



## Board Direction

Ref: 10.SU0122

---

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

The Board decided to grant substitute consent generally in accordance with the Inspector's recommendation, for the reasons and considerations, and subject to the conditions, set out below.

Note: The Board considered this application for substitute consent at the same meeting as the application for permission for further quarrying development under file ref no. 10.QD0001.

### 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, and in particular Part XA,
- the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government in April 2004
- the provisions of the Kilkenny County Development Plan 2014 - 2020,
- the remedial Environmental Impact Statement submitted with the application for substitute consent,
- the 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 made in accordance with Regulations made under section 177N of the Planning and Development Act 2000, as amended,
- the planning history of the site,
- the decision of the Board in relation to a licence for the discharge of trade effluent under reference number 10.WW0411 in respect of the subject quarry
- the pattern of development in the area,
- the nature and scale of the development the subject of this application for substitute consent, and
- the report of the Board's inspector, including in relation to potential significant effects on the environment and potential effects on European sites.

#### 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, the planning history of the site, the submissions on file, and the Inspector's report. It also had regard to submissions in relation to the appeal under reference number 10.WW0411, including the Inspector's report and Board decision in that case. The Board was 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 River Barrow and River Nore Special Area of Conservation (Site Code 002162). The Board concurred with the analysis and conclusions of the Inspector in this regard.

#### Appropriate Assessment

The Board was satisfied that the information before it was adequate to undertake an Appropriate Assessment in respect of the subject development. Having regard to the nature, scale and location of the development, the remedial Natura Impact Statement, the documentation on file generally, the planning history of the site, the submissions on file, and the Inspector's report, together with submissions in relation to the appeal

under reference number 10.WW0411, including the Inspector's report and Board decision in that case, the Board undertook an Appropriate Assessment in relation to the effects of the development on the River Barrow and River Nore Special Area of Conservation (Site Code 002162). The Board concurred with the analysis and conclusions of the Inspector and adopted his report. The Board therefore, concluded that, by itself or in combination with other plans or projects, the subject quarry has not adversely affected and would not be likely to adversely affect the integrity of the River Barrow and River Nore Special Area of Conservation (Site Code 002162), in the light of the qualifying interests and conservation objectives of this site.

### Environmental Impact Assessment

The Board considered the nature, scale and location of the development, the remedial environmental impact statement submitted by the applicant, the documentation submitted with the application generally, the submissions on file, the history of the subject site, and the Inspector's report. The Board completed an Environmental Impact Assessment in relation to the development in question and concluded that the remedial Environmental Impact Statement submitted identified and described adequately the direct and indirect effects on the environment of the development that had taken place. The Board considered that the Inspector's report was satisfactory in addressing the environmental effects of the development, agreed with the Inspector's conclusions in relation to the acceptability of mitigation measures and residual effects, and adopted his analysis and conclusions in this regard. The Board was therefore satisfied that the effects of the development that has taken place on the environment has been, and would be, acceptable.

### Conclusion

Having regard to the acceptability of the environmental impacts, as set out above, it is considered that the subject 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 for substitute consent, as amended by further plans and particulars submitted on the 30<sup>th</sup> day of October 2014, except

as may otherwise be required in order to comply with the following conditions.

- (b) This grant of substitute consent relates only to past quarrying that has been undertaken as described in the application within the site of 9.5 hectares as outlined in red on the submitted drawings and maps, and does not authorise any structures or any future development, including any further quarrying or any further excavation unless authorised by a prior grant of planning permission.

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

- 2. A detailed plan for the restoration of the subject site shall be submitted to and agreed in writing with the planning authority by the 31<sup>st</sup> day of December 2017, unless a planning permission for further quarrying development has been granted by that date. The plan shall include: -

- a) a scheme of landscaping and tree planting to provide for the re-vegetation of the site where considered suitable by the planning authority;
- b) The archaeological monitoring of the use of overburden material from screen bunds and mounds erected around the quarry site;
- c) a timescale for the implementation of the plan and proposals for an aftercare programme for a period of not less than five years, and security provisions within and bounding the quarry site.

**Reason:** In the interest of visual amenity and in order to enhance ecological value and to ensure public safety.

- 3. Screen planting shall be carried out within the elevated grassed area to the west of the settlement lagoons in order to screen the quarry from views from the M9. Such planting shall consist of native or naturalised tree species and varieties and shall be protected from grazing animals by stock-proof fencing. Any trees which, within a period of 5 years from the completion of the planting die, are removed or become seriously damaged or diseased, shall be replaced within the next planting season with others of similar species, unless otherwise agreed in writing with the planning authority. Details of

such screen planting shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this order.

**Reason:** In order to screen the development, in the interest of visual amenity.

4. Prior to the 31<sup>st</sup> day of December 2017, unless a planning permission for further quarrying development has been granted by that date, the developer shall lodge a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the local 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 restoration of the site.

### COSTS

The Board determined the costs required to be paid under section 177 (k) (2) in accordance with the Board's standard policy in this regard, as follows:

To be paid to An Bord Pleanála as a contribution towards the costs of consideration of the application.	€4,750
To be paid to the Planning Authority as a contribution towards the costs of consideration of the application.	nil

Board Member: \_\_\_\_\_ Date: 24<sup>th</sup> October 2016  
Philip Jones