



An
Bord
Pleanála

Inspector's Report 05E.SU0100

Development

Quarry

Location

Meenacurrin, Maghera, Ardara, Co.
Donegal

Planning Authority

Donegal County Council

Applicant

McMonagle Stone

Type of Application

Application for Substitute Consent

Date of Site Inspection

16/11/16

Inspector

Pauline Fitzpatrick

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1.0 Introduction

- 1.1. This is an application on behalf of McMonagle Stone in relation to a quarry at Meenacurrin, Maghera, Ardara, Co. Donegal.
- 1.2. The subject application has been made pursuant to a notice issued by Donegal County Council under Section 261A(3)(a) of the Planning and Development Act 2000, as amended, subsequent to a review by An Bord Pleanala, which directed the applicant to apply for Substitute Consent accompanied by a remedial Environmental Impact Statement and remedial Natura Impact Statement for the existing quarry development under Section 177E of the Planning and Development Act 2000, as amended. A request for an extension of time for the lodgement of the application was granted under reference no. SH0181.
- 1.3. The application was lodged with the Board on the 03/06/14 with revised plans and details received 27/07/15 following a Section 132 notice.

2.0 Site Location and Description

- 2.1. The Board is advised that the site boundary as delineated in the plans and drawings submitted with the application was amended as a consequence of the Section 132 notice. The original application pertains to the lands to the west of the local road, only, with a stated area of 1.9 hectares. The site consequent to the Section 132 notice straddles the local road but excludes part of the western section of the site which formed part of the original application. The revised site area is also stated to be 1.9 hectares.
- 2.2. The subject 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 west accessed via a gated track, with further dwellings to the south along the local road. To the east of the subject quarry is Lough Nalughraman. 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. As noted the quarry straddles the local road. Access to the c 1.1 ha lands to the west of the road is via a gated entrance. The section of the site subject of this application forms the northern part of a larger quarry area and is screened from the public road by high mounds of rock / stone forming the eastern boundary. Mobile plant and machinery equipment facilitate extraction. There is a rough, unsurfaced track to the south of the site entrance facilitating access to the higher ground to the west from the public road.
- 2.5. 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 temporary 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.

3.0 Application for Substitute Consent

- 3.1. The application was lodged with the Board on the 03/06/14 with amended plans and details, including revised public notices and amended rEIS and rNIS, submitted 27/07/15 following a Section 132 request dated 08/12/14 (extension of time granted for submission of necessary documentation). The said Section 132 notice required the revision of the site boundary to include the lands to the east of the local road which were excluded in the initial application.
- 3.2. A covering letter with the Section 132 response states that any application for substitute consent must be made in respect of the development which the Planning Authority has considered under Section 261A. The area included as part of the application was determined by the Planning Authority. The relevant documentation in this regard is provided in Appendix 3 of the rEIS. As a consequence of same and as noted above, whilst the area to the east of the local road has been incorporated the area to the west has been reduced. The site area subject of the application is stated to be 1.9 ha.
- 3.3. The proposal is seeking consent for quarrying activities on the site.
- 3.4. 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 in the staging area on the site to the east of the local road. 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.

- 3.5. Plant and machinery which operate at the existing quarry consists of tracked excavators and a site dumper. A container and a double skinned fuel storage tank were noted adjacent to the internal access track.

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.

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 (previously NRA)** in letters dated **16/06/14** & **21/09/15** states that having regard to the extent of the operations presented in the rEIS 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. **GSI** has no comment.

6.1.3. Department of Arts, Heritage and th Gaeltacht

The Department made a number of submissions to the Board on the consent application. The **1st report** dated **14/07/14** pertains to the original application. The **2nd** submission dated **28/08/14** follows the applicant's response to its 1st submission. A **3rd** submission dated **30/10/15** was received following the applicant's response to the Section 132 request from the Board. In summary:

- It is the Department's view that the quarry has had an adverse effect on the integrity of the SAC due to the permanent loss of habitat for which the site has been designated.
- There is a conflict in detail given in the original rNIS and the amended rNIS. The latter refers to 0.3ha of habitat lost whilst the former refers to a loss of 1.1ha. The larger area is considered correct.
- A finding of no adverse effects on the integrity of the Natura 2000 site has not been demonstrated beyond any reasonable scientific doubt.
- There is no proposal to remediate and restore damaged areas of annexed habitat.
- The restoration plan, including berms to be planted with coniferous species, may further impact on the ecology of the site. The proposal to spread indigenous soil on the lands to the east of the road on cessation of quarrying will not restore the habitat as it is now considerably elevated above the

original blanket bog/heath complex and therefore there is no hydrological connection. This cannot be considered as restoration.

