

Validation Checklist

Lodgement Number : **LDG-061045-23**
Case Number: **ABP-315708-23**
Customer: **David Fisher**
Lodgement Date: **07/02/2023 10:55:00**
Validation Officer: **Aisling Reilly**
PA Name: **Donegal County Council**
PA Reg Ref: **2250933**
Case Type: **Normal Planning Appeal PDA2000**
Lodgement Type: **Appeal**



An
Bord
Pleanála

Multiple appeal

Validation Checklist	Value
Confirm Classification	Confirmed - Correct
Confirm ABP Case Link	Confirmed-Correct
Fee/Payment	Valid – Correct
Name and Address available	Yes
Agent Name and Address available (if engaged)	Not Applicable
Subject Matter available	Yes
Grounds	Yes
Sufficient Fee Received	Yes
Received On time	Yes
3rd Party Acknowledgement	Yes
Eligible to make lodgement	Yes
Completeness Check of Documentation	Yes
Valid Lodgement Channel	Yes

• B201M - Task No. 316993-23 - enclose copy of receipt and enclose copy of other 3rd party appeals (enclose 6 other appeals)

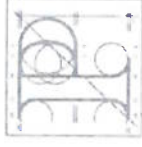
Run at: 09/02/2023 12:07

Run by: Aisling Reilly

Lodgement Cover Sheet - LDG-061045-23

AB1315708-23

Multiple appeal



An Bord Pleanála

Details

Lodgement Date	07/02/2023
Customer	David Fisher
Lodgement Channel	Post
Lodgement by Agent	No
Agent Name	
Correspondence Primarily Sent to	
Registered Post Reference	

Lodgement ID	LDG-061045-23
Map ID	
Created By	Robyn Hayden
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	
PA Reg Ref	

Categorisation

Lodgement Type	Appeal
Section	Processing

PA Name	Donegal County Council
Case Type (3rd Level Category)	

2250933

Fee and Payments

Specified Body	No
Oral Hearing	No
Fee Calculation Method	System
Currency	Euro
Fee Value	0.00
Refund Amount	0.00

Observation/Objection Allowed?	
Payment	PMT-047777-23
Related Payment Details Record	PD-047667-23

BBIM Task no. 316993-23

Appeal

Run at: 07/02/2023 11:03

Run by: Robyn Hayden

Date of decision: 13/01/2023 Last day 09/02/2023

PA Case Details Manual	
PA Case Number	
PA Decision	
PA Decision Date	
Lodgement Deadline	
Development Description	
Development Address	

Appeals Type	
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PLANNING AND DEVELOPMENT REGULATIONS 2001 (AS AMENDED)

Acknowledgement of Receipt of Submission or Observation on a Planning Application

THIS IS AN IMPORTANT DOCUMENT

KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO PRODUCE THIS ACKNOWLEDGEMENT TO AN BORD PLEANALA IF YOU WISH TO APPEAL THE DECISION OF THE PLANNING AUTHORITY. IT IS THE ONLY FORM OF EVIDENCE THAT WILL BE ACCEPTED BY AN BORD PLEANALA THAT A SUBMISSION OR OBSERVATION HAS BEEN MADE TO THE PLANNING AUTHORITY ON THE PLANNING APPLICATION.

PLANNING AUTHORITY: DONEGAL COUNTY COUNCIL

PLANNING APPLICATION REF.NO: 22/50933

A submission/observation in writing, has been received from David Fisher, Director, Oakfield Park Gardens Ltd, Oakfield Park, Oakfield Demesne, Raphoe, Co. Donegal F93 XY1R on 1st July 2022 in relation to the above planning application.

The appropriate fee of €20.00 has been paid.

The submission/observation is in accordance with the appropriate provisions of the Planning & Development Regulations, 2001 (as amended) and will be taken into account by the Planning Authority in its determination of the planning application.

Don - ag
For A/Senior Ex. Planner
Planning Services

Donegal County Council
Stamp.

1st July 2022



AN BORD PLEANÁLA	
LDG- <u>061045-23</u>	
Comhairle Contae	
Dhún na nGall	
Donegal County Council	
07 FEB 2023	
Fee: € <u>220</u>	Type: <u>PMO</u>
Time: _____	By: <u>Reg Post</u>

DONEGAL COUNTY COUNCIL
01 JUL 2022
PLANNING

David Fisher
Oakfield Park Gardens Ltd
Oakfield Demesne
Raphoe
Co. Donegal
27th January 2023

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

APPEAL RE: QUARRY AT MAGHERASOLUS AND CRAIGS, RAPHOE
PLANNING REFERENCE 22/50933

Dear Sir/Madam:

I am writing on behalf of Oakfield Park Gardens Ltd., to appeal the most recent decision to grant permission to Patrick Bonar in an application for:

(1) DEMOLITION OF EXISTING CONCRETE STRUCTURE (2) QUARRYING OF 5.37 HECTARES WHICH WILL BE SUBJECT TO EXTRACTION AND PROCESSING OF ROCK THROUGH DRILLING, BLASTING, CRUSHING AND SCREENING (3) CONSTRUCTION OF (A) SETTLEMENT PONDS AND WETLAND (B) A SHED FOR THE PURPOSES OF STORAGE FOR THE FACILITY INCLUDING ON-SITE MACHINERY MAINTENANCE (C) SITE OFFICE WITH CANTEEN, TOILET & DRYING FACILITIES (4) INSTALLATION OF A WASTEWATER TREATMENT SYSTEM & PERCOLATION AREA (5) PROVISION OF A WHEEL WASH AND WEIGHBRIDGE (5) LANDSCAPING OF THE QUARRY DURING THE OPERATIONAL PHASE AND RESTORATION OF THE QUARRY ON COMPLETION OF EXTRACTION (5) ALL ASSOCIATED ANCILLARY FACILITIES / WORKS OVER A 25 YEAR PERIOD.

The new application, which follows a recent application rejected by An Bord Pleanála, would have a disastrous effect on the local environment and everyone in the locality. From a business perspective it would devastate what has been developed for over two decades in Oakfield Park and damage the perfect habitat and tranquillity that is Oakfield Park's primary and unique selling point. This is despite the Environmental Impact Assessment Report (EIAR), commissioned and paid for by the applicant, which although having an obvious lean to the absence of any unsurmountable barriers to new quarrying activities in 5.37 hectares just outside Raphoe town, still feels the need to set out one hundred and seven mitigation measures to deliver a "pristine" environment. It is our opinion, that the effort and expense we currently put into keeping our waterways and award-winning wetland habitats wouldn't ever be enough to maintain what we have created. Please refer to Appendix D which alludes to the wetlands and habitat in Oakfield Park.

The original quarry site, referred to as "previous quarry history" in the EIAR has been abandoned now for many decades, and in this time, the surrounding area has changed greatly, regulations have improved, and the local landscape given the status of high scenic amenity. It states on page 6 of the EIAR that the applicant has "looked at alternative sites, but none were feasible". It seems to be the case that the applicant has "settled on this site" (also page 6 of the EIAR) out of desperation. The land is not owned by the applicant, rather a local farmer who was able to purchase the lands from Donegal County Council in recent years for a sum hugely below market value, with no known conditions to integrate the areas back into the landscape and recover functional ecosystems. Best practice would suggest that the site should be treated as such and perhaps form an amenity locally rather than this approach. It also feels like a speculative application, with no risk having not purchased the lands. The glaring omissions and errors in the new applications, some of which will be referred to later in this letter, would support this query.

In response to this application, Donegal County Council informed the applicant of their intent to enact Section 35 against the applicant for this application – which seemed to be absolutely the correct and ethical thing to do given the applicant's past behaviour. What is extremely concerning is that following a letter from the applicant's architect (Appendix B) which attempts to explain non-compliances, and pressure on Mr Martin McDermott – Quarries Compliance Officer from senior planners, this intention was completely reversed, and the approach replaced with a simple request for further information. This is downright scandalous. What seemed to be the first considerate approach taken by the council on this matter was quickly quashed and answers will be sought as to why this happened and the legalities of such.

