set out in Article 3 of the EIA Directive, such as fauna and flora, soil, water, climate or cultural heritage, are sensitive to the slightest alteration. (C-392/96, Commission v. Ireland, paragraph 66.)

6.06 This proposal is a case in point, i.e. the introduction of an alien industry [and it is argued that the proposal must now be regarded as *alien and noxious* ] into an agricultural and residential setting will result in a profound change in ambiance, particularly in respect of noise, which cannot be ignored. The HSE agrees with this.

6.07 The Appellants do not accept that the mitigation proposed, i.e. the conditions of the Planning Decision in respect of Noise and Dust, the Noise and Dust Report, [Brendan O'Reilly, April 2022] submitted by the Applicant, also with its proposed mitigation, might possibly result in a relatively tolerable environment. The Applicant refers to "*environment*" as if the people in that "*environment*" do not exist; it is contended that human life and the quality of human life was the first consideration when the original Directive was framed. All the proposed mitigation is dependent on the Applicant running an exemplary text-book operation; for example, the mitigation measures proposed include regular maintenance and oiling of pulleys, mobile plant, silencers, the throttling down of all engines and the good behaviour of all employees, not to mention the proposal in respect of blasting. The writer has extensive knowledge of most of the operating quarries in Co Donegal and, with the best will in the world of the quarry owners and operators, it is simply not possible to comprehensively and assuredly guarantee that the mitigation measures will either [i] work at all or [ii] be enforced over the life-time of the operation [in this case 25 years] not least because of the change in personnel inevitable over that period of time. And the High Court Cases against the Applicant mentioned above in the preamble of this appeal gives grave and real cause for concern; he paid little heed to the planning conditions imposed on him in cases where he did obtain planning permission and in cases where he did not obtain planning permission, he went ahead anyway and quarried away until objectors stopped him.

6.08 Furthermore, the quarry operation has been conditioned by the Planning Authority to only operate during specific times [conditions No's 9 & 10.] This coincides with school times and there is no doubt that the adjoining residences [i.e. those located as per Fig 5.1 presented in the non-technical summary of the EIAR by the Applicant] as well as those who are not but who reside within ear and eye shot of the proposed quarry and the adjoining schools [while the Prior and Royal are the closest to the Site, there are also four other schools in Raphoe Town, one other secondary, two primary and a special needs school] will experience the noise, vibration and dust problems complained about in the earlier submissions to the Planning Authority. Photos No's 3 & 4 show the site of the proposed quarry from the Royal & Prior school and how close it is to the school.

6.09 There are very good reasons why quarries should be located away from residential areas with schools and other public amenities, and the noise, dust and vibration associated with such activity are some of those good reasons. Indeed, the CDP goes to great lengths to assure the public that extreme care will be taken in determining the location of quarry sites, [Chapter 8, CDP.] Co Donegal has ample isolated locations where quarrying can take place [subject to certain criteria] away from residences, schools and public amenities without locating it next-door to such a centre of population as is the Heritage Town of Raphoe and within a rich agricultural heartland. The "alternative sites" cited by the applicant in the EIAR are not considered to be any real attempt to locate alternative sites.

6.10 Furthermore, the impact that quarry dust might have on grassland and, therefore, on the beef and dairy industry and other crops grown extensively in the Laggan Valley area, most notably potatoes and grain crops, has not been assessed by the Applicant. Nor has the impact of blasting and quarry dust on farm animals been assessed. The Lagan Valley is the most extensively and intensively farmed area in the whole of Donegal, and, along with its close neighbour, the Finn Valley to the east, is home to the largest farms in the county, [up to 150 acres,] and provides full-time employment to more farmers than anywhere else in Co Donegal where smaller farms [up to 30/40 acres along with commonage] provides only part-time employment to farmers in the west of the county and further north in Innisowen, [Teagasc, 2020.] The policies outlined in Chapter 8 of the CDP [Extractive Industry & Geology] rely on the maxim of the precautionary principle when locating quarries; by applying that principle in respect of noise, dust and vibration elements alone, and their impact on farming in this location, should be one of the determining factors in refusing this proposal.

6.11 It is regretted that the Planning Authority did not devote a separate chapter on agriculture, with stated objectives and policies, in its CDP. That way, specific attention would be paid to areas like the Laggan Valley and the importance of its agricultural activities to the economy of the county, while protecting such activity from any other activity, like quarrying, which might prove detrimental to its continued survival. In the absence of such policies in the CDP, it is left to the planning authority to determine applications like the current one without clear guidance. The dangers of that are evident in the decision to grant in this instance where locals have to be ever vigilant.

6.12 The revised EIAR submitted by the applicant in this current application now includes a short paragraph on Tourism. However, it concludes that any impact on Tourism in this area would be **imperceptible** without setting out how it arrived at that conclusion. Of course, the proposal is unlikely to have any impact on tourism in many parts of Co Donegal where visitors go to enjoy a host of amenities like sea and mountain landscapes, for example. However,

there has been no assessment at all of the likely impact on tourism arising from the proposal in the Laggan Valley itself which has a particular type of landscape, and which has been recognised in the Laggan Valley Landscape Characteristic Assessment as well as in the CDP, and which many visitors go to in order to enjoy the facilities provided, for example, by Oakfield Park, which is located in the valley adjacent to the proposed site and which attracts up on 50,000 visitors every year, many of which come from the close-by population centres in N Ireland. Being a Heritage Town, Raphoe has a number of protected structures which attract hundreds of visitors every year; and yet there has been no assessment of any impact quarrying activity might have on the ancient fabric of these buildings, from blasting vibration and dust in particular, not to mention the intensification of lorry movements through the narrow streets of the town. Were Raphoe to lose those amenities, it would lose everything, the local population would suffer and, tourism, one of the mainstays of the area, would undoubtedly suffer. It is regretted that the planning authority has shown little concern for these matters in its assessment and simply accepted the applicant's word on it, i.e. that the impact on tourism would be imperceptible, something which it might deny. It is noteworthy that the heritage officer of the planning authority was not consulted about this application.

6.13 Indeed, such has been the neglect of any consideration by the Planning Authority of the impact of the proposed quarry on the Tourism of the area, that the application was never referred to Fáilte Ireland despite it being a prescribed body [S.28 Planning & Development Regulations 2001, as amended.] It is considered that this is a huge gap in the proper and sustainable assessment of this application to date. An Taisce was consulted but its observations and reservations expressed have gone unheeded. An Taisce will also lodge an appeal against the decision to grant.

6.14 The impact on tourism and the potential for expanded tourism in the Laggan Valley centred on the town of Raphoe in particular, will be expanded on in the section dealing with Cultural Heritage. However, it is important to consider the policies and objectives relating to Tourism as set out in the CDP

- In Chapter 9 of the CDP, the overall aim relating to Tourism is :  
***"To enable Donegal to compete as a world class tourism destination by protecting key tourism assets and supporting the sustainable development of new and existing tourism products and attractions."***

However, by deciding to grant permission for a quarry on the fringes of Raphoe town, it is argued that the Planning Authority has contravened its own stated aim in respect of Tourism and this will be expanded on below.

- ***the CDP recognises the tourism assets of the heritage towns of Moville, Ramelton, Raphoe, Ardara and Ballyshannon and will seek to protect and sustainably develop these key heritage assets. [S.9.1]***

Yet, in contravention of this stated objective, the Planning Authority has paid scant regard to the impact of the quarrying activities on the Heritage Town of Raphoe. Nowhere, either in the EIAR or in the assessment by the Planning Authority [see Planning Reports And Recommendations by the Planning Authority dated 01/06/22 and 07/10/2022 on the planning file] is there a single mention of how the quarrying activities of blasting, drilling, producing dust and vibration, along with the impact of

extra HGV traffic on the fabric of the heritage buildings in Raphoe Town been satisfactorily assessed. [See also the section dealing with Traffic below.]

- ***Ch 3.2 [CDP] relates to Thematic areas of potential in relation to the strategic towns like Raphoe.***  
***Settlement framework maps/land use zoning maps in respect of each of the 'Strategic Towns' can be viewed in Part C of this Plan and Section 3.3 of this chapter sets out a brief description of the particular thematic areas of potential in relation to each of the 23 towns. Examples include:***  
***Raphoe : positioned to take advantage of its built and archaeological heritage and its tourism potential***
- ***Policy TOU-P-6: It is a policy of the Council not to permit developments which would materially detract from the visual/scenic amenities on the approach roads to, the visual setting of, or the views to be had from, significant tourism attractions.***

**N.B. the planning authority seems oblivious to the terms of this latter policy whereby it has decided to allow the applicant to manufacture a grand entrance to the subject site with visibility splay any National Road would be jealous of.**

In contravention of this stated objective, the Planning Authority has not paid sufficient attention, [or any at all,] to the submitted objections concerning the negative impact on the growing tourism attraction that is Oakfield Park & Demesne, which body will also submit an appeal to this decision to grant. This tourism attraction, located adjacent to the proposed quarry site in the heart of the pristine agricultural setting of the Laggan Valley, attracts approx.. 50,000 visitors per year, which is not an insubstantial number. It is a family orientated park, providing year-round outdoor activities for young and old, including extensive woodland and parkland walks. It provides a welcome respite for visitors from the neighbouring towns and cities in both Donegal and N. Ireland, notably Letterkenny, Derry and Strabane – a place where the peaceful tranquillity of the Donegal pastoral landscape of the Laggan Valley can be enjoyed. It would be hard to envisage an activity more discouraging or uninviting to visitors than the blasting, drilling, dust, vibration and HGV traffic associated with the proposed quarry and presenting an industrial landscape instead of what they might have expected. Photo No.5 shows the location of the proposed quarry taken from within Oakfield Park and how such an operation will negatively impact on this tourist attraction visually and in respect of noise, vibration and dust.

- ***It is a stated objective to protect historic and archaeological sites and artefacts, [including maritime heritage.]***

While the Applicant has submitted a report on the archaeology of the area where the quarry would be sited, it is submitted that this report does not go far enough to convey the extensive and rich archaeology of this area, which presented a gift to the early pre-historic farmers and later settlers who all left their own marks in the form of monuments in this landscape. Neither is the quarry site examined in the context of the zone of archaeological potential of the surrounding area which would be negatively impacted should planning permission be granted. This potential was examined in the separate paper prepared by eminent archaeologist, Dr Brian Lacey on behalf of the

Appellants, and will be referenced below along with the Section which deals with Cultural Heritage.

- ***TOU-O-2: To protect and enhance Donegal's landscape and natural environment as a fundamental resource which underpins the county's tourism product.***

The impact on the landscape has been examined in the preceding paragraphs.

- ***TOU-O-11: To protect and enhance the built and historical heritage of the county (including structures on the RPS, NIAH, recorded monuments, heritage towns and battlefield sites) as an important element of the County's overall tourism product.***

6.15 Nowhere, in either the environmental Impact Assessment Report or in the planning Reports and Recommendations [see above] is there any mention of how the extra HGV traffic, which the proposed quarry will generate, will impact on the built heritage of Raphoe Town. It is argued that no assessment of the impact of quarrying activity so close to Raphoe can be complete without a detailed examination of what the heritage status of Raphoe Town means and its significance, not just its intrinsic value, but also its significance to the economy of Donegal County as a whole and the sense of pride that having a Town like Raphoe in the county means to the entire population of the county. Yet nowhere has this very important objective been interrogated in order to examine what it would mean for Raphoe Town.

6.16 It is contended that the location of the proposal in the vicinity of some farm residences and its negative impact on farming activity in the vicinity of the site and in close proximity to the town of Raphoe and all its services including schools and the negative impact on existing tourism relating to its status as a Heritage Town and its potential for further growth and its potential to be linked to the Wild Atlantic Way, would be detrimentally affected by the quarrying activities proposed and, as such, would contravene the stated Policies as set out in the CDP and would be contrary to the proper planning and sustainable development of the area.

6.17 Chapter 3 of the CDP emphasises the essential role played by towns like Raphoe in the economic life of Co Donegal. It states :

***"This approach is consistent with national policy in terms of the emerging themes in the National Planning Framework [NPF, Dept. Housing, Local Government & Heritage, 2017] and in particular through the Government's publication, 'Realising Our Rural Potential- Action Plan for Rural Development', January 2017. The Action Plan highlights the vital role that rural Ireland plays in shaping Ireland's economic success including through its heritage and culture and it aims to unlock the potential of rural Ireland's positive attributes through a framework of supports at National and local level. The Action Plan is based around five key thematic pillars, each with a series of objectives and actions. The five pillars are:***

***Pillar 1: Supporting Sustainable Communities***

***Pillar 2: Supporting Enterprise and Employment***

***Pillar 3: Maximising our Rural Tourism and Recreation Potential***

#### **Pillar 4: Fostering Culture and Creativity in Rural Communities**

#### **Pillar 5: Improving Rural Infrastructure and Connectivity**

***Pillar 1 in particular, recognises the role of rural towns and villages as the heart of rural communities and outlines the importance of implementing measures to breathe life back into rural towns and enable them to become vibrant places and emphasises that a more integrated approach across Government Departments, and Agencies and at local level is required. The actions identified to support Pillar 1 include schemes such as the Town and Village Renewal Scheme, the CLÁR Programme, expansion of Tidy Towns Competition, increased delivery of small housing schemes in towns and villages, implementation of the Framework for Town Centre Revival and roll out of the National Town Centre Health Check Programme."***

6.18 This Chapter 3 in the CDP gave hope and encouragement to communities like that in the Laggan Valley and in its towns like Raphoe, that their hopes and aspirations, in respect of their place in the county, were every bit as important as large towns, say, Letterkenny, and every bit as important as the vaunted landscapes associated with the Wild Atlantic Way and the approaches to Glenveagh National Park which, it is agreed, are all deserving of special protection. Chapter 3 of the CDP encouraged these communities to invest in their towns, farms and countryside with their time, their energy and efforts to improve things for themselves and for generations to come. So, local conservation groups have sprung up and voices raised to ensure investment is brought to this area. That is why so many hundreds have now raised their voices in opposition to this proposal to develop a quarry in their midst which, it is argued, negates all the fine words, phrases and policies sounded out in the CDP.

### **7.00 CULTURAL HERITAGE**

7.01 The section dealing with Cultural Heritage is surprisingly short in the EIAR submitted by the Applicant and, yet, it is in consideration of this issue that, on its own, should have spelt the end of the line for this proposal. In fact, a whole aspect of Cultural Heritage has been omitted from the Screening Report for some unexplained reason, i.e. the cultural gem that is Raphoe Town.

7.02 Raphoe Town is almost eulogised in the CDP with various Chapters and their policies and objectives spelling out the importance and significance of the town, e.g.

***TOU-O-11: To protect and enhance the built and historical heritage of the county (including structures on the RPS, NIAH, recorded monuments, heritage towns and battlefield sites) as an important element of the County's overall tourism product;***

***TOU-P-6: It is a policy of the Council not to permit developments which would materially detract from the visual/scenic amenities on the approach roads to, the visual setting of, or the views to be had from, significant tourism attractions;***

***The Council recognises the tourism assets of the heritage towns of Moville, Ramelton, Raphoe, Ardara and Ballyshannon and will seek to protect and sustainably develop these key heritage assets. [S.9.1]***

7.03 And, yet, there has been no consideration whatsoever on what impact the quarrying operations would have on the built heritage of Raphoe Town. Whilst the impact of extra heavy HGV traffic going through the town will be discussed below in the Traffic section, it is important to impress on the Bord at this stage how important the cultural heritage in the Town is, not just to the Town's residents but also to the entire county of Donegal and beyond.

7.04 The County Council has published a brochure entitled The Heritage Towns of Co Donegal 2008 and it has a specific section on Raphoe Town, depicting the protected buildings in the town; these are listed in the CDP, Appendix B, Part 12, Record of Protected Structures. The brochure sets out that there is a dual purpose in such a designation, i.e. to conserve the built environment and to promote those towns and help them achieve their potential. Planning decisions impact on planning policies. There is no evidence that the determination of this application by the planning authority was ever evaluated vis-à-vis stated policies in the CDP.

7.05 However, despite all the grand words and policies in the CDP about the need to conserve the built environment, Raphoe, and the potential impacts on it by the proposed quarry operations, has never been mentioned in either the EIAR submitted by the Applicant or by the Planning Authority in its assessment of the application.

7.06 English Heritage stated in January 2020 :

- ***Noise, dust and the vibration caused by the regular passage of HGVs have the potential to damage the fabric of historic buildings, monuments and areas. Such traffic can also diminish our opportunities to enjoy and appreciate these assets.***

7.07 Given the age and significance of the many protected structures in and around Raphoe Town, especially in the Diamond area, we contend that the EIAR is deficient in not having assessed the impact of further HGV traffic travelling through the town and the potential for damage to the fabric of those protected buildings set out in Chapter 12 of the CDP.

7.08 It must also be mentioned that one of the principal Appellants in this Appeal, Raphoe Community in Action, Volt House, Raphoe, has only last year received a six figure sum in grant aid to enhance the heritage and tourism potential of the town. It seems a contradiction that such a deal would be struck by those acting on behalf of the town's interests with the County Council, while at the same time the same Council would permit development which may negatively impact on the very structures which the grant aid is meant to protect and enhance. Part of the offer of funding is to go to attracting foot-fall into the Town; it is difficult to envisage the achievement of that objective with extra heavy HGV's travelling through the town which doesn't even have a proper pedestrian crossing.

7.09 It is contended, therefore, that the proposed quarry would contravene several policy objectives in the CDP relating to the conservation and protection of listed buildings and would, therefore, be contrary to the proper planning and sustainable development of the area.

7.10 The Applicant does, however, deal somewhat with the impact of the proposed quarry on the archaeological landscape. The Report by the archaeologist, David Sweetman is

accepted, but only insofar as it goes. It is however, contended that the Report does not go far enough in that it fails to consider what could be described as a **Zone of Archaeological Potential** in the area surrounding the site – i.e. the Archaeology Report deals only with the proposed site and its immediate environs, whereas we contend that its scope ought to have been much wider. It is important to note that the CDP recognises the need to protect the ***potential*** for further archaeological finds and sets out the following Policies :

***Policy AH-P-3: It is the policy of the Council to protect the character, settings of and views from National Monuments and Recorded Monuments and to manage development which would be considered to (visually or physically) intrude upon or inhibit the enjoyment of the amenities of these sites.***

***Policy AH-P-4: It is the policy of the Council to protect where appropriate, the character and setting of any unrecorded archaeological object or site.***

***Policy AH-P-5: It is the policy of the Council to protect and preserve archaeological sites, their characters and settings which have been identified subsequent to the publication of the Record of Monument and Places.***

7.11 A report by an objector, who is qualified in archaeology, who lives in Raphoe Town and who majored in the archaeology of the Raphoe area is enclosed, Doc.4 enclosed. It describes how the Raphoe area has been settled since Mesolithic times by peoples who left behind remains of their presence, many in the form of their beliefs, like the National Monument of the Bronze Age Beltany Stone Circle close by. The Report emphasises that there is significantly more potential for the discovery of archaeological finds within the Craigs and Magherasolis areas.

7.12 Further observations on the archaeology of the Raphoe area by Dr Brian Lacy are enclosed, Doc.5. The observations are in the form of an email to one of the Appellants and describe the potential for further archaeological finds in the area of the site. Dr Lacy is an eminent archaeologist, one of the most preeminent in his field, and no stranger to Donegal, being the author of the **Archaeological Survey of County Donegal, 1984**. With reference to the conclusion in the Screening Report that there will be no impact on the archaeology of the site and its environs, it is noteworthy that Dr Lacy concludes that “... ***it is absolutely clear that these surface monuments*** [i.e. the ones identified to date] ***are only the tip of an iceberg.***”

7.13 It must be pointed out that the Departmental Guidelines pertaining to archaeological sites stress that, as archaeological heritage is a non-renewable resource, the presence of known archaeological sites ***or the anticipation of potential sites*** must be an essential consideration in the selection of development sites, or major expansion of an existing site. Similar considerations apply in the case of protected structures in rural areas. It is clear, therefore, that as the entire Raphoe area has great archaeological potential, no development can be permitted that would prejudice such potential heritage.

7.14 We would also refer to Paragraph 2 of Dr Lacy's Report where he indicates the existence of an archaeological feature just west of the proposed Site which would merit



investigation. This feature is not listed in any list of protected features and does not appear on the Ordinance Survey Map but it is definitely a feature requiring investigation and protection and not to be threatened by quarrying. It may turn out to be a Rath, or Ring Fort or Cashel, for example. As many of these types of archaeological features also housed souterrains, it is not difficult to see how quarrying operations, blasting, drilling heavy traffic, could negatively impact on the site. Quarries can be significantly more destructive to archaeological remains than other types of development-led projects, as they demolish almost all the deposits of archaeological interest within their (often very large) footprint; and they can also impact on surrounding archaeology, beyond the site itself, through dewatering and changes in water flow patterns.

7.15 We must also take issue with the conclusion in the Archaeology Report submitted by the Applicant that “... **it is highly unlikely that anything of archaeological interest was ever on the site as it is not suitable for human habitation.**” This Site, at this elevation, is exactly the type of area where the ancient ancestors of this area chose to erect monuments for reasons which can only be guessed at - barren landscapes, like the Burren in Co Clare, the Sperrins in Co Tyrone, the coastal fringes of Counties Sligo and Mayo and also in south west Donegal at Glen Columbcille [in fact, all over Ireland] are home to some of the most spectacular archaeological remains, e.g. megalithic tombs [court cairns, dolmens, standing stones, etc.] Whilst our ancestors may not have lived in these areas, they regarded them as sacred places of worship and pilgrimage. So, the hillsides of Craigs and Magherasolis may very well yield further archaeological finds and material.

Taking into account the known archaeological remains which have been identified, [see Doc.4 enclosed,] it is important to be reminded that in framing the EU Directive regarding the assessment of impacts, the EU decreed that a scoping or screening report must not be too narrow. In fact, the wording of the EIA Directive [85/337] indicates that it has a wide scope and a broad purpose. (C-72/95, Kraaijeveld and Others, paragraphs 31, 39; C- 435/97, WWF and Others, paragraph 40; C-2/07, Abraham and Others – Liège airport, paragraph 32, C-275/09, Brussels Hoofdstedelijk Gewest and Others, paragraph 29.)

7.16 Even a precursory examination of the ordinance map of this area, as well as Fig. 14.1 and Table 14.1, both presented in the EIAR, would quickly inform one that this is a significant archaeological area – probably one of the most significant area of its kind in Donegal. These sites are shown on the enclosed Doc.4.

7.17 The conclusion in the EIAR that the quarrying activity would have no impact on cultural heritage of Raphoe Town or its environment is more than disappointing and it is regrettable that the planning authority has simply dismissed the professional opinions of the eminent archaeologists and their reports named in the previous planning application, P.A. Reg Ref. 19/52015; ABP Ref 308326-20. Accordingly, no mitigation measures are proposed by either the EIAR or in the decision by the planning authority in respect of culture, and the advice of the DAHG has been ignored. In those circumstances, the application must be rejected.

