



An  
Bord  
Pleanála

## Inspector's Report ABP – 305482 – 19.

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<b>Question</b>	Whether the quarrying of lands is or is not development or is or is not exempted development.
<b>Location</b>	Binnion, Clonmany, Co. Donegal.
<b>Declaration</b>	
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	UD17187-related enforcement case.
Applicant for Declaration	None.
Planning Authority Decision	None.
<b>Referral</b>	
<b>Referred by</b>	Donegal County Council.
<b>Owner/ Occupier</b>	William G. Doherty and Patrick G. Doherty.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	29 <sup>th</sup> November 2019.
<b>Inspector</b>	Mairead Kenny.

## 1.0 Overview

This case is connected with a related referral case (ABP - 306103 – 19). Concurrent consideration would be appropriate.

## 2.0 Site Location and Description

- 2.1. The site is located in a rural area at the north end of the Inishowen peninsula in County Donegal. The land is stated in legal terms to be in two ownerships and to be registered under 3 no. folios. The subject site is of stated area of 5.17 ha in total. It is bounded to the east by a rocky outcrop, which encroaches onto the site. This is the edge of a small hill known as Tanderagee Hill / Binnion Hill. At the eastern end of the site also there is a dwelling house. The site is severed by a county road and for the purposes of this referral is divided into 6 no. distinct plots, which are numbered 1 to 6 (or A, B, C, D, E and F on the concurrent case). Plots 2/B, 4/D and 6/E are to the east of the county road adjacent or including the base of the hill.
- 2.2. At its eastern side of the site within plots 2/B and 4/D significant excavation involving the breaking of rock has taken place at the edge of the hill / rocky outcrop. Plot 2/B is the location of most of the stored rock and some is to the rear of Plot 4/D. Plot 4/D is largely in use as a dwelling house and it also has been subject of rock breaking at its easternmost side. The extent of rock excavation within plots 2/B and 4/D is shown on a map presented in the referral, which I consider appears to be reasonably accurate. Plot 6/E is vacant.
- 2.3. To the west of the county road plot 1/A has been infilled/restored. Within plot 3/C there is stored rock and a small shed. The original condition of the land at both sides of the county road is waterlogged.

## 3.0 The Question

- 3.1. Whether the quarrying of lands at Binnion, Clonmany, Co. Donegal is or is not development or is or is not exempted development.

## 4.0 Planning History

Reg. ref. 03/4044 relates to erection of a dwelling house by Patrick Doherty. The subject site outlined on the planning registry map includes part of the area subject of the current referral. A copy of the registry map is on file UD17187.

Reg. ref. 19/50142 relates to an application by Patrick Doherty for retention of partial removal of rock outcrop to the rear of a dwelling house and use of said material in recontouring of adjoining lands and for the completion of said works. The 1.18 ha site outlined comprises part of field 4/D (east of the timber fence which marks the defined end of the garden of the dwelling house) and all of field 3/C as described on this referral case documents. This application was withdrawn on 20 March 2019.

Reg. ref. 19/51608 relates to an application by William Doherty for ground works to reduce the site level foreign agricultural shed and permission for construction of an agricultural shed. Subject lands identified comprise a site location of 0.57 ha and a further field within the land holding to the west of the public road, respectively fields 2/B and 1/A is identified in the current referral case documents. The Donegal County Council website indicates that a decision is due by 25 June 2020.

The lands and the subject development are subject of un-authorized development proceedings taken by Donegal County Council – case reference UD17187. On the 10<sup>th</sup> of October 2018 a decision was made to prosecute for non-compliance with the enforcement notice. A court summons issued to developers on the 17<sup>th</sup> of January 2019 refers. The matter now stands adjourned before the District Court.

## 5.0 Policy Context

### 5.1. Development Plan

The site is not subject of any objectives for roads or any protected landscapes or views.

### 5.2. Natural Heritage Designations

The nearest European site is Inishowen Coast Special Area of Conservation.

