

Appendix 1

Client Objection

Ref: -QD05E.323037

by

Pearse O’Gorman
Ballymagroarty
Ballintra
Co. Donegal
F94 EF80

Unauthorised development carried out post 16th October 2013

The dismissal of the Substitute Consent application SU0128 by An Bord Pleanála and having the decision confirmed in the High Court does not constitute exceptional circumstances. Furthermore, P McCaffrey & Sons Ltd (hereafter McCaffreys) carried out significant unauthorised development post An Bord Pleanála decision on 05E.QV.0128, dated 16th October 2013, which determined that unauthorised development requiring environmental impact assessment and appropriate assessment had taken place:-

1. Illegal dumping of waste in north quarry October 2013 to January 2015
2. Flooding of north quarry
3. Stone excavated in north quarry and stockpiled in south quarry was processed from October 2013 to September 2015
4. Quarrying of 400,000 tonnes into floor of south quarry from October 2015 to December 2019 required environmental assessment, see ABP-313030-22 and Appendix 3
5. Installation of manufacturing block plant in 2020
6. Importation of stone and ongoing works at quarry from January 2020 to date
7. Unauthorised development for creation of lorry park to east of south quarry

McCaffreys has engaged in extensive unauthorised development, since 16th October 2013, in the full knowledge that prior environmental impact assessment and appropriate assessment were required.

Inaccurate Site Notice

Extraction of rock have ceased at the site, the development relies on the importation of material for processing, the ongoing manufacturing of asphalt and concrete products, re-exporting of aggregate products and continued use of all infrastructure and buildings.

No further works or works of any kind are proposed. Continuation of established use of on-site plant, infrastructure and buildings, as outlined above and the importation of aggregate for processing and sale and re-exporting of product is sought for 30 years. A restoration / aftercare plan for the site is provided with the application.

Section 2(1) Planning and Development Act, 2000 has the following interpretation of 'works':-

'...includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...'

Section 3(1) Planning and Development Act, 2000 states as follows:-

'In this Act, 'development' means, except where the context other requires, the carrying out of any works on, in, over or under lands or the making of any material changes in the use of any structures or other land.'

The description of activities in the Site Notice for continuation of use is equivalent to '...any act or operation of construction...' and constitutes 'works'. Furthermore, ABP has determined in ABP-313030-22 that the ongoing quarrying and ancillary activities at Patrick McCaffrey and Sons Ltd Quarry, is development and is not exempted development. Therefore, works are currently being carried out on site and the site notice is misleading.

Application Form

McCaffreys has stated in Q7 Description of Development in the Application Form that '*the development consists of two quarry voids with a total quarry area of ca. 13.26ha. The north quarry consists ca. 4.62ha extraction area and the south quarry consists of an operational area of ca. 8.64ha consisting of an extraction area of ca. 4.9ha and associated infrastructure.*' This is an application for Substitute Consent and must be looked at as if it were a greenfield site. The applicant has not applied for the actual extraction of stone from the north and south quarry but just to retain the quarry voids. This is a fundamentally flawed approach, the application is misleading and should be refused.

McCaffreys has incorrectly completed Q14 Site History of the Application Form

<i>Are you aware of any valid planning applications previously made in respect of this land/structure?</i>
Yes[] No[✓]

There was a valid planning application on the site 01/106 - ABP 05.131103, which was refused in October 2003.

Depth of Quarry

Drawing No. MM250709-07 shows four cross-sections through the north and south quarry. However, the location of the cross-sections is not shown on the plan drawing, making it difficult to locate them. There is only one cross-section for the north quarry, which does not provide an accurate representation of the quarry (see photographs of north quarry later in this Appendix). The depth of quarrying in the base of the north quarry is lower than shown on the cross-section, at circa -33mOD.

The south quarry has been excavated below the water table and there is a significant depth of groundwater in the void. It appears that the level provided in the cross-sections (59.83mOD) is groundwater level and the depth of quarrying is actually deeper than shown on the cross-sections.

Red line boundary

The road from local road at N15 to L7265 is a non public road with a public right of way. I own the lands on both sides of the road from N15 to the south quarry and this includes the road. The applicant has included the road from south quarry to local road at N15 within their red line boundary. I have not given consent to include the road within the application. The applicant has also shown a wayleave coloured yellow from local road at N15 to south quarry, which I did not consent to. The applicant has not identified the public right of way that exists over the full length of the non public road from public road at N15 as far as L7265, including through the south quarry.

