

History of EUQY78 Quarry at Arduns, Gweedore, co. Donegal

	Planning legislation	Quarry owner	Quarry operator	Period of quarry operation	Stone and aggregate	Method of stone extraction	Settlement ponds
January 9 th /January 29 th 2014	Review of appeal to An bord Pleanála S261 (4) (a)	Ms Sinead O Neill/ Eugene O Neil	Ms Sinead O Neill/ Eugene O Neil	Temporary ceased awaiting determination on type of application proposal			
7 th Sept 2012	Section 261 A(4)(a) Notice Served. Planning and Development Act 2000-2011	Ms Sinead O Neill/ Eugene O Neil	Ms Sinead O Neill/ Eugene O Neil	Awaiting clarification on quarry status			2 settlement ponds on site
9 th March 2007	Section 261 application accepted EUQY78	Ms Sinead O Neill / Eugene O Neil	Sinead O Neill	Continuous as required	building stone and aggregate use locally	Rock breaker	2 settlement ponds on site
16 th April 2005	Application to register quarry Section 261	Ms Sinead O Neill/ Eugene O Neil	Ms Sinead O Neill	As required continuous	building stone and aggregate use locally	Rock breaker	Settlement pond
23 rd March 2000	New owner	Danny Kearney	Quarrying	As required continuous	Gravels when required		
1964 to 23/03/2000		Joseph Boyle	Boyles	Operating Prior to October 1964	building stone and aggregate use locally		
1950s	Quarry was operating in 1950s	Boyle	Boyle	Since 1950s	Building stone and aggregate	Pick and sledge hammer	none

Table of time line for Arduns Quarry Registration EU QY78

5. Donegal County council under the Planning and Development Acts 2000 to 2011, Section 261A(4) 9a) Notice was sent to the land owner of EUQY78

A review by an Bord Pleanála has been requested and a request by an Bord Pleanála was made under Section 261A (4) (a) of the Local Government (Planning and Development) Act 2000 (as amended) it is your intention also to seek a review of the determination under section 261 A(2) (a)(i):

Quarry registered EUQY 78, has been in operation since the 1950s, therefore pre October 1964 operational quarry

The previous letters and documents submitted by Mr E. O Neill's Solicitor Mr Eamon McBride, provide the necessary evidence to prove the existence of the Arduns Quarry before 1st of October 1964. Letters are located in appendix 2

This provides an opportunity for client to apply for Substitute Planning, as Mr Eugene O Neill on behalf of his daughter, Ms Sinead O Neill, has applied for Quarry Registration under Section 261 in 2005 and received Registration of the operating quarry in March 2007 Quarry Registration EU QY 78.

SECTION 261A (4)(a) Notice by Donegal County Council

Under section 261 A(2)(a) (ii) of the Act: is for quarries that commenced operation post 1st October 1964, therefore not applicable to EUQY78.

On reading the relevant information as provided by Mr Conal McGetigan Chief Executive Planner, Planning and Resources Department, Donegal County Council SECTION 261A(4)(a) Notice to determine a decision for this quarry EUQY78, a number of issues were found to be incorrect in Councils correspondence. The issues were noted in the earlier review request by Mr Eamonn McBride Solicitor, previously of Main St. Dungloe, Co. Donegal

Ms Sinead O Neill is the full owner of Folio 041992F. the O Neill family reside locally in the area, at Meenaleck, Crolly, Co. Donegal.

Total Folio land area is 2.068 Hectares. Quarry operating area of 2 Hectare. Used area in circa of 1.6 hectare at present.

The quarry has been in existence since mid 1950s circa 1957. There are affidavits to prove quarry operations at this site, from the previous owners. See appendix 2.

To An Bord Pleanala

Request for review of Application EUQY78

Quarry Owner Ms Sinead O Neill

Quarry Operator: Ms Sinead O Neill and Mr Eugene O Neill

The EUQY78 quarry holding is in the circa of 2.0, with a total land area of 2.068.

I, Catherine Storey CEnv, from information and documentation I have reviewed, information regarding the Arduns Quarry operated by Mr Eugene O Neill (on behalf of his daughter Sinead O Neill) is a pre 1st October 1964 operational quarry. The quarry has been registered under Section 261 of the Planning and Development Act 2000.

A request for the review of Section 261A (a)(i) for Quarry EUQY78, owned by Ms Sinead O Neill and operated by Ms Sinead O Neill and her father Mr Eugene O Neill. Research of documentation available has proved clarification on the pre-existence of EU QY78 Arduns Quarry before 1st of October 1964.

Land holding purchased by S. O Neill

The quarry folio 041992F total land area of 2.068 Hectares, with quarry working area of 2 Hectare.

