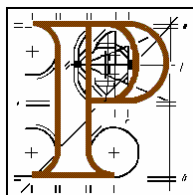


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

Monaghan County

Planning Authority Register Reference : John McQuade Quarries Limited

An Bord Pleanála Reference Number: 18.QV.0268

LOCATION OF QUARRY: Lemgare, Clontibret, County Monaghan.

REVIEW REQUESTED by An Taisce care of Harrington and Company of Newtown, Bantry, County Cork in respect of;

- (i) **the determination** by Monaghan County Council, on the 24th day of August, 2012, under subsection (2)(a)(i) of section 261A of the Planning and Development Act, 2000, as amended by the insertion of section 75 of the Planning and Development (Amendment) Act 2010 and as further amended by the European Union (Environmental Impact Assessment and Habitats) Regulations 2011 and European Union (Environmental Impact Assessment and Habitats) Regulations 2012,

which determination was that development was carried out after the 1st day of February, 1990, which development would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment, but that such an assessment was not carried out, and

- (ii) **the decision** by Monaghan County Council, also on the 24th day of August, 2012, under subsection (3)(a) that the quarry commenced operation before the 1st day of October, 1964, and

that the requirements in relation to registration under section 261 of the 2000 Act were fulfilled.

BOARD DECISION

The Board, in exercise of its powers conferred on it under section 261A of the Planning and Development Act, 2000, as amended, decided:

based on the Reasons and Considerations marked (1) set out below, **to confirm** the determination of the planning authority in respect of this development made under section 261A(2)(a)(i) of the Planning and Development Act 2000, as amended, and

based on the Reasons and Considerations marked (2) set out below, **to confirm** the decision of the planning authority in respect of this development made under section 261A(3)(a) of the Planning and Development Act 2000, as amended, and

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 (1)

Having regard to:

- (a) the European Communities (Environmental Impact Assessment) Regulations 1989 – 1999, and the Planning and Development Regulations 2001 (as amended), which, in Schedule 5, restate the prescribed classes of development requiring environmental impact assessment, and which, in Schedule 7, set out the criteria for determining whether a development would or would not be likely to have significant effects on the environment,
- (a) 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, March, 2013,
- (b) the “Environmental Impact Assessment (EIA) - Guidance for Consent Authorities regarding Sub-threshold Development” issued by the Department of the Environment, Heritage and Local Government, August, 2003,
- (c) the submissions on file, including documentation on the registration file (planning authority register reference number Q/2004/3003), aerial photography, and the report of the Inspector,
- (d) the planning and registration history of the site, including appeal reference number PL18.225398, which was accompanied by an environmental impact statement, and where the decision of An Bord Pleanála to grant permission for the continued use of the quarry was quashed by the High Court, and
- (e) the scale of the quarry, and the extent to which the area of extraction of the quarry expanded after the 1st day of February, 1990, which exceeded five hectares,

it is considered that development was carried out after the 1st day of February, 1990 that would have required an environmental impact assessment, but that such an assessment was not carried out.

REASONS AND CONSIDERATIONS (2)

Having regard to:

- (a) the provisions of the Planning and Development Act 2000 (as amended) and in particular Section 261A,
- (b) the Guidelines and Supplementary Guidelines for Planning Authorities on Section 261A, issued by the Department of the Environment, Community and Local Government (2012),
- (c) the submissions on file, including documentation on the review and registration file (planning authority register reference number Q/2004/3003), and the report of the Inspector;
- (d) the evidence on file that the quarry commenced operation before the 1st day of October 1964, including:
 - (i) The Judgement of Mr Justice Charleton, delivered on the 25th day of November, 2010 (2009 JR 941) which, in paragraph 12, states that “the information before An Bord Pleanála indicated a degree of pre-1964 use. That use, however, was limited to some blasting where the removal of stones by horse and cart and brief anecdotal evidence does not appear to support a quarry which, on its current level of operation as declared at registration, involves over forty lorry loads of minerals and over ten tractor-and-trailer loads of minerals being removed each working day.” Thus, it was determined that the intensity of the quarry operation at the time of registration did not reflect the pre-1964 level of quarrying. The Board, therefore, concludes that this Judgment has established that quarry operations had commenced on this site pre-1964, albeit at a low level of intensity.
 - (ii) The Police Certificate for Keeping Explosives for Private Use No. 77183 (1968), indicating an intensive level of quarrying a short period of time after the appointed day, the nature of the lands, including the evidence on historic 25” mapping of rock outcropping at the location from which the quarrying on this site first developed, and which is likely to have encouraged small scale extraction operations prior to more intensified development requiring the use of explosives, and in particular, the affidavit of Mr. Paul Keenan in relation to use of the quarry prior to 1964,

- (e) the requirements in relation to the registration of the quarry under section 261 of the Planning and Development Act, 2000, the information submitted to the planning authority in support of the application made to register this quarry under planning authority register reference number Q/2004/3003, and the subsequent registration of the quarry,

the Board was satisfied that:

- (i) the quarry commenced operation before the 1st day of October 1964, and
- (ii) the requirements in relation to registration under section 261 of the 2000 Act were fulfilled.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2013.