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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Donegal County Council**

**Application for Leave To Apply For Substitute Consent**, by Ian Tinney (trading as Tinney's Quarry) care of Joe Bonner of The Airport Hub, Unit 1, Furry Park, Old Swords Road, Santry, Dublin.

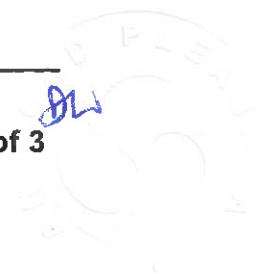
**Development:** Quarry at Trentaghmucklagh, Saint Johnstown, County Donegal.

**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 an Environmental Impact Assessment Report and an Appropriate Assessment are required in this case.

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

In this regard, the Board considered that:

- i) this application for leave to apply for substitute consent has demonstrated that the regularisation of the quarry would not circumvent the purposes and objectives of the Environmental Impact Assessment Directive or of the Habitats Directive, because it would allow for the provision of information and an analysis of the likely significant environmental effects of the development and the effects of the development on the integrity of European sites,
- ii) notwithstanding the submission of a substitute consent application (An Bord Pleanála reference number 05E.SU0010) inferring that the applicant acknowledged that there was no planning permission for the quarry, prior to receipt of the planning authority's enforcement notice under reference UD 2061 dated the 3<sup>rd</sup> day of July 2020, the applicant could reasonably have had a belief that the quarrying development that took place was not unauthorised, particularly as the planning authority had failed to take enforcement action following the initial registration of the quarry and as the retention of an access road to specifically serve

the quarry had been granted by the planning authority in 2005 (Donegal County Council planning register reference number 04/6411),

- iii) the ability to carry out an assessment of the environmental impacts of the development for the purpose of an Environmental Impact Assessment and to carry out an Appropriate Assessment has not been substantially impaired, and that public participation in such assessments has not been substantially impaired, and
- iv) a remedial environmental impact assessment would allow for the remediation of actual or likely significant effects on the environment and a remedial Natura Impact Statement would allow for the remediation of any adverse effects on the integrity of a European site.

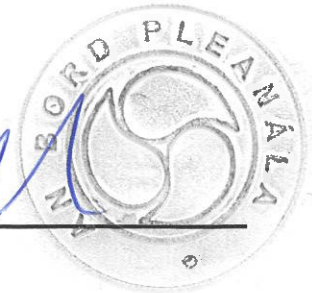
Having regard to the foregoing, it is considered that exceptional circumstances do exist such that it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent in relation to the site outlined in this application.



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**Dave Walsh**

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



Dated this *19<sup>th</sup>* day of *November* 2021.