



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

www.ccdhunnangall.ie www.donegalcoco.ie

An Bord Pleanála
64 Malborough Street,
Dublin 1

05th March 2021

A Chara,

Please find attached a Section 5 referral to yourselves, An Bord Pleanála on which Donegal County Council's Planning Authority are seeking clarity, accompanied by the required fee.

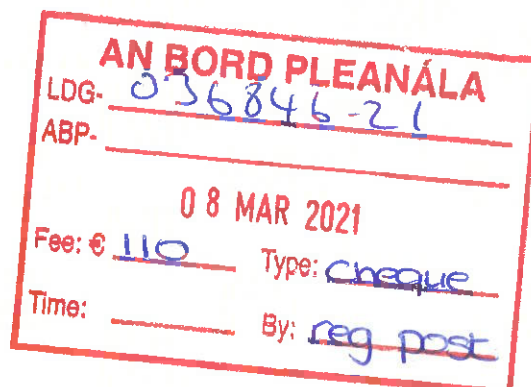
Please do contact me directly if you require anything further.

Mise le Meas,

Carol
Carol Margey
Senior Executive Planner
Planning Enforcement Unit
Donegal County Council

County House
Lifford
County Donegal
F93 Y622

Tel. no.: 074 9153900
087 171 9668



Cuir freagra chuig: Áras an Chontae, Leifear, Contae Dhún na nGall, Éire F93 Y622
Please reply to: County House, Lifford, Co. Donegal, Ireland F93 Y622

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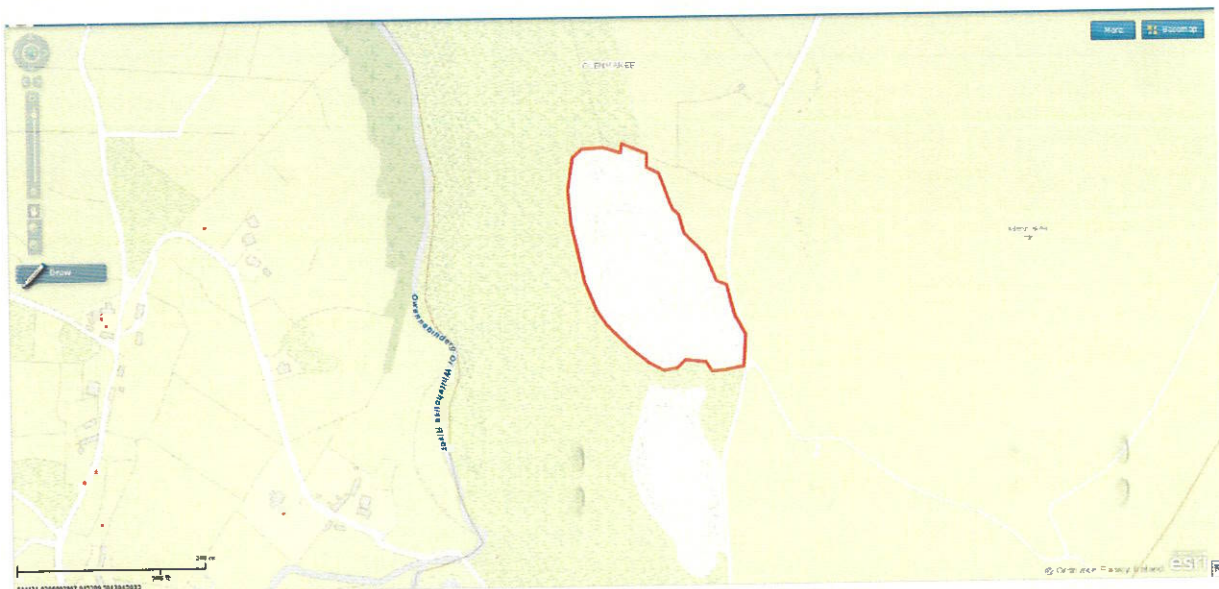
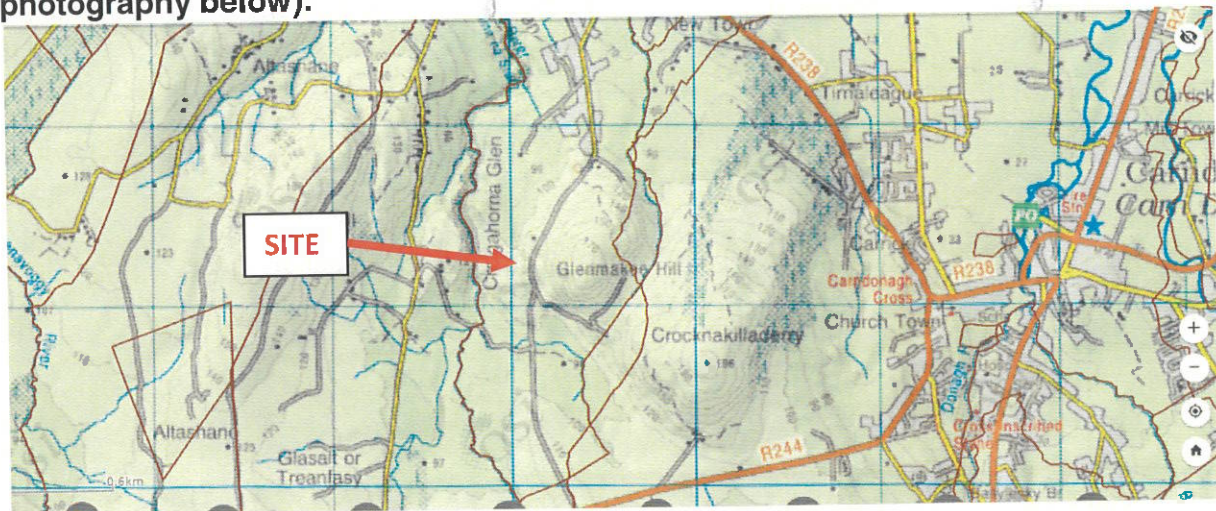
Section 5 Referral to An Bord Pleanála by Donegal County Council with regard to development at Glenmakee, Carndonagh, Co. Donegal

