

AN BORD PLEANÁLA

22 SEP 2023

TRD-
DG-
ABP- **APPLICATION TO AN BORD PLEANALA FOR SUBSTITUTE CONSENT**

31 8062-23

BEFORE FILLING OUT THIS FORM PLEASE NOTE THE FOLLOWING

Failure to complete this form or attach the necessary documentation, or the submission of incorrect information or omission of required information will lead to the invalidation of your application. Therefore please ensure that each section of this application form is fully completed and signed, entering n/a (not applicable) where appropriate, and that all necessary documentation is attached to the application form.

ADDITIONAL INFORMATION

It should be noted that each planning authority has its own development plan, which sets out local development policies and objectives for its own area. The authority may therefore need supplementary information (i.e. other than that required in this form) in order to determine whether the application conforms with the development plan and may request this on a supplementary application form.

Failure to supply the supplementary information will not invalidate your planning application but may delay the decision-making process or lead to a refusal of permission. Therefore applicants should contact the relevant planning authority to determine what local policies and objectives would apply to the development proposed and whether additional information is required.

OTHER STATUTORY CODES

An applicant will not be entitled solely by reason of a planning permission to carry out the development. The applicant may need other consents, depending on the type of development. For example, all new buildings, extensions and alterations to, and certain changes of use of existing buildings must comply with building regulations, which set out basic design and construction requirements. Also any works causing the deterioration or destruction of the breeding and resting places of bats, otters, natterjack toads, Kerry slugs and certain marine animals constitute a criminal offence unless covered by a derogation licence issued by the Minister for Arts, Heritage and the Gaeltacht (pursuant to Article 16 of the Habitats Directive).

DATA PROTECTION

It is the responsibility of persons or entities wishing to use any personal data on a planning application form for direct marketing purposes to be satisfied that they may do so legitimately under the requirements of the Data Protection Acts 1988 and 2003. The Office of the Data Protection Commissioner state that the sending of marketing material to individuals without consent may result in action by the Data Protection Commissioner against the sender including prosecution.

Directions for completing this form:

1. Grid reference in terms of the Irish Transverse Mercator.
2. "The applicant" means the person seeking the consent, not an agent acting on his or her behalf.
3. Where the plans have been drawn up by a firm/company the name of the person primarily responsible for the preparation of the drawings and plans, on behalf of that firm/company, should be given.
4. A brief description of the nature and extent of the development, including reference to the number and height of buildings, protected structures, etc.
5. Gross floor space means the area ascertained by the internal measurement of the floor space on each floor of a building, that is, floor areas must be measured from inside the external wall.
6. The Record of Monuments and Places, under section 12 of the National Monuments Amendment Act 1994, is available, for each county, in the local authorities and public libraries in that county. Please note also that if the proposed development affects or is close to a national monument which, under the National Monuments Acts 1930 to 2004, is in the ownership or guardianship of the Minister for Arts, Heritage and the Gaeltacht or a local authority, or is the subject of a preservation order or a temporary preservation order, a separate statutory consent is required, under the National Monuments Acts, from the Minister for Arts, Heritage and the Gaeltacht. For information on whether national monuments are in the ownership or guardianship of the Minister for Arts, Heritage and the Gaeltacht or a local authority or are the subject of preservation orders, contact the National Monuments Section, Department of Arts, Heritage and the Gaeltacht.
7. A list of approved newspapers, for the purpose of giving notice of intention to make a planning application, is available from the planning authority.
8. All plans, drawings and maps submitted to the planning authority should be in accordance with the requirements of the Planning and Development Regulations 2001-2011.

<p>This form should be accompanied by the following documentation:</p>

Please note that if the appropriate documentation is not included, your application will be deemed invalid.

All Applications:

- The relevant page of newspaper that contains notice of your application
- A copy of the site notice
- 6 copies of site location map
- 6 copies of site or layout plan as appropriate
- 6 copies of plans and other particulars required to describe the works to which the development relates (include detailed drawings of floor plans, elevations and sections) as appropriate.
- The appropriate Fee

Where the disposal of wastewater for the development is other than to a public sewer:

- Information on the on-site treatment system and evidence as to the suitability of the site for the system.

