Comhairle Contae
Dhún na nGall
Donegal County Council

www.ccdhunnangall.ie www.donegalcoco.ie

31st March 2022

UD20248

AN BORD PLEANÁLA
LDG- 050823.22
ABP-
01 APR 2022
Fee: € 110 Type: Cheque
Time: By: Reg Post

An Bord Plenala,
64 Marlborough Street,
Dublin 1
D01 V902

Re: Section 5 Referral to An Bord Pleanala by Donegal County Council with regard to development at Meenderrygamph, Co. Donegal

A Chara,

Attached please find Section 5 referral and fee in the amount of €110.

Is mise le meas,

For Martin Mc Dermott
Executive Planner
Quarry Compliance Officer
Community, Enterprise and Planning Services
Donegal County Council

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

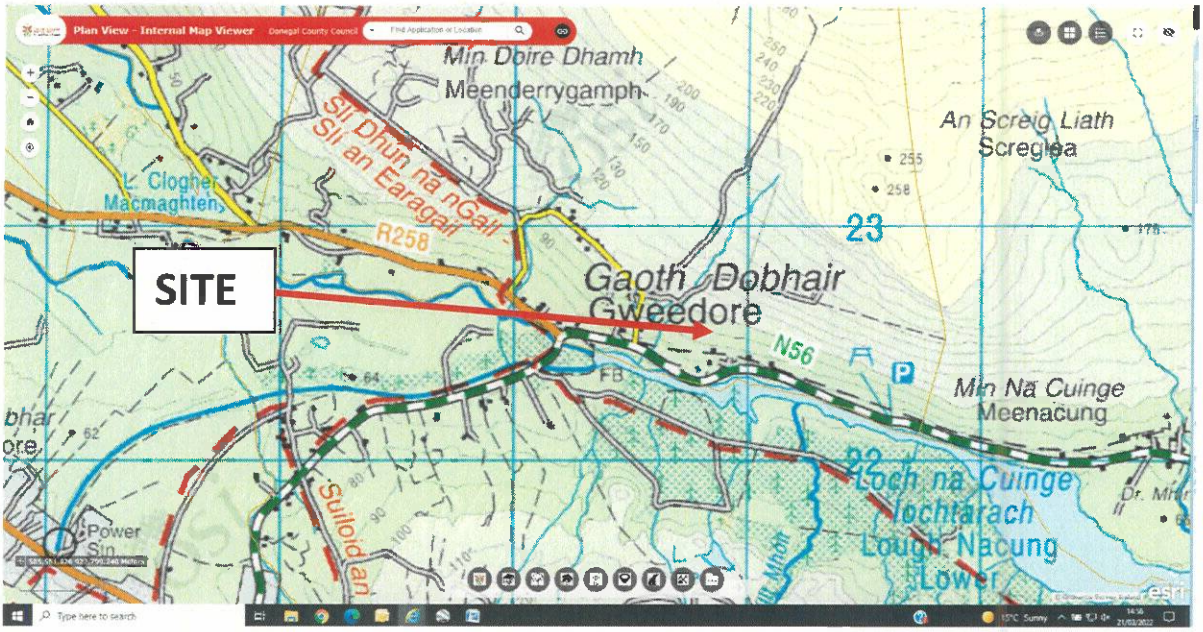
Guthán/Tel: 074 9153900 | Facs/Fax: 074 9172812 | Ríomhphost/Email: info@donegalcoco.ie

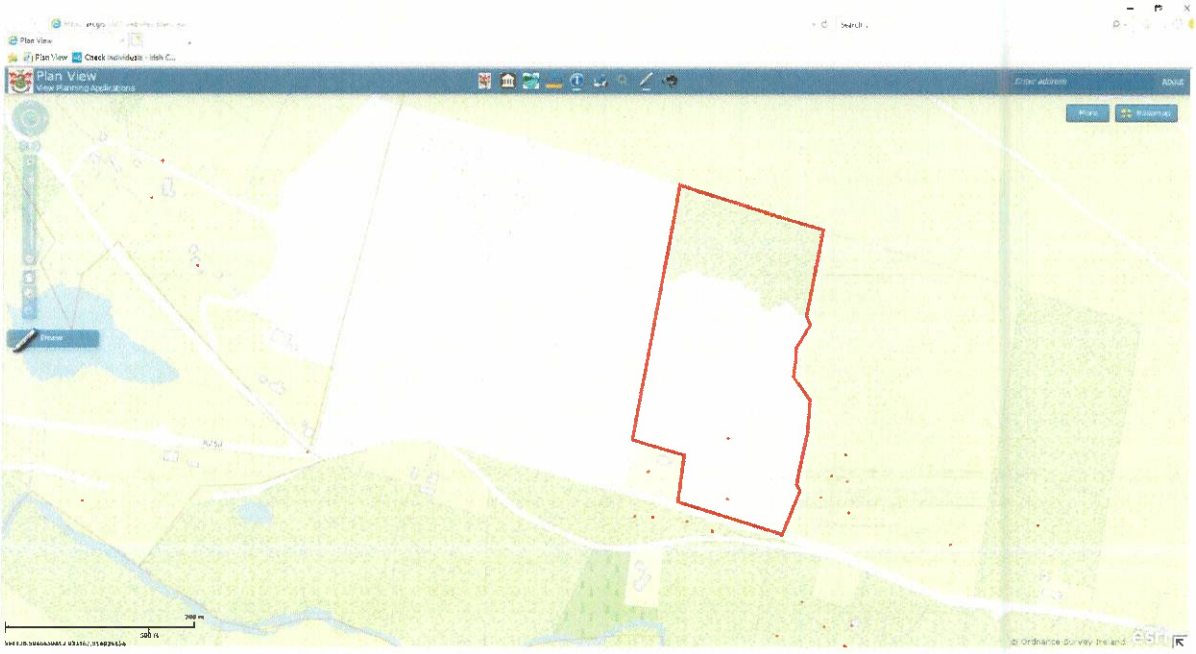
Section 5 Referral to An Bord Pleanala by Donegal County Council with regard to development at Meenderrygamph, Gweedore, Co. Donegal.

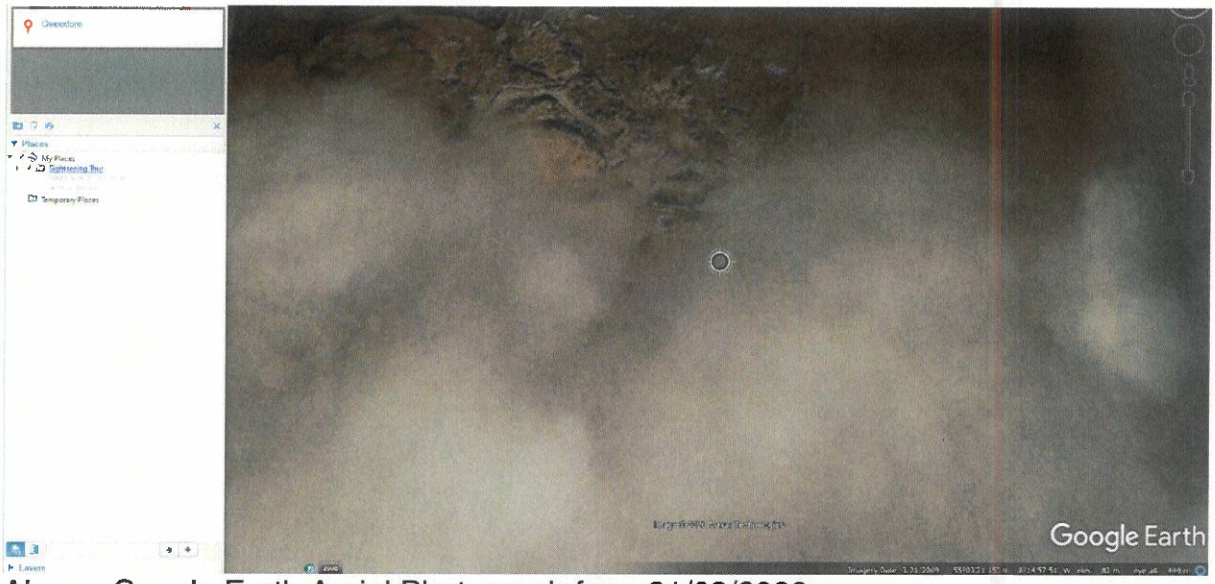
Applicants Name and Address:
Donegal County Council, County House, Lifford, Co. Donegal.

Developers / landowners:
Eugene Ferry, Auduns, Gweedore, Co. Donegal and Eamonn Sweeney, Corner House, Gweedore, Co. Donegal.

