



An  
Coimisiún  
Pleanála

## Inspector's Report

### ABP-321957-25

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<b>Development</b>	Request to enter into pre-application consultation pursuant to Section 177E(1A) of the Planning and Development Act, 2000, as amended.
<b>Location</b>	Tober, Carrigans, County Donegal.
<b>Prospective Applicant(s)</b>	Columba Duffy (DPH Groundworks Ltd)
<b>Type of Application</b>	Substitute Consent application under Section 177E
<b>Planning Authority</b>	Donegal County Council
<b>Date of Site Inspection</b>	9 April 2025
<b>Date of pre-application consultation</b>	11 April 2025
<b>Inspector</b>	Claire McVeigh

## **1.0 Introduction**

The Board (now Commission) received a request on the 20 February 2025 from *Greentrack Environmental Consultants* on behalf of Columba Duffy (DPH Groundworks Ltd) to enter into pre-application consultations under section 177E(1A) of the Planning and Development Act 2000, as amended. The then Board decided to grant this request from the prospective applicant by letter dated 10 March 2025.

One pre-application consultation meeting was held on 11 April 2025 at 14:30pm via Microsoft Teams. Please note that the prospective applicant sought pre-application consultation meetings for both a substitute consent application (referred to as the first application) and a Section 37L application for the future expansion of the quarry (the second application ref: ABP-321983-25).

The purpose of this report is to inform the Commission of the nature of the pre-application consultations undertaken pursuant to Section 177E(1A) of the Planning and Development Act, as amended.

## **2.0 Site Location**

The subject site, a quarry, is located in the townland of Tober on the Inishowen peninsula in County Donegal. The site is approximately 5km from the northern Irish border and approximately 4.5km south from the settlement of Newtowncunningham. The subject site is c.13km north of Lifford.

Access to the quarry is from the L-8171-2 road. The quarry site sits south of Dooish Mountain and there is a river watercourse (CARRIGANS\_010) running along the northern boundary. This watercourse ultimately feeds into the cross-border Foyle catchment.

The subject site is located within an area designated as Areas of High Scenic Amenity in the Donegal Development Plan 2024-2030. There is a recorded monument within 50m of the southern quarry boundary (SMR-DG054-050).

The submitted site layout plan indicates the proposed quarry area of 6.99Ha. Overall landholding in blue extends beyond the quarry and the full extent is not illustrated on the submitted site layout plan. No area has been provided of the overall land holding.

I note that the submitted copy of the enforcement notice UD 1819 (dated 14 April 2021) illustrates a larger red line boundary delineating more of the existing quarry.

### **3.0 Description of Proposal**

#### **3.1 Introduction**

The nature of the development is quarry activity – extraction and processing of rock (slate building stone is the material being extracted, no blasting is used in current operations). The quarry was registered under section 261 of the Planning and Development Act 2000 (as amended). Under a review of the planning authority’s quarry assessment report, under the provisions of Section 261A of the Planning and Development Act (2010), the Board determined that unauthorised development that would have required Environmental Impact Assessment, screening for Environmental Impact Assessment or Appropriate Assessment took place on the site at some point after 2005, which requires an application for substitute consent (please see section 4.0 of this report for detail relating to ABP Ref QV05E.0230). The operator at this time was Tober Quarry Ltd (Owners identified as Mr. Brian Harkin and Ms. Ann Harkin).

In the pre-application consultation meeting it was set out that the prospective applicant, Mr. Columba Duffy, purchased the quarry between 2016-2017. On the 14 April 2021 the prospective applicant received an enforcement notice from Donegal County Council (reference UD 1819) requiring the cessation of quarrying.

3.2 The prospective applicant now wishes to apply for substitute consent under section 177E to regularise activities and to apply for continuation and

proposed change of quarry activities to include blasting activities under section 37L (ABP-321983-25 refers).

Supporting documentation submitted in advance of the pre-application consultation includes:

- Site layout drawing with the red and blue line boundaries indicated (Ref: Site layout Rev A 1000.pdf)
- Copy of Enforcement Notice UD1819
- Site Layout Map

The submitted site layout plan indicates the proposed quarry area of 6.99Ha, proposed extraction area indicated as of 4.13ha and a proposed yard area of 2.08ha. Overall landholding in blue extends beyond the quarry and the full extent is not illustrated on the submitted site layout plan. No area has been provided of the overall land holding.

#### **4.0 Planning History.**

There are no planning permissions relating to the subject site.

##### Planning Enforcement:

**UD 1819** (14 April 2021) Enforcement notice states that the owner/operator shall cease/ do not recommence use of the land for quarrying, secure all site boundaries and gate entrance with a perimeter fence with a minimum height of 1.8 metres, to prohibit entry by unauthorised members of the public and to erect warning signage at every 25 metre intervals along the fence.

##### An Bord Pleanala cases of relevance:

**Section 5 Referral - ABP: 311824-21 (2 June 2022)** the Board decided that:

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- (i) the continuation of existing quarry operation including extraction, processing and sale of raw and processed quarry material, is not operating in accordance with its pre-64 authorisation, and

(ii) the continuation of quarrying to the extremity of the landholding (18.99 hectare) is not in accordance with its pre-64 authorisation at Tober, Carrigans, Inishowen, County Donegal is development and is not exempted development.