## 8.00 MATERIAL ASSETS

8.01 We reject the conclusion in the EIAR that there will be no significant effect on Material Assets by the introduction of quarrying into this area. This has already be dealt with in a previous section [e.g. the negative impact on the ancient fabric of most structures in Raphoe Heritage Town,] but it is worth repeating that the introduction of quarrying is not the optimum and sustainable use of the lands in question. This is prime agricultural land, has been for thousands of years and the local population intend that it continue to be so.

8.02 It is accepted that, two generations ago, when Donegal County Council operated a quarry on this Site, we were not as enlightened as we are today regarding sustainability and the impacts of proposals on the receiving environment. We knew nothing about the optimum use of land and never guessed that, one day, we would be part-governed by a Union in Europe which would dictate [rightly] how we treated the environment and that brakes would be applied if we did not adhere to best environmental practice and that there would be consequences for ignoring them. The maxim of sustainability [and how it relates to Material Assets,] would dictate that this proposal must be refused.

8.03 The operation by Donegal County Council [which ceased in the 1960's/70's] was small scale and sporadic and used the stone extracted for small projects in the locality. What is being proposed now is a large-scale commercial quarrying undertaking which is intended to operate for the next 25 no. years. It is contended that the proposal does not make the best use of material assets [i.e. land] and is, therefore, contrary to the proper planning and sustainable development of the area.

## 9.00 TRAFFIC

9.01 The EIAR deals with the impact of Traffic and concludes that the quarrying operation proposed would have no significant impact in and around the subject site. It also states that approx.. 40 vehicular movements per day would be generated. This figure has been disputed by the HSE Report which adduced a number of 60 instead. However, and worryingly, the EIAR states that lorry traffic could increase depending on demand, so the resultant lorry traffic remains unknown. It also concludes that, given the existing level of traffic movements associated with existing developments in and around Raphoe Town, the operation of the quarry would not add significantly to that level. However, the impact, as described by the Applicant, deals only with the capacity of the Regional Road, the R236, as well as the local road which gives access to the subject Site, the L-23749, [it is not known how or why the latter was afforded the status of a "Local Road" as it only gives access to the landowner's house as well as the quarry and is currently blocked off at the top end [i.e. quarry side] but perhaps it has something to do with the fact that the County Council was using this road to access its quarry and funding may have been required from time to time to upgrade it, which the status of "Local" would have given it.]

9.02 The EIAR fails to deal with the impact which the extra HGV traffic would have on Raphoe Town and the fabric of its Heritage Buildings. The R236 is a designated Regional Road and carries traffic from Derry City, through Carrigans/St Johnson, crosses the N14, and

proceeds through Raphoe Town to Ballybofey/Stranorlar to South Donegal and thence to the West of the country [Galway etc.] This means that any traffic wishing to travel to any part of Donegal south of Raphoe Town or any part of the country south of Raphoe Town must travel through the Town – ***there is no other route***. In its report dated 07/10/2022, the planning authority implies that ***all*** quarry traffic [loads of stone etc.] will follow the R236 northwards onto the N14 and proceed from there. It is simply unbelievable that a planner in Donegal County Council wrote that and did so, apparently, to dismiss the objections to quarry lorries passing through the Heritage Town of Raphoe. For the avoidance of any doubt, it has to be repeated that any traffic from the proposed quarry and heading south of Raphoe, must pass through Raphoe Town.

9.03 Raphoe Town is characterised by narrow streets [the enclosed Report by Dr Brian Lacy [Doc.5] refers to “... ***the charmingly narrow streets of the Town*** ...” Everyday traffic can have difficulty navigating through the Town via the Diamond and heavy vehicles struggle. This is because of the configuration of the streets [i.e. short distance from corner to straight] as well as the narrow width of the R236 in strategic places, refer to Map 13. When approaching the Town, the R236 is approx. 7m wide. However, this narrows to 5.4m at the junction with McBride Street and to only 5m at the junction with the L55141, just meters from McBride Street. The R236 travels through the northern leg of the Diamond in the centre of the Town [approx. 6 m wide] but narrows again to 5.5m at Mc Brearty’s Bar before exiting the Town and moving south. It is important to note that in the Design Manual for Urban Roads and Streets [DMURS, Department of Housing, Planning & Local Government, 2019] it is recommended that streets subject to HGV traffic must be at least 6m wide.

9.04 As well as its significant history and pre-history, the Heritage status was granted to Raphoe on account of its hugely significant historical buildings [CDP Appendix B] which are all mostly along the route of the R236 and in the Diamond. No empirical data exists, or is to hand, which would indicate the state of the fabric of these ancient buildings, but from visual inspection, it is clear that many of them have suffered from the ravages of time and, in particular from the trundling of heavy vehicles in close proximity to them and the resulting vibration; there are no footpaths in places in the town. [It is noteworthy that Dr Lacy also draws attention to this matter in his report.] Of course, it is not only the listed buildings which require protection. Many other buildings of lower status along the route of R236 and within the Town are also vulnerable to vibration, like the 3-storey building opposite McBrearty’s Bar on the west end of the Diamond, for example. There is no known data on the state of the fabric of these buildings or even the nature and integrity of their foundations which might be rendered unstable with the passage of extra heavy vehicles across their door-steps over a period of 25 years.

[We also draw attention to the existence of part of the Castle Demesne Wall [1630’s] which straddles the approach to the Town along the R236 which, while not listed, is of significant historical value and is in as much danger from passing heavy vehicles as the listed buildings are. We contend that even this wall, which many may not even notice or value its existence, requires protection and is in danger of damage by passing heavy vehicles. The CDP gives protection to such built heritage like walls, thus :

***"Policy 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. ]"***

9.05 It seems so contradictory that, given the time and effort which local groups, like the Tidy Towns Committee, Raphoe Community in Action, the Heritage Centre, Historical Society etc. as well as a plethora of individuals who devote their time and efforts voluntarily to the protection of the Heritage of their area, combined with the expense by Donegal County Council [and thence the public purse] in supporting the protection of Heritage in the Town as well as in the preparation of development policies and objectives now enshrined in its legally binding CDP, that permission would now be given for a proposal for quarrying activity on the outskirts of the Town which would bring HGV traffic through the town, going south and all that is implied, as set out.

9.06 The CDP sets out the road works which are "shovel-ready" and will begin during the life-span of the Plan. Some of those works, i.e. the Ballybofey/Stranorlar By-Pass, the Ballybofey Link Road and the Killybegs By-Pass, Mount Charles to Inver Improvement, Inver to Killybegs Improvement, [all south of Raphoe Town, CDP. Chapter 5] would require substantial stone of the grade which the Applicant would hope to supply. As noted above, all such traffic must travel through the Diamond in Raphoe Town. However, no mention has been made by the Applicant [or the Planning Authority] of how such extra heavy traffic would impact on the town given the nature of the streets and the existing vulnerable fabric of the built heritage in the Town.

Neither has any consideration been given to the need for the preparation of a Traffic and Transport Assessment [TTA] as may have been mandated under Part B, Appendix 32.1, CDP. It is contended that such an assessment would have investigated the impact of the extra HGV traffic travelling through Raphoe Town and its impact on the Heritage of the Town.

9.07 The CDP sets out a raft of policies designed to ensure that no harm would come to any protected structures in the County , e.g. :

### **S. 7.2.3**

***Policy BH-P-1: It is a Policy of the Council to conserve and protect all structures (or parts of structures) and sites contained in the Record of Protected Structures that are of special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest.***

***Policy BH-P-9: It is a policy of the Council to conserve and enhance the quality, character and distinctiveness of towns and streetscapes in the County, including street layouts, historic structures, building lines, traditional plot widths, signage and historical street furniture as well as the character of the area.***

***Policy BH-P-14: It is a policy of the Council to continue to protect the built heritage fabric of the County by identifying appropriate Architectural Conservation Area designations.***

***Policy BH-P-15: It is a policy of the Council to preserve, protect and enhance the special built character and functions of the 'Heritage Towns' of Ardara, Ballyshannon, Moville, Ramelton and Raphoe.***

9.08 These are all substantial policies and commitments set out in the legally binding CDP. It is contended that the proposal to permit extra heavy HGV's to travel through Raphoe Town without due consideration and assessment of the impact of such extra traffic, having regard to its type, leaves a considerable gap in the screening, scoping and assessment stages of this planning application and, given the contravention of the stated policies relating to the conservation and protection of Heritage Towns like Raphoe and their nationally and regionally important built heritage as set out above, to grant permission for this proposal would materially contravene the CDP and would be contrary to the proper planning and sustainable development of the area.

## **10.00 BIODIVERSITY**

10.01 The Applicant concludes in the EIAR that his quarrying activities will have no or negligible impact on the ecology of the area arising from noise, dust, loss of habitat etc.

We respectfully reject that conclusion. While there may be no exotic, rare or even protected species of either flora or fauna within the site boundary, nonetheless, the Appellants value the species which do exist in this location. These are amplified in the report, submitted to the Planning Authority and on the previous planning file [P.A. Reg Ref 19/52015] file, by one of the objectors, Conor Porter and Martin Laird, in the Habitat Survey by Stuart Dunlop and need not be rehearsed here – it is on the planning file in the relevant submission to the Planning Authority and in its assessment on this current application while dealing with the planning history of the site, the planning authority has decidedly ignored that report. But just to add to that, it must be stressed that the surveys submitted by the Applicant were conducted in a suboptimum period, [admitted by the applicant] when many plant species would be dormant and underground and when many animal species would be hibernating or are seasonal visitors to this area. We would also draw the attention of the Bord to the enclosed photo No. 11 which was taken of a Red Squirrel in the adjoining property of one of the Appellants, Anne Kavanagh, who owns a garden which is open to the general public, Ros Ban, and who lives beside the proposed quarry Site; this is no doubt one from the adjacent conifer forest which is the preferred habitat of the Red Squirrel. But it just goes to show that the species of both flora and fauna, which might have been evident at the time of the survey by the Applicant, are representative of the flora and fauna in the general area. It is contended that, undoubtedly, wild life and flora will be negatively affected should this proposal be permitted.

In that regard, it is important to note that the Applicant acknowledges that the absence of recent records of any species from the National Biodiversity Data Centre [NBDC] does not imply that it does not occur – rather it was simply not recorded; in effect, the Applicant does not know the extent of flora and fauna that will be affected by his proposal. And the catch-all mitigation clause used throughout the EIAR, i.e. ***“provided all the mitigation measures are strictly adhered to”*** must be viewed with some derision by all objectors to this proposal, including the hundreds of others who objected to the original planning application, P.A. Reg Ref 19/52015.

10.02 Many studies have been conducted into natural habitats in disused quarries and there is even an award for studies into habitats in quarries conducted every three years by Heidelberg Cement. These studies explore the rich habitats [flora and fauna] that seek their homes in quarry faces and their surrounds, including rare and protected species. So, to label the Site as of low ecological value and low conservation status, we submit, is to not fully understand how diverse such a site can be. The abandoned quarry, on which the proposed quarry is based, should be left as it is, i.e. abandoned, and assimilated back into its natural state and providing habitats for many species, including the protected species identified in the Report submitted by the Applicant which, if left undisturbed, will undoubtedly increase in number and attract others.

10.03 With regard to the impact of the proposed quarrying on Natura Sites, it is to be applauded that in the EIAR, the applicant now admits that there are at least 2 hydrological pathways from the site to the Lough Swilly and Lough Finn SAC's and the Lough Swilly SPA. This was repeatedly denied by the applicant in his previous application, and worryingly also by the planning authority in continued deference to the applicant. Accordingly, that argument has been won in respect of the potential risk to the Natura Sites. So, there is no need to rehearse the evidence and arguments concerning the pathways to the SAC's and SPA submitted in our appeal in respect of the previous application. The applicant now submits proposals to mitigate any negative impact on the Natura Sites. However, in respect of mitigation in the section dealing with water in the EIAR, S.8, the applicant proposes 47 no. mitigation measures which he assures us all will be rigorously applied for the entire 25 years of the lifespan of the quarry, if permitted. Such mitigation includes regular inspections, maintenance and monitoring for that period of time. It is simply not credible to assume that these measures will be adhered to for a whole generation by this applicant with the natural turn-over of employees and possibly new ownership.

10.04 It follows that any contaminated water from the quarry activities which might enter the, now known, hydrological channels, either accidentally or otherwise, will also enter the Foyle Basin and potentially negatively impact on the SAC and SPA centred there and negatively impact the habitats and species which are protected therein. The nature of such potential contaminants are set out by the Applicant himself in the EIAR and the High Court Case mentioned above is also relevant to this Case in terms of potential pollution.

*In the Foyle SAC, of particular importance is the population of Atlantic Salmon, *Salmo salar*, which is one of the largest in Europe and Otter [*Lutra lutra*] which is found throughout the system. The area is also important as a river habitat. In their upper catchments, the rivers are all fast-flowing spate rivers with dynamic flow regimes characterised by sequences of rapid, riffle and run. At the top end of the River Derg and its two tributaries, the aquatic flora reflect the highly acidic character of the water, with mosses and liverworts dominant.*

*In respect the Finn SAC, the qualifying interests are Salmon *Salmo salar*, Otter *Lutra lutra*, Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*,) Northern Atlantic wet heaths with (ULFDWHWUDOL] Blanket bogs, Transition mires and quaking bogs. This SAC overlaps with Derryveagh and Glendowan Mountains SPA and Lough Derg (Donegal) SPA and adjoins Meentygrannagh Bog SAC, Dunragh*

***Loughs/Pettigo Plateau SAC and Cloghernagore Bog and Glenveagh National Park SAC. The National Parks & Wild Life Service advises that the conservation objectives for this site should be used in conjunction with those for the overlapping and adjoining sites as appropriate.***

[National Parks & Wild Life Service May 2017.]

It is not difficult to comprehend that the environment of a vast extended area in Co Donegal, with possible consequences for Counties Derry and Tyrone as well, well away from the subject Site, stands to lose considerably should any pollution arise from the proposed quarrying operations. Of concern must be the unknown hydrological pathways which might currently exist in rock fissures caused by previous blasting by the County Council and possibly further fissures which might be caused by the proposed activities [no matter what mitigation is proposed] and when added to the known hydrological pathways the risk remain too high if this development is permitted. It is contended that there is doubt and, if so, that doubt must be given to the environment and the proposal must be refused.

10.05 Furthermore, and related, is the impact of the illicit dumping which has been in operation at this quarry site since Donegal County Council quit operations in it. That this is so, is supported by the local populous, even if it is denied by the applicant and the planning authority. A large void was left behind when the County Council ceased its operations and this became a dumping ground for all and everything, especially since the introduction of waste charges by the County Council. Please note that much of the illicit dumping has been covered with soil.

10.06 We enclose a Report [in the form of an email] supplied to the Appellants by Professor Lisa Connolly of Queens' University, Belfast, Doc.6. Professor Connolly sets out clearly her concerns about the likely contaminants which are bound to be in the illicit dumping and their impacts on humans and wild life.

10.07 The Planning Authority have been aware of this illicit dumping, even without being advised about it by the objectors to the proposal, as the planning report dated 07/10/2022 indicates. However, that same report states that it has nothing to do with the planning authority and should play no part in the consideration of this planning application. We beg to differ – the report referred to Doc. 6 indicates that the issue is a very serious one and as the quarrying activity proposed are bound to expose such illicit dumping, then the consequences for the environment and the local population and wild life could be quite serious indeed. The staff which reports on planning matters live locally and could not have been unaware of this illicit dumping and a casual inspection by whomever would never give any clue as to what lurks under the ground. In fact, in the assessment by the Planning Authority dated 09/09/2020 on the previous planning file, P.A. Reg Ref 19/52015, the Planning Authority acknowledges that when the County Council sold the land, where the proposed quarry site is located, they inserted a condition that the purchaser must "clean up" the area. This can only refer to the illicit dumping, even if denied by the applicant or the land owner.

10.08 In further evidence that the Applicant could not have been unaware of the illicit dumping when he entered into a leasing arrangement with the owner, in the preparation of the Screening Reports, he employed drilling equipment to determine water tables etc. Such activity must have unearthed the dumping inside the quarry pit. And yet, there is no mention of it in any of the Reports as if it didn't exist.

10.09 Such dumping, its content and extent, should have formed part of the EIAR. There ought to have been a complete chapter dealing with this matter along with the potential pollution associated with random waste disposal. When the existence of definite hydrological pathways to the Foyle Basin, as set out above, is added into the mix, then it is submitted that the EIAR submitted is incomplete and, as such, the Applicant has not supplied sufficient data or detail to enable an efficient assessment of the proposal.

10.10 The CDP sets out its policies for the extractive Industries in S.8.1, thus :

***Policy EX-P-2 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 ...***

***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 ...***

***Policy 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.***

***S. 8.1 of the CDP is explicit that, in examining proposals for quarrying, the precautionary principle will be adopted. It is argued that this has not been the case in the decision to grant permission for the proposal. There is clearly doubt about the operations proposed in respect of the impact on the environment and, to repeat, it is further argued, the benefit of any doubt must be given to the environment.***

10.11 The attention of the Bord is drawn to the decisions by An Bord Pleanála in Co Wexford [2017] to refuse permission for two quarries [Redrock Developments Ltd. and Belcarrig Quarry Ltd.] on Belcarrig Hill, Ballycanew. In both those incidences, permission was refused on the grounds that there was the potential for contamination of surface and





ground waters. The Bord also expressed concerns about the potential to contaminate private wells. Such a concern was expressed by some of the objectors at the planning stage in this current planning application, e.g. Rachael White [which objector is also an appellant in this case,] but feel that insufficient assurance has been given by the Applicant in the EIAR that the extensive list of conditions imposed by the planning authority to augment the extensive litany of mitigation measures laid down in the EIAR will ever be adhered to by this applicant with his record of playing fast and loose with planning laws and regulations and High Court Orders and decisions of An Bord Pleanála, resulting in harm to the environment. ***It must be pointed out to the Bord that this area has no public water supply and some farms and other locals depend on private wells for both domestic use and farm animals.*** We cannot be certain that the applicant in the EIAR has covered all these bases.

10.11 Mention must again be made of the concerns of the High Court Judge, Barr J., when he dealt with the applicant and his wife following their arrest – those concerns about the alleged pollution of the Leannan River by the Applicant may have implications for this application. And, yet, the planning authority has remained unconcerned, stating quite astonishingly in its report dated 07/10/2022, that the malpractice and gross misdemeanours by the applicant were inconsequential and “***action afforded under S.35*** [of the Planning & Development Act 2000, as amended and which ought to have halted any progress on any further assessment of this application] ***was not merited ...***” Clearly, the planning authority and the High Court Judge are not on the same page when it comes to assessment of this applicant and his quarrying activities and their implications for the environment.

10.12 It is noted that there is no washing of the aggregate proposed, only in respect of lorry and wheel washing and domestic usage. However, dust suppression has been conditioned as part of the planning decision and, along with accidental spills, overflowing of the settlement ponds especially during heavy prolonged rain or during a once in every six year episode, there is the potential for contaminated water to enter the drainage channels with the potential for harmful pollution as already set out. Of course, we note the mitigation measures proposed in respect of this issue, but, once again, it is necessary to ask the questions about the sustainability of the planning conditions and the proposed mitigation measures.

10.13 It is contended, therefore, that the proposal has the potential to negatively impact on existing and potential wild flora and fauna within the quarry site and environs and the potential to negatively impact on the Foyle SAC and SPA, despite the planning conditions and the mitigation measures. The advice offered by the DAHG in respect of a proper and meaningful base-line study of flora and fauna has been roundly ignored by the planning department in the planning conditions attaching to its decision in yet further deference to the applicant. The proposal, therefore, is contrary to the policies set out in the CDP and, as such, is contrary to the proper planning and sustainable development of the area. On examination of the Biodiversity issues identified, the proposal must be refused.

## 11.00 LAND, SOIL AND GEOLOGY

11.01 The Applicant has submitted a report by MATTEST Materials Testing Ltd. which gives an analysis of the rock to be quarried. It indicates a sulphide content which must be of concern to the neighbours who have wells, especially as the tests provided by the Applicant also indicate a high permeability of the over-burden.

Such percolation proficiency would likely lead to efficient run-off into the receiving hydrological pathways discussed above and, thus, add to the likely pollution of those waterways, all the way to the Foyle and Finn Basins, with potentially negative consequences for their habitats as well as possible contamination of local wells.

11.02 It is noted that the rock to be quarried is found to be high-grade with a high Polished Stone Value [PSV] which is particularly well-suited to road and building construction. This fact would be worrying for the Appellants, other local residents, farmers, schools, etc. as it demonstrates that there is potential attraction to greatly expand the area of quarrying and therefore the life-span of the operations. Indeed, it is noted that the Applicant has submitted for an area in this current planning application of 5.37 ha. out of an overall area of 7.95 ha. It would be reasonable to conclude that, if permitted in this current application, the applicant would proceed to quarry the remainder. We warned about this in the previous planning application, P.A. Reg Ref 19/52015, ABP Ref 308326-20, where the applicant applied for only 4.81 ha., thereby attempting to avoid any requirement to submit a full environmental impact report, but with the full intent to proceed to expand the quarry footprint. The end result could lead to the complete scarring of the Craigs and Magherasolis hills and yet further decimation of flora and fauna and negative impact on the local community far beyond the 25 years which the planning authority is currently happy with.

11.03 The Applicant has admitted in the EIAR that the soil type at the quarry site is highly productive and facilitates the extensive and intensive agricultural production in the Laggan Valley reported above. We contend that such an expression by the Applicant is tantamount to an admission that the optimum use of the lands within the Laggan Valley is for agricultural use which would run contrary to the use of some of that land for quarrying.

11.04 The CDP, Chapter 4, Economic Development [Rural Areas] recognises that, despite being a very rural county, only 39% of the county's areas is in agricultural use and that much of it is not suitable for intensive use. However, that is not the case with the Laggan Valley – 100% of the land in the Laggan Valley is prime agricultural land and a vital resource for the County and must be protected from unsuitable use. There can be no sensible or sustainable reason why such land would be lost to agriculture and given over to an industrial use whereby only a waste-land would be left when quarrying activity ceases, despite the alleged intentions of the Applicant regarding rehabilitation of the quarry site as he sets out in his mitigation. Anyone who has ever been to an abandoned quarry would recognise that the mitigation proposed is the stuff of fairy tales.

11.05 It is argued, therefore, that to grant planning permission for the proposal would set an undesirable precedent for further expansion of quarrying of this site or of other locations within this area, given that the underlying rock is so valuable, and would result in the diminution of the valuable agricultural resource in the Laggan Valley which would be detrimental to the economy of the area and region as a whole.

11.06 The EU has published a plethora of documents extolling the need for the sustainable and optimum use of land which is a finite resource, e.g.

