



An
Coimisiún
Pleanála

Inspector's Report

ABP-321983-25

Development	Request to enter into pre-application consultation pursuant to Section 37L of the Planning and Development Act, 2000, as amended.
Location	Tober, Carrigans, County Donegal.
Prospective Applicant(s)	Columba Duffy (DPH Groundworks Ltd)
Type of Application	Application under Section 37L
Planning Authority	Donegal County Council
Date of Site Inspection	9 April 2025
Date of pre-application consultation	11 April 2025
Inspector	Claire McVeigh

1.0 Introduction

The Board (now Commission) received a request on the 26 February 2025 from *Greentrack Environmental Consultants* on behalf of Columba Duffy (DPH Groundworks Ltd) to enter into pre-application consultations under section 37L of the Planning and Development Act, 2000 as amended. The then Board decided to grant this request from the prospective applicants 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 ABP-321957-25) and a section 37L application for the future expansion of the quarry (this the second application).

The purpose of this report is to inform the Commission of the nature of the pre-application consultations undertaken pursuant to Section 37L 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.

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 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.

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

3.0 Description of Proposal

3.1 The prospective applicant wishes to apply for substitute consent under section 177E and to apply for continuation of activities and proposed change from excavating slate to win stone and gravel under section 37L. This will involve a change in methodology and will require blasting.

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

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

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4.0 Planning History

There are no planning permissions relating to the subject site.

Planning Enforcement:

UD 1819 (14 April 2021) 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 Pleanála 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 1st 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 1st 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 simultaneous application for further development will be lodged under the provisions of section 37L of the Planning and Development Act, 2000, as amended and Part 22 of the Planning and Development Regulations, 2001, as amended.

6.0 Prospective Applicant's Case

6.1 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 for further development which would involve blasting of rock.

7.0 Pre-application Consultation Meeting

A pre-application consultation meeting took place via Microsoft team on the 11 April 2025 at 14:30pm. Representative 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 and the nature and purpose of the proposed new blasting activities.
- Procedural advice/queries airing with regard to any subsequent application for substitute consent and simultaneous application legislative requirements relating thereto, including consideration of transboundary effects¹.

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 to facilitate same.

No further correspondence has been received 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 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 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.

¹ 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)

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.

Claire McVeigh

Planning Inspector

13 May 2026