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



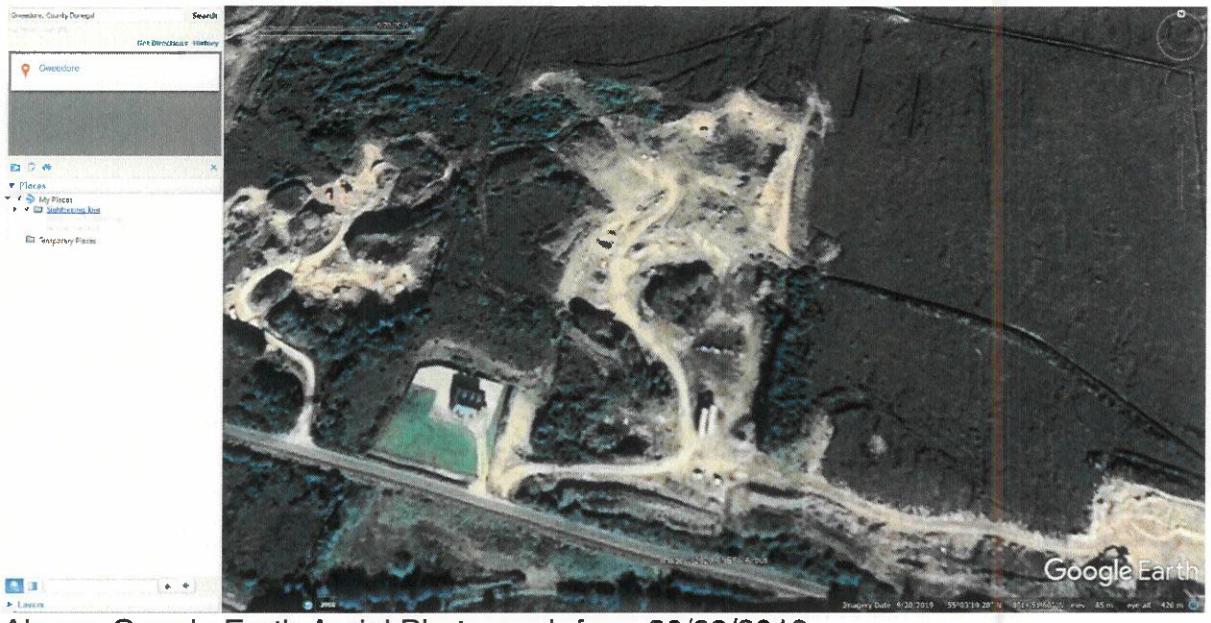




Above: Google Earth Aerial Photograph from 21/03/2009

Above: Google Earth Aerial Photograph from 22/04/2011

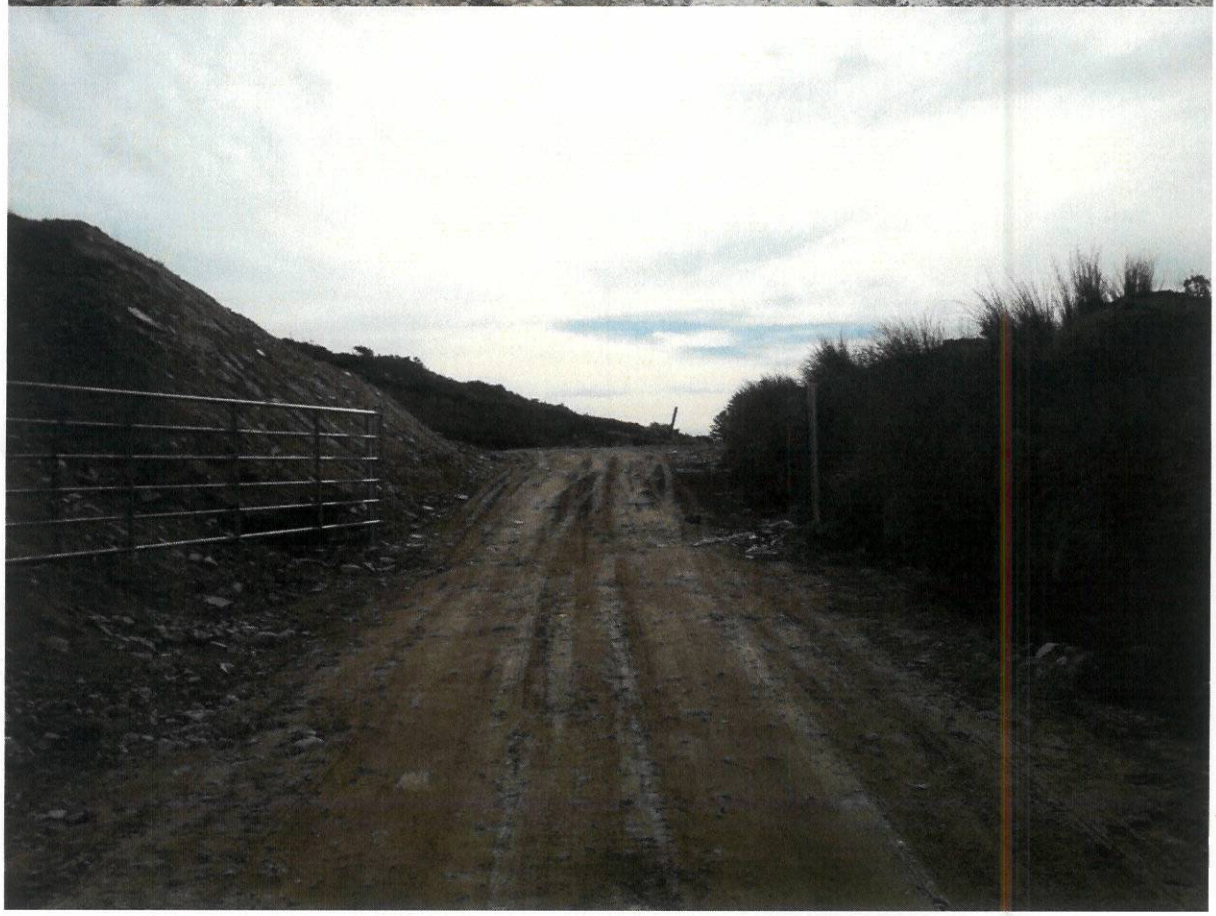
Above: Google Earth Aerial Photograph from 28/05/2014



Above: Google Earth Aerial Photograph from 20/09/2019

Photographs of the quarry taken on the 31/05/2021

Photos 1 & 2 below:

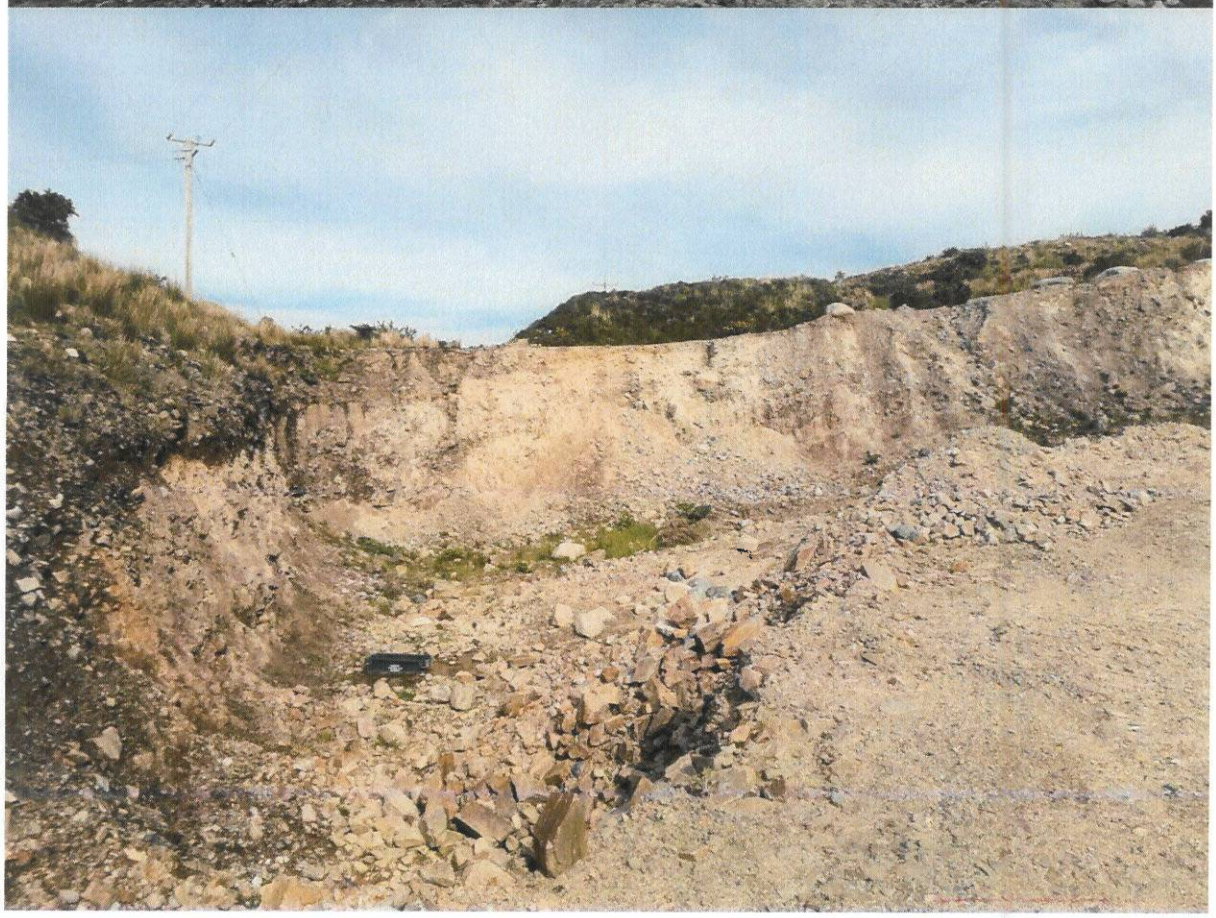


Photos 3 & 4 below:

Photos 5 & 6 below:

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

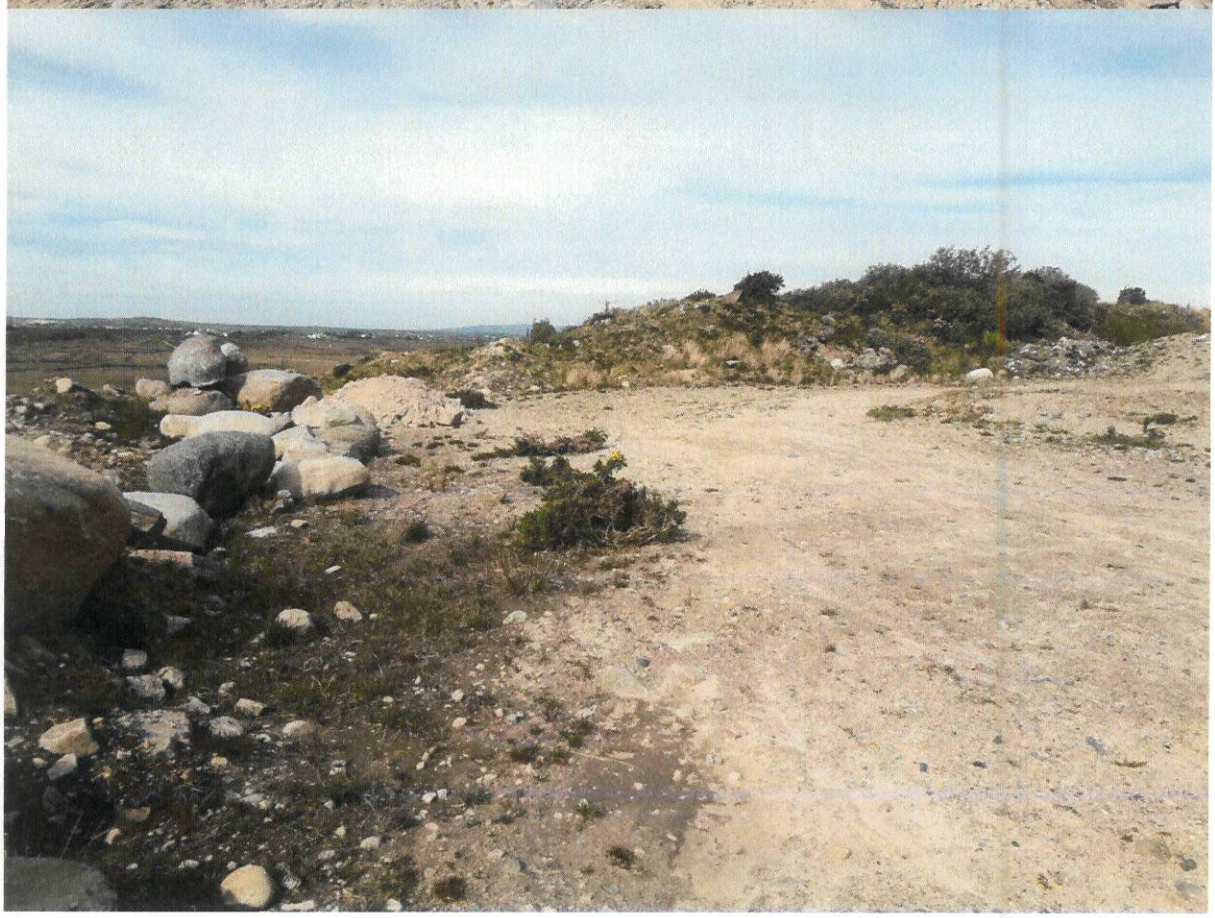
Photos 7 & 8 below:



Photos 9 & 10 below:

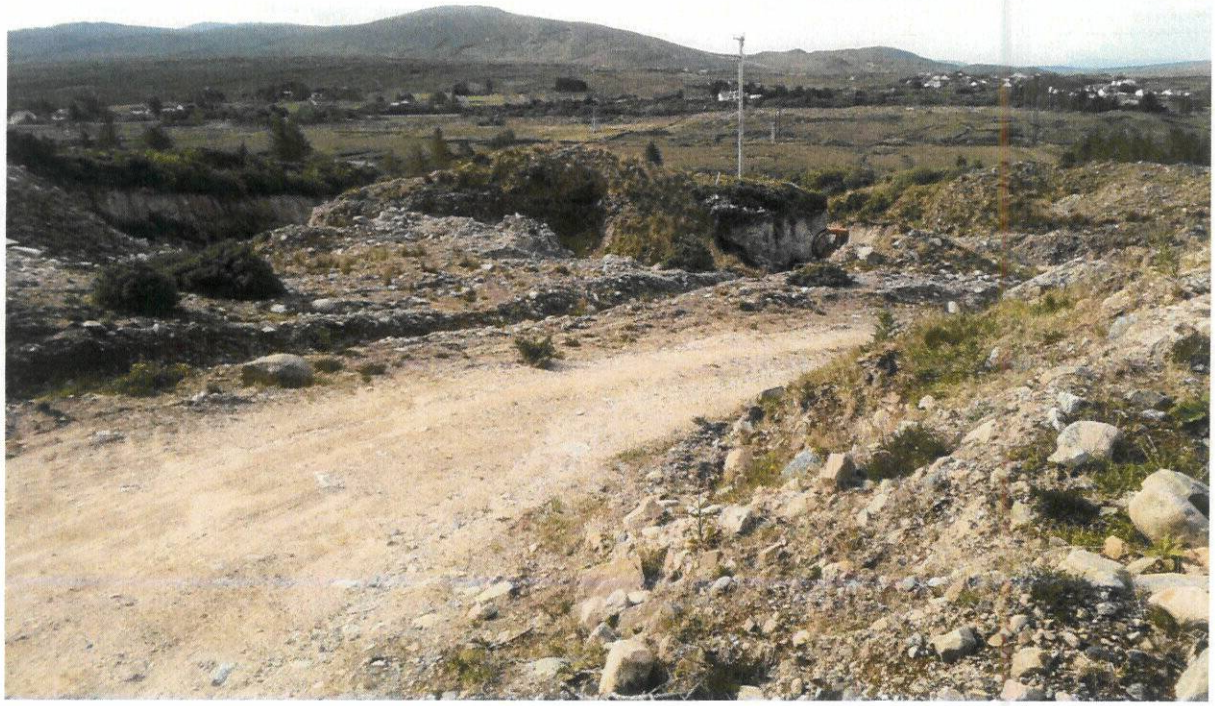
Photos 11 & 12 below:

Photos 13 & 14 below:



Photos 15 & 16 below:

Photos 17 & 18 below:

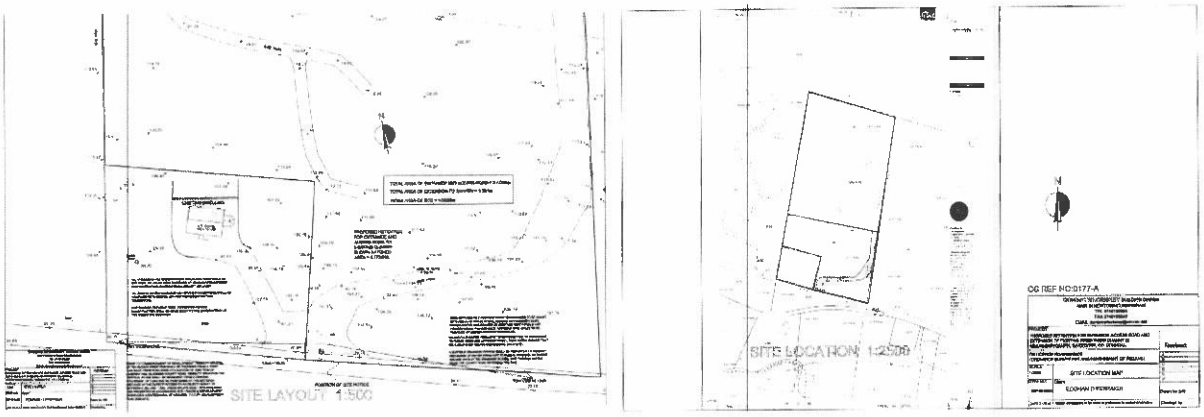


Subject matter of referral:
Whether: (i) the continuation of existing quarry operation including extraction and sale of quarried material, is operating in accordance with its pre-63 authorisation and is or is not development and is or is not exempted development and (ii) the continuation of quarrying to the extremity of the landholding (c. 5ha), is in accordance with its pre-63 authorisation and is or is not development and is or is not exempted development.