- The rNIS statement that water quality of the adjacent river will depend on on-going management of the water on the site is not satisfactory.
- The bird survey undertaken in July 2015 is at the end of the breeding season. It is possible that many young birds would have fledged and that breeding sites were no longer in use at the time of the survey. Therefore it cannot be considered to be robust and it is not possible to adequately assess the potential impacts on avifauna.

6.1.4. **An Taisce** in a letter dated **10/09/15** following the Section 132 response states:

- The existing quarry has generated a significant scar on the landscape.
- Claims of continuous activities have not been established.
- The perimeter shows adverse impact which has been caused to blanket bog.
- Quarrying on this site represents an inappropriate impact on an upland peatland scenic area with a high landscape rating and its continuation is inappropriate in principle on ecological and landscape grounds.

6.1.5. **Udaras na Gaeltachta** in a submission dated **05/10/15** following the Section 132 response notes:

- 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. **3rd Parties**

The submission from **Michael McGuire** received **04/07/14** in opposition to the application, which makes reference to a 2nd quarry at Largybrack, can be summarised as follows:

- The development would have an adverse impact on the scenic amenities of the area. The site is within an area designated as Especially High Scenic Amenity in the Donegal County Development Plan in which quarries are not permitted.
- The tourism potential of the area would be adversely affected.
- The applicant has a poor history in terms of environment and landscape damage. This should be taken into account.
- There is an unauthorised shed on the site.
- The site is located within a SAC and NHA. The quarry will destroy flora and fauna.
- The stream network will be destroyed along with trout stocks and possible pearl mussel. It would destroy Lough Guanna. The application does not address these issues.
- The issue of air pollution arising from the activities and impact on adjoining lands is pertinent.
- The road network is not suitable for the vehicular movements generated by the activity.
- The general Meenacurrin/Lough Guanna area is a source for water supply for south-west Donegal. The quarry could have a serious impact on this resource. The Council water intake is 0.5 km from the site.
- There is the potential for landslide and ground disturbance due to the alterations of the natural topography of the hillside.
- There is no plan for dealing with quarry spoil.
- There are no sewage disposal facilities for staff on site.

6.3. Further Responses

There has been a material level of cross circulation of submissions as follows:

- The submission from the Department of Arts, Heritage and the Gaeltacht dated 14/07/14 was circulated for comment. Both the Planning Authority and

the Applicant (Aster Environmental Consultants) made submissions received 06/08/14.

- The said submission from the applicant (received 06/08/14) was circulated with responses received from the Planning Authority dated 21/08/14 and the Department of Arts, Heritage and the Gaeltacht dated 28/08/14.
- The said submission from the Department of Arts, Heritage and the Gaeltacht (dated 28/08/14) was circulated with a response received from the applicant dated 17/09/14.

It is considered that the content of the submissions are superseded by the subsequent correspondence received following the Section 132 request as detailed in this report.

7.0 Planning Authority Report

The **1st report** received **19/08/14** and the **2nd report** received **02/10/15** following the Section 132 response detail the planning history and the relevant development plan policy framework. The submissions can be summarised as follows:

- The overall quarry site unit extends to 1.9 ha and is comprised of two distinct areas bisected by the local road. The western part comprises an area of 1.1ha but excludes the southern portion of the quarry which is 'pre-1963' authorised. The eastern part has an area of 0.8ha.
- The application has not been accompanied by evidence of the suitability of the road network in the area in terms of width, alignment and carrying capacity.
- It is reasonable that the existing entrance arrangements be conditioned to meet current technical standards as far as reasonably possible.
- The installation of both a wheel wash and dust controls would protect the adjoining road network.
- Conditions should be attached requiring the operator to put necessary monitoring in place.

- The application has not been accompanied by a integrated phased development or restoration plan. Such a restoration plan should be required by way of condition.
- No significant visual impacts arise. Further boundary treatment/fencing, banking, berms and general landscaping to supplement the existing arrangements should be conditioned along all boundaries.

The PA has no objection in principle to substitute consent and sets out a schedule of 14 conditions should the Board be disposed to a favourable decision addressing extent of development, restoration requirements, site access improvements, operating hours, noise and dust parameters, installation of wheel wash and water sprinkling system, storage of oils and chemicals, restrictions on other development including signage, annual removal of scrap metal and imposition of security/bond.

Note: A schedule of the costs incurred is provided.

7.1. **Responses to Planning Authority Reports**

In a letter from Earth Sciences Partnership (Ire)Ltd. dated 15/09/14 the applicant is agreeable to the schedule of conditions recommended.