Worked out area at present is in circa 1.6Hectare

A request is now made to An Bord Pleanala to determine the next stage in the Section 261 A of the planning process for quarry registered EUQY78, a registered pre 1st of October 1964 operational quarry to continue as a legislative compliant operating quarry.

The total land holding area of this site folio 04192F is 2.068 Hectare.

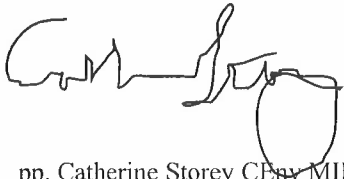
The criteria for an Environmental Impact Assessment Regulations 1989 (S.I. No. 349 of 1989) and the Local Government (Planning and Development) Regulations, 1990 (S.I. No.25 of 1990) make EIA mandatory for new quarries in excess of 5 hectates. EUQY78 is a small quarry and does not met the specified criteria for EIA.

The quarry is adjacent to EU Natura 2000 site, an area designated by habitats Directive Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora SAC IE 002047 of Cloghernagore and Glenveagh National Park, and EU Natura site

designated as Special Protected area for birds **Directive 2009/147/EC/** and earlier Directive 79/409/EEC of SPA IE 004039. Derryveagh and Glendowan Mountains, and European Communities (Birds and Natural Habitats) Regulations 2011, SI 477/2011

Client: Mr Eugene O Neill on behalf of his Daughter Ms Sinead O Neill want to progress to the next phase of updating quarry operations consent, by submitting an a Natura Impact Assessment (Appropriate Assessment) of their site and operations, giving due consideration to the natural environment, EU Natura sites, and local river and stream catchments.

Request for review of direction for EUQY78 (Arduns Gweedore, Co. Donegal)



pp. Catherine Storey CEnv MIEnvSc, MCIEEM

On behalf of Ms Sinead O Neill and Mr Eugene O Neill

Dated 27th January 2014

Conservation Objectives for Cloghernagore Bog and Glenveagh National Park SAC [002047]

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. These habitats and species are listed in the Habitats and Birds Directives and Special Areas of Conservation and Special Protection Areas are designated to afford protection to the most vulnerable of them. These two designations are collectively known as the Natura 2000 network.

European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in the Natura 2000 network at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations that will ensure the ecological integrity of these sites.

The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:

- ♦ [1029] *Margaritifera margaritifera*
- ♦ [1106] *Salmo salar* (only in fresh water)
- ♦ [1355] *Lutra lutra*
- ♦ [1421] *Trichomanes speciosum*
- ♦ [3110] Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*)
- ♦ [3260] Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
- ♦ [4010] Northern Atlantic wet heaths with *Erica tetralix*
- ♦ [4030] European dry heaths
- ♦ [4060] Alpine and Boreal heaths
- ♦ [6410] *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*)
- ♦ [7130] Blanket bogs (* if active only)
- ♦ [7150] Depressions on peat substrates of the *Rhynchosporion*
- ♦ [91A0] Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles

Citation:

NPWS (2011) Conservation objectives for Cloghernagore Bog and Glenveagh National Park SAC [002047].
Generic Version 3.0. Department of Arts, Heritage & the Gaeltacht.

For more information please go to: www.npws.ie/protectedsites/conservationmanagementplanning

SITE SYNOPSIS

SITE NAME: CLOGHERNAGORE BOG AND GLENVEAGH NATIONAL PARK

SITE CODE: 002047

This is an exceptionally large inland site located in the centre of north-west Donegal. It includes a rich diversity of habitats and landscape features, including mountains, exposed rock and scree, blanket bogs, dry, wet and alpine heath, upland grassland, wet grassland, rivers, lakes, scrub and woodland. The Gweebarra fault bisects the area forming a long valley, orientated north-east/ south-west, in which Lough Barra and Lough Veagh (Beagh) are situated. The area is generally mountainous, taking in most of the Derryveagh and Glendowan ranges and including the two highest mountains in Donegal, Errigal (751 m) and Slieve Snaght (678 m). Towards the centre-west of the site are the fine ice-carved cliffs of the Poisoned Glen and Bingorms, which contrast dramatically with the gently undulating expanses of blanket bog in the south-west and north-east corners of the site.

The site is a candidate SAC selected for blanket bog, a priority habitat on Annex I of the E.U. Habitats Directive. The site is also selected as a candidate SAC for lowland oligotrophic lakes, floating river vegetation, alpine heath, dry heath, wet heath, *Molinia* meadows, old Oak woodlands, Rhynchosporion, all habitats listed on Annex I of the E.U. Habitats Directive. The site is also selected for the following species listed on Annex II of the same directive -- Killarney Fern, Freshwater Pearl Mussel, Atlantic Salmon and Otter.

