



## Board Direction

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**Ref: 07.SU0077**

The submissions on this file and the Inspector's report were considered at Board meetings held on 5<sup>th</sup> February and 8<sup>th</sup> April 2016. Following receipt of further information on 3<sup>rd</sup> June 2016, copies were circulated to the parties to the case and to prescribed bodies for comment. The additional information and the submissions received in response were considered by the Board at a further Board meeting held on 12<sup>th</sup> July 2016.

Generally in accordance with the recommendation of the Inspector, the Board decided to grant substitute consent in accordance with the reasons, considerations and conditions set out below.

### REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard to the following:

- (a) Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, as amended,
- (b) the provisions of the Planning and Development Acts, 2000 to 2015, and Part XA in particular,
- (c) the "Quarries and Ancillary Activities, Guidelines for Planning Authorities", issued by the Department of the Environment, Heritage and Local Government (2004),
- (d) the provisions of the Galway County Development Plan 2015 - 2021,
- (e) the nature, small extent and moderate intensity of the development, including blasting,
- (f) the registration and quarry review history of the site,
- (g) the pattern of development in the area, including the separation distances to houses, and the proximity to the regional road network,
- (h) the dry nature of the operation of the quarry above the water table, the absence of dewatering and of washing activities, and the absence of discharge of waters from the quarry,
- (i) the remedial Natura impact statement submitted with the application,

- (j) the report and the opinion of the planning authority, and the submissions on file,
- (k) the additional information submitted to An Bord Pleanála by the applicant on 3<sup>rd</sup> June 2016, and the further submissions received in response, following circulation for comment, and
- (l) the report of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment.

The Board was satisfied that the principles of restoration set out in the further information submitted to the Board on 3<sup>rd</sup> June 2016, and the specific approach proposed, would be acceptable. In assessing the proposals for restoration, the Board had regard to the location of the quarry in an area of high landscape value and of Class 4 (Special) landscape sensitivity as set out in the Galway County Development Plan 2015 – 2021, as well as to its small extent. The Board examined the submissions made by the parties on file in relation to the proposed restoration plan, and took into account the issues raised. The Board was satisfied that the potential impacts that might arise as a result of restoration were well set out in the report submitted, and that the proposals for mitigation of such impacts would be appropriate. The Board considered that the implementation of the restoration plan would provide acceptable remediation, particularly of visual impact at this sensitive location, and that no further environmental impacts would arise as a result, subject to compliance with the mitigation measures proposed.

#### *Appropriate Assessment Screening*

In conducting a screening exercise for appropriate assessment, the Board considered the nature, scale and location of the development, the appropriate assessment screening information, the documentation on file generally including the further information submitted, the registration and quarry review history of the site, the submissions on file, and the assessment of the Inspector in relation to the potential for impacts on European Sites. The Board is satisfied that, by itself and in combination with other development in the vicinity, the development did not have and would not be likely to have significant effects on European Sites arising from the significant separation distances involved, and otherwise an absence of potential for connectivity, with the exception of the Kilkieran Bay and Islands Special Area of Conservation (Site Code 002111). The Board concurred with the analysis and conclusions of the Inspector in this regard. The Board was also satisfied that the further information submitted introduced no new potential for materially different impacts to arise, and did not change the conclusion arrived at.

### *Appropriate Assessment*

The Board was satisfied that the information before it was adequate to undertake an appropriate assessment in respect of the overall development. Having regard to the nature, scale and location of the subject development, the remedial Natura impact statement, the documentation on file generally including the further information submitted, the registration and quarry review history of the site, the submissions on file, and the report of the Inspector, the Board undertook an Appropriate Assessment in relation to the effects of the development on the Kilkieran Bay and Islands Special Area of Conservation, and adopted the report of the Inspector in this respect. The Board was also satisfied that any potential impacts arising as a result of the restoration scheme proposed in the further information would not be materially different in nature and would be of lesser scale than the operation of the quarry as assessed by the Inspector, and did not change the conclusion arrived at. The Board, therefore, concluded that the quarry, by itself or in combination with other plans or projects, would not be likely to have adversely affected and would not be likely to adversely affect the integrity of the Kilkieran Bay and Islands Special Area of Conservation in the light of its conservation objectives.

### *Conclusions on the Proper Planning and Sustainable Development of the Area*

The Board is satisfied that the development did not and does not seriously injure the amenities of the area or of residential property in the vicinity, was and is acceptable in terms of its visual impact notwithstanding the high landscape value and visual sensitivity of the area, did not and would not result in a serious risk of pollution, did not affect known archaeological features or architectural heritage, and was acceptable in terms of traffic safety and convenience. It is, therefore, considered that the development was and would be in accordance with the proper planning and sustainable development of the area.

## **CONDITIONS**

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application, as, as amended by the further information submitted on 3<sup>rd</sup> June 2016, except as otherwise may be required 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 and the development shall be in accordance with the agreed particulars.
- (b) The grant of substitute consent relates only to past quarrying that has been undertaken as described in the application and further information, and does not authorise any future development on this site, including excavation, unless authorised by a prior grant of planning permission.

**Reason:** In the interest of clarity.

2. All environmental mitigation measures identified in the remedial Natura impact statement and associated documentation including the further information shall be implemented in full.

**Reason:** In the interest of the conservation of the environment and the protection of the amenities of the area.

3. Implementation-stage details of the restoration of the quarry shall be submitted to and agreed in writing with the planning authority within six months of the date of this order, in accordance with the proposals submitted to An Bord Pleanála on 3<sup>rd</sup> June 2016, which shall include the following:
- (a) details of secure fencing for the boundaries of the site,
  - (b) a scheme of landscaping and tree planting appropriate to a marine environment that is visually sensitive,
  - (d) measures as may be necessary to control dust emissions until such time as planting is established,
  - (c) proposals for an aftercare programme of five years, and
  - (f) a timeframe for implementation.

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

4. Within six months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory restoration of the site, coupled with an agreement empowering the planning 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.

**Reason:** To ensure the satisfactory completion of the development.

#### PROVISIONAL DETERMINATION OF COSTS

The Board costs in this case amounted to €13,214. An application fee of €750 was paid. In accordance with the approach adopted by the Board on 20<sup>th</sup> March 2014, the Board decided to recover €750 against the costs of considering this application. The Planning Authority's costs were €1,125. Accordingly, the Board determined the costs required to be paid under section 177(k)(2), provisionally, as follows:

to be paid to An Bord Pleanála as a contribution towards the costs of consideration of the application	€750
to be paid to the Planning Authority as a contribution towards the costs of consideration of the application	€1,125

Board Member: \_\_\_\_\_ Date: 26<sup>th</sup> July 2016  
Fionna O' Regan