<https://www.eea.europa.eu/soer/2015/europe/land>  
; [https://ec.europa.eu/environment/land\\_use/index\\_en.htm](https://ec.europa.eu/environment/land_use/index_en.htm);  
<https://ec.europa.eu/futurium/en/sustainable-land-use>;

They all point to the need to protect the precious resource of farm-land and to ensure that the best optimum use is made of land, i.e. agricultural use of good arable land, forestry on suitable lands, controlled urbanisation, etc. It is explicit that quarrying should not replace agriculture where the land is fertile and productive.

11.07 To permit the application, it is contended, would therefore, contravene current EU policy and would be contrary to the proper planning and sustainable development of the area.

## **12.00 NOISE AND VIBRATION**

12.01 In the EIAR, the Applicant has admitted that there will be noise and vibration associated with this proposal. This forms one of the major concerns of the Appellants. The mitigation proposed is noted. However, the introduction of the intensification of a former use on the site of an abandoned quarry into this farming landscape in the form of intensive blasting, drilling, HGV traffic, dust etc. with the resulting noise and vibration, is giving grave cause for concern in this area. No amount of pre-warning or assurances that the operation will be regimented and supremely controlled, including the mitigation of providing well-oiled machinery and moving parts, will dispel the real concerns expressed. The proposal will introduce an intensified commercial industrial development into an area unsuited to its operations and ill-equipped to deal with such an enterprise which could operate for 25 years or more if permitted.

12.02 Whilst all objections to this proposal are valid and equal, the attention of the Bord is particularly drawn to the letter of objection by Mr Stephen Moore, on the planning file which sets out the very personal impact of the proposed quarrying in this area, so close to his dwelling house at only 761m. from the proposed Site spells out the devastating impact the operations would have on his dwelling house, himself and his livestock. His dwelling is located on the same rock seam as the quarry site where blasting will occur and the mitigation proposed, whereby sensors will be installed at various residences, gives him no comfort whatsoever. Indeed his dwelling is not even referenced in the EIAR submitted by

the Applicant. Many of the local residences in the vicinity of the proposed site are not referenced in the EIAR. So the mitigation proposed does not sit well with Stephen Moore or the other objectors. Mr Moore has recounted his past experience when blasting occurred at this Site when his stone-built house, sitting on the same rock seam as the proposed quarry, would shake, as well as furniture and shelving inside his house.

12.03 It is contended, therefore, that the proposal is ill-fitted to the prevailing land-use in this area and the proximity to residences and community venues and would be contrary to the proper planning and sustainable development of the area.

### **13.00 CONDITIONS & MITIGATION**

13.01 The applicant is to be congratulated in presenting an EIAR and NIS prepared by professionals which gives a clear picture of most of the impact of the various stages in the proposed quarrying activities; in fact the profusion of maps, diagrams, tables and data is impressive. However, we do not agree with some of the conclusions in the EIAR, especially the impact on neighbouring homes and their occupants and on local institutions and the Heritage Town of Raphoe. For example, there has been simply no assessment whatsoever of the psychological impact on local residents or on the populations of local institutions of having such an intensive commercial quarry and its activities on their door-step; the reports simply concentrate on possible physical impacts of the various operations in the proposed quarry. The omission of the likely impact on Raphoe Town is notable as set out in the preceding paragraphs, while the impact of the proposal on wildlife is limited to the area inside the boundaries of the proposed site, ignoring the fact that the impacts on wildlife will be felt far beyond the site.

13.02 The applicant, however, does admit that his proposed operations has the potential to negatively impact on the matters which head up the various chapters in his EIAR, water, air, soil, etc. To mitigate these potential threats, the applicant proposes a total of 147 mitigation measures – 47 no. such measures are proposed in respect of Water alone, S.8, and 32 no. in respect of Dust, Noise and Blasting, S.9 & 10. The planning authority has added a further 45 no. conditions, making a total of 192 no. conditions which must be complied with by the applicant or he will be in default of his planning permission if the application is granted. Compliance with such an extraordinary number of conditions over a period of 25 no. years would be a super-human task for both the applicant and the planning authority.

13.03 However, the fact is that we believe that the planning conditions and mitigation measures would not be complied with in the way that they are intended. Some of the measures require expertise in various disciplines to be employed over the lifespan of the operations; there is bound to be changes in personnel employed in the quarry operations, not to speak in the possible change in ownership; there may be changes in the financial circumstances of the applicant leading to uncertainty regarding restitution and rehabilitation of the site as required, [N.B. planning condition no.2 does not require any restitution until after the 25 year period.]

13.04 The applicant admits in the EIAR that **ALL** mitigation measures proposed in respect of every topic covered in the report must be complied with to avert any negative impact, e.g. in respect of the possible impact on the SAC's, the applicant states, ***"The proposed project as detailed will have no likely or significant negative impact on any Natura 2000 site if all mitigating measures as outlined in section 6 are implemented and carried through during construction, operation, and decommissioning."***

We contend that this is a mighty big **IF**. The risks are far too great to be left to the precarious and uncertain vagaries of circumstances which are outside the control of possibly everyone involved in the planning process, and not just the applicant and the planning authority.

13.05 When the record of the applicant, vis-à-vis compliance with planning and environmental law and regulations is thrown into the mix, this leaves a risk that the planning authority ought to have considered in its deliberations. Instead, and notwithstanding, there seems to have been a deference to the applicant, the reasons for which may become apparent at a later stage.

13.06 In his deliberations on the previous application for this development [which was refused by the Bord, [ABP Ref. 308326 – 20] the inspector noted, [S.7.5.16,]

***"Notwithstanding the proposed measures to address surface water management and the various conditions that would also need to be addressed and complied with, the recommencement of quarrying operations would present uncertainty regarding the significance of the effects on the receiving surface waters, which could potentially be to the detriment of the ecological status of local waterbodies, including the achievement of the relevant target ecological status under the WFD. To accord with Article 5 of the European Communities Environmental Objectives (Surface Waters) Regulations, 2009, as amended, public authorities should not undertake functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status or the ecological potential of a body of surface water. Based on the details provided, to permit the subject development would be contrary to these legislative provisions."***

The sheer number of mitigation measures proposed in respect of Water should serve as a warning against any intention to grant planning permission for this development.

13.07 Even if planning permission were to be granted in spite of the plethora of reasons above which dictate that it oughtn't to be granted, who will police the operations? We doubt very much that the applicant will, given what we know about him in these matters; the planning authority has neither the time, the finance or the expertise to monitor operations

which would have to be done on an on-going basis; [it would, in fact, mean stationing enough expert personnel on site full-time for the period of 25 years and that is simply not going to happen] and the planning authority has not been too successful in satisfactorily dealing with the transgressions of this applicant in on-going cases set out in the opening paragraphs; the planning authority seems to indicate that if it imposes a condition, then it will be complied with by the applicant/occupier or face the law; the reality is something very different. The EIAR makes it abundantly clear that the 147 no. mitigation measures proposed would require constant, if not daily, attention, inspection and monitoring with constant maintenance of all relevant matters a key issue.

13.08 Unfortunately, it would be left to the unfortunate local population to police operations if permitted. It was local complaints that exposed the unlawful operations by the applicant in the High Court Cases mentioned above. That is simply an onus what the Bord must not put on the shoulders of local residents; the psychological impact alone would be too great to bear, with round-the-clock vigilance, recording and seeking professional advice. There would be endless complaints to the planning department with litigation always a realistic option, including injunctions.

13.09 Consequently, it has to be pointed out that conditions which are unsustainable ought not to be imposed; conditions which cannot be enforced because of a resources deficit in the planning authority, or simply because of their preponderance are not sustainable. The Courts have found that unenforceable conditions are not lawful.

#### **14.00 CONCLUSION**

14.01 The grounds of this Appeal have sought to detail how the proposal would negatively impact on Raphoe Heritage Town and environs and their people and the institutions in the locality, having regard to Population and Human Health, Biodiversity, Land, Soil and Geology, Water, Air & Climate, Noise & Vibration, Landscape & Visual, Cultural Heritage, Material Assets and Traffic. It has identified gaps in the EIAR which accompanies the planning application and gaps in the determination by the Planning Authority. It is argued that the proposal would materially contravene the CDP and its stated objectives in a multitude of instances in respect of the factors as set out by legislation for the protection of the

environment [S.177, Planning & Development Act 2000, as amended] and would, therefore, be contrary to the proper planning and sustainable development of the area. In that respect the attention of the Bord is drawn to S.15 of the Planning & Development Act 2000 which stipulates that *"15.—(1) It shall be the duty of a planning authority to take such steps within its powers as may be necessary for securing the objectives of the development plan."*

14.02 It is further contended that S.35 of the Planning & Development Act 2000, as amended, may be applicable in the determination of this application.

14.03 It is argued that the determination by the planning authority is flawed and based on the false premise that, just because a quarry operated on this site previously, it must be considered as *"a brown field site"* and must, somehow have a status conferred on it which is not merited in law or anywhere else. There is absolutely no comparison between what which previously existed [ two generations ago and where the site has now been engulfed in scrub and vegetation] and what is now proposed in terms of quarry area and the operations proposed as well as traffic generated. It must also be pointed out that standards have changed considerably since the old quarry ceased operations and the expectations and tolerance of the local community has vastly changed for the better. The contention is that this is not a continuation of the same quarrying activity, but an entirely different animal in a new age.

14.04 Accordingly, we contend that there is considerable doubt concerning the impact of the proposed quarry on many of the factors outlined. We would point to the long title of the Planning & Development Act 2000, as amended, where standards for the control of development are set out and wherein it is defined as an Act to provide, *in the interests of the common good*, for proper planning and sustainable development. It is difficult to see how the common good is served by permitting this development and, if it is permitted, it would be granted solely in the interests of the applicant and certainly not in the interests of the inhabitants of the Raphoe area. As such, we respectfully urge the Bord to adopt the precautionary principle and to give any benefit of the doubt to the environment in its deliberations and determination of the Application and refuse this proposal on the grounds that it would be contrary to the provisions of the County Development Plan in many of its constituent parts and would, therefore, be contrary to the proper planning and sustainable development of the area.

Gerard Convie

Planning Services.



Doc 6.

## **Estate Manager - Oakfield Park**

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**From:** Lisa Connolly <[REDACTED]>  
**Sent:** Friday 25 September 2020 15:13  
**To:** Estate Manager - Oakfield Park  
**Subject:** FW: Concerns regarding the release of toxins into the Raphoe area via reopening of quarry.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

For the attention of Mr Gerard Convey

Dear Mr Convey,

As a land owner at Craigs Raphoe and an expert in the health risk posed by chemicals to humans and the environment, I wish to raise concerns surrounding the planning permission (#19/52015) recently granted by Donegal County Council for the reopening of a quarry within the area.

My major expert concern regards the reopening and mining of an area which is commonly acknowledged to be a historical illegal landfill site. Throughout the 60's and 70's this area was used for the dumping of domestic waste. Consequently this area likely contains toxins/chemicals emanating from plastic, electrical goods and batteries. It is anticipated that mining may release toxins from this area into the local water systems and air which could have serious detrimental effects on surrounding ecological and human health. Chemicals of concern include for example; plasticisers in plastics (e.g. phthalates and bisphenols), polychlorinated bisphenols (PCBs) which were historically used in electrical goods, brominated flame retardants (BFRs) used in electrical goods plus furniture and textiles, heavy metals such as mercury from batteries.

These are persistent chemicals which do not break down easily in the environment and are therefore extremely persistent within landfills. Many have been banned over the last 30 years due to their dangerous nature but can still be released from landfill sites. It is well known that exposure to such chemicals can cause extremely detrimental effects on health including cancer, infertility, diabetes, neurological damage, immune system compromise and miscarriage. The most vulnerable group is the developing foetus and children, but adult populations are also vulnerable. These health effects can occur in humans, agricultural animals and wildlife.

Please note that the above are my personal opinions and concerns. I ask that you highlight these concerns as a matter of urgency to protect the people, animals and environment in the surrounding area within Raphoe.

Sincerely,  
Lisa Connolly.

**Professor Lisa Connolly**  
**Chair in Toxin Food Safety**  
**Coordinator of the Marie Curie ITN *PROTECTED* (<http://protected.eu.com/>)**  
**Partner EU-H2020 project FREIA ([www.freiaproject.eu](http://www.freiaproject.eu))**

*The Institute for Global Food Security*  
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<http://www.qub.ac.uk/igfs>

*Primary Health Sciences QUB event 2018*

Primary Health Sciences QUB event 2017

Primary Food Sciences QUB event 2016

Primary Life Sciences QUB event 2015

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Human blood-based exposure levels of persistent organic pollutant (POP) mixtures antagonise androgen receptor transactivation and translocation

A Human Relevant Defined Mixture of Persistent Organic Pollutants (POPs) Affects In Vitro Secretion of Glucagon-Like Peptide 1 (GLP-1), but Does not Affect Translocation of its Receptor

**\*\*REF 2014: SUBJECT RANKING ON INTENSITY\*\***

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**Estate Manager - Oakfield Park**

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**From:** Mary Harte <[REDACTED]>  
**Sent:** Friday 25 September 2020 15:35  
**To:** Estate Manager - Oakfield Park  
**Subject:** Fwd: Raphoe quarry etc

Hi David.  
 can you print off....my printer has run out of ink...again  
 thanks

**Mary Harte, Director Beltaine Productions**

**MaryHarte LinkedIn.**

+353 86 171 8414  
 +353 74 91 45702

----- Forwarded message -----

**From:** Email Notification <[REDACTED]>  
**Date:** Thu, Sep 24, 2020 at 3:00 PM  
**Subject:** Raphoe quarry etc  
**To:** [REDACTED]

Mary,

As you know I've been writing a book about Adomnán and his associations with Raphoe. I've been trying to study the town and its environs (mainly from the texts and maps etc) but haven't carried out any fieldwork there. Regarding the proposed quarry at Craig's Hill(?) you spoke to me about, it strikes me that there might be three ways that it could potentially impact on the archaeology of the area.

1. I am not sure how extensive it will be but I assume that it will also grow over the years. To my knowledge no archaeological monument has been identified in the precise area of the quarry, although in the past the authorities were not as careful about having such sites checked in advance of development and it is possible that things were removed without proper examination. However – although Donegal is not often associated with good agricultural land – we know that the eastern part of the county has some of the best land in Ireland. This was obvious to people in ancient times also and consequently it is absolutely crammed with archaeological monuments visible on the surface - a reflection of the intense settlement on the good land in the area since Mesolithic times. In addition we know that new sites are constantly coming to light in the area through casual disturbance of the soil – e.g. the recent discovery of the Bronze Age gold rings at nearby Tullydonnell. But it is also absolutely clear that these surface monuments are only the tip of an iceberg. For instance the application of new geophysical survey is revealing exponentially larger numbers of sites (or the greater complexities and extents of already known sites) wherever it is used. The same is true for forms of aerial survey through Lidar and drone surveillance under differing weather conditions. To my knowledge no such surveys have been conducted at or near the proposed quarry site.
2. The proposed quarry is adjacent to the very large anomaly to the west which you and I have been speculating about as a possible archaeological feature for several years – although I haven't followed it up with any detailed inspection etc. The site appears to be (sub)circular and sloping down the hillside facing across the valley to the archaeologically very important Croghan Hill, with considerable numbers of confirmed archaeological sites in between. As you know, the feature is so large as not to be visible up close

and is also covered and obscured by foliage. But field inspection might determine its nature; for instance, of any enclosing ditches or banks etc. A Lidar survey – which can penetrate foliage would be the ideal way to determine its nature once and for all.

3. Finally, although outside Raphoe, the proposed quarry is very close to the town and will impact on its environs visually. Raphoe has been (very properly) designated as a Heritage town. Apart from all the monuments around it – such as the really important Beltany Stone Circle – the town itself is undoubtedly of great importance and interest (for example for its heritage tourism value) as both a significant early medieval monastic and later episcopal centre and, of course, as a model Plantation town. Apart from the Diamond, the streets of the town are (charmingly) very narrow. I would be particularly nervous about the danger of frequent, heavy quarry traffic on the narrow street outside the W front of the cathedral – both for the fabric of the building itself and for visitors crossing over to it.

Anyway, these are just the first thoughts that strike me. To go deeper into these things I think it would be necessary to employ specialist consultants to carry out some of the technical surveys mentioned above.

I'll be back in touch about the town itself as I would love you to show me around for my own study purposes.

Sent from Mail for Windows 10

## Important Pre-historic Landscape encircling Raphoe.

One of the most important pre-Christian or pre-historic landscapes in Ireland is to be found encircling the heritage town of Raphoe. Evidence that this rich fertile plain was inhabited from the Mesolithic through the Neolithic and into the Bronze and Iron Age is well documented covering a period of some 7,000 years. This was the landscape of the first farmers who began to cultivate the rich soils. Their belief systems was deeply connected to the land and to the cosmic bodies, the sun and the moon in particular. Many of the ritual monuments of these pre-Christian peoples are dotted all around Raphoe. The most notable is the Bronze Age Beltany Stone Circle ( 2000 BC ), the Neolithic Kilmonaster Passage Tomb Complex and the Passage Tomb on top of Croaghan overlooking Raphoe (4000BC) . Other less impressive but not any less important monuments are to be found – standing stones, enclosures, souterrains and cist graves. The finding of the Beltany Stone Head sometime in the 1900s and the most recent discovery of the Tullydonnell gold rings in the Barony of Raphoe is evidence that finds continue to be made. There is much that lies beneath the soil waiting to be discovered particularly as technology advances to read the subsoil and terrain. The ancient people erected their ritual monuments on the highest points in this fertile landscape and it is highly probable that Mongorry Hill and its slopes of Craigs and Magherasolas were chosen as sacred spaces considering the spectacular views over the Laggan Valley.

Mongorry summit to the west commands one of the most spectacular vistas of Donegal's iconic mountains of Errigal and Muckish. The ancient people created many ritual sites on this summit, much of it no longer visible. They would have preferred to inhabit the southern aspect to the chills of the western or northern slopes. Therefore in all probability Craigs and Magherasolas were chosen for dwellings and animal husbandry by the early farmers. This southern aspect of Mongorry looks over out over a rich agricultural landscape with Beltany Stone Circle within view and Croaghan Hill passage tomb. The water source of the many underground streams would have been important to the early settlers for fresh water in particular. Such sources from Mongorry run over and under Craigs and Magherasolas and feed into the Swilly Burn which in turn feeds into the river Foyle. This burn is within direct view of the Magherasolas uplands. The streams also flow from Mongorry into the Deelee River which feeds into the river Finn. These are important salmon and trout rivers as they were over the millennia. There is therefore serious risk that this network will suffer contamination as a result of high commercial quarrying resulting in pollution of the Foyle estuary.

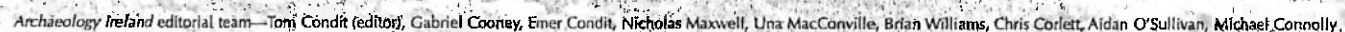
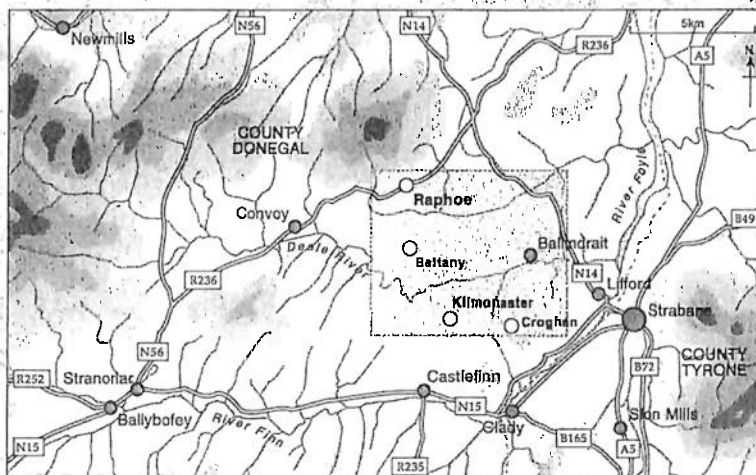
It is no coincidence that this landscape was chosen by the early disciples of the Christian faith. The monastery of wooden huts was located on the southern slopes of Mongorry Hill, now Raphoe. The name Rath Bhoth, the enclosure of the huts, may refer to the early cells of the monks or it may refer to an earlier 'enclosure' of habitation pre-Christian. The important ecclesiastical Dioceses of Raphoe, which encompasses most of County Donegal, is testimony to the significance placed on this spiritual landscape. Colmcille is associated with the early monastery and St. Eunan later, a lintel stone in St. Eunan's Cathedral is

evidence of this monastic period. The Cathedral is the site of this early stone church and also has religious architecture that dates to the 13<sup>th</sup> century. The town later evolved into the Plantation market town that we see today , with the Diamond adorned by many 18<sup>th</sup> and 19<sup>th</sup> century buildings. The ruins of the Bishop's Palace next to the Cathedral with its demesne walls running through the main entry to the town built in the 17<sup>th</sup> demonstrates the importance that the Established Church of Ireland Post Reformation placed on this religious landscape

Therefore there is very strong evidence that the landscape surrounding Raphoe is one of the most important landscapes in terms of archaeology, cultural, religious, and architectural heritage spanning at least 7000 years. It is absolutely imperative that there should be full cognisance of this fact where significant developments are planned especially those that involve the destruction of any of the subterrain by quarrying .

Mary Harte MA Landscape Archaeology.







## Location

The town of Raphoe in east Donegal is best known for the monastery associated with St Columcille and said to have been founded by Adomnán, who wrote the 'Life of Columba' in the late seventh century. The importance of the Raphoe area in pre-Christian times is highlighted not only by the density of prehistoric monuments in its environs (in particular standing stones) and a widespread distribution of prehistoric artefacts, but also by the size of some of these monuments. The summit of a rise known as Beltany Hill, 2.5km south of the town of Raphoe and west of the River Foyle, is the location of one of the most impressive sites in Ireland, the Beltany stone circle. The views from the top of the hill are extensive in all directions, overlooking the ancient territory of Magh Itha, which extended from that part of east Donegal far into County Tyrone.



## The stone circle

Located on the hilltop at a height of over 300ft, the stone circle at Beltany, one of five stone circles in County Donegal, consists of 64 surviving stones enclosing a raised platform. In its original condition there may have been as many as eighty stones, enclosing an area 45m in diameter. The stones vary in size, standing 1.2m high on average. There is a very large slab, 2.75m high, in the south-west quadrant of the circle. One in the north-east quadrant contains a series of cupmark decorations on its inner face and at least one cupmark on its outer face.