## 6.0 The Referral

### 6.1. Referrer's Case

The Referral submission by Donegal County Council raises the following points:

- The development is currently being investigated as unauthorised development under enforcement case reference UD17187. An aerial photo from 2013 and Google Street view images indicate that the development site was originally a rocky hillside covered in gorse.
- Following an inspection on 29 July 2017 the planning authority issued an enforcement notice on 12 October 2017. In their submission to the Authority on 4 February 2019 the developer contended that the development in question is exempted development under Article 8C.
- The planning authority is of the view that the development constitutes quarrying of lands which, irrespective of the final use of the extracted material, is a separate and materially different development to exempted development provided for under the above-mentioned Article 8C.

### 6.2. Owner/ occupier's response

The response of Harley Planning Consultations on behalf of the owner/occupier, which was received by the Board on the 16<sup>th</sup> of October 2019 includes:

- The development described by Donegal County Council is worded to refer to 'quarrying'. In fact what is involved is recontouring of lands to improve their viability.
- To clarify, the owners are reclaiming their farm holdings through recontouring a rocky outcrop at the eastern end of their land holdings and using the excavated rock to underlay the temporarily removed subsoil on their low-lying lands further west. Land reclamation has been completed in field A and a portion of field C has been reclaimed. Evidence of the topsoil removal and rock disposal is clear. The intention is to reclaim the remaining fields 2/B, 3/C, 6/E and 5/F. Field 4/D is essentially the curtilage and garden associated with Patrick Doherty's home.

- The definition of a quarry under section 2 of the Act refers. Explicit in this is the storage / removal of the minerals for processing. The owner occupiers are not involved in any quarrying business and no excavated minerals have been removed from their lands and no processing has taken place. There are no plant or machinery normally associated with a quarrying operation on the lands. The rock which has been taken has already been used to re-contour lower lying lands to the west.
- Article 8C confirms that land reclamation (other than reclamation of wetlands) consisting of recontouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development. The works in this case consist of recontouring within the landholding to facilitate land reclamation by using the excavated material from the higher lands to the east of their farms to raise the lower lands to the west.
- No import or export of materials is proposed. No wetlands are to be reclaimed.
- Article 8C confirms that recontouring can include infilling of soil. It does not exclude recontouring within the farm holding using rock. Article 8C does not restrict the extent or amounts of material to be used as part of land reclamation, through recontouring of land within a farm holding.
- Donegal County Council is adopting an unreasonable and narrow position. The removal of the material from part of their landholding is irrevocably associated with the recontouring of their lands within another part of the landholding.
- The scale and extent of recontouring is not restricted under Article 8C.
- The amount of excavated material is just about sufficient to complete the land reclamation programme.

### 6.3. Further Responses from planning authority (referrer)

Donegal County Council in a submission dated 12<sup>th</sup> of November 2019 responds as follows:

- The quarrying (notwithstanding the purposes the quarried material may be used for) is a wholly separate and materially different development to any land reclamation.
- While quarried material may be used in land reclamation projects, Article 8C of the Planning and Development Regulations cannot be construed as to include quarrying works which produce material which are in turn used in reclamation.
- The wet and low lying areas, which may be reclaimed are distinctly separate from the area which has been quarried and the quarrying works are therefore not part of any re-contouring necessary for the reclamation.
- William Doherty submitted a planning application on 22 October 2019 for ground works to reduce the site level for agricultural shed and permission for an agricultural shed on the quarried area. The works was not merely for land reclamation.
- The scale and extent of the excavation is wholly beyond that necessary to reclaim the original hillside for future farming purposes.
- The definition of a quarry under the Act includes places for storage or processing. It does not state that a quarry must include all of the above. It is illogical to suggest that quarrying has not occurred.
- The separate land reclamation works which the developer states are to be carried out are 140m approximately from an SAC, of significant scale, would involve transport and deposition of a significant amount of rock and necessitate significant ground works. The land reclamation work may in itself require Appropriate Assessment and if so would be de-exempted under the Act.

