



An  
Bord  
Pleanála

## Inspector's Report 05E.QD0019

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<b>Development</b>	Further development of Quarry
<b>Location</b>	Meenacurrin, Maghera, Ardara, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Applicant</b>	McMonagle Stone
<b>Type of Application</b>	Section 37L Application for further development
<b>Date of Site Inspection</b>	16/11/16
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Introduction

- 1.1. The current application for further quarry development was received by the Board on the 22<sup>st</sup> day of January, 2016, following the enactment of Section 37L of the Planning and Development Act, 2000, as amended. This application is related to file ref. SU0100, application for substitute consent, lodged on the 3<sup>rd</sup> day of June 2014 accompanied by a remedial EIS and remedial NIS.

## 2.0 Site Location and Description

- 2.1. The site is as largely described on file SU0100. The Board is advised that the site boundary to which this application refers differs from that as delineated on SU0100. The area to the east of the local road is excluded with additional lands to the north-west and west included.
- 2.2. The existing stone quartzite quarry is located to both sides of a winding country road (L2843-5), running south from Maghera to Glencolumbkille in east Donegal. The site is c.2.6km to the south west of Maghera village and 10km to the west of Ardara.
- 2.3. The elevated site is surrounded by hillside bogland, with some forestry lands and a limited number of scattered one off houses, the nearest being 200 metres to the south accessed via a lane, with further dwellings further south along the local road. To the east of the subject quarry is Lough Nalugraman. There are watercourses c. 200 metres to the north and south-west of the site with further surface water drains along the roadside frontage and adjacent to the track bounding the site to the south.
- 2.4. Whilst the current quarry operation straddles the local road, the area subject of this application pertains to part of the site to the west of the local road, only, in addition to a further 0.6 hectares to the north-west and west into which it is proposed to extend. As a consequence of the quarrying activity the undeveloped lands to the west and north-west are elevated over the site and covered in heath.
- 2.5. The activity to the west of the road currently covers approx. 1.1 ha lands accessed via a gated entrance point. There is also a rough, unsurfaced track along the southern boundary leading from the higher ground to the west out onto the public road. This part of the site is screened from the public road by high mounds of rock / stone forming the eastern boundary. The application site forms the northern/north-

western section of the operation. The southern section is stated to be 'pre-1963 Area' and does not form part of this application. Mobile plant and machinery equipment are used to facilitate extraction

- 2.6. The area of the site to the east of the local road c.0.8ha in area is used for placing of overburden/spoil from the quarry lands opposite and is also used for storage of quarried material prior to transport. The area has been raised to an extent that it is level with the road. Exposed bog is visible on all sides. This area is not within the site subject of this application.

### **3.0 Application for Further Quarry Development**

#### **3.1. Application Details**

- 3.1.1. The application for further quarry development received by the Board on the 22<sup>nd</sup> day of January 2016 includes a completed application form, copies of statutory notices, an EIS, a NIS and associated drawings.
- 3.1.2. The proposal is for the continuation and extension of quarrying activity. Quartzite is extracted from the quarry using a rock breaker attached to an excavator which fragments the rock. The rock is then handled manually, stacked on pallets and stored temporarily on site. The pallets are transported to the manufacturing facility in Mountcharles where the rock is processed depending on the market requirements. There is no blasting, crushing or mechanical processing undertaken at the quarry. Some unsuitable building or decorative stone material is sold as general fill from time to time. This constitutes a small portion of the total volume extracted.
- 3.1.3. Plant and machinery which operate at the existing quarry consists of tracked excavators and a site dumper. A small volume of fuel is stored at the quarry in a double skinned fuel storage tank.
- 3.1.4. Operating hours are between 0830 and 1800 Monday to Friday.
- 3.1.5. The proposed development will be extracted over two phases down to a level of 185mOD over a 30 year period. On completion, restoration and landscaping will be undertaken in consultation with the NPWS.

3.1.6. Ongoing environmental monitoring including noise, dust and water is to be conducted.

## 3.2. **Environmental Impact Statement**

The findings and conclusions that were reached by the applicant in the submitted EIS are as follows:

### 3.2.1. *Alternatives Considered*

- Quarrying is a long established land use. The area has been selected to reflect the presence of suitable material and to keep the application area to a minimum in order to reduce any potential negative impacts.
- Good quality decorative stone quarries are difficult to identify and reserves, where identified, must be worked. The only alternative would be to quarry at an alternative location. Considerable site investigations would have to be undertaken in order to identify a quality resource and even then material extracted may be unsuitable.
- In terms of alternative processes blasting would not result in the required fragmentation.

### 3.2.2. *Human Beings*

- The site employs 1 full time person and approx. 3 people on a part time basis. The granting of permission will secure this employment going forward which will have a positive impact on the local community.