Planning History:
Plan.Reg.No. 08/30106 – relates to an application by Eugene Ferry for permission for retention of: a) entrance and access road to existing quarry and b) excavation works at Meenderrygamph, Gweedore, Co. Donegal. This planning application was withdrawn on 20/03/2008.

Plan.Reg.No. 08/30501 – relates to an application by Eugene Ferry for permission retention of (a) entrance and access road to existing quarry and (b) retention of extension of area of existing registered quarry – **refused** by Order dated 25/09/2008 for 5 no. reasons (unauthorised quarrying not regularised, promote the use of an abandoned quarry, impact on amenities of adjoining dwelling, public health and impact on character of landscape). Nb: The area to be retained (southern portion of overall landholding) was identified as 1.39ha., as part of this planning application, while overall landholding extended to c. 5.0ha.

See site location and site layout extracts from Plan.Reg.No. 08/30501:



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 UD20248.

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).

The submitted application form did not identify a registered quarry area nor an extraction area and the material extracted was identified as stone and gravel, with no processes identified as being carried out on site.

A property registration search on Landdirect.ie confirmed that Eamonn Sweeney and Eugene Ferry are joint registered owners of the overall quarry unit (Folio 51615F refers).

This quarry was subsequently one of 187 no. quarries in County Donegal registered under Section 261 (A) Quarry Registration 2012 (Euqy 85 refers).

It is accepted by all parties that quarrying commence before the appointed day for the purposes of the Local Government Planning and Development Act 1963 Act, i.e. 1st October 1964 and therefore also prior to the introduction of the EIA Directive 1st Feb 1990 and Habitats Directive 26th Feb 1997.

The Planning Authority issued a 4(a) Notice of determination dated 22nd August 2012. On 05/10/12 the Board confirmed that no review of the determination had been sought (see attached S.261A determination, dated 22/08/2012 – Appendix A refers).

Further to a meeting of 20/11/2013 the Planning Authority corresponded with Mr. Gillespie on 17/13/2013 in error (name then amended to Mr. Ferry on follow up correspondence of 06/01/2014) setting out the Planning Authorities review (see attached correspondences / maps dated 20/11/2013 and 06/01/2014 – Appendix B refers) of the case to date and in particular that part of the overall landholding (identified on the attached map) as the northern portion of the overall landholding / north of the overhead power lines (photos 8 – 18 refer) was pre-63 authorised. It was further clarified that the further quarrying activities (Photos 1 – 7 refer) which subsequently occurred in a southeast / eastern direction from same were carried out between 2004 and 2010, were not pre-63 authorised, that the pre-63 area had been abandoned and partially regenerated, therefore possibly affecting any entitlement to claim pre-63 authorisation.

Historic Enforcement Action:
Ud 14108 relates to a historic case against Eamonn Sweeney and Eugene Ferry, Enforcement Notices were served on Eamonn Sweeney and Eugene Ferry on 18/06/2014 requiring that all unauthorised quarrying and ancillary activities cease and that all plant / machinery is removed and a soil / earth berm be constructed along the access road (see attached Enforcement Notice and map dated 18/06/2014 – Appendix C). No further action was taken in this case and the Enforcement Notice was withdrawn in 2020 and the case was subsequently closed (as part of the current enforcement investigation).

Other matters:
The Planning Authority issued an Enforcement Notice to the developer(s) on 8/03/2021 in accordance with S.154 of the Planning and Development Act, 2000 (as amended) with respect of the continuation of quarrying and all related ancillary activities where no permission for such development exists (see attached Enforcement Notice dated 08/03/2020 – Appendix D).

Further to a site inspection of 31/05/2021 it was established that none of the steps detailed in the Third Schedule of Enforcement Notice have been taken and

consequently said Enforcement Notice had not been complied with. The case was subsequently referred to the County Solicitor for prosecution and the case currently rests before the Courts.

On the 22/10/2021 a site meeting took place with Eugene Ferry and others wherein the option of a Section 5 referral in this case was discussed, to establish the current status of the alleged pre-63 authorised quarry or portion(s) thereof.

The Planning Authority acknowledges case law that pre-63 authorisation for quarries is based on extent of 'ore body' or 'landholding in control of landowner' before the appointed day. However, the Planning Authority is of the opinion if intensification / expansion occurred post 1st Feb 1990, which requires a mandatory EIA or determination for sub-threshold EIA (set out in Articles 92, 103 and 109 and the 7th Schedule of the P & D Regs, 2001 (as amended), then a quarry cannot rely solely on pre-63 authorisation.

The Planning Authority currently has a number of similar 'live' Section 5 referrals before An Bord Pleanala. The Planning Authority recently sought a S.5 Referral in respect of a small quarry (less than 1ha extraction area and 3.71ha overall landholding) operation in Glenmakee, Carndonagh, Co. Donegal (ABP-309662-21 refers), as can be seen therefrom an Bord Pleanala concluded that: *"the continuation of quarrying, including extraction, processing and sale of material of a pre-63 existing quarry at Glenmakee, Carndonagh, County Donegal is development and is exempted development".* Therefore accepting that quarry is a pre-63 authorised quarry.

However, while acknowledging this outcome, the Planning Authority contends that the current case is materially different in location, scale and nature, in particular:

(i) the current area of active extraction in this case extends to c. 3.5ha., while the entire landholding extends to c.5.0ha., resulting in a material difference in the morphology of the quarry boundaries, its overall scale and footprint, therefore the requirement for consideration of a mandatory EIA or determination for sub-threshold EIA arises under the EIA Directive and

(ii) the quarry is located 0.15km. north of the closest Natura 2000 site, being Fawnbog Bog / Lough Nacung SAC (Site code 000140) which in turn flows into the Gweedore Bay and Islands SAC (Site code 001141) therefore the requirement for consideration of Appropriate Assessment / screening for Appropriated Assessment arises under the Habitats Directive.

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 Pleanala that the continuation of quarrying in this case is development and is not exempted development.

Appendices:

Appendix A - S.261A determination dated 22/08/2012

Appendix B - correspondences / maps dated 20/11/2013 and 06/01/2014

Appendix C - Enforcement Notice and map dated 18/06/2014

Appendix D - Enforcement Notice dated 08/03/2020

Appendix A –

S.261A determination dated 22/08/2012

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

M.F.S. Haulage
Corner House
Gweedore Station
Co. Donegal

Our Reference: EUQY85
Re: Section 261(a) Planning & Development Act, 2010.
Quarry Meenderrygamph, 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 Pleanala, 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,

Shaun McGlynn
pp **Staff Officer**
Community, Culture & Planning
County House
Lifford

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 Eamonn Sweeney
Corner House
Gweedore Station
Co. Donegal

Our Reference: EUQY85
Re: Section 261(a) Planning & Development Act, 2010.
Quarry Meenderrygamph, Gweedore, Co. Donegal.

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Is mise le meas,

Shaun McMoran

p.p. **Staff Officer**
Community, Culture & Planning
County House
Lifford

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 Eugene Ferry
Arduns
Gweedore
Co. Donegal

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Quarry Meenderrygamph, Gweedore, Co. Donegal.

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I trust this clarifies the position,

Is mise le meas,

Shaun Mc Manus

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: **EUQY85**

Name of Quarry Owner: **Eamonn Sweeney, Cornor House, meenderrygamph, Gweedore, Co Donegal, Eugene Ferry, Arduns, Gweedore, Co Donegal**

Name of Quarry Operator: M.F.S. Haulage, Corner House, Gweedore Station, Co Donegal

Address of Quarry: Meenderrygamph, 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,

Reasons:

The quarry appears to have commenced pre 1st October 1964, however intensification of quarry operations have occurred and no permission was granted in respect of the quarry under Part III of this Act or Part IV of the Act of 1963.

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 and 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 22nd DAY OF August 2012

Appendix B –

Correspondences / maps dated 12/12/2013 and 06/01/2014

06/01/2014

Mr. Eugene Ferry,
Arduns,
Goath Dobhair,
Letterkenny,
Co. Donegal.