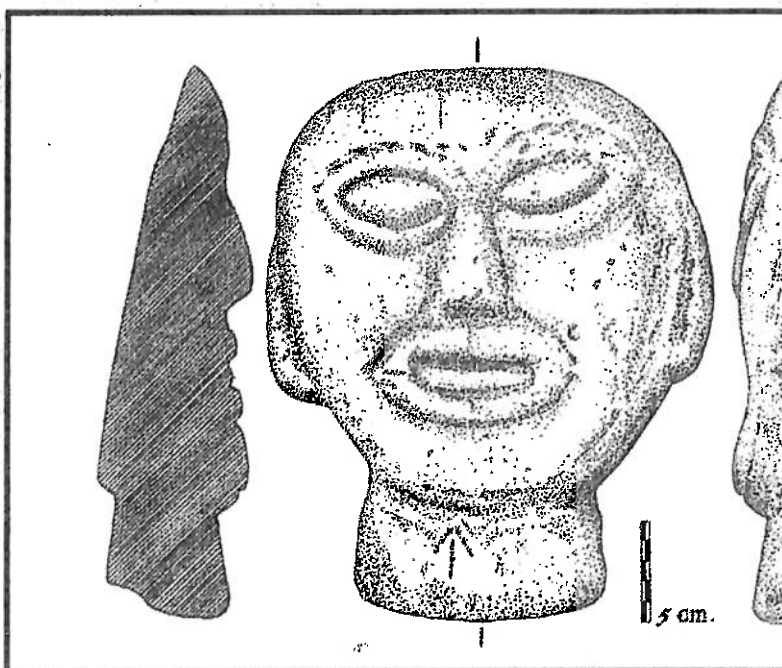
The enclosed area consists of an earth and stone platform, 0.5m high, which has been disturbed by digging over recent centuries. Stones and orthostatic stones protrude throughout the interior of the site. Some scholars believe that a megalithic tomb, possibly a passage tomb, may originally have stood within the circle. A single outlying stone, c. 2m high, stands at a distance of 21m from the perimeter of the circle on the south-east.

To the south-west of the stone circle lie the remains of a circular enclosure, c. 35m in diameter, which is marked on early editions of the Ordnance Survey maps as an 'Old Graveyard'. Interpretation of the site is difficult, but its presence on Beltany Hill and its proximity to the stone circle suggest that it too may date from the prehistoric period. To the north, on the lower slopes of the hill in the townland of Tops Demesne, a number of standing stones, each over 1m high,

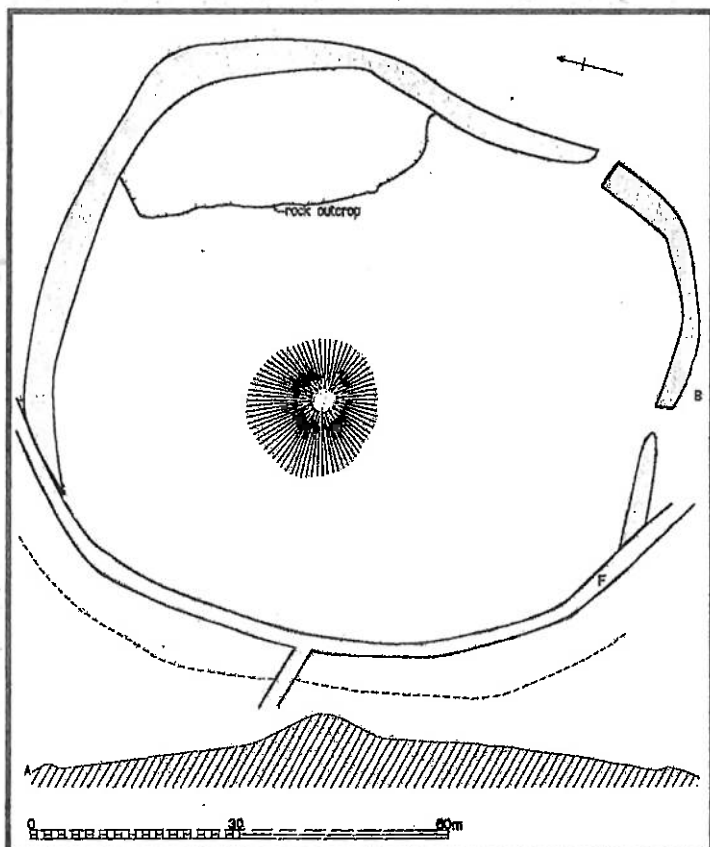
## The Beltany stone head

The Barony of Raphoe is also known for a concentration of seven stone-carved idols, referred to as the Raphoe group. Such idols usually consist of carved busts or heads. Professor Etienne Rynne, in an analysis of this type of iconic sculpture, has identified certain features which indicate that such idols are likely to belong to the pagan 'Celtic' Iron Age period (500 BC–AD 400).

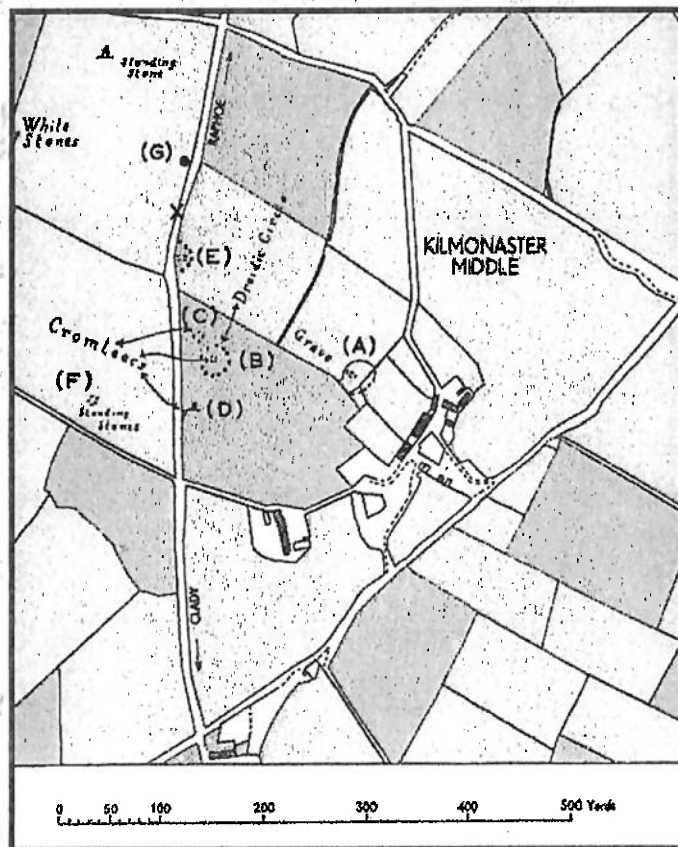
One of the Raphoe heads was found either in the stone circle or in close proximity. It is unusual in that it is carved from a thin slab rather than from a thick stone or rounded boulder. The carving portrays a face and neck. The tongue appears to protrude from the mouth of the figure. This feature is similar to the two-faced 'Janus' idol from Boa Island, Co. Fermanagh. Rynne has remarked on the totem-like nature of the neck, which may indicate that it was mounted on a stone or wooden base. A shallow, pocked-out, decorative feature around the neck may represent a neck ornament or collar, or possibly a tattoo.



Beltany stone head. AFTER RYNNE 1972



Plan of mound and enclosure at Croaghan Hill. AFTER LACY 1983



Map of Kilmonaster passage tomb cemetery. AFTER Ó NUALLÁIN 1968

## Croaghan Hill and the Kilmonaster passage tombs

Visible from Beltany Hill, c. 5km to the south-east, is Croaghan Hill, where a large enclosure and mound crown the summit at a height of 724ft. The enclosure, which has been classified as a hillfort, consists of the remains of a collapsed stone wall, c. 5m wide, encircling the hilltop. There are extensive outcrops of rock in the interior of the site. A stone-lined gap through the south-eastern perimeter may be an original entrance feature. Off-centre within the interior is a large, unexcavated mound, 3m high and 21m across at its base, which may be a passage tomb dating from the Neolithic period (c. 3500–2900 BC).

Around 3.2km to the south-east is a concentration of megalithic tombs known as the Kilmonaster passage tomb cemetery, comprising twelve monuments located to the north of Kilmonaster Hill in lowlands about 1.6km south of the Dee River. Although largely destroyed, the original extent of the cemetery was reconstructed by archaeologist Seán Ó Nualláin.

## **Appendix to Raphoe Town and Village Renewal Application 2019**

### **A Brief History Of Raphoe**



**Applicant Details:** *Raphoe Community In Action Limited*

**Name of Town / Village:** *Raphoe Co Donegal*

**Contact Name:** *Mr Martin Laird/Mary Harte*

**Address:** *Volt House Raphoe Co Donegal*

**Email :** [raphoetidy@eircom.net](mailto:raphoetidy@eircom.net)

**Telephone:** *Office 074 9145692 Mob:* [REDACTED]

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## Introduction

Raphoe overlooks one of the most fertile and ancient ritual landscapes in Ireland. The town can trace its roots back to an ancient landscape. Rath Both, means the enclosure of huts and it is suggested that this refers to the monastic cells of the early Celtic monks, probably St Eunan, who founded a monastery here in the 10<sup>th</sup> century. Another possibility is that this was the dwelling enclosure of the ancient pre-Christian people who built and worshipped at Beltany Stone Circle and the many megalithic monuments dotted around the Raphoe hinterland. It is no coincidence that Raphoe lends its name to the ecclesiastical dioceses of Raphoe such was the importance of this ancient town.

It is also one of Plantation

to the first Celtic church a ) On arrival in Raphoe the visitor may call to the Volt House Resource centre reception which is located in the town centre. General information, including heritage leaflets and information on Oakfield Park are available here. Tel 074 9173966 or email [volthouse@eircom.net](mailto:volthouse@eircom.net) To make an appointment contact the above telephone number or email address.

d ) Visitors to Raphoe will never go hungry as we have a good selection of Cafés around the town serving hot food tea, coffee, soft drinks, sandwiches, panini's baquettes etc. They are the Castle Café, The Raphoe Café & Bakery Mc Granaghan's Café and deli, and a traditional Bar and Restaurant ( Friel's ) serving top quality teas, coffee, snacks, lunches dinners and evening meals daily. Friel's is famous for its great meals and homemade brown bread. Visitors come especially to have a steak with all the trimmings which promises to fill the most hungry person. We also have a Chinese takeaway, an Indian takeaway and a traditional takeaway. Raphoe is set in the rich agricultural farmland of east Donegal hence a good supply of fresh vegetables, meat and fish available from various suppliers and outlets and especially from our main supermarket Coyle's Centra in the Diamond and our local butchers Mc Carron's all these shops are situated in in the town centre.

We also have well stocked general stores Mc Granaghan's XL Shop in the Diamond. The Post Office is located in the Centra supermarket, Each of these stores incorporate self service tea/coffee facilities, delicatessen, and general grocery/provisions, including in store bakeries and a wide selection of fine wines beers and other beverages.

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## Section 2 Local Involvement

a ) Visitors to Raphoe receive a very warm welcome on arrival. The people are warm friendly and very hospitable. It is a place where you will feel welcome a home away from home. Our visitors tend to be day trippers or people interested in History and Heritage. Information on local areas of interest available in the Volt House  
Opening hours 9.30am to 3.00pm Tues to Thurs' and 10.00am to 3pm on Fri'.

b ) Raphoe boasts a good community spirit. Raphoe is fortunate to have great educational facilities, two national schools, two secondary schools, a boarding school and two play schools. A lot of people come to Raphoe on mart days. The town also has a very good Tidy Towns committee & Community Employment staff who take great pride in the look and maintenance of the town and it's environs 365 days a year. The Tidy Towns is very pleased to get great community support from everyone which in turn promotes civic pride and a great sense of belonging in Raphoe. Raphoe also has the very historic Volt House resource Centre and Raphoe family resource centre providing valuable community support and activities.

c ) During community events all local businesses are involved by way of sponsorship and advertising etc. All businesses do their best to support local activities and in turn are supported by our entire community. All our businesses provide excellent goods and services to all locals and visitors to our town despite our recent recession and downturn in the National economy.

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### Section 3 Tourism Products available.

a ) Art classes for adults, Art classes for children, Kurling, Local walks, indoor bowling, Heritage/Genealogy classes, exhibitions, traditional baking and cookery classes, music and traditional music sessions, dancing, soccer, gaelic, hockey, badminton, etc and much more.

b ) Attractions include: Oakfield Park, Beltany Stone Circle, Raphoe Cathedral, Ros ban wildlife garden, Beltany View Garden and Raphoe Castle. The Town has four active Christian Churches they are St Eunan's Church of Ireland Cathedral ( Anglican Communion ) located in the town centre. St Eunan's Roman Catholic Church located on Meetinghouse St. Raphoe, Raphoe Presbyterian Church also located on Meetinghouse St. and Raphoe Congregational Church located on the main Letterkenny/Derry Road. Numerous attractions are also available in the larger town of Letterkenny and the City of Derry/Londonderry. Letterkenny is only a 15 minute drive from Raphoe and Derry/Londonderry approx 30 minutes away.

c ) The Volt House is the main centre for visitor information in the town of Raphoe. Various brochures/pamphlets are available here from Reception. More could be done here with the help of government funding.

d ) Raphoe has a number of well stocked shops providing general produce, household goods, hardware, electrical, newsagents, confectionery, giftware, garden centre, beauty, fashion, and accessories, SVP charity shop, insurance agents, solicitors, banks, post office, butcher, accountants, IFA office, dept of agriculture

office, insurance brokers, mechanics, farm machinery suppliers, lorries hauliers, and much more.

e ) Raphoe boasts 6 café outlets and one Bar and Restaurant ( Friel's ) providing first class meals well priced and guaranteed to please. The town has also four other licensed Bar & lounges, namely The Tirconail House on William St, The Diamond Bar in the town centre, The Rafters Lounge in the Diamond, Frankies Bar & Lounge on Meetinghouse St.

f ) There are a number of annual events in Raphoe. The Raphoe Reconciliation committee have a May Fair day every Saturday in recent years during the month of May and in recent years also a Christmas market has been held in early December.

Raphoe Horse Show committee hold a horse fair day annually in June and a day in August. There is also a Horse Show held over two days in July each year.

The local Raphoe Catholic Parish are having a Corpus Christi procession on a Sunday in June from the Church to the Diamond and back commencing at 3pm finishing with benediction in the chapel before 5pm.

Raphoe Congregational Church hold their Summer Bible Club for children Annually usually in July.

The Ulster Scots have an office on William St providing general information on all its activities, culture and heritage.

The local Orange Order have their Annual 12<sup>th</sup> of July parade and celebrations every year commemorating the Battle of the Boyne. They also parade on the 12<sup>th</sup> of August, and last Saturday of August.

The Annual Youth Summer project in association with Raphoe Family Resource Centre and Raphoe Springboard project are held usually during the last two weeks of July, providing numerous youth activities.

The Raphoe Summer Playscheme hold a full week of events for children usually in July every year.

We are now delighted to have a new playground located in lower St Eunan's Terrace for all children. This Playground was officially opened in 2014.

g ) Raphoe unfortunately has a limited source of accommodation which could be upgraded if our tourist attractions could be marketed more.

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#### Section 4 Development promotion

a ) Our visitors tend to be from a variety of ages and cultures usually day visitors.

b ) Raphoe is an old town very historic and has a great sense of history and heritage.

c ) Raphoe is set in beautiful countryside, it has a Castle ruin, a Cathedral Church, an ancient stone circle and a beautiful Park ( "Oakfield" located a mile from the town ) friendly people and a great welcome for all visitors to our town.

d ) There are some brochures, postcards etc available but nothing specifically geared from a planned/joint approach at the tourism market.

e) Raphoe Tidy Towns are also working hard to make our town attractive and welcoming for businesses, locals and visitors. There is also information, postcards including brochures and leaflets available in the Volt House Reception Tel 074 9173966 email [volthouse@eircom.net](mailto:volthouse@eircom.net)



*Aerial view of Raphoe Castle 2009.*

*Thank you for reading our Tourism information*

*Raphoe Tidy Towns Ltd, Volt House Raphoe 2019.*

### **A Brief History of Raphoe**

The town of Raphoe is situated in the fertile heartland of East Donegal. The rich agricultural land of this area has been inhabited and cultivated for thousands of years. The nearby Beltany Stone Circle provides a visible link with Raphoe's prehistoric past.

Around 550 A.D. Columba (Columcille) founded a monastic settlement here which was further developed by his kinsman Eunan – (pronounced u-nan). St Eunan is the patron saint of Raphoe.

The early monks constructed their huts from clay and wattle and surrounded it with a strong fortified mound ----*Rath* is the name for fortress while *Both* signifies a group of huts hence the name ----Rathboth (pronounced rah-fo)

The presence of the Cathedral traditionally acknowledges Raphoe as a city. A letter to Pope Clement the Eighth in 1600 from the clergy of Raphoe refers to 'The Episcopal City of Raphoe.' In more recent times the B.B.C. Radio programme "Brain of Britain" classified it as 'the smallest ecclesiastical Cathedral City in Europe'.

The town was one of 25 original sites designated as a plantation town in 1609. It still has its "Diamond" a characteristic feature of plantation town centres.

The Bishops Palace (Castle) dates back to 1637 and is one of the most impressive buildings in Co.Donegal to have survived from the 17<sup>th</sup> century. Although the building is now a mere shell its character is maintained in the appearance of the outer walls.

Raphoe has experienced many changes down through the centuries. It has witnessed many battles and sieges as well as times of peace and learning. Periods of prosperity have alternated with those of neglect and decline. The outline of the town has changed remarkably little down through the years and still holds its old world charm with the beautiful Cathedral Church of St. Eunan standing proudly on one corner of the Diamond and the nearby Bishop's Castle located on Castle Road.

### **A Short History of Raphoe Castle (Bishops Palace)**

The town of Raphoe is dominated to the east by the imposing ruins of the Bishop's Palace or "Castle" as it is known locally. For over 200 years the Palace was the residence of the Bishop of Raphoe until 1834 when the Diocese of Derry and Raphoe was created after the death of Bishop William Bissett.

Standing on a mound outside the Diamond of Raphoe the former palace is an impressive edifice. Even though totally destroyed by fire in 1838, its massive walls and parapets are still standing today.

In the early years of the 17<sup>th</sup> century the town of Raphoe as we know it today did not exist. The surrounding countryside had been fought over by the rival



O'Donnell and O'Neill clans and some of their most famous skirmishes had taken place in the vicinity of Raphoe, e.g. Knockavoe (near Strabane), Kiltole (near Convoy) and Farsetmore (Near Letterkenny). The huts of the monks, which had been located at what is now known as "The Close", had long since disappeared and the state of the churches in Ireland was a grave cause for concern.

Thus Sir John Davies (c. 1570-1626), the Irish Solicitor-General described the conditions prevailing in 1604:

*"The churches are ruined and falling down to the ground in all parts of the Kingdom. There is no divine service, no christening of children, no receiving of the sacrament, no Christian meeting or assembly, no, not once a year; in a word, nor more demonstration of religion than among Tartars or cannibals."*

In 1633 John Leslie, a soldier of fortune from Scotland, and known as "The Fighting Bishop" who had as a reward for his services to the Crown on the continent been made Bishop of the Western Isles, was transferred to Raphoe where he succeeded Bishop Knox. The Latin inscription on the foundation stone on the east wall tells us that the work on the Palace commenced with the laying of the stone in May 1636. The building was completed after only fifteen months in August 1637 when the topmost stone was placed in position. Leslie was the first Bishop to live in Raphoe, earlier Bishops had all lived at Rathmullan.

The Plantation Diamond sits on a hillside overlooking an ancient ritual landscape that can be traced to the first settlers on the island of Ireland 5,000 years ago. The evidence consists of the many standing stones dotted in the surrounding countryside, the important Neolithic Kilmonaster Passage Tomb Complex, the Bronze Age Beltany Stone Circle, the early Celtic Christian monastery of Adomnán (Eunan), the ecclesiastical Church and Cathedral St. Eunan and the Bishop's Palace also known as Raphoe Castle. It is no accident that this village has given its name to the ecclesiastical diocese that covers almost all of County Donegal, the Diocese of Raphoe.

### **BELTANY STONE CIRCLE** **The Stonehenge of Donegal**

On the summit of Beltany Hill, two miles from Raphoe, there is to be seen a fine example of a stone circle, as shown in this photograph. This ancient structure is sometimes referred to as "the Stonehenge of Donegal", but

archaeologists have dated it somewhere about 2,000 B.C., which would make it two hundred years older than Stonehenge, also the area of the Beltany Circle is larger. Here there is a circle surrounded by megaliths with an area of 145 feet in diameter or 150 yards in circumference. Sixty-four stones remain constituting the circle, out of an original total of 80. They average four feet in height.

The name Beltany is supposed to be a corruption of BAAL-TINNE, the Fire of Baal, intimating a place where that Deity was particularly worshipped. In Ireland - just the same as the etymology in Gaelic for Beltani tree, lighted annually at mid-summer. The Irish for the month of May also signifies the Fire of Baal, showing that he must have been one of Ireland's most respected of the pagan gods.

The rituals as practised on Beltany at the Stone Circle have been lost but there is no doubt that the people worshipped this god Baal who was the great Sun God, ruler of nature. The worship was always conducted on a hilltop so as to obtain a view of the rising sun at the very earliest possible moment.

From the writings of the bards it seems probable that Crom Cruach, the pagan god of war, and Manaman McLir, god of the sea (after which the Isle of Man was named) and King of the Fairies, were also worshipped at Beltany. Tradition tells us that the principal ceremonies were performed at the 21st June, when the lawgivers lighted sacred fires. The circle of stones were supposed to represent the stars and a fire in the centre, the sun Baal. One May Day two fires were lit through which the cattle were passed. This was meant to guard them against disease.

An outlying slab or pillar stone 6ft 3ins high is seen in the field 67 feet outside the boundary of the circle. Beyond this pillar stone, another similar stone exists in the same line. Then there is a hill summit seen against the sky some little distance away. According to Admiral Somerville, the line points to the sunrise on the winter solstice. This day was also set apart for the holding of ceremonies.

The line direct to the sharp summit of Argery Hill, two miles distant, marks sunrise on 21st March and 21st September, the spring and autumn equinoxes respectively, when further ceremonies took place.

Beltany is a good example of a stone circle - there are only about six or seven in all Ireland.

The main requirements for our Town's renewal are to increase its tourism potential and economy and also to highlight its importance as an area of rich

heritage and natural beauty.

**Enhancement of heritage and/or other community assets**

- Provision of old style paving in and around the Town Centre to compliment Raphoe's status as a heritage town, this would include the provision of ornamental gates to both entrances to the Diamond Car Park in the town centre with old style bollards & seating around the town to compliment same.
- Information and directional signage on main junctions near the town and also on approach roads to the town highlighting Raphoe's status as a centre of heritage and Europe's smallest ecclesiastical city. Information boards incorporating audio information to tourists and visitors to the town.

