



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Application for Leave To Apply For Substitute Consent, by Murray Brothers Tarmacadam Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork.

Development: Quarry at Ardcahan, Dunmanway, County Cork.

Decision

REFUSE leave to apply for substitute consent under section 177D of the Planning and Development Act 2000, as amended, based on the reasons and considerations set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the documentation submitted with the application for leave to apply for substitute consent, it is considered that the provisions of Section 177C cannot apply to the area of the quarry site that was the subject of planning application 14/00616 (An Bord Pleanála reference number PL 88.245174), and in respect of which the permission was quashed by order of the High Court, because such permission was for the carrying out of future quarrying development, and leave to apply for substitute consent can only be considered for development that has already taken place.

Furthermore, because the area, as outlined in the submitted application for leave to apply for substitute consent, does not include all of the former quarry that is unauthorised development, pursuant to Section 261(10) of the Planning and Development Act, 2000, as amended, and does include areas of land that have not been developed, the Board is not in a position to assess whether exceptional circumstances, as set out in Section 177D(2), apply, as these circumstances can only relate to the quarry development that has taken place since the 1st day of February, 1990, where environmental impact assessment would have been required under the Environmental Impact Assessment Directive, and to the quarry development that has taken place since the 26th day of February, 1997 where appropriate assessment would have been required under the Habitats Directive, and where neither form of assessment had been carried out.

Philip Jones

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2019.