Applicants Name and Address: Donegal County Council, County House, Lifford, Co. Donegal

Developers:

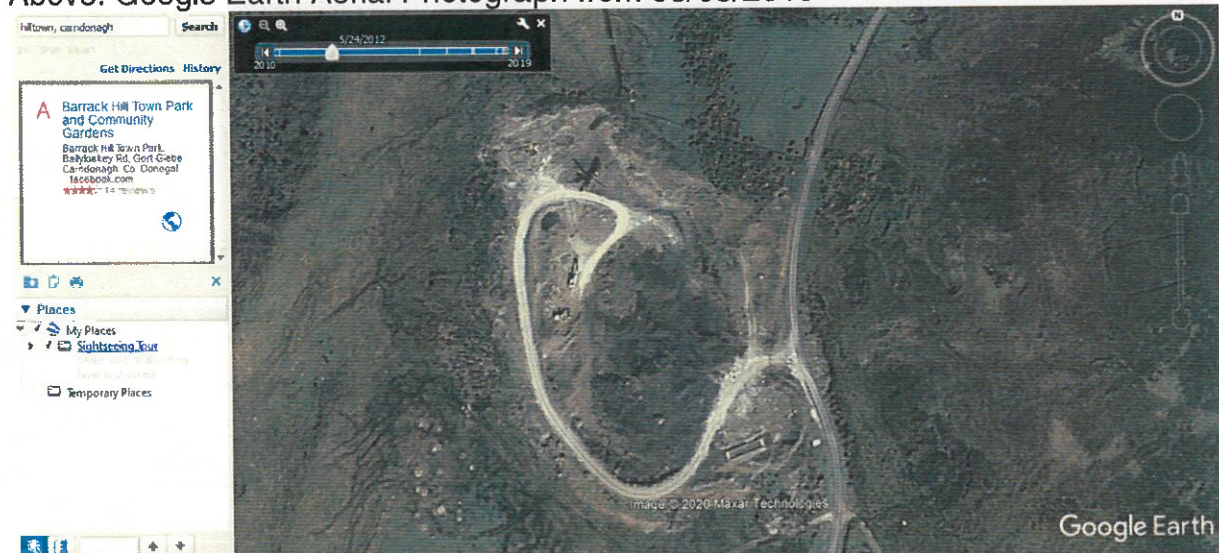
- John O' Donnell Glenmakee, Carndonagh, Co. Donegal
- Toland Plant Limited, Mindoran, Clonmany, Co. Donegal

Location of Proposed Development: Glenmakee, Carndonagh, Co. Donegal (see the quarry site area outlined in red on map and identified in aerial photography below):

