

Planning and Development Acts 2000 to 2021

Planning Authority: Tipperary County Council.

Planning Register Reference Number: S5/20/78.

WHEREAS a question has arisen as to whether the continued quarry operations authorised under condition number 1 of the substitute consent granted under An Bord Pleanála reference number 23.SU.009 on lands at Ballydine and Butlerstown, Kilsheelan, County Tipperary are or are not development or are or are not exempted development:

AND WHEREAS Abigéal Smyth of Cartron South, Ballyhaunis, County Mayo requested a declaration on the question from Tipperary County Council on the 31st day of August, 2020 and no declaration issued by the planning authority:

AND WHEREAS the said question was referred to An Bord Pleanála by Tipperary County Council on the 13th day of November, 2020:

AND WHEREAS An Bord Pleanála reformulated the question as follows:

- (a) whether continued quarry operations, including extraction beyond that for which substitute consent was sought and received under An Bord

Pleanála reference number 23.SU.0009 are or are not exempted development,

- (b) whether the continued substantial discharge of quarry water and use of infrastructure for this purpose is or is not exempted development,
- (c) are the continued quarry operations authorised under condition number 1 of substitute consent granted under An Bord Pleanála reference number 23.SU.0009.

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to -

- (a) section 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b) the Board's decision to grant substitute consent under An Bord Pleanála reference number 23.SU.0009 on the 10th day of October, 2013,
- (c) the nature and scale of activities undertaken at the quarry site subsequent to the Board's decision to grant substitute consent under An Bord Pleanála reference number 23.SU.0009,
- (d) the planning history of the site, and
- (e) the submissions on file, including the referral made under section 5 of the Planning and Development Act, 2000, as amended, from Abigéal Smyth submitted to Tipperary County Council on the 31st day of August 2020 and the questions set out therein.

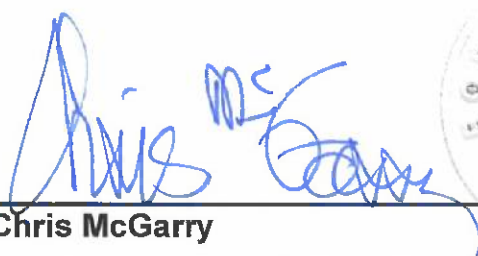
AND WHEREAS An Bord Pleanála has concluded that -

- (a) the continuation of quarry operations including extraction beyond that for which substitute consent was sought and received under An Bord Pleanála reference number 23.SU.0009 would constitute development,
- (b) no permission exists for works entailing the continuation of quarry operations including extraction beyond that for which substitute consent was sought and received, nor is there any exemption provided within the relevant legislation for such works,
- (c) the questions referring to the continued discharge of quarry water and use of infrastructure for this purpose and continued quarry operations authorised under condition number 1 of substitute consent granted under An Bord Pleanála reference number 23.SU.0009 (for which the statutory notice refers to water management system) relate to interpretation of a condition attached to a consent, and
- (d) the interpretation of such conditions does not come within the scope of referral under Section 5(4) of the Planning and Development Act 2000, as amended, which is restricted to considering whether a particular matter is or is not development or is or is not exempted development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (b) of the 2000 Act, hereby decides that

- (a) the continuation of quarry operations including extraction beyond that for which substitute consent was sought and received under An Bord Pleanála reference number 23.SU.0009 is development and is not exempted development, and,

- (b) the questions relating to the continued discharge of quarry water and use of infrastructure for this purpose and the continued quarry operations authorised under condition number 1 of substitute consent granted under An Bord Pleanála reference number 23.SU.0009 are dismissed under section 138(1)(b)(i) of the Planning and Development Act 2000, as amended.



Chris McGarry

Member of An Bord Pleanála

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

Dated this **23rd** day of **September** 2022.