I am extremely concerned that this application, following on from the recently rejected 19/52015 is being made by an applicant, who in July 2020 in the High Court “articulated a clear intention to flout the planning laws and environmental provisions therein” (Justice Barr presiding), following unauthorised quarrying to the River Leannan, another very sensitive landscape in Donegal. In fact, in an internal Donegal County Council email on 3/10/2022 (APPENDIX C) where observations were being requested from the Quarry Compliance Officer, a vast array of non-compliances from the applicant were listed. This is the reason Section 35 should have been taken forward as intended.

It also states on Section 19 of the applicant’s planning application form that “no pre-planning meetings took place regarding his proposed quarry”. This is simply untrue, as in a written submission the applicant states that he met with Mr Tommy Doherty, Mr Simon Harron and Mr Frank Sweeney – officials of Donegal County Council. During the appeal process to An Bord Pleanála for planning application 19/52015, the applicant stated that he had several pre-planning meetings with officials of Donegal County Council. Where are Donegal County Council’s (DCC) records of these meetings? We would insist on seeing the details of commentary within these meetings as per the Planning & Development Act 2000.

There are so many obvious reasons as to why the proposed development should not take place. However, with the aim of being as succinct as possible at this point, the most concerning aspects are outlined in sections below under various headings. This list and the content therein are not exhaustive, but should be enough to elucidate at the objection stage, why this application must be rejected:

Location

The location of this proposal is ludicrous and is the main source of astonishment locally. We, in Oakfield Park believe that a quarry of this kind so close to an estate that has been carefully developed over many years, would lead to our closure. Oakfield Park is just downstream from the quarry and within earshot even of the trail holes and digging which has already taken place on site. We now welcome over 60,000 people into our gardens as of 2022, we are the first Donegal member of the Association of Visitor Experiences and Attractions, an RHSI member attraction, a member of the Donegal Garden Trail (DGT) and a Key Account Member of Fáilte Ireland. We employ up to approximately 100 staff per annum and are, by far, the largest employer of young people in the area. Investment into the gardens in the past 20 years amounts to many million euros, all of which

would be in vain if the landscape is taken over by this relatively low-employment, negative proposal in the area.

Oakfield Park is centred on peaceful tranquillity, natural ecosystems and habitats, the creation of natural wetlands, and is a singular calm escape that draws people in from across the country to this area. We maintain and open to the public, 100 acres of mature woodland, parkland, lakes and ponds, a Victorian Ram pump in one of many waterways through the estate, ten beehives, all of which has been carefully developed and invested in over decades. However, we can stand in the estate and look up at the proposed site only a few hundred metres away. The proposals to “hide” this proposal are negligible - merely a token to get to the next stage. Oakfield Park has planted over 40,000 native trees so we are well placed to state that these proposals would not be effective, even if they were to be carried out. In fact, the suggestion only goes to show what a blot on the landscape this proposal would be.

The proposed site is surrounded by grazed pastureland, “sheep and cattle graze the lands immediately surrounding the existing quarry” (Page 157 of the EIAR). Farmers locally remember the dust created by the small-scale quarry here many years ago. The site is also located near many homes, some very old with owners who remember the shaking of their walls and windows breaking from previous quarrying – since the homes are often built on a strain of rock. Furthermore, there are two schools within earshot and with a view right onto the site (both schools are objectors). The Donegal County Council Development Plan 2018-2024 classifies the subject site as being located in an “area under strong urban influence” – this is not a suitable location for a quarry. Despite suggestions in the EIAR, there are many suitable locations for quarries in Donegal – this is not one of them.

Landscape

The town of Raphoe is one of only five heritage towns in County Donegal. The area is designated as an area of High Scenic Amenity (HSA) including the old quarry site itself. The Landscape Characteristic Assessment (LCA) (Donegal County Council, 2016) rightly describes the Laggan Valley as “a vast undulating agricultural landscape of good quality pasture and arable land characterised by large, geometric, hedge trimmed agricultural fields”. Taken from page 329 of the EIAR, “based on the field survey and reference to the current Donegal County Development Plan, the landscape character has been given a landscape value and sensitivity of “High”.

As can be seen in Appendix F, the quarry entrance sits inside the 50kmph limit and town extent of a heritage town. According to Donegal County Council's own website, "The areas within the historic boundaries identified are known as Zones of Archaeological Potential and are areas where intense archaeology is present. Consent for works in these Historic Towns or Zones of Archaeological Potential must be obtained from the National Monuments Service of the Department of Housing, Local Government and Heritage." Was this consent simply ignored and how can this be permitted?

This site is on top of a hill, with a wonderful view of the "rath" in Ráth Bhoth or Raphoe. It looks towards Croaghan Hill via many standing stones, over the Laggan Valley and to the River Foyle. Everyone in Raphoe looks up at the site, as clearly shown in the photographs within the EIAR. The local residents, businesses, schools and those who are minded to develop Raphoe as a tourist destination, would expect that Donegal County Council protect such areas, especially those within this LCA given their legal obligations within the County Development Plan (CDP).

Pointedly described as a "currently disused quarry" on page 140 of the EIAR, the site is said to be "1 kilometre north of Raphoe Town" on the same page – this is not accurate, and it is much less than this.

In fact, the proposed quarry would be:

- Less than 800m from Oakfield Park
- Under 600m from the Royal and Prior secondary school
- Under 800m from Ros Bán Garden (another DGT member)
- Less than 600m from Beechwood Avenue housing estate (which it overlooks)
- and worryingly, less than 300m from other residences (some of which contain mica)

On page 292 of the EIAR document, it states that "the quarry is situated in a sparsely populated rural area with sporadic once off housing, the closest occupied dwelling is approximately 160m west of the subject site", shortly followed by "The closest dwelling is approximately 150m from the quarry entrance" on the same page. The red 500m diameter marking on Figure 13.1 isn't even a circle! Although every photograph in Section 15 of the EIAR shows how very visible the quarry is from all aspects, it states in the same section that "no aspect of the development is visible from this site due to the existing boundary planting which aids in screening the site". Firstly, this will

certainly not be the case, and secondly something to “aid” the screening of the site simply isn’t enough.

Infrastructural

Taking a conservative assessment of 50% of the number of vehicular movements claimed to be from the site in the application – which is “40 traffic movements per day”, going through Raphoe town, the roads are simply not suitable for this development. We have major concerns over road safety with school children from four schools in the town using narrow footpaths on either side of this heavy goods traffic. The R236 road to Raphoe from the entrance to the local road (which is effectively private and going to one location), heads south-west, along the original Raphoe Castle Demesne wall, and into the “Diamond” in the town centre.

At the junction on the approach to the Diamond, St Eunan's Cathedral (also known as Raphoe Cathedral) sits only a few metres away. €450,000 has been spent recently, restoring this twelfth century building which has looked as it does not since the 1730’s. The distance between the narrow footpath at the cathedral gates and the footpath outside Friel’s Hotel on the other side of the road is less than five metres. This is barely enough for two cars to pass, and the extra heavily laden traffic would pose a very serious road safety risk. Lorries would have to mount the footpaths and avoid original stone walls if they meet another vehicle at this tight, blind corner – and there is no mention of this type of hazard in the application.

To date, a planning notice still hasn’t been placed at the entrance from the R236, where people can view it. Rather it has been placed at the top of the local lane designated L23749, where gates remain closed across what is supplied to be a public road where nobody will be able to read it. In the previous application Ref 19/52015, it was placed behind a bin having been asked by The Planning Department to rightly erect it on the R236. The EIAR submitted with this application talks about “the existing roadway entrance to the subject site looking right towards Raphoe” on page 284 alongside Photograph 12.1. If this is the “roadway entrance to the subject site”, why isn’t the planning notice here, especially when previously instructed to erect it here? It very much looks like the applicant has attempted to hide the application in both cases.

