



An
Bord
Pleanála

Board Direction
PL11.248088

The submissions on this file and the Inspector's report were considered at a Board meeting held on January 4th 2019.

The Board decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Reasons and Considerations

1. Having regard to the scale, nature and extent of the development, and having regard to the documentation submitted as part of the application and appeal, and in particular the lack of a detailed water impact appraisal and assessment, the Board cannot be satisfied that the proposed development, by itself and in combination with other plans and projects, including the existing quarry to the south of the subject site, for which the proposed development would be an extension, would not adversely affect the integrity of the River barrow and River Nore Special Area of Conservation (site code 002162), in the light of the conservation objectives and qualifying interests of this European site. The Board is, therefore, precluded from considering a grant of planning permission for the proposed development and the development would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the nature of the road network serving the proposed development, in particular the substandard nature of the L17511 in relation to pavement width and alignment, and also sections of the L1751, which are deficient in relation to pavement width and alignment, together with the

absence of a sufficient level of passing lay-byes, and the nature and extent of the traffic anticipated to travel to and from the site, including significant levels of HGV traffic, it is considered that the local road network would not be capable of accommodating the additional heavy traffic that the proposed development would generate, and would suffer rapid deterioration as a result. The proposed development would therefore endanger public safety by reason of traffic hazard and obstruction of road users, and would be contrary to the proper planning and sustainable development of the area.

3. It is the policy of the Planning Authority, under policy BH1 of the Laois County Development Plan 2017 – 2023, to seek to protect all structures listed in the Record of Protected Structures and under policy BH5 to seek to protect such structures from works that would adversely affect or erode their special character. It has not been demonstrated to the satisfaction of the planning authority, and the Board, due to the submission of insufficient information, that the proposed works, required as a result of the HGV traffic that would be generated by the proposed development, to Tallyho Bridge, a Protected Structure listed in the record of Protected Structures under the Laois County Development Plan 2017 – 2023 (RPS no. 526), and a structure included in the National Inventory of Architectural Heritage (NIAH no. 12803506), would not negatively impact on the special interest, character and setting of the Bridge. The proposed development would therefore contravene these policies of the Laois County Development Plan, which policies are considered to be reasonable, and would be contrary to the proper planning and sustainable development of the area.

Note: in arriving at its decision, the Board noted the points raised by the third party appellant, and by observers at planning application stage, and, in the light of case law, and in particular *An Taisce - vs – Ireland and Others* [2010] IEHC 415, the Board was not satisfied that the existing quarry to the south of the subject site, and of which the proposed development would be an extension, was authorised or represented an established development. In this regard, the Board did not accept the contention made by the applicant that, as a result of registration under Section

216 of the Planning and Development Act 2000, as amended, the “pre-63” status of the existing quarry had been established. In addition, the Board noted the memo of the planning authority’s planner dated 15th April 2015 on file UD14/56 (a copy of which was included with the third party appeal). This memo makes it clear that, following an analysis, the quarry had operated continuously since 1963 but that the rate of extraction at the quarry had dramatically increased since 2012, and that the worked area of the registered quarry had increased by 295% between the registration process in 2005 – 2007 and the authority’s survey in 2014, and concluded that this amounted to a material change and that therefore planning permission was required for the existing quarry. As no such planning permission has been granted for the existing quarry, and as the Board must be satisfied in the light of this case law, following an appropriate enquiry (which the planning authority’s analysis would represent), it is considered inappropriate to permit an expansion of a non-permitted quarry, as in this instance, particularly in the light of the fact that adverse impacts on the nearby European site cannot be ruled out. Any future application for an expansion of the existing quarry must, therefore, include (or be subsequent to), an application for retention of the existing quarry (or an application for substitute consent, if it cannot be established that the existing quarry has not had significant effects on the nearby European site and only if, in such circumstances, leave for the making of such an application for substitute consent has first been granted.)

[Please issue a copy of this Direction to the parties with the Board Order]

Board Member

Date: 7th January 2019

Philip Jones