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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Donegal County Council**

**Planning Register Reference Number: 20/50298**

**Appeal** by Francis and Bernie Friel of Devlinmore, Cranford, Letterkenny, County Donegal against the decision made on the 18<sup>th</sup> day of June, 2020 by Donegal County Council to grant subject to conditions a permission to Martin McGee care of Canavan Associates Limited of 23 Prince's Street, Derry, Northern Ireland in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Continuation of the existing operational quarry for a 25-year period. Operations will include: 1) extraction, blasting and rock breaking within the 2.62 hectares previously permitted quarrying area in a downward direction; 2) processing of rock, screening and washing of material including sand; 3) the continuation of use of all structures and other ancillary facilities; 4) proposed water treatment plant to clean and recycle water; 5) previously permitted site access and 6) all related operations including blasting and extraction with all associated site works; and 7) ancillary and associated developments; all at the permitted/operational quarry (previous planning register reference numbers: 09/40336, 13/50841 and 07/51043); all at Cranford Stone Quarry in the townland of Devlinmore, Cranford, County Donegal.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

Having regard to the established quarry and associated development on these lands, the planning history of the site, and the nature and scale of the proposed development, comprising continuation of a previously permitted use, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Screening.**

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report that the Mulroy Bay Special Area of Conservation (site code 002159) is the only European site for which there is a likelihood of significant effects.

## **Appropriate Assessment.**

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the Mulroy Bay Special Area of Conservation (site code 002159) in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the

- (a) likely indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) mitigation measures which are included as part of the current proposal, and
- (c) conservation objectives for the European Site.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would be likely to adversely affect the Mulroy Bay Special Area of Conservation (site code 002159) in view of the site's conservation objectives

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be 25 years from the date of this order. The quarry use shall then cease, with all related structures removed and remedial works including reinstatement works to be carried out to the satisfaction of the planning authority, unless prior to the end of that period, planning permission has been granted for the continuance of the use for a further specified period.

**Reason:** To allow for a review of the development having regard to the circumstances then pertaining.

3. The quarry, and all activities occurring therein (with the exception of blasting operations), shall only operate between 0800 hours and 2000 hours, Monday to Friday and between 0800 hours and 1600 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.

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

4. A comprehensive plan for the restoration of the site following the cessation of quarrying works shall be submitted to, and agreed in writing with, the planning authority within six months from the date of this order. This plan shall include proposals for re-use of the quarry and measures to ensure public safety therein. The developer shall commence implementation of the agreed site restoration plan within the area of the site within one month of cessation of extraction in this area and shall have completed this part of the plan within 12 months of commencement.

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

5. The management of all surface water, storm water and process water shall be in accordance with the Hydrogeology and Hydrology report prepared by Tynan Environmental as submitted to the planning authority on 11<sup>th</sup> day of March, 2020.

**Reason:** To prevent water pollution.

6.
  - (a) During the operational phase of the development, the noise levels from within the boundaries of the site, measured at noise sensitive locations in the vicinity, shall not exceed 55 dB(A) Leq, 1hr. When measuring the specific noise, the time shall be any one-hour period during which the sound emission from the quarry is at its maximum level.
  - (b) A noise survey and assessment programme shall be undertaken to assess the impact of noise emissions arising from the operation of the development. The scope and methodology of this survey and assessment programme shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this order. The results obtained from the programme shall be submitted for review at annual intervals to the planning authority. The developer shall carry out any amendments to the programme required by the planning authority, following this review.

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

7.
  - (a) Blasting operations shall take place only between 1000 hours and 1700 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays. Monitoring of the noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the planning authority.

- (b) Prior to the firing of any blast, the developer shall give notice of his intention to the occupiers of all dwellings within 500 metres of the site. An audible alarm for a minimum period of one minute shall be sounded. This alarm shall be of sufficient power to be heard at all such dwellings.

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

- 8. (a) Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres/second, when measured in any three mutually orthogonal directions at any sensitive location.
- (b) Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin)max peak with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin).
- (c) A monitoring programme, which shall include reviews to be undertaken at annual intervals, shall be developed to assess the impact of quarry blasts. Details of this programme shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this order. This programme shall be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.

**Reason:** To protect the residential amenity of property in the vicinity.

9. (a) Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this order. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.
- (b) A monthly survey and monitoring programme of dust and particulate emissions shall be undertaken to provide for compliance with these limits. Details of this programme, including the location of dust monitoring stations, and details of dust suppression measures to be carried out within the site, shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this order. This programme shall include an annual review of all dust monitoring data, to be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.

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

10. All loads of dry fine materials shall be either sprayed with water or covered/sheeted prior to exiting the quarry.

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



11. The wheels and undersides of all vehicles transporting aggregate from the site onto the public road shall, prior to the exit of such vehicles onto the public road, be washed in the existing wheel-washing facility.

**Reason:** In the interest of traffic safety and convenience, and to protect the amenities of the area.

12. Scrap metal and other waste material shall be removed at least annually from the site in accordance with the written requirements of the planning authority. Such materials shall be deemed to include scrapped trucks, other scrapped vehicles, empty oil barrels, broken or otherwise unusable truck bodies, worn out conveyor belts/chains, worn out batteries, unusable tyres and worn out conveyor/roller shafts.

**Reason:** To protect the amenities of the area.

13. Within six months from the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**John Connolly**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2020.**