Environmental

Aside from water pollution, it is quite apparent that the proposal would have a tremendously detrimental effect on the local environment. We do take full account of the need for stone for road construction in the county but refute the claim that there are no other suitable sites in the county. There is a clear disregard of the environment by the applicant, not only in other locations as proven in court, but also with this application. In Section 17 of the application form on this occasion, the applicant states that the proposed development does not require an Environmental Impact Statement. This is not the case, and An Bord Pleanála's previous refusal would underline this.

With respect to the attempt the EIAR document makes to present this proposal as acceptable, no less than forty-one mitigation methods are proposed regarding biodiversity and water alone. It can not be safely assumed with confidence, that for the 25-year period of the operations period sought in this application, that every single one of these methods will be implemented, checked, and always enforced. This is not a sustainable development as any such project in this area would not require one hundred and seven mitigation measures in total, some of which will not be carried out and most of which would be ineffective.

The EIAR identifies the potential for disturbance or displacement of species like red squirrel, grey squirrel, red deer, and bats (protected under national and EU legislation in the Wildlife Act 1976). These species and their habitats would be entirely wiped out in this area and structural accommodation erected to rehome these animals will not be enough. Depending on the particular bat species, bat boxes can be completely unsuitable. Is it clear which species of bat are in the area? Has a holistic bat survey been carried out at both night-time and during the day?

The noise effects on the animal population would be very problematic, but the noise effects on human health is deeply distressing. Oakfield Park is a primary residence but there are many other dwellings even closer to the site. Considering decibels and noise mitigation methods isn't enough. The topography here enables sound to travel much farther, and who is going to deal with local residents' potential high blood pressure, heart disease, disturbances, and stress? Who is going to compensate Oakfield Park? Then there are the dust effects on local homes but also on grazing with wind erosion and dust deposition on both vegetation cover and species richness. It would be both uncontrollable and catastrophic. It is noted that animals graze adjacent to the site and the lack of consideration of this is abhorrent.

According to Policy EX-P-2 of the CDP:

“It is a policy of the Council not to permit new extractive industry proposals in areas of Especially High Scenic Amenity or in areas of High Scenic Amenity. Furthermore, such proposals will not normally be permitted 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”.

The area is designated as HSA and the areas of importance for the protection of flora and fauna was mentioned in previous paragraphs and will be in the next one. This contravention of the CDP alone, should be more than enough reason to reject such an application in this area?

Water Resources

This subject matter is potentially the most concerning, and this environmental impact is the most damaging as reflected by the previous rejected application by An Bord Pleanála and by the content of the EIAR for the current application. This is to the credit of both An Bord Pleanála and Greentrack. What is disappointing is that given the pressures on a consultant to make a client's application “work”, one hundred and seven mitigation measures and some diminishing of impacts on vulnerable receptors was carried out. The entirety of the runoff would run through Oakfield Park's clean lakes and ponds and further River Foyle and Tributaries SAC as shown in Figure 8.23 on page 182 of the EIAR.

On page 178 of the EIAR, it states:

“The qualifying interest of the River Foyle and Tributaries SAC are:

- Atlantic Salmon (*Salmo salar*)
- Otter (*Lutra lutra*)
- Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche* Batrachion vegetation
- Sea Lamprey

- River Lamprey
- Brook Lamprey
- Freshwater Peral Mussel

Any potential impact on hydrology due to proposed activities connected (directly or indirectly) with the subject site may have potential impact on these habitats/conservation interests.”

Add waterbird species, otter, swans and trout in Oakfield Park to that list before the runoff makes its way to the River Foyle and this has the potential to be an environmental catastrophe.

In Oakfield Park, we have already experienced many instances of water pollution from upstream in what the EIAR already describes as “slightly polluted” watercourse. We have constructed natural reed beds, weirs and settlement ponds to counteract this pollution. DCC has been here on multiple occasions taking samples and will have a long record of visits and samples of both farm pollution and suspended solids. Under the Polluter Pays Principle within the Water Framework Directive there can only be a small number of sources of this pollution upstream from here. We know that the proposed quarry site is already one of them with stone washdown during exploratory works prior to this application being made. Under the European Union’s environmental policy, “the polluter - and this could be the actors or the activity causing the pollution - should pay to right the wrong. This could entail “cleaning up the polluted area or covering the health costs of the people affected”. We will take legal action to ensure this happens in future.

Figure 8.22, on page 181 of the EIAR is an unclear and inaccurate map. The text on the same page states that “the nearest well to the site is located in Oakfield Demense 1.1 km southeast of the application site. The depth of the well is recorded at 4.6m with depth to bedrock 1.8m. The GSI yield class is ‘Poor’ for the well and yield is stated at 19.6m³ /day”. In the same paragraph, it states that “Figure 8.22 below shows the groundwater wells in the vicinity of the site. On the historic 6” map series a ‘Holy Well’ is mapped approximately 290m southwest of the application site. There is no evidence that this well/spring is still active.”

So, one well in the area was checked for evidence of activity. Why wasn’t the nearest well to the site checked for current usage? We do in fact use the well in Oakfield Park for freshwater and to totally ignore this fact seems as deliberate as the almost complete lack of reference to Oakfield Park as a whole – one of the nearest neighbours, with a groundwater well, a tourist attraction for tens of thousands per annum, and an employer of around 100 people. It must be also noted that

there are other houses within 1km of the site that are fed by well-water, and this was also entirely absent in the application.

There has been absolutely no reference to the usage of the proposed site as a landfill for many years after the old quarry closed. DCC used this site as a dumping ground for tonnes of material and there is evidence of this on site to this day despite some efforts to move this material in recent years. Local residents have photographs of these actions, and we would expect this evidence to be shared within this process if necessary. The issue with the use of the quarry hole upstream for a dumping ground, is that as soon as any new exaction works, quarrying and blasting would take place, the leachate from the site would be released into the tributary to the Swilly Burn, through the waterways within Oakfield Park and onward into the River Foyle. It is not sufficient to say within the EIAR document that simply “no significant effects on surface water quality are expected”.

The proposed development would adversely impact on existing Natura 2000 Sites, The River Finn SAC and the River Foyle and Tributaries SAC and the connecting Swilly Burn. This issue was made clear by An Bord Pleanála (Ref ABP-308326-20), following DCCs decision to grant the original application (19/52015) after accepting without checking the statement that that there was “no hydrological connectivity between the subject site and the Swilly Burn”. In the appeal process, the DCC planning authority continued to claim that “there is no connectivity from the site to the qualifying interests of the SACs and SPA sites.” Now in the EIAR, which should have been essential to the first application, is rightly showing the connectivity to the above vulnerable receptors. This is an absolute disgrace, and all seems to tie back to the meetings that took place on site before any of these planning applications were started.

Another issue we already face in Oakfield Park is regular flooding instances of large magnitude. Raphoe also has experienced issues with flooding and a study entitled the “Raphoe Flood Risk Assessment and Management Study” was undertaken by RPS which includes all the waterways highlighted in the EIAR and Oakfield Park and the capacity to attenuate water here was a large positive feature within the proposals of this study to combat flooding. What the study does not consider is the addition of a large quarry for the next twenty-five years at least, on the hill which produces the runoff that creates the problems we already have. Again, there are a multitude of proposed mitigation measures within the EIAR and a blanket statement to make the application work as a conclusion in section 8.8.10.