Where the application refers to a protected structure/ proposed protected structure/ or the exterior of a structure which is located within an architectural conservation area (ACA):

- Photographs, plans and other particulars necessary to show how the development affects the character of the structure.

Where an application requires an Environmental Impact Statement or a Natura Impact Statement:

- An Environmental Impact Statement
- A Natura Impact Statement

APPLICATION FORM

1. NAME OF RELEVANT PLANNING AUTHORITY

DONEGAL COUNTY COUNCIL

2. LOCATION OF DEVELOPMENT

Postal Address or Townland or Location
(as may best identify the land or
structure in question)

DRUMBEAGH,
MOUNTCHARLES,
CO. DONEGAL

Ordnance Survey Map Ref no (and the
Grid Reference where available¹)

93/13
X, 584790 Y, 878320

3. APPLICANT²:

Name(s)

GABRIEL MURRAY, MURRAY STONE

Address to be supplied at the end of this form (Question 19)

4. WHERE APPLICANT IS A COMPANY (REGISTERED UNDER THE COMPANIES ACTS):

Name(s) of Company Director(s)

N/A

Registered Address (of Company)

N/A

Company Registration Number

N/A

AN BORD PLEANÁLA

LDG- 086614-23

ABP-

22 SEP 2023
Fee: €1725.00

By: Card

Time: 11:00 By: hand

5. PERSON / AGENT ACTING ON BEHALF OF THE APPLICANT (IF ANY)	
Name	McMULLIN ASSOCIATES ARCHITECTS
	Address to be supplied at the end of this form (Question 20)

6. PERSON RESPONSIBLE FOR PREPARATION OF DRAWINGS AND PLANS ³ :	
Name	LAURENCE McMULLIN
Firm / Company	McMULLIN ASSOCIATES ARCHITECTS

7. DESCRIPTION OF DEVELOPMENT:	
Brief description of nature and extent of development ⁴	<p>GABRIEL MURRAY, MURRAY STONE IS APPLYING TO AN BOARD PLEANALA FOR SUBSTITUTE CONSENT FOR THE CONTINUATION OF EXISTING QUARRYING WORKS AND ALL ASSOCIATED SITE DEVELOPMENT WORKS AT DRUMBEGH MOUNT CHARLES, CO DONEGAL. THE APPLICATION WILL BE ACCOMPANIED BY A REMEDIAL ENVIRONMENTAL IMPACT ASSESSMENT SCREENING REPORT AND A REMEDIAL ECOLOGICAL REPORT WHICH INCLUDES A STAGE 1 APPROPRIATE ASSESSMENT SCREENING REPORT</p>

8. LEGAL INTEREST OF APPLICANT IN THE LAND OR STRUCTURE:		
Please tick the box	A. Owner	B. Occupier
	C. Other <input checked="" type="checkbox"/>	
Where legal interest is 'Other' please expand on your interest in the land or structure	<p>THE LAND IS OWNED BY THE APPLICANTS MOTHER, BRIDGET MURRAY. THE APPLICANT HAS THE LAND LEASED FROM HIS MOTHER.</p>	

9. SITE AREA:	
Area of site to which the application relates in hectares	3.45 ha

10. WHERE THE APPLICATION RELATES TO A BUILDING OR BUILDINGS:	
Gross floor space ⁵ of existing building(s) in square meters	3459
Gross floor space of any demolition in square meters (if appropriate)	—

11. IN THE CASE OF MIXED USE DEVELOPMENT (E.G. RESIDENTIAL, COMMERCIAL, INDUSTRIAL, ETC) PLEASE PROVIDE BREAKDOWN OF THE DIFFERENT CLASSES OF DEVELOPMENT AND BREAKDOWN OF THE GROSS FLOOR AREA OF EACH CLASS OF DEVELOPMENT:	
Class of Development	Gross floor area in meters

12. IN THE CASE OF RESIDENTIAL DEVELOPMENT PLEASE PROVIDE BREAKDOWN OF RESIDENTIAL MIX:							
Number of	Studio	1 Bed	2 Bed	3 Bed	4 Bed	4+ Bed	Total
Houses							
Apartments							
No. of car-parking spaces to be provided							Total