8.0 **Assessment**

I consider the issues arising in respect of this application for substitute consent can be addressed under the following headings:

- Extent of Site subject of Application
- Principle of Development
- Environmental Impact Assessment
- Appropriate Assessment
- Conditions

8.1. **Extent of Site subject of Application**

- 8.1.1. The site as delineated in red on the plans accompanying the application for substitute consent lodged on the 03/06/14 entailed the full extent of the quarry operations to the west of the local road, only, with a stated area of 1.9ha. Following

a section 132 notice issued by the Board on 08/12/14 which required the site boundary to be amended to take in the associated quarry development located east of the local road (and rEIS and rNIS to be amended), revised plans and details were submitted on the 27/07/15. In including the area to the east of the road the extent of the site boundary to the west has also been altered to exclude the southern most section of same. The site area is also stated to be 1.9 ha.

- 8.1.2. The agent for the applicant asserts that by Section 177B and Section 216A (12) of the Planning and Development Act, as amended, the power to issue a notice requiring substitute consent is expressly and solely the responsibility of the Planning Authority and that following clarification with the Planning Authority as to the area to be included in the application, omitted the said southern most section equating to an area of c.0.8ha. It is referenced as 'Pre 1963 Area' on Figure 1.3 in the rEIS. The relevant correspondence from the Planning Authority on this issue is provided in Appendix 3 of the amended rEIS.
- 8.1.3. On an examination of the documentation on the file for the review of the notification pursuant to Section 216A of Planning and Development Act, 2000, as amended, (file ref. 05E.QU0312) I note that no maps were attached to the planning authority's determination and decision which would indicate the extent of the quarry to which it refers. Reference is made in the report on file to the fact that the quarry extends to c.1.7ha although there is no explicit reference to the exclusion of part of the site due to the fact that it pre-dates 1963. No maps were provided in the subsequent review request to the Board submitted on behalf of the applicant.
- 8.1.4. As the Board's role was to confirm or set aside either/both the determination and decision made by the Planning Authority, only, it is the remit of the latter to delineate the area to which the determination and decision pertains to. This has been done as per the correspondence referred to above. In that context, therefore, the boundary as revised is that to which this substitute consent application pertains.

8.2. Principle of Development

- 8.2.1. The quartzite resource is a valuable resource used for building and paving purposes. I note the provision and objectives of the current plan as they relate to the extractive industry. The goal is to facilitate adequate supplies of resources whilst addressing

environmental, traffic and social impacts. Whilst the location of the site is within an area of Especially High Scenic Amenity in which quarrying is not permitted I acknowledge the long established use at this location. I note that the planning authority has not raised any particular objections to the application on the basis that it contravenes any policies or objectives contained in the current Donegal County Development Plan.

8.3. Environmental Impact Assessment

Adequacy of remedial Environmental Impact Statement

- 8.3.1. Retrospective assessment as is required in this instance has evident limitations. The absence of baseline information and any survey or monitoring results prior to 2014 hinders any meaningful assessment of a quarry that has been in operation for a significant period of time. There is, therefore, a certain reliance on informed likely estimation of effects. In the context of such shortcomings I submit that the statement, as amended following the Section 132 notice, is consistent with the requirements of section 177F of the Planning and Development Act 2000 as amended. It also details remedial measures proposed to be undertaken. In terms of cumulative impact the fact that the application site forms part of a larger site is accounted for throughout. I submit that the document is generally consistent with the requirements of Article 94 of the Planning and Development Regulations 2001 as amended (contents of an EIS). It does not provide information on the main alternatives studied but having regard to the particular nature of the development this is not a significant omission. It also includes a non-technical summary. Therefore I am satisfied that the rEIS, coupled with other information and detail on file, is adequate to enable the Board to carry out an environmental impact assessment and to make a decision on the application.
- 8.3.2. As the competent authority for decision making, the Board is required to carry out an environmental impact assessment for the application for substitute consent ie. to identify, describe and assess the direct and indirect effects of a proposed development, in accordance with Articles 4 to 11 of the EIS Directive, on the following:
- Human beings, flora and fauna,

- Soil, water, air, climate and the landscape,
- Material assets and cultural heritage, and
- The interaction of the foregoing.

The following assessment of environmental effects has regard to the rEIS, the information on the file and my inspection of the site.

Human Beings

- 8.3.3. Matters pertaining to soil, water, air quality, noise, landscape and traffic that affect human beings are addressed later in this assessment.
- 8.3.4. The quarry development provides employment for approximately 1 person on a full time basis and 3 people on a part time basis. Albeit small, the employment generated by the operation can be considered to have had a positive effect on the local area.