**Enhancement of Streetscape and town environment**

**Shop/House front enhancement.**

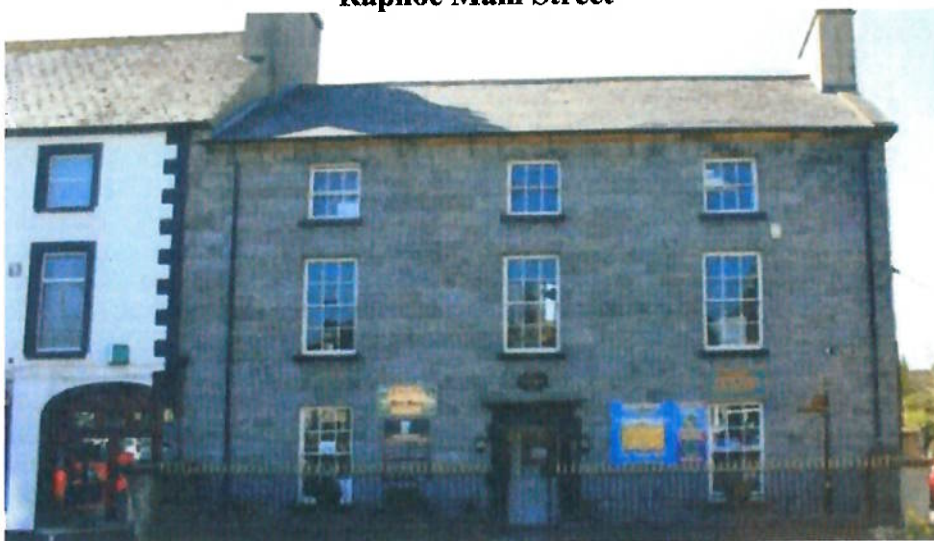
- Town Painting scheme and enhancement of signage, shop fronts, Georgian doors and repairs and cleaning of walls on approach roads and also on old stone walls in and around the town centre.

**Tourism initiatives which attract increased footfall to the town/village**

- Provision of an Information hub which would be a welcoming place for locals and visitors to come and get information on local places and buildings of interest. Maps, literature, souvenirs etc etc.



**Raphoe Main Street**

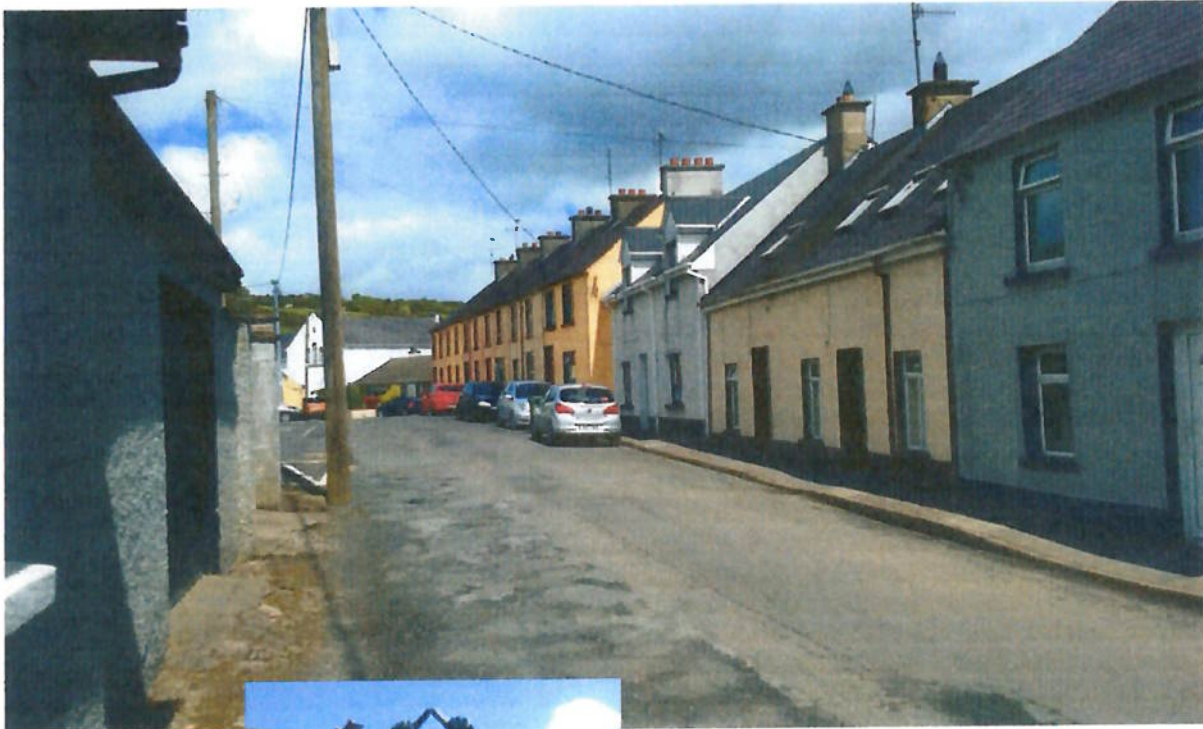


**Volt House Resource Centre**



**Royal & Prior.**





McBride Street



Earth Mother Town Centre



Raphoe Castle The Bishop's Palace



**Friel's Bar & Restaurant**



**Craigs Road Raphoe**



**Aerial View of Beltany Stone Circle Raphoe**



**Raphoe Church of Ireland Cathedral**





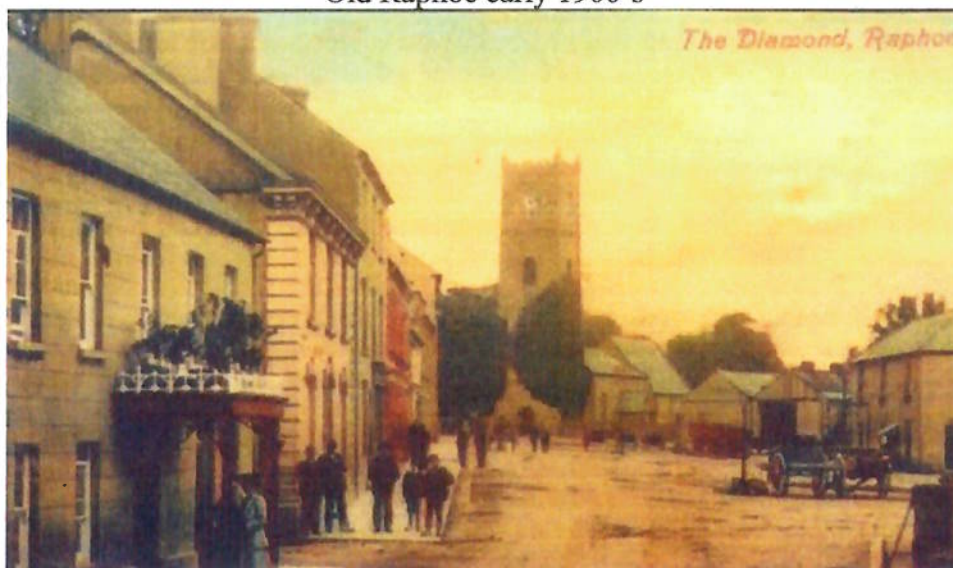
Catholic Church Raphoe



Recreation Hall Raphoe



Old Raphoe early 1900's





Raphoe Fair Day





Ref. No: 22/50933

13<sup>th</sup> January 2023

**TO:** GERARD CONVIE  
UNIT F, 15 LOWER MAIN STREET  
LETTERKENNY  
CO. DONEGAL  
ON BEHALF OF RAPHOE COMMUNITY ACTION (RCIA)

**Re: Planning and Development Act 2000 (as amended)**  
PATRICK BONAR

A Chara

I refer to letter of correspondence received from you in connection with an application by PATRICK BONAR for PERMISSION for (1) DEMOLITION OF EXISTING CONCRETE STRUCTURE (2) QUARRYING OF 5.37 HECTARES WHICH WILL BE SUBJECT TO EXTRACTION AND PROCESSING OF ROCK THROUGH DRILLING, BLASTING, CRUSHING AND SCREENING (3) CONSTRUCTION OF (A) SETTLEMENT PONDS AND WETLAND (B) A SHED FOR THE PURPOSES OF STORAGE FOR THE FACILITY INCLUDING ON-SITE MACHINERY MAINTENANCE (C) SITE OFFICE WITH CANTEEN, TOILET & DRYING FACILITIES (4) INSTALLATION OF A WASTEWATER TREATMENT SYSTEM & PERCOLATION AREA (5) PROVISION OF A WHEEL WASH AND WEIGHBRIDGE (6) LANDSCAPING OF THE QUARRY DURING THE OPERATIONAL PHASE AND RESTORATION OF THE QUARRY ON COMPLETION OF EXTRACTION (7) ALL ASSOCIATED ANCILLARY FACILITIES / WORKS OVER A 25 YEAR PERIOD. AN ENVIRONMENTAL IMPACT ASSESSMENT REPORT (EIAR) & NATURA IMPACT STATEMENT (NIS) ACCOMPANIES THIS APPLICATION at MAGHERASOLIS & CRAIGS RAPHOE LIFFORD PO CO. DONEGAL and am to advise that Donegal County Council by Order dated 13<sup>th</sup> January 2023 having taken your submission into consideration has made a decision on the application. I am attaching for your information a copy of the Council's decision.

Please note that you have the right of appeal to An Bord Pleanála against the Council's decision on this application. Your appeal should be addressed to The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1 and should include, your name and address, details of the nature and site of the proposed development, the name of the Planning Authority, the planning register number, the applicants name. In the case of third party appeals the acknowledgement by the Planning Authority of receipt of the submission or observation made by the person to the Planning Authority at application stage must also be submitted (a copy of the notification of decision or similar is not accepted by the Board as an acknowledgement of the receipt of the submission or observation). The appeal must be received by An Bord Pleanála within **four weeks** beginning on the date of Order (see above).

The **full** grounds of appeal and supporting material and arguments must be submitted from the start. The correct **appeal fee** must also be enclosed (See Attached Schedule). If an appeal does not meet **all** the legal requirements, it will be **invalid** and **cannot** be considered by the Board.

Mise, le meas

  
**For A/Senior Ex. Planner**  
**Planning Services**

Cuir freagra chuig: Áras an Chontae, Leifear, Contae Dhún na nGall, Éire F93 Y622  
Please reply to: County House, Lifford, Co. Donegal, Ireland F93 Y622

**DONEGAL COUNTY COUNCIL**

**PLANNING AND DEVELOPMENT ACT, 2000 (AS AMENDED)**

**NOTIFICATION OF DECISION TO GRANT**

**TO:** PATRICK BONAR  
C/O MICHAEL FRIEL  
CREESLOUGH  
LETTERKENNY  
CO. DONEGAL  
F92 TF60

**Planning Register Number:** 22/50933  
**Valid Application Received:** 30/05/2022  
**Further Information Received Date:** 23/11/2022

**In pursuance of the powers conferred upon them by the above-mentioned Acts, Donegal County Council has by Order dated 13/01/2023 decided to GRANT PERMISSION for development of land, namely:-**

(1) DEMOLITION OF EXISTING CONCRETE STRUCTURE (2) QUARRYING OF 5.37 HECTARES WHICH WILL BE SUBJECT TO EXTRACTION AND PROCESSING OF ROCK THROUGH DRILLING, BLASTING, CRUSHING AND SCREENING (3) CONSTRUCTION OF (A) SETTLEMENT PONDS AND WETLAND (B) A SHED FOR THE PURPOSES OF STORAGE FOR THE FACILITY INCLUDING ON-SITE MACHINERY MAINTENANCE (C) SITE OFFICE WITH CANTEEN, TOILET & DRYING FACILITIES (4) INSTALLATION OF A WASTEWATER TREATMENT SYSTEM & PERCOLATION AREA (5) PROVISION OF A WHEEL WASH AND WEIGHBRIDGE (6) LANDSCAPING OF THE QUARRY DURING THE OPERATIONAL PHASE AND RESTORATION OF THE QUARRY ON COMPLETION OF EXTRACTION (7) ALL ASSOCIATED ANCILLARY FACILITIES / WORKS OVER A 25 YEAR PERIOD. AN ENVIRONMENTAL IMPACT ASSESSMENT REPORT (EIAR) & NATURA IMPACT STATEMENT (NIS) ACCOMPANIES THIS APPLICATION AT MAGHERASOLIS & CRAIGS RAPHOE LIFFORD PO CO. DONEGAL IN ACCORDANCE WITH THE PLANS SUBMITTED WITH THE APPLICATION.

**Subject to the 24 conditions set out in the attached schedule.**

Signed on behalf of Donegal County Council  
County House  
Lifford  
Tel: 074 9153900

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For A/Senior Ex. Planner  
Date: 13<sup>th</sup> January 2023

**See final page for details of appeal procedures.**

**SCHEDULE**

1. Development shall be carried out strictly in accordance with lodged plans and details, particularly the following revised plans and details received by the Planning Authority on the 23<sup>rd</sup> November 2022:

save as hereinunder otherwise required.

**Reason: To define the permission.**

2. The development hereby granted is for a limited period of 25 years from the date of Final Grant of Planning Permission, at which time, all quarrying operations shall cease and the site shall be fully restored within one year of the date of cessation, in accordance with the agreed quarry restoration and landscaping plan, unless a further planning permission has been granted for further continued operation.

**Reason: To define the permission.**

3.
  - (a) The location of the convergence of the realigned road from the junction of the L-23749-0 road with the R236 road shall be relocated 50m further to the northwest of the L-23749-0 at a point beyond the rear boundary of the existing residential property to the southwest of the realigned road.
  - (b) 3 no. pull-in bays shall be provided along the L-23749-0 from the junction of the road with the R-236 with the exact location, dimensions and construction specifications of the pull-in bays being agreed with the Executive Area Roads Engineer prior to commencement of the development. Each pull-in bay shall be back-planted with native hedgerows.
  - (c) Prior to the commencement of development details and revised plans drawn to a scale not less 1:500 shall be submitted to the Planning Authority for written agreement in accordance with Condition No 3 (a) and (b) above. The development shall thereafter proceed in strict conformity with the agreed plans.

**Reason: To define the terms of the permission, protect the residential amenities of the existing property and ensure orderly development.**

4.
  - (a) Maximum grade of the realigned L-23749-0 county road at the junction with the R236 road shall not exceed a grade of 2.5% for a distance of 20m back from the Regional Road edge in accordance with Table 2 of Appendix 3 (Development Guidelines and Technical Standards), of Part B of County Donegal Development Plan, 2018-2024 (as varied).
  - (b) The junction radii at the realigned junction shall be in accordance with the Transport Infrastructure Ireland, Design Manual for Roads and Bridges (DMRB).
  - (c) Area between old and new front boundaries along the R236 road shall be soled with 450mm of 100mm stone, blinded with quarry dust, consolidated and graded to existing road levels and provide grade falling back towards new roadside boundaries. Gully (1 no.) to be provided at lowest point of frontage. Area thereafter shall be maintained by applicant.

**No. 4 contd.**

- (d) Prior to commencement of development, permanent visibility splays of 160 metres to the northeast and 72 metres to the southwest shall be provided to the nearside road edge at a point 4.5 metres back from road edge at location of the junction of the L-23749-0 road with the R236 road. Visibility in the vertical plane shall be measured from a driver's eye-height of 1.05 metres and 2 metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision Splays to be calculated and provided as per Figure 2 of Appendix 3 (Development Guidelines and Technical Standards) of Part B of the County Donegal Development Plan 2018-2024 (as varied).

**Reason: In the interests of traffic safety.**

5. (a) Prior to commencement of development the full frontage or roadside drain (whichever is appropriate) shall be piped with concrete pipes of adequate size in accordance with details to be agreed with the Executive Engineer for the area (Telephone: 074 9153900).  
(b) No surface water from site shall be permitted to discharge to public road and applicant shall take steps to ensure that no public road water discharges onto site.  
(c) All outlets allowing water to run off the public road shall be retained.  
(d) Adequate storm water gullies shall be constructed at the entrance to collect run-off from the service road and said run-off shall be diverted to existing storm drains

**Reason: To preserve road drainage and prevent flooding.**

6. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Assessment Screening Report, as compiled by Greentrack Consultants, dated May 2022, the Noise and Dust Report and the Blast Vibration Report prepared by Brendan O'Reilly dated April 2022, Archaeological Impact Assessment, carried out by David Sweetman, received by the Planning Authority on the 30/05/2022 and other particulars submitted with the application shall be implemented by the developer in conjunction with the timelines set out in the foregoing, except as may be otherwise required in order to comply with the attached conditions.

**Reason: In the interest of the protection of the environment during the operation of the development.**

7. The area to be excavated shall be restricted to the area (5.37ha) identified on the plans, details and site sections and carried out in strict accordance with the proposed phasing details received on 23<sup>rd</sup> November 2022 save as hereinafter otherwise required.

**Reason: In the interest of clarity, public safety of the area.**

8. All vehicular traffic associated with the quarry shall be restricted to using the existing local road (L-23749) access at the junction with the R-236 Regional Road.

**Reason: In the interest of traffic safety.**

**Continuation of Schedule – Order No. 2023PH0067**

9. The quarry and all associated activities, including accessing the quarry / loading of materials for delivery and the extraction, processing, crushing, screening and grading of material (with the exception of blasting operations) shall be restricted to between **08:00 hours and 18:00 hours**, Monday to Friday and between **08:00 and 16:00 hours** on Saturday. The facility shall not operate outside these hours or on Sundays or Public Holidays unless otherwise agreed with the Planning Authority.

**Reason: In the interest or orderly development.**

10. (a) Blasting shall take place between the hours of 12:00 and 16:00 hours, Monday to Friday only and shall not take place on Saturdays, Sundays or public holidays. The frequency of the blasting operations at the quarry shall be limited to no more than one in any calendar month, unless the prior agreement has been obtained in writing from the Planning Authority.
- (b) Prior to the firing of any blast, the developer shall give at least 24hrs advance notice of its intention to occupiers of all dwellings within 500 metres of the site.
- (c) Monitoring of the noise and vibration arising from the blasting (at the two blast monitoring locations), shall be carried out at the developer's expense by an independent contractor. The monitoring programme shall include an annual review of all blast monitoring data, to be undertaken by a suitably qualified person and the results of which shall be documented in an annual report. The annual report shall be submitted to the Planning Authority within two weeks of completion of an annual report. Following receipt of the report by the Planning Authority, the developer shall carry out any amendments to the programme required by the Planning Authority in consultation with the Donegal County Council Laboratory (Tel 074 9153900).

**Reason: In the interest of residential amenity.**

11. (a) The vibration levels from blasting operations shall not exceed a peak particle velocity of 12 millimetres per second when measured at any three mutually orthogonal directions at any sensitive location. The air over-pressure from any blast will not exceed a value of 125 dB(lin) maximum peak. The peak particle velocity relates to low frequency vibration of less than 40 hertz where blasting occurs no more than once in seven continuous days. Where blasting operations are more frequent, the peak particle velocity limit is reduced to 8 millimetres per second. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin)max peak with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin).
- (b) A Vibration Monitoring Programme, which shall include reviews to be undertaken at annual intervals, shall be developed to assess the impact of quarry blasts. Details of this programme shall be carried out by a suitably qualified person and submitted to and agreed in writing with the Planning Authority in consultation with Donegal County Council Laboratory (Tel 074 9153900) within 1 month from the Final Grant of Planning Permission.
- (c) The results of the reviews shall be documented in an Annual Report and submitted to the Planning Authority within two weeks of completion. Following receipt of the report by the Planning Authority, the developer shall carry out any amendments to the monitoring programme required by the Planning Authority in consultation with the Donegal County Council Laboratory (Tel 074 9153900).

**Reason: In the interest of public safety and residential amenity.**

**Continuation of Schedule – Order No. 2023PH0067**

12. (a) The noise level from within the boundaries of the site as measured at 2 no. locations (NSL1 & NSL2) shall not exceed:
- (i) an Leq, 1h value of 55 dB(A) during permitted operating hours
  - (ii) an Leq, 15 min value of 45 dB(A) at any other time.
  - (iii) Night time emissions shall have no tonal component.
- (b) Notwithstanding (a) above, where any temporary quarry activity is expected to exceed the noise limits above, this shall be notified in advance to the Planning Authority, and to residents in the vicinity, indicating the reason for such activity, and its likely duration. No such exceeding of noise limits shall occur without the prior written agreement of the Planning Authority.
- (c) Monthly noise monitoring shall be carried out and an annual review of all noise monitoring data shall be undertaken by a suitably qualified person, the results of which shall be documented in an annual report and submitted to the Planning Authority within two weeks of completion. Following receipt of the report by the Planning Authority, the developer shall carry out any amendments to the monitoring programme required by the Planning Authority in consultation with the Donegal County Council Laboratory (Tel 074 9153900).

**Reason: In order to protect the residential amenities of property in the vicinity.**

13. (a) The wheels and undersides of all vehicles transporting aggregate from the site onto the public road shall, prior to the exit of such vehicles onto the public road, be washed in a wheel washing facility, which shall be located a minimum distance of 30 metres from the public road.
- (b) All loads of dry fine materials shall be either sprayed with water or covered/sheeted prior to exiting the quarry.

**Reason: In order to prevent dust emissions, in the interests of amenity and traffic safety**

14. (a) Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a Dust Monitoring Programme shall be submitted to, and approved in writing by the Planning Authority, in consultation with the Donegal County Council Laboratory, within one month of the final Grant of Planning Permission. Programme details shall include dust monitoring locations, details of dust suppression measures, commencement date and the frequency of monitoring results, and details of all dust suppression measures.
- (b) The developer shall engage the services of a road sweeper which shall sweep the public road on a twice-daily basis or as is necessary to ensure compliance with Condition No. 14 (a) above.
- (c) A monthly dust survey shall be undertaken by the applicant to provide for compliance with the parameters set out in the agreed Dust Monitoring Programme outlined in Condition No. 14 (a) above.
- (d) The use of tractor bowser in dry conditions to spray roads, use of water sprays on stock piles in dry conditions, use of wheel wash on lorries exiting the quarry and dust monitoring shall be carried out on a regular basis.

**No. 14 contd.**

- (e) Monthly dust monitoring shall be carried out in accordance with the agreed Programme and an annual review of all results shall be carried out by a suitably qualified person and documented in an annual report, which shall be submitted to the Planning Authority, within two weeks of completion of the annual report. Following receipt of the report by the Planning Authority, the developer shall carry out any amendments to the monitoring programme required by the Planning Authority in consultation with the Donegal County Council Laboratory (Tel: 074 9153900).

**Reason: To control dust emissions arising from the development and in the interest of the amenity of the area.**

15. All vehicles carrying rock, stone or gravel from the quarry shall pass through existing on-site vehicle wheel wash and water sprinkling system. Signs shall be erected on site indicating this requirement. All vehicles used for carrying material from the site shall be fitted with tailboards/and shall be covered or other similar devices to prevent spillages onto the public road.

**Reason: In the interests of traffic safety and public safety.**

16. Oils or chemicals stored within the site shall be stored within bunded areas and such substances shall not be discharged or allowed to discharge into surface or ground waters on site. Oil interception traps shall be provided on drainage lines serving areas where oil products are stored or used in accordance with the plans and details received by the Planning Authority on the 30<sup>th</sup> May 2022.