**Section 261A review - ABP Ref. QV05E.0230 (11 December 2013)** review of the determination by Donegal County Council requested by Tober Quarry Limited under section 261A that development was carried out after the 1 February 1990 which development would have required an Environmental Impact Assessment or a determination as to whether an EIA was required, but that such an assessment or determination was not carried out or made. The planning authority made the decision that the quarry commenced operation on or after 1 October 1964 and no permission was granted in respect of the quarry.

The Board confirmed the determination of the planning authority for the reasons and considerations set out in (1) below. However, they decided to set aside the decision of the planning authority in respect of this development made for the reasons and considered set out in (2) below.

(1) Having regard to:

- a) the provision of the Planning and Development Acts, 2000 to 2011, and in particular Part XA and section 261A,
- b) the Regulations pertaining to Environmental Impact Assessment 1989 to 1999 and the Planning and Development Regulations, 2001, as amended, which restates the prescribed classes of development which require an Environmental Impact Assessment (Schedule 5) and which makes provision for a planning authority to require the submission of an Environmental Impact Statement in such cases and the criteria for determining whether the development would or would not be likely to have significant effects on the environment (Schedule 7 thereof),
- c) the Department of the Environment, Community and Local Government - *Section 261A of the Planning and Development Act, 2000 and related*

*provisions, Supplementary Guidelines for Planning Authorities*, July 2012,

- d) the scale of unauthorised quarrying development, and
- e) the documentation on the review file (planning authority register reference number EUQY 55), including the site's planning history, aerial photography,

It is considered that development was carried out after 1<sup>st</sup> day of February 1990 which development would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment or a determination as to whether an environmental impact assessment was required, but that such an assessment or determination was not carried out or made.

(2) The Board concluded that:

- a) the quarry commenced pre the 1<sup>st</sup> day of October 1964, and
- b) by reference to the terms of section 261(1) and (2) of the Act and to section 3.4 of document titled, '*Section 261A of the Planning and Development Act, 2000 and related provisions, Supplementary Guidelines for Planning Authorities*' issued by the Department of the Environment, Community and Local Government, July 2012, it is considered that the requirements in relation to section 261 were fulfilled.

## **5.0 Legislation**

- 5.1 Any subsequent application for substitute consent will be lodged under the provisions of section 177E of the Planning and Development Act, 2000, as amended and Part 19 of the Planning and Development Regulations, 2001, as amended.

## 6.0 **Prospective Applicant's Case**

6.1 The prospective applicant has provided information and expanded on the details in the pre-application consultation meeting in respect to the circumstances giving rise to the request for an application for substitute consent as follows (as per the Record of Meeting), in summary:

- Quarrying has been carried out on the site over a number of years, and it is accepted that the quarry was in operation pre-1964. The site was registered under section 261 of the Planning and Development Act (as amended), but the prospective applicant was not made aware of the implications of a review of the section 261A determination (ABP Ref. QV05E.0230 see details in section 4.0 above) and, therefore, never applied for substitute consent.
- On the 14 April 2021 Donegal County Council issued an enforcement notice on the prospective applicant (Ref UD 1819).
- On the 2 June 2022 the Board determined (ABP-311824-21) that the continuation of existing quarry operation including extraction, processing and sale of raw and processed quarry material, is not operating in accordance with its pre-64 authorisation and is development and is not exempted development. Furthermore, the continuation of quarrying to the extremity of the landholding (18.99ha) is not in accordance with its pre-64 authorisation and is development and is not exempted development.

The quarry activity involves the extraction of slate, but the prospective applicant is looking to win gravel and stone (as part of a simultaneous section 37L application see ABP-321983-25) which would involve blasting of rock.

## 7.0 **Pre-application Consultation Meeting**

A pre-application consultation meeting took place via Microsoft Teams on the 11 April 2025 at 14:30pm. Representatives of the prospective applicant and An Bord Pleanála were in attendance. An agenda was issued by An Bord

Pleanála prior to the meeting. The prospective applicant was advised in advance of the meeting that the consultation would relate solely to the administrative procedures around the lodgement of an application and any associated requirements.

This report should be read in conjunction with the copy of the written record of the pre-application consultation meeting held with the prospective applicant on file.

It is not proposed to repeat the contents of the written record in detail here.

The main topics raised for discussion at the meeting were as follows:

- Description of the development and relevant background/planning history – clarity sought regarding the scope of any application with respect to the full extent of the quarry area.
- Procedural advice/queries arising with regard to any subsequent application for substitute consent and legislative requirements relating thereto, including consideration of transboundary effects<sup>1</sup>.

## **8.0 Conclusion**

The meeting concluded with An Bord Pleanála representatives stating that a further pre-application consultation meeting can be organised, if needed, or the applicant can request to close off the pre-application stage.

At the pre-application consultation meeting the representative for the prospective applicant suggested that it was likely that they would avail of another pre-application consultation meeting, so the relevant case was left open for a period of time to facilitate same.

No further correspondence has been received from the prospective applicant following the issuing of the 'Record of Meeting' by letter dated 13 May 2025.

Follow up telephone call by the Commission's processing section on the 13

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<sup>1</sup> Since January 2021, the EIA Directive no longer applies to the UK (including NI), however, the UK is party to the Espoo Convention on transboundary EIA that still applies (OPR Practice Note PN02 Environmental Impact Assessment Screening)

May 2026 to the prospective applicant's agent *Greentrack Environmental Consultants* confirms that they are happy to proceed without the need for a second pre-application consultation.

Given that the prospective applicant has not identified the need for another meeting and, taking into consideration the period of time that has now elapsed, I recommend that the pre-application consultation process should be closed.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

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Claire McVeigh

Planning Inspector

13 May 2026