



An
Bord
Pleanála

Board Direction 03.RP2159

The submissions on this file and the Inspector's report were considered at a Board meeting held on August 13th 2018.

The Board determined, generally in accordance with the Inspector's recommendation, that the importation of fill, of up to 100,000 tonnes, would not come within the ambit of the quarry restoration as envisaged and permitted under condition numbers 1 and 4 of the grant of substitute consent under file ref number SU0127.

Board Order as follows:-

WHEREAS by order dated the 20th day of December, 2016, An Bord Pleanála, under substitute consent reference number SU03.SU0127 granted, subject to 5 conditions, to Jim Bolton Sand and Gravel Ltd, substitute consent for a quarry at Faheyemore North, O'Briensbridge, Co. Clare

AND WHEREAS condition number 1 of this grant of substitute consent stated as follows:-

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application on the 4th day of December, 2014 and the further information submitted to An Bord Pleanála on the 22nd day of December, 2014, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning

authority, the developer shall agree such details in writing with the planning authority within six months of the date of this order, and the development shall be in accordance with the agreed particulars.

- (b) This grant of substitute consent relates only to past quarrying that has been undertaken as described in the documentation supporting the application, and does not authorise any structures or any future development on this site, including excavation, unless authorised by a prior grant of planning permission.

Reason: In the interest of clarity.

AND WHEREAS condition number 4 of this grant of substitute consent stated as follows:-

- 4. Implementation-stage details of the restoration of the quarry shall be submitted to, and agreed in writing with, the planning authority, in accordance with Drawing Number 144-168-015-Rev PL1 (Restoration Plan) received by An Bord Pleanála on the 22nd day of December, 2014 and the measures set out in Section 2.7.1 of the remedial environmental impact statement (Site Restoration Scheme), which details shall include the following:
 - (a) details of the finished gradients of the quarry faces,
 - (b) details of secure fencing for the boundaries of the site,
 - (c) a scheme of landscaping and tree planting, and control of invasive species,
 - (d) the control of dust emissions until such time as planting is established, and
 - (e) proposals for an aftercare programme of five years.

The restoration shall be completed to the written satisfaction of the planning authority within six months of the date of this order in accordance with the agreed details, unless a grant of permission for the further development of this site is implemented.

Reason: In the interest of protection of the environment, landscape and public safety.

AND WHEREAS the developer and the planning authority failed to agree on the details of the restoration of the quarry in compliance with the terms of condition number 4.

AND WHEREAS the matter was referred by Bolton's Quarry to An Bord Pleanála on the 20th day of October 2017, for determination.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act 2000, as amended, and for the Reasons and Considerations set out below, hereby determines that the importation of fill, in the quantities as referenced to the planning authority, of the order of approximately 100,000 tonnes, is not permitted by this grant of substitute consent.

REASONS AND CONSIDERATIONS

It is considered that the details contained in the plans and particulars submitted as part of the application for substitute consent did not explicitly set out that the importation of fill would be necessary to complete the restoration of the quarry, nor did the plans and particulars submitted make reference to any particular volume or tonnage of fill that would be imported to complete the restoration, and furthermore it is considered that the remedial Environmental Impact Statement submitted with the application for substitute consent did not identify, outline and assess the likely impacts on the environment, including cumulative and indirect effects, of any importation of fill to achieve such restoration. In addition, the grant of substitute consent, as set out in condition 1(b), does not authorise any future development on

this site unless authorised by a prior grant of planning permission. Accordingly, proposals to import fill to complete the restoration of the quarry is not permitted by the grant of substitute consent in question.

Note: In arriving at its decision, the Board noted the grant of planning permission to further develop this quarry, under reference number QD03.QD0011, and noted in particular condition number 8 of that decision, which required the provision of details for the restoration of the entire quarry, in accordance with the approach set out in drawings submitted with that planning application. These drawings provided for a completely different restoration outcome to that envisaged in the documentation submitted as part of the application for substitute consent, including a different treatment to the area covered by that grant of substitute consent. In this context, the Board noted that condition 4 of the grant of substitute consent indicated that the restoration proposed as part of the substitute consent application was to be carried out “unless a grant of permission for the further development of this site is implemented”. The Board also noted the referrer’s agents’ response to the present referral, received on 3rd January 2018, which indicated, inter alia, that the traffic envisaged to import the fill would be the same as that exporting aggregate from the quarry, and noted that this response would indicate that it is intended to implement the planning permission for the further development of the quarry. If it is the intention to implement the permission in question, then the restoration required by condition 4 of the grant of substitute consent will not proceed, and the restoration as envisaged in the planning permission for the further development of the quarry, under condition 8 of that permission, will apply (in which case details of the restoration proposals are to be agreed in writing with the planning authority prior to commencement of development).

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

Board Member

Date: 13th August 2018

Philip Jones