Flora and Fauna

- 8.3.5. Section 4 of the rEIS deals with the issue of flora and fauna. The Board is advised that the application is accompanied by a rNIS. An appropriate assessment shall be carried out later in this assessment with respect to potential impacts on European Sites and with regard had to the qualifying interests. It is not proposed to repeat this analysis. I note that the site is within the Slieve Tooley/Tormore Island/Loughros Beg Bay Special Area of Conservation (site code 00190).
- 8.3.6. Section 4.3.2.1 of the rEIS sets out the current habitats on the site and these invariably reflect what would be associated with such a quarry operation that has been stripped of soil and subsoil and rock extracted.
- 8.3.7. The overall quarry comprises a total of approximately 1.9 ha of worked area to the west of the local road with a 0.8ha fill area to the east. The now exposed quarry presumably would have been originally covered with heath above the road (1.9 ha) and blanket bog below the road (0.8ha) which would have been removed to enable quarrying. Therefore a total of 2.7ha of heath/bog habitat is permanently lost to development with the quarry subject of this substitute application pertaining to 1.9ha of this. This is a significant permanent impact. I propose to address this in further detail in the AA below.

- 8.3.8. I consider that the main potential indirect impact on fauna during quarry operations is due to noise disturbance. The noise results from working of the stone which is extracted through rock breaking and digging. A further source of noise disturbance results from trucks entering and leaving the site. During the years 2000 to 2005 this noise disturbance would have been at its maximum.
- 8.3.9. The initial bird survey undertaken in May 2014 which fed into the 1st rEIS was supplemented by a further survey with particular regard had to breeding birds conducted in July 2014. The amended rEIS acknowledges that the latter bird survey was constrained in being carried out on a single day. Red Grouse droppings were noted 900m to the east of the site and are stated to be possible breeders and are confirmed in the area during the winter. Raven are possibly nesting within 500m of the site. Chough were noted 600m to the west and again the habitat is suitable for these species. The survey notes that the birds are still in the vicinity of the quarry and have not been displaced from the vicinity by quarrying. It is also stated that the area may well be used by Hen Harrier, Merlin, Golden Eagle as the habitat is suitable for these species. However in view of the acknowledged constraints of the survey it is queried as to how the conclusion that such use is considered to be on an occasional or intermittent basis, only, is reached.
- 8.4. As noted in the submission from the Department of Arts, Heritage and the Gaeltacht the bird survey undertaken on the 28/07/14 was at the end of the breeding season and does not provide the necessary data from multiple site visits over the entire breeding season. I consider that this is a very short snapshot and I would concur that the survey cannot be considered to be robust on which to basis an adequate assessment although I accept that there is merit in the view that there is a wide availability of suitable habitat for the birds and mammals associated with this area should displacement of fauna/avifauna have arisen through noise pollution.
- 8.4.1. Otter is a qualifying interest of the European Site and I propose to address same in further detail in the AA below.

Soil

- 8.4.2. Top soil and sub soils have been removed from the quarry area together with the underlying quartzite deposits. The material is stored around the perimeter of the site, notably to the roadside and provides a screening function. The extraction of the

deposit is a permanent and irreversible impact. However the application site, in itself and in the context of the larger site, is small and the permanent loss is unlikely to be significant in terms of overall reserve. In terms of cumulative impact the fact that the application site forms part of a larger site is accounted for. There are no other quarries or other development located in the near vicinity which would have the potential to lead to a cumulative impact.

Water

- 8.4.3. There are a number of surface water features located in the vicinity of the site including the drain running along the roadside boundary with watercourses within 200 metres of the site which all feed into the Owenree (Loughros) River c. 200 metres to the north/north-east.
- 8.4.4. On day of inspection water ingress from the lands to the west were noted on the higher slopes with seepage noted in the exposed western rock face. Whilst the rEIS noted that the quarry has little, if any, standing water, this was not reflected in the conditions noted with runoff via a drain to a watercourse outside the site. This drain flows in a north easterly direction for approximately 50m before entering a culvert under the road where it flows south to the Owenwee (Loughros) River. Whilst the water exiting the site via the culvert was noted to be cloudy with sediment the water appeared to be relatively clear in the roadside drain and further south where it crosses the road.
- 8.4.5. The development could have had the potential to have caused additional siltation and sedimentation in adjacent watercourses since the appointed dates. No historic water quality monitoring is available for the site with such monitoring undertaken to inform the rRIS and, as such, would not be reflective of the peak production period in the mid 2000's. The said monitoring was undertaken at the application site and at the Owenwee (Loughros) River. SW1 was taken from the drain which flows from the application site. SW2 and SW3 were taken at locations downstream and upstream of the application site respectively (shown on Figure 6.2). Analytical results of water quality samples are located in Table 6.2. Parameters sampled for were compared to the following:
- S.I. No. 294 of 1989 EC (Quality of Surface Water Intended for the Abstraction of Drinking Water) Regulations.

