

Trevor Mulhern (Director)  
TJC Sand and Gravel Ltd  
319 Foreglen Road  
Ballymoney  
Dungiven  
Londonderry  
BT47 4PJ

Derry City & Strabane District  
Council  
Comhairle  
Chathair Dhoire & Cheannair an tSraha B in  
Derry Citie & Strabane Districk  
Council

Derry City & Strabane District Council  
98 Strand Road  
Derry  
BT48 7NN

Date: 19th October 2016  
Your Ref:  
Our Ref: A/2013/0111/CA  
(Please quote at all times)  
Please Contact: Ciaran Rodgers  
Contact Number: 0300 200 7830

Dear Mr Mulhern

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**Land or Premises at 320m East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ,**

Issued By: Derry and Strabane

1. The Council hereby serves on you an Enforcement Notice relating to the above land of which you are the Operator/owner.

Copies of the Notice are also being served on others who, it is understood, have interests in the land.

2. Unless an appeal is made to the Planning Appeals Commission, as described below, the Notice will take effect on 25<sup>th</sup> November 2016 and you must then ensure that the required steps for which you may be held responsible are taken within the period specified in this Notice. Failure to comply with an Enforcement Notice which has come into effect within the times specified for compliance is an offence and a person found guilty of such an offence is liable on conviction to a fine.
3. If you wish to appeal against the Notice you should first read carefully the enclosed Explanatory Notes. You or your agent should complete an appeal form

and send it, together with the PAC Appeal fee, a copy of the Enforcement Notice and map to the Planning Appeals Commission. Your appeal must be received by the Planning Appeals Commission before the date given in Paragraph 2 above as the date when the Notice takes effect.

4. You will note that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate fee which in this case would appear to be £9282

Yours sincerely

*Deirdre*  
Authorised Officer

On behalf of:

Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

**ENFORCEMENT NOTICE – MATERIAL CHANGE OF USE**

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**PLANNING ACT (NORTHERN IRELAND) 2011**

Issued By: Derry and Strabane Local Planning Office

1. **This Notice** is served by the Council because it appears that there has been a breach of planning control, under Section 131(1)(a) of the above Act, at the land described below. It considers that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. **The Lands to which this Notice relates**

Land to the East Of 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ, shown edged in red on the attached map.

3. **The Matters which appear to constitute the Breach of Planning Control**

Unauthorised change of use of land for the siting and operation of mobile sand and gravel screening plant and mobile sand and gravel screening and washing plant located within the area shaded green on the attached map.

4. **What you are required to do**

a) Cease the unauthorised use of the said land for the siting and operation of mobile sand and gravel screening plant and mobile sand and gravel screening and washing plant.

b) Permanently remove all mobile sand and gravel screening plant and mobile sand and gravel screening and washing plant from said lands.

c) Comply with (a) and (b) above within 84 days from the date on which this notice takes effect

5. This Notice takes effect on 25<sup>th</sup> November 2016 unless an appeal is made against it beforehand.

Signed:

Ray C Graden

Authorised Officer

Dated:

14th October 2016

On behalf of:  
Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

## **Your Right of Appeal**

You can appeal against this notice under Section 143 of the Planning Act (Northern Ireland) 2011. An appeal must be received, or posted in time to be received, by the Planning Appeals Commission before the date on which this Notice takes effect. The accompanying Explanatory Note gives details on the appeal procedure.

### **Warning: What happens if you do not Appeal**

If you do not appeal against this Enforcement Notice it will take effect on the date specified in paragraph 5 of the Notice and you must ensure that the required steps for complying with it for which you may be held responsible are taken within the period(s) specified in paragraph 4 of this Notice. Failure to comply with an Enforcement Notice which has taken effect is an offence. A person found guilty of such an offence shall be liable to a fine. The maximum penalty for such an offence is £100,000 on summary conviction in the Magistrate's Court. The fine on conviction on indictment is unlimited. Continuing failure to comply with the Notice following a conviction will constitute a further offence.

Where any steps required by the Enforcement Notice are not taken within the period allowed for compliance with the Notice, a person authorised in writing by the Council/Department may enter the land and take the required steps and recover from the person who is then the owner of the land any expenses incurred in so doing. Those expenses shall be a civil debt recoverable summarily.

## EXPLANATORY NOTE

This note is NOT part of the Enforcement Notice but it sets out in full in Sections 143, 144 and 145 of the Planning Act (Northern Ireland) 2011 to which reference has been made in the Notice.

## APPEAL AGAINST ENFORCEMENT NOTICE

143. (1) A person having an estate in the land to which an Enforcement Notice relates or a person to whom subsection (2) applies may, at any time before the date specified in the Notice as the date on which it is to take effect, appeal to the planning appeals commission against the Notice, whether or not a copy of it has been served on him.
- (2) This subsection applies to a person who—
- (a) on the date on which the Enforcement Notice is issued occupies the land to which it relates by virtue of a licence; and
  - (b) continues to occupy the land as aforesaid when the appeal is brought.
- (3) An appeal may be brought on any of the following grounds –
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
  - (b) that those matters have not occurred;
  - (c) that those matters (if they occurred) do not constitute a breach of planning control;
  - (d) that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
  - (e) that copies of the Enforcement Notice were not served as required by Article Section 138/139;
  - (f) that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
  - (g) that any period specified in the Notice in accordance with section 140(9) falls short of what should reasonably be allowed.

- (4) An appeal under this section shall be made by serving written notice of the appeal on the planning appeals commission before the date specified in the Enforcement Notice as the date on which it is to take effect and such notice shall indicate the grounds of the appeal and state the facts on which it is based.
- (5) Before determining an appeal under this section, the planning appeals commission shall, if either:-
  - (a) the appellant;
  - (b) or the Council or as the case may be, Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.
- (6) Sections 41 and 45(2) shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this section as they apply to an application for planning permission to the council or the Department.
- (7) Where an appeal is brought under this section, the Enforcement Notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (8) Subject to subsection (9), the validity of an Enforcement Notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.
- (9) Subsection (8) shall not apply to proceedings brought under section 147 against a person who—
  - (a) has held an estate in the land since before the Enforcement Notice was issued;
  - (b) was not served with a copy of the Enforcement Notice; and
  - (c) satisfies the court that—
    - (i) that person did not know and could not reasonably have been expected to know that the Enforcement Notice had been issued; and
    - (ii) that persons interests have been substantially prejudiced by the failure to serve him or her with a copy of it.

#### **APPEAL AGAINST ENFORCEMENT NOTICE-GENERAL SUPPLEMENTARY PROVISIONS**

- 144.(1) On an appeal under section 143 the planning appeals commission shall quash the Enforcement Notice, vary the terms of the Notice or uphold the Notice.
- (2) On such an appeal the planning appeals commission may correct any mis-description, defect or error in the Enforcement Notice, or vary its terms, if it is

satisfied that the correction or variation can be made without injustice to the appellant or to the council/Department.

- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the Enforcement Notice was not served, the planning appeals commission may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

#### APPEAL AGAINST ENFORCEMENT NOTICE - SUPPLEMENTARY PROVISIONS RELATING TO PLANNING PERMISSION

145. (1) On the determination of an appeal under section 143, the planning appeals commission may –
- (a) grant planning permission in respect of the matters stated in the Enforcement Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 169.
- (2) The provisions of Sections 169 to 172 mentioned in subsection (3) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 169, but as if –
- (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
  - (b) references to the Council were references to the planning appeals commission.
- (3) Those provisions are Section 169(5) to (7), 171(4) (so far as it relates to the form of the certificate), (6) and (7) and 172.
- (4) In considering whether to grant planning permission under subsection (1), the planning appeals commission shall have regard to the development plan, so far as material to the subject matter of the Enforcement Notice, and to any other material considerations; and planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application



under Part 3; and where under that subsection the planning appeals commission discharges a condition or limitation, it may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an Enforcement Notice is brought under section 143, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the Enforcement Notice as constituting a breach of planning control and, in relation to any exercise by the planning appeals commission of its powers under subsection (1) –

(a) any planning permission granted under that subsection shall be treated as granted on that application;

(b) in relation to a grant of planning permission or a determination under that subsection, the decision of the planning appeals commission shall be final; and

(c) subject to paragraph (b), any planning permission granted under that paragraph shall have the like effect as a permission granted under Part 3.

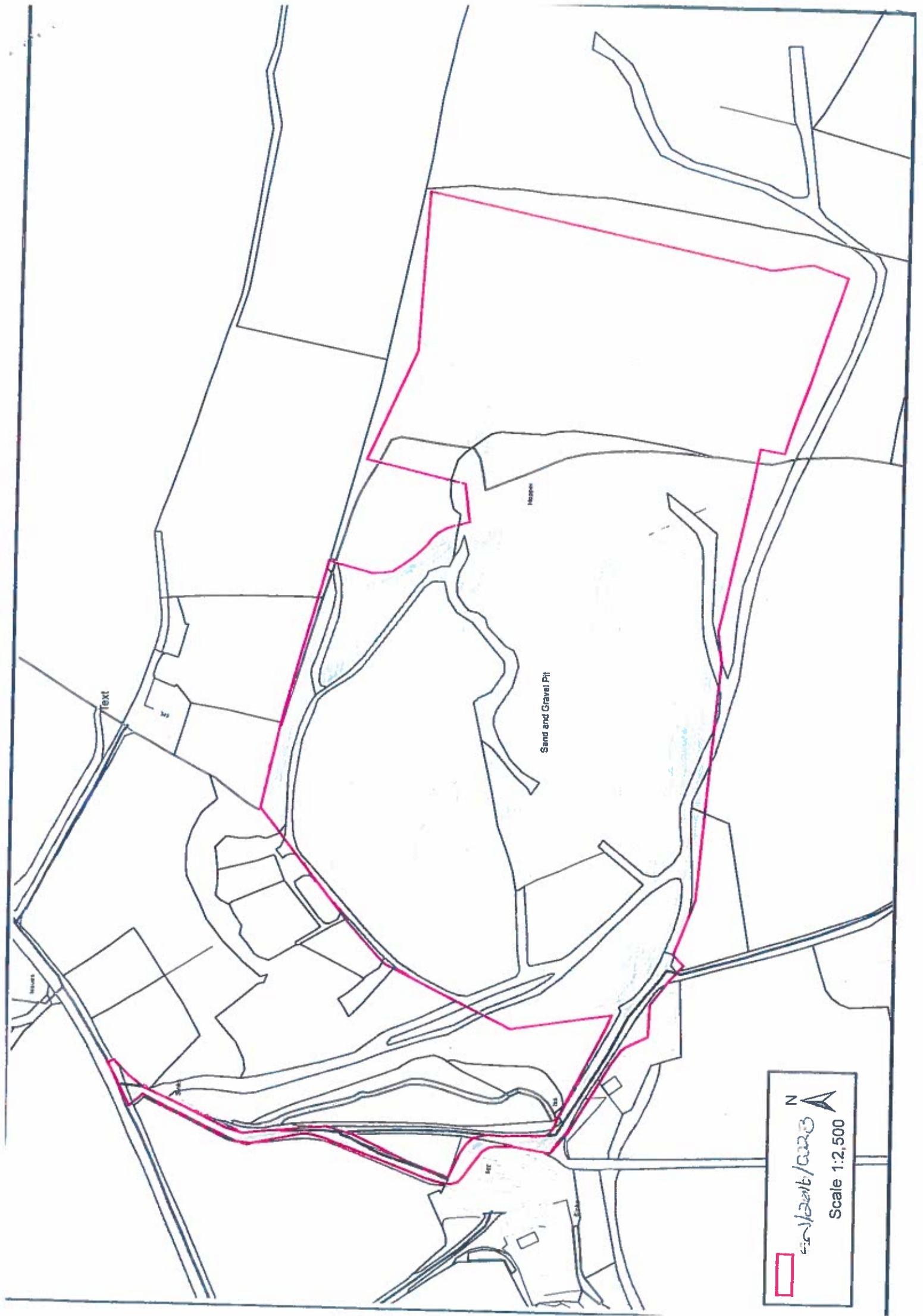
(6) Where –

(a) the notice under subsection (4) of section 143 indicates the ground mentioned in subsection (3)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 223 in respect of the application deemed to be made by virtue of the appeal; and

(c) the planning appeals commission gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.