### 3.2.3. *Flora and Fauna*

- The extension of the quarry will result in the loss of 0.6 ha of heath/acid grassland which is not an Annex 1 habitat. The impact on this habitat will be a negative, moderate permanent impact as the loss of the habitat is irreversible. There will be no impact on Blanket Bog.
- Fauna may have been disturbed by noise in the past. The proposed development will not result in an increase in extraction levels therefore there will be no increase in noise levels.

- Otters are widespread and improvement of waste management policies on site will ensure that no pollution will enter the river thus protecting their habitat.

#### 3.2.4. *Soil*

- The impact of the development will be from the removal of overburden and rock. Overburden will be used for the construction of berms and also stored for restoring areas of the quarry once extraction has ceased.
- Mitigation measures proposed including use of spill trays, minimisation of rehandling of soil material, construction of a settlement lagoon and concrete bund to existing fuel storage tank, will minimise the risk to overburden and groundwater from operations at the site.

#### 3.2.5. *Water*

- Extraction of rock is undertaken above the water table.
- Water quality in the Owenwee (Loughros) River downstream of the site is good.
- The only requirement for water at the quarry will be for dust suppression.
- Providing the mitigation measures are adhered to it is not anticipated that the operation of the application will have a significant negative impact. In addition to those set out in Section 3.2.4 above such measures would include installation of groundwater wells to monitor groundwater level and quality and maintenance of an emergency response kit on site.
- Monitoring will be undertaken on a regular basis.

#### 3.2.6. *Air*

- Potential emissions would be attributed to the extraction and transporting of material which can give rise to wind-blown dust. However due to the low level of activity and high level of precipitation, dust blow is not considered to be an issue.
- The measures in place will be continued.

- In terms of noise the floor of the existing extraction area is below the ground level and the quarry face will aid in screening noise from the surrounding environment. In addition, berms have been constructed to the front which also aid in screening noise.
- Overburden will be used to construct further berms around the boundary.
- Monitoring will be undertaken on a regular basis.

### 3.2.7. *Climate*

- It is not anticipated that the quarry had or will have a significant impact on climate.

### 3.2.8. *Landscape*

- The significance of the landscape and visual impact of the development is assessed as moderate/substantial. A landscape and restoration plan includes the construction of berms, where not in place already, along the boundary and planting of coniferous trees in areas. It is anticipated that this will reduce the visual impact. However quarrying activity will be visible during the operational phase. The proposed landscaping and restoration is divided into 3 phases.
  - Phase 1 - Formation of embankments
  - Phase 2- Restoration of side slopes
  - Phase 3 – Final restoration of areas after completion of the extraction process.

### 3.2.9. *Material Assets*

- Low levels of traffic arise due to the low level of extraction. The traffic associated with the quarry is in the region of one load per day up to a maximum of four loads per day. This maximum is rarely achieved. It will not impact on the local road infrastructure.
- The pavement in both directions of the site is of good quality.

### 3.2.10. *Cultural Heritage*

- There are no recorded monuments or protected structures within or in the vicinity of the site.

### 3.2.11. *Interaction of the Foregoing*

- Interactions between the environmental topics are provided in both written and tabular form in section 14 of the EIS document

### 3.3. **Natura Impact Statement**

- 3.3.1. The site is within the Slieve Tooney/Tormore Island/Loughros Beg Bay SAC (site code 00190). The other SAC sites within a radius of 15 km were screened out due to the distances involved, the scale and type of the current project, and the lack of surface hydrological connection.
- 3.3.2. To date generic conservation objectives apply, the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest which will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.
- 3.3.3. The habitats on site have been classified according to the guidelines set out in 'A Guide to Habitats in Ireland' (Fossitt 2000) and include Active quarries and mines, Recolonising bare ground, Dry siliceous heath, Acid grassland, Blanket bog and Buildings and artificial surfaces.
- 3.3.4. The qualifying interests of the Natura 2000 site of relevance include Blanket Bogs (\*if active only) and Alpine and Boreal Heaths. The latter were excluded as it did not fit the description in Fossitt (2000) and Zaghi (2008). Otter is also a qualifying interest and is assumed to use this general area as part of their foraging range. The Owenwee River is not a listed fishing river. The steep waterfall between the quarry and the sea prevent fish passing this point. Therefore there would be more suitable areas within the SAC than this for Otter as fish is their primary source.
- 3.3.5. No cumulative impacts of significance were identified in relation to the development.
- 3.3.6. The impacts associated with the development include:
- Loss of 0.6 hectares of heath. The remaining surrounding heath would not be a particularly good example of this habitat type as it is compromised by overgrazing. Although located within the SAC it is part of the quarry registered lands which predate the SAC designation and will not result in a significant loss of valuable habitat.