The underlying rock is predominantly granite, with a few intrusive dykes. However, around Errigal the geology is more complex with bands of schists, quartzite, granodiorite and limestone occurring.

Atlantic blanket bog is the dominant habitat of interest, with much of it being relatively unspoilt. Indeed, the area around Cloghernagore constitutes the most extensive blanket bog system remaining in the north-west of Ireland. Overall, there are excellent examples of several types of blanket bog including, Highland Bog (Cashelnagor and Dunlewy Far), Lowland Bog (Cloghernagore and Glenveagh Bridge), Domed Valley Bog (Derrybeg and Calabber Valley), Headwater Bog (Crockastoller and Carrickatimpan Mountain) and blanket bog apparently in the early stages of formation (Attinadague).

The blanket bog vegetation is relatively uniform and typically dominated by Purple Moor-Grass (*Molinia caerulea*), Heather (*Calluna vulgaris*), Black Bog-Rush (*Schoenus nigricans*), Deergrass (*Scirpus cespitosus*) and Common Cottongrass (*Eriophorum angustifolium*), with areas of Bog Myrtle (*Myrica gale*) occurring.

Some well-developed blanket bog features are found: pool systems are typically colonised by Bog Moss (*Sphagnum*) species (*S. auriculatum* and *S. cuspidatum*),

Lesser Bladderwort (*Utricularia minor*), Bogbean (*Menyanthes trifoliata*) and sedges (*Carex panicea*, *C. limosa*), with Great Sundew (*Drosera anglica*) occurring around the margins; hummocks of *Sphagnum* species (*S. capillifolium*, *S. imbricatum* and *S. papillosum*) and other mosses (*Leucobryum glaucum*, *Racomitrium lanuginosum*); flushed areas with *Sphagnum* species (*S. auriculatum* var. *inundatum* and *S. magellanicum*), Common Reed (*Phragmites australis*), rushes (*Juncus acutiflorus* and *J. effusus*) or sedges (*Carex echinata*, *C. rostrata* and *C. demissa*); quaking flats of mosses (*Campylopus atrovirens*, *C. brevopilus*, *Pleurozia purpurea* and *Sphagnum* spp.) with sedges (e.g. *Carex lasiocarpa*); shallow, infilling lakes with associated *Sphagnum* scrubs and sedge swards. The vegetation described for the pool areas and wet quaking flats is representative of Rhynchosporion vegetation.

A number of scarce or only locally-occurring vascular plant species have been recorded from bogs on the site. These include a hybrid Sundew, *Drosera anglica* x *D. rotundifolia* (*Drosera* x *obovata*), Whorled Caraway (*Carum verticillatum*), Bearberry (*Arctostaphylos uva-ursi*), Cranberry (*Vaccinium oxycoccos*) and, in a gorge, Cowberry (*Vaccinium vitis-idaea*). Lower plants of note include several mosses (*Sphagnum fuscum*, *S. contortum*, *S. recurvum* var. *tenue*, *S. molle*, *Calliergon stramineum* and *Polytrichum longisetum*) and lichens (*Cladonia parasitica*, *C. gracilis*, *C. bellidiflora*, *C. cervicornis* subsp. *verticillata*, *C. digitata*, *Peltigera hymenea*, *Sphaerophorus fragilis*, *Usnea fragilescens* and *Umbilicaria polyrrhiza*).

The site includes many rivers and streams, containing, or fringed by plants such as Water Horsetail (*Equisetum fluviatile*), Lesser Spearwort (*Ranunculus flammula*), Pondweeds (*Potamogeton natans*, *P. polygonifolius*), sedges (*Carex* spp.) and rushes (*Juncus* spp.). By one river the locally-occurring, Lemon-scented Fern (*Oreopteris limbosperma*), is found. Sometimes the streams cut gorges, where fragments of deciduous woodland remain. These are characterised by Aspen (*Populus tremula*), Rowan (*Sorbus aucuparia*), Oak (*Quercus petraea* and *Q. robur*) and Willow (*Salix* spp.).

An area of semi-natural deciduous woodland occurs on the steeply sloping eastern side of Glenveagh. The dominant trees are Sessile Oak (*Quercus petraea*), Birch (*Betula pubescens*) and Rowan, with Hazel (*Corylus avellana*) occurring frequently. Holly (*Ilex aquifolium*) occurs in the understorey. Rhododendron (*Rhododendron ponticum*) has invaded much of the woodland and adjacent hillsides. Other species present include Yew (*Taxus baccata*), Juniper (*Juniperus communis*) and, near Lough Veagh, the scarce, Rock Whitebeam (*Sorbus rupicola*). Within the woodland the lower plant community is well-developed with liverworts, including *Frullania tamarisci*, growing on the tree trunks. This is replaced as an epiphyte in damper areas by Wilson's Filmy-fern (*Hymenophyllum wilsonii*). Of particular note, is the presence of the scarcer, Tonbridge Filmy-fern (*H. tunbrigense*). The woodlands are also notable for the presence of two rare species of Myxomycete fungus, namely *Licea gloeoderma* and *Physarum vernum*, the former in its only known Irish site.