However, the document does not consider that we already experience regular flooding. As stated in page 189, “150 m³ from incident rainfall” would run off the dusty site and this is certainly vastly more than can be accepted in local streams and burns when we are already regularly flooded. In February 2020, flooding in the stream that runs for the proposed quarry site caused the L2374 which runs through Oakfield Park to be closed for several hours, caused a footbridge to be washed away and a building was flooded in the Lower Gardens here. We cannot accept additional runoff from sheer faces of stone, after removal of vegetation that has naturally provided habitat in recent decades. The community, the authorities and anyone with any concern for flora and fauna cannot accept that this project go ahead and pose any threat to our waterways.

We have spent decades in Oakfield Park creating award winning wetlands which have attracted species of waterfowl, cormorants, trout, and all sorts of flora and fauna. Our reed beds naturally act as filters for what is often very dirty water. Please see Appendix D for more details on the wetlands. Please also see Appendix E which highlights the dearth of wetlands in this part of Donegal.

Archaeology/Historical Features

The only reference to the to the archaeology and historical features in this area of the Laggan Valley, where settlements pre-date Christianity and where Neolithic farmers settled in the area and created some of the best farms in the county to this day, is the six-page long Section 14 of the EIAR and an eight-page Appendix 14.1: Archaeological Report, which is mainly photographs and is appended to the EIAR document. This is by any standards, insufficient for such an application in the area, just outside Raphoe town and within its hinterland, rich in archaeological and historical assets. The archaeological hinterland of Raphoe embraces a circumference of approximately 3 kilometres, encompassing the proposed site, which have recorded monuments from Neolithic to Bronze and Iron Age (4500-250 BC).

The area is home to many very important archaeological features including Kilmonaster Passage Tomb complex, Beltany Stone Circle (the second largest in Ireland and best viewed from the proposed quarry site), over 200 standing stones in various locations in the area and ancient rock art at Magherasolus, adjacent to the proposed site. In 2018, the largest horde of prehistoric gold in Ireland was found at Tullydonnell (2 kms from Beltany). All this evidence, along with other monastic and cultural features should preclude any such development in this area and is evidence that there is much yet undiscovered in this landscape of archaeological importance.

The location of an early monastic settlement in Raphoe is currently being investigated and the relics attached to this important centre of Early Christianity in Ireland are believed to include St. Eunan's Holy Well and St. Eunan's Bath. The well on Craigs Hill is known as St Eunan's well (the one previously referred to in this letter) and therefore suggests that material pertaining to the early monastery is in this landscape. Then there is the prominent Bishop's Castle within the line of sight of the application site and approximately 1.4km away. In Appendix A, it is clear to see from the engagement and commentary on a recent Facebook post how much local people value the history and unique features in Raphoe town.

Raphoe Community in Action Ltd. has been awarded funding from the Department of Heritage under the Community Monument Fund to complete a Conservation Management Plan for the 17th century derelict building. The aim of the Department of Heritage funding is to secure the building and enhance it for community and tourism purposes. The recent €450,000 spend on the cathedral in Raphoe, the funding for shop fronts and signage, the setting up of Donegal East tourism just a few years ago, the current audit of Raphoe and its hinterland for inclusion in the Donegal CDP as an area of Outstanding Archaeological Importance – this proposal threatens all this positive effort and potential. The opening and running of a commercial quarry on this landscape would jeopardise our attraction in Oakfield Park, and all this other good collective thinking and would run contrary to the aims and objectives of the Donegal CDP.

Economic

Whilst we fully appreciate the need for quarrying, and the need for stone and quarries (that is not being overlooked), this is far from the right location for a quarry. We have spoken to other quarry operators that are of the same opinion and who are surprised that this proposal was ever given so much as an inkling of consideration. The other operators are baffled as to why stone isn't being purchased from them for public sector work, when these site meetings are taking place between employees of DCC and an applicant who has recently been in court and who is currently under investigation for a current illegal quarry in Muckish Mountain. We would contend that there is zero economic benefit to the wider community by operating a quarry in this area. Staff would merely be displaced from another quarry and the profits shared between only a few individuals.

On the contrary, it would be an economic disaster, totally ruining the potential for the culturally curious tourist, the attraction of a peaceful, rich landscape and the investment that has been made to give a heritage down the attention it deserves. Oakfield Park would be severely threatened as

people would not visit here with the background noise, the lack of wildlife they've become used to and the group effort of Raphoe Community in Action, Donegal East Tourism among others, would be in vain.

On page 247 of the EIAR, it states that "95% of all noise levels shall comply with the specified limits values(s)" – are we to believe that, when we can hear people raising their voices in the quarry site or Royal School playing fields? Are we to accept the remaining 5% of noise that falls outside of specified limits?! A large quarry this close to schools, homes and businesses is nothing short of psychological torture. There can be no positive economic in the environs of this proposal. To finish, I would like to refer to Policy ED-P-14. It is a policy of the Council that any proposal for economic development use, in addition to other policy provisions of this Plan, will be required to meet all the following criteria:

- (a) It is compatible with surrounding land uses existing or approved.
- (b) It would not be detrimental to the character of any area designated as being of especially high scenic amenity (EHSA):
- (c) It does not harm the amenities of nearby residents.
- (e) The existing road network can safely handle any extra vehicular traffic generated by the proposed development or suitable developer-led improvements are identified and delivered to overcome any road problems.
- (g) It does not create a noise nuisance.
- (h) It is capable of dealing satisfactorily with any emission(s).
- (i) It does not adversely affect important features of the built heritage or natural heritage including Natura 2000 sites.
- (k) The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity.
- (m) In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.
- (n) It does not compromise water quality nor conflict with the programme of measures contained within the current north-western river basin (NWIRBD) management plan.

We would strongly contend that 22/50933, an application for an industrial quarry for 25 years, absolutely fails to meet any of the above and cannot be permitted.

We are shocked at how this has been handled since the first application in late 2019, and prior to that with the sale of lands, and private meetings between DCC and the applicant, and the continuation of DCC as client of Bonars Quarry despite their illegal actions. The conflict of interest as a client of the applicant, and the officials permitting this activity is an issue. There are over 140 prosecutions pending for illegal quarrying in Donegal, with zero injunctions served. We're also shocked to hear that DCC is the only Council in Ireland that fails to maintain a register of quarries in their county. Surely it is now time to clean the county up, both literally and professionally.

There has already been drilling in the area on a small, possibly exploratory scale, which has already caused pollution in the streams running through Oakfield Park. When council officials were called out to witness this pollution, all that we received was a phone call from Dr Joe Ferry asking us to throw bales of hay into the streams within Oakfield Park to resolve the issue ourselves. When the issue of the quarry was brought up, the response was "sure, there's a quarry there already". The transparent use of language by all concerned, to downplay the applicant's intentions here throughout, is simply shocking.

On page 246 of the EIAR, the writer refers to "the quarry which has been idle over a number of years" and on page 293, "the application site and existing quarry is situated..." is plainly used to project an image that there already is a quarry that merely needs to be opened again. This is not the case!

The applicant is well known to have little or no regards to the environment and continues to flagrantly contravene the rights of nature around the county. This is a large part of the reason why there are 15 objectors, and everyone is so concerned. If this is allowed to proceed, then that is only the start of decades of heartache, archaeological, cultural, and environmental disaster.

Please do the right thing and reject this application, again.

Yours faithfully,


A handwritten signature in black ink, appearing to be 'David Fisher', written over a horizontal line.

David Fisher MSc BEng Hons. CEng MIEI

Director

Oakfield Park Gardens Ltd.


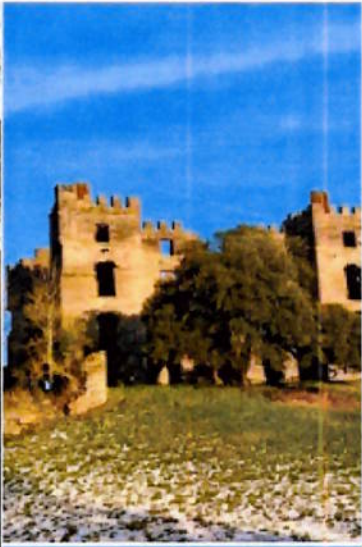

APPENDIX A – 20/1/2023 Facebook Post


**Oakfield Park**5 d · 🌐...

Raphoe - a historical village in County Donegal, and one of only 5 heritage towns in the county. These towns are included in the Record of Monuments & Places and are protected as such.