## **7.0 Statutory Provisions**

### **7.1. Planning and Development Act, 2000 (as amended)**

#### **Section 2(1)**

**“quarry”** means an excavation or system of excavations made for the purpose of, or connection with, the getting of materials (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or borehole or a well and borehole combined, and shall be deemed to include...

**“works”** includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

### **Section 3(1)**

In this Act **“development”** means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of the structures or other land.

### **Section 4(2)(a)**

The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act...

### **Section 4 (4)**

Notwithstanding paragraphs (a), (i), (ia) and (i) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

### **Section 177U(9)**

In deciding upon a declaration or referral under section 5 of this Act a Planning Authority or the Board, as the case may be, shall where appropriate, conduct a screening for Appropriate Assessment in accordance with the provisions of this section.

## **7.2. Planning and Development Regulations, 2001 (as amended)**

**Wetlands** are “natural or artificial areas where biogeochemical functions depend notably on constant or periodic shallow inundation, or saturation, by standing or flowing fresh, brackish or saline water”.

**Article 6(1) states:**

Subject to article 9, development of the class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the act, provided that such development complies with the conditions and limitations specified in column 2.

**Article 6(3) states:**

Subject to Article 9, in areas other than a city, a town or an area specified in section 19 (1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2.

**Article 8C states:**

Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

**Article 9(1):**

This states that development to which Article 6 relates shall not be exempted development for the purposes of the Act in circumstances including these below:

- (a) if the carrying out of such development would –
  - (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
  - (iii) endanger public safety by reason of traffic by reason of obstruction of road users,
  - (vi) interfere with the character of the landscape, or review our prospect of special amenity value or special interest...
  - (viiB) comprise development in relation to which a planning authority or ABP is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site



(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

## **Schedule 2 - Part 1 – Exempted Development – General**

### ***Development within the curtilage of the dwelling house***

#### **Class 6 (a)**

Column 1 – The construction of any path, drain or pond or the carrying out of any landscaping works within the curtilage of a house.

Column 2 - the level of the ground shall not be altered by more than 1 m above or below the level of the adjoining ground.

## **Schedule 2 - Part 3 Exempted Development – Rural –**

### ***Land Reclamation***

#### **Class 11:**

Development consisting of the carrying out of drainage and / or reclamation of wetlands. Conditions and limitations refer to the area not exceeding 0.1 ha.

Condition 2 clarifies that where development within a farm holding under this class has been carried out the total area shall not exceed the specified 0.1 ha.

## **8.0 Assessment**

The planning authority in formulating the question requests a decision on whether or not **quarrying** has taken place. It is the position of the planning authority that it is necessary to consider the works at the eastern end of the site as a separate activity which is quarrying.

I consider this referral raises the following issues:

- Whether the question relates to ‘works’ and ‘development’.
- Whether the removal of rock at the eastern side of the site is quarrying or recontouring.
- Whether the defined site comprises a farm holding.
- Whether Article 8C applies.

- Whether there is any restriction on exempted development.
- Appropriate Assessment.

As a prelude to considering these issues I note the following:

- I am satisfied that the lands affected by the subject development would not be described as a wetland under the definition presented above. As such Class 11 is not relevant.
- There is no importation of materials from outside the site defined. I am also satisfied that there is no proposal to export excavated material and that the excavated rock would all be utilised in the reclamation of the site.
- The development does not involve waste material.

In addressing the issues I have had regard to the totality of the information including as presented on the concurrent case ABP-306103.

#### 8.1. **Is or is not development**

- 8.1.1. This case refers to activities involving the breaking up and removal of rock from the eastern portion of the landholdings, clearing of fields of subsoil prior to placing rock in situ and then replacing the subsoil on top. All of these activities are clearly “works” and “development” within the meaning of the Act.