There are several large lakes on the site, including Lough Barra, Lough Veagh and Lough Altan. Aquatic plant species found include Water Lobelia (*Lobelia dortmanna*), Shoreweed (*Littorella uniflora*) and Bulbous Rush (*Juncus bulbosus*). Lough Veagh also contains two Quillworts (*Isoetes lacustris* and *I. echinospora*), the

latter of which is a locally-occurring species. Some of the smaller lakes also contain the scarce, Pipewort (*Eriocaulon aquaticum*).

Many scarce plants have been recorded from cliffs and gullies, mainly around Slieve Snaght and the Poisoned Glen. These include Brittle Bladder-fern (*Cystopteris fragilis*), Alpine Clubmoss (*Diphasiastrum alpinum*), Stiff Sedge (*Carex bigelowii*), Mountain Sorrel (*Oxyria digyna*) and Irish Spurge (*Euphorbia hyberna*).

Purple Saxifrage (*Saxifraga oppositifolia*) and Alpine Saw-wort (*Saussurea alpina*) have also been recorded from this area, along with a more recent sighting of Killarney Fern (*Trichomanes speciosum*). Both of these are rare species which are listed in the Irish Red Data Book, the latter also being legally protected (Flora Protection Order, 1987) and listed on Annex II of the EU Habitats Directive.

Within the whole site, three other rare Red Data Book plants have been recorded, namely: Bird Cherry (*Prunus padus*), Small-White Orchid (*Pseudorchis albida*) and Heath Cudweed (*Omalotheca sylvatica*). The two last-named are legally protected (Flora Protection Order, 1987).

The area is of considerable zoological value. Mammal interest includes the largest herd of Red Deer in Ireland, along with Badgers, Otters, Irish Hares and Stoats.

Lough Veagh contains Arctic Charr, an indigenous fish that was once widespread but is now rare in most places. It is listed as vulnerable in the Irish Red Data Book. The Owencarrow and Lackagh River systems support a good population of Atlantic Salmon, a species listed on Annex II of the E.U. Habitats Directive. Brown Trout also occur. Common Lizard has been recorded from the site. The site supports populations of Freshwater Pearl-mussel (*Margaritifera margaritifera*), a rare species that is both legally protected in Ireland and listed on Annex II of the EU Habitats Directive.

Bird Life is well represented with several Red Data Book species, listed on Annex I of the EU Birds Directive, breeding within the area, namely: Red-throated Diver, Golden Plover, Merlin and Peregrine. A small flock of Greenland White-fronted Geese, also listed on Annex I of the EU Birds Directive, feed on some of the bogs in winter. The Red Data Book species, Goosander and Wood Warbler, both breed on the site. Generally, the woodlands are favoured by Siskin, Tree Creepers and Redstarts, while Meadow Pipits, Red Grouse, Ravens, Snipe and Dunlin are among the birds found on the moorland.

One of the major land uses is conservation management. The site contains the whole of the Glenveagh National Park along with two Statutory Nature Reserves, Lough Barra Bog and Meenachullion Bog.

Grazing by sheep and deer is common and in a few places the bogs have suffered from overgrazing and poaching. Grazing has also prevented woodland regeneration. Annual deer culls take place to control numbers and the main herd is kept within the confines of the National Park by a 45 km deer fence.

Invasion by Rhododendron has been a particular problem within the Park, where it has choked areas of woodland and covered adjacent hillsides. A removal programme is currently in progress and the threat from this species has been considerably reduced.

Peat-cutting, both by hand and machine, has caused damage to some bogs in the site. Turbary and afforestation are the main threats to this habitat, with erosion and burning also having an impact.

The site is of great scientific and conservation value, particularly for the large areas of excellent, little-damaged blanket bog it contains, including the largest intact area of blanket bog in north-west Ireland. It also includes good quality examples of semi-natural deciduous woodland, heath, oligotrophic lakes and inland cliffs. The importance of the site is increased by the presence of a wide range of plant and animal species, including many rare or threatened Red Data Book species, and several that are listed on Annex II of the EU Habitats Directive or Annex I of the EU Birds Directive.