- While no Otter activity was recorded during the site visits the potential of the adjacent river to support an Otter population is moderate. Due to the steep waterfall between the quarry and the sea there are low fish numbers. No direct impact is predicted. The potential for indirect impacts through a reduction in water quality and impact on fish stock is not considered to be on a scale which may result in significant negative impacts. Operations may cause a small amount of disturbance to Otter in the vicinity and the removal of such disturbance is not considered to be significant in respect of the Conservation Objectives
- Works in the quarry are intermittent and sensitive species would have left the area during the decades of operation on the site. There is no evidence to suggest that biodiversity in the wider area has been impacted in such a manner. There will no increase in operation activity which would result in increased noise emissions.

3.3.7. Two alternative scenarios are considered, namely continue operations with mitigation and closure. No significant risk has been identified as having occurred in the past and this is anticipated to be the case going forward. Should the quarry close no further impacts on the qualifying interest Blanket Bog would result.

3.3.8. The water quality of the adjacent river depends on the ongoing management of the water on site. Measures are proposed to protect water quality.

3.3.9. Mitigation measures proposed include a Waste Management Policy and a Restoration Plan.

3.3.10. It is concluded that there will be no ongoing issues regarding this quarry in terms of the Conservation Objectives of the SAC. The quarry is well managed and the mitigation measures will help to reduce risks further in terms of water quality protection and SAC Conservation.

## 4.0 **Planning and Regulatory History**

### 4.1. **Section 261 Quarry Registration**

QY61 - Quarry registered as being 2ha total and 0.7 ha in extraction area. 15 conditions were attached.



#### 4.2. **Section 261A Determination and Decision**

QV0312 – On review the Board confirmed Donegal County Council's determination. An application for substitute consent accompanied by a rEIS and rNIS therefore required.

#### 4.3. **Planning & Enforcement**

Reference is made in the Planning Authority report on file to the following:

94/244 – permission refused for retention of the stone quarry.

UDGS0834 - Enforcement action regarding unauthorised quarrying activity

UDIN12/0 - Enforcement action regarding unauthorised commercial shed in quarry.

#### 4.4. **Substitute Consent**

SU0100 – application for substitute consent for quarry activities on a site with a stated area of 1.9 ha.

### 5.0 **Policy Context**

#### 5.1. **Donegal County Development Plan 2012-2018**

The site is within an area designated as being Structurally Weak and of Especially High Scenic Amenity.

Section 7 deals with the extractive industry.

Objectives include:

**EX-O-1:** To conserve and protect the environment, including in particular, the archaeological and natural heritage and conservation and protection of European designated sites and any other sites, which are prescribed.

**EX-O-2:** To preserve the character of the landscape where and to the extent that, the proper planning and sustainable development of the area requires it, including the preservation of views and prospects, cultural features and the amenities of places and features of natural beauty or interest.

**EX-O-4:** To protect and preserve the quality of the environment, including the prevention, limitation, elimination, abatement or reduction of environmental pollution and the protection of waters, groundwater, the seashore and the atmosphere.

Policies include:

**EX-P-1** - It is a policy of the Council to not normally permit new extractive industry proposals in areas of Especially High Scenic Amenity or where they would adversely impact upon any Natura 2000 site, Natural Heritage Area, Nature Reserve, Groundwater Protection Area (Aquifer), Freshwater Pearl Mussel Catchment or other areas of importance for the protection of flora and fauna, or areas of significant archaeological potential, unless it can be clearly demonstrated that such extractive industries would not have significant adverse impacts on amenities or the environment, and comply with Article 6 of the Habitats Directive.

## 5.2. **National Guidelines**

The Quarries and Ancillary Activities Guidelines for Planning Authorities (April, 2004) offers guidance to Planning Authorities on planning for the extractive industry through the development plan process and determining applications for planning permission for quarrying and ancillary activities.

## 5.3. **Natural Heritage Designations**

The site is within the Slieve Tooley/Tormore Island/Loughros Beg Bay Special Area of Conservation (site code 00190).

## 6.0 **Observations**

### 6.1. **Prescribed Bodies**

- 6.1.1. **Transport Infrastructure Ireland** in a letter dated **16/03/16** states that having regard to the extent of the operations presented in the EIS and the location of the quarry accessing the local road network prior to accessing the N56, it has no specific comment to make in terms of impacts relating to the safe and efficient operation of the national road network in the area.