Re: Quarry @ Meenderrygamph, Goath Dobhair, Co. Donegal.

A chara,

I refer to the above, and find below an amended corr. which was initially dated 12th December, but contained several errors, and did not issue to you.

I trust this clarifies the position, and apologise for any inconvenience arising from our error.

Is mise le meas,

Conall McGettigan,
a / SEP
Community, Culture & Planning Directorate.

cc. Laurie Canavan, Canavan Associates, 23 Prince's Street, Derry, Northern Ireland, BT48 7EY

12th December, 2013.

Mr. Eugene Gillespie,
Arduns,
Goath Dobhair,
Co. Donegal.

Re: Sec 261a, Regulation of Quarries,
Refers: EUQY 85, Quarry @ Meenderrygamph, Goath Dobhair, Co. Donegal.

A chara,

I refer to the above, and our recent meeting at County House, Lifford (November 20th, 2013), also attended by your father, Mr. Patrick Gillespie, and Laurie McGee of Canavan Associates.

I have since examined your case further, and have set out the Council's general position below:

1. The Notice issued to you under Section 261a deemed your operation to be unauthorised (4(a) Notice), which was not appealed by yourself to An Bord Pleanala, and it so follows the Planning Authority must now deem the quarry to be an unauthorised development. The terms of the 261(a) legislation requires the Council to take Enforcement action on you, and this would ordinarily be done via the service of an Enforcement Notice, served under the Planning Act. *Section 261(a) (and related provisions) Guidelines for Planning Authorities, 2012(Sec.5.2)*, states that in certain circumstances, the Council do not have to follow this course of action, should there be 'compelling reasons' for not doing so. In this case, the quarry is within such close proximity of the Clady River, it may be the case that to carry out remedial work to the site presents a risk to the SAC, and it may be, this would not be in the overall interests of the SAC, or the wider local area.

2. Your lands are 150m from the Clady River, which you are aware is a designated *Natura, 2000* site. The qualifying interests of the site include the presence of a significant population of Fresh Water Pearl Mussels (FWPM) on the River Bed. I have consulted with the National Parks & Wildlife Service (NPWS) in this case, and the Divisional Ecologist, Mr. William Cormican. The Clady River hosts the most significant population of the species in the County, with approx. 100,000 FWPM. It is the position of NPWS that any adverse impact on the River, whether directly, or indirectly, through additional sedimentation, or run-off from adjacent lands would not be desirable. Therefore, any development within the corridor of the River, which presents such a risk is likely to be unfavourably considered. It is open to you to submit a Pre Planning Inquiry on the possible extension and

continuation of the quarry, and in the course of this process it may be beneficial to liaise directly yourself with the NPWS to ascertain their exact views on the matter. Pre Planning Queries involve a consultation / meeting with the Planner likely to be dealing with any prospective Planning Application, and are free of charge. From the Council's perspective, the *County Donegal Development Plan, 2012- '18 (Sec. 6.2.3)* states that consideration must be given to the FWPM species with any application submitted within the basin / sub-basin of a River which hosts the species.

3. I refer to the attached map, and it is recognised that an area of your lands contained a quarry which was previously accepted to be a pre 1963 development, and which was long established. The area to the East & South East, is more recent, where works were carried out between 2004 – 2010. It would appear the pre 1963 area has since been abandoned, indeed some of the lands appear to have re-growth (regeneration), and vegetation apparent thereon, this abandonment may affect any entitlement you may claim to revert to quarry in this area, I have outlined this area in blue on the aforementioned map.

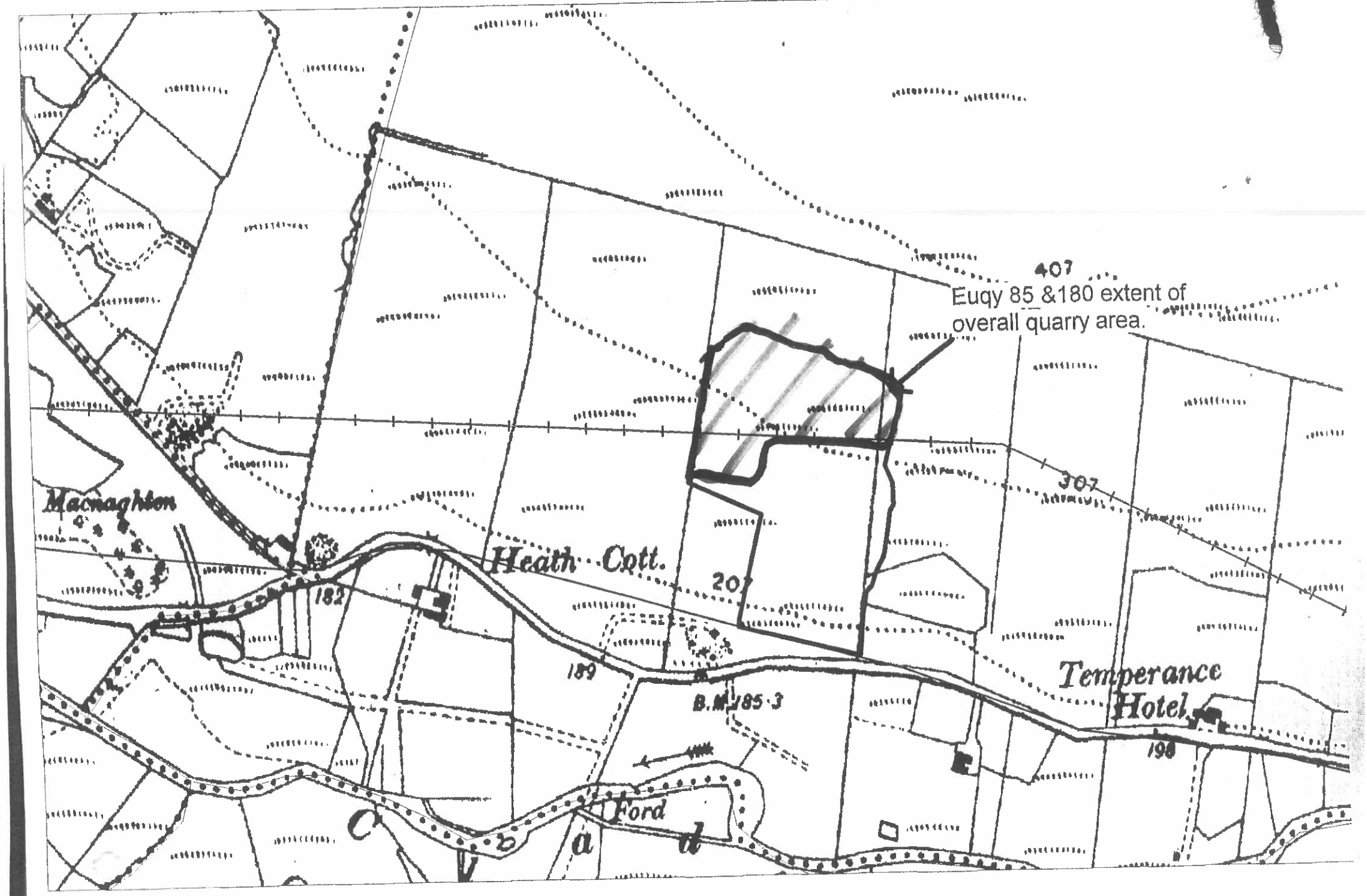
4. Finally, I appreciate from our meeting you are somewhat aggrieved a number of operators within close proximity of your lands have secured Planning Permission to extract material, and the Council's position in your case is not consistent with these cases, .These include Mr. Ownie Gillespie (Refers: 12/30185) and Mr. Joe Greene (Refers: 12/50764). I understand that neither of these operations discharge into the Clady River basin. I further note that Mr. Gillespie's application included a Environmental Impact Statement(EIS), a Natura Impact Statement(NIS), and an Appropriate Assessment(AA) which were all evaluated as part of the Planning process, including the potential impact upon the Clady River, and the FWPM. You may wish to examine these documents, which are on the public record as part of the application.

I trust this clarifies the position at the present time,

Is mise le meas,

Conall McGettigan,
a/ Senior Executive Planner,
Community, Culture & Planning.

cc. Laurie McGee, Canavan Associates, 23 Prince's Street, Derry, Northern Ireland, BT48 7EY
CC. William Cormican, Div. Ecologist, National Parks & Wildlife Service, Dept. of Arts, Heritage & the Gaeltacht, Ballinafad, via Boyle, Co. Roscommon.