Drawing No. MM250709-10 South Quarry shows the red line boundary for the non public road well into my fields on both sides of the road. The applicant has included the full length of drystone walls on both sides of the road within their red line boundary. The encroachment of the red line boundary onto my property is wholly unacceptable, particularly in light of the persistent damage to my property by the quarry operator.

South Quarry Traffic Hazard

The south quarry is constructed on both sides of the road. The applicant has not addressed traffic movements and conflicts between quarry traffic and general public and the gates into the quarry are not shown. These gates are continually left open and represents a health and safety hazard. Pedestrian and vehicular traffic from N15 to L7265 travels through the middle of a fully working and operational quarry. Furthermore, the road through the quarry has been so widened it is no longer clearly defined. Therefore, traffic movements generated at south quarry poses a risk to public safety and constitutes a traffic hazard.

The non-public road as far as the south quarry is substandard in width and design for volume and weight of quarry vehicles. This has resulted in significant damage to my drystone walls and creates a traffic hazard for road users.

Surface Water Run Off

There is no surface water collection system for the non-public road, quarry yards and vehicle parking areas. Surface water runoff from dust suppression sprinkler system flows down the road and ends up pooling at the gate of my cattle crush beside the N15.

Sightlines

The applicant has not demonstrated adequate sightlines at the junction of the non-public road with the public road.

Traffic onto N15

The Substitute Consent application must be assessed as a greenfield site requiring a new access onto National Primary Road N15. McCaffrey's quarry requires an access via non-public road onto a short section of public road onto National Primary Road N15. The junctions of public road with the N15 are located on a bend, where 100km/h speed limit applies. There have been four fatalities and several serious traffic accidents near these junctions.

The proposed sightlines to be achieved in both directions are 215m as per NRA TD 41-42/11, Section 7.7 and Table 7/1, Geometric design of Major/Minor Priority junctions and Vehicular Access to National Roads. The sightlines shown on Drawing No. MM250709-09 are 165m, which is well below the minimum standard of 215m. The applicant has not demonstrated minimum stopping sight distances and forward visibility for vehicles turning right at these junctions, which cannot be achieved at either junction. The quarry development would result in intensification of use at substandard junctions onto N15 where a speed limit of 100km/h applies, would interfere with the free flow of traffic on the national road and create a traffic hazard.

Unauthorised quarrying in South Quarry

The following photographs show commencement of unauthorised quarrying in base of south quarry in October 2015. McCaffreys excavated approximately 400,000 tonnes of stone from the base of the south quarry and quarried below the water table, creating new source of potential significant environmental impact. A series of contemporary photographs is included in Section 5 Declaration ABP-313030-22 (Appendix 3) of the excavation in south quarry from October 2015 to December 2019, at which stage McCaffreys commenced importation of stone from Roadstone. The unauthorised quarrying in the south quarry post 16th October 2013, was undertaken by McCaffreys in the full knowledge that prior environmental impact assessment and appropriate assessment was required.



Figure 1: south quarry - new excavation in base of south quarry floor 31st October 2015



Figure 2: south quarry - new excavation of quarry floor in centre right of photograph 31st October 2015



Figure 3: New excavation pits in south quarry 29th November 2015



Figure 4: New excavation in south quarry of quarry floor progressing 29th November 2015



Figure 5: New excavation in south quarry of quarry floor progressing 29th November 2015



Figure 6: Preparation for further blasting in south quarry 18th December 2015



Figure 7: Preparation for further blasting in south quarry 18th December 2015



Figure 8: Preparation for further blasting in south quarry 19th December 2015



Figure 9: Preparation for further blasting in south quarry 19th December 2015



Figure 10: Preparation for further blasting in south quarry 19th December 2015 -
Blast took place in early January 2016

McCaffreys repeated claim that quarrying overwhelmingly finished in 2013 is also contradicted by aerial photographs submitted in their own documents. Section 6.4.2 of rEIAR Habitats show

south quarry in 2013 with a flat base and current situation in Drawing No. MM250709-06 with deep excavation in floor of south quarry.