6.1.2. **Udaras na Gaeltachta** in a submission dated **23/03/16** can be summarised as follows:

- The development is welcomed. It provides valuable employment.
- The company which is a client company of Udaras na Gaeltachta is addressing new developments in the Gaeltacht to preserve its current employment and to hopefully create new employment in the future.
- Udaras, client companies, community groups and the community in general can play a part in the promotion and maintenance of Irish in the Gaeltacht.

## 6.2. **3<sup>rd</sup> Parties**

None

## 7.0 **Planning Authority Report**

The planning authority considered the following:-

- The majority of the expansion of the quarry operation took place from pre 1964-1995 (pre Natura 2000 designation). Additional limited expansion has taken place from 1995 to present.
- The operation is low tech and labour intensive.
- The proposed future expansion extending to 0.6ha is sought largely in an area that has already been affected by man (partially stripped with earthen berms located therein) with no significant resultant loss of habitat.
- The visual impact assessment and landscape assessment in the EIS concluded that landscape significance and visual impact of development is considered to be moderate/sustainable and the localised visual impacts will continue to reduce as a result of ongoing landscape restoration/berm construction.
- The scale of existing/proposed expansion is not considered significant within the context of the overall scale of the Natura 2000 site or Area of Especially Higher Scenic Amenity.

- There are no designated views of prospects in the vicinity of the site nor amenities to significantly impact upon.
- No ongoing or perceived adverse impact on the host environment have been identified.
- In the interests of clarity it should be pointed out that on exhaustion/expiration of the current permission, if granted, that further expansion/extension into the unspoilt Natura 2000 site/Area of Especially High Scenic Amenity, which has not been affected by man to date and which would result in a direct loss of unaffected habitat/stripping of untouched landscape, would not be acceptable.

There is no objection in principle to the proposed development subject to conditions including:

- Extent of area subject of permission to be restricted to area delineated in red on the plans.
- Compliance with EIS and mitigation measures identified.
- Restoration requirements.
- Improvement of sight lines at site entrance.
- Operating hours
- Perimeter fencing.
- Noise levels not to exceed 50dBA measured at any residential building. Annual noise survey.
- Dust deposition parameters.
- Dust monitoring and reporting.
- Storage of oils and chemicals.
- Fitting of vehicles to prevent spillages on public road.
- No surface water to discharge onto the public road.
- No further development on site save with the prior written agreement of the planning authority.
- No signage/advertisements without written agreement of planning authority.

- Removal of scrap metal.
- Submission of security.

### 7.1. Responses to Planning Authority Report

In a letter from Earth Sciences Partnership (Ire)Ltd. dated 18/04/16 the applicant is broadly agreeable to the schedule of conditions recommended and makes the following observations.

- The noise parameters recommended should more appropriately be 55dBA as recommended by the EPA in the document Environmental Management Guidelines – Environmental Management in the Extractive Industry (Non-Scheduled Minerals).
- In terms of condition 14 recommended by the planning authority the applicant will agree a bond and form of payment with the County Council on the granting of permission for further development.

## 8.0 Assessment

8.1. The Board will note the report and recommendation with the attached file SU0100. This substitute consent application pertains to a quarry site that straddles both sides of the local road but excludes a portion of the operation to the west of the road.

8.2. My report on that application concluded:

- a) The quarrying operation gave rise to significant adverse impacts on the landscape and visual amenities of the area post the 1st day of February, 1990. The mitigation measures proposed in the remedial Environmental Impact Statement are not considered adequate or reasonable and would not reduce the impact of the development on the landscape. Therefore the development undertaken was contrary to the proper planning and sustainable development of the area.
- b) On the basis of the documentation submitted, in particular the lack of evidence submitted by the applicant regarding the characteristics and extent of the habitats on the site, located within the Slieve Tooley/Tormore Island/Loughros Beg Bay SAC and the extent of the

habitats removed and/or infilled as a result of the quarrying activity that is the subject of the application, that it was not possible to conclude, beyond reasonable scientific doubt, that the subject development would not adversely affect, or has not had an adverse effect on, the integrity of a European site having regard to the conservation objectives of that site.

- 8.3. A refusal of substitute consent was recommended for such reasons.
- 8.4. I therefore submit that the proposal before the Board for the continuation and expansion of the quarry cannot reasonably be considered at this time where a substantial section of the quarry is unauthorised and where regularisation cannot be facilitated due to the matters identified above.

## 9.0 Recommendation

I recommend that permission be refused for the following reasons and considerations.

### **Reasons and Considerations**

The proposed development relates to a site the use of which is unauthorised for the carrying out of quarry operations and which has not been regularised in accordance with the provisions of Section 261A of the Planning and Development Act, 2000, as amended. The proposed development would constitute a continuation and expansion of the said unauthorised use. In such circumstances, the Board is precluded from granting permission to further develop this quarry.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**November, 2016**