



Board Direction

Ref: 05E.SU0106

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22nd July 2015. The Board decided to grant substitute consent.

This decision was confirmed at a further Board meeting on 23rd February 2017, in accordance with the amended reasons, considerations and conditions set out below. This decision was taken at the same meeting as the decision made under 05E.QD0005.

REASONS AND CONSIDERATIONS

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

- (a) the provisions of the Planning and Development Acts, 2000 to 2015, and Part XA in particular,
- (b) the "Quarries and Ancillary Activities, Guidelines for Planning Authorities", issued by the Department of the Environment, Heritage and Local Government (2004),
- (c) the provisions of the Donegal County Development Plan 2012 - 2018, as varied,
- (d) the nature and scale of the quarry, and its access to the N15 National Road and the regional road network,
- (e) the pattern of development in the area, including the separation distances to houses, and the civic amenity site to the east, formerly a quarry,
- (f) the historical scale of the quarry,
- (g) the planning history of the quarry, including permission for a quarry and various manufacturing plant; the registration of the quarry under QY21 and the imposition of conditions, the quarry review history under EUQY21 and 05E.QV0222, and the water discharge licence,
- (h) the remedial environmental impact statement submitted with the application, and the further information submitted on 23rd July 2014,
- (i) the report, opinion, and further submission of the planning authority, and the documentation and submissions on file, and

- (j) the report of the Inspector, including the examination, analysis and evaluation undertaken in relation to environmental impact assessment.

The Board was satisfied that the information before it was adequate to undertake an environmental impact assessment in respect of the development.

Environmental Impact Assessment

The Board considered the nature, scale and location of the development, the remedial environmental impact statement, the documentation submitted with the application, the further information submitted, the planning, registration and quarry review history of the quarry, the submissions on file, and the report of the Inspector. It is considered that the remedial environmental impact statement identifies and describes adequately the direct and indirect effects on the environment of the development that have taken place. The Board completed an environmental impact assessment in relation to the development, by itself and in cumulation with other development in the vicinity, including the manufacturing operations and neighbouring development, and concluded that the development of the quarry was not and would not be likely to have unacceptable effects on the environment. In doing so, the Board adopted the report of the Inspector.

Conclusions on the Proper Planning and Sustainable Development of the Area

The Board is satisfied that, in itself and in conjunction with other development in the vicinity, and subject to compliance with the conditions set out below, the development did not and would not conflict with the provisions of the Donegal County Development Plan 2012 – 2018, did not and would not seriously injure the amenities of the area or of property in the vicinity, did not and would not result in a risk of pollution, did not affect known archaeological features or architectural heritage, did not and would not have adverse effects on European Sites due to distance and the low potential for connectivity, 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 amended by the further information submitted on 23rd July 2014, 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 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 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.

2. All environmental mitigation measures set out in the remedial environmental impact statement and associated documentation shall be implemented in full, save as may be required to comply with the conditions set out below.

Reason: In the interests of the conservation of the environment.

3. Within six months of the date of this Order, details shall be submitted to and agreed in writing with the planning authority in relation to the on-going monitoring of dust, surface water quality and of ground water levels, including details of the water quality parameters to be monitored.

Reason: In the interest of the conservation of the environment.

4. Within six months of the date of this Order, construction-stage details of improvements to the surface water management system, and a time frame for implementation, shall be submitted to and agreed in writing with the Planning Authority. These details shall address any ongoing requirement for the discharge of waters from the quarry to the satisfaction of the planning authority. The details submitted should demonstrate that the surface water management system would be capable of dealing with a storm event.

Reason: In the interests of orderly development and the protection of the environment.

5. Within six months of the date of this Order, appropriate secure fencing shall be installed to safeguard the quarry boundaries to the satisfaction of the Planning Authority, in accordance with details that shall be submitted to and agreed in writing with the Planning Authority.

Reason: In the interests of public safety and of orderly development.

6. Implementation-stage details of the restoration of the quarry shall be submitted to and agreed in writing with the planning authority, in accordance with the plans and particulars set out in Section 2.6 of the remedial environmental impact statement, and Drawing 4 (Proposed Restoration Plan) and Drawing 5 (Proposed Restoration Sections), and which shall include the following:

- (a) details relating to safe finished gradients for the quarry faces,
- (b) measures for the control of dust emissions until such time as the restoration is established,
- (c) a scheme of supplementary landscaping and tree planting, including on berms,
- (d) proposals for an aftercare programme of five years, and

(e) a timeframe for implementation.

These details shall make appropriate provision for recognition of the County Geological Site status of the quarry. No material shall be imported to the quarry without a prior grant of planning permission.

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 interests of amenity, and of protection of the environment and the landscape.

7. Unless a permission for the further development of this quarry is implemented, the developer shall lodge with the planning authority, within six months of the date of this order, 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 the site. 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 secure the satisfactory restoration of the site.

PROVISIONAL DETERMINATION OF COSTS

The Board costs in this case totalled €16,872. An application fee of €3,750 was paid. In accordance with the approach adopted by the Board on 20th March 2014, the Board decided to recover €3,750 against the costs of considering this application. The planning authority's costs were considered to be reasonable and were awarded in full (€608). 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	€3,750
To be paid to the Planning Authority as a contribution towards the costs of consideration of the application	€608

Notes:

1. The Board noted the Inspector's recommendation that a grant of substitute consent should exclude part of the quarry area. However, having regard to the determination issued by the Planning Authority under Section 261A of the Planning and Development Act, 2000, as amended (under planning authority reference number EUQY21), and to the subsequent review undertaken by An Bord Pleanála (under reference number 05E.QV0222), neither of which imposed a restriction on the area under consideration, it is considered reasonable that the grant of substitute consent should encompass the whole quarry, with the exception of the area permitted under planning register reference number T97/20, for which substitute consent is not required. Notwithstanding the initial request of the referrer under the 05E.QV0222 review process or the view of the Inspector in that case, the Board made no variation in terms of the quarry area in its determination and decision under 05E.QV0222. The application made to An Bord Pleanála for substitute consent accordingly comprised the entire 7.5 ha quarry area outside the permitted area. An Bord Pleanála accepted this application as valid, and the fee paid (which is based on the quarry area) reflected this. The Board also noted that the Planning Authority concurred with this view, as set out in its response to An Bord Pleanála on 27th August 2014. The Board also had regard to the purpose of the quarry legislation under Sections 261A and Part XA of the Planning and Development Act, 2000, as amended, and considered that it would not accord with that purpose to fragment the assessment and consent processes for different areas of this quarry, which is operated as one development. It could also conflict with the principles of environmental impact assessment.

2. The Board noted that the Inspector had given some consideration to whether certain aspects of the information provided in support of the application might have been better addressed; however, it was clear from the particular circumstances of the case (for example, the significant separation distances to houses to mitigate noise dust and vibration, and the relatively low level of water being abstracted and discharged from the quarry) that significant environmental impacts were not likely to have arisen or to arise as a result of these aspects of quarry operations, and in those circumstances, the Board was satisfied that there was sufficient information on file to come to its conclusions, and concurred with the analysis and conclusions of the Inspector in this regard.

3. The Board was satisfied that a requirement for Appropriate Assessment was screened out under 05E.QV0222, and that no material change had arisen since that time that would alter that determination.

Board Member: _____ Date: 19th April 2017
Fionna O' Regan