NB: You will note from Section 145 (5) that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate planning application fee which would appear to be £ and the planning appeals commission Appeal fee.




text

Hesper

Sand and Gravel Pit

 Sand and Gravel Pit

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Scale 1:2,500

Trevor Mulhern (Director)  
TJC Sand and Gravel Ltd  
319 Foreglen Road  
Ballymoney  
Dungiven  
Londonderry  
BT47 4PJ

Derry City & Strabane District  
Council  
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Comhairle  
-----  
Chairair Dhoire & Cheannair an tSraibh Bliin  
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Derry Citie & Strabane District  
Council  
-----

Derry City & Strabane District Council  
98 Strand Road  
Derry  
BT48 7NN

Date: 19th October 2016  
Your Ref:  
Our Ref: A/2013/0111/CA  
(Please quote at all times)  
Please Contact: Ciaran Rodgers  
Contact Number: 0300 200 7830

Dear Mr Mulhern

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**Land or Premises at 320m East Of, 339 Longland Road, Gilky Hill, Claudy,  
Londonderry, BT47 4AJ,**

Issued By: Derry and Strabane

1. The Council hereby serves on you an Enforcement Notice relating to the above land of which you are the Operator/owner.

Copies of the Notice are also being served on others who, it is understood, have interests in the land.

2. Unless an appeal is made to the Planning Appeals Commission, as described below, the Notice will take effect on 25<sup>th</sup> November 2016 and you must then ensure that the required steps for which you may be held responsible are taken within the period specified in this Notice. Failure to comply with an Enforcement Notice which has come into effect within the times specified for compliance is an offence and a person found guilty of such an offence is liable on conviction to a fine.

3. If you wish to appeal against the Notice you should first read carefully the enclosed Explanatory Notes. You or your agent should complete an appeal form and send it, together with the planning appeals commission Appeal Fee, a copy of the Enforcement Notice and map to the planning appeals commission. Your appeal must be received by the Planning Appeals Commission before the date given in Paragraph 2 above as the date when the Notice takes effect.
4. You will note that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate planning application fee which in this case would appear to be £.1460

Yours sincerely



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Authorised Officer

On behalf of:

Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

**PLANNING ENFORCEMENT NOTICE – OPERATIONAL DEVELOPMENT**

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**PLANNING ACT (NORTHERN IRELAND) 2011**

Issued By: Derry and Strabane

1. **This Notice** is served by the Council because it appears that there has been a breach of planning control, under Section 131(1)(a) of the above Order, at the land described below. It considers that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. **The Land to which this Notice relates**

Land to the East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ, shown edged in red on the attached map.

3. **The Matters which appear to constitute the Breach of Planning Control**

Unauthorised settlement ponds located in the approximate location shaded blue on the attached map.

4. **What you are required to do**

a) Remove unauthorised settlement ponds located in the approximate location shaded in blue on the attached map by backfilling the settlement ponds with material native to the site or that previously removed to the level of the surrounding land.

b) Comply with (a) above within 120 days of the date on which this notice takes effect.

5. **This Notice takes effect** on 25<sup>th</sup> November 2016 unless an appeal is made against it beforehand.

Signed:

  
\_\_\_\_\_  
Authorised Officer

Dated:

19<sup>th</sup> October 2016.

On behalf of:  
Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

### **Your Right of Appeal**

You can appeal against this notice under Section 143 of the Planning Act (Northern Ireland) 2011. An appeal must be received, or posted in time to be received, by the planning appeals commission before the date on which this Notice takes effect. The accompanying Explanatory Note gives details on the appeal procedure.

### **Warning: What happens if you do not Appeal**

If you do not appeal against this Enforcement Notice it will take effect on the date specified in paragraph 5 of the Notice and you must ensure that the required steps for complying with it for which you may be held responsible are taken within the period(s) specified in paragraph 4 of this Notice. Failure to comply with an Enforcement Notice which has taken effect is an offence. A person found guilty of such an offence shall be liable to a fine. The maximum penalty for such an offence is £100,000 on summary conviction in the Magistrate's Court. The fine on conviction on indictment is unlimited. Continuing failure to comply with the Notice following a conviction will constitute a further offence.

Where any steps required by the Enforcement Notice are not taken within the period allowed for compliance with the Notice, a person authorised in writing by the Council/Department may enter the land and take the required steps and recover from the person who is then the owner of the land any expenses incurred in so doing. Those expenses shall be a civil debt recoverable summarily.

## EXPLANATORY NOTE

This note is **NOT** part of the Enforcement Notice but it sets out in full in Section 143 of the Planning Act (Northern Ireland) 2011 to which reference has been made in the Notice.

## APPEAL AGAINST ENFORCEMENT NOTICE

143. (1) A person having an estate in the land to which an Enforcement Notice relates or a person to whom subsection (2) applies may, at any time before the date specified in the Notice as the date on which it is to take effect, appeal to the planning appeals commission) against the Notice, whether or not a copy of it has been served on him.
- (2) This subsection applies to a person who—
- (a) on the date on which the Enforcement Notice is issued occupies the land to which it relates by virtue of a licence; and
  - (b) continues to occupy the land as aforesaid when the appeal is brought.
- (3) An appeal may be brought on any of the following grounds –
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
  - (b) that those matters have not occurred;
  - (c) that those matters (if they occurred) do not constitute a breach of planning control;
  - (d) that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
  - (e) that copies of the Enforcement Notice were not served as required by section 138 or as the case may be, section 139;
  - (f) that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
  - (g) that any period specified in the Notice in accordance with section 140 (9) falls short of what should reasonably be allowed.



- (4) An appeal under this section shall be made by serving written notice of the appeal on the planning appeals commission before the date specified in the Enforcement Notice as the date on which it is to take effect and such notice shall indicate the grounds of the appeal and state the facts on which it is based.
- (5) Before determining an appeal under this section, the planning appeals commission shall, if either
  - (a) the appellant; or
  - (b) the council or, as the case may be Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.
- (6) Section 41 and 45(2) shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this section as they apply to an application for planning permission to the council or the Department.
- (7) Where an appeal is brought under this section, the Enforcement Notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (8) Subject to subsection (9), the validity of an Enforcement Notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.
- (9) Subsection (8) shall not apply to proceedings brought under section 147 against a person who—
  - (a) has held an estate in the land since before the Enforcement Notice was issued;
  - (b) was not served with a copy of the Enforcement Notice served on him; and
  - (c) that persons interests have been substantially prejudiced by the failure to serve him with a copy of it.

#### **APPEAL AGAINST ENFORCEMENT NOTICE-GENERAL SUPPLEMENTARY PROVISIONS**

- 144.(1) On an appeal under Section 143 the planning appeals commission shall quash the Enforcement Notice, vary the terms of the Notice or uphold the Notice.
- (2) On such an appeal the planning appeals commission may correct any mis-description, defect or error in the Enforcement Notice, or vary its terms, if it is satisfied that the correction or variation can be made without injustice to the appellant or to the council or, as the case may be, the Department.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the

Enforcement Notice was not served, the planning appeals commission may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

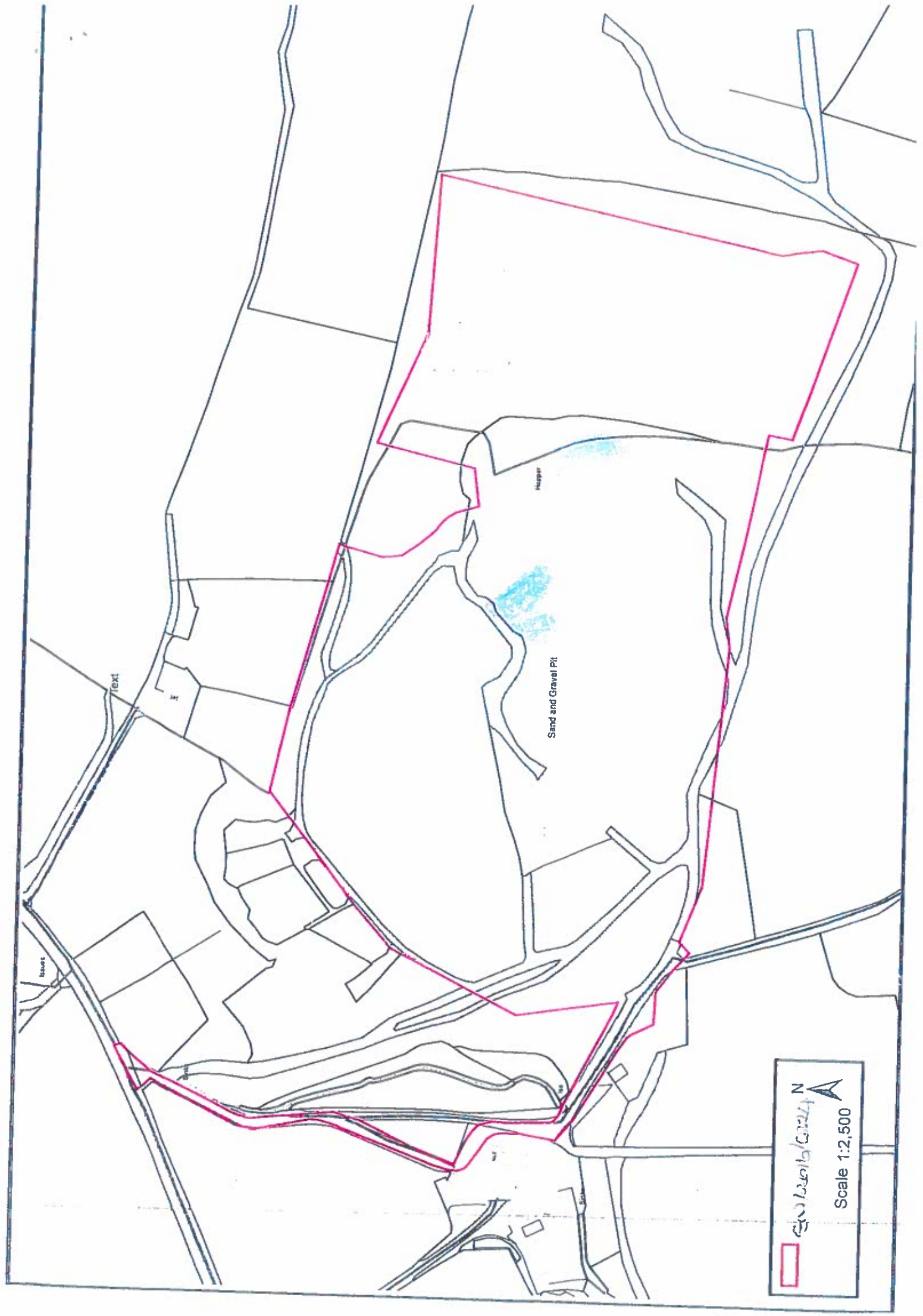
#### **APPEAL AGAINST ENFORCEMENT NOTICE - SUPPLEMENTARY PROVISIONS RELATING TO PLANNING PERMISSION**

- 145.(1) On the determination of an appeal under section 143, the planning appeals commission may –
- (a) grant planning permission in respect of the matters stated in the Enforcement Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 169.
- (2) The provisions of sections 169 to 172 mentioned in subsection (3) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 169, but as if –
- (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
  - (b) references to the council were references to the planning appeals commission.
- (3) Those provisions are section 169(5) to (7), 171(4) (so far as it relates to the form of the certificate), (6) and (7) and 172.
- (4) In considering whether to grant planning permission under subsection (1), the planning appeals commission shall have regard to the development plan, so far as material to the subject matter of the Enforcement Notice, and to any other material considerations; and planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part 3; and where under that subsection the planning appeals commission discharges a condition or limitation, it may substitute another condition or limitation for it, whether more or less onerous.
- (5) Where an appeal against an Enforcement Notice is brought under section 143, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the Enforcement Notice as

constituting a breach of planning control and, in relation to any exercise by the planning appeals commission of its powers under subsection (1) –

- (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that paragraph, the decision of the planning appeals commission shall be final; and
  - (c) subject to paragraph (b), any planning permission granted under that paragraph shall have the like effect as a permission granted under Part 3.
- (6) Where –
- (a) the notice under subsection (4) of section 143 indicates the ground mentioned in subsection (3)(a) of that section;
  - (b) any fee is payable under regulations made by virtue of section 223 in respect of the application deemed to be made by virtue of the appeal; and
  - (c) the planning appeals commission gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

NB: You will note from Section 145 (5) that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate planning application fee which would appear to be £ 1460 and the planning appeals commission Appeal fee.