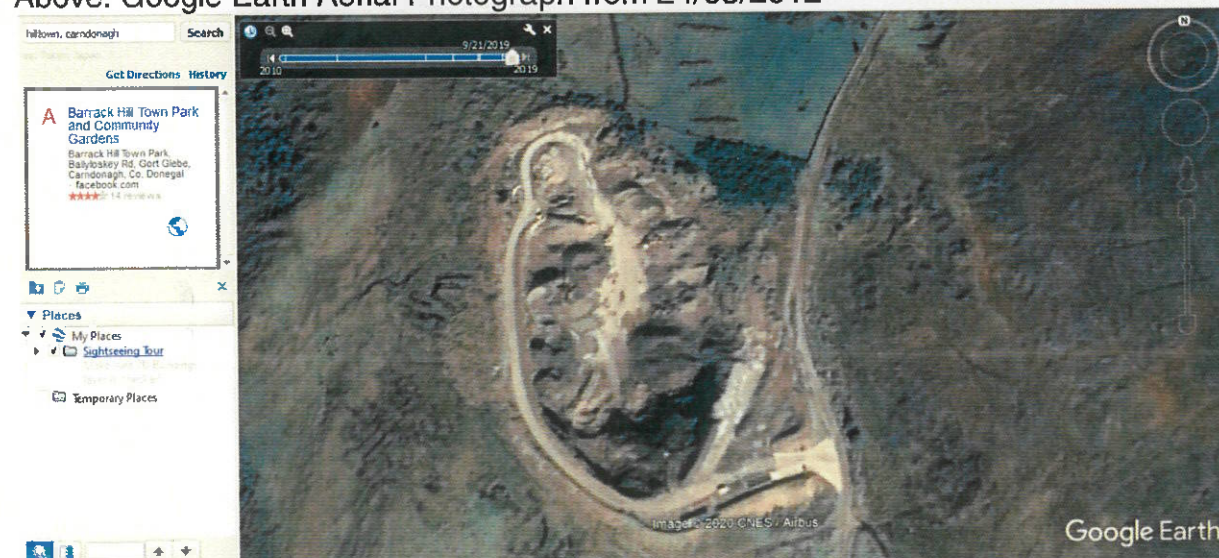




Above: Google Earth Aerial Photograph from 08/03/2010



Above: Google Earth Aerial Photograph from 24/05/2012



Above: Google Earth Aerial Photograph from 21/09/2019

Photographs of the quarry taken on the 27/11/2020



Section 5 Referral regarding pre-64 authorisation to quarry lands at
Glenmakee, Carndonagh, Co. Donegal.



Section 5 Referral regarding pre-64 authorisation to quarry lands at Glenmakee, Carndonagh, Co. Donegal.



Subject matter of referral:

Whether the continuation of quarrying, including extraction, processing and sale of material of a pre-63 existing quarry at Glenmakee, Carndonagh, Co. Donegal is or is not development and is or is not exempted development?

Grounds of referral and reasons and considerations on which it based:

The development is currently being investigated as an unauthorised development under planning enforcement case reference UD2023.

The definition of a quarry is set out in Section 2 of the Planning and Development Act, 2000 (as amended).

This quarry has no extant planning history, but was registered in 2006 under Section 261 of the Planning and Development Act, 2000 (as amended).

This quarry was subsequently one of 186 no. quarries in County Donegal registered under Section 261 (A) Quarry Registration 2012 (Euqy 110 refers). The Planning Authority issued a 4(a) Notice of determination dated 29th June 2012. On 29/05/13 the Board set aside the Planning Authority's determination under sections 261A(2)(a)(i) noting: *"that the scale and nature of operations carried out on this quarry are consistent with, and of a similar nature to, the historical operations at this quarry, which were established prior to the coming into operation of the Planning Acts and prior to the introduction of the EIA Directive"*.

During the review of Section 261A determination, it was accepted by An Bord Pleanála that this quarry was a pre-1963 quarry development and the 4(A) determination was set aside. However, there are no references on the 6 inch maps from the 1800's nor the 25 inch map from the early 1900's on O.S.I. to a quarry at this location. There is however reference on the 25 inch map from the early 1900's to a sand pit c. 0.5km. north-east of the quarry site.

On the 27/11/2020 the quarry operator contended during interview that he is entitled to continue to operate the quarry as a pre-63 existing quarry which he stated is an exempted activity, without intensifying the area or perimeter of the pre-63 authorised quarry.

The Planning Authority issued a Warning Letter to the developer(s) in accordance with S.151 of the Planning and Development Act 2000(as amended) with respect of the continuation of a quarrying.

The Planning Authority is of the view that pre-63 existence i.e. some form of pre existing quarry in this general area, does not in fact confer a consent or other authorisation to continue to indefinitely quarry to an unknown depth, rather this consideration formed one of a number of criteria for consideration and assessment of quarries as part of the Section 261(A) consideration and may form part of a future legal defence to any future legal proceedings.

There are no other applicable exemptions and the Planning Authority is of the view that the continuation of quarrying without the benefit of planning permission comprises development and is not exempted development. Consequently the Planning Authority is seeking confirmation from An Board Pleanála that the continuation of quarrying in a pre-63 quarry is development and is not exempted development and requires the benefit of planning permission.

