

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Donegal County**

**Planning Register Reference Number: EUQY01**

An Bord Pleanála Reference Number: 05E.SU.0128

**APPLICATION FOR SUBSTITUTE CONSENT** by Patrick McCaffrey and Sons Limited care of Earth Science Partnership (Ireland) Limited of Tonranny, Westport, County Mayo in accordance with section 177E of the Planning and Development Act, 2000, as amended.

**LOCATION OF QUARRY:** Ballymagroarty Irish and Glasbolie, Ballintra, County Donegal.

## **BOARD DECISION**

The Board, in accordance with section 133 of the Planning and Development Act, 2000 decided to **DISMISS** the application for substitute consent 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**

The Board noted that an application for substitute consent is required to be made in relation to the development in respect of which the planning authority has made a determination under section 261A(2)(a) of the Planning and Development Act, 2000, as amended. The determination affecting the subject quarry related to the entirety of the quarry (planning authority reference number EUQY01).

The review undertaken by An Bord Pleanála of the planning authority's order (An Bord Pleanála reference number 05E.QV.0128) also referred to the entirety of the quarry.

The application for substitute consent initially received by An Bord Pleanála did not relate to the entire quarry and the Board, by means of a notice under section 132 of the Planning and Development Act, 2000 sought on two occasions (by letter dated the 29<sup>th</sup> day of June, 2015 and by letter dated the 18<sup>th</sup> day of September, 2015) to give the applicant an opportunity to address the deficiencies in the application, specifically to ensure the application and the supporting documentation extended to the entire site (as per the planning authority's order) and not one element only.

Notwithstanding these communications and the responses received, the Board considered that the identified deficiencies have not been resolved and that consequently the application in respect of this quarry does not comply with the requirements of section 261A(14) of the Planning and Development Act, 2000, as amended. The Board is precluded under sections 177K(1) and 261A(14) of the Planning and Development Act, 2000, as amended, from making a decision in these circumstances to grant or refuse substitute consent and, accordingly, the Board decided to dismiss the application pursuant to section 133 of the Planning and Development Act, 2000.

In not accepting the Inspector's recommendation to refuse permission, the Board considered that this option was not available to it having regard to the failure of the applicant to submit an application compliant with section 261A(14) of the Planning and Development Act, 2000, as amended.

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

**Dated this            day of            2017.**