

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

## Donegal County

An Bord Pleanála Reference Number: 05.LS.0027

**APPLICATION FOR LEAVE TO APPLY FOR SUBSTITUTE CONSENT** by Patton Brothers Quarry Limited care of Joe Bonner of 127 Lower Baggot Street, Dublin.

**DEVELOPMENT:** Quarry at Gortlettragh, Stranorlar, County Donegal.

## DECISION

**GRANT** leave to apply for substitute consent under section 177D (4) 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 Section 177D(1) of the Planning and Development Acts, 2000, as amended, and to the conclusions reached by the Board in its review of the determination made by the Planning Authority under Section 261A of that Act with respect to the quarry on the site (reference number 05.QV.0012), the Board is satisfied that an Environmental Impact Assessment was required for the development upon the site and that one was not carried out.

The Board concluded that exceptional circumstances exist by reference to the following matters:

- the regularisation of the development would not circumvent the purpose or objectives of the Environmental Impact Assessment Directive,
- the relatively small scale of the development when compared to the threshold set at class 2(b) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001,
- the uncertainty regarding the applicant's belief that the development was not unauthorised and that the applicant might reasonably have believed that the development was not unauthorised,
- the ability to carry out an Environmental Impact Assessment and provide for public participation has not been substantially impaired,
- the limited nature of the actual or likely significant effects on the environment resulting from the development,
- the extent to which significant effects on the environment, if any, can be remediated,
- the location of the development and relevant development plan policies and objectives in respect of development of this type and at this location, and
- the planning history of the site based, inter alia, on the information available from the planning authority including:
  - the applicant's history of general compliance with permissions elsewhere and resolution of matters at an early stage,

- the non-compliance with planning permissions which arose from exceeding the duration of permissions rather than any significant expansion beyond authorised site boundaries, and
- the applicant's unsuccessful and incomplete engagement in the Section 261A substitute consent process,

and considered that it would be appropriate to consider an application for the regularisation of the development by means of an application for substitute consent.

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. Having regard to that assessment and the conclusions reached by the Board in its review of the determination made by the planning authority under Section 261A of that Act with respect to the quarry on the site (reference number 05. QV.0012), the Board is satisfied that the development, either individually or in combination with other plans or projects, would not have been likely to have had a significant effect on the River Finn Special Area of Conservation (Site Code: 002301), or any other European site, in view of the site's Conservation Objectives.

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

**Dated this            day of            2017.**