Sand and Gravel Pit

Hopper

text

houses

20/12/2016/03/24

Scale 1:2,500

Mr George Colin Craig  
339 Longland Road  
Claudy  
Londonderry  
BT47 4AJ

Derry City & Strabane District  
Council  
Comhairle  
Chathair Dhoire & Cheantar an tSrátha Binn  
Derry City & Strabane District  
Council

Derry City & Strabane District Council  
98 Strand Road  
Derry  
BT48 7NN

Date: 19th October 2016  
Your Ref:  
Our Ref: A/2013/0111/CA  
(Please quote at all times)  
Please Contact: Ciaran Rodgers  
Contact Number: 0300 200 7830

Dear Mr George Colin Craig

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

Land to the East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ,

Issued By: Derry and Strabane

1. The Council hereby serves on you an Enforcement Notice relating to the above land of which you are the Owner.

Copies of the Notice are also being served on others who, it is understood, have interests in the land.

2. Unless an appeal is made to the Planning Appeals Commission, as described below, the Notice will take effect on 25<sup>th</sup> November 2016 and you must then ensure that the required steps for which you may be held responsible are taken within the period(s) specified in this Notice. Failure to comply with an Enforcement Notice which has come into effect within the times specified for compliance is an offence and a person found guilty of such an offence is liable on conviction to a fine.
3. If you wish to appeal against the Notice you should first read carefully the enclosed Explanatory Notes. You or your agent should complete an appeal form

and send it, together with the PAC Appeal fee, a copy of the Enforcement Notice and map to the Planning Appeals Commission. Your appeal must be received by the Planning Appeals Commission before the date given in Paragraph 2 above as the date when the Notice takes effect.

4. You will note that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate fee which in this case would appear to be £9282

Yours sincerely

  
\_\_\_\_\_  
Authorised Officer

On behalf of:

Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

**ENFORCEMENT NOTICE – MATERIAL CHANGE OF USE**

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**PLANNING ACT (NORTHERN IRELAND) 2011**

Issued By: Derry and Strabane Local Planning Office

1. This Notice is served by the Council because it appears that there has been a breach of planning control, under Section 131(1)(a) of the above Act, at the land described below. It considers that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. The Lands to which this Notice relates

Land to the East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ, shown edged in red on the attached map.

3. The Matters which appear to constitute the Breach of Planning Control

Unauthorised change of use of land for the siting and operation of mobile sand and gravel screening plant and mobile sand and gravel screening and washing washing plant located within the area shaded green on the attached map.

4. What you are required to do

a) Cease the unauthorised use of the said land for the siting and operation of mobile sand and gravel screening plant and mobile sand and gravel screening and washing plant.

b) Permanently remove all mobile sand and gravel screening plant and mobile sand and gravel screening and washing plant from said lands.

c) Comply with (a) and (b) above within 84 days from the date on which this notice takes effect

5. This Notice takes effect on 25<sup>th</sup> November 2016 unless an appeal is made against it beforehand.

Signed:

*A. J. Condon*

Authorised Officer

Dated:

19<sup>th</sup> October 2016

On behalf of:  
Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN



## **Your Right of Appeal**

You can appeal against this notice under Section 143 of the Planning Act (Northern Ireland) 2011. An appeal must be received, or posted in time to be received, by the Planning Appeals Commission before the date on which this Notice takes effect. The accompanying Explanatory Note gives details on the appeal procedure.

## **Warning: What happens if you do not Appeal**

If you do not appeal against this Enforcement Notice it will take effect on the date specified in paragraph 5 of the Notice and you must ensure that the required steps for complying with it for which you may be held responsible are taken within the period(s) specified in paragraph 4 of this Notice. Failure to comply with an Enforcement Notice which has taken effect is an offence. A person found guilty of such an offence shall be liable to a fine. The maximum penalty for such an offence is £100,000 on summary conviction in the Magistrate's Court. The fine on conviction on indictment is unlimited. Continuing failure to comply with the Notice following a conviction will constitute a further offence.

Where any steps required by the Enforcement Notice are not taken within the period allowed for compliance with the Notice, a person authorised in writing by the Council/Department may enter the land and take the required steps and recover from the person who is then the owner of the land any expenses incurred in so doing. Those expenses shall be a civil debt recoverable summarily.

## EXPLANATORY NOTE

This note is NOT part of the Enforcement Notice but it sets out in full in Sections 143, 144 and 145 of the Planning Act (Northern Ireland) 2011 to which reference has been made in the Notice.

## APPEAL AGAINST ENFORCEMENT NOTICE

143. (1) A person having an estate in the land to which an Enforcement Notice relates or a person to whom subsection (2) applies may, at any time before the date specified in the Notice as the date on which it is to take effect, appeal to the planning appeals commission against the Notice, whether or not a copy of it has been served on him.
- (2) This subsection applies to a person who—
- (a) on the date on which the Enforcement Notice is issued occupies the land to which it relates by virtue of a licence; and
  - (b) continues to occupy the land as aforesaid when the appeal is brought.
- (3) An appeal may be brought on any of the following grounds –
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
  - (b) that those matters have not occurred;
  - (c) that those matters (if they occurred) do not constitute a breach of planning control;
  - (d) that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
  - (e) that copies of the Enforcement Notice were not served as required by Article Section 138/139;
  - (f) that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
  - (g) that any period specified in the Notice in accordance with section 140(9) falls short of what should reasonably be allowed.

- (4) An appeal under this section shall be made by serving written notice of the appeal on the planning appeals commission before the date specified in the Enforcement Notice as the date on which it is to take effect and such notice shall indicate the grounds of the appeal and state the facts on which it is based.
- (5) Before determining an appeal under this section, the planning appeals commission shall, if either:-
  - (a) the appellant;
  - (b) or the Council or as the case may be, Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.
- (6) Sections 41 and 45(2) shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this section as they apply to an application for planning permission to the council or the Department.
- (7) Where an appeal is brought under this section, the Enforcement Notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (8) Subject to subsection (9), the validity of an Enforcement Notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.
- (9) Subsection (8) shall not apply to proceedings brought under section 147 against a person who—
  - (a) has held an estate in the land since before the Enforcement Notice was issued;
  - (b) was not served with a copy of the Enforcement Notice; and
  - (c) satisfies the court that—
    - (i) that person did not know and could not reasonably have been expected to know that the Enforcement Notice had been issued; and
    - (ii) that persons interests have been substantially prejudiced by the failure to serve him or her with a copy of it.

#### **APPEAL AGAINST ENFORCEMENT NOTICE-GENERAL SUPPLEMENTARY PROVISIONS**

- 144.(1) On an appeal under section 143 the planning appeals commission shall quash the Enforcement Notice, vary the terms of the Notice or uphold the Notice.
- (2) On such an appeal the planning appeals commission may correct any mis-description, defect or error in the Enforcement Notice, or vary its terms, if it is

satisfied that the correction or variation can be made without injustice to the appellant or to the council/Department.

- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the Enforcement Notice was not served, the planning appeals commission may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

#### APPEAL AGAINST ENFORCEMENT NOTICE - SUPPLEMENTARY PROVISIONS RELATING TO PLANNING PERMISSION

145. (1) On the determination of an appeal under section 143, the planning appeals commission may –
  - (a) grant planning permission in respect of the matters stated in the Enforcement Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 169.
- (2) The provisions of Sections 169 to 172 mentioned in subsection (3) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 169, but as if –
  - (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
  - (b) references to the Council were references to the planning appeals commission.
- (3) Those provisions are Section 169(5) to (7), 171(4) (so far as it relates to the form of the certificate), (6) and (7) and 172.
- (4) In considering whether to grant planning permission under subsection (1), the planning appeals commission shall have regard to the development plan, so far as material to the subject matter of the Enforcement Notice, and to any other material considerations; and planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application

under Part 3; and where under that subsection the planning appeals commission discharges a condition or limitation, it may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an Enforcement Notice is brought under section 143, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the Enforcement Notice as constituting a breach of planning control and, in relation to any exercise by the planning appeals commission of its powers under subsection (1) –

(a) any planning permission granted under that subsection shall be treated as granted on that application;

(b) in relation to a grant of planning permission or a determination under that subsection, the decision of the planning appeals commission shall be final; and

(c) subject to paragraph (b), any planning permission granted under that paragraph shall have the like effect as a permission granted under Part 3.

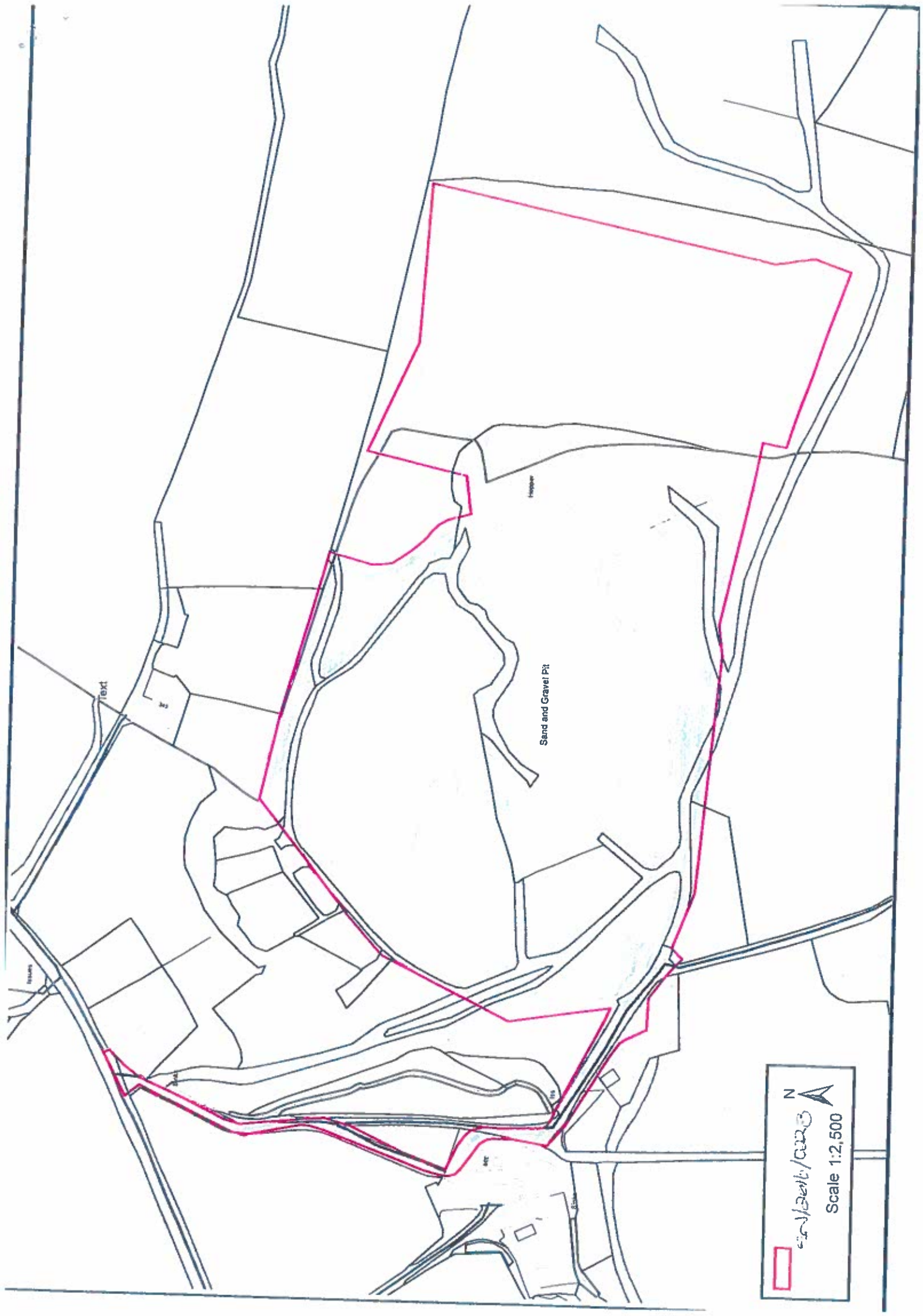
(6) Where –

(a) the notice under subsection (4) of section 143 indicates the ground mentioned in subsection (3)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 223 in respect of the application deemed to be made by virtue of the appeal; and



