



An
Bord
Pleanála

Board Order
ABP-313909-22

Planning and Development Acts 2000 to 2022

Planning Authority: Galway County Council

Planning Register Reference Number:

Application for Substitute Consent by John Madden and Sons Limited care of TOBIN Consulting Engineers of Fairgreen House, Fairgreen Road, County Galway, in accordance with section 177E of the Planning and Development Act, 2000, as amended by the insertion on section 57 of the Planning and Development (Amendment) Act, 2010, as amended.

Location of Quarry: Ballysheedy, Gort, County Galway.

Decision

The Board, in accordance with section 177K of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, decided to GRANT substitute consent in accordance with the following conditions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the provisions of the Planning and Development Acts, 2000, as amended, and in particular Part XA, and the provisions of the Planning and Development Regulations, 2001, as amended.
- (b) the 'Quarries and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government, April 2004,
- (c) the applicable national, regional and local planning policy provisions including the Galway County Development Plan 2022 to 2028,
- (d) the remedial Natura Impact Statement and the Environmental Impact Assessment Report submitted with the application for substitute consent, and documentation on file generally,
- (e) the report and the opinion of the planning authority under section 177I of the Planning and Development Act 2000, as amended,
- (f) the submissions received from prescribed bodies,
- (g) the planning history of the site, as detailed in the Inspectors Report,
- (h) the pattern of development in the area,
- (i) the nature, scale, characteristics and location of the historic development, the subject of this application for substitute consent

including in relation to potential significant effects on the environment and on the integrity of European sites in the area, and

- (j) the report of the Board's Inspector, as set out in the Inspectors Report.

Appropriate Assessment Screening

The Board agreed with the Screening Assessment carried out by the Planning Inspector which concluded that the following European Sites were those for which a Stage 2 Appropriate Assessment was required, and that significant effects on any other European Sites can be ruled out:

- (i) East Burren Complex Special Area of Conservation (Site Code 001926)
- (ii) Coole-Garryland Complex Special Area of Conservation (Site Code 000252)
- (iii) Caherglassaun Turlough Special Area of Conservation (Site Code 000238)

Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the European sites, in light of their conservation objectives.

Appropriate Assessment Stage 2

The Board considered the remedial Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the East Burren Special Area of Conservation (Site Code 001926), Coole-Garryland Complex Special Area of Conservation (Site Code 000252) and Caherglassaun Turlough Special Area of Conservation (Site Code 000238) in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered the likely direct and indirect impacts arising from the historic development, both individually or in combination with other plans or projects, the mitigation measures set out in the remedial Natura Impact Statement and the conservation objectives for the European Site.

Following the Appropriate Assessment and consideration of mitigation measures, the Board agreed with the inspector that the quarrying activities did not adversely affect the integrity of the East Burren Complex Special Area of Conservation, the Coole-Garryland Complex Special Area of Conservation, and the Caherglassaun Complex Special Area of Conservation, in view of their Conservation Objectives of these sites.

This conclusion is based on:

1. A full and detailed assessment of all aspects of the quarrying activities including mitigation measures in relation to the Conservation Objectives of the aforementioned designated sites.

2. Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals, and future plans.
3. No reasonable scientific doubt as to the absence of adverse effects on the integrity of the East Burren Complex Special Area of Conservation, the Coole-Garryland Special Area of Conservation and the Caherglassaun Turlough Special Area of Conservation.

Proper Planning and Sustainable Development

Having regard to the nature, scale and extent of the development, and to the acceptability of the environmental effects and noting that the integrity of European Sites were not adversely affected, in view of the relevant sites' conservation objectives, as set out above, and subject to compliance with the conditions set out below, the Board is satisfied that to grant substitute consent for the development is, therefore, in accordance with the proper planning and sustainable development of the area. In granting substitute consent and noting the provisions of Section 177 K(1A) and 177K(1J) of the Planning and Development Act 2000, as amended, the Board was satisfied that exceptional circumstances exist that justify the grant of such consent by the Board.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale, location, and extent of the proposed development;
- (b) the remedial Environmental Impact Assessment Report and associated documentation submitted with the application;

- (c) the submissions received from prescribed bodies during the course of the application; and
- (d) the Inspector's report.