13. DEVELOPMENT DETAILS:		
Please tick appropriate box	Yes	No
Does the development consist of work to a protected structure and/or its curtilage or proposed protected structure and/or its curtilage?	✓	


	YES	No
Does the development consist of work to the exterior of a structure which is located within an architectural conservation area (ACA)?		✓
Does the application relate to development which affects or is close to a monument or place recorded under section 12 of the National Monuments (Amendment) Act, 1994 6?		✓
Does the application relate to work within or close to a European Site or a Natural Heritage Area?		✓
Does the development require the preparation of a remedial Environmental Impact Statement?	✓	
Does the development require the preparation of a remedial Natura impact statement?	✓	
Does the application relate to a development which comprises or is for the purposes of an activity requiring an integrated pollution prevention and control licence?		✓
Does the application relate to a development which comprises or is for the purposes of an activity requiring a waste licence?		✓
Do the Major Accident Regulations apply to the development?		✓
Does the application relate to a development in a Strategic Development Zone?		✓
Does the development involve the demolition of any structure?		✓

14. SITE HISTORY	
Details regarding site history (if known)	
Has the site in question ever, to your knowledge, been flooded	
Yes []	No [<input checked="" type="checkbox"/>]
If yes, please give details e.g. year, extent:	
N/A	
Are you aware of previous uses of the site e.g. dumping or quarrying?	
Yes [<input checked="" type="checkbox"/>]	No []
If yes, please give details: <u>THE SITE IS AN EXISTING QUARRY</u>	
Are you aware of any valid planning applications previously made in respect of this land / structure?	
Yes [<input checked="" type="checkbox"/>]	No []
If yes please state planning reference number(s) and the date(s) of receipt of the planning application(s) by the planning authority if known: <u>APPLICATIONS TO A.B. PLEANTALA</u>	
<u>ABP 310012 - 21</u>	<u>22/4/21</u>
<u>ABP 314750 - 22</u>	<u>4/10/22</u>
<u>ABP 315867 - 23</u>	<u>22/2/23</u>

15. SERVICES:		
Source of Water Supply		
Public mains []	Group Water Scheme []	Private Well []
Other (please specify) [<input checked="" type="checkbox"/>] <u>Any WATER USED IS TAKEN FROM RUN OFF WATER FROM DRAIN.</u>		
Name of Group Water Scheme (where applicable):		
Wastewater management / Treatment <u>N/A</u>		
Public Sewer []	Conventional Septic Tank System []	
Other on-site Treatment System []	Please specify: <u>N/A</u>	
Surface Water Disposal		
Public Sewer/Drain []	Soakpit []	
Watercourse [<input checked="" type="checkbox"/>]	Other [] Please specify	

16. DETAILS OF PUBLIC NOTICE:	
Approved newspaper ⁷ in which notice was published	DONEGAL DEMOCRAT
Date of publication	21/9/23
Date on which site notice was erected	21/9/23

17. APPLICATION FEE:	
Fee payable	
Basis of Calculation	<p>CLASS 6(a) DEVELOPMENT 6. THE USE OF LAND FOR — (a) THE WINNING & WORKING OF MINERALS €50 FOR EACH 0.1 ha OF SITE AREA</p> <p>AREA OF SITE = 3.45 ha $3.45 \text{ ha} / 0.1 \text{ ha} = 34.50$ $34.50 \times €50 = €1725.00$ FEE PAYABLE = €1725.00</p>

18. DECLARATION	
I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct and accurate and fully compliant with the Planning & Development Act 2000, as amended, and the Regulations made thereunder.	
Signed (Applicant or Agent as appropriate)	 LAURENCE MC MULLIN MC MULLIN ASSOCIATES ARCHITECTS (AGENT)
Date	21/9/23

CONTACT DETAILS – NOT TO BE PUBLISHED

19. APPLICANT ADDRESS / CONTACT DETAILS: <i>GABRIEL MURRAY</i>	
Address	<i>MURRAY STONE. DRUMBEAGH, MOUNTCHARLES CO DONEGAL, F94 D851</i>
Email address	[REDACTED]
Telephone number (optional)	[REDACTED]

20. AGENT'S (IF ANY) ADDRESS / CONTACT DETAILS: <i>MC MULLIN ASSOCIATES ARCHITECT</i>	
Address	<i>TIRCHONAILL STREET, DONEGAL TOWN, CO DONEGAL F94 WT77</i>
Email Address	[REDACTED]
Telephone number (optional)	[REDACTED]
Should all correspondence be sent to the agent's address? Please tick appropriate box. (Please note that if the answer is 'no', all correspondence will be sent to the applicant's address)	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

A contact address **must** be given, whether that of the applicant or that of the agent.