**Reason: In the interests of traffic safety.**

17. All external lights shall be adequate hooded and aligned so as to prevent direct spillage of light onto public road.

**Reason: To cater for orderly development and in the interests of public safety.**

18. The Phased Restoration Plan for the restoration of the site shall be implemented in full within the agreed timelines.

**Reason: To ensure the satisfactory restoration of the site, in the interest of visual amenity.**

19. The developer shall provide all landowners within 500 metres of the site with appropriate contact details which may be used in the event that any such landowner wishes to inform the developer of any incident, or otherwise to make a complaint in respect of an aspect of quarry operation.

**Reason: In the interest of the protection of residential amenity.**

20. Within three (3) months of the date of Final Grant of Planning Permission the applicant or person entitled to take benefit of the permission shall provide adequate security to the Council for the purposes of compliance with Condition No. 18 (Restoration) above, in the form of:



**No. 20 contd.**

- (a) A Bond of a Banking or Insurance Company acceptable to the Council in an approved form; or
- (b) A Cash Deposit; or
- (c) Such other security as the Council may approve –

in the sum of **€ 75,000.00**

and which bond shall remain in place until such times as Condition No. 17 has been complied with to the written satisfaction of the Planning Authority.

**Reason: To ensure satisfactory completion of the development.**

21. Within three (3) months of the date of Final Grant of Planning Permission the applicant or person entitled to take benefit of the permission shall provide adequate security to the Council for the purposes of compliance with Condition No's. 3 and 4 (Road Improvements) above, in the form of:

- (a) A Bond of a Banking or Insurance Company acceptable to the Council in an approved form; or
- (b) A Cash Deposit; or
- (c) Such other security as the Council may approve –

in the sum of **€ 200,000.00**

and which bond shall remain in place until such times as Condition No's. 3 and 4 have been complied with to the written satisfaction of the Planning Authority.

**Reason: To ensure satisfactory completion of the development.**

22. The applicant (or person at the relevant time entitled to the benefit of the permission) shall pay a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is already provided or is intended will be provided by the Authority. The amount of the contribution will be as set out below and is determined in accordance with the "Donegal County Council Development Contribution Scheme 2016 - 2021" (made under Section 48 of the Planning and Development Act, 2000). The total contribution and breakdown of same in respect of the different classes of public infrastructure and facilities provided/to be provided by the Authority are –

Quarry  
**TOTAL:**

€92,070.26 (€1,714.53/0.1ha)  
**€92,070.26**

The total contribution shall be paid to the Planning Authority prior to commencement of the development unless the Planning Authority have agreed in writing beforehand to facilitate phased payment of the contributions in which event as part of any such agreement the Planning Authority may require the giving of security to ensure payment.

**Reason: To facilitate provision of capital works.**



## **Continuation of Schedule – Order No. 2023PH0067**

23. Prior to the operation of the development, documentary evidence of the potability and quantity of the proposed bored water supply must be submitted to the Planning Authority.

**Reason: in the interests of public health**

24. (a) A wastewater treatment system (Independently certified by IAB, BSI or ISO EN) suitable for a population equivalent of 10 No persons shall be installed, operated and maintained in strict accordance with the supplier's instructions to provide services for any quarry staff.
- (b) A soil polishing filter shall be constructed to disperse the treated effluent. This soil-polishing filter shall be constructed by the use of filling material consisting of a mixture of sand, soil and/or gravel in order to ensure a t-value of 21-40. It shall comprise of no less than 75 sq metres. The mixed gravel sub soils should be stock piled and used in the construction of the polishing filter. The filling should be such as to ensure at least 0.6 metre depth of suitable pervious material between the percolation pipes and the highest known water table level and/or the existing level of bedrock or impermeable ground.
- (c) Documentary evidence detailing a five-year maintenance contract between the applicant/owners and the suppliers of the wastewater treatment system shall be forwarded to the Planning Authority upon its installation.

**Reason: In the interests of orderly development and public health.**

### **ADVICE TO APPLICANT**

#### **Duration of Permission**

The permission to be issued (hereinafter referred to as "the permission") will cease to have effect in twenty-five years from the date of issue as regards any part of the development **not completed** by that date.

**No works can commence on foot of "A Notification of Decision" on an application.**

The development is only authorised when a "Notification of Final Grant" is issued.

#### **Road Opening**

Permission for road openings associated with such connections must also be separately approved by the Council (as appropriate) prior to the commencement of any works on the opening of road, verge or footpath for the purpose of making such connections. (Separate fees are payable).

#### **General**

Applicant is advised of the requirement to submit a Commencement Notice and to ensure that all building works carried out comply with the Building Regulations 1997 – 2014 and the Building Control Regulations 1997 – 2016.

For advice in relation to Building Control matters contact the Building Control Section or BCMS at the following web-link:

<https://www.donegalcoco.ie/services/planning/buildingcontrol/submittingacommencementnotice/>



**Comhairle Contae  
Dhún na nGall  
Donegal County Council**

**Directorate:** Community, Development & Planning Services  
**Division:** Planning Services  
**Section:** Development Applications Unit

## **Planner's Report and Recommendation**

<b>Plan.Reg.No:</b>	22/50933
<b>Applicant:</b>	PATRICK BONAR
<b>Development:</b>	(1) DEMOLITION OF EXISTING CONCRETE STRUCTURE (2) QUARRYING OF 5.37 HECTARES WHICH WILL BE SUBJECT TO EXTRACTION AND PROCESSING OF ROCK THROUGH DRILLING, BLASTING, CRUSHING AND SCREENING (3) CONSTRUCTION OF (A) SETTLEMENT PONDS AND WETLAND (B) A SHED FOR THE PURPOSES OF STORAGE FOR THE FACILITY INCLUDING ON-SITE MACHINERY MAINTENANCE (C) SITE OFFICE WITH CANTEEN, TOILET & DRYING FACILITIES (4) INSTALLATION OF A WASTEWATER TREATMENT SYSTEM & PERCOLATION AREA (5) PROVISION OF A WHEEL WASH AND WEIGHBRIDGE (5) LANDSCAPING OF THE QUARRY DURING THE OPERATIONAL PHASE AND RESTORATION OF THE QUARRY ON COMPLETION OF EXTRACTION (5) ALL ASSOCIATED ANCILLARY FACILITIES / WORKS OVER A 25 YEAR PERIOD. AN ENVIRONMENTAL IMPACT ASSESSMENT REPORT (EIAR) & NATURA IMPACT STATEMENT (NIS) ACCOMPANIES THIS APPLICATION
<b>Location:</b>	MAGHERASOLIS & CRAIGS, RAPHOE LIFFORD PO
<b>Agent:</b>	C/O MICHAEL FRIEL

<b>Special Notice:</b>	<b>Allow 8 weeks to reply</b>
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## Section 35 of the Planning & Development Act 2000 (as amended) – Possible refusal of planning permission for past failures to comply

The applicant, Patrick Bonar of Callencor, Drumkeen is known to the Council as being involved with 10 number Enforcement cases namely;

Ud14107, Ud14125, Ud18199, Ud19117, Ud2072, Ud20167, Ud20201, Ud20212, Ud22120 & UD20269 References below to "Patrick Joseph" or "PJ" Bonar are also to the Applicant.

A report from the Council's Quarry Enforcement Officer, Mr Martin Mc Dermott, (Executive Planner) has noted the following review of said Enforcement Investigations against Mr Bonar, (the current applicant) or where Mr Bonar is known to be involved.

1. **Ud14107** – this relates to an unauthorised quarry at Barnes Lower, Termon, Letterkenny P.O., Co. Donegal. Enforcement Notice (App 1 refers) served on 22/05/2014 on Barnes Limestone Quarry Ltd, Anne Marie Bonar and **Patrick Joseph (PJ) Bonar** re: **Unauthorised development** at Barnes Limestone Quarry, Barnes Lower, Termon, Letterkenny P.O., Co. Donegal comprising: *"the carrying out of unauthorised quarrying activities / excavation and all associated works including the washing, screening and processing of materials, which does not have the benefit of planning permission"*. The EN was complied with and all unauthorised quarrying activity ceased. However, due to the extent of encroachment on to adjoining third party lands / extent of commonage landowners involved it has not been possible to remediate the quarry, despite the Planning Authority claiming the €200k, security bond held in this case.

**Case conclusion:** Case remains an unresolved significant unauthorised development, with no likely resolution imminent.

2. **Ud14125** – this relates to **non-compliance with conditions of permission** attached to a permitted quarry extension at Calhame, Letterkenny, Co. Donegal. Warning Letter (App 2 refers) issued on 11/07/2014 to Barnes Limestone Quarry Ltd, Anne Marie Bonar, **Patrick Joseph (PJ) Bonar** and others re: Unauthorised development at Calhame Letterkenny, Co. Donegal comprising: *"failure to comply with aspects of Planning Permission Reference No 06/51276 particularly: (i) Aspects of non-conformity with conditions nos. 3(ii), 5, 7, 9 (iv & v), 15(i & iv), 23, 24 and 25"*. Specific conditions of permission not complied with are as follows: Condition no. 3(ii), 1.5m. high security fencing to rear of earthen berms, condition no. 5, landscape and restoration plan to be agreed and implemented within 12 months of the expiry of planning permission, condition no. 7, hours of quarry operations and hours of blasting, condition no. 9 (vi & v), blast monitoring and advance notification, condition no. 15 (i & iv) vehicle wheel wash and dust control on adjoining public road, condition no. 23, surface dressing of adjoining public roads from quarry site entrance to junction with National Secondary Road network, condition no. 24, security bond to implement landscape and restoration of quarry and condition no. 25 financial contribution. The majority of conditions have belatedly been substantially complied with but case could not be closed as the landscape / restoration plan was not

implemented. **Note: this non-compliance is significant as the same landscape and restoration plan forms part of the most recent High Court proceedings. The implementation of which landscape and restoration plan remains outstanding, since the expiration of this permission as extended under Plan.Reg.No. 12/50910, which permission ultimately expired on 09/06/2018, in excess of 4 years ago.**

**Case conclusion:** High Court Order granted on 01/07/2021, in excess of 1 year ago, requires inter-alia: point no. (4) *"comply with the landscape and restoration plan submitted on 17/10/2014 pursuant to condition 5 of planning permission reference 06/51276"*.

3. **Ud19117** – this relates to the same significant unauthorised quarry at Calhame, Letterkenny, Co. Donegal as at 2 above. **Urgent Enforcement Notice** served on 26/06/2019 on **P Bonar Plant Hire Ltd (PJ Bonar joint company director, with Ann Marie Russell and PJ Bonar secretary)** re: Unauthorised development at Calhame Letterkenny, Co. Donegal comprising: *"1. The quarrying of lands without the benefit of planning permission and 2. The making of a material change of use of land from disused to a use for quarrying related activities inclusive of the processing of quarried materials without the benefit of planning permission"*. The Enforcement Notice in this case required cessation of unauthorised quarrying activities and all quarry related activities including stockpiling of quarried materials, processing of quarried materials on site and removal of all related quarry plant / machinery.

**Case conclusion:** The Enforcement Notice served on 26/06/2019 was not complied and it was recommended on 05/09/2019 that the matter be prosecuted.

By way of background / further detail of this course of legal action, the following points should be noted:

- The quarry is operated by P Bonar Plant Hire Limited of Callencor, Drumkeen, Co. Donegal (PJ Bonar joint company director, with Ann Marie Russell and PJ Bonar is secretary).
- The quarry had planning permission to operate Plan.Reg.No. 06/51276 which was granted to the previous operator. The permission however expired on 09/06/2018. The operator ceased quarrying shortly after that time for a period of time.
- However unauthorised quarrying activity recommenced around May 2019 following a decision by an Bord Pleanála on appeal to refuse an application for planning permission to continue quarrying on the site Plan.Reg.No. 18/50016 refers (An Bord Pleanála ref. ABP/302276/18), refused by Order of the Board on the 2<sup>nd</sup> April 2019., despite An Bord Pleanála's refusal reasons regarding potential impact on adjoining Natura 2000 site as a result of discharge to Leannan River SAC and failure to establish in the submitted EIAR that the quarry development would not have an adverse impact on the environment, ground and surface water primarily referenced.
- Following an inspection of the site on 31/05/2019 it was confirmed that quarrying had recommenced and an urgent Enforcement Notice was served on the Company on 26/06/2019.
- A follow up inspection was carried out on 30/08/2019 (post the expiry of the period for compliance with the Enforcement Notice) and it was established that unauthorised quarrying was continuing and the Enforcement Notice had not been complied with.

- The Council then instituted summary proceedings for an offence by the Company under Section 154(8) of the Planning and Development Act 2000 in relation to the failure to comply with the Enforcement Notice. That prosecution was due to be heard at Letterkenny District Court on 05/05/2020 but due to the Covid-19 emergency, the prosecution was adjourned.
- In the meantime there were continuing complaints about the quarry operation from members of the public and particularly having regard to the Covid-19 restrictions which had the effect of requiring everyone and therefore nearby residents to generally stay at home 24/7. Further to follow up inspection of the site on 11/05/2020, the Company's Director Mr. P.J. Bonar indicated that the ongoing quarrying operations would go on until the Company secured planning permission for an alternative site.
- Correspondence was exchanged between the Council's Solicitors VP McMullin and the quarry operator / their representatives calling on the Company to cease the unauthorised quarry operations and to provide an undertaking to this effect. However, the unauthorised quarrying activity continued and no such undertakings were given.
- CE Order dated 03/06/2020 approved by the Chief Exec of the Council endorsed the recommendation to institute Planning Injunction proceedings in the High Court against P Bonar Plant Hire Limited with a view to seeking Orders for cessation and to take all steps required to prosecute the said proceedings.
- On 16/07/2020 an Interlocutory Order was made by the High Court: *"directing that the Respondent, their servants or agents be restrained, pending the trial of the action, from carrying out or continuing to carry out any (or any further) unauthorised development on the quarry site the subject of the proceedings situate at Calhame, Letterkenny, Co. Donegal"*.
- The Company, PJ Bonar, (Respondent Company Director and Secretary) and Ann Marie Russell (Respondent Company Director) were served with the said Order on 23/07/2020 and despite this the Respondent continued with the said unauthorised development/activities on the site.
- A motion for Attachment/Committal was brought by the Council against PJ Bonar and Ann Marie Russell who were subsequently both arrested and brought to the High Court in Dublin and confirmed to the Court they would comply with the High Court Order and were released
- CE Order dated 31/07/2020 recommended by the Director of Services and approved by the Chief Exec of the Council endorsed the recommendation to go back to the High Court for attachment/committal against the said Respondent Company Directors, the said PJ Bonar and Ann Marie Russell and to impose a penal sanction.
- High Court case (Full case hearing) was heard and Final Orders granted on the 1st July 2021 (as amended on 12/01/2022 to address dates of Order and change in company name). This High Court Order may be summarised as follows: (1) cease unauthorised quarrying or any further unauthorised development, (2) cease using concrete batching plant, (3) Respondent, its servants, agents and/or licensees cease all unauthorised development in 1 & 2, (4) comply with the landscape and restoration plan submitted on 17/10/2014 pursuant to condition 5 of planning permission reference 06/51276 and specifically in accordance with paragraph 6 of the said landscape and restoration plan that the Respondent: (i) carry out a final geotechnical assessment of quarry faces and bench structures and submit same within 2 months from the date hereof to the Applicant for agreement and (ii) do carry out an ecological appraisal of the site for priority habitat and species potential and submit same within 2 months from the date hereof to the Applicant for agreement and (iii) subject to (i) and (ii) above, do develop and submit a final restoration plan to the Applicant for agreement within a period of one month from the date

of agreement per sub-paragraphs (i) and (ii) or the later of the two dates concerned, as appropriate. Final landscape and restoration plan to be submitted to the Planning Authority for agreement and implemented within a period of 3 months of the date of said agreement. Further sections dealt with costs and other matters. In excess of 1 year after the initial High Court Order full compliance remains outstanding.

- Despite some intermittent communications and correspondences from Michael Friel's office and most recently engagement regarding the High Court Order and seeking to submit a planning application to regularise part of the unauthorised development the subject of the High Court proceedings, including initial correspondence from the recently retained solicitors McIntyre O'Brien Solicitors dated 14/03/2022, the required final landscape and restoration plan informed by the final geotechnical assessment and ecological appraisal remains outstanding and therefore full compliance with the High Court Order remains outstanding.

**Ud2072** – this relates to non-compliance with conditions of permission (Plan.Reg.No. 15/51448 refers) regarding a storage structure located within the quarry at Calhame, Letterkenny, Co. Donegal. Warning Letter (App 4 refers) issued to P Bonar Plant Hire Ltd (PJ Bonar joint company director, with Ann Marie Russell and secretary) and others on 28/04/2020 regarding non-compliance with conditions of Planning Permission (Plan.Reg.No. 15/51448 refers) condition no's 1, 2 & 5. Specific conditions of permission not complied with are as follows: Condition no. 1 development to be carried out in accordance with approved plans and particulars, condition no. 2, permitted structure to be solely used for storage purposes associated with the quarry operation and no other commercial purpose and condition no. 5, financial contributions.

**Case Conclusion:** Case remains open / ongoing and the matter now forms part of High Court Order requiring its removal as part of landscape / restoration plan (Ud 19117 refers).

**Ud20167** – this relates to both a **significant unauthorised development** i.e. unauthorised concrete batching plant and **non-compliance with conditions of permission** relating to the concrete batching plant located within the quarry at Calhame, Letterkenny, Co. Donegal. Urgent Enforcement Notice (App 5 refers) served on 14/12/2020 on P Bonar Plant Hire Ltd (PJ Bonar joint company director, with Ann Marie Russell and PJ Bonar secretary) re: Unauthorised development at Calhame (Townland), Mountain top, Letterkenny PO, Co. Donegal comprising: "1. The use of a concrete batching plant without the benefit of planning permission (which had expired on 23/08/2020) and 2. Non-compliance with condition No. 2a of Plan.Reg.No. 10/40186 and Extension of Duration Permission 15/50140, requiring the removal of all plant and apparatus associated with the concrete batching plant by 23/08/2020".

**Case conclusion:** Enforcement Notice served on 14/12/2020 was not complied and the matter now forms part a High Court Order requiring its removal as part of landscape / restoration plan (Ud 19117 refers).

**Ud20201** – this relates to a **unauthorised quarry** at Drumkeen, Stranorlar, Co. Donegal. **Urgent Enforcement Notice** (App 6 refers) served on 24/03/2021 on Patrick Bonar (Patrick Bonar) re: Unauthorised development at Drumkeen, Stranorlar, Co. Donegal comprising: "The use of land for quarrying and all related ancillary activities" by Patrick Bonar and



other party. The EN required cessation of Unauthorised quarrying activities on site, securing the site boundaries with 1.8m. high fencing and erecting warning signage.

**Case conclusion:** The case remains open and ongoing.

**Ud22120** – this relates to complaints received that PJ Bonar was involved in unauthorised quarrying, including blasting and extraction of material from Devine small scale Quarry at Kirkneedy, Newmills, Co. Donegal.

**Case Conclusion:** Case was investigated and concluded as 'Dismissed Following Investigation'. No further formal enforcement action.

**Ud20212** – this relates to complaints received that PJ Bonar was involved in unauthorised quarrying, including blasting and extraction of material from Devine small scale Quarry at Kirkneedy, Newmills, Co. Donegal.

**Case Conclusion:** Case was investigated and concluded as 'Dismissed Following Investigation'. No further formal enforcement action.

**Ud20269** – this relates to an unauthorised quarry at Moyra Glebe, Glenties, Co. Donegal. Urgent Enforcement Notice (App 7 refers) served on Sean Mc Gee / Niamar Property on 16/04/2021 in respect of a significant unauthorised quarry operation. The Urgent Enforcement Notice required cessation of Unauthorised quarrying activities on site, securing the site boundaries with 1.8m. high fencing and erecting warning signage. **Note: Mr. Mc Gee and Mr. Bonar's originally gave several verbal undertakings that Mr. Bonar was only an employee of Mr. Mc Gee and had no other involvement in this case.** The Enforcement Notice was not complied with and the matter was referred to the County Solicitor for prosecution. The matter has appeared on several occasions in the District Court and despite the Planning Authority seeking a hearing date, a number of hearing dates have been adjourned. Dispute the case already appearing on 5 no. occasions since the initial listing of 15/12/2021, the case is now listed for hearing on 21/09/2022.

**Case Conclusion:** Note: PJ Bonar, is understood as of his own admission of 23/06/2022 to be the person responsible for this ongoing unauthorised development. This is likely to result in immediate proceedings being initiated against PJ Bonar as well as existing proceedings against Sean Mc Gee / Niamar Property under S. 154 P & D Act, 2000 (as amended) in this case also as a person responsible.

Accordingly, the Planning Authority is satisfied that the applicant is "a person to whom this section applies" and considers that there are good grounds to form an opinion that there is a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with such permission if granted or with a condition to which such permission if granted would be subject. This is based on the information available to the Planning Authority in respect of those past failures of the applicant to (i) comply with conditions to which a previous permission is subject that are of a substantial nature and (ii) has carried out a substantial unauthorised development as set out in the above report from the Council's Quarry Enforcement Officer .

### **Recommendation:**

It is hereby recommended that a notice in writing be served on the applicant, Patrick Bonar in accordance with Section 35 of the Planning & Development Act 2000 (as amended) in respect of past failures to comply as set out in the attached Schedule.

### **SCHEDULE**

#### **1. Non-compliance with the following permissions:**

- (i) **Ud14125:** Warning letter issued to Barnes Limestone Quarry Ltd, Anne Marie Bonar, Patrick Joseph (PJ) Bonar and others for failure to comply with aspects of Planning Permission Reference No 06/51276 particularly: (i) Aspects of non-compliance with conditions nos. 3(ii), 5, 7, 9 (iv & v), 15(i & iv), 23, 24 and 25, which presently forms part a High Court Order (point no. (4) refers) in respect of requirement to "comply with the landscape and restoration plan submitted on 17/10/2014 pursuant to condition 5 of planning permission reference 06/51276" and which remains outstanding.
- (ii) **Ud2072:** Warning Letter issued to P Bonar Plant Hire Ltd (PJ Bonar joint company director, with Ann Marie Russell and secretary) and others in respect of a storage structure within the quarry at Calhame, Letterkenny, Co. Donegal regarding non-compliance with conditions of Planning Permission (Plan.Reg.No. 15/51448 refers) condition no's 1, 2 & 5 which presently forms part of High Court Order requiring its removal as part of landscape / restoration plan (Ud 19117 refers) and which remains outstanding.
- (iii) **Ud20167** – Urgent Enforcement Notice served on P Bonar Plant Hire Ltd (PJ Bonar joint company director, with Ann Marie Russell and PJ Bonar secretary) regarding non-compliance with condition No. 2a of Plan.Reg.No. 10/40186 and Extension of Duration Permission 15/50140, requiring the removal of all plant and apparatus associated with the concrete batching plant by 23/08/2020" which presently forms part a High Court Order requiring its removal as part of landscape / restoration plan (Ud 19117 refers) and which remains outstanding.