(c) the planning appeals commission gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

NB: You will note from Section 145 (5) that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate planning application fee which would appear to be £ and the planning appeals commission Appeal fee.



text

Sand and Gravel Pit

 Sand/Gravel/Care  
Scale 1:2,500  
N 

Mr George Colin Craig  
339 Longland Road  
Claudy  
Londonderry  
BT47 4AJ

Derry City & Strabane District  
Council  
Comhairle  
Chathair Dhoire & Cheantar an tSraith Binn  
Derry City & Strabane District  
Council

Derry City & Strabane District Council  
98 Strand Road  
Derry  
BT48 7NN

Date: 19th October 2016  
Your Ref:  
Our Ref: A/2013/0111/CA  
(Please quote at all times)  
Please Contact: Ciaran Rodgers  
Contact Number: 0300 200 7830

Dear Mr George Colin Craig

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

Land to the East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ,

Issued By: Derry and Strabane

1. The Council hereby serves on you an Enforcement Notice relating to the above land of which you are the Owner.

Copies of the Notice are also being served on others who, it is understood, have interests in the land.

2. Unless an appeal is made to the Planning Appeals Commission, as described below, the Notice will take effect on 25<sup>th</sup> November 2016 and you must then ensure that the required steps for which you may be held responsible are taken within the period(s) specified in this Notice. Failure to comply with an Enforcement Notice which has come into effect within the times specified for compliance is an offence and a person found guilty of such an offence is liable on conviction to a fine.

3. If you wish to appeal against the Notice you should first read carefully the enclosed Explanatory Notes. You or your agent should complete an appeal form and send it, together with the planning appeals commission Appeal Fee, a copy of the Enforcement Notice and map to the planning appeals commission. Your appeal must be received by the Planning Appeals Commission before the date given in Paragraph 2 above as the date when the Notice takes effect.
4. You will note that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate planning application fee which in this case would appear to be £. 1460

Yours sincerely



Authorised Officer

On behalf of:

Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN



**PLANNING ENFORCEMENT NOTICE – OPERATIONAL DEVELOPMENT**

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**PLANNING ACT (NORTHERN IRELAND) 2011**

Issued By: Derry and Strabane

1. This Notice is served by the Council because it appears that there has been a breach of planning control, under Section 131(1)(a) of the above Order, at the land described below. It considers that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.
2. The Land to which this Notice relates  
  
Land to the East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ, shown edged in red on the attached map.
3. The Matters which appear to constitute the Breach of Planning Control  
  
Unauthorised settlement ponds located in the approximate location shaded blue on the attached map.
4. What you are required to do
  - a) Remove unauthorised settlement ponds located in the approximate location shaded in blue on the attached map by backfilling the settlement ponds with material native to the site or that previously removed to the level of the surrounding land.
  - b) Comply with (a) above within 120 days of the date on which this notice takes effect.
5. This Notice takes effect on 25<sup>th</sup> November 2016 unless an appeal is made against it beforehand.

Signed:

*Rep Clenden*  
Authorised Officer

Dated:

*19th October 2016*

On behalf of:

Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

## **Your Right of Appeal**

You can appeal against this notice under Section 143 of the Planning Act (Northern Ireland) 2011. An appeal must be received, or posted in time to be received, by the planning appeals commission before the date on which this Notice takes effect. The accompanying Explanatory Note gives details on the appeal procedure.

## **Warning: What happens if you do not Appeal**

If you do not appeal against this Enforcement Notice it will take effect on the date specified in paragraph 5 of the Notice and you must ensure that the required steps for complying with it for which you may be held responsible are taken within the period(s) specified in paragraph 4 of this Notice. Failure to comply with an Enforcement Notice which has taken effect is an offence. A person found guilty of such an offence shall be liable to a fine. The maximum penalty for such an offence is £100,000 on summary conviction in the Magistrate's Court. The fine on conviction on indictment is unlimited. Continuing failure to comply with the Notice following a conviction will constitute a further offence.

Where any steps required by the Enforcement Notice are not taken within the period allowed for compliance with the Notice, a person authorised in writing by the Council/Department may enter the land and take the required steps and recover from the person who is then the owner of the land any expenses incurred in so doing. Those expenses shall be a civil debt recoverable summarily.

## EXPLANATORY NOTE

This note is NOT part of the Enforcement Notice but it sets out in full in Section 143 of the Planning Act (Northern Ireland) 2011 to which reference has been made in the Notice.

## APPEAL AGAINST ENFORCEMENT NOTICE

143. (1) A person having an estate in the land to which an Enforcement Notice relates or a person to whom subsection (2) applies may, at any time before the date specified in the Notice as the date on which it is to take effect, appeal to the planning appeals commission) against the Notice, whether or not a copy of it has been served on him.
- (2) This subsection applies to a person who—
- (a) on the date on which the Enforcement Notice is issued occupies the land to which it relates by virtue of a licence; and
  - (b) continues to occupy the land as aforesaid when the appeal is brought.
- (3) An appeal may be brought on any of the following grounds –
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
  - (b) that those matters have not occurred;
  - (c) that those matters (if they occurred) do not constitute a breach of planning control;
  - (d) that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
  - (e) that copies of the Enforcement Notice were not served as required by section 138 or as the case may be, section 139;
  - (f) that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
  - (g) that any period specified in the Notice in accordance with section 140 (9) falls short of what should reasonably be allowed.

- (4) An appeal under this section shall be made by serving written notice of the appeal on the planning appeals commission before the date specified in the Enforcement Notice as the date on which it is to take effect and such notice shall indicate the grounds of the appeal and state the facts on which it is based.
- (5) Before determining an appeal under this section, the planning appeals commission shall, if either
  - (a) the appellant; or
  - (b) the council or, as the case may be Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.
- (6) Section 41 and 45(2) shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this section as they apply to an application for planning permission to the council or the Department.
- (7) Where an appeal is brought under this section, the Enforcement Notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (8) Subject to subsection (9), the validity of an Enforcement Notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.
- (9) Subsection (8) shall not apply to proceedings brought under section 147 against a person who—
  - (a) has held an estate in the land since before the Enforcement Notice was issued;
  - (b) was not served with a copy of the Enforcement Notice served on him; and
  - (c) that persons interests have been substantially prejudiced by the failure to serve him with a copy of it.

#### **APPEAL AGAINST ENFORCEMENT NOTICE-GENERAL SUPPLEMENTARY PROVISIONS**

- 144.(1) On an appeal under Section 143 the planning appeals commission shall quash the Enforcement Notice, vary the terms of the Notice or uphold the Notice.
- (2) On such an appeal the planning appeals commission may correct any misdescription, defect or error in the Enforcement Notice, or vary its terms, if it is satisfied that the correction or variation can be made without injustice to the appellant or to the council or, as the case may be, the Department.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the

Enforcement Notice was not served, the planning appeals commission may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

#### APPEAL AGAINST ENFORCEMENT NOTICE - SUPPLEMENTARY PROVISIONS RELATING TO PLANNING PERMISSION

- 145.(1) On the determination of an appeal under section 143, the planning appeals commission may –
- (a) grant planning permission in respect of the matters stated in the Enforcement Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 169.
- (2) The provisions of sections 169 to 172 mentioned in subsection (3) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 169, but as if –
- (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
  - (b) references to the council were references to the planning appeals commission.
- (3) Those provisions are section 169(5) to (7), 171(4) (so far as it relates to the form of the certificate), (6) and (7) and 172.
- (4) In considering whether to grant planning permission under subsection (1), the planning appeals commission shall have regard to the development plan, so far as material to the subject matter of the Enforcement Notice, and to any other material considerations; and planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part 3; and where under that subsection the planning appeals commission discharges a condition or limitation, it may substitute another condition or limitation for it, whether more or less onerous.
- (5) Where an appeal against an Enforcement Notice is brought under section 143, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the Enforcement Notice as

constituting a breach of planning control and, in relation to any exercise by the planning appeals commission of its powers under subsection (1) –

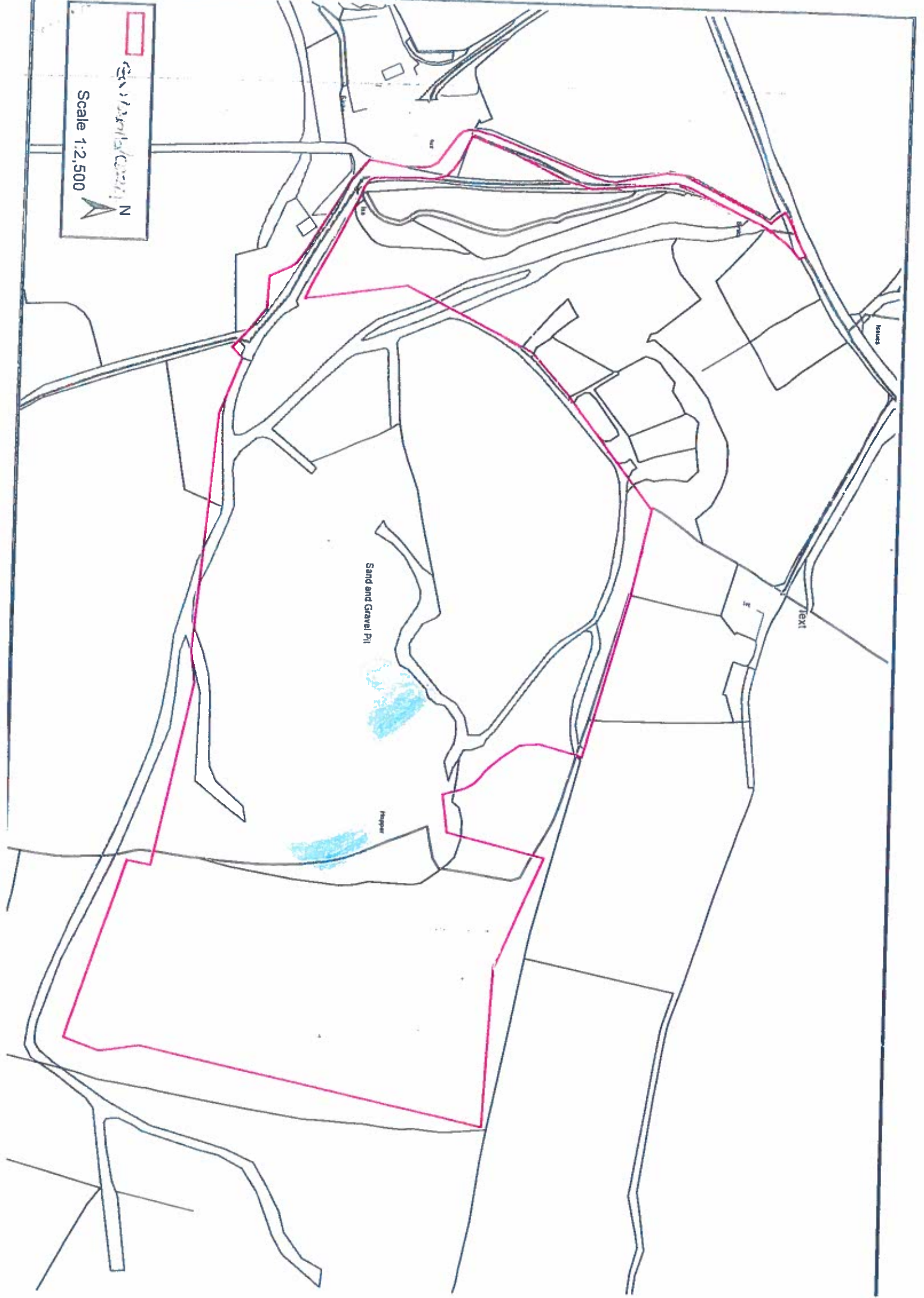
- (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that paragraph, the decision of the planning appeals commission shall be final; and
  - (c) subject to paragraph (b), any planning permission granted under that paragraph shall have the like effect as a permission granted under Part 3.
- (6) Where –
- (a) the notice under subsection (4) of section 143 indicates the ground mentioned in subsection (3)(a) of that section;
  - (b) any fee is payable under regulations made by virtue of section 223 in respect of the application deemed to be made by virtue of the appeal; and
  - (c) the planning appeals commission gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

NB: You will note from Section 145 (5) that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate planning application fee which would appear to be £1460 and the planning appeals commission Appeal fee.