6.10.2006

SITE SYNOPSIS

SITE NAME: DERRYVEAGH AND GLENDOWAN MOUNTAINS SPA

SITE CODE: 004039

Derryveagh and Glendowan Mountains SPA is an extensive upland site in north-west Co. Donegal, comprising Glenveagh National Park, a substantial part of the Derryveagh and Glendowan Mountains and a number of the surrounding lakes. Much of the site is over 300 m above sea level, rising to a peak of 652 m at Dooish. The solid geology is predominantly quartzite. The substrate over much of site is peat, with blanket bog and heath comprising the principal habitats.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Red-throated Diver, Merlin, Peregrine, Golden Plover and Dunlin.

This site is one of only a few locations where Red-throated Diver breed in Ireland and the birds also use a number of lakes within the site for feeding. A survey in 2010 recorded 6 pairs at the site. The extensive bog and heath habitats provide excellent foraging habitat for both Peregrine (5-6 pairs in 2002) and Merlin (estimated 6-11 pairs). Peregrine nest on the crags and cliffs, whilst Merlin nest in the heather or in old crows' nests in trees. The site is very important for breeding Golden Plover and Dunlin (subsp. *schinzii*) with 18 and 5 pairs respectively recorded in 2002.

Red Grouse is also widespread on the bogs and Ring Ouzel, a rare species of the uplands, breeds sparingly, with at least 2 pairs recorded in a 2002 survey. Several pairs of Whinchat, a scarce Irish species, breed within the site. Goosander is also a regular visitor to the lakes, though breeding within the site has not been proved. Snowy Owl has also attempted to breed within the site - a clutch of eggs was laid but these did not hatch. Wood Warbler is present annually, with perhaps three pairs occurring. Redstart has bred on at least one occasion but there have been few sightings in recent years and it is not known if breeding occurs regularly.

Glenveagh National Park is the central location for the Golden Eagle re-introduction programme, which commenced in 2000. With time, this species may become successfully re-established as a breeding species in Ireland.

The site is of high ornithological importance with nationally important breeding populations of five species. Of particular note is that five of the species that occur regularly are listed on Annex I of the E.U. Birds Directive, i.e. Red-throated Diver, Peregrine, Merlin, Golden Plover and Dunlin (subsp. *schinzii*).

13.10.2010

History of EUQ78 Quarry at Arduns, Gweedore, co. Donegal

	Planning legislation	Quarry owner	Quarry operator	Period of quarry operation	Stone and aggregate	Method of stone extraction	Settlement ponds
January 9 th /January 29 th 2014	Review of appeal to An bord Pleanála S261 (4) (a)	Ms Sinead O Neill/ Eugene O Neil	Ms Sinead O Neill/ Eugene O Neil	Temporary ceased awaiting determination on type of application proposal			
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1964 to 23/03/2000		Joseph Boyle	Boyles	Operating Prior to October 1964	building stone and aggregate use locally		
1950s	Quarry was operating in 1950s	Boyle	Boyle	Since 1950s	Building stone and aggregate	Pick and sledge hammer	none

Table of time line for Arduns Quarry Registration EU Q78

Ref: EUQY78

Attention Donegal County Council.

To whom it may concern

Please accept this as my authority to allow my father, Eugene O'Neill and my solicitor Eamon MacBride (Main Street Dungloe, Co Donegal) to act on my behalf in relation to all files held by you in respect of my quarry at Arduns, Gweedore, Co Donegal. They are able to view and copy all files as well as make applications to the board on my behalf.

Yours Faithfully



Sinead O'Neill

RECEIVED	DATE
TIME	BY
E. MACBRIDE	
LIBRARIAN	FROM
PL	



Mac Giolla Bhríde Dlíodóir
Mac Bride & Co. Solicitors

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1

EU0178

6th September 2012

Re: Our client: Sinead O'Neill, Meenaleck, Crolly, Co. Donegal
Property: Quarry located at Arduns Gweedore, Co. Donegal

Dear Sir,

I Eamonn Mac Giolla Bhríde of Dungloe Co. Donegal Solicitor confirm that I act on behalf of my above named client Sinead O'Neill the owner of the above quarry located at Arduns Gweedore Co. Donegal I attach an authority signed by my client. I refer to a communication dated the 22nd day of August 2012 issued by Donegal County Council to my client that the Planning Authority intends to issue an enforcement notice in relation to the quarry under Section 154 of the Planning and Development Acts 2000-2011 requesting the cessation of the operation of the quarry and taking such steps as the Authority considers appropriate. On behalf of my client I hereby apply for a review or if applicable an appeal of this decision of Donegal County Council.