Said to be "the smallest cathedral city in Europe", the town has recently been awarded funding to replace shop fronts, paint the Georgian houses in "the diamond", to carry out a study on The Bishop's Palace and protect the town into the future.

#oakfieldpark #raphoe #donegal #FridayFacts



 Boost this post to reach up to 3367 more people if you spend €35.

Boost post

 Dáire Nolan and 230 others

24 comments · 41 shares

Most relevant ▾



Write a comment...



⚠ You're commenting as David Fisher.



Stephanie Laird

The town this morning at sunrise



Like Reply 6 d



"Most relevant" is selected, so some replies may have been filtered out.



Reply to Stephanie Laird...



⚠ You're commenting as David Fisher.



Stanley Byers

Captain Stoney I think I heard some one mention a descendant of his a number of years ago possibly a pilot of a plane

Like Reply 6 d



Sharon Craig

Stanley Byers captain Stonys son was in the RAF and was sent to Africa to get princess Elizabeth after her father died, she then became Queen

Like Reply 6 d



💎 Top fan

Paul Stoney

Sharon Craig Captain Tom Stoney was my uncle and flew princess Elizabeth back from Kenya to become queen. His brother was my father and his name was Ormonde. He was christened in Raphoe Cathedral and died exactly 10 years ago aged 86.

Like Reply 6 d



Sharon Craig

Paul Stoney I'm from Raphoe thank you for sharing this information

Like Reply 6 d



Mary Stacy

Stanley Byers how are you doing?

Like Reply 6 d

"Most relevant" is selected, so some replies may have been filtered out.



Reply to Stanley Byers...



⚠ You're commenting as David Fisher.



Top fan

Michelle Pabon



Like Reply 6 d



Natasha Barr

Dermy C White we have to do this a day

Like Reply 6 d



William McKean

Not before time

Like Reply 2 d



Maggie McManus

Oakfield Park is a wonderful place for all ages, can't wait to get back

Like Reply 6 d Edited



Sarah Burns Feyl

My great grandfather came to America from Raphoe in the late 1800s. I was so lucky to visit Raphoe in 2019. Next time I'll bring more of the family!

Like Reply 6 d



Wendy McDowell

Great news for Raphoe

Like Reply 6 d

↳ 2 replies



Top fan

Paul Stoney

My Dad was born here in 1926 and christened in the Cathedral!

Like Reply 6 d

↳ 2 replies



Janet Russell

Will be good to see the Castle fixed up a bit, the cathedral looks great after all the work carried out on it.

Like Reply 6 d



Ida Fisher

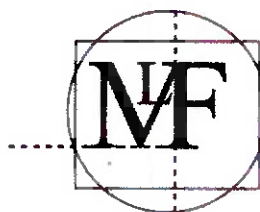
This is great news for the area. Beautiful photo Stephanie

Like Reply 6 d

"Most relevant" is selected so some comments may have been filtered out

Write a comment...

APPENDIX B – Letter received by Donegal County Council 13/9/2022



MICHAEL FRIEL

ARCHITECTS & SURVEYORS LTD.

CREESLOUGH,
Co. DONEGAL, F92 TF60.

PHONE: 074 91 38814
MOBILE: 087 286 9658
EMAIL: michael@mfrielarchitects.ie

Planning Section,
Donegal County Council,
County House,
Lifford,
Co. Donegal.



RE: 22/50933

Patrick Bonar RE: Permission for development at Magherasolis & Craigs, Raphoe, Co. Donegal to (1) Demolition of existing concrete structure (2) Quarrying of 5.37 hectares which will be subject to extraction and processing of Rock by drilling, blasting, crushing & Screening, (2) Construction of (a) settlement ponds and constructed wetlands (b) Construction of a Shed for the purposes of storage facility including the on - site machinery maintenance (c) Erection of a site office with canteen, Toilet & drying facilities (4) Installation of a waste water treatment system and percolations area (5) provision of a wheel wash and weighbridge (6) Landscaping of the Quarry during the operational phase and restoration of the Quarry on completion of extraction. (7) all associated ancillary facilities / works over a 25 year period. An environmental impact assessment report (EIAR) and a Natura impact statement (NIS) accompanies this application.

A Chara,

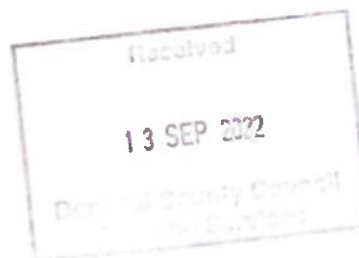
Please find attached the following documents pertaining to the above planning application, namely;

- A formal response to the correspondence which we received from the Planning Authority in respect to the application named above.
- A request for information pursuant to the access to information on Environment Regulations 2007 – 2018 (the AIE regulations)

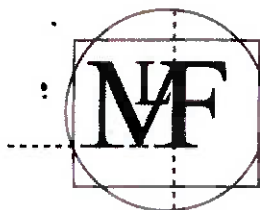
I trust that this is satisfactory and I look forward to hearing from you in due course.

Is Mise Le Meas,

for **Michael Friel** **MRIAI**



Offices at: CREESLOUGH • ARDARA • DONEGAL TOWN



MICHAEL FRIEL

ARCHITECTS & SURVEYORS LTD.

C'REESLOUGH,
Co. DONEGAL. F92 TF60.

PHONE: 074 91 38814
MOBILE: 087 286 9658
EMAIL: michael@mfnelarchitects.ie

Planning Section,
Donegal County Council,
County House,
Lifford,
Co. Donegal.



RE: Planning Application Ref No: 22/50933

Patrick Bonar RE: Permission for development at Magherasolls & Craigs, Raphoe, Co. Donegal to (1) Demolition of existing concrete structure (2) Quarrying of 5.37 hectares which will be subject to extraction and processing of Rock by drilling, blasting, crushing & Screening, (2) Construction of (a) settlement ponds and constructed wetlands (b) Construction of a Shed for the purposes of storage facility including the on - site machinery maintenance (c) Erection of a site office with canteen, Toilet & drying facilities (4) Installation of a waste water treatment system and percolations area (5) provision of a wheel wash and weighbridge (6) Landscaping of the Quarry during the operational phase and restoration of the Quarry on completion of extraction. (7) all associated ancillary facilities / works over a 25 year period. An environmental impact assessment report (EIAR) and a Natura impact statement (NIS) accompanies this application.

We refer to your letter dated 22nd June 2022 in relation to above planning permission purporting to invoke section 35(1) of the 2000 Act on the basis that there are good grounds for forming an opinion that there is a real and substantial risk that the development will not be completed in accordance with the permission or condition if granted.

1. SECTION 35 OF THE 2000 ACT

We are extremely surprised to receive such a notice which we consider wholly unjustified and disproportionate. While this provision was enacted under the 2000 Act, we are not aware of any planning authority invoking such jurisdiction. It is for very good reason that planning authorities have avoided doing. This is because it involves a very drastic and radical interference with rights protected under the Constitution including property rights and the

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entitlement to earn a livelihood in a commercial context. It is a departure from the general principle that under the planning regime, matters which are personal or relate to the identity of the applicant for permission are irrelevant. It also entails mixing control of development functions and enforcement functions of the planning authority, even though they are internally separated with the Council.. The proper place for dealing with alleged breaches of the planning code is clearly through the enforcement function where there are penalties or other consequences. It is quite another matter that alleged infractions can be extended to effectively disqualifying an applicant from even consideration of their development proposals regardless of its merits.