#### 8.2. **Is or is not exempted development**

A significant element of the dispute between the developers and the planning authority relates to **whether the removal of rock at the eastern side of the site is ‘quarrying’ or is ‘recontouring’**.

The planning authorities firmly of the view that quarrying has taken place. I consider that if the planning authority interpretation is accepted then any significant rock breaking activity involved in the recontouring of land would be excluded from Article 8C. I do not consider that this would be a reasonable interpretation of the legislation. Notwithstanding the fact that the works involving removal of rock have taken place at a very separate part of the site I disagree that it is quarrying. I agree with the submission on behalf of the developers that the works may reasonably described as

falling under the description of recontouring. In my opinion nothing in Article 8C precludes movement of material or breaking of rock as part of a recontouring activity. Waste material is specifically excluded. Had the intention been to exclude stone, in my opinion is that would also have been explicitly stated.

Regarding the nature of the working at the eastern side, I am satisfied that this is not quarrying. Not all breaking of rock is quarrying. Some breaking of rock will fall within the activity of recontouring of land. I note and accept the submission on behalf of the developers that the landowners have no involvement in quarrying, that no materials have been removed from their lands and no processing of the excavated material has taken place. Furthermore I accept that the rock may have been easily removed with the bucket of a plant machine as stated.

I now address other aspects of Article 8C. It is clear that land reclamation is taking place or is intended to take place within parts of the site. Article 8C provides for **recontouring of land within a farm holding**. The lands are agricultural in nature and notwithstanding the general absence of farm buildings, would generally be described as farmland. However, for the following reasons I do not consider that the development has taken place 'within a farm holding'.

- One of the plots (Plot D / Field 4) is described in the submissions on behalf of the owners/occupiers as 'essentially the curtilage and garden' associated with a dwelling house. Excavation has taken place at the eastern end of this plot and the relevant area is separated from the landscaped garden area by a timber post and rail fence. The planning register map from the website defines the entire Field 4 / Plot D as the relevant lands for the purposes of the permission granted for the house on site. I consider that the planning history, rather than the location of a post and rail fence should be relevant in determining the use of this part of the overall site.
- Article 8C cannot apply to Field 4 / Plot D as it is a dwelling house and the associated curtilage and garden.
- Works involving alteration of ground level within the curtilage of the dwelling house is limited under Class 6(a) to 1 m depth. The excavation which has taken place at the eastern side of the residential plot greatly exceeds that limit. Therefore, the development does not fall under the exempted

development provisions conferred by Class 6(a). The removal of rock which has taken place within Field 4 / Plot D is not exempted development under Article 8C as it is not within a farm holding but is within the curtilage of a dwelling house.

- The development is taking place within two holdings, which are in separate ownerships. For the purposes of the referral the two plots are submitted for joint consideration by the Board. There is no distinction made in respect of drawings or details. However, it is not disputed that there are separate land owners. In my opinion, the site defined encompasses more than one farm holding. It is not 'a farm holding'.
- The rock which has been utilised in the land reclamation has been sourced from two different landholdings (the majority of lands of which may be described as farm holdings what part of which relates to a dwelling house site) and is intended to be utilised in the raising of lands within two different farm holdings. This is not a simple case of moving material 'within a farm holding'. There is transfer of material between the holdings.
- As part of its deliberations in relation to whether or not the activity relates to 'a farm holding' the Board may wish to consider the statement that all lands are farmed by William Doherty. Notwithstanding the management of the site (excluding the dwelling house) as a single holding for agricultural purposes at this time, I do not consider that this is sufficient to conclude that the activity relates to a single farm holding. In this regard I note that the statements indicate that both landowners appear to have been involved in the works. Rock has been taken from both landholdings. Furthermore both landowners were directly involved in the making of planning applications relating to parts of the site under reg ref 19/50142 and reg. ref. 19/51608, which shows separate activities by two persons in two holdings. I conclude that this is not a single farm holding.
- Regarding the intention to use part of the lands following recontouring for construction of an agricultural shed I accept that the primary purpose of the activity is related to the recontouring of the overall lands and not directed to

the construction of the shed. Obviously, any legislative requirements relating to the shed would have to be adhered to as a separate matter.

