

Planning and Development Acts 2000 to 2020

Planning Authority: Donegal County Council

Planning Register Reference Number: EUQY4 (UD2027)

Application for Leave to Apply for Substitute Consent by Bridget Murray and Gabriel Murray care of McMullin Associates Architects of Tirchonail Street, Donegal Town, County Donegal.

Development: Quarry at Drumbeagh, Mountcharles, County Donegal.

Decision

GRANT leave to apply for substitute consent under section 177D of the Planning and Development Act 2000, as amended, based on the reasons and considerations 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 Sections 177C and 177D of the Planning and Development Act, 2000, as amended, the Board is satisfied that a determination as to whether an Environmental Impact Assessment is required would be necessary in this case.

Furthermore, the Board examined whether or not exceptional circumstances exist such that it would be appropriate to allow the opportunity for regularisation of the development by granting leave to apply for substitute consent.

In this regard, the Board considered that:

- (a) this application for leave to apply for substitute consent has demonstrated that the regularisation of the quarry would not circumvent the purposes and objectives of the Environmental Impact Assessment Directive or of the Habitats Directive because it would allow for the provision of information and an analysis of the likely significant environmental effects of the development,
- (b) prior to receipt of the planning authority's enforcement notice under reference number UD 2027, dated the 18th day of November 2020, the applicants could reasonably have had a belief that the scale and nature of quarrying development that took place was not unauthorised, in particular taking account of the correspondence from the planning authority dated the 23rd day of April 1993,
- (c) this application for leave to apply for substitute consent has demonstrated that the ability to carry out an assessment of the environmental impacts of the development for the purpose of an Environmental Impact Assessment and to carry out an Appropriate Assessment, and provide for public participation in such assessments, has not been substantially impaired, and

- (d) a determination as to whether an environmental impact assessment is required would, if necessary, facilitate the potential for the remediation of any signification effects on the environment.

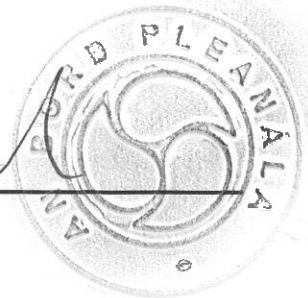
Having regard to the foregoing, it is considered that exceptional circumstances do exist such that it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent in relation to the site outlined in this application.



Dave Walsh

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 15th day of November 2021