



An
Bord
Pleanála

Board Direction
BD-003064-19
ABP-302158-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on May 17th 2019.

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

Reasons and Considerations

Having regard to the documentation submitted with the application for leave to apply for substitute consent, it is considered that the provisions of Section 177C cannot apply to the area of the quarry site that was the subject of planning application 14/616 (An Bord Pleanála reference number PL88.245174), and in respect of which the permission was quashed by order of the High Court, because such permission was for the carrying out of future quarrying development, and leave to apply for substitute consent can only be considered for development that has already taken place.

Furthermore, because the area, as outlined in the submitted application for leave to apply for substitute consent, does not include all of the former quarry that is unauthorised development, pursuant to Section 261(10) of the Planning and Development Act, 2000, as amended, and does include areas of land that have not been developed, the Board is not in a position to assess whether exceptional circumstances, as set out in Section 177D(2), apply, as these circumstances can only relate to the quarry development that has taken place since 1st February 1990,

where environmental impact assessment would have been required under the EIA Directive, and to the quarry development has taken place since 26th February 1997 where appropriate assessment would have been required under the Habitats Directive, and where neither form of assessment had been carried out.

Note 1: In making its decision, the Board had regard to the drawings submitted with the application for leave, specifically drawing numbers 2546-01a and 2546-01. These drawings show areas of the applicants' lands in which quarrying development had not taken place, and do not correspond to the area in which quarrying development had taken place between 1990 and 2014, and which was referred to in the judgement of the High Court. The submission also refers to "pre-1963" quarrying, which is not relevant, in the light of Section 261(10).

Note 2: It is considered that any further application for leave to apply for substitute consent in the circumstances of this case can only be in relation to the quarrying development that took place between 1990 (when the EIA Directive came into force) and 2014 (when quarrying ceased) and can only be made in the context of Section 177C (2)(b), and not Section 177C (2)(a). Accordingly, reference to application 14/616 (An Bord Pleanála reference number PL88.245174) is not relevant in this context, and the environmental impact statement and natura impact statement submitted as part of that application are also not relevant to any such application for leave to apply for substitute consent.

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

Board Member

Date: 20th May 2019

Philip Jones