



## Board Direction

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**Ref: 06D.RL3446**

The submissions on this file and the Inspector's report were considered at a Board meeting held on June 28<sup>th</sup> 2016.

The Board decided, generally in accordance with the Inspector's recommendation, as set out in the following Order, that the prospective restoration works on previously authorised and unauthorised quarrying lands at Boolinarrig Big, Birr, Co Offaly are development and are not exempted development.

Board Order as follows:-

**WHEREAS** a question has arisen as to whether prospective restoration works on previously authorised and unauthorised quarrying lands at Boolinarrig Big, Birr, Co Offaly are or are not development and are or are not exempted development;

**AND WHEREAS** Dermot Nally Stone Ltd requested a declaration on this question from Offaly County Council on the 1<sup>st</sup> day of October 2015 , and the Council issued a declaration on the 27<sup>th</sup> day of October 2015, stating that the matters the subject matter of the request were development and were not exempted development;

**AND WHEREAS** Dermot Nally Stone Ltd referred this declaration for review to An Bord Pleanála on the 17<sup>th</sup> day of November, 2015;

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;

- (b) Sections 261A and 177O(3) of the Planning and Development Act, 2000, as amended;
- (c) Articles 6 8 and 9 of the Planning and Development Regulations, 2001, as amended, and Schedule 2 to those Regulations;
- (d) The planning history of the site, including in particular the Planning Authority determination in respect of the entire quarry, pursuant to Section 261A of the Planning and Development Act 2000, as amended, and planning permission register reference no 02/400 (An Bord Pleanála reference number PL19.202155), and conditions 2 and 3 of that permission;
- (e) The nature, scale and location of the site and of quarrying on these lands assessed over a period of time.

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) Having regard to the existing quarry use of the subject lands and the nature of the proposed activity/operation, this activity/operation constitutes works within the scope of the definition in Section 2(1) of the Planning and Development Act, 2000, as amended, and therefore constitutes development as defined in Section 3 of the Act
- (b) The overall quarry was the subject of an assessment under section 261A of the Planning and Development Act 2000, as amended, wherein it was determined that quarrying was carried out after the 1<sup>st</sup> day of February 1990, which development would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment, but that such an assessment was not carried out or made. The applicant was directed to apply to An Bord Pleanála for Substitute Consent with a remedial Environmental Impact Statement. No such application was made, and therefore, under Section 177O(3) of the Planning and Development Act, 2000, as amended, and notwithstanding any other provision in the Act, the entire quarry, which would have required environmental impact assessment, constitutes unauthorised development. The entire quarry therefore comes within the scope of Section 4(4) of the Planning and Development Act, 2000;
- (c) The development does not come within the scope of the exemptions provided in Schedule 2 to the Planning and Development Regulations, 2001, as amended;

(d) The part of the quarry to which planning permission register reference number 02/400 (An Bord Pleanála reference number PL19.202155) relates was subject to conditions which, inter alia, restricted quarrying to a portion of the overall quarry lands, and restricted reinstatement of that portion to within a period of eight years from the date of the permission, which period expired on the 15<sup>th</sup> day of October 2011, and accordingly any works involving restoration would not be authorised by this permission.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that prospective restoration works on previously authorised and unauthorised quarrying lands at Boolinarrig Big, Birr, Co Offaly are development and are not exempted development

Board Member: \_\_\_\_\_ Date: 4<sup>th</sup> July 2016  
Philip Jones