#### **2. Unauthorised development as follows.**

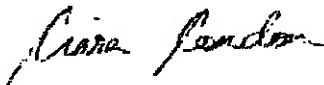
(i) **Ud14107** in respect of an unauthorised quarry at Barnes Lower, Termon, Letterkenny P.O., Co. Donegal. Enforcement Notice served on Barnes Limestone Quarry Ltd, Anne Marie Bonar and Patrick Joseph (PJ) Bonar for the: "the carrying out of unauthorised quarrying activities / excavation and all associated works including the washing, screening and processing of materials, which does not have the benefit of planning permission" whereby substantial unauthorised development remains outstanding.



(ii) **Ud19117** – this relates to unauthorised quarry at Calhame, Letterkenny, Co. Donegal. Urgent Enforcement Notice served on P Bonar Plant Hire Ltd (PJ Bonar joint company director, with Ann Marie Russell and PJ Bonar secretary) for: *"1. The quarrying of lands without the benefit of planning permission and 2. The making of a material change of use of land from disused to a use for quarrying related activities inclusive of the processing of quarried materials without the benefit of planning permission"* whereby substantial unauthorised development remains outstanding.

(iv) **Ud20201** – this relates to a quarry at Drumkeen, Stranorlar, Co. Donegal whereby Urgent Enforcement Notice served on Patrick Bonner (Patrick Bonar) re: Unauthorised development at Drumkeen, Stranorlar, Co. Donegal comprising of : *"The use of land for quarrying and all related ancillary activities"* whereby substantial unauthorised development remains outstanding.

(v) **Ud20269** – this relates to an unauthorised quarry at Moyra Glebe, Glenties, Co. Donegal. Urgent Enforcement Notice served to Sean Mc Gee / Niamar Property re *'The use of land for quarrying and all related ancillary activities'* whereby substantial unauthorised development remains outstanding.



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**Executive Planner**  
**Development Applications Unit**  
**20/07/2022**

PHOTO 13.



quarry 5A.jpg.jpg  
3.8 MB



Photo 12.

QUARRY SITE

CASTLE GROVE  
ESTATE





PHOTO 11 RED SQUIRREL ADJACENT TO SITE





Glacery Face PHOTO 10





PHOTO 9 Quarry Pit

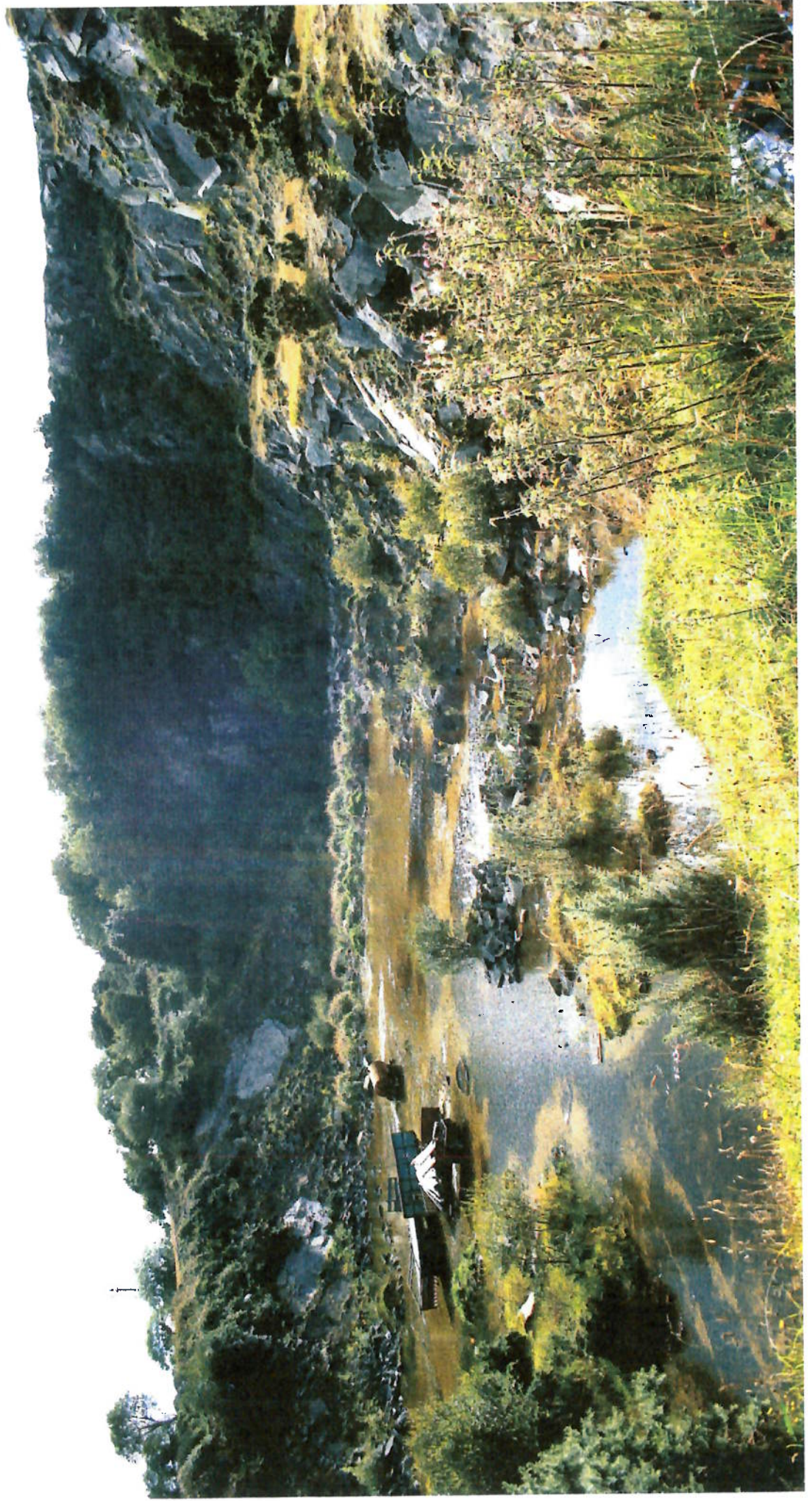
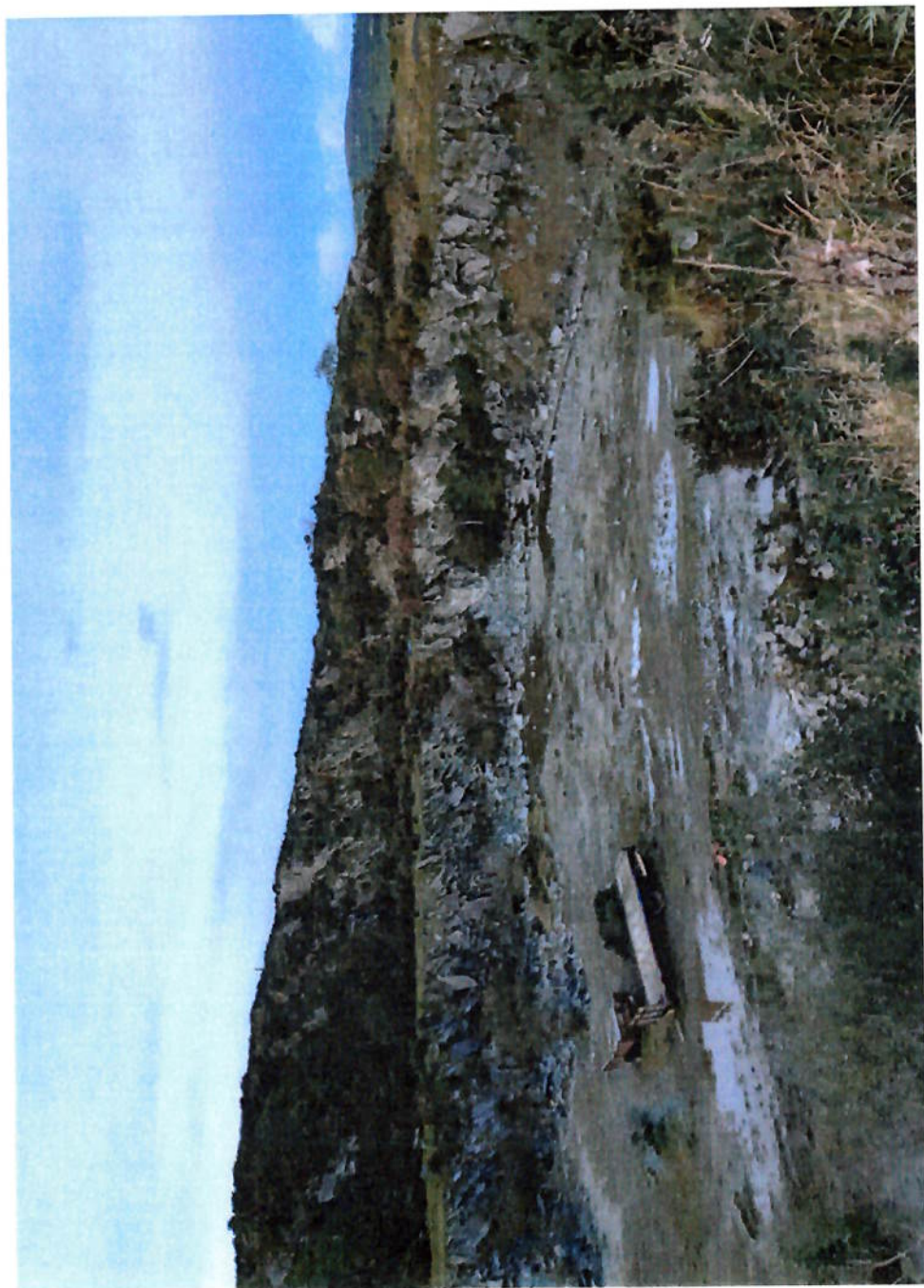




PHOTO 8





BURNING SITE





QUARRY SITE

PACEREL WHITE

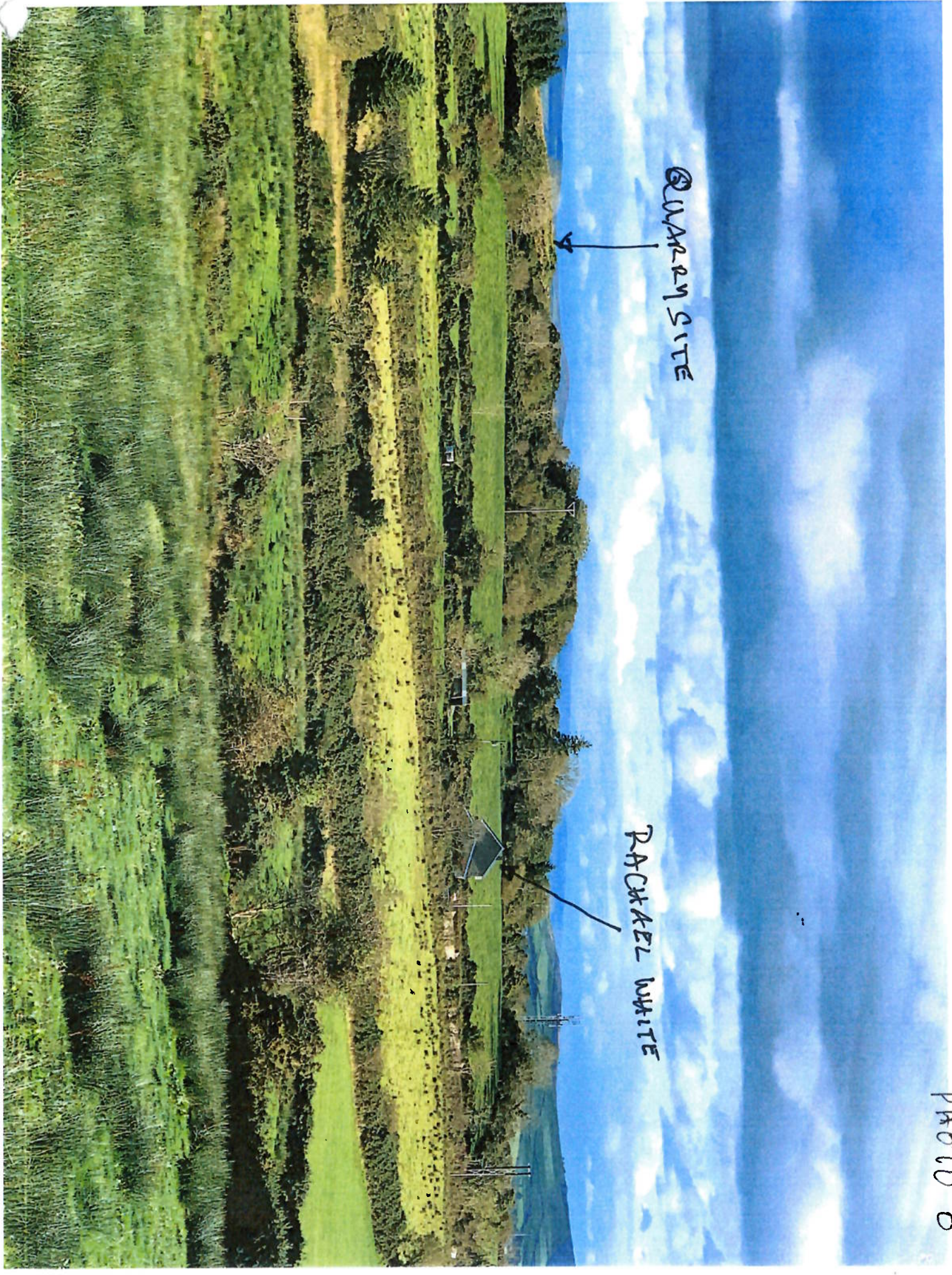




PHOTO 5

QUARRY SITE VIEWED  
FROM DAYFIELD PARK  
TOWARDS ATTRACTION





10/10/23

Boundary Site

FROM SCHOOL PLAYING FIELD

BEHIND SCHOOL BUILDING





Quarry site  
from school

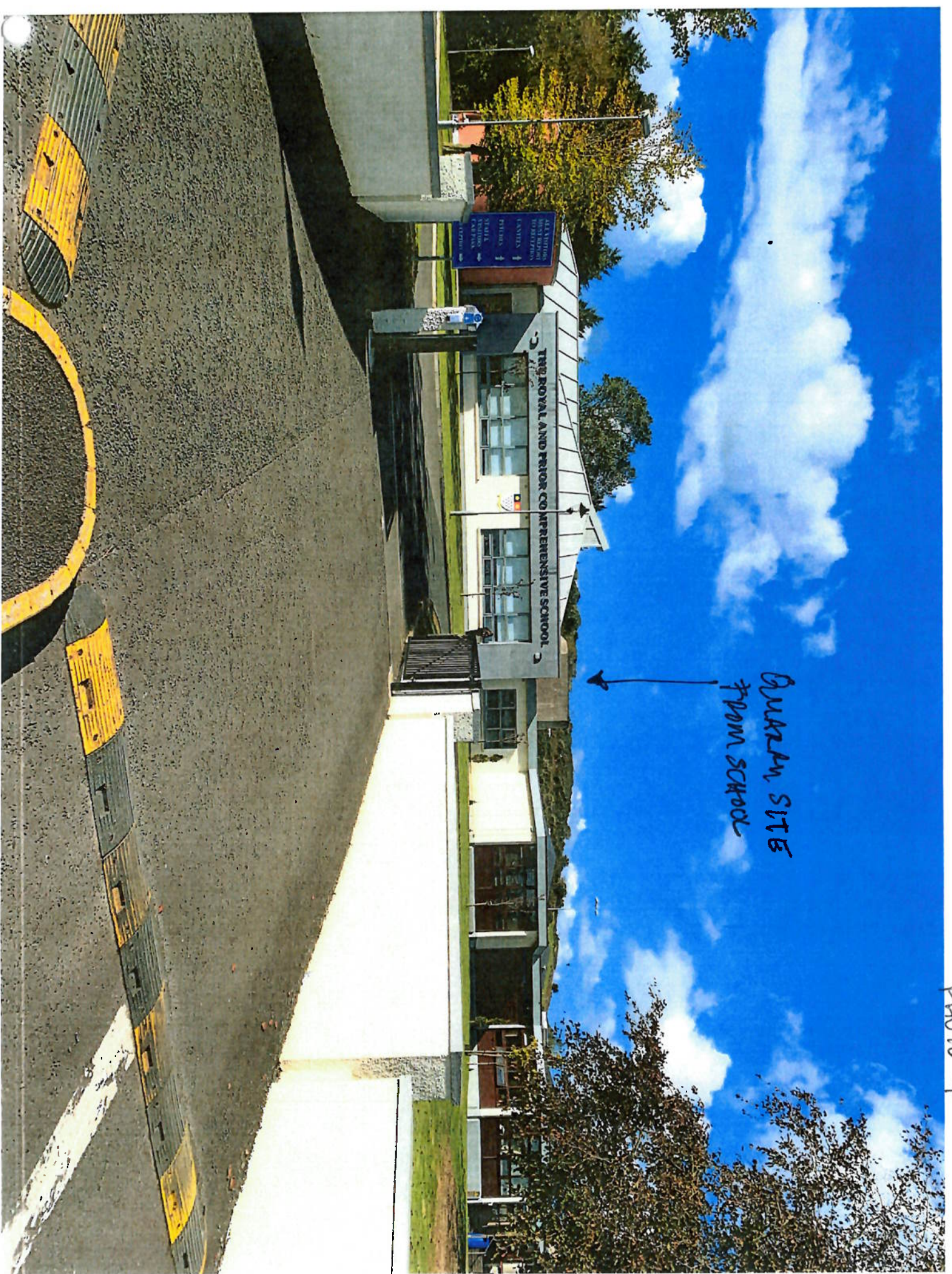








PHOTO 1.

PROPOSED QUARRY

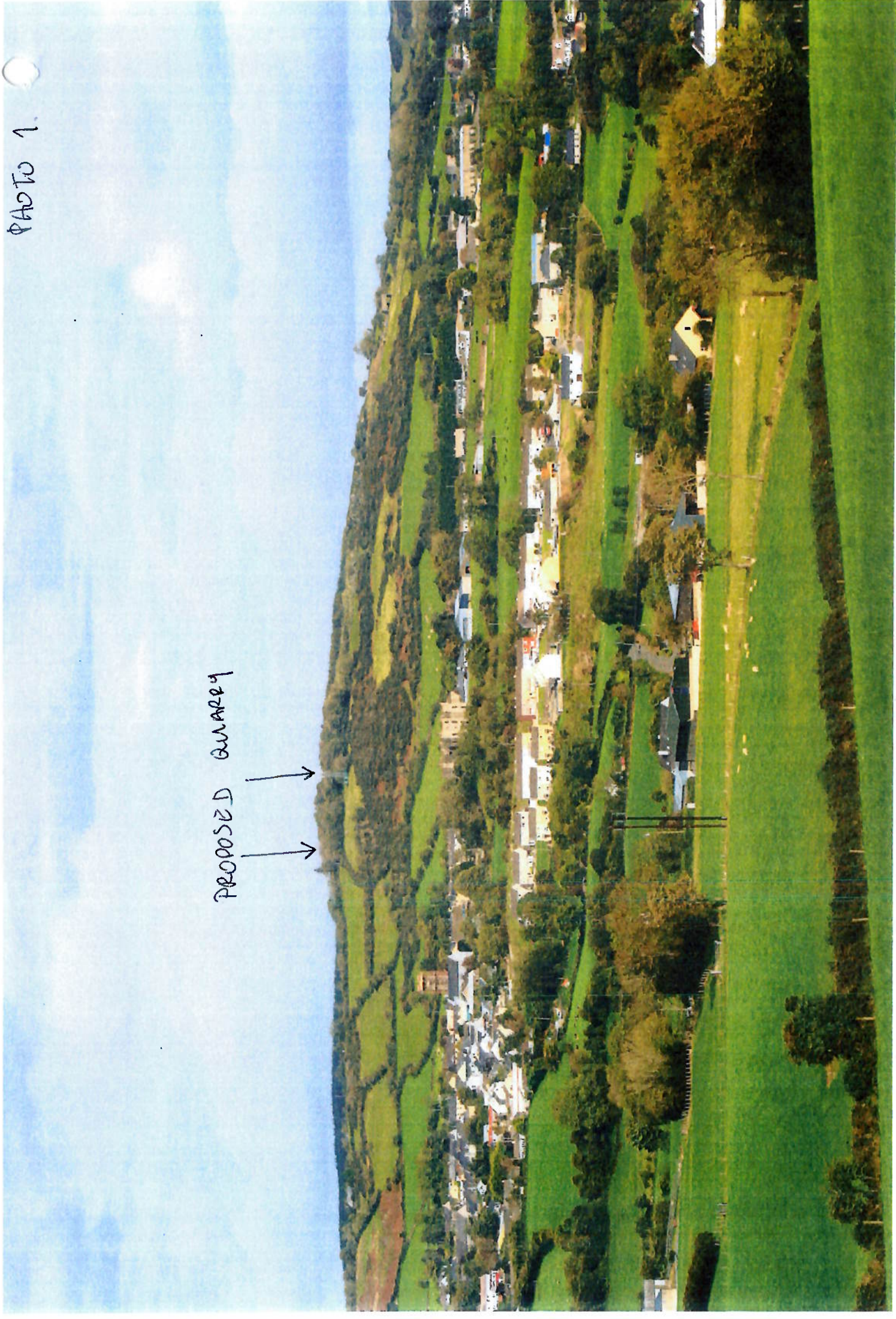




PHOTO 2.

QUARRY SITE





16:20

4G

MAP 12



Try petrol stations, cash



Home



Restaurants



Petrol



Gro



12°



Estate

Quarry  
SITE

FROM  
CASTLE GROVE  
ESTATE

Craigs Road

Raphoe

Google

500 ft  
200 m



Explore



Commute



Saved



Contribute



Updates





Planning

Doregal

2250933

X Q

Application

Show search results for 225...



