



An  
Bord  
Pleanála

Board Order  
ABP-307472-20

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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Wicklow County Council**

**Application for Leave to Apply for Substitute Consent** by ECT Sand and Gravel Limited care of Golder Associates Ireland Limited of Town Centre House, Dublin Road, Naas, County Kildare.

**Development:** Quarry at Ballynabarney, Redcross, County Wicklow.

### **Decision**

**GRANT** 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 Sections 177C and 177D of the Planning and Development Act 2000, as amended, the Board is satisfied that an Environmental Impact Assessment and an Appropriate Assessment are required in this case, in the light of the scale and nature of the quarrying that has been carried out.

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 granting leave to apply for substitute consent.

In this regard, the Board considered that:

- this application for leave to apply for substitute consent has demonstrated that the regularisation of the quarry would not circumvent the purposes and objectives of the Environmental Impact Assessment Directive or of the Habitats Directive because it would allow for the provision of information and an analysis of the likely significant environmental effects of the development,

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- the applicant could reasonably have had a belief that the quarrying development that took place prior to 1999 when he acquired the site was authorised,
- this application for leave to apply for substitute consent has demonstrated that the ability to carry out an assessment of the environmental impacts of the development for the purpose of an Environmental Impact Assessment and to carry out an Appropriate Assessment, and provide for public participation in such assessments, has not been substantially impaired.
- the submission of a remedial Environmental Impact Assessment Report and remedial Natura impact statement would facilitate an assessment of the potential for the remediation of any significance effects on the environment or on a European site, and
- the applicant had made reasonable efforts to regularise the planning status of the quarry and noted that the planning authority is not currently pursuing enforcement proceedings against the applicant in this case,

having regard to the foregoing, it is considered that exceptional circumstances do exist such that it would be appropriate to permit the opportunity for application for regularisation of the development by permitting an application for substitute consent in relation to the site outlined in this application.



**Dave Walsh**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this 9<sup>th</sup> day of July 2021