McMullin Associates Architects

An Bord Pleanála
64 Marlborough St.
Dublin 1
D01 V902

25 -03-2021

Our ref:18011

AN BORD PLEANÁLA

22 SEP 2023

LTR DATED _____ FROM Applicant
LDG- _____
ABP- 318082-23

www.mcmullinassociatesarchitects.ie

RE: Enforcement notice for Quarry ref. UD2027 Bridget Murray & Gabriel Murray- Quarry at Drumbeagh Mountcharles Co Donegal.

Application for Leave to Apply for Substitute Consent

We confirm that we are instructed by the above Clients to act as their agent in matters relating to the Enforcement Notice which they received from Donegal Co Council dated 18-11-2020.

At the outset this notification came as a shock to our Clients particularly as Donegal Co Council by letter dated 23-04-1993 stated they had no objection to the continued use of the established Quarry. Having discussed the overall situation with our clients and Mr Martin Mc Dermott of Donegal Co Co we confirm that our Clients are anxious to have the relevant anomalies rectified. To that end we are instructed to proceed with this application for Leave to Apply for Substitute Consent to cover the overall quarry development.

The history of stone quarrying on this site goes back generations and it is with this history in its overall context that we make this submission of Exceptional Circumstances as allowed for within the recent revisions to the Planning Act.

Summary of use:

1. The lands on which historical quarrying has taken place is generally identified on the attached maps.
2. The quarry is long established going back many decades and generations and has remained in continuous use.
3. Donegal Co Council has on many occasions purchased and used the extracted material and may well have archive records going back to the 1950s indicating such.
4. Past generations of the extended Murray family were dependent on it for a livelihood since 1918 at least.
5. Their home was built on the lands in 1850 and it remains the Family home.
6. There are records of the lands and house being formally transferred in 1910 to a Mr Paddy Gallagher, Grand Uncle of the current owners.
7. In 1916 during extensive road works on the adjoining public road the quarry access points were used as a bypass by Donegal Co. Co.

Associates: L McMullin MRIAI R McCarthy FRIAI RIBA

VAT Reg No IE 1281866V



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Feasibility Studies



TIRCHONAILL STREET
DONEGAL TOWN
Tel 074 9721712

Dungloe
074 9522250

technical@mcmullin.ie

8. Between 1960 and 1966 the Co. Co. used the quarry extensively and on several occasions used explosives to extract stone.
 9. A uncle of the present owner also worked in it as a foreman at that time.
 10. Mr James Gallagher, father of the present owner left it to his Wife Anne, who in turn passed it on in 1980 to Bridget (Brid) who is named as the current owner together with her son Gabriel.
 11. The current generation are solely dependent on it as a source of continuous employment and income.
 12. There are 2 to 3 employees from the immediate area also dependent on quarrying continuing as it is also their only source of income.
 13. It is not possible to in any form cease works as requested by Donegal Co Co as it would cause a calamitous undue hardship on several families and deprive the Murray family of their historical means of livelihood.
-
14. The Murray family, by nature of the quarrying business, have continuous contractual commitments to fulfil orders on an ongoing basis, as to do otherwise would cause ruin to their Business.
 15. See attached letter from Donegal Co. Co. dated 23 April 1993 which appears to give full approval for ongoing works on this site.
 16. By letter dated 20 th Aug. 2012 Donegal Co. Co. notified Gabriel Murray that the quarry was not in accordance with their requirements relative to the Planning Act.
 17. At that time the Murray Family did proceed to commission a comprehensive report from Catherine Storey (a specialist in assessment and conservation) which was forwarded to an Bord Pleanala on 04-10-2012 as part of an application requesting substitute consent.
 18. Based on the historical use of the quarry long before the 1963 Planning and Development Act the Murray family were of the opinion that as it was long established, and pre 1963, Planning permission was not relevant.
 19. Based on the 1993 letter of clarification from Donegal Co. Co. the Murray Family were off the opinion that it confirmed that the use of the Quarry was in order and their livelihood was secure.
 20. See attached MAP 1 taken from the 1837-1842 O.S. map which records a quarry at that location.
 21. See attached MAP 2 taken from the 1889-1913 O.S. MAP which records a quarry at that location.
 22. See attached Map 2a which shows the historic 2500 map (1889-1913) overlay on to a current aerial image.
 23. See attached MAP 3 which shows the extent of the quarry as it now exists.
 24. See attached MAP 4. The overall area enclosed by the Yellow verge line is 4.15 Ha.
 25. This indicates a fee due of €3000 to an Bord Pleanala for this application for this Leave to Apply for Consent, which is enclosed.