Having regard to the above I conclude that the development which has taken place:

- is not quarrying
- falls partly within the curtilage of the dwelling house
- it is not within a farm holding
- does not fall under article 8C or any other exempted development provision under the regulations or act
- the development is not exempted development.

### **8.3. Restrictions on exempted development**

Any development shall not be exempted development if an Appropriate Assessment of the development is required. I am satisfied that there are no other restrictions on exempted development which would be relevant to this case.

Notwithstanding the above conclusion that the development is not exempted development, I propose for completeness and having regard to the submissions of the parties and the conclusion of the planning authority to follow on with the matter of Appropriate Assessment.

### **8.4. Appropriate Assessment**

Article 6(3) of the Habitats Directive requires that any plan or project not directly connected with or necessary to the management of a European site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to Appropriate Assessment of its implications for the sites in view of the sites' conservation objectives.

The Board is the competent authority in this regard. The Board must be satisfied that the proposed development would not adversely affect the integrity of the European sites having regard to their conservation objectives.

This section of this report assesses whether in view of best scientific knowledge the project, individually or in combination with other plans or projects, is likely to have a significant effect on any European site, in view of the sites' conservation objectives.

The subject referral relates to a project that is not directly connected with or necessary to the management of a European site.

The submissions on behalf of the developers under the concurrent case ABP-306103-19 include a screening report. Map 2 of this document shows habitats in and around the referral site.

The screening report identifies the Natura 2000 sites within 10 km of the subject site as

– North Inishowen Coast SAC Site Code 002012 (300m to NW from the bottom of field 3)

- Trawbreaga Bay SPA Site Code 004034 (4.62km to NE)
- Malin Head SPA Site Code 004146 (9.58 km to NE).

Having regard to the nature of the likely significant impacts, which would be related to habitat loss and/or water quality effects and given the absence of hydraulic connections between the site of the proposed development and Trawbreaga Bay SPA and the distance to Malin Head SPA and the absence of any indication that the site is of importance for birds, I agree with the case made on behalf of the developers that these two European sites can be screened out from further consideration.

Furthermore I also agree that due to the proximity and potential hydraulic connections to North Inishowen Coast SAC, further consideration is warranted.

The qualifying interests of North Inishowen Coast SAC are

- Narrow-mouthed Whorl Snail
- Mudflats and sand flats not covered by sea water at low tide
- Perennial vegetation of stony banks
- Vegetated sea cliffs of the Atlantic and Baltic coasts
- Otter

- Fixed coastal dunes with herbaceous vegetation (grey dunes)
- Machairs
- European dry heaths.

There is no qualifying interest habitat adjoining the subject site. The dry heath habitat that lies to the east of the subject site and which is contiguous to the same habitat within the European site is not part of the SAC. The removal as part of the quarrying/recontouring of an area of European dry heath outside of the SAC is not relevant to Appropriate Assessment.

### **Narrow-mouthed Whorl Snail (*Vertigo angustior*)**

The screening report indicates that this species is threatened by loss of habitat through intensive agricultural practices and that the proposed development will not have any negative effect on this qualifying interest as there is no avenue of connectivity. No further information is provided and no specific surveys have been undertaken. Any such surveys would be a specialised matter to be undertaken only by licensed experts. The site synopsis presented in Appendix 1 notes the presence of this species in the SAC but does not indicate its location.

I have examined the information available on the NPWS website which shows that *Vertigo angustior* has two different habitat requirements, a dune phase and a marsh phase. Sites have been lost due to habitat modification following drainage of wetlands and result in changes in vegetation. The site-specific Conservation Objectives indicate that the species is present in 3 no. grids which are shown on Map 7, one of which is nearby Tullagh Strand. The other two locations (about 5km to the north-east) appear to be of more importance.