I make the following submissions on behalf of my client in connection with this appeal/ review:

1. It is stated in the communication from Donegal County Council that the council has decided that the quarry commenced operation on or after the 1st October 1964 but no permission was granted in respect of the quarry under Part III of this Act or part IV of the Act of 1963. I hereby submit that the decision of Donegal County Council that the quarry commenced operation on or after the 1st October 1964 is an error. In this regard I enclose affidavits of Gerry Boyle and Joseph Boyle, local persons who reside in the vicinity of the quarry confirming that this quarry was in fact in operation for a considerable period prior to the first October 1964. I further refer to my affidavit which is attached and which sets out that in a court case Donegal County Council -v- Joe Greene, in which I represented Joe Greene that Donegal County Council confirmed that my client's quarry was in fact being used historically as set out in the affidavits referred to in my affidavit as further stated in my affidavit, Donegal County Council had witnesses in court confirming that the affidavits referred to in my affidavit in fact refer to my client's quarry and not the adjacent quarry of Joe Greene which was the subject matter of the Council's proceedings against Joe Greene. The court Judge made a decision in favour of

Dungloe,
Co. Donegal.
OX Number: 156002

An Chtochan Liath.
Tír Chonaill

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Mac Giolla Bhríde Dlíodóir

Mac Bride & Co. Solicitors

Donegal County Council and accepted the evidence of the Council witnesses which confirmed that my client's quarry was in operation historically as set out in the affidavits referred to in my affidavit. On the basis that the decision of Donegal County Council that the quarry commenced operation on or after the 1st October 1964 is an error which is confirmed by both the enclosed affidavits and also by the evidence given on behalf of Donegal County Council in the above mentioned case of Donegal County Council -v- Joe Greene. I submit that Donegal County Council is not entitled to require the cessation of the operation of this quarry on the basis that the quarry was in regular operation prior to 1st October 1964 and accordingly there was a legal entitlement to continue the operation of this quarry after that date.

2. I further confirm that this quarry was registered by Donegal County Council and I refer to an attached document dated the 9th March 2007 issued by Donegal County Council to my client confirming the registration of the quarry. The location of the quarry in this document is incorrectly spelt as Ardybsm, Gweedore. I hereby confirm that there is no such location as Ardybsm in Gweedore and the location of the quarry should have been spelt Arduns. In this regard I also refer to a further document- Assessment Determination Report of Donegal County Council setting out the quarry location as Arduns Gweedore and the quarry reference number on this document is EU QY 78 whereas the reference number on the Donegal County Council document dated the 9th March 2007 is QY 78.
3. My client confirms that she has complied fully with the conditions set out in the Donegal County Council document dated the 9th March 2007 and I further refer to page 4 of the Donegal County Council assessment report of the quarry in which it is stated that no settlement ponds were visible during the site inspection. My client confirms that there are in fact two settlements ponds located on the quarry and in addition the quarry is fenced in accordance with the Council requirements.
4. I also advise that Donegal County Council issued a further notification to Joseph Boyle of Mill Road , Upper Dore, Co. Donegal setting out the Councils decision in relation to this quarry, copy enclosed. This document states that the quarry owner is Mr. Joseph Boyle and that the quarry operator is my client Sinead O'Neill. For record purposes I hereby confirm that my client Sinead O'Neill is in fact the legal owner of this quarry as she purchased this quarry from Mr. Danny Kearney who purchased the property from Joseph Boyle. Registration of this property in my client's name is not yet complete but for record purposes I hereby confirm that my client is in fact the beneficial and legal owner of the property and registration in her name will proceed.

Yours faithfully,

Dungloe,
Co. Donegal.
OX Number: 156002

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Breid Callagher, Probate and Litigation Executive

VAC No.: 1C21414960

AFFIDAVIT

QUARRY LOCATED AT ARDUNS, GWEEDORE, CO. DONEGAL, THE PROPERTY OF SINEAD O'NEILL, MEENALECK, CROLLY, LETTERKENNY, CO. DONEGAL

I **JOSEPH BOYLE** of Dore, Bunbeg in the County of Donegal make oath and say as follows:-

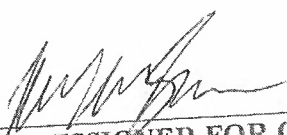
1. I reside at my address stated above which is close to the quarry currently owned by the above-mentioned Sinead O'Neill. I state that I am a descendant of the former owner of the quarry ~~and [REDACTED]~~ 
2. For record purposes I confirm that the property sold to Sinead O'Neill was a quarry and has been used as a quarry on a regular and annual basis since approximately 1950's
3. I have been advised that Donegal County Council has made a decision that the above quarry commenced operation on or after the 1st October 1964. I categorically state that the decision by Donegal County Council is totally incorrect as this property has been used as a quarry on an annual and regular basis since 1950's

I make the within declaration from facts within my own knowledge and for the benefit for An Bord Pleanála