- SI No 293 of 1998 European Communities (Quality of Salmonid Waters) Regulations.
- SI No 272 of 2009 European Community Environmental Objectives (Surface Water) Regulations.

8.4.6. All samples were in line with the relevant guideline values as stated in the regulations. Whilst the results for each monitoring point are noted in Appendix 6 of the rEIS no details are provided as to when the monitoring was undertaken and the prevailing conditions.

8.4.7. There are no boreholes or wells on the site or in the local vicinity and no springs or evidence of the groundwater table in any of the quarry excavations completed to date. Whilst it is stated that accidental emissions have the potential to enter the ground over the course of time the rEIS states that there is no evidence to suggest that this occurred.

8.4.8. Remedial measures proposed include:

- The fuel storage area to be bunded appropriately for the fuel storage volume.
- Groundwater wells will be installed at the site in order to monitor the groundwater level and quality.
- A settlement lagoon with a shut off valve to be constructed to collect all run-off water and remove any suspended solids that may be present prior to discharging off site.
- A hydrocarbon interceptor to be installed at the discharge point of the settlement lagoon.

8.4.9. I note, however, that no details of the proposed settlement pond for surface water prior to discharge from the site in terms of size, construction and location are provided in support of the application.

8.4.10. In conclusion I consider that the details provided give a very brief snapshot of what is stated to be a long established activity and cannot be considered to be sufficient to allow for a robust assessment. Whilst it is difficult to ascertain the potential impacts the detail provided would appear to suggest that the subject site would not have had a significant adverse impact on ground and surface waters.

Air and Climate

- 8.4.11. In the context of the subject site the principal impact on air quality would have arisen from dust. Historically no dust monitoring has been carried out. As stated, the application is situated in a rural, sparsely populated area, with the nearest dwelling being c.200 metres to the west.
- 8.4.12. Dust deposition monitoring was undertaken to inform the rEIS and was carried out when the quarry was in operation although it is reasonable to assume that the levels of operation are not comparable to the peak activity levels which would have been experienced in the mid 2000's. The results are set out in Table 8.3. Although the recommended guideline value for the method of monitoring used is 350mg/m²/day, results are compared to the guideline value of 180mg/m²/day proposed as part of the Section 261 Conditions. The results are materially below the latter figure.
- 8.4.13. It is reasonable to conclude that dust arising from the entire operation would not have had an adverse impact on the amenities of the nearest sensitive receptors.
- 8.4.14. As with dust no noise monitoring has not been undertaken historically. The monitoring undertaken to inform the rEIS suggests that noise, whilst evident from the operation, is not to a level as to raise concerns in terms of adverse impacts. The normally accepted daytime parameter of 55dBA was not exceeded. The noise monitoring was undertaken at two points to the east and south of the site. The nearest noise sensitive receptors are further to the east and south again. Whilst stating that the quarry was in operation with machinery operating during monitoring, it is not clear what activities were being conducted or whether rock breaking was underway. Thus it is unclear whether the noise as recorded represented what would be considered the worst case scenario. Also the period of monitoring would not necessarily be reflective of the peak period in the mid 2000's.
- 8.4.15. Notwithstanding I submit that were an application to have been made for permission to develop the site in the first instance and subject to the applicant showing that the relevant parameters could be met in terms of dust and noise, on balance, it is reasonable to submit that the proposal would not have been refused on such grounds.

8.4.16. In terms of climate the quarry development has resulted in the emission of greenhouse gases to the atmosphere, primarily from the operation of plant and vehicles. However, these would not be significant locally.

Landscape

8.4.17. The site is within an area designated as being of especially high scenic amenity in the current Donegal County Development Plan. This designation is considered reasonable. Any proposals for new quarry activity are not permissible in such areas.

8.4.18. The quarry has substantially altered the landform in the local area. It cuts into the base of the rising topography resulting in higher faces in the south, north and west. Views of the quarry when travelling from the north are generally restricted to within direct proximity of the site due to the winding nature of the road and the topography. However more open views are available when travelling from the south and from the east with the infill/staging area to the east of the road particularly evident in views. In my opinion views of this area are exacerbated by its height relative to the adjoining lands due to the fact that the area has been built up level with the road. The bare ground further adds to the impact relative to the blanket bog surrounding it.