I am satisfied that the lands in the vicinity of the subject site are not relevant to the qualifying interest *V. angustior*. There is no potential for significant effects on the habitats supporting the species at Tullagh Strand and therefore no potential for significant effect on the qualifying interest.

### **Mudflats and sand flats not covered by sea water at low tide.**

Map 4 of the Conservation Objectives presented in the screening report shows that this habitat is almost 600 m north of the subject site. The habitat would be low lying

and sensitive to surface and marine water quality changes. There is stated to be no direct avenue of conductivity between the referral site and this habitat.

The referral site is connected by way of land drains to the lands to the west of the county road and ultimately to the Clonmany River which flows northwards to the SAC. There is a separation distance of 250 m between the edge of the referral site and the river. The activity at the referral site would not be likely to give rise to significant releases of sedimentation and no pollution affects would be anticipated. Any water flow would be impeded by the natural buffer of almost 4 ha of wetlands/marsh/scrub.

Having regard to all of these factors I accept the submission in the screening report presented. I conclude that this qualifying interest can be screened out from further studies and that the Board can be satisfied that there would not be a significant effect on the qualifying interest.

#### **Perennial vegetation of stony banks**

#### **Vegetated sea cliffs of the Atlantic and Baltic coasts**

#### **Fixed coastal dunes with herbaceous vegetation (grey dunes)**

#### **Machairs**

#### **European dry heaths**

The above habitats can be considered as a group. I consider that the sensitivity of these habitats in general to sedimentation effects would not be high with the exception of Machairs.

The referral site is connected by way of land drains to the lands to the west of the county road and ultimately to the Clonmany River which flows northwards to the SAC. There is a separation distance of 250 m between the edge of the referral site and the river. The activity at the referral site would not be likely to give rise to significant releases of sedimentation and no pollution affects would be anticipated. Any water flow would be impeded by the natural buffer of almost 4 ha of wetlands/marsh/scrub.

None of these qualifying interests are located in the immediate vicinity of the river. All of the habitats in addition would be situated at a level above the river level and would not therefore be exposed to any sedimentation.



Having regard to all of these factors I accept the submission in the screening report presented. I conclude that this qualifying interest can be screened out from further studies and that the Board can be satisfied that there would not be a significant effect on the qualifying interest.

### **Otter**

Map 8 of the Conservation Objectives indicates an Otter commuting route along the coast. The Otter survey which is reported in the screening report and undertaken for the purposes of this referral did not find any evidence of direct use of lands in the environs of the site. Having regard to my conclusions above in relation to the very limited effect of sedimentation release, I do not consider that there would be any likelihood of significant effect on prey. I am satisfied therefore that direct and indirect effects on Otter can be ruled out.

I conclude that this qualifying interest can be screened out from further studies and that the Board can be satisfied that there would not be a significant effect on the qualifying interest.

I consider it reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the North Inishowen Coast SAC or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **9.0 Recommendation**

- 9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether the quarrying of lands at Binnion, Clonmany, Co. Donegal is or is not development or is or is not exempted development:

**AND WHEREAS** Donegal County Council referred this question to An Bord Pleanála on the 2<sup>nd</sup> of September 2019:

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) Section 177U(9) of the Planning and Development Act, 2000, as amended,
- (e) article 6(1), article 6(3) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (g) the planning history of the site.

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) The development does not fall within the definition of quarrying.
- (b) The removal of excavation of rock within field 4 / plot D does not fall under article 8C as it is within the curtilage of a dwelling house.

- (c) The removal of rock which has taken place within field 4 / plot D is not exempted development under Class 6(c) as it is in excess of 1 m depth.
- (d) The development site is not a single farm holding.
- (e) The development does not fall under article 8C or any other exempted development provision under the Regulations or Act.
- (f) The development would not be likely to have a significant effect on North Inishowen Coast SAC or any other European site.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the development is not exempted development.

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ad Kenny  
r Planning Inspector

lune 2020