Excavation Contour

Scale 1:2,500





Mr Colin Craig  
339 Longland Road  
Claudy  
County Londonderry  
BT47 4AJ

Derry City & Strabane District  
Council  
Comhairle  
Chathair Dhoire & Cheantar an tSraha Binn  
Derry Citie & Strabane Districk  
Council

Derry City & Strabane District Council  
98 Strand Road  
Derry  
BT48 7NN

Date: 19th October 2016  
Your Ref:  
Our Ref: A/2013/0111/CA  
(Please quote at all times)  
Please Contact: Ciaran Rodgers  
Contact Number: 0300 200 7830

Dear Mr Colin Craig

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**Land or Premises at 320m East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ,**

Issued By: Derry and Strabane

1. The Council hereby serves on you an Enforcement Notice relating to the above land of which you are the Owner.

Copies of the Notice are also being served on others who, it is understood, have interests in the land.

2. Unless an appeal is made to the Planning Appeals Commission, as described below, the Notice will take effect on 25<sup>th</sup> Novmeber 2016 and you must then ensure that the required steps for which you may be held responsible are taken within the period(s) specified in this Notice. Failure to comply with an Enforcement Notice which has come into effect within the times specified for compliance is an offence and a person found guilty of such an offence is liable on conviction to a fine.

3. If you wish to appeal against the Notice you should first read carefully the enclosed Explanatory Notes. You or your agent should complete an appeal form and send it, together with the planning appeals commission Appeal Fee, a copy of the Enforcement Notice and map to the planning appeals commission. Your appeal must be received by the Planning Appeals Commission before the date given in Paragraph 2 above as the date when the Notice takes effect.
4. You will note that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate planning application fee which in this case would appear to be £.1460

Yours sincerely

  
\_\_\_\_\_  
Authorised Officer

On behalf of:

Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

**PLANNING ENFORCEMENT NOTICE – OPERATIONAL DEVELOPMENT**

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**PLANNING ACT (NORTHERN IRELAND) 2011**

Issued By: Derry and Strabane

1. **This Notice is served by the Council because it appears that there has been a breach of planning control, under Section 131(1)(a) of the above Order, at the land described below. It considers that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.**

2. **The Land to which this Notice relates**

Land to the East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ, shown edged in red on the attached map.

3. **The Matters which appear to constitute the Breach of Planning Control**

Unauthorised settlement ponds located in the approximate location shaded blue on the attached map.

4. **What you are required to do**

a) Remove unauthorised settlement ponds located in the approximate location shaded in blue on the attached map by backfilling the settlement ponds with material native to the site or that previously removed to the level of the surrounding land.

b) Comply with (a) above within 120 days of the date on which this notice takes effect.

5. **This Notice takes effect on 25<sup>th</sup> November 2016 unless an appeal is made against it beforehand.**

Signed:

*Loy Clarke*  
Authorised Officer

Dated:

14<sup>th</sup> October 2016

On behalf of:

Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

## **Your Right of Appeal**

You can appeal against this notice under Section 143 of the Planning Act (Northern Ireland) 2011. An appeal must be received, or posted in time to be received, by the planning appeals commission before the date on which this Notice takes effect. The accompanying Explanatory Note gives details on the appeal procedure.

## **Warning: What happens if you do not Appeal**

If you do not appeal against this Enforcement Notice it will take effect on the date specified in paragraph 5 of the Notice and you must ensure that the required steps for complying with it for which you may be held responsible are taken within the period(s) specified in paragraph 4 of this Notice. Failure to comply with an Enforcement Notice which has taken effect is an offence. A person found guilty of such an offence shall be liable to a fine. The maximum penalty for such an offence is £100,000 on summary conviction in the Magistrate's Court. The fine on conviction on indictment is unlimited. Continuing failure to comply with the Notice following a conviction will constitute a further offence.

Where any steps required by the Enforcement Notice are not taken within the period allowed for compliance with the Notice, a person authorised in writing by the Council/Department may enter the land and take the required steps and recover from the person who is then the owner of the land any expenses incurred in so doing. Those expenses shall be a civil debt recoverable summarily.

## EXPLANATORY NOTE

This note is NOT part of the Enforcement Notice but it sets out in full in Section 143 of the Planning Act (Northern Ireland) 2011 to which reference has been made in the Notice.

## APPEAL AGAINST ENFORCEMENT NOTICE

143. (1) A person having an estate in the land to which an Enforcement Notice relates or a person to whom subsection (2) applies may, at any time before the date specified in the Notice as the date on which it is to take effect, appeal to the planning appeals commission) against the Notice, whether or not a copy of it has been served on him.
- (2) This subsection applies to a person who—
- (a) on the date on which the Enforcement Notice is issued occupies the land to which it relates by virtue of a licence; and
  - (b) continues to occupy the land as aforesaid when the appeal is brought.
- (3) An appeal may be brought on any of the following grounds –
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
  - (b) that those matters have not occurred;
  - (c) that those matters (if they occurred) do not constitute a breach of planning control;
  - (d) that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
  - (e) that copies of the Enforcement Notice were not served as required by section 138 or as the case may be, section 139;
  - (f) that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
  - (g) that any period specified in the Notice in accordance with section 140 (9) falls short of what should reasonably be allowed.

- (4) An appeal under this section shall be made by serving written notice of the appeal on the planning appeals commission before the date specified in the Enforcement Notice as the date on which it is to take effect and such notice shall indicate the grounds of the appeal and state the facts on which it is based.
- (5) Before determining an appeal under this section, the planning appeals commission shall, if either
  - (a) the appellant; or
  - (b) the council or, as the case may be Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.
- (6) Section 41 and 45(2) shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this section as they apply to an application for planning permission to the council or the Department.
- (7) Where an appeal is brought under this section, the Enforcement Notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (8) Subject to subsection (9), the validity of an Enforcement Notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.
- (9) Subsection (8) shall not apply to proceedings brought under section 147 against a person who—
  - (a) has held an estate in the land since before the Enforcement Notice was issued;
  - (b) was not served with a copy of the Enforcement Notice served on him; and
  - (c) that persons interests have been substantially prejudiced by the failure to serve him with a copy of it.

#### **APPEAL AGAINST ENFORCEMENT NOTICE-GENERAL SUPPLEMENTARY PROVISIONS**

- 144.(1) On an appeal under Section 143 the planning appeals commission shall quash the Enforcement Notice, vary the terms of the Notice or uphold the Notice.
- (2) On such an appeal the planning appeals commission may correct any misdescription, defect or error in the Enforcement Notice, or vary its terms, if it is satisfied that the correction or variation can be made without injustice to the appellant or to the council or, as the case may be, the Department.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the

Enforcement Notice was not served, the planning appeals commission may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

#### **APPEAL AGAINST ENFORCEMENT NOTICE - SUPPLEMENTARY PROVISIONS RELATING TO PLANNING PERMISSION**

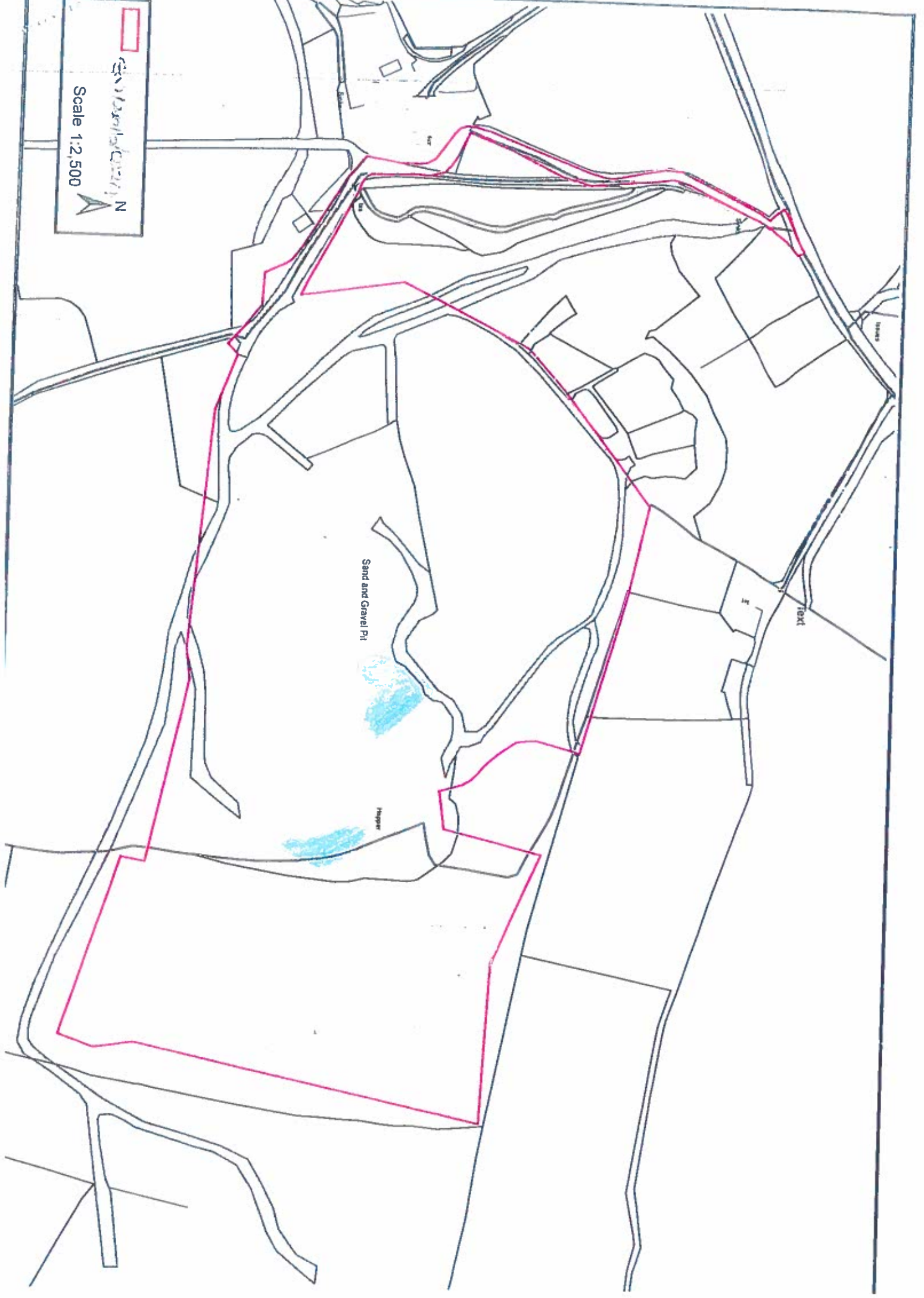
- 145.(1) On the determination of an appeal under section 143, the planning appeals commission may –
- (a) grant planning permission in respect of the matters stated in the Enforcement Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 169.
- (2) The provisions of sections 169 to 172 mentioned in subsection (3) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 169, but as if –
- (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
  - (b) references to the council were references to the planning appeals commission.
- (3) Those provisions are section 169(5) to (7), 171(4) (so far as it relates to the form of the certificate), (6) and (7) and 172.
- (4) In considering whether to grant planning permission under subsection (1), the planning appeals commission shall have regard to the development plan, so far as material to the subject matter of the Enforcement Notice, and to any other material considerations; and planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part 3; and where under that subsection the planning appeals commission discharges a condition or limitation, it may substitute another condition or limitation for it, whether more or less onerous.
- (5) Where an appeal against an Enforcement Notice is brought under section 143, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the Enforcement Notice as



constituting a breach of planning control and, in relation to any exercise by the planning appeals commission of its powers under subsection (1) –

- (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that paragraph, the decision of the planning appeals commission shall be final; and
  - (c) subject to paragraph (b), any planning permission granted under that paragraph shall have the like effect as a permission granted under Part 3.
- (6) Where –
- (a) the notice under subsection (4) of section 143 indicates the ground mentioned in subsection (3)(a) of that section;
  - (b) any fee is payable under regulations made by virtue of section 223 in respect of the application deemed to be made by virtue of the appeal; and
  - (c) the planning appeals commission gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

NB: You will note from Section 145 (5) that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate planning application fee which would appear to be £1440 and the planning appeals commission Appeal fee.