8.4.19. Overall the rEIS assesses the magnitude of change as a result of the development as 'Medium' with the significance of visual impacts of the existing development is assessed as 'Moderate/ substantial'.

8.4.20. Were an application to have been lodged for the works in the first instance such an intervention into the landscape, would most likely, have failed to secure consent due to its adverse impact on the visual amenities of the area.

8.4.21. In order to reduce visual impact and to restore the application site a landscape and restoration plan is proposed. The proposed landscaping and restoration of the application site is divided into the following phases:

- Phase I – Formation of embankments.
- Phase II –Restoration of side slopes.
- Phase III – Final restoration of areas after completion of the extraction process.

No details are provided as to the timescale for these works.

- 8.4.22. I would express serious reservations regarding the proposed measures especially the proposal to plant coniferous trees on berms to aid in screening the quarry extraction area which could further accentuate, rather than limit the impact. As noted above the staging area is particularly noticeable due to its height relative to the lands to the east. The proposal for reshaping of the site slopes with soils indigenous to the area to be placed on the surface and side slopes in layers and allowed to vegetate naturally would not, in my opinion, counterbalance the level of intervention.
- 8.4.23. The development subject of the application leaves an ongoing visual impact. This in my opinion is a material issue. The quarry is visible from a range of vantage points but especially from the south. In my opinion there is no option but to conclude that the landscape impact is adverse for which the proposed remedial and restoration measures are considered to be unsatisfactory. I therefore consider that a refusal of permission for the reason of adverse landscape impacts is appropriate.

Material Assets

- 8.4.24. The site is served by a minor local road which can facilitate one way vehicular movements, only, along the majority of its length with passing bays developed to facilitate two way movements. The quarry operation is small with one full time employee only on site. The volume of traffic associated with the existing quarry is in the region of one load per day up to a maximum of four loads per day. These relate to the transport of extracted building stone to the manufacturing facility located in Mountcharles. Whether this was materially greater during peak activity is not assessed but it is reasonable to conclude that the site would not have generated materially greater vehicular movements that would raise questions regarding traffic safety.
- 8.4.25. The St. Connall waymarked walking route passes along the road frontage and turns north along the track bounding the site to the west. By reason of the route of the walk from the north/north-west the open views which are particularly problematic from the south and east do not impact materially on same.

Cultural Heritage

- 8.4.26. No recorded monuments lie within the site or in close proximity to it. In addition there are no protected structures in the vicinity.

8.4.27. Whilst it was potentially possible for undocumented sub-surface archaeological features and materials to have existed within the substitute consent area there is no record of any archaeological finds and no known reason to consider why the development, the subject of the application, would have had any archaeological impact. No residual impacts arise and no mitigation is required to be put in place. I would therefore accept the view that the quarry operation has not had an impact on cultural heritage.

Inter-relationship between the Foregoing

8.4.28. Section 14 of the rEIS addresses the issue of interaction between the foregoing headings. The main interactive impacts arising from the operation of the quarry between human beings, landscape, noise, dust, material assets and traffic related impacts, and flora and fauna, soils and geology and water have been assessed within this section and the various chapters of the rEIS. I do not consider that there are any significant interactions which have not been addressed.

8.4.29. It is evident that the application site coupled with the larger activity on the site, created cumulative impacts that intensified the environmental effects arising from the former itself.

8.5. Appropriate Assessment

8.5.1. This section of the report considers the likely significant effects of the proposal on the relevant European sites in view of the Conservation Objectives. A remedial Natura Impact Assessment accompanies the application.

Description of the Project and Site Characteristics

8.5.2. The site and project are as described in sections 2 and 3 above.

Natura 2000 sites

8.5.3. The following European Sites are within 15km of the site

Site	Designation &	Distance
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	site code	(km)
Slieve Tooley/Tormore Island/Loughros Beg Bay	SAC 000190	0.0
West Donegal Coast	SPA 004150	1.8
West of Ardara/Maas Road	SAC 000197	4.4
Sheskinmore Lough	SPA 004090	6.3
Slieve League	SAC 000189	12.2
Lough Nahillan Bog	SAC 000165	12.4
Lough Nahillion Bog	SPA 004110	12.4

8.7.1. In the context of the qualifying interests and conservation objectives of the above sites, the extent of existing quarrying activity and the separation distances, I am satisfied with the screening process undertaken by the applicant in the rNIS and that the only site potentially linked to possible effects associated with the quarry is the Slieve Tooley/Tormore Island/Loughros Beg Bay SAC. The quarry is located within the designated site.