Euqy 85 &180 extent of
overall quarry area.
407
307
Macnaghton
Heath Cott.
207
182
189
B.M. 185·3
Temperance
Hotel
198
Ford
C
a
d

Appendix C –

Enforcement Notice and map dated 18/06/2014

COMHAIRLE CHONTAE DHUN NA NGALL
DONEGAL COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 - SECTION 154

ENFORCEMENT NOTICE

TO: **Mr. Eugene Ferry,** **Ref.No:**UD14108

AND: **Mr. Eamonn Sweeney,**
The Corner House,
Meenderrygamph,
Gweedore,
Co. Donegal.

TAKE NOTICE that the above named Council being the Planning Authority for the County of Donegal hereby –

1. **REFERS** to the lands specified in the First Schedule on which the developments specified in the Second Schedule have been carried out without a grant of planning permission **AND**

2. **REQUIRES** the said developments to cease,

3. **REQUIRES** the steps specified in the Third Schedule hereto to be taken within **four weeks** from the date of service hereof,

4. **WARNS** you that if within the said period or within such extended period as this Council may allow the said steps specified in the Third Schedule hereto are not taken, the Council may enter on the land and take such steps and may recover any expenses reasonably incurred in that behalf.

5. **REQUIRES** you to refund to the Council the costs and expenses reasonably incurred by it in relation to the investigation, detection and issue of this notice (and any warning letter previously issued to you under Section 152 of the Act) including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers details whereof will be given to you on the other requirements of this Notice being complied with and the Council may recover the costs and expenses so incurred.

6. **FURTHER WARNS** you that if within the said period or such extended period as the Council may allow the said steps specified in the Third Schedule hereto are not taken you may be guilty of an offence.

FIRST SCHEDULE

All those lands at Meenderrygamph, Gweedore, in the said County of Donegal as more particularly described and delineated on the map annexed hereto and annotated with the reference number "UD14108" and thereon shown by the inner edge of the thick red line.

SECOND SCHEDULE

(i) The use of land as a quarry.

(ii) The making of excavations and the exportation of soil, sand and stone from the site.

(iii) The placing within the site of plant machinery.

(iv) The creation of a vehicular access/egress from the subject site onto a Regional Road to serve the subject quarry.

THIRD SCHEDULE:

1. Cease all quarrying activity on site.
2. Cease all activity ancillary to quarrying on site.
3. Cease all exportation of materials from the site.
4. Remove all plant machinery from the site.
5. Construct a soil and/or stone berm of minimum height of 1.2 metres across the entire access road off the Regional Road with the toe of the berm nearest the road being no closer than 8 metres from the junction of the access road with the Regional Road edge and no further than 10 metres from the junction of the access road with the edge of the Regional Road so as to completely block the unauthorised access into the quarry from the Regional Road.

DATED THIS 18th DAY OF June 2014

Geraldine Mc Elwee

ASSISTANT STAFF OFFICER
HOUSING, CORPORATE & PLANNING CONTROL SERVICES

NOTE –

(i) This Notice takes effect immediately on the date of service hereof on you.

(ii) In relation to the costs and expenses above referred to, the Council may recover these from you as a simple contract debt or by charging the lands concerned or where you are the owner thereof by Instrument vesting the ownership of the land in the Council subject to a right of redemption by you within five years (on payment of all the costs and expenses incurred including those further costs associated with the charging/vesting of the land).

(iii) On conviction for an offence of failing to comply with this Notice you may be liable to fines up to €12.69 million or imprisonment up to two years or both on prosecution on indictment and €5,000 or imprisonment up to six months or both on summary prosecution.

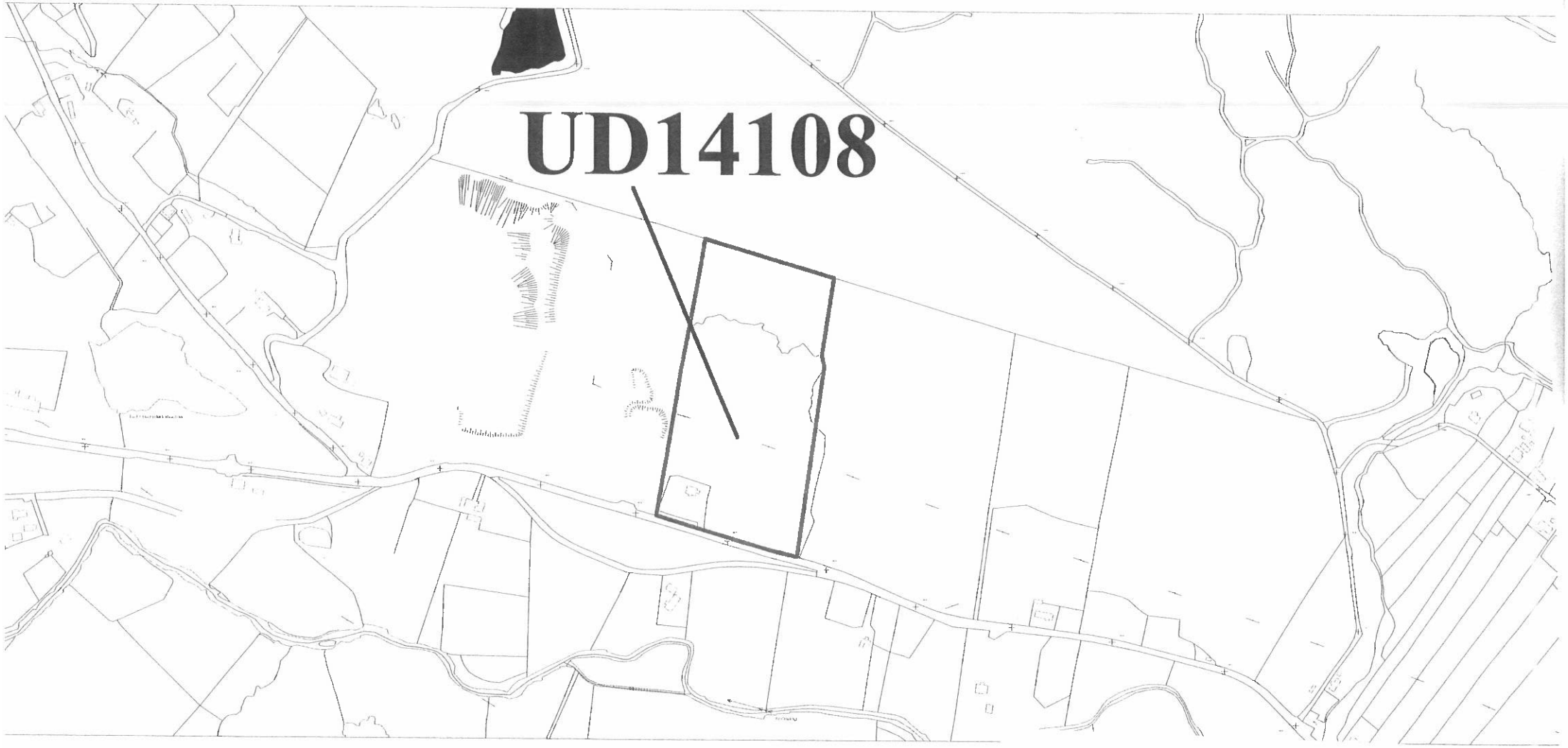
I HEREBY CERTIFY THAT THE ORIGINAL OF THIS NOTICE WAS SIGNED

BY GMcElwee AND PLACED IN AN ENVELOPE BY

ME PERSONALLY AND SENT BY REGISTERED POST (REG. NO: RL4092 6761 1 IE)

ON 15.6.14

SIGNED: GMcElwee



I hereby certify that the location on this map of unauthorised development Ref No. 14108 which is outlined and coloured in red is accurate.

Date 18 June 2014

Signed

Appendix D –

Enforcement Notice dated 08/03/2021

Comhairle Contae
Dhún na nGall
Donegal County Council

www.ccdhunnangall.ie www.donegalcoco.ie

Our Ref: UD 20248

8th March 2021

Eamonn Sweeney
Corner House
Gweedore
Co. Donegal.

Re: Unauthorised Development at Meenderrygamph, Gweedore.

A Chara,

I refer to the above and enclose now an Enforcement Notice by way of service in accordance with Section 250 of the Planning and Development Act 2000 (as amended). I draw your attention to the requirements of the Notice and in particular the steps to be taken, the period for compliance and the consequences of non-compliance detailed thereon.

Mise le meas,

For Carol Margey
Senior Executive Planner
Planning Enforcement Unit

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

Guthán/Tel: 074 9153900 | Facs/Fax: 074 9172812 | Ríomhphost/Email: info@donegalcoco.ie

COMHAIRLE CHONTAE DHUN NA NGALL
DONEGAL COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT 2000 (as amended) ("the Act")

SECTION 154

ENFORCEMENT NOTICE

To: Eamonn Sweeney
(Address as detailed on cover letter)

Ref: UD 20248

And

Eugene Ferry
(Address as detailed on cover letter)

And

MFS Haulage
(Address as detailed on cover letter)

TAKE NOTICE that the above named Council being the Planning Authority for the County of Donegal hereby –

1. **REFERS** to the lands specified in the First Schedule on which the developments specified in the Second Schedule have been carried out without a grant of planning permission, **AND**

2. **REQUIRES** the said developments to **cease**,

3. **REQUIRES** the steps specified in the Third Schedule hereto be taken within the period of **8 weeks** from the date of service hereof.