SWORN

this day of 5th Sep 2012
at Dungloe in the County of Donegal
by the said

JOSEPH BOYLE *Joseph Boyle*
before me and I know the deponent


COMMISSIONER FOR OATHS/
SOLICITOR EMPOWERED TO
ADMINISTER OATHS

AFFIDAVIT

QUARRY LOCATED AT ARDUNS, GWEEDORE, CO.
DONEGAL, THE PROPERTY OF SINEAD O'NEILL,
MEENALECK, CROLLY, LETTERKENNY, CO. DONEGAL

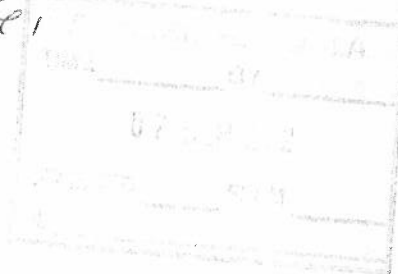
I GERRY BOYLE of Dore, Bunbeg in the County of Donegal make oath and say as follows:-

1. I confirm that I am the Personal Representative of the former owner of the above quarry located at Arduns, Gweedore, Co. Donegal and that I as Personal Representative ~~to Sinead O'Neill~~ *WMS* For record purposes, I confirm that the above quarry was in existence as a quarry since approximately *1950.5*
2. I further confirm that the above property which was sold to Sinead O'Neill was used as a quarry on a regular and annual basis since approximately *1950.5*
3. I have been advised that Donegal County Council has made a decision that the above quarry commenced operation on or after the 1st October 1964. I specifically state that this decision by Donegal County Council is totally incorrect as the quarry has been regular use as a quarry as outlined above since *1950.5*

I make the within declaration from facts within my own knowledge and for the benefit for An Bord Pleanala

SWORN
this day of *5 September* 2012
at Dungloe in the County of Donegal
by the said
GERRY BOYLE *G. Boyle*
before me and I know the deponent

[Signature]
COMMISSIONER FOR OATHS/
SOLICITOR EMPOWERED TO
ADMINISTER OATHS



AFFIDAVIT

QUARRY LOCATED AT ARDUNS, GWEEDORE, CO. DONEGAL, THE PROPERTY OF SINEAD O'NEILL, MEENALECK, CROLLY, LETTERKENNY, CO. DONEGAL

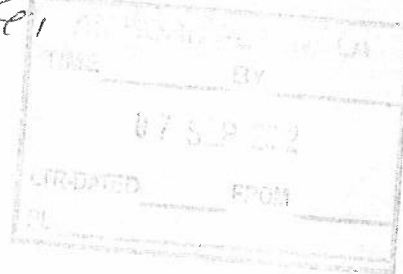
I **GERRY BOYLE** of Dore, Bunbeg in the County of Donegal make oath and say as follows:-

1. I confirm that I am the Personal Representative of the former owner of the above quarry located at Arduns, Gweedore, Co. Donegal and that I as Personal Representative ~~to Sinead O'Neill~~ *WMB* ~~to Sinead O'Neill~~ *WMB*. For record purposes, I confirm that the above quarry was in existence as a quarry since approximately *1950.5*
2. I further confirm that the above property which was sold to Sinead O'Neill was used as a quarry on a regular and annual basis since approximately *1950.5*
3. I have been advised that Donegal County Council has made a decision that the above quarry commenced operation on or after the 1st October 1964. I specifically state that this decision by Donegal County Council is totally incorrect as the quarry has been regular use as a quarry as outlined above since *1950.5*

I make the within declaration from facts within my own knowledge and for the benefit for An Bord Pleanala

SWORN
this day of *5 september* 2012
at Dungloe in the County of Donegal
by the said
GERRY BOYLE *G. Boyle*
before me and I know the deponent

[Signature]
COMMISSIONER FOR OATHS/
SOLICITOR EMPOWERED TO
ADMINISTER OATHS





Comhairle Chontae Dhún na nGall Donegal County Council

Tel/Guthán: (074) 91 72222 Fax/Facs: (074) 91 42120
www.donegalcoco.ie www.ccdhunnangall.ie

Pobail, Cultúir agus Pleanáil Community, Culture and Planning

Mr Joseph Boyle
Mill Road
Upper Dore
Co. Donegal.

Our Reference: EUQY78
Re: Section 261(a) Planning & Development Act, 2010.
Quarry Arduns, Gweedore, Co. Donegal.

A chara,

Under the above act, Donegal County Council was obliged by the Department of Environment, Community & Local Government to undertake a review of all quarries within its functional area.

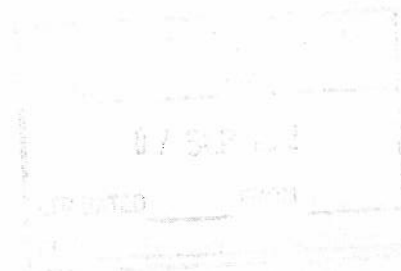
You will find attached a Notification of the Council's decision in this regard.

