



An
Bord
Pleanála

Board Direction
BD-004553-19
ABP-304207-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on October 18th, 2019.

The Board decided to grant substitute consent generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Note: The Board considered this application for substitute consent at the same meeting as the application for permission for further quarrying development under file ref. no. 304209-19.

REASONS AND CONSIDERATIONS

In making its decision the Board had regard, inter alia, to the following:

- the provisions of the Planning and Development Act, 2000, as amended, and in particular Part XA,
- the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government in April 2004,
- the applicable national, regional and local planning policy including in particular the provisions of the Carlow County Development Plan 2015-2021,

- the remedial Environmental Impact Assessment Report and the remedial Natura Impact Statement and supporting documentation submitted with the application for substitute consent,
- the mitigation measures undertaken and the proposed remedial measures including the proposed restoration scheme,
- the report and the opinion of the planning authority under section 177I of the Planning and Development Act 2000, as amended,
- the submissions made in accordance with Regulations made under section 177N of the Planning and Development Act 2000, as amended,
- the pattern of development in the area and the planning history of the subject site and adjoining lands,
- the nature and scale of the development the subject of this application for substitute consent, and
- the report of the Board's inspector.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment in relation to the development that has taken place, taking account of:

- (a) the nature, scale, location and extent of the development for substitute consent,
- (b) the remedial Environmental Impact Assessment Report and associated documentation submitted in support of the application,

(c) the submissions received from the planning authority, prescribed bodies and the applicant's response to submissions,

(d) the Inspector's assessment on environmental effects as set out in the Inspector's Report;

The Board considered that the remedial environmental impact assessment report, supported by information provided by the applicant during the course of the application, identifies and describes adequately the direct and indirect effects on the environment of the development that has taken place. The Board is satisfied that the information contained in the remedial Environmental Impact Assessment Report (rEIAR) complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board concluded that, subject to the implementation of the mitigation measures proposed in the rEIAR, and subject to compliance with the conditions set out below, the effects on the environment of the development that has taken place, by itself and in combination with other plans and projects in the vicinity, has been, and would be, acceptable. In doing so, the Board considered that the Inspector's report was satisfactory in addressing the environmental effects of the development, agreed with the Inspector's conclusions in relation to the acceptability of mitigation measures and residual effects, and adopted her analysis and conclusions in this regard. The Board considered, and agreed with the inspector's reasoned conclusions, that the main significant direct and indirect effects of the development that has taken place on the environment and measures to avoid, prevent or reduce such effects were as follows:

- **Aquatic Ecology and Water:** Impacts on aquatic ecology, including the Ardristan Fen, Roscat Stream and the aquifer, through surface water containing sediment and/or hydrocarbons, with potential for degradation of aquatic habitats and species. Such impacts are stated to have been mitigated by adherence to good environmental management during the operation and restoration phases. Specific mitigation measures are stated to have included ensuring all surface water runoff passed through a series of adequately designed and sized settlement ponds, proper refuelling on the hardstand

area, ensuring bunding of mobile fuel bowsers/tanks, ensuring that runoff from the hardstand area passed through a hydrocarbon interceptor prior to entering settlement ponds and ensuring stockpiled overburden was made stable through establishing vegetation. Significant impacts on fish and macro-invertebrates could have arisen by altering the pH of the receiving water in the likely event that concrete blocks were produced on site. Nonetheless, having regard to all the information on file, there is no evidence that adverse impacts of this nature arose on the receiving water environment.

- **Land, soil and geology:** The quarrying activities within the application site have resulted in a permanent loss of a geological resource and loss of land for arable crops / tillage purposes. However, such losses are not unacceptable, having regard to the primary function of the quarrying activities to extract the resource which itself brings benefits to the construction and agricultural industries and would be imperceptible in size and scale when taken in context with the available agricultural lands in the area. The mitigation measures which were put in place included the storage of stripped topsoil within berms for later re-use in the restoration of the quarry for future agricultural use.
- **Landscape:** While the quarrying activities altered the landscape locally resulting in moderate impacts at a local level, given the enclosed nature of the site which is well screened, and noting the purpose of the activity and the restoration plan proposed, including a requirement for restoration of the site, such an impact is considered acceptable.