It is open to question whether the mechanism under section 35 is constitutional on the basis that it is a disproportionate interference with property rights and the right to earn a livelihood. It has not been tested simply because it has never been invoked. However even if the mechanism is constitutional, it is clear that the exercise of such power in a particular case must be assessed against the backdrop of constitutionally protected rights and must be interpreted very strictly. It is not apparent from the letter of Donegal County Council that the Council fully appreciated these considerations in deciding to invoke section 35 and certainly on the facts, taking into account all of the circumstances, it is wholly unjustified and is disproportionate. Separate to this response we attach an FOI and/or Access to Information on the Environment Request relating to the invocation of section 35 of the 2000 Act by the Council.

2. INADEQUATE REASONS AND IRRELEVANT CONSIDERATIONS

Moreover insofar as this provision has rarely, if ever advanced, in over twenty years of its existence, this also gives rise on a practical level to issues of fairness and proportionality. There are no exceptional circumstances which would justify the same and there is no attempt to explain the same. Moreover, the practical reality and nature of the quarrying industry in Ireland is there are often claims of unauthorised development. The lands are also in remote locations (as in the present) and limited adverse planning impacts in terms of impact on residential amenities can arise. There is no attempt to engage with the nature of unauthorised

development to explain why this is substantial to warrant the exercise of such an extraordinary power. To make it clear, the effect of section 35 is to be mean that a planning application is *not even considered* on its merits.

The letter purports to set out a schedule itemising three non-compliances with permission and four alleged unauthorised developments. Other than baldly asserting that they involve "*substantial unauthorised development*" which the planning authority, the letter and schedule gives no adequate reasons or particulars as how or why the planning authority considers these alleged unauthorised development as substantial. It is patently clear that all or many of these alleged unauthorised development. (even if they were demonstrated and taken at their highest), are not substantial. Moreover other than the reference to the Court Order in relating to landscape and restoration, there has been no findings of unauthorised development for a range of the matters alleged to constitute unauthorised development. Even if section 35 is constitutional, it is apparent that it should be reserved for the most serious and egregious breaches of planning with significant consequences. There is no attempt to explain or identify the same in the notice as none are present. Many of the alleged breaches are trivial such as alleged use of a shed for commercial rather storage purpose.

There is also a general attempt to shoehorn all of the alleged unauthorised as relating to the Court Order which is not explained. Moreover, this Court order was made against Bonar Plant Hire Company Ltd. It was not made against Patrick Bonar the applicant or person, who is an entirely different legal entity.

It is also disproportionate to contemplate invoking the same in the following circumstances, none of which appear to have been taken into account:

- The Bonar family have been operating quarries since the 1960's and in that time they have amassed a large amount of loyal clients and indeed experience in the field of supplying aggregates, stone, concrete and blocks to the Donegal Public. They have also provided significant employment and other economic benefits to the locality
- An application for development of the Quarry in Raphoe was made by Patrick Bonar in 2019 under Planning Ref: 19/52015 and a recommendation to grant was made by the Planning Authority on the 10th of September 2020, no question in respect to Section 35(4) of the Planning & Development Act 2000 was raised under

that application and the situation in regards to Patrick Bonar has not altered significantly in the intervening period.

- The Applicant has made this application in good faith and has engaged a range of experts to assist with the same. They would not have done so if it was intended to take a reckless approach to compliance with any permission which might be granted or the conditions. It is intended that in the event of a fully permitted facility that it will be monitored by the applicant and persons acting on his behalf as well as the relevant authorities such as the local Authority and Sections thereof and all aspects of the operation would be monitored (if permitted) including, noise, dust, water, vibration and all other facets of the operation to ensure that it is properly monitored and managed if it were to be granted by the Authority. If permission is granted this will allow our client to focus almost exclusively on this site and ensure that the operation is carried out to the highest standards in conformity with conditions which may be associated with any such grant of permission. This does not have appeared to have been considered by the Council and there is nothing in the application itself which would justify the Council forming the view which it appears to have done.

- The Applicant has expended very significant expense already, through the previous application process in 2019 & 2020, and is doing so again with this new, and enhanced application in 2022. This is not the course of a company or individual who is operating entirely outside of the Planning code, in fact it is the opposite

- We have had a conversation with the Senior Development Planner following the refusal by An Bord Pleanála where we were led to believe that if we were in a position to overcome the previous refusal reasons as decided by An Bord Pleanála in the 2019 application, that an application could be considered by the Planning Authority. The issue of Section 35(4) never raised its head during this conversation and we are somewhat bemused that this has now become a factor when it was not previously raised.

3. MATTERS IN SCHEDULE

Without prejudice to the above, it is proposed to address each of the matters relied upon set out in the schedule. Before looking at each in turn, a number of observations may be made:

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1. The items at Schedule 1 vaguely make reference to the Court Order although it does not clearly identify what order. It is assumed that this relates to the order of Mr Justice Barrett dated 1st July 2021 (perfected on the 1st September 2021) which relates to lands at Calthame (otherwise Fallard) Letterkenny, County Donegal. The scope of this Order is to cease certain unauthorised quarrying activity (para 1), concrete batching plant (para. 2), cease all unauthorised development in para. 1 and 2 (para. 3), comply with the landscape and restoration plan pursuant to permission 06/ 51276 including geotechnical survey, ecological appraisal and submission of restoration plan (para. 4), submission of final restoration plan (para. 5) and implementation of restoration plan (para. 6). There is not attempt to explain how the various matter relates to the same, which is hard to understand, other than a vague reference to forming part of the Order. In addition and crucially, this Court order was made against Bonar Plant Hire Company Ltd. It was not made against Patrick Bonar the applicant or person, who is an entirely different legal entity.
2. Reference is made to warning letters. However, warning letters issued under section 152 are not findings or otherwise of unauthorised development, but an invitation to respond to potential unauthorised development. It is therefore entirely contrary to fair procedures and the nature of the warning letter for the Council to be relying upon the same as constituting unauthorised or as a basis for believing that there is a substantial risk of unauthorised development. In the Council did not progress these warning letter to further enforcement action and there is no basis in such circumstances to relying upon the same
3. The warning letters and enforcement notices mentioned are all undated and so our client has to be engage in an exercise of conjecture in seeking to identify the same.
4. Meetings have been sought with the Council but these have regularly been refused or not responded to.

Schedule

1. Non Compliance with permissions

Ud14125

Refers to an undated warning letter (which appears to be around 2013/2014) and non-conformity with "aspects" of permission 06/51276 particularly conditions 3(ii), 5, 7, 9 (iv &

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Schedule

1. Non Compliance with permissions

Ud14125

Refers to an undated warning letter (which appears to be around 2013/2014) and non-conformity with "aspects" of permission 06/51276 particularly conditions 3(ii), 5, 7, 9 (iv) &

the local authority and works carried out that the substantive unauthorised development element will be complied with.

Ud2072

Undated warning letter re Storage structure within quarry at Calhame, Letterkenny, County Donegal, regarding non-compliance with condition 15/51448 comprising conditions 1, 2 and 5 which is said to "presently forms part of the High Court Order requiring its removal of part landscape/restoration plan and remains outstanding. . Served on P Bonar Plant Hire Ltd. (PJ Bonar joint company director with Anne Marie Russell and PJ Bonar secretary). Again there is no explanation as to how it forms part of the High Court Order.