Measurement

Meters

Measurement Result

829.2 Meters

Clear

Press CTRL to enable snapping

7.603 54.877 Degrees

0.3km



MAP 11  
RALLY-  
TEAM  
HOUSE



MAP 10

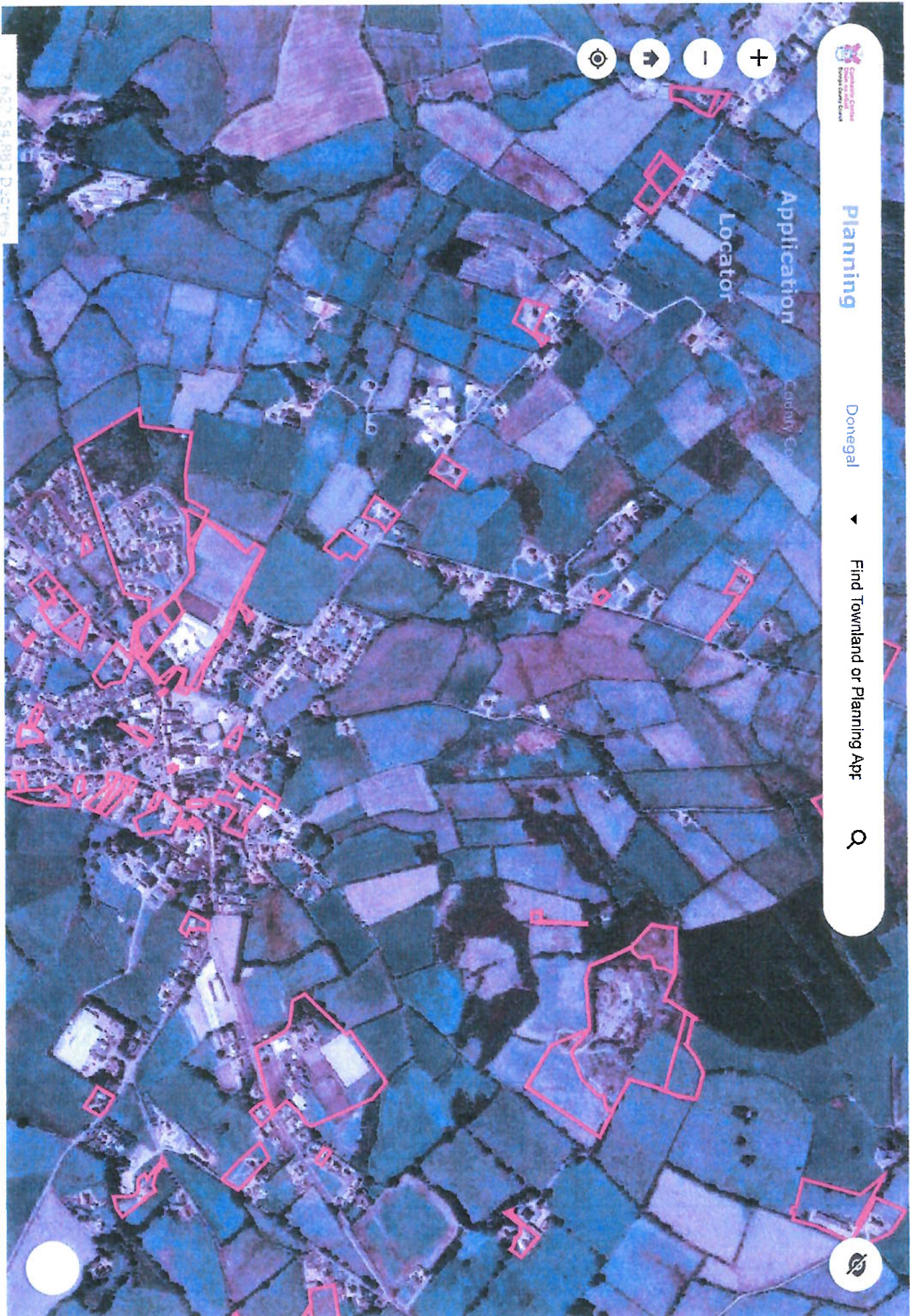




Application

Locator

County Council



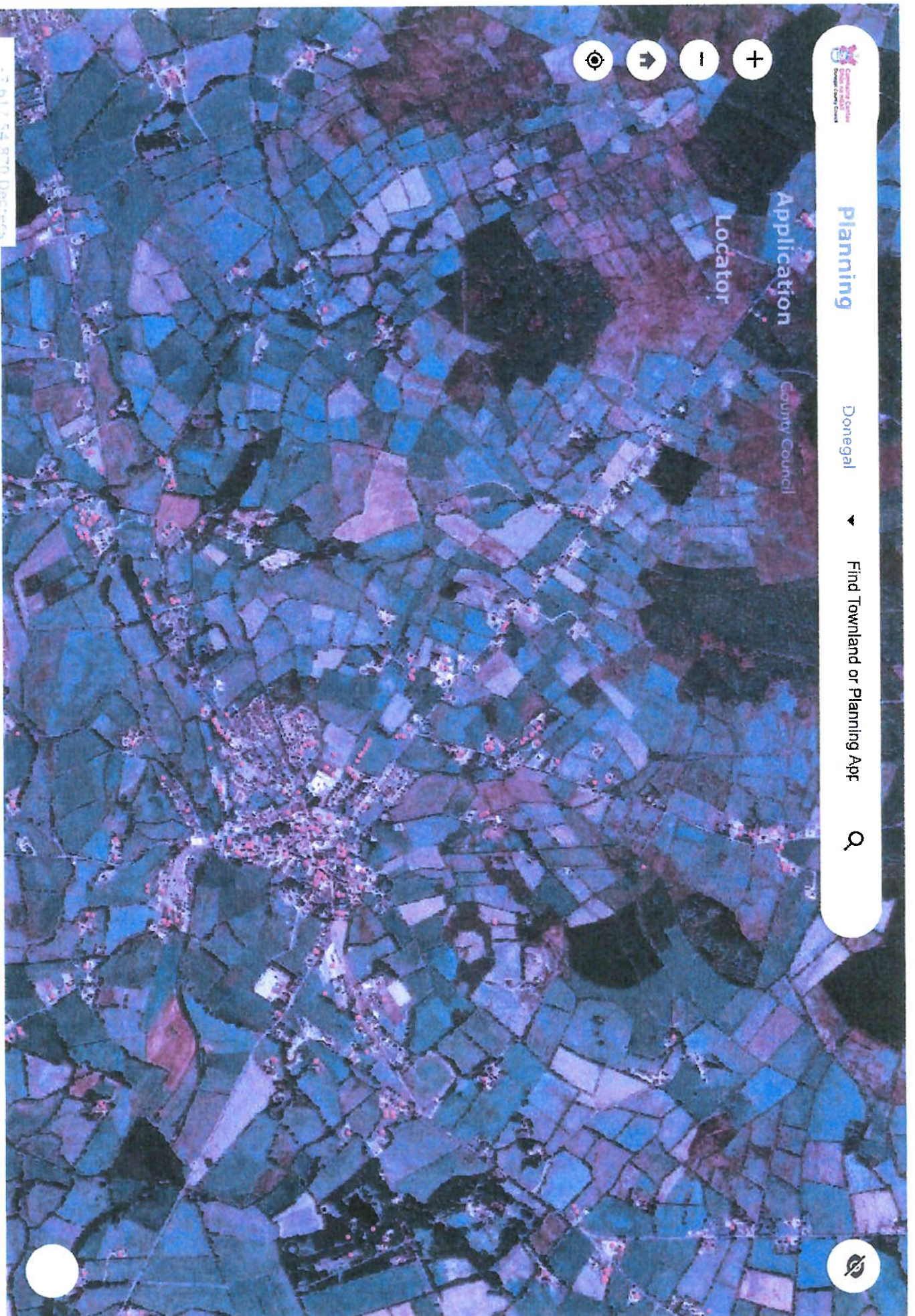
7 620 54.883 Degrees

0.3km



MAP 9  
APPLICATIONS  
SINCE  
2010





Planning

Donegal

Find Townland or Planning App



Application

County Council

Locator



0.6km



MAP 8  
APPLICATIONS  
2005-2009





Planning

Donegal

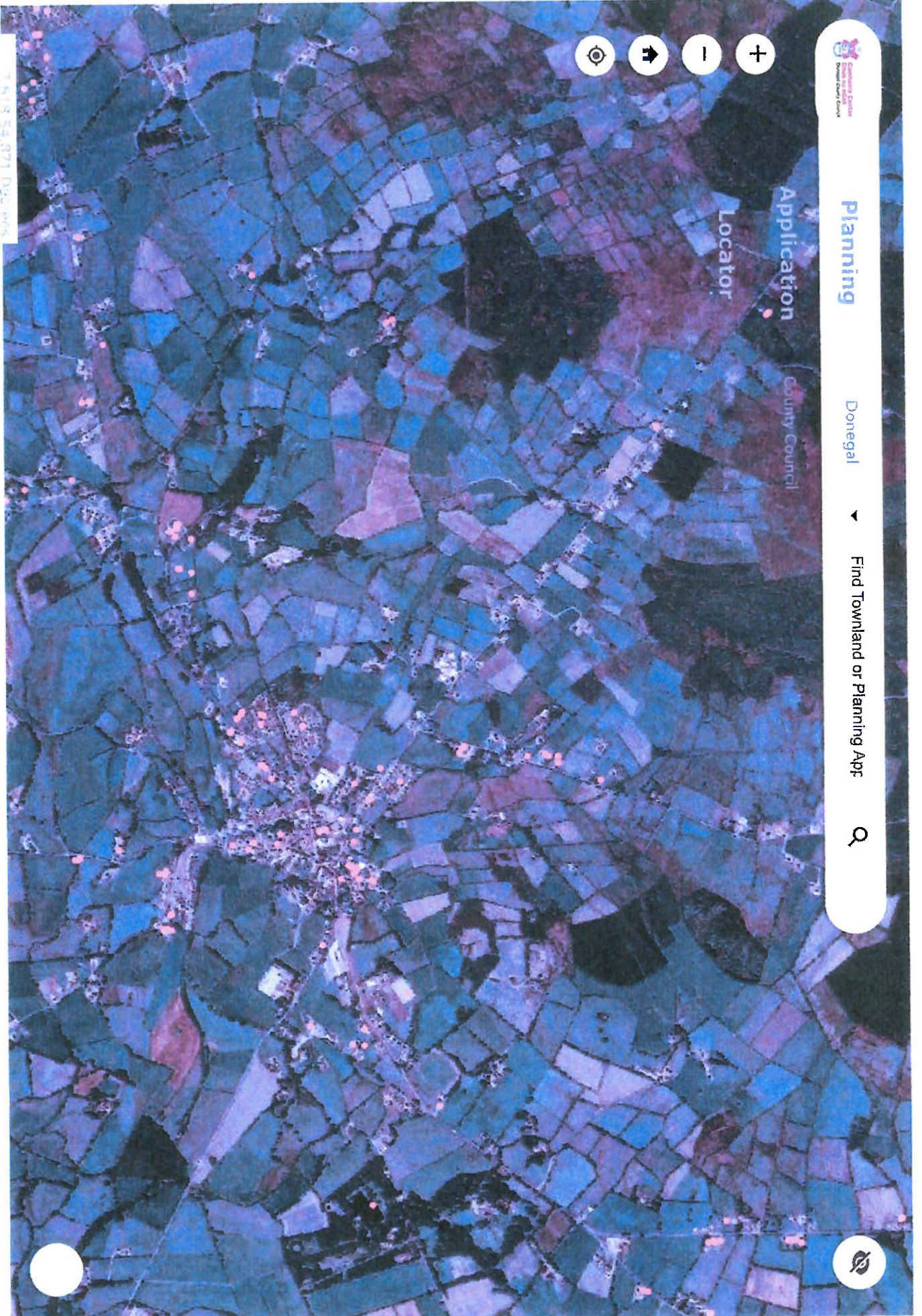
Find Townland or Planning App



Application

County Council

Locator



7 518 54 871 D02 406

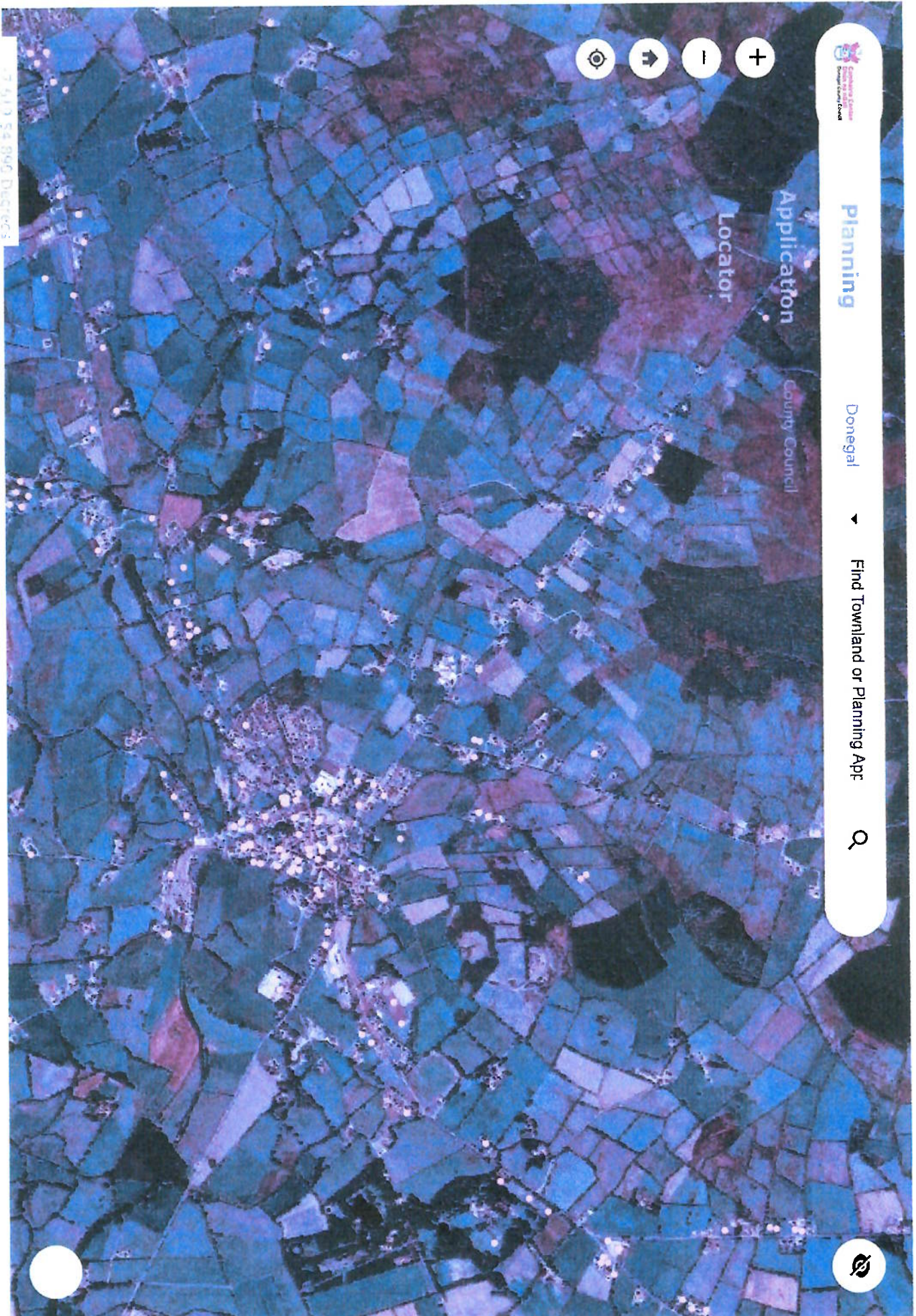
0.6km



MAP 7

Applications  
2000-2004





MAP 6  
APPLICATIONS  
PEE-2000





Planning

Donegal

Find Townland or Planning App



Application

County Council

Measurement

Meters

Measurement Result

182.2 Meters

Clear

Press CTRL to enable snapping

-7.586 54.881 Degrees

0.3km



Map 4



Planning

Donegal

2250933



Show search results for 2250933

Application

County Council



Measurement

Meters

Measurement Result

210.8 Meters

Clear

Press CTRL to enable snapping

-7.598 54.883 Degrees

0.3km





Map 3



Planning Application



2250933



Show search results for 225...

Locator



Measurement

Meters



Measurement Result

623.5 Meters

Clear

Press CTRL to enable snapping

0.3km







Donegal County Council  
Donegal County Council

Planning

Donegal

Find Townland or Planning App



Application

County Council

Measurement

Meters

Measurement Result

291.7 Meters

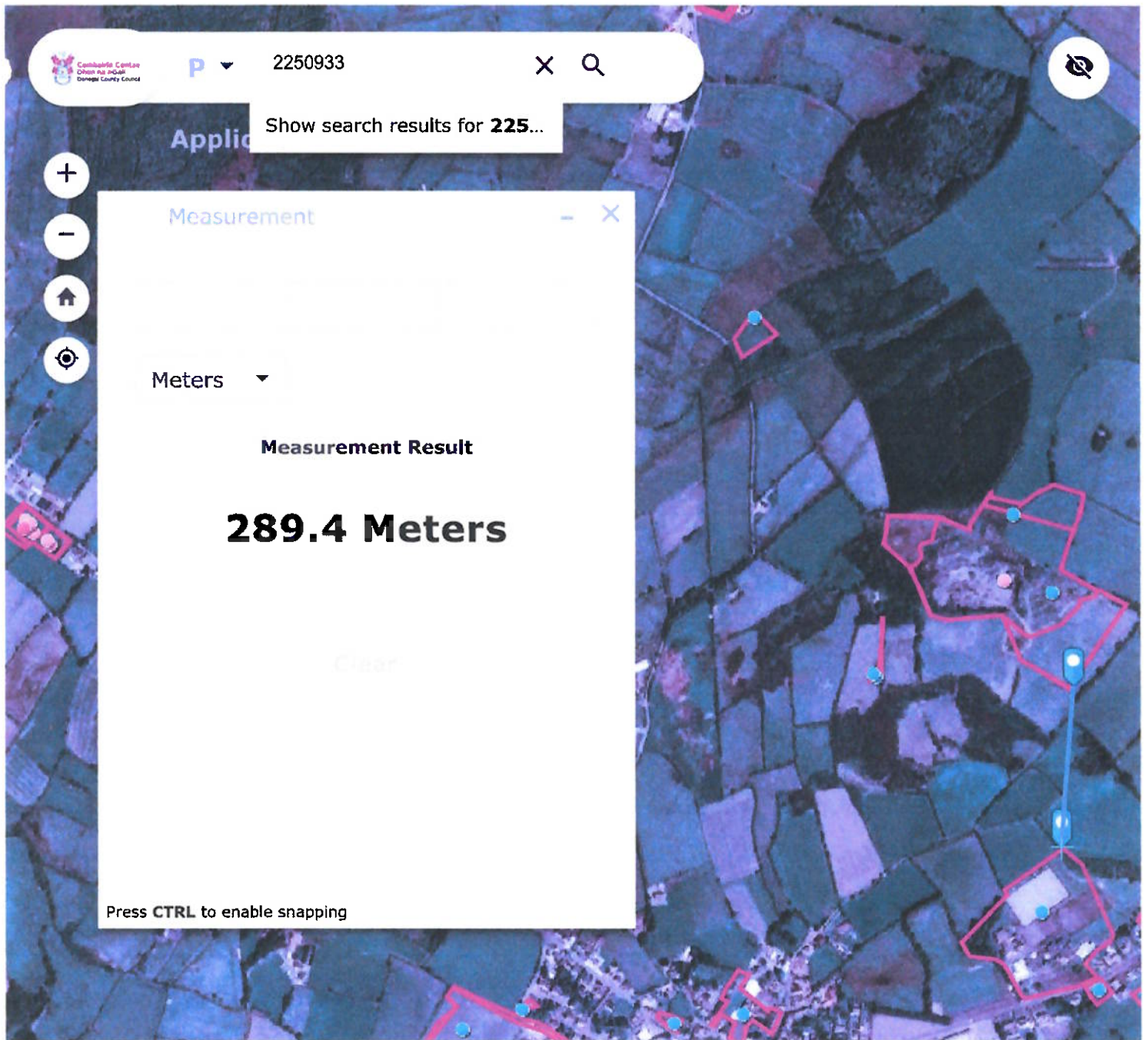
MAP 2.

Press CTRL to enable snapping

29.590 54.878 Degrees

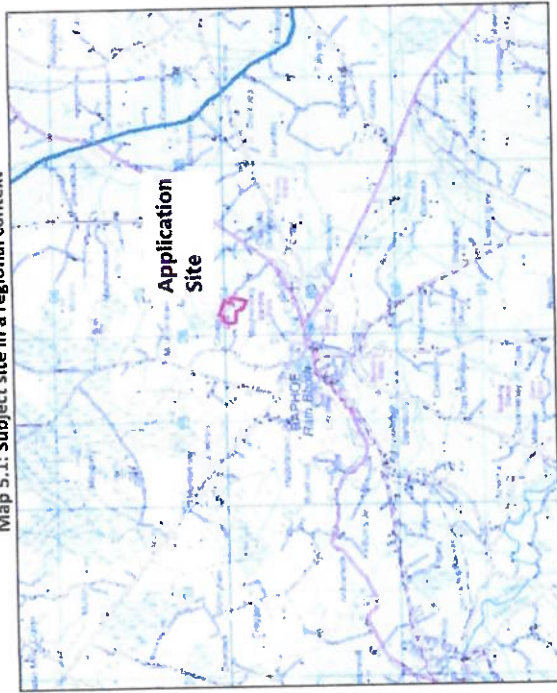
0.3km





MAP 1.

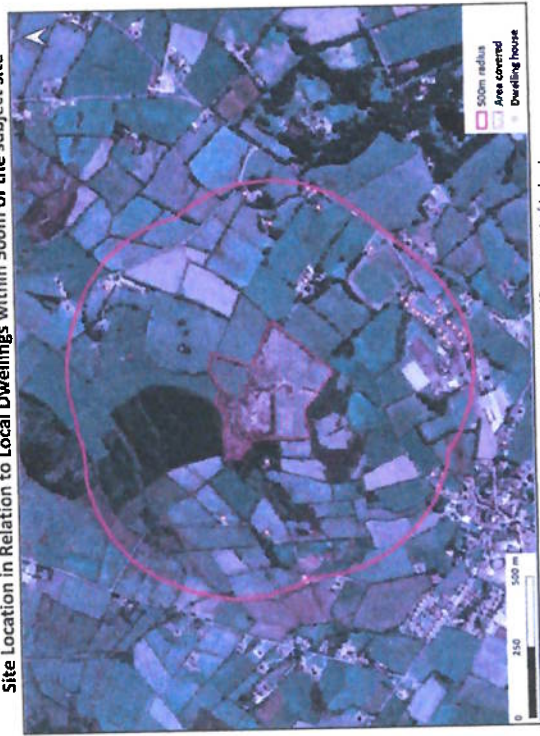
Map 5.1: Subject site in a regional context



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In describing the receiving environment in relation to human beings, this section provides an overview of the local area, including settlement patterns, age structure, population change, social indicators including employment, education, and social class, and economic activity. Figure 5.1 illustrates the habitable residences within proximity of the park.

Figure 5.1:  
Site Location in Relation to Local Dwellings within 500m of the subject site



CVAL50244901 © Ordnance Survey Ireland/Government of Ireland.

AN BORD PLEANÁLA

08 FEB 2023

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ABP- \_\_\_\_\_

MAP. 13

2 APR 02 TOWN

ROAD WIDTHS

- 7m
- 5.4m
- 5m
- 6m
- 5.5m

