



Planning and Development Acts 2000 to 2019

Planning Authority: Cork County Council

Planning Register Reference Number: 11/00317

Application for Leave To Apply For Substitute Consent, by Murray Brothers Tarmacadam Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork.

Development: Quarry at Ardcahan (townland), Dunmanway, Country Cork.

Decision

GRANT leave to apply for substitute consent under section 177D of the Planning and Development Act 2000, as amended, based on the reasons and considerations set out below

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to section 177D of the Planning and Development Act, 2000, as inserted by section 57 of the Planning and Development (Amendment) Act, 2010, the Board is satisfied that:

- (a) an environmental impact assessment and an appropriate assessment was or is required in respect of the development concerned, and
- (b) exceptional circumstances exist such that the Board considers it appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent.

In this regard, the Board considered that -

- the regularisation of the development concerned would not circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;
- the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment, and to provide for public participation in such an assessment, has not been substantially impaired;
- the actual or likely significant effects on the environment or adverse effects on the integrity of a European site, if any, resulting from the carrying out of the development, could likely be substantially remediated; and
- the applicant has complied with a previous planning permission granted.

In deciding not to accept the recommendation of the Inspector to refuse leave to apply for substitute consent, the Board had regard to the full extent of the meaning of 'quarry' as set out in section 2 of the Planning and Development Act 2000, as amended by the European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011 (S.I. No. 584 of 2011), section 3(b), and noted that this meaning is not restricted to areas of extraction. Furthermore, the Board noted that any substitute consent, if granted, would regularise previous development and, save as regards the taking of remedial measures, would not allow for continuing or future development of the quarry, and that such continuing or future development would require separate planning permission to be obtained following the granting of such substitute consent.

John Connolly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020.