

An
Bord
Pleanála

**Board Direction
ABP-308792-20**

The submissions on this file and the Inspector's reports were considered at Board meetings held on 01/06/21, 01/10/21 and 15/03/2022.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether

- Whether or not the use and operation of quarry, including the extraction of material from below water table, processing and loading operations and exportation of material from the site is or is not exempted development.
- Whether stage 2 appropriate assessment is required (which would exclude any exempted development).
- Whether EIA or screening for EIA is required for the activities on site (which would exclude any exempted development).
- Whether the export of material off site is compatible with the import of material for the purpose of remediation.

at Annascannon, Killucan, Co. Westmeath, is or is not development or is or is not exempted development.

AND WHEREAS Eco Advocacy requested a declaration on this question from Westmeath County Council and the Council did not issue a declaration in respect of the matter

AND WHEREAS Eco Advocacy referred this declaration for review to An Bord Pleanála on the 14th day of October, 2019:

AND WHEREAS An Bord Pleanála on the 29th October 2021 required further information from the referrer, to enable the Board to make a determination in this case.

AND WHEREAS the response from the referrer dated 15th November 2021 was circulated to the Westmeath County Council, Peter Thomson (estate of Patrick Cooney) and Keegan Concrete Ltd. and responses were received from Peter Thomson on 8th December 2021 and from Keegan Concrete Ltd, on 13th December 2021.

AND WHEREAS An Bord Pleanála, having considered the nature of the question, the response of the referrer to the further information request from An Bord Pleanála, the other responses received and the reports of the inspector, is satisfied that the referral should not be further considered by it, due to the insufficiency of detail received and available on file which would enable the Board to make a determination on the referral as lodged;

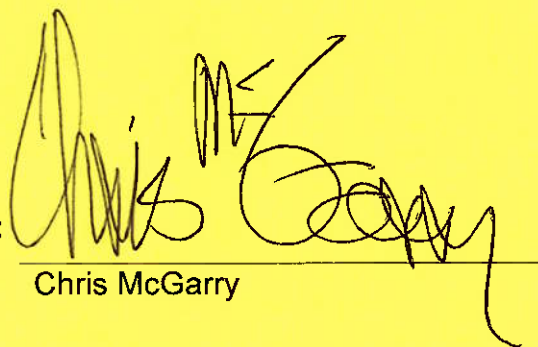
NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 138 (1) of the Planning and Development Act, 2000, as amended, hereby dismisses the referral under subsection 1(b)(i) of Section 138 of the Act, based on the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the nature of the referral and to the totality of documentation on file, which includes submissions from the referrer and from an agent acting on behalf of the estate of the late Patrick Cooney and from Keegan Quarries, as well as the reports of the Inspector, it is considered that the detail presented by the referrer is insufficient to enable the Board to issue a declaration in this particular case.

In deciding not to accept the recommendation of the Inspector that the use and operation of the quarry, extraction of material below water table, processing and loading and exportation of materials, outside the scope of PA ref. 77/275 & QY39 is development and is not exempted development, the Board noted (and agreed with) the commentary of the Inspector, at paragraph 9.5.2 of her report dated 11th January 2022 that, *'the referrer provides little specificity of information on the activities referred to the Board...as such that the questions before the Board are in effect somewhat hypothetical.'* Noting this key observation of the inspector, and having considered the totality of the documentation on file, including the response of the referrer to specific further information sought by the Board, and the reports of the inspector, it was concluded however, that on the basis of the facts available on file, the Board was not in a position to determine the questions as contained within the referral, so as to enable a declaration from the Board on these questions, (section 5(2)(b) of the Planning and Development Act 2000, as amended, is relevant).

Board Member:



Chris McGarry

Date: 12/03/2024