Appropriate Assessment

Appropriate Assessment Stage 1 (Screening)

The Board noted that the development that has taken place was not necessary to the management of a European Site. In completing the screening for Appropriate

Assessment, the Board noted the documentation submitted with the application for substitute consent and the appropriate screening assessment carried out by the Inspector. The Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially have been affected, and the identification and assessment of the potential likely significant effects of the development that has taken place, either individually or in combination with other plans or projects, on these European sites in view of the sites' Conservation Objectives. The Board agreed with the Screening Assessment carried out by the Inspector which concluded that significant effects on other European sites, other than the River Barrow and River Nore SAC (Site Code: 002162), could be ruled out, and was therefore satisfied that the subject development did not have and would not be likely to have had significant effects on any other European sites, arising from the significant separation distances involved, and otherwise an absence of potential for connectivity.

Appropriate Assessment Stage 2

The Board considered the remedial Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the development that has taken place for the River Barrow and River Nore SAC (Site Code: 002162) in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the assessment, the Board considered the likely direct and indirect impacts arising from the development that has taken place, both individually or in combination with other plans or projects, the mitigation measures set out in the remedial Natura Impact Statement and the conservation objectives for the European Site. In doing so, the Board accepted and adopted the assessment and conclusion carried out in the Inspector's report, and is therefore satisfied that, subject to the implementation of the identified mitigation measures and on the basis of the information available, and subject to the conditions set out below, the development, either individually or in combination with other plans or projects, has not and would not adversely affect the integrity of this European site, in view of its conservation objectives.

Conclusion

Having regard to the acceptability of the environmental impacts, and the lack of adverse impacts on Natura sites, as set out above, and having regard to the reasons and considerations set out above, and subject to the conditions set out below, it is considered that the subject development that has taken place was and would be in accordance with the proper planning and sustainable development of the area.

Conditions

1.	<p>(a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála on the 15th day of April 2019 and relates solely to the area as outlined in red on the drawings submitted with the application, except as may otherwise be required to comply with the following conditions.</p> <p>(b) The grant of substitute consent relates only to past quarrying activities that have been undertaken as described in the application, and does not authorise any structures or any future development, including any further quarrying or any further excavation on site, nor the production of concrete blocks or other concrete products on the site.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>A detailed plan for the restoration of the subject site, based solely on the extent of quarry extraction that has taken place to date, shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this Order, unless, prior to that time, the further development of the quarry permitted under ABP reg. ref. 304209-19 has been commenced.</p> <p>Reason: In the interests of visual amenity and public safety, and in order to enhance ecological value.</p>

3.	<p>The existing quarry floor shall be mechanically ripped for a depth of 0.5 metres, and overburden shall be spread across the quarry floor, as outlined as part of the mitigation measures proposed, and in addition the existing concrete plinth/hardstanding shall be permanently removed, within 6 months of the date of this order unless, prior to that time, the further development of the quarry permitted under ABP reg. ref. 304209 -19 has been commenced.</p> <p>Reason: In order to restore permeability to pre-works situation, in the interests of protecting ground water and surface water.</p>
4.	<p>A programme and timescale for ongoing monitoring of water quality shall be submitted to and agreed in writing with the Planning Authority. It shall include proposals for monitoring to be undertaken to establish a baseline and for the period during the restoration works and that reports on the findings should be submitted to the Planning Authority.</p> <p>Reason: To ensure protection of water quality.</p>
5.	<p>Unless the further development of the quarry permitted under ABP reg. ref. 304209-19 has been commenced prior to that date, the developer shall lodge with the planning authority, within six months of the date of this order, 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 local 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.</p> <p>Reason: To ensure the satisfactory restoration of the site.</p>

COSTS

The Board determined the costs required to be paid under section 177(k)(2) in accordance with the Board's standard policy in this regard, as follows:

To be paid to An Bord Pleanála as a contribution towards the costs of consideration of the application.	€2,350
To be paid to the Planning Authority as a contribution towards the costs of consideration of the application.	€468

Board Member

Date: 20th November 2019

Philip Jones