



Board Direction

Ref: 05E.SU0030

The submissions on this file and the Inspector's report were considered at a Board meeting held on 30th October 2014.

The Board decided to grant substitute consent generally in accordance with the Inspector's recommendation, and in accordance with the draft reasons, considerations and conditions set out below.

REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard to the following:

- (a) Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, as amended,
- (b) the provisions of the Planning and Development Acts, 2000 to 2014, and Part XA in particular,
- (c) the "Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government (2010),
- (d) the "Guidelines for Planning Authorities and An Bord Pleanála on Carrying out Environmental Impact Assessment" issued by the Department of the Environment, Community and Local Government (2013),
- (e) the "Quarries and Ancillary Activities, Guidelines for Planning Authorities", issued by the Department of the Environment, Heritage and Local Government (2004),
- (f) the provisions of the Donegal County Development Plan 2012 – 2018 (as varied),
- (g) the nature and scale of the development the subject of this application,
- (h) the pattern of development in the area,
- (i) the planning, registration and quarry review history of the subject site,
- (j) the remedial Natura impact statement submitted,

- (k) the report and the opinion of the planning authority,
- (l) the submissions and documentation on file generally, and publically available aerial photography, and
- (m) the report of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

The Board was satisfied that the information before it was adequate to undertake an appropriate assessment and an environmental impact assessment in respect of the subject development.

Appropriate Assessment

The Board considered the nature, scale and location of the subject development, the remedial Natura impact statement, the documentation submitted with the application, the planning, registration and quarry review history of the subject site, the submissions on file, and the Inspector's analysis of impacts on European Sites, with which the Board concurred. The Board completed an Appropriate Assessment in relation to the potential impacts of the subject development on the *Sheephaven Special Area of Conservation (site code 001190)*, on the *Muckish Mountain Special Area of Conservation (site code 001179)*, and on the *Derryveagh and Glendowan Mountains Special Protection Area (site code 004039)*.

In undertaking the Appropriate Assessment, the Board had regard to the separation distances to and lack of hydrological connectivity between the quarry and both the *Muckish Mountain Special Area of Conservation* and the *Derryveagh and Glendowan Mountains Special Protection Area*, as well as to the nature of the conservation objectives for those sites. Furthermore, the Board had regard to the surface water management within the subject site, the results of water quality testing, the distance to the *Sheephaven Special Area of Conservation*, and to the coastal nature of the conservation objectives involved. The Board also considered the scale and extent of the quarry and its related activities prior to the designation of the European Sites. The Board shared the conclusion of the Inspector that the quarry, by itself, or in combination with other plans or projects, would not have adversely affected and would not be likely to adversely affect the integrity of European Sites in the light of their conservation objectives.

Environmental Impact Assessment

The Board considered the nature, scale and location of the subject development, the remedial environmental impact statement submitted with the application, the documentation submitted with the application generally, the planning, registration and quarry review history of the subject site, the submissions on file, the distances to houses, the location of the quarry outside of preliminary flood risk areas, the surface water management within the site, the water quality test results, the conclusions reached in relation to Appropriate Assessment, and the Inspector's report, which is noted and adopted. It is considered that the remedial environmental impact statement identified and described adequately the direct and indirect effects on the environment of the development that have taken place. The Board concluded that the landscape and traffic impacts that arose as a result of the subject development would not merit a refusal of substitute consent. The Board completed an environmental impact assessment in relation to the subject development and concluded that the development of the quarry did not have and would not be likely to have unacceptable impacts on the environment.

Conclusion

Having regard to the decisions made in respect of appropriate assessment and environmental impact assessment, the Board considered that the subject development was not and would not be contrary to the proper planning and sustainable development of the area.

CONDITIONS

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application, as amended by the submissions made on 22nd July 2013, including all proposed mitigation measures, except as otherwise may be required to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be in accordance with the agreed particulars.
- (b) This grant of substitute consent relates only to the quarry that has been developed as described in the application, and does not authorise any structures or any future quarrying on this site. This grant of substitute consent does not pertain to the batching plants or associated works or any manufacturing on this site.

Reason: In the interest of clarity.

2. Any continuing discharge of surface water from the site shall be in accordance with the mitigation measures proposed in the remedial Natura impact statement, the remedial environmental impact statement and supporting information, construction-stage details of which shall be submitted to and agreed in writing with the planning authority within three months of the date of this Order, including a time schedule for implementation. The surface water management system shall be segregated from vehicular traffic.

Reason: To protect water quality.

3. The foul effluent arising from the septic tank shall be directed to a waste water holding tank, details of which shall be submitted to and agreed in writing with the planning authority within three months of the date of this Order. These details shall include provision for regular disposal of the effluent to a facility authorised to accept such waste, and shall provide for an alarm system for the tank. The holding tank shall be installed to the written satisfaction of the planning authority within six months of the date of this Order.

Reason: In the interest of public health and the protection of the environment.

4. The site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this Order. The details shall include a time schedule for implementation, and shall provide for dense landscape screening to be planted along the western and southern boundaries of the upper quarry. Any plants that die, are removed or become seriously damaged or diseased, within a period of five years of planting, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

5. A comprehensive plan for the restoration of the quarry shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this order, and shall include the following:
 - (a) details relating to the finished gradients of the quarry face,
 - (b) the control of dust emissions,
 - (c) a scheme of landscaping and tree planting,
 - (d) proposals for an aftercare programme of five years, and
 - (e) a timeframe for implementation.

Reason: To ensure the satisfactory restoration of the site to enhance the visual amenities of the area and to ensure public safety.

6. Within six months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory restoration of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

Note:

1. The Board noted that the notice issued by the planning authority related to appropriate assessment only.
2. The Board noted that the Inspector had recommended conditions in relation to the future operation of the quarry; however, the scope of this substitute consent is confined to past quarrying, and any future development on this site is outside this substitute consent process. The Board therefore did not attach any such conditions.

Board Member: _____ Date: 16th December 2014
Fionna O' Regan