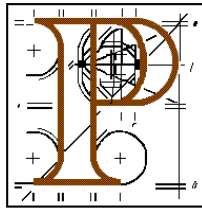


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Donegal County**

**Planning Register Reference Number: EUQY02**

An Bord Pleanála Reference Number: 05E.SU.0054

**APPLICATION FOR SUBSTITUTE CONSENT** by Northstone (Northern Ireland) Limited care of Quarryplan Limited of 10a Vale Road, Crossgar, Downpatrick, County Down in accordance with section 177E of the Planning and Development Act, 2000, as amended.

**LOCATION OF QUARRY:** Ballynacarrick, Ballintra, County Donegal.

## **BOARD DECISION**

The Board, in accordance with section 177K of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, decided to **GRANT** substitute consent in accordance with the following conditions.

## **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**

In coming to its decision, the Board had regard to the following:

- (a) Council Directive 92/43/EEC on the Conservation and Natural Habitats and of Wild Fauna and Flora, as amended,
- (b) the provisions of the Planning and Development Acts, 2000 to 2016, and in particular Part XA,
- (c) the 'Quarries and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government, April 2004,
- (d) the provisions of the current Donegal County Development Plan,
- (e) the remedial Environmental Impact Statement and remedial Natura Impact Statement submitted with the application for substitute consent, and documentation on file generally,
- (f) the report and the opinion of the planning authority under section 177I of the Planning and Development Act 2000, as amended,
- (g) the submissions made in accordance with regulations under section 177N of the said Act, as amended,
- (h) the planning history of the site,

- (i) the pattern of development in the area,
- (j) the nature and scale of the development the subject of this application for substitute consent, and
- (k) the report of the Board's Inspector, including in relation to potential significant effects on the environment.

### *Appropriate Assessment*

Having regard to the nature, scale and extent of the development carried out, the remedial Natura Impact Statement submitted with the application and the mitigation measures contained therein, the submissions on file and the Inspector's assessment, the Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment and completed an appropriate assessment of the impacts the development had on nearby Natura 2000 sites, specifically the Ballintra Special Area of Conservation (Site Code 000115) and Durnesh Lough Special Area of Conservation (Site Code 000138). In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the effects the development has or had on the aforementioned Natura sites, having regard to the sites' conservation objectives.

The Board was satisfied that, subject to the implementation of the identified mitigation measures and on the basis of the information available, the development, either individually or in combination with other plans or projects, would not adversely affect or would not have adversely affected the integrity of any Natura sites, having regard to the conservation objectives of those sites.

### *Environmental Impact Assessment*

The Board had regard to the remedial environmental impact statement and completed an environmental impact assessment in relation to the development in question and considered that the assessment and conclusions of the Inspector's report were satisfactory in identifying and describing the direct, indirect, secondary and cumulative effects of the development undertaken. The Board adopted the Inspector's report and, with the exception of impacts on Cultural Heritage, agreed with the Inspector's conclusions, in relation to the acceptability of mitigation measures and residual effects and that the subject development was not likely to have had a significant effect on the environment.

### *Conclusion*

It is considered that, subject to the implementation of the mitigation measures set out in the remedial Environmental Impact Statement and subject to the following conditions, the effects of the development on the environment would be acceptable. The subject development would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse substitute consent, the Board shared the Inspector's view that the quarry development gave rise to a serious and permanent adverse impact on archaeology by reason of the removal of a major element of a Cashel or Ringfort – a recorded archaeological monument. Notwithstanding this, the Board had regard to the significant element of the monument that remains, to the submission of the Department of Arts, Heritage and the Gaeltacht, which recommended conditions, and the potential for mitigation offered by means of such conditions and decided not to refuse permission for this reason.

## CONDITIONS

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application, except as may otherwise be required in order to comply with the following conditions.  
  
(b) This grant of substitute consent relates only to development undertaken, as described in the application, and does not authorise any future development including excavation, on the subject site.

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

2. All environmental mitigation measures identified within the remedial Environmental Impact Statement and remedial Natura Impact Statement shall be implemented in full, except as may otherwise be required in order to comply with other conditions attaching to this order.

**Reason:** To protect the environment and to ensure protection of the aquifer.

3. The developer shall employ a suitably qualified archaeologist to prepare, within three months of the date of this order and following consultation with the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs, a report and works programme for the archaeological assessment of the site and specifically the remainder of Recorded Monument DG103-019 for the written agreement of the planning authority. Any field studies proposed by this report shall be completed within six months of the date of this order and a comprehensive report detailing any findings and recommendations shall be submitted to the planning authority and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.

**Reason:** To protect the cultural heritage of the area.

4. Should the development permitted under An Bord Pleanála reference number 05.QD.0020 not proceed, the quarry shall be restored in accordance with a restoration plan to be submitted to the planning authority for written agreement within three months of the date of this order. The plan shall provide for the enhancement of the biodiversity of the area post-closure, safety measures and a timetable for implementation.

**Reason:** To ensure the satisfactory restoration of the site.

5. Unless the development permitted under An Bord Pleanála reference number 05.QD.0020 has been commenced, the developer shall lodge with the planning authority, within three months of the date of this order, a cash deposit, a bond of an insurance company, or other security acceptable to the planning authority to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory restoration of any part of the site. 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 amenity.

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

**Dated this                      day of                      2017.**