8.7.2. The qualifying interests of the designated site are:

- Vegetated sea cliffs of the Atlantic and Baltic coasts
- Embryonic shifting dunes
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)
- Decalcified fixed dunes with *Empetrum nigrum*
- Atlantic decalcified fixed dunes (Calluno-Ulicetea)
- Alpine and Boreal heaths
- Blanket bogs (* if active bog)
- *Vertigo angustior* (Narrow-mouthed Whorl Snail)
- *Lutra lutra* (Otter)
- *Halichoerus grypus* (Grey Seal)

- 8.7.3. As extrapolated from the site synopsis prepared for the site it is of major ecological significance for its range of good quality coastal and terrestrial habitats. Intact blanket bog is an increasingly rare habitat type and is recognised as such in having priority status on Annex I of the E.U. Habitats Directive. This site contains some good examples of this habitat, with typical features and a representative flora. A lot of the habitat, however, is suffering from the effects of over-grazing by sheep. On higher slopes, the bog forms an interesting mosaic with upland heath and grassland communities, in which a number of scarce species of lower plant occur. The coastal habitats in the site are also intact and of good quality, and provide important habitat for breeding birds and seals, as well as the rare whorl snail.
- 8.7.4. To date generic conservation objectives apply for the site, 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.

Potential Effects

- 8.7.5. As the quarry is within the Natura 2000 site direct impacts may have occurred arising from the quarrying activity in terms of loss of priority habitat. Indirect effects may have arisen from the loss and fragmentation of habitats, disturbance resulting from the operation of the quarry and from discharges from the site ie. to air and water.
- 8.7.6. The area was designated as a SAC in 1997. Whilst the author of the rNIS states that it is unusual that the quarry was included in the designated area as at the time of survey NPWS guidelines were to exclude developed areas, the fact remains that the site is within the designated area.
- 8.7.7. As noted from the aerial photographs for the area the quarry has expanded since designation to a current extraction area of 1.9ha to the west of the road, part of which is outside the red line of this application, and 0.8 ha to the east of the road. In total therefore 1.1 hectares of habitat is estimated to have been lost from the SAC. Of particular note in this regard are the qualifying interests, blanket bog and heath habitats.
- 8.7.8. The rNIS states that by reason of the characteristics of the lands adjoining to the west the main extraction area which forms part of the application was most likely

covered in comparable habitat, namely heath/acid grassland. However a more detailed assessment was not undertaken save to state that the qualifying interest of Alpine and Boreal Heaths was excluded as it did not fit the description in Fossitt (2000) and Zaghi (2008).

- 8.7.9. In terms of blanket bog there appears to a discrepancy as to the area of the qualifying interests lost by the proposed development. Reference is made in section 9 of the rNIS and Section 4 of the rEIS to 0.3 ha of blanket bog lost which does not tally with either the 1.1 ha referred to in the conclusions of the earlier rNIS nor to the 0.8 ha to the east side of the road which is on blanket bog. Notwithstanding the change in the site boundary between that originally submitted and that following the Section 132 notice, the fact remains that the area to the east of the road, at a minimum, pertains.
- 8.7.10. In addition the rNIS is silent in terms of assessment on the indirect effects the works on both sides of the road may have had on the blanket bog qualifying interest which immediately adjoins it. It is not unreasonable to suggest that consideration should have been given to hydrological impacts arising not only from the extraction but also from the infilled area in addition to any drainage works undertaken as part of excavation works together with access roads etc. Such works could impact on the drainage regime which could potentially damage the sensitive ecosystem associated with these areas.
- 8.7.11. The Department of Arts, Heritage and the Gaeltacht in its submissions on the application is consistent in its view that the quarry has had an adverse effect on the SAC due to the permanent loss of habitat for which the site has been designated and that a finding of no adverse effects on the integrity of the site has not been demonstrated beyond any reasonable scientific doubt.
- 8.7.12. Concerns have also been expressed regarding the appropriateness of the remedial measures in that the proposed screening by way of berms to be planted could further impact on ecology in that many conifer species seed freely in upland habitats spreading non-indigenous species and impacting on blanket bog/heath habitats causing further habitat loss. In addition the measures to remediate the area to the east of the road including spreading of indigenous soil, whilst providing for vegetation growth will not restore the Annex 1 habitat. This area is at a considerably elevated

height over the original blanket bog/heath complex, thus there is no hydrological connection between it and the surrounding habitats.