Figure 6-13: Aerial Imagery Dated 2013



Figure 11: EIAR -Section 6.4.2 Habitats – without deepening in south quarry



Figure 12: Extract from Drawing No. MM250709-06 of current layout – quarry blasted between October 2015 and December 2019 is clearly visible

North Quarry

The extent of the north quarry was expanded by McCaffreys in 2007, on lands to the west and outside the footprint of the north quarry. This expansion of the quarry was undertaken without environmental impact assessment and appropriate assessment. Furthermore, the deepening in the north quarry took the base of the north quarry below the water table, creating new source of potential significant environmental impact. The north quarry is incapable of being remediated, is a health and safety hazard and should be refused Substitute Consent.



Figure 13: Looking east from west face of quarry – L7265 on right hand side of photograph - September 2012



Figure 14: Looking west from entrance to quarry - L7265 on left hand side of photograph- September 2012



Figure 15: Looking north west from local road L7265- September 2012



Figure 16: quarry excavation to west of quarry 2 – looking north- September 2012

Unauthorised Lorry Park

McCaffreys undertook unauthorised development by creation of a lorry park to on east side of road through quarry, at rear of sheds. Following complaints, Donegal County Council undertook enforcement action (UDDL05/2006) and the area was temporarily restored. However, McCaffreys re-excavated the lorry park circa 2008/2009 and expanded it circa 2012 without planning permission.



Figure 17: Unauthorised Lorry Park

Figure 6-11: Aerial Imagery Dated 2010



Figure 6-12: Aerial Imagery Dated 2011



Figure 18: Progressive development of unauthorised lorry park

Unauthorised Block Manufacturing Plant

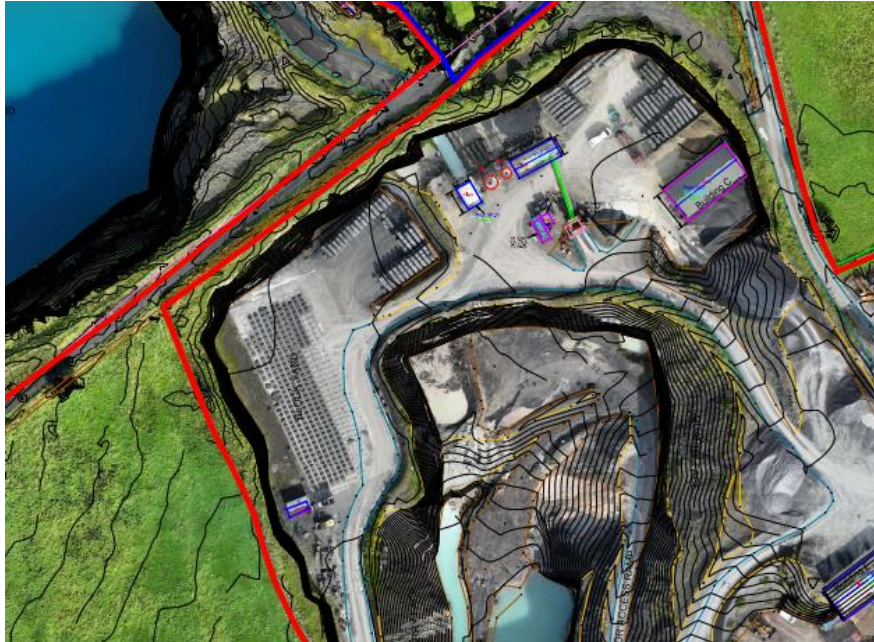


Figure 19: Unauthorised block manufacturing plant

McCaffreys installed a block manufacturing facility in 2020, without planning permission. The groundwater in the south quarry is potentially at risk to pollution as the manufacturing plants (concrete/macadam/block manufacturing) are constructed on the quarry floor, with no measures in place to prevent ingress into groundwater through the floor.

Climate

The applicant has not quantified the amount of carbon generated by the quarrying activities. The quarry application for Substitute Consent fails to address climate compatibility, especially in terms of carbon emissions generated, and is non-compliant with Climate Action and Low Carbon Development (Amendment) Act 2021.

Substandard rEIAR

The detrimental impact of the quarry on residents, landowners, the environment, quality of life, human health, property, health and safety has not been properly assessed in the rEIAR. The limited historical data, the validity and veracity of the data presented renders the rEIAR substandard in terms of assessing the significant effects on the environment. This is discussed in detail in Appendix 2.

Conclusion

I trust that An Coimisiún Pleanála will take the above points into consideration and refuse this application for Substitute Consent.