Scale 1:2,500



Sand and Gravel Pit

text

Mr Colin Craig  
339 Longland Road  
Claudy  
County Londonderry  
BT47 4AJ

Derry City & Strabane District  
Council

Comhairle

Chathair Dhoire & Cheannair an tSraha B in

Derry Citty & Strabane Destrick  
Council

Derry City & Strabane District Council  
98 Strand Road  
Derry  
BT48 7NN

Date: 19th October 2016  
Your Ref:  
Our Ref: A/2013/0111/CA  
(Please quote at all times)  
Please Contact: Ciaran Rodgers  
Contact Number: 0300 200 7830

Dear Mr Colin Craig

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

Land or Premises at 320m East Of, 339 Longland Road, Gilky Hill, Claudy,  
Londonderry, BT47 4AJ,

Issued By: Derry and Strabane

1. The Council hereby serves on you an Enforcement Notice relating to the above land of which you are the Owner.

Copies of the Notice are also being served on others who, it is understood, have interests in the land.

2. Unless an appeal is made to the Planning Appeals Commission, as described below, the Notice will take effect on 25<sup>th</sup> Novmeber 2016 and you must then ensure that the required steps for which you may be held responsible are taken within the period(s) specified in this Notice. Failure to comply with an Enforcement Notice which has come into effect within the times specified for compliance is an offence and a person found guilty of such an offence is liable on conviction to a fine.
3. If you wish to appeal against the Notice you should first read carefully the enclosed Explanatory Notes. You or your agent should complete an appeal form

and send it, together with the PAC Appeal fee, a copy of the Enforcement Notice and map to the Planning Appeals Commission. Your appeal must be received by the Planning Appeals Commission before the date given in Paragraph 2 above as the date when the Notice takes effect.

4. You will note that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate fee which in this case would appear to be £ 9282

Yours sincerely



Authorised Officer

On behalf of:

Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

**ENFORCEMENT NOTICE – MATERIAL CHANGE OF USE**  
**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**  
**PLANNING ACT (NORTHERN IRELAND) 2011**

Issued By: Derry and Strabane Local Planning Office

1. This Notice is served by the Council because it appears that there has been a breach of planning control, under Section 131(1)(a) of the above Act, at the land described below. It considers that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. The Lands to which this Notice relates

Land to the East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ, shown edged in red on the attached map.

3. The Matters which appear to constitute the Breach of Planning Control

Unauthorised change of use of land for the siting and operation of mobile sand and gravel screening plant and mobile sand and gravel screening and washing plant located within the area shaded green on the attached map.

4. What you are required to do

- a) Cease the unauthorised use of the said land for the siting and operation of mobile sand and gravel screening plant and mobile sand and gravel screening and washing plant.
- b) Permanently remove all mobile sand and gravel screening plant and mobile sand and gravel screening and washing plant from said lands.
- c) Comply with (a) and (b) above within 84 days from the date on which this notice takes effect

5. This Notice takes effect on 25<sup>th</sup> November 2016 unless an appeal is made against it beforehand.

Signed:

*Seán O'Riada*

Authorised Officer

Dated:

19<sup>th</sup> October 2016.

On behalf of:  
Derry City and Strabane District Council  
Planning Department  
98 Strand Road  
Londonderry  
BT48 7NN

## **Your Right of Appeal**

You can appeal against this notice under Section 143 of the Planning Act (Northern Ireland) 2011. An appeal must be received, or posted in time to be received, by the Planning Appeals Commission before the date on which this Notice takes effect. The accompanying Explanatory Note gives details on the appeal procedure.

## **Warning: What happens if you do not Appeal**

If you do not appeal against this Enforcement Notice it will take effect on the date specified in paragraph 5 of the Notice and you must ensure that the required steps for complying with it for which you may be held responsible are taken within the period(s) specified in paragraph 4 of this Notice. Failure to comply with an Enforcement Notice which has taken effect is an offence. A person found guilty of such an offence shall be liable to a fine. The maximum penalty for such an offence is £100,000 on summary conviction in the Magistrate's Court. The fine on conviction on indictment is unlimited. Continuing failure to comply with the Notice following a conviction will constitute a further offence.

Where any steps required by the Enforcement Notice are not taken within the period allowed for compliance with the Notice, a person authorised in writing by the Council/Department may enter the land and take the required steps and recover from the person who is then the owner of the land any expenses incurred in so doing. Those expenses shall be a civil debt recoverable summarily.

## EXPLANATORY NOTE

This note is NOT part of the Enforcement Notice but it sets out in full in Sections 143, 144 and 145 of the Planning Act (Northern Ireland) 2011 to which reference has been made in the Notice.

## APPEAL AGAINST ENFORCEMENT NOTICE

143. (1) A person having an estate in the land to which an Enforcement Notice relates or a person to whom subsection (2) applies may, at any time before the date specified in the Notice as the date on which it is to take effect, appeal to the planning appeals commission against the Notice, whether or not a copy of it has been served on him.
- (2) This subsection applies to a person who—
- (a) on the date on which the Enforcement Notice is issued occupies the land to which it relates by virtue of a licence; and
  - (b) continues to occupy the land as aforesaid when the appeal is brought.
- (3) An appeal may be brought on any of the following grounds —
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
  - (b) that those matters have not occurred;
  - (c) that those matters (if they occurred) do not constitute a breach of planning control;
  - (d) that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
  - (e) that copies of the Enforcement Notice were not served as required by Article Section 138/139;
  - (f) that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
  - (g) that any period specified in the Notice in accordance with section 140(9) falls short of what should reasonably be allowed.



- (4) An appeal under this section shall be made by serving written notice of the appeal on the planning appeals commission before the date specified in the Enforcement Notice as the date on which it is to take effect and such notice shall indicate the grounds of the appeal and state the facts on which it is based.
- (5) Before determining an appeal under this section, the planning appeals commission shall, if either:-
  - (a) the appellant;
  - (b) or the Council or as the case may be, Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.
- (6) Sections 41 and 45(2) shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this section as they apply to an application for planning permission to the council or the Department.
- (7) Where an appeal is brought under this section, the Enforcement Notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (8) Subject to subsection (9), the validity of an Enforcement Notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.
- (9) Subsection (8) shall not apply to proceedings brought under section 147 against a person who—
  - (a) has held an estate in the land since before the Enforcement Notice was issued;
  - (b) was not served with a copy of the Enforcement Notice; and
  - (c) satisfies the court that—
    - (i) that person did not know and could not reasonably have been expected to know that the Enforcement Notice had been issued; and
    - (ii) that persons interests have been substantially prejudiced by the failure to serve him or her with a copy of it.

#### **APPEAL AGAINST ENFORCEMENT NOTICE-GENERAL SUPPLEMENTARY PROVISIONS**

- 144.(1) On an appeal under section 143 the planning appeals commission shall quash the Enforcement Notice, vary the terms of the Notice or uphold the Notice.
- (2) On such an appeal the planning appeals commission may correct any mis-description, defect or error in the Enforcement Notice, or vary its terms, if it is

satisfied that the correction or variation can be made without injustice to the appellant or to the council/Department.

- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the Enforcement Notice was not served, the planning appeals commission may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

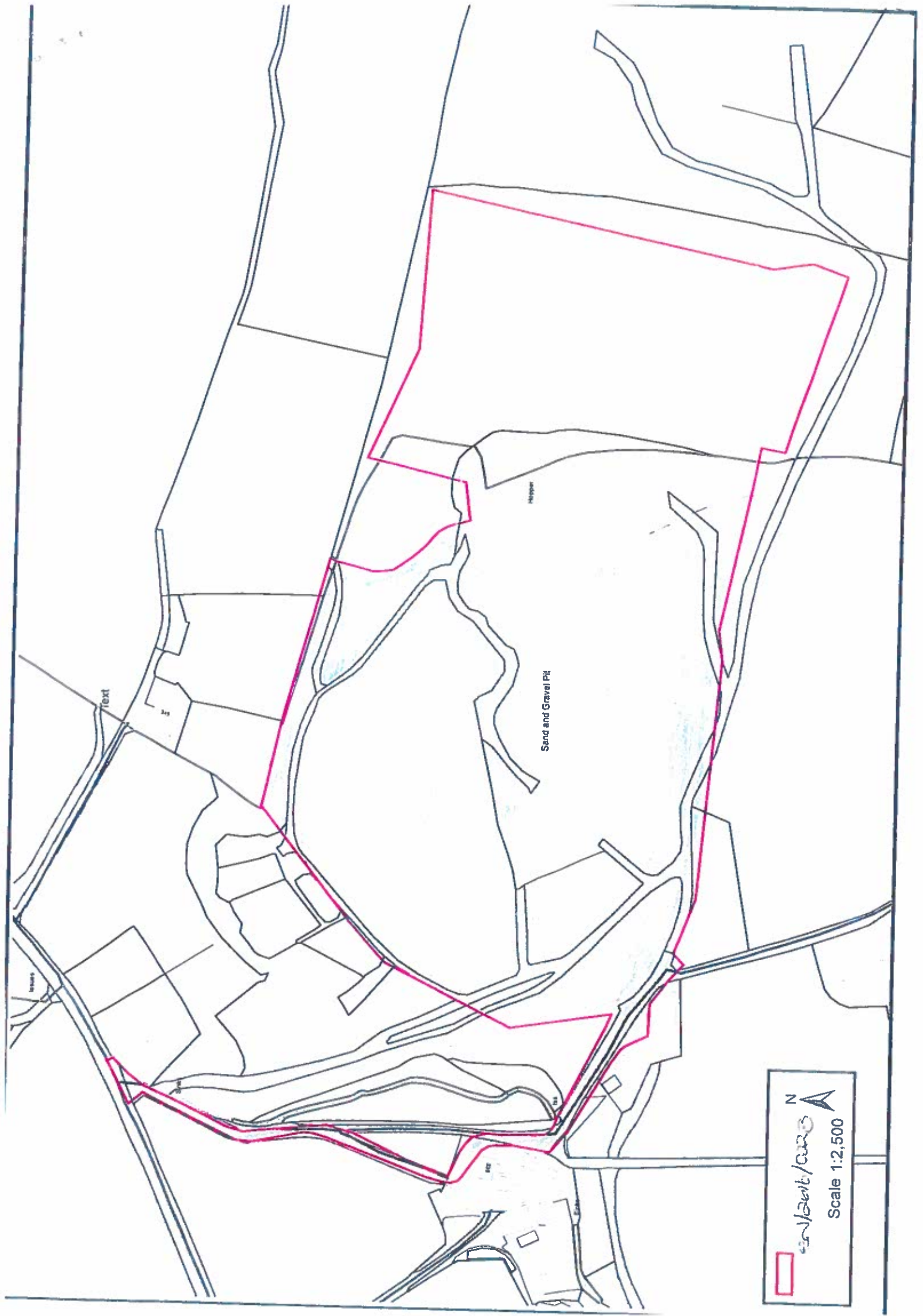
#### APPEAL AGAINST ENFORCEMENT NOTICE - SUPPLEMENTARY PROVISIONS RELATING TO PLANNING PERMISSION

145. (1) On the determination of an appeal under section 143, the planning appeals commission may –
- (a) grant planning permission in respect of the matters stated in the Enforcement Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 169.
- (2) The provisions of Sections 169 to 172 mentioned in subsection (3) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 169, but as if –
- (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
  - (b) references to the Council were references to the planning appeals commission.
- (3) Those provisions are Section 169(5) to (7), 171(4) (so far as it relates to the form of the certificate), (6) and (7) and 172.
- (4) In considering whether to grant planning permission under subsection (1), the planning appeals commission shall have regard to the development plan, so far as material to the subject matter of the Enforcement Notice, and to any other material considerations; and planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application

under Part 3; and where under that subsection the planning appeals commission discharges a condition or limitation, it may substitute another condition or limitation for it, whether more or less onerous.

