



## Board Direction

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**Ref: 07.SU0087**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 8<sup>th</sup> March 2016.

The Board decided to refuse substitute consent for the reasons and considerations set out below. The Board formed the opinion that the continuation of quarrying activity on the site was likely to cause significant adverse effects on the environment and adverse effects on the integrity of the European site and therefore determined to issue a draft direction to the applicant in accordance with section 177L(1)(a), as set out below.

In deciding not to accept the Inspector's recommendation to grant the application for substitute consent, the Board was not satisfied, in the absence of a remedial Natura Impact Statement, that it could conclude that the development would not adversely affect, or has not had an adverse effect on, the integrity of the Lough Corrib Candidate Special Area of Conservation (site code 000297), by both itself and in combination with the quarry to the northeast of the subject site, for the reasons and considerations set out below. Furthermore, in the absence of adequate data, as outlined in the reasons and considerations set out below, the Board was not satisfied that it could conclude that the development has not had significant adverse effects on the environment, including nearby residential properties.

### REASONS AND CONSIDERATIONS

In making its decision the Board had regard, inter alia, to the following:

- the provisions of the Planning and Development Acts, 2000 to 2014, as amended, and in particular Part XA,
- the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities', April 2004,
- the provisions of the current Galway County Development Plan,

- the remedial Environmental Impact Statement submitted with the application for substitute consent,
- the document described as a remedial Natura Impact Statement submitted with the application for substitute consent,
- the report and the opinion of the planning authority under section 177I of the Planning and Development Act, 2000, as amended,
- the submissions/observations made in accordance with regulations made under section 177N of the Planning and Development Act, 2000, as amended,
- the report of the Board's Inspector,
- the site's planning history,
- the present condition of the site and its proximity to the River Abbert, which is part of the Lough Corrib Candidate Special Area of Conservation (site code 000297),
- the pattern of development in the area, and
- the nature and scale of the development the subject of this application for substitute consent.

#### Appropriate Assessment

The Board noted that the Planning Authority determination under Section 261A required that an application for substitute consent be made in respect of this quarry development and that this application for substitute consent had to be accompanied by the remedial Environmental Impact Statement and also a remedial Natura Impact Statement. The Board noted that the document submitted with the application, which was described as a remedial Natura Impact statement, was solely a Screening Statement. In addition, the Board noted that this Screening Statement did not consider in-combination effects with the adjoining quarry to the northeast of the site, and did not provide adequate information, including historical groundwater quality data, in relation to the impacts on ground water that may have taken place as a result of quarrying on the subject site, and did not therefore provide the information necessary to enable the Board to properly complete an Appropriate Assessment of the subject development. In the absence of this Natura Impact Statement, and in the absence of this information, the Board decided that it was not possible to conclude, beyond scientific doubt, that the subject development would not adversely affect, or has not had an adverse effect on, the integrity of the Lough Corrib Candidate Special Area of Conservation (site code 000297), by both itself and in combination with the quarry to the northeast of the subject site.

## Environmental Impacts

The Board noted that there was a significant lack of baseline data provided by the applicant which is relevant to the identification and assessment of the environmental impacts of the quarrying that has taken place at this site.

This includes:-

- A lack of data on noise levels generated as a result of quarrying, in the period 2007 to 2014, including noise levels at the boundaries of the quarry adjoining sensitive receptors, such as neighbouring residential properties, notwithstanding the requirements of the conditions imposed under Section 261 (6) of the Planning and Development Act 2000, on the 9<sup>th</sup> day of March 2007 (Planning Authority register reference no. QY12) on the operation of the existing quarry, pursuant to the registration of this quarry, and in particular condition 2 of that order.
- A lack of data on dust generation as a result of quarrying, in the period 2007 to 2014, including dust impacts on adjoining sensitive receptors, such as neighbouring residential properties, notwithstanding the requirements of the conditions imposed under Section 261 (6) of the Planning and Development Act 2000, on the 9<sup>th</sup> day of March 2007 (Planning Authority register reference no. QY12) on the operation of the existing quarry, pursuant to the registration of this quarry, and in particular condition 3 of that order.
- A lack of historical groundwater quality data, in the period 2007 to 2014, notwithstanding the requirements of the conditions imposed under Section 261 (6) of the Planning and Development Act 2000, on the 9<sup>th</sup> day of March 2007 (Planning Authority register reference no. QY12) on the operation of the existing quarry, pursuant to the registration of this quarry, and in particular condition 7 of that order.

In the light of this lack of information, and notwithstanding the other information provided as part of the application for substitute consent, the Board considered that it was not possible for it to conclude that the development of the quarry that is the subject of the application did not have significant adverse effects on the environment, and in particular in terms of material assets and ecology.

## **DRAFT DIRECTION**

Having regard to the above decision of the Board to refuse the application for substitute consent and the accompanying Reasons and Considerations, and in particular by reason of the proximity of the subject site to adjoining

residential properties, and its location close to the Abbert River, which is a part of the Lough Corrib Candidate Special Area of Conservation (site code 000297), the extent of excavation that has already taken place, and the lack of adequate monitoring or environmental controls on the operation of the existing quarry, the Board considered that the continuation of the quarrying operations would be likely to cause significant adverse effects on the environment and adverse effects on the integrity of the European site, and therefore the applicant is hereby required in accordance with section 177L(1)(a) to cease all quarrying activity on the site within one month of the date of the order.

#### Note

In reaching its decision in this case, the Board had considered whether the deficiencies in the information referred to in its reasons and considerations might have been rectified by it seeking further information from the applicant. However, the Board noted the successive extensions of time that had been sought by the applicant in this case, in order, inter alia, to allow it to provide documentation and carry out surveys (which requests had been granted by the Board), and noted the lack of historical data that had actually been provided, and considered that it would not have been practicable to rectify these deficiencies by seeking more information, when it would appear from the applicant's application that such data is not available.

*Please issue a copy of this Direction with the Board Order*

Board Member: \_\_\_\_\_ Date: 20<sup>th</sup> June 2016  
Philip Jones