

Planning and Development Acts 2000 to 2020

Planning Authority: Kerry County Council

Planning Register Reference Number: EUQY117, U362/08

Application for Leave To Apply For Substitute Consent, by Timothy O'Sullivan (Gleesk Quarries Limited) care of Frank Coffey of Daly's Lane, Killorglin, County Kerry.

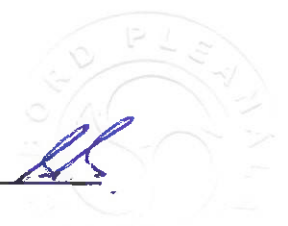
Development: Quarry at Dirreendrislagh, Sneem, County Kerry.

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 Section 177D, Planning and Development Act, 2000, as inserted by Section 57, Planning and Development (Amendment) Act, 2010, the Board is satisfied that the development is one where an Environmental Impact Assessment and an Appropriate Assessment are required.

Furthermore, the Board examined whether or not exceptional circumstances exist such that it would be appropriate to allow the opportunity for regularisation of the development by permitting leave to make an application for substitute consent.

In this regard the Board:

- (a) considered that the regularisation of the development would circumvent the purpose and objectives of the EIA Directive and the Habitats Directive,
- (b) did not consider that the applicant could reasonably have had a belief that the development was not unauthorised,
- (c) considered that the ability to carry out an Environmental Impact Assessment and Appropriate Assessment for the public to participate in such assessments has been impaired,
- (d) considered that there is uncertainty on excluding significant adverse effect on the environment and adverse effects on the integrity of a European site resulting from the carrying out of the development,
- (e) considered that the significant effects on the environment and adverse effects on the integrity of a European site cannot be remediated to any great extent, and
- (f) noted the failure of the owner/operator to engage in the process for the control of quarries introduced by Section 261A of the Planning and

Development Act 2000, as amended, and noted the continued operation of the quarry by the owner/operator notwithstanding the decision by An Bord Pleanála on the 16th day of September 2014 on the previous application for Leave To Apply For Substitute Consent under 08.LS0015 and the Enforcement Notice issued by the planning authority on the 10th day of April 2014 directing the applicant to cease operations by the 9th day of May 2014.

The Board concluded, therefore, that exceptional circumstances do not exist such that it would be appropriate to allow the opportunity for the regularisation of the development by permitting leave to apply for substitute consent and that leave to make an application for substitute consent should be refused accordingly.

Notwithstanding the provisions of Section 177L of the 2000 Act, the Bord considered that it would be inappropriate to invoke the powers available to it under this section having regard to the enforcement action being taken by the planning authority, which is currently before the courts.



Stephen Bohan

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 14th day of October 2021.