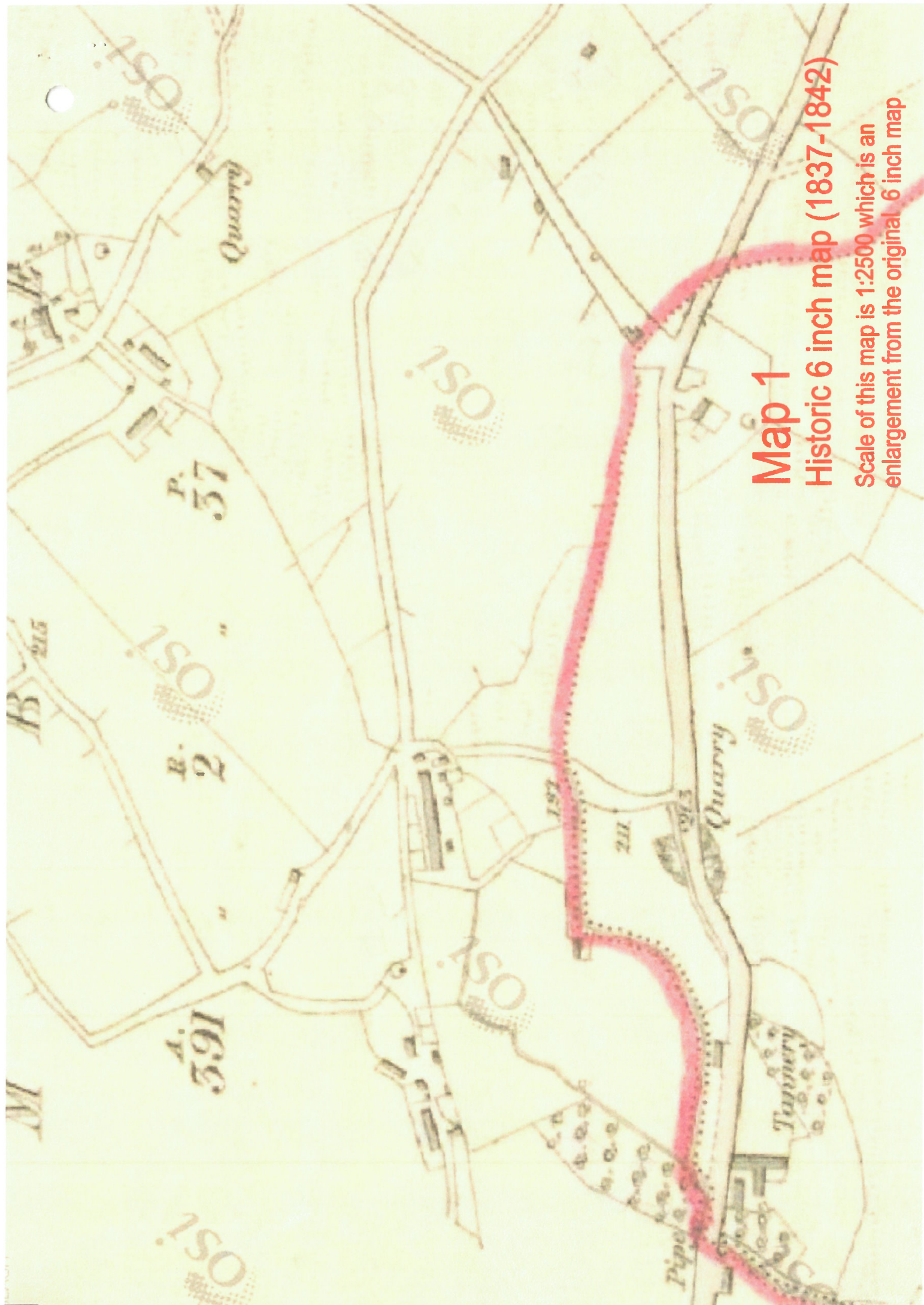
Conclusion

The Murray family do understand that the laws were changed at EU level to allow Local Authorities who failed over the years to regularise the overall use and opening of new quarries, some of which in this County were solely in the use of Donegal Co. Co. To that end our Clients are committed to procuring whatever reasonable documentation is required to ensure the continued unhindered use of their historical family business. It is noted that the more recent Dec. 2020 changes to the Planning Act gives some clarity to the overall situation but are not without anomalies. We are requesting that permission for leave to apply for Substitute Consent is granted by An Bord Pleanala based on the exceptional circumstances as outlined above.

Yours sincerely

Mc Mullin Associates

Encls. Letter 23April 1993.



Map 1
Historic 6 inch map (1837-1842)
Scale of this map is 1:2500 which is an
enlargement from the original 6 inch map

Map 2
Historic 25 inch map (1889-1913)
Scale 1:2500



Map 2 a
Historic 25 inch map (1889-1913)
overlay onto current aerial image
Scale 1:2500



Map 3
(aerial image)
Scale - approximately 1:2500



Area enclosed by yellow line measures 4.15 ha

Applicant's Home

Map 4
(aerial image)
Scale - approximately 1:2500



Comhairle Chontae Dhún na nGall

Donegal County Council

Tel: (074) 41066. Telex: 42124. Fax: 41205

Our Ref.

Your Ref

23rd April, 1993

TO: Gabriel Murray
Drumconnor Hse
MOUNTCHARLES

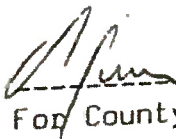
RE: Stone Quarry at Drumbigh, Mountcharles

Dear Sir,

I refer to your letter of 4th March, 1993 regarding above.

I wish to inform you that the Council has no objection to the operation of your established quarry at Drimbigh Mountcharles provided there is no significant change in the scale or scope of current operations.

Yours sincerely,



