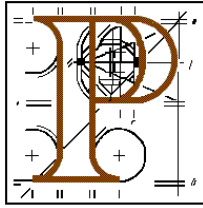


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Carlow County

An Bord Pleanála Reference Number: 01.LS.0019

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

DEVELOPMENT: Production/Manufacturing plant 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 Section 177D of the Planning and Development Act, 2000, as amended, the Board is satisfied that:

- (a) the development is one where both environmental impact assessment and appropriate assessment is required, and
- (b) the Board considered that:
 