- (5) Where an appeal against an Enforcement Notice is brought under section 143, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the Enforcement Notice as constituting a breach of planning control and, in relation to any exercise by the planning appeals commission of its powers under subsection (1) –
- (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that subsection, the decision of the planning appeals commission shall be final; and
  - (c) subject to paragraph (b), any planning permission granted under that paragraph shall have the like effect as a permission granted under Part 3.
- (6) Where –
- (a) the notice under subsection (4) of section 143 indicates the ground mentioned in subsection (3)(a) of that section;
  - (b) any fee is payable under regulations made by virtue of section 223 in respect of the application deemed to be made by virtue of the appeal; and
  - (c) the planning appeals commission gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.


NB: You will note from Section 145 (5) that if you appeal against this Enforcement Notice under Section 143(a) you will be deemed to have made an application for planning permission for the development to which this Notice relates. In these circumstances you will also be liable to pay the appropriate planning application fee which would appear to be £ and the planning appeals commission Appeal fee.




Text

Map

Sand and Gravel Pit

 Sand and Gravel Pit

Scale 1:2,500

N 

THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS (Northern Ireland) 2015 (The 'EIA Regulations')

EA Determination sheet  
TO BE COMPLETED BEFORE AN ENFORCMENT NOTICE IS ISSUED

Enforcement Case Officer: Ciaran Rodgers

Nature of Breach: Unauthorised siting of screening and washing plant and settlement ponds  
Location: 320m East Of, 339 Longland Road, Gilky Hill, Claudy, Londonderry, BT47 4AJ,

Does the development fall within the scope of Schedule 1 of the above Regulations No

If "Yes" which Category: - n/a

Does the development fall within the scope of Schedule 2 where:-

- |     |  |     |
|-----|--|-----|
| (a) | any part of the unauthorised development has been carried out in a sensitive area: and/or      | Yes |
| (b) | any applicable threshold or criterion has been exceeded or met in relation to that development | Yes |

If "Yes" which Category: - 2(A) The carrying out of development to provide quarries, open cast mining and peat extraction(unless in schedule 1)

What are the likely environmental effects of the project:-  
Dust: dust may form from the loose material being processed onsite.

Noise: Noise may be created by processing of sand and gravel onsite

Visual: There may be a visual impact on the landscape character of the site and surrounding area.

Impact on the river faughan and tributaries SAC and ASSI , impact on the sperrins area of natural beauty

Cumulative impact with other existing development.

Where consultations necessary to complete the environmental assessment determination? TBC

If "Yes please specify: - see attached responses in Annex A

Are the environmental effects likely to be significant? No

If "Yes please specify: - n/a

Recommendation Determination

THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS (Northern Ireland) 2015 (The 'EIA Regulations')

EA Determination sheet  
TO BE COMPLETED BEFORE AN ENFORCMENT NOTICE IS ISSUED

An Environmental Statement is not required for the following reason(s)

Specify: The proposal is considered to fall under Paragraph 13(a) of column 1 of schedule 2 of the Planning and Environmental Impact Assessments) Regulations (Northern Ireland) 2012 in that it is a change to development (quarrying) which is already authorised and executed. The change, the sand and gravel washing and screening plant with associated ponds and settlement ponds, is considered to be ancillary to the quarry. The applicable column 1 development is under paragraph 2 (a) "Quarries, open-cast mining and peat extraction of schedule 2 of the planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 as there is no exact criteria for the processing of minerals on the site and this is considered to be the relevant closest fitting criteria. In addition, the site is located within the Sperrins Area of Outstanding Natural Beauty. Therefore the development is considered to be Schedule 2 development by virtue of the fact the site falls within a designated area referred to in regulations 2(2) of the planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012. Therefore, in accordance with the EIA regulations, a screening exercise will be carried out to determine whether or not an EIA is required. The proposal has been considered against the selection criteria for screening Schedule 2 developments as identified in schedule 3 of the regulations.

Characteristics of the development:

The development is a mobile sand and gravel screening and washing plant to process on site materials which will use settlement ponds. The plant itself is loaded by mechanical shovel and material is processed into sizes and grades with conveyors to stockpiles.

The plant and associated settlement ponds and gravel screening and washing plant will occupy and area of approximately 0.3 ha, though in combination with the rest of the sand and gravel quarry the development relates to an area of land measuring approximately 9ha. It is considered that the proposed development will not be out of scale with the existing environment.

The accumulation with other Developments:

There would be an accumulation with the existing quarry operations (extractions and haul road) and vehicle movements to export the processed material off site. Although contributory, it is proposed that the resultant delivery and importation vehicles movements would not exceed the consented traffic levels associated with the quarry. The development will be controlled spatially within the quarry site by the red line boundary of the application site measuring an area of 0.3 ha within the 9ha sand and gravel extraction site. While the development will not represent a change in the scale of the development there may be additional impacts in the form of noise, dust, impacts on the local water environment and visual intrusion however it is considered that these impacts are not significant.

The use of natural resources

Materials required would primarily arise from the sands dug and processed at the quarry. The site is currently used for mineral extraction purposes and accordingly there are no significant trees, hedges or other features which would be affected by the unauthorised development. Water is contained in settlement ponds adjacent to the site and used in the washing plant. These ponds are fed by surface run off in and around the processing area. It is considered that there is no significant impact on natural resources.

The production of waste

The proposal itself should not generate any additional waste products.

Pollution and nuisances

THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS (Northern Ireland) 2015 (The 'EIA Regulations')

EA Determination sheet  
TO BE COMPLETED BEFORE AN ENFORCMENT NOTICE IS ISSUED

The unauthorised development has the potential to cause additional nuisances including noise and dust. There may be visual impacts due to the positioning of the plant on the site however these may not be considered significant.

Water pollution, in particular of the river Faughan and Tributaries SAC and ASSI is an impact that was considered and was concerns raised by NIEA Natural Heritage and Loughs Agency. However NIEA Natural carried out a habitats regulations assessment for applications A/2011/0636/F AND A/2011/0640/F for the retention of the works onsite and concluded that it was unlikely that the development would have a significant effect on the integrity of the River Faughan and Tributaries SAC and ASSI. NIEA Water Management were also satisfied that that there would be no significant impact on the water environment.

In terms of traffic creating a nuisance, there is no anticipated increase in vehicle usage and therefore there is no considered impact. Rds have sought additional information which requires the improved access. This will involve removal of grassland and hedgerow however it is considered that the impact will be minimal.

#### Risks of Accidents

The Development would involve the standard risks associated with any such operation consistent with quarry and ancillary processing practices. However the risk of accidents should be low and should not impact on public safety or the environment provided that standard Health and Safety procedures being adopted, implemented and complied with at all times.

#### Location of Development.

The site located to the south of 341 Longland Road, approximately 4.5km to the south east of Claudy within the approved sand and gravel extraction site. The site is located close to a tributary of the River Faughan and Tributaries SAC and ASSI however as discussed, it is considered that there will be no significant environmental impact on these designated sites.

The site is located within the Sperrins Area of Natural Beauty but it is considered that there is no significant impact on this designated site. Landscape Architects have no concerns about the washing plant and ponds placed on the site.

There is a scheduled monument, a standing stone approximately 550m to the west of the application site. It is considered that as the unauthorised development is placed on the floor of an existing quarry complex it will not impact directly or indirectly on the monument. NIEA monuments do not have any objection to the development as proposed and therefore existing onsite therefore there is no significant impact on the landscapes of historical, cultural or archaeological significance. There are a number of dwellings within the vicinity of the site within this rural location therefore the area is not considered densely populated.

The unauthorised development will not impact upon any coastal zones, mountains or forest areas, nature reserves or parks which would impact upon the development.

The unauthorised development does not affect areas where the environmental quality standards have already been exceeded.

In terms of the relative abundance, quality and regenerative capacity of natural resources in the area it is not considered that the works will impact upon natural resources in the area.

#### Characteristics of Potential Impacts:

##### Extent of Impacts:

It is anticipated that the extent of any potential noise or dust impact would primarily be limited to within the confines of the quarry boundaries there are a number of dwellings located around the development however the Derry City's councils Environmental health Department have no

THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS (Northern Ireland) 2015 (The 'EIA Regulations')

EA Determination sheet  
TO BE COMPLETED BEFORE AN ENFORCMENT NOTICE IS ISSUED

concerns with noise and dust impacts from the plant and settlement ponds in place and therefore have no objection.

In terms of visual impact, while the development falls within an AONB and is visible from some elevated viewpoints, its impact is considered to be limited as it is viewed within the context of the existing approved sand and gravel quarry in which it has been placed. Landscape architects have no concerns about the development and thus the impact is not significant.

The site is in close proximity to a tributary of the River Faughan and Tributaries SAC and ASSI. Following a submission of a drainage plan for the entire site under the current planning application, NIEA has carried out a Habitats Regulations Assessment on the SAC features of the River Faughan and Tributaries alongside an assessment of the impacts on the additional ASSI features. The HRA concluded that significant effects on the site are unlikely provided mitigation measures outlined on the drainage plan provided are adhered to.

It is acknowledged, through the outcome of case law (Gillespie Vs First Secretary of State (2003)) that the effects on the environment must be considered independently of whether those effects can be mitigated or even avoided but that remediation measures need not be ignored when making decisions about likely significant effects of development. Care and judgement, however, has to be exercised. In some cases the remedial measures will be modest in scope or so plainly and easily achievable that it would be proper to hold that the project could not have significant effects on the environment. However if prospective remedial measures are not plainly established and not plainly uncontroversial, the case calls for an EIA. In this case the owner has submitted a plan that indicates the drainage system in place at the well-established sand and gravel extraction site. NIEA have deemed the drainage arrangements on site would ensure that there would not be a likely significant effect on the River Faughan and Tributaries ASSI and SAC. It is considered that the mitigatory drainage measures are established at the site, are not controversial, are not so complex that they would themselves have significant effects and there is no uncertainty about the efficacy. In terms of protected species, the site is on the floor of an existing quarry and therefore it is considered there would be no impact.

The Transfrontier nature of the impact  
N/A

The Magnitude and complexity of the Impacts

The potential impacts of the development are not considered to be of high magnitude or complexity as the development is typical ancillary development to an existing quarry and is therefore unlikely to have significant effects.

The Probability of the impacts.

The probability of the potential impacts is that they will occur however it is not anticipated that the probability of the environmental impacts would be significant enough to warrant the preparation of an Environmental Statement.