This UD file therefore relates to a Shed which is 186m² was permitted at their former quarry site at Calhame, Letterkenny under Planning Ref No: 15/51448. The condition states that the shed is to be used for the purposes of storage associated with the existing Quarry and shall not be used for any other commercial purposes. Our Client does not accept the use of this shed was at any stage unauthorised development. The shed was consistently used for storage, which was consistent with the terms of the Planning Permission. Originally, when Donegal County Council received third party complaints in respect of the overall Quarry operation, the Enforcement section were misled by a complainant that there was third party machinery being repaired within the structure, this claim was without foundation. Despite the inaccuracy of the complaints, the matter was investigated by the Council, and we advised as agents acting for the facility that there had not at any time been any vehicle within the building which was not associated with the Bonar's existing Quarry business. We understood at this time (Quarter 2 of 2020) that the bona fides of the use of the shed, and the inaccurate complaints being made to the Planning Section that it was accepted by the Council there was no unauthorised development in respect of the shed. Therefore, we do not accept this particular case can now be used as a part of a broader case against our Client. The structure is

approved and is not an un-authorised structure, again this does by no means constitute a failure to comply of a substantial nature and does not comply with section 35(2) of the Planning & Development Act 2001 as it is required. However, in any case, this is minor and

trivial matter and it difficult to see how it could be characterised as substantial unauthorised development for the purposes of section 35 of the 2000 Act.

Ud20167

Alleged undated enforcement notice regarding non-compliance with conditions 2(a) of planning reference 10/40186 and extension of duration 15/50140 requiring removal of all plant and apparatus associated with concrete batching plant by 23/8/2020 which "presently forms part of High Court requiring its removal as part of landscape/restoration plan) and remains outstanding. . Served on P Bonar Plant Hire Ltd. (PJ Bonar joint company director with Anne Marie Russell and PJ Bonar secretary). There is an again an attempt to link with the High Court in any unidentified manner. The concrete batching plant which is located on the former quarry site at Calhame is no longer in operation, this can be verified by the Quarry compliance officer within Donegal County Council who has carried out site visits to the former quarry facility and would have witnessed the plant no longer in operation.

2 Alleged Unauthorised Development

- (i) Ud 14107 enforcement notice (undated) in respect of alleged unauthorised quarrying activities at Barnes Lower, Termon, Letterkenny, County Donegal. Served on Barnies Limestone Quarry Ltd. Anne Marie Bonar and Patrick Joseph Bonar. The Planning Authority will be aware that there is no activity taking place at this site nor has there been for a number of years. All activity and operations has ceased and Mr. Bonar has no equipment or materials on the site which require removal. As such this case should be closed and as previously advised there is a bond of in excess of €200,000 which is within Council control and is to be utilised for the restoration of the Quarry.

- (ii) Ud19117, urgent enforcement notice (undated), quarrying of lands without the benefit of planning permission and making material change of use from disused to a use of quarrying relating activity at Calthame, Letterkenny, County Donegal. Served on P Bonar Plant Hire Ltd. (PJ Bonar joint company director with Anne Marie Russell and PJ Bonar secretary). See response to Ud14125 above.
- (iii) Ud20201 urgent enforcement notice (undated) use of lands for quarrying at Drumkeen, Stranorlar, County Donegal. Served on Patrick Bonar. No development is taking place or has taken place at this location in Drumkeen for at least 18 Months. No quarrying had taken place at this location, materials which had been quarried and stockpiled at the site were removed but all activities at this site had ceased prior to the Ud letter being received by our client. This case should be closed by the local Authority and the site can be visited by the Local Authority at any time to verify the above
- (iv) Ud20269, urgent enforcement notice (undated) quarrying of lands at Moyra, Glebe, Glenties, County Donegal. Served on Sean McGee/Niamar Property. this UD file relates to Sean Mc Gee/Niamar Property for a site which is owned by the above person and we understand that this matter is being dealt with before the courts between the local Authority and the person who received the enforcement notice. We can state, that Mr. Bonar has not received any formal correspondence from the local authority in regards to this matter and that no formal proceedings have been initiated against our client in regards to the alleged unauthorised development at this location and pose the question whether it is even fair to list such a case when it is the first sight that our client has had of this case which has been initiated against another party and not our client.

SUMMARY AND CONCLUSION

1. The issuing of the notice under section 35 in respect of the planning application is unprecedented, extraordinary, disproportionate and wholly without merit.

2. The impact of the notice if confirmed would be that the applicant would be unable to have a planning application, now or in the future even considered. This would have an enormous impact on the property rights and right to earn a livelihood of the applicant.
3. Section 35 procedures has never been invoked, may be unconstitutional but in any case, the facts do not even remotely justify the invocation of the same.
4. The notice issued by the Council is inadequately reasoned, takes into account irrelevant considerations and does not explain how the alleged breaches or in what way they constitute substantial unauthorised development.
5. The Council has sought to rely upon undated and outmoded warning letters and enforcement notices. It is misunderstood even the nature of warning letter
6. The only finding of unauthorised development relates to the Court Order concerning the implementation of the landscape and restoration plan for lands at Calthame (otherwise Fallard) Letterkenny, County Donegal. This Court order was made against Bonar Plant Hire Company Ltd. It was not made against Patrick Bonar the applicant for person, who is an entirely different legal entity. This is the aftermath of development which has ceased and is being progressed for the purposes of implementation. In no way could this be described as substantial unauthorised development within the meaning of section 35 and it is not explained by the Council how this could be the case.
7. There is an attempt to link other alleged breaches of conditions in some unexplained way to this Court order which is without merit.
8. None of the alleged breaches represent a serious, or egregious ongoing unauthorised development at any of the locations. The cases are either long dormant, being resolved, or simply based on inaccurate information received by the Council. In the other cases, Mr. Boner continues efforts to resolve matters, but requires a level of engagement from the Council which is not currently on offer, or possibly unavailable due to resourcing issues.
9. There is no prosecutions against our client in regards to any of the matters above.
10. Certain matters relied upon in terms of unauthorised development do not relate to the applicant, our clients.

11. There has been no specific case where the Local Authority have had to carry out works (remediation or environmental) at their own expense to make good any of the sites in question.
12. Our clients have employed a range of experts and expended considerable costs in preparing the planning application. Our client would not be doing so if intended not to comply with the permission or conditions. There is no objective basis for a real and substantial risk that it will not be completed.
13. The Council has made a wholly unjustified and unwarranted inference of compliance with a number of complicated conditions of planning permission to a conclusion of real and substantial risk that it will not be completed. This is without foundation.
14. If the Council were minded to refuse the application on the basis of section 35 of the 2000 Act this will have a devastating impact on the client. If the Council makes such a finding, it is the intention of our client to bring an application to the High Court to annul the same forthwith.

With my Best Regards,


for Michael Friel MRHAI.

APPENDIX C –Donegal County Council Internal Email 3/10/2022

DIANE GIBNEY

From: CARMEL KELLY on behalf of planning mailbox
Sent: Monday 3 October 2022 09:54
To: DIANE GIBNEY
Subject: FW: Consultants Report Request from Donegal County Council 22/50933

Follow Up Flag: Follow up
Flag Status: Flagged

Thank you
Carmel

From: CIARA CONDON (PLANNING) [REDACTED]
Sent: Monday 3 October 2022 09:45
To: planning mailbox [REDACTED]
Subject: FW: Consultants Report Request from Donegal County Council 22/50933

Please Update attached email to file as quarry Officer Report(file on my desk)

Tks
Ciara

*Ciara Condon,
Executive Planner,
Development Management,
Community, Development & Planning Services
Donegal County Council,
County House,
Lifford.
F93 Y622*

Tel: +353 (0)74 9153900



**Comhairle Contae
Dhún na nGall
Donegal County Council**

From: MARTIN JOSEPH MC DERMOTT (PLANNING) [REDACTED]
Sent: Monday 3 October 2022 09:41
To: SIOBHAN DOHERTY [REDACTED], CAROL MARGEY [REDACTED]

Cc: CIARA CONDON (PLANNING) [REDACTED]; FRANK SWEENEY (PLANNING)

Subject: RE: Consultants Report Request from Donegal County Council 22/50933

Siobhan,

further to my previous reports, the Chief Executive Order dated 22/07/22 and the agent's response dated 12/09/2022 and I wish to respond as follows to each point of the Chief Executive Order:

Point no. 1(i) UD14125: regrading non-compliance with conditions attached to permitted quarry extension at Calhame, Letterkenny – this case remains open and ongoing as the Landscape and Restoration plan required by the High Court Order (granted on 01/07/2021 and amended on 12/01/2022) has not been completed, submitted for the Planning Authorities written agreement nor implemented on site, however, correspondence from Mc Intyre O' Brien Solicitors, dated 26/08/2022 on behalf of P Bonar Plant Hire Ltd trading as Bonar Quarries, confirmed that Geotechnical Assessment to inform the final Ecological Assessment and then final Landscape and Restoration Plan, required by the High Court Order is in the process of being prepared and all will be completed and submitted as soon as possible,

Point no. 1(ii) UD2072: regarding non-compliance with conditions attached to a permitted storage structure located within quarry at Calhame, Letterkenny – response as per Point no. 1(i) above,

Point no. 1(iii) UD20167: regarding unauthorised concrete batching plant located within quarry at Calhame, Letterkenny – response as per Point no. 1(i) above,

Point no. 2(i) UD14107: regarding unauthorised quarrying at Barnes Lower, Termon – this complex case remains unresolved with no likely resolution imminent,

Point no. 2(ii) UD19117: regrading quarrying of lands without the benefit of planning permission at Calhame, Letterkenny – response as per Point no. 1(i) above,

Point no.2 (iii) UD20201: regarding unauthorised quarrying at Drumkeen, Stranorlar – agents' confirmation that all unauthorised quarrying has long since ceased is noted and the case shall be reviewed and concluded accordingly and

Point no. 2(iv): UD20269 – unauthorised quarrying at Moyra Glebe, Glenties – it should be noted that no prosecution has been taken against Patrick Bonar or P Bonar Plant Hire Ltd trading as Bonar Quarries in this case to date.

Regards,
Martin



Martin Mc Dermott
Executive Planner
Quarry Compliance Officer
Community, Development and Planning Services
Donegal County Council
County House,
Lifford,
Co. Donegal.

Tel - 074 - 9153900

From: SIOBHAN DOHERTY

Sent: Wednesday 28 September 2022 15:11

To: CAROL MARGEY; MARTIN JOSEPH MC DERMOTT (PLANNING)

Subject: Consultants Report Request from Donegal County Council 22/50933

Dear Sir/Madam,

I refer to the above application and wish to advise that further information has been received.

I also wish to inform you that this application is now due for a decision on or before 10/10/2022, and I would be grateful for any observations you would like to make by 04/10/2022.

Please note that the further information details can be viewed on:
<https://www.eplanning.ie/DonegalCC/AppFileRefDetails/2250933/0>

Yours faithfully,

Planning Services
Donegal County Council



Cómhairle Contae
Doire na nGall
Donegal County Council

Siobhán Doherty | Community Development & Planning Services |
Donegal County Council
Tel: 074 91 53900 |
Email: planning@donegalcoco.ie

APPENDIX D – 2/2/2023 Facebook Post



Oakfield Park is at Oakfield Park.

17h · Raphoe · 🌍

...

Today is World Wetlands Day, and the award winning wetlands created in Oakfield Park are one of the most important developments that we have undertaken.

The wetlands filter and store water, and as the most biologically diverse of all ecosystems, they provide a home for thousands of animal and plant species.

In the last few years especially we have noted many new species coming into the area and the water leaving the lower gardens is much cleaner than that coming into the upper gardens.

Did you know, that wetlands only cover about 3% of the earth's surface but store up to a third of the world's total carbon - 50 times more than rainforests!

They're amazingly undervalued areas and this is an amenity that we are determined to protect and develop over the coming years.

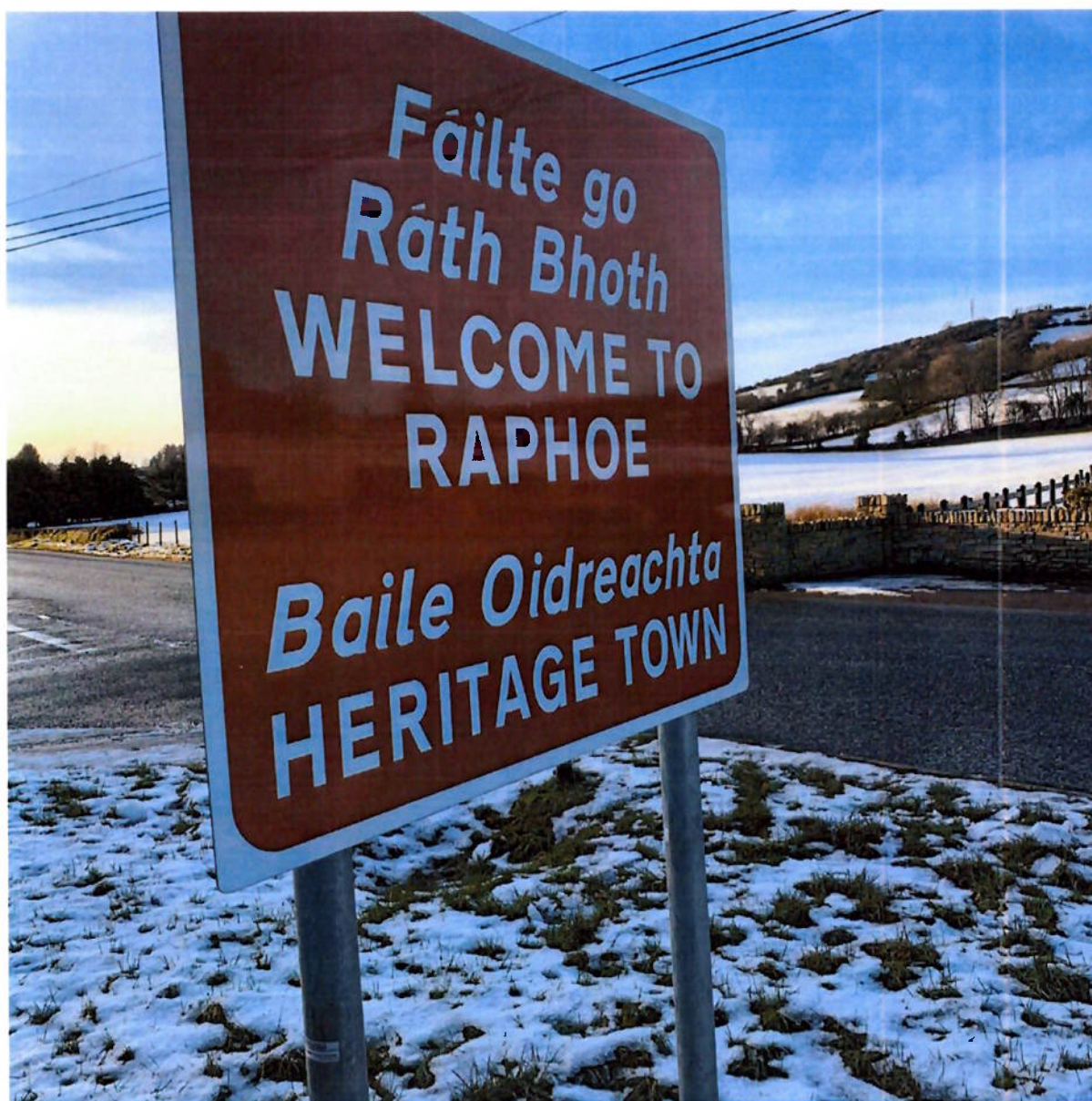
#oakfieldpark #worldwetlandsday #wetlands #lakes #reedbeds #birdlovers #birdlife #nature #boathouse #waterislife #donegal



APPENDIX E – <http://www.wetlandsurveysireland.com> – Donegal Wetlands



APPENDIX F – Photograph showing Proposed Quarry Site Location



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07 FEB 2023	
LTR DATED	PROVI
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