The Board considered that the remedial Environmental Impact Assessment Report, supported by the documentation submitted by the applicant during the course of the application, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the remedial Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered, and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are as follows:

Ecology and Water: Impacts on aquatic ecology, including the underlying regionally important karstic aquifer, through ground water containing sediment and/or hydrocarbons, with potential for degradation of habitats, species and water quality. Such impacts are stated to have been mitigated by adherence to good environmental management during the quarry operation and rewilding phases. The mitigation measures include the natural revegetation of the site, the maintenance of the quarry faces including the Peregrine Falcon's habitat, the carrying out of water monitoring quality within the substitute consent site boundaries, refuelling within designated bunded areas, the retention of the lagoon feature and the proposals for woodland planting to the northern part of

the site. Nonetheless, having regard to all of the information on file, there is no evidence that adverse impacts of this nature arose on the receiving environment.

Land, Soil and Geology: The quarrying activities within the application site have resulted in a permanent loss of a geological resource and loss of land for agricultural purposes. However, such losses are not unacceptable, having regard to the primary function of the quarrying activities to extract the resource which itself brings benefits to the construction and agricultural sectors and would be imperceptible in size and scale when taken in context with the available agricultural lands in the area. Mitigation measures are stated to have included ensuring proper refuelling within a designated hardstand area, ensuring bunding of mobile fuel bowsers/tanks, and ensuring stockpiled overburden was made stable through establishing vegetation.

Landscape: While the quarrying activities altered the landscape locally resulting in moderate impacts at a local level, given the enclosed nature of the site, which is well screened, and noting the purpose of the activity and the rewilding proposals, such an impact is considered acceptable.

Archaeology: The quarrying operations had a direct, permanent and significant negative impact upon a recorded monument GA128-021 as a result of the historic quarrying activities on-site. The remaining remnants of the archaeological enclosure (comprising a field boundary) are located outside of the redline Substitute Consent boundary area and will be retained.

Conclusion

Having completed their Environmental Impact Assessment in relation to the development, the Board concluded that, subject to the implementation of the mitigation measures set out in the remedial Environmental Impact

Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the development that has taken place on the environment has been, and would be, acceptable. Having regard to the acceptability of the environmental impacts, as set out above, it is considered that the subject development would not be likely to have had or have a significant effect on the environment and is, therefore, 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 on the 24th day of June 2022 and relates solely to the area as outlined in red on the drawings submitted with the application, except as may otherwise be required to comply with the following conditions.

- (b) The grant of substitute consent relates only to past quarrying activities that have been undertaken as described in the application and does not authorise any structures or any future development, including any further quarrying or any further excavation on site. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be in accordance with the agreed particulars.

Reason: In the interest of clarity and conservation of the environment.

2. A detailed plan for the revegetation and rewilding of the subject site, based solely on the extent of quarry extraction that has taken place to date, shall be submitted to, and agreed in writing with, the planning authority within twelve months of the date of this Order, unless, prior to that time, a planning permission has been granted for the further quarry development within the area covered by this grant of substitute consent.

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

3. Unless permission is granted for the further quarry development within the area covered by this grant of substitute consent has been granted prior to that date, the developer shall lodge with the planning authority, within 12 months of the date of this Order, a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration/revegetation of the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory restoration/revegetation 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.

4. A programme and timescale for ongoing monitoring of water quality shall be submitted to and agreed in writing with the planning authority. It shall include proposals for monitoring to be undertaken to establish a baseline for the period during the restoration/revegetation works. Reports on the findings shall also be submitted to the planning authority.

Reason: To ensure protection of water quality.

Patricia Calleary

Patricia Calleary

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *11* day of *April* 2024.