If you wish to appeal the decision, you can do so by applying to An Bord Pleanála, 64 Marlborough Street, Dublin 1 (www.Pleanala.ie), not later than 3 weeks from the date of this Notification. No fee is payable in this respect.

I trust this clarifies the position,

Is mise le meas,

Sheela McManus
PP Staff Officer
Community, Culture & Planning
County House
Lifford



DONEGAL COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACTS, 2000 TO 2011

SECTION 261A(4)(a) NOTICE

Planning Authority Reference: EUQY78
Name of Quarry Owner: Mr Joseph Boyle, Mill Road, Upper Dore, Co. Donegal
Name of Quarry Operator: Ms Sinead O'Neill, Meenaleck, Crolly, Co. Donegal
Address of Quarry: Arduns, Gweedore, Co. Donegal

WHEREAS Donegal County Council has examined the above quarry in accordance with Section 261A of the Planning and Development Acts 2000-2011;

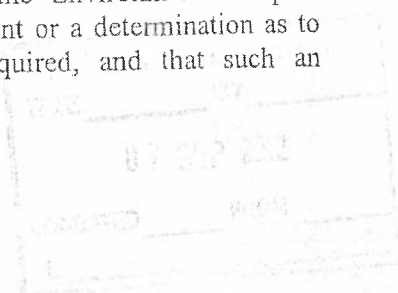
AND WHEREAS Donegal County Council, in considering this determination and decision, had regard particularly to -

- (a) Section 261A of the Planning and Development Acts, 2000-2011
- (b) All relevant information available to it including any submissions or observations received by the authority not later than 6 weeks after the date of the publication of the notice under Section 261A(1)(a)
- (c) Any information submitted to the authority in relation to the registration of the quarry under section 261;
- (d) Any relevant information on the planning register;
- (e) Any relevant information obtained by the planning authority in an enforcement action relating to the quarry;
- (f) Any other relevant information.

AND WHEREAS Donegal County Council hereby determines - In accordance with Section 261A(2)(a) that:

- (i) Development was carried out after 1 February 1990 which was not authorised by a permission granted under Part IV of the Act of 1963, prior to 1 February 1990, which development would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment or a determination as to whether an environmental impact assessment was required, and that such an assessment or determination was not carried out or made,

And



(ii) Development was carried out after 26 February 1997, which was not authorised by a permission granted under Part IV of the Act of 1963 prior to 26 February 1997, which development would have required, having regard to the Habitats Directive, an appropriate assessment, and that such an assessment was not carried out.

Reasons:

The quarry may have commenced pre 1st October 1964, as it has not been possible to substantiate the operators pre 1964 authorisation claim, but no permission was granted in respect of the quarry under Part III of the Act or Part IV of the Act of 1963.

Development was carried out after 26th February 1997, which was not authorised by a permission granted under Part IV of the Act of 1963 prior to 26th February 1997, which development would have required, having regard to the Habitats Directive, an appropriate assessment, and that such an assessment was not carried out.

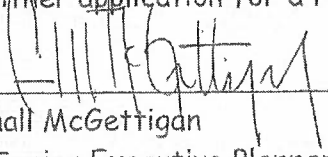
AND WHEREAS Donegal County Council, hereby decides - In accordance with Section 261A(4)(a) that:

(i) the quarry commenced operation on or after 1st October 1964 but no permission was granted in respect of the quarry under Part III of this Act or Part IV of the Act of 1963,

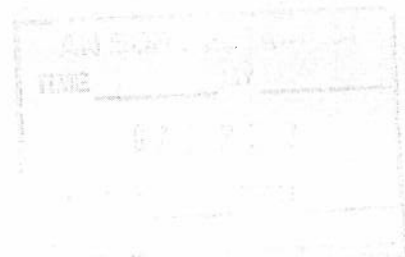
You are therefore notified that the Planning Authority intends to issue an Enforcement Notice in relation to the quarry under Section 154 of the Planning and Development Acts 2000-2011 requiring the cessation of the operation of the quarry and the taking of such steps as the Authority considers appropriate.

You may apply to the Board, not later than 21 days after the date of the notice, for a review of the determination under subsection (2)(a) or the decision of the planning authority under paragraph 4(a), and that no fee in relation to either application for a review shall be payable.

SIGNED: _____


Conall McGettigan
A/Senior Executive Planner
Planning & Economic Development

DATED THIS 27nd DAY OF August 2012





Comhairle Chontae Dhún na nGall Donegal County Council

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Pobail, Cultúir agus Pleanáil Community, Culture and Planning

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Shona McManus
PP Staff Officer
Community, Culture & Planning
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