For County Secretary

JH/MC

**APPLICATION TO AN BOARD PLEANÁLA
FOR SUBSTITUTE CONSENT
(Donegal County Council)
Site Notice**

Drumbeagh, Mountcharles, Co Donegal

I, Gabriel Murray, Murray Stone, intend to apply to An Board Pleanála for Substitute Consent for the continuation of existing quarrying works, consisting of the extraction and grading of stone for the building industry, and all associated site development works at Drumbeagh, Mountcharles, Co. Donegal.

The application will be accompanied by a Remedial Environmental Impact Assessment Screening Report and a Remedial Ecological Report which includes a Stage 1 Appropriate Assessment Screening Report.

Submissions or observations may be made on the application, to An Bord Pleanála, Marlborough Street, Dublin 1, without charge.

Submissions or observations must be in writing and made within the period of 5 weeks beginning on the date of receipt of the application by An Bord Pleanála and such submissions and observations will be considered by An Bord Pleanála in making a decision on the application. An Bord Pleanála may grant the consent subject to or without conditions, or may refuse to grant it. The application for substitute consent and accompanying documentation may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of An Bord Pleanála, or the Planning Authority, Donegal County Council, County House, The Diamond, Lifford, Co. Donegal, during their public opening hours.

Signed: 

AN BORD PLEANÁLA

22 SEP 2023

LTR DATED _____ FROM Applicant

LDG- _____

ABP- 318082-23

Laurence Mc Mullin - McMullin Associates Architects (Agent for the applicant)

Date of Erection of Site Notice : 21st September, 2023

<p>McMullin Associates Architects Tirchonaill Street - Donegal Town - 074 9721712 Supervalu Shopping Centre - Dungloe - 074 9522250 technical@mcmullin.ie www.mcmullinassociatesarchitects.ie</p>