- 8.7.13. Otter is another qualifying interest which is known to be widespread in the area. The survey undertaken did not reveal any holts, couches, slides or any other signs from the adjacent river and would not appear to be regularly used as evidenced by lack of spraints etc. There is no evidence of Otter displacement as a result of quarrying.
- 8.7.14. Indirect impacts affecting Otter which potentially arise relate to reduced food supply where impacts affecting water quality may result in reduced macro-vertebrate and fisheries production and noise and visual disturbance during quarry operations. The rNIS in addressing the first issue states that the implementation of mitigation measures for pollution prevention would negate any adverse effects on Otters and that protection of the adjacent river is dependent on water management on site. I would also submit that due to the scant water quality analysis and detail as provided and in the view of the absence of any measurable mitigation measures to date with surface water on site directed to the nearby watercourses without intervention, this statement cannot be construed as sufficient in terms of the requirements in terms of AA.
- 8.7.15. In conclusion and having regard to the above I am not satisfied that a finding of no adverse effects on the integrity of the site has been demonstrated beyond any reasonable scientific doubt

9.0 Conditions

- 9.1.1. In the event that the Board decides to grant substitute consent, the issue of appropriate conditions will arise. The basic criteria for planning conditions include that they be necessary, directly relevant to the development to be permitted and that they be enforceable. It would be normal when considering applications for quarries that the Board would impose a range of conditions seeking inter alia to control noise, dust and other environmental impacts. This application for substitute consent, if permitted, will not authorise further extraction and in this context operational conditions as recommended by the planning authority would not generally be deemed to be necessary, directly relevant or capable of enforcement.

10.0 Recommendation

In view of the documentation on file, the submissions received, a site inspection and the assessment above I recommend that substitute consent for the above described development be refused for the following reasons and considerations.

11.0 Reasons and Considerations

1. In coming to its decision, the Board had regard to the following:
 - the provisions of the Planning and Development Acts, 2000 to 2014, and in particular Part XA,
 - the provisions of the Planning and Development Regulations 2001, as amended,
 - the 'Quarries and Ancillary Activities, Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government, April 2004,
 - the remedial Environmental Impact Statement submitted with the application for substitute consent, as amended consequent to the Section 132 Notice issued by the Board,
 - the reports and the opinion of the planning authority under section 177I of the 2000 Act, as amended,
 - the submissions and observations made in accordance with regulations made under section 177N of the 2000 Act, as amended,
 - the report of the Board's inspector, including in relation to potential significant effects on the environment,

Having regard to the nature and extent of the development, the remedial Environmental Impact Statement submitted with the application, as amended consequent to the Section 132 notice issued by the Board, the submissions on file and the Inspector's report, the Board completed an Environmental Impact

Assessment of the development. It is considered that the development which was undertaken at this site 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. The development which has been undertaken is thus contrary to the proper planning and sustainable development of the area.

2. In coming to its decision, the Board had regard to the following:

- Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, as amended,
- the provisions of the Planning and Development Acts, 2000 to 2014, and in particular Part XA,
- the provisions of the Planning and Development Regulations 2001, as amended,
- the 'Quarries and Ancillary Activities, Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government, April 2004,
- the remedial Natura Impact Statement submitted with the application for substitute consent as amended consequent to the Section 132 Notice from the Board,
- the reports and the opinion of the planning authority under section 177I of the 2000 Act, as amended,
- the submissions and observations made in accordance with regulations made under section 177N of the 2000 Act, as amended,
- the report of the Board's inspector, including in relation to potential significant effects on the environment,
- the nature of the development the subject of this application for substitute consent,

- the location of the site within the Slieve Tooley/Tormore Island/Loughros Beg Bay SAC (site code 00190) and
- the removal of and works on priority habitat and qualifying interests within the Slieve Tooley/Tormore Island/Loughros Beg Bay SAC (site code 00190) since 2007.

Having regard to the nature and extent of the development, the remedial Natura Impact Statement submitted with the application as amended consequent to the Section 132 notice issued by the Board, the submissions on file and the Inspector's report, the Board completed an Appropriate Assessment of the impacts of the development on nearby European sites. 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 (site code 00190) and the extent of the habitats removed and/or infilled as a result of the quarrying activity that is the subject of the application, the Board decided that it was not possible to conclude, beyond scientific doubt, that the subject development would not adversely affect, or has not had an adverse effect on, the integrity of a European site, specifically the Slieve Tooley/Tormore Island/Loughros Beg Bay SAC (site code 00190), having regard to the conservation objectives of that site. In such circumstances, the Board is precluded from granting substitute consent for the subject development.

Pauline Fitzpatrick
Senior Planning Inspector

November, 2016