

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

## Carlow County

An Bord Pleanála Reference Number: 01.LQ.0001

**APPLICATION FOR LEAVE TO APPLY FOR SUBSTITUTE CONSENT** by Paul McCann and Stephen Tenant of Grant Thornton (Receivers) 24 to 26 City Quay, Dublin care of Property Resource Planning Management and Development of 70 Glengarriff Parade, Phibsborough, Dublin.

**DEVELOPMENT:** Quarry on lands at Clonmelsh and Garryhundon, Powerstown, County Carlow.

## 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:

- (a) the provisions of the Planning and Development Acts, 2000 to 2016, and in particular Part XA and Section 261A(21-24), of the Act,
- (b) the Regulations pertaining to Environmental Impact Assessment 1989 to 2015 and the Planning and Development Regulations, 2001, as amended, which restates the prescribed classes of development which require an Environmental Impact Assessment (Schedule 5), and which, in Schedule 7, set out the criteria for determining whether a development would or would not be likely to have significant effects on the environment,
- (c) the Department of Environment, Community and Local Government – Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, March 2013,
- (d) Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, as amended,
- (e) the “Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government 2009/2010,
- (f) the provisions of the Carlow County Development Plan 2015-2021,
- (g) all submissions received by the Board in relation to the quarry under section 261A(21)(b) including the submission from the planning authority,
- (h) the planning history of the site including:
  - the information submitted to the planning authority in relation to the registration of the quarry under section 261 of the 2000 Act, as amended (planning authority register reference numbers QY25)
  - the subsequent planning application lodged to the planning authority under planning authority register reference number 10/130 and An Bord Pleanála reference number PL 01.238679, and
  - all other history files referred to in the planning inspector’s report,
- (i) all documentation and submissions on file,

- (j) the extent to which the quarrying activity expanded after the 1<sup>st</sup> day of February, 1990 which exceeded five hectares and the overall scale of the extraction area of the quarry,
- (k) the extent to which the quarry activity expanded after the 1<sup>st</sup> day of March, 1997 and the proximity and connectivity of the site to the River Nore and River Barrow Special Area of Conservation (Site Code 002162), and
- (l) the report of the Inspector,

the Board determines under section 261A(21)(c) of the Act that:

- (i) development was carried out at the quarry after 1<sup>st</sup> day of February, 1990, which development would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment, or a determination as to whether an environmental impact assessment was required, but that such an assessment was not carried out or made, and
- (ii) development was carried out at the quarry after 26<sup>th</sup> day of February, 1997, which development would have required, having regard to the Habitats Directive, an appropriate assessment, but that such an assessment was not carried out.

The Board is satisfied, for the purposes of section 261A(24)(a), Planning and Development Act, 2000, that:

- (i) the quarry commenced operation before 1<sup>st</sup> day of October, 1964 and permission was granted in respect of the quarry under Part IV of the Act of 1963, and
- (ii) the requirements in relation to registration under section 261 were fulfilled.

In accordance with the requirements of section 261A(24)(a), therefore, the Board grants leave to apply for substitute consent in respect of the application made for leave to apply for substitute consent.

---

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2017.**