The Duration, Frequency and reversibility of the impact

The development is within the continued operation of extraction on the site. As restoration is conditioned as part of the quarrying permission at the site, the development would be considered to be reversible. The potential impacts would consequently exist for the life of the development until such times that the development or the quarrying operations cease. However it is not deemed that the impacts are significant.

Conclusion



THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS (Northern Ireland) 2015 (The 'EIA Regulations')

EA Determination sheet  
TO BE COMPLETED BEFORE AN ENFORCMENT NOTICE IS ISSUED

Reasons Why an EA determination is necessary:- Unauthorised works: settlement ponds and washing plant

The works onsite fall under Schedule 2 part 13 (A) – The carrying out of development to provide for any changes to or extension of development of a description listed in Schedule 1 or in Paragraph 1 to 12 of Column 1 of this table, where that development is already authorised, executed, and change or extension may have significant adverse effects on the environment.

Signatures

1.           A. Warden            
2.           C. Roberts            
3.           John Longfield          

Date

          19-10-16            
          19-10-16            
          19-10-16

THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS (Northern Ireland) 2015 (The 'EIA Regulations')

EA Determination sheet  
TO BE COMPLETED BEFORE AN ENFORCMENT NOTICE IS ISSUED

DCAN 10 "Environmental Impact Assessment" states that in general an EIA will be needed for Schedule 2 Developments in the following circumstances:

- For major developments which are of such a scale as to have wide ranging environmental effects and be of more local importance;
  - For developments of a smaller scale located wholly or partly in environmentally sensitive locations where effects are significant; in certain cases, other areas subject to environmentally- based statutory or non statutory designations not included in the definition of sensitive area may also be relevant in determining whether EIA is required; urban locations may also be considered sensitive as effects on a densely populated area may be significant.
- In relation to the first point, the proposed development is not considered to be a major development.

In relation to the second point the development is located within the Sperrins Area of Natural beauty. It has been considered that there is no significant affect on this sensitive site. In addition it is located in close proximity to a tributary of the River Faughan and Tributaries SAC and ASSI but as discussed, it is considered that there will be no significant impact on this designation.

In relation to the final point, it is considered that the development is not considered to have an unusually complex or potentially hazardous environmental effects which would warrant preparation of an Environmental Statement.

Taking into account the above, it is considered that this schedule 2 development is unlikely to have significant effects on the environment and does not warrant the submission of an ES to accompany the application. However, the impact of the development on the local amenity will still need to be considered in the determination of the planning application.

THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS (Northern Ireland) 2015 (The 'EIA Regulations')

SELECTION CRITERIA REFERRED TO IN ARTICLE 4.3 OF THE DIRECTIVE

Nature of Breach: Unauthorised siting of screening and washing plant and settlement ponds

1. Consider characteristics of development

The Characteristics of development must be considered having regard, in particular, to:-

- |    |  |     |
|----|--|-----|
| a. | The size of development  | Yes |
| b. | The cumulation with other development  | Yes |
| c. | The use of natural resources   | Yes |
| d. | The production of waste  | Yes |
| e. | Pollution and nuisances  | Yes |
| f. | The risk of accidents, having regard in particular to substances or technologies used. | Yes |

2. Consider location of development

The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to:-


- |       |   |     |
|-------|---|-----|
| a.    | the existing land use   | Yes |
| b.    | the relative abundance, quality and regenerative capacity of natural resources in the area.   | Yes |
| c.    | The absorption capacity of the nature environment, paying particular attention to the following areas-  |     |
| i.    | wetlands  | Yes |
| ii.   | coastal zones   | Yes |
| iii.  | mountain and forest areas   | Yes |
| iv.   | nature reserves and parks   | Yes |
| v.    | areas classified or protected under Members of States' legislation; areas designated by Member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds and Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora; | Yes |
| vi.   | areas in which environmental quality standards laid down in Community legislation have already been exceeded  | Yes |
| vii.  | densely populated areas   | Yes |
| viii. | landscapes of historical, cultural or archaeological significance   | Yes |

THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS (Northern Ireland) 2015 (The 'EIA Regulations')

3. Consider Potential Impact

The potential significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard, in particular to:-

- |    |  |     |
|----|--|-----|
| a. | the extent of the impact (geographical area and size of the affected population) | Yes |
| b. | the transfrontier nature of the impact   | N/A |
| c. | the magnitude and Complexity of the Impact                                       | Yes |
| d. | the probability of the impact  | Yes |
| e. | the duration, frequency and reversibility of the impact                          | Yes |

Signature of Officer: 

Date: 14-10-16

Amex A

Were consultations necessary to complete the environmental assessment determination? If YES please specify.

NIEA Natural Heritage - NIEA, Natural Heritage advise refusal of this application unless any approval is made subject to conditions which would overcome our concerns.

NIEA acknowledge receipt of the site drainage plan dated 19 October 2012 and the objection letter dated 5 November 2012.

Appraisal of the proposal: Natural Heritage Interest NIEA have taken the comments within the objection letter 5.11.12 into consideration in our response. NIEA has considered the additional site

drainage plan for the entire quarry dated 19 October 2012. From the information provided NIEA has carried out a cumulative Habitats Regulations Assessment (HRA) for the following planning applications A/2011/0638, A/2011/0639 and A/2011/0640. Taking all of these planning applications into consideration a joint HRA was carried out on the SAC features of the River Faughan and Tributaries alongside an assessment of impacts on the additional ASSI features. The HRA has concluded that significant effects on the integrity of the site are unlikely provided mitigation is conditioned as part of planning approval: Should approval be granted, the following Condition should be attached to the Decision Notice.

#### Conditions

The mitigation measures outlined in the site drainage plan shall be adhered to.

Reason: To prevent any adverse impacts on the designated site features of the River Faughan and Tributaries SAC/ASSI.

#### Informatives

Should the applicant wish to abstract a volume of water greater than 10 Cubic meters per day they must apply for an abstraction license under the Water abstraction and Impoundment (licensing) Regulations (Northern Ireland) 2006. No action is necessary for an abstraction of less than 10 cubic meters per day but you must comply with Permitted Controlled Activities conditions as detailed on the agencies website.

The applicant's attention is drawn to the fact that the site is close to the boundary of River Faughan and Tributaries SAC/ASSI and precautions should be taken to ensure its integrity will not be damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and Environment (Northern Ireland) Order 2002 (as amended) and require consent from the Northern Ireland Environment Agency, Conservation, Designations and Protection Unit, Klondyke Building, Gasworks Business Park, Belfast BT7 2JA.

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild bird. It is also an offence to intentionally or recklessly: take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird. If any person intentionally or recklessly disturbs any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird they shall be guilty of an offence. Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that tree and hedge loss should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

NIEA Water Management Unit- The response from the Water Management Unit (WMU) of Northern Ireland Environment Agency (NIEA) to the above planning application is as follows: NIEA WMU note the site drainage plan for this proposal (date stamped by DOE Planning Division 19/10/12). WMU has no objection in principle to this proposal providing all the relevant statutory permissions for this development are obtained and all proposed pollution mitigation is strictly adhered to. WMU would

advise the applicant and DOE Strategic Planning Division that all other recommendations made in our previous responses remain valid.

The response from the Water Management Unit (WMU) of Northern Ireland Environment Agency (NIEA) to the above planning application is as follows: You have sought clarification on WMU's planning response to this consultation, dated 20 September 2012. Clarification is provided below:

WMU highlighted that the most significant likely impacts from this type of development are likely to relate to any potential process effluent/site drainage discharges from the screening, washing phase, to the water environment and any water abstractions for the processing of the materials. However, as stated in the letter a site visit was carried out by WMU, and a site drainage plan received, which due to the retrospective nature of this application enabled WMU to determine that no water abstractions or significant discharges were occurring from the site.

The second part of WMU's letter relates to our standard Environmental Impact Assessment (EIA) scoping advice which was included to enable a full EIA to be carried out should a positive EIA Determination result once all consultee views and DOE planning's judgement were taken into account. It is important to note that WMU's comments relate solely to this planning application.

NIEA Historic Monuments Unit - This application is for retention of facilities associated with an existing quarry. Any archaeological remains which may have existed at this location will have been previously destroyed by the extensive extraction which has taken place here. Therefore, without prejudice to any other material considerations in this case, NIEA: Historic Monuments Unit has no archaeological objections to this proposal at this time.

Loughs Agency - Thank you for your recent correspondence received 28 August 2012 in relation to the above-mentioned proposed development. The Loughs Agency is the statutory body charged with the conservation, protection and development of inland fisheries within the Foyle and Carlingford systems, the promotion of development of Loughs Foyle and Carlingford, and catchments for commercial and recreational purposes in respect of marine, fishery and aquaculture issues and the development of marine tourism. The Loughs Agency has considered the information provided and would advise as follows about the above-mentioned planning application.

#### CONDITIONS:

The Loughs Agency requests that all storm water from the development site should not be discharged to nearby watercourses unless first passed through pollution interception and flow attenuation measures. Storm water can carry pollutants into watercourses and high volume discharges can alter the prevailing hydrological regime, both of which can impact on fisheries interests.

REASON: to reduce pollution to nearby watercourses

Should for any reason, oil or fuel be stored in the area, it must be kept in a bunded area (providing 110% capacity of the largest stored unit), 100m from any watercourse that appears on a 6" O.S. map of the site. Such a setup must comply with the appropriate British Standards

REASON: to reduce pollution to nearby watercourses

Loughs Agency request that work methods and materials must not impinge upon any nearby watercourses. The use of cement/concrete on site will require careful management. While they are

versatile building materials, they are also highly toxic to aquatic life and therefore must be kept out of all drains and watercourses. Any machinery involved in operations must be managed appropriately - Track ruttings by machinery movement, kept to a minimum while vehicle maintenance is prohibited within 100m of any watercourse. On a whole, all machinery must be in good working order, free from leakage, to avoid any nearby transferral.

REASON: to reduce pollution to nearby watercourses.

Furthermore, Loughs Agency would like to highlight the potential impacts which need consideration. Such impacts could include:

- Obstruction to upstream and downstream migration both during and after extraction activities
- Disturbance of spawning beds during extraction – timing of works is critical
- Increases in silt and sediment loads resulting from extraction activity
- Point source pollution incidents during extraction
- Drainage issues
- Degredation of aesthetic landscape quality and subsequent effects on tourism
- Adverse legacy of operations (long term consequences)

The Loughs Agency would request sight of any future restoration plans for this location, and would also request sight of the habitats regulation assessment to accompany this application, given the proximity to the River Faughan Special Area of Conservation (SAC).

#### INFORMATIVES:

The applicant should demonstrate best environmental practice when working close to watercourses. The potential for deleterious matter to enter a watercourse is of primary concern. Impacts on the aquatic environment such as a decrease in water quality or an increase in silt load can cause a significant impact upon various life history stages of fish species. It is therefore requested that the aquatic and riparian flora and fauna be given due consideration during any proposed works.

It is an offence to remove or disturb any material, including sand or gravel from the bed of any freshwater river within the Foyle and Carlingford Areas without the consent of the Loughs Agency contrary to Section 46 of the Foyle Fisheries Act (NI) 1952, as amended by Article 18(3) of the Foyle and Carlingford Fisheries (NI) Order 2007.

The applicant should also be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.

Rivers Agency - It should be noted that under A/2011/0640/F Rivers Agency has previously advised quarry development is often associated with the following flood risks and the applicant should ensure that:

- spoil or washings do not enter or lessen the width of any watercourse
- any groundwater will be controlled to alleviate potential flooding of the site or elsewhere
- any potential flooding emanating from overland flow or exceedance of internal drainage system will be controlled to alleviate flooding of the site or elsewhere
- measures are in place to mitigate for potential breach or overspilling of any contained water such as settlement ponds



Derry Environmental Health Office - Thank you for this consultation. This department has had an opportunity to review this application and has no objection to this proposal

Roads Service - Roads Service has no objection in principle to this application however before this application may be approved the requirements outlined for A/2011/0638/F & A/2011/0640/F must be addressed

