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Bord  
Pleanála

**Board Direction**  
**06S.LS0025**

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The submissions on this file and the Senior Planning Inspector's report were considered at a Board meeting held on November 29<sup>th</sup> 2017.

The Board decided that:-

- (a) An Environmental Impact Assessment is required, and
- (b) exceptional circumstances exist in the subject case, whereby it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent,

Accordingly,

- The Board decided to grant leave to apply for substitute consent, for the Reasons and Considerations set out below,
- To direct that the application for substitute consent shall include a remedial Environmental Impact Assessment Report which, inter alia, shall assess the impact of the unauthorised extension of the quarry that took place between 1990 and 2000, including any cumulative impacts on the environment resulting from the expansion / deepening of the existing quarry within the originally permitted area (for which permission was granted under planning permission register reference number C.1488) during this period.

## REASONS AND CONSIDERATIONS

Having regard to Section 177D, Planning and Development Act, 2000, as inserted by Section 57, Planning and Development (Amendment) Act, 2010, the Board is satisfied that an environmental impact assessment is required, in the light of the scale and nature of the quarrying that has been carried out.

Furthermore, the Board examined whether or not exceptional circumstances exist such that it would be appropriate to allow the opportunity for regularisation of the development by permitting leave to make an application for substitute consent.

In this regard the Board

- considered that the regularisation of the development would not be likely to circumvent the purpose and objectives of the Environmental Impact Assessment Directive,
- considered that the applicant could not reasonably have had a belief that the development was not unauthorised,
- considered that the ability to carry out an Environmental Impact Assessment and for the public to participate in such an assessment has not been substantially impaired,
- considered the nature of the actual/likely significant effects on the environment resulting from the carrying out of the development,
- considered that the applicant had carried out unauthorised development due to this extension of quarrying, but noted that no enforcement action had been taken by the planning authority to address such unauthorised quarrying on the site,

- considered that the actual or likely significant effects on the environment could be remediated;

and the Board further considered the following relevant matter:-

- the fact that an application for substitute consent had been required by the Planning Authority under Section 261A of the Planning and Development Act, 2000, as amended, only in respect of that part of the expansion of the quarry that took place after 2000, despite the significant extent of quarrying that had occurred in the preceding decade and considered that it would be appropriate that applications to regularise the entirety of the quarry expansion that had taken place over the extended period concerned should be permitted so as to allow the Board to properly and fully examine the impacts on the environment of this quarry expansion.

Taking all of the above into consideration, it is considered that exceptional circumstances exist such that it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent.

In not accepting the recommendation of the Senior Planning Inspector to refuse leave to apply for substitute consent, the Board took into account the totality of the considerations set out under Section 177D of the Act, including the exceptional circumstances outlined above, and considered it was appropriate to allow an opportunity to apply to regularise the overall quarry expansion, which would allow the Board to properly and fully examine the impacts on the environment of the quarry expansion that has taken place.

**Note:** The notice to the applicants advising of this decision should also direct that:

- (a) the application must be made within 12 weeks of the giving of the notice or such longer period as the Board may, on request, consider appropriate, and
- (b) the application must include a remedial EIAR which, inter alia, shall assess the impact of the unauthorised extension of the quarry that took place between 1990 and 2000, including any cumulative impacts on the environment resulting from the expansion / deepening of the existing quarry within the originally permitted area (for which permission was granted under planning permission register reference number C.1488) during this period.

*[Please issue a copy of this Direction with the Order.]*

**Board Member**

**Date:** 18<sup>th</sup> December 2017

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Philip Jones