4. **WARNS** you that if within the said period or within such extended period as this Council may allow the said steps specified in the Third Schedule hereto are not taken, the Council may enter on the land and take such steps and may recover any expenses reasonably incurred in that behalf.

5. **REQUIRES** you to refund to the Council the costs and expenses reasonably incurred by it in relation to the investigation, detection and issue of this notice notice (and any warning letter previously issued to you under Section 152 of the Act) including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers details whereof will be given to you on the other requirements of this Notice being complied with and the Council may recover the costs and expenses so incurred.

6. **FURTHER WARNS** you that if within the said period, or such extended period as the Council may allow, the said steps specified to be carried out by you, in the Third Schedule hereto, are not taken you may be guilty of an offence.

FIRST SCHEDULE

All those lands at Meenderrygamph, Gweedore, Co. Donegal, County Donegal, as outlined in red and annotated with reference number "UD 20248" thereof on the map annexed hereto.

SECOND SCHEDULE

1. The use of land for quarrying and all related ancillary activities.

THIRD SCHEDULE

1. Cease / do not recommence use of the land for quarrying.

2. Secure all site boundaries and gate entrance with a perimeter fence, with a minimum height of 1.8 metres, to prohibit entry by unauthorised members of the public.

3. Erect warning signage at every 25 metre interval along the fence referred to in Point 2 of this Schedule.

DATED THIS 8th **DAY OF MARCH 2021**

Signed: Linda McNally
Assistant Staff Officer

NOTE –

(i) This Notice takes effect immediately on the date of service hereof on you.

(ii) In relation to the costs and expenses above referred to, the Council may recover these from you as a simple contract debt or by charging the lands concerned or where you are the owner thereof by Instrument vesting the ownership of the land in the Council subject to a right of redemption by you within five years (on payment of all the costs and expenses incurred including those further costs associated with the charging/vesting of the land).

(iii) On conviction for an offence of failing to comply with this Notice you may be liable to fines up to €12.69 million or imprisonment up to two years or both on prosecution on indictment and €5000.00 or imprisonment up to six months or both on summary prosecution.

I HEREBY CERTIFY THAT (A DUPLICATE) OF THIS NOTICE WAS SIGNED BY Anna AND PLACED IN AN ENVELOPE BY ME PERSONALLY AND SENT BY REGISTERED POST (REG. NO. RL 797618380IE)

TO Eamon Sweeney

ON 8th March 2021.

SIGNED: Linda McNally.

Comhairle Contae Dhún na nGall
Donegal County Council

Planning Enforcement - Location Map

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Comhairle Contae Dhún na nGall
Donegal County Council

www.ccdhunnangall.ie www.donegalcoco.ie

Our Ref: UD 20248

8th March 2021

Eugene Ferry
Arduns
Gweedore
Co. Donegal.

Re: Unauthorised Development at Meenderrygamph, Gweedore.

A Chara,

I refer to the above and enclose now an Enforcement Notice by way of service in accordance with Section 250 of the Planning and Development Act 2000 (as amended). I draw your attention to the requirements of the Notice and in particular the steps to be taken, the period for compliance and the consequences of non-compliance detailed thereon.

Mise le meas,

Rhonda McNally

For Carol Margey
Senior Executive Planner
Planning Enforcement Unit

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

Guthán/Tel: 074 9153900 | Facs/Fax: 074 9172812 | Ríomhphost/Email: info@donegalcoco.ie

COMHAIRLE CHONTAE DHUN NA NGALL
DONEGAL COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT 2000 (as amended) ("the Act")

SECTION 154

ENFORCEMENT NOTICE

To: Eamonn Sweeney
(Address as detailed on cover letter)

Ref: UD 20248

And

Eugene Ferry
(Address as detailed on cover letter)

And

MFS Haulage
(Address as detailed on cover letter)

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3. Erect warning signage at every 25 metre interval along the fence referred to in Point 2 of this Schedule.

DATED THIS 8th **DAY OF MARCH 2021**

Signed: Linda McNally
Assistant Staff Officer

NOTE –

(i) This Notice takes effect immediately on the date of service hereof on you.

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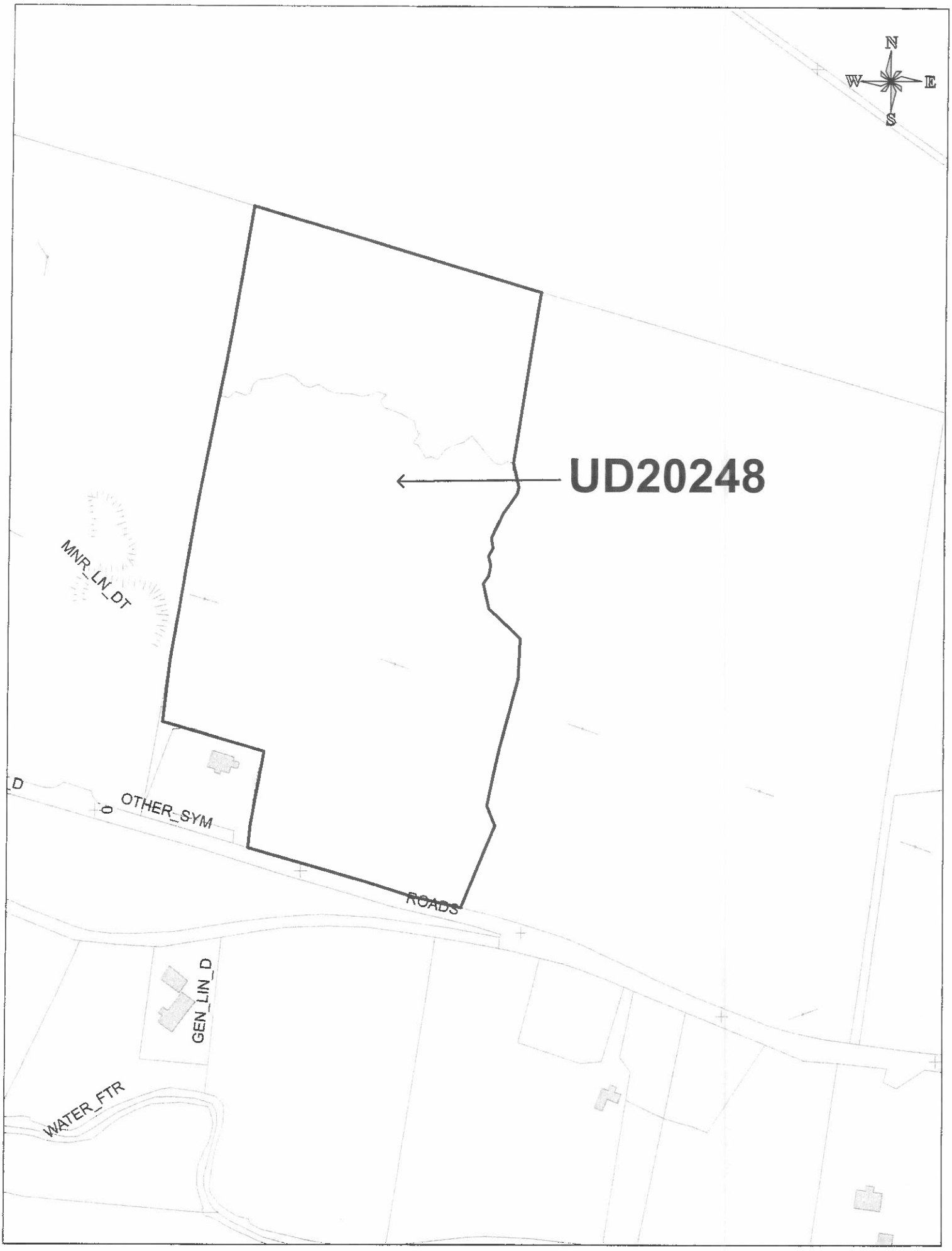
I HEREBY CERTIFY THAT (A DUPLICATE) OF THIS NOTICE WAS SIGNED BY Imon. AND PLACED IN AN ENVELOPE BY ME PERSONALLY AND SENT BY REGISTERED POST (REG. NO. RL7916 1840 2IE) TO Eugene Ferry ON 8th March 2021.

SIGNED: Linda McNally



Comhairle Contae Dhún na nGall
Donegal County Council

Planning Enforcement - Location Map

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Comhairle Contae Dhún na nGall
Donegal County Council

www.ccdhunnangall.ie www.donegalcoco.ie

Our Ref: UD 20248

8th March 2021

MFS Haulage
Corner House
Gweedore
Co. Donegal.

Re: Unauthorised Development at Meenderrygamph, Gweedore.

A Chara,

I refer to the above and enclose now an Enforcement Notice by way of service in accordance with Section 250 of the Planning and Development Act 2000 (as amended). I draw your attention to the requirements of the Notice and in particular the steps to be taken, the period for compliance and the consequences of non-compliance detailed thereon.

Mise le meas,

Linda McNally

For Carol Margey
Senior Executive Planner
Planning Enforcement Unit

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

Guthán/Tel: 074 9153900 | Facs/Fax: 074 9172812 | Ríomhphost/Email: info@donegalcoco.ie

COMHAIRLE CHONTAE DHUN NA NGALL
DONEGAL COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT 2000 (as amended) ("the Act")

SECTION 154

ENFORCEMENT NOTICE

To: Eamonn Sweeney
(Address as detailed on cover letter)

Ref: UD 20248

And

Eugene Ferry
(Address as detailed on cover letter)

And

MFS Haulage
(Address as detailed on cover letter)

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2. **REQUIRES** the said developments to **cease**,

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3. Erect warning signage at every 25 metre interval along the fence referred to in Point 2 of this Schedule.

DATED THIS 8th **DAY OF MARCH 2021**

Signed: Linda McNally
Assistant Staff Officer

NOTE –

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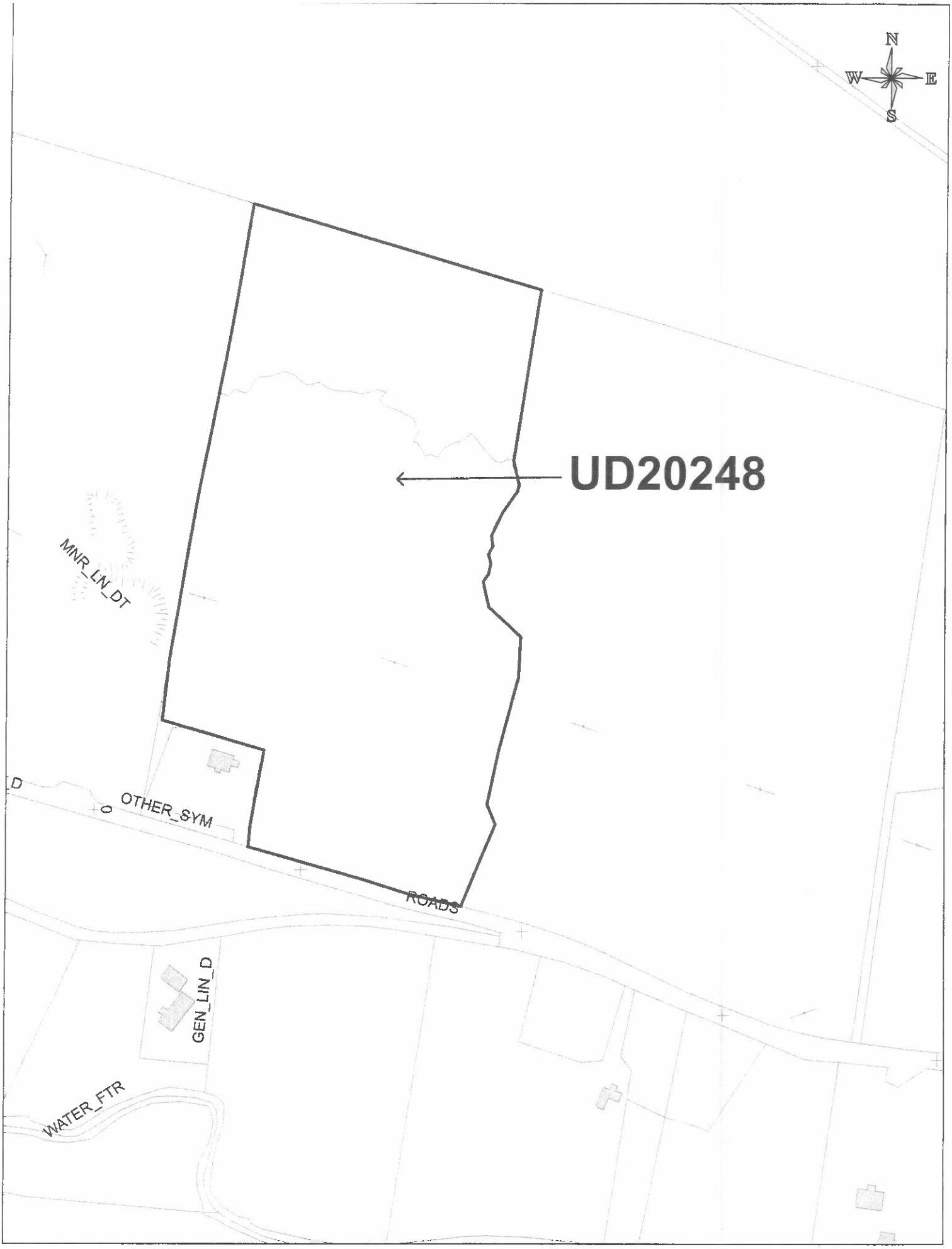
(iii) On conviction for an offence of failing to comply with this Notice you may be liable to fines up to €12.69 million or imprisonment up to two years or both on prosecution on indictment and €5000.00 or imprisonment up to six months or both on summary prosecution.

I HEREBY CERTIFY THAT (A DUPLICATE) OF THIS NOTICE WAS SIGNED BY Linda AND PLACED IN AN ENVELOPE BY ME PERSONALLY AND SENT BY REGISTERED POST (REG. NO. RL 79761839 3IE)

TO Mrs Maulge

ON 8th March 2021

SIGNED: Linda McNally.



Comhairle Contae Dhún na nGall
Donegal County Council

Planning Enforcement - Location Map

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CHIEF EXECUTIVE'S ORDER NO: 2020PH2318

PLANNING AND DEVELOPMENT ACT 2000 (as amended) ("the Act")
SECTION 154 ENFORCEMENT NOTICE

Reference No: UD 20248

Description of Unauthorised Developments: The use of land for quarrying and all related ancillary activities

Location: Meenderrygamph, Gweedore, County Donegal (as more particularly described and delineated on the map thereof attached to the report of Mr. Martin Mc Dermott referred to below).

Developer: MFS Haulage

SUBMITTED:
Report and Recommendation dated **5th of November 2020,** by Martin Mc Dermott, Executive Planner, with the Council, in relation to unauthorised development as described therein carried out at the above location.

In Mr. Mc Dermott's report, he has outlined his investigation of the matter and the basis for his recommendation that:

- In accordance with Section 154(11) of the Planning and Development Act, 2000 (as amended), to withdraw the Enforcement Notices served on Eamonn Sweeney and Eugene Ferry on 18/06/2014 by the issuing of the Withdrawal Notice to said persons in the terms of the Draft Withdrawal Notice attached herewith arising from the fact that the delineation of the site has been refined and the exact requirements of the Planning Authority in respect of the unauthorised development have been updated and close this previous enforcement investigation file (Ud 14108).

- That fresh Enforcement Notices in the terms of the Draft Enforcement Notice annexed to his report should be served on Eamonn Sweeney, Eugene Ferry and MFS Haulage in respect of the unauthorised development concerned as provided for in accordance with Section 154 of the Act and that the matter is urgent in accordance with s.155 of the Act.

RECOMMENDATION: That the Council withdraws the Enforcement Notices served on Eamonn Sweeney and Eugene Ferry on 18/06/2014 by the issuing of the Withdrawal Notice to said persons in the terms of the Draft Withdrawal Notice attached herewith and also enforces and serves Enforcement Notices on Eamonn Sweeney, Eugene Ferry and MFS Haulage in the terms of the Draft Enforcement Notice attached to the said report submitted herewith.

Linda McNally

ASSISTANT STAFF OFFICER

CONTINUATION OF CHIEF EXECUTIVE'S ORDER NO: 2020PH2318

ORDER: Recommendation approved. I therefore order that Enforcement Notices served on Eamonn Sweeney and Eugene Ferry on 18/06/2014 be withdrawn in accordance with Section 154(11) of the Planning and Development Act, 2000 (as amended) and that fresh Enforcement Notices should be served in accordance with Section 154 of the Act, on the above named Eamonn Sweeney, Eugene Ferry and MFS Haulage and that Linda Mc Nally, Assistant Staff Officer, Community, Enterprise and Planning Services is hereby authorised to sign the notices on behalf of the Council.

SENIOR EXECUTIVE PLANNER

DATED THIS 4th DAY OF DECEMBER 2020

AN BORD PLEANÁLA
01 APR 2022
LTR DATED _____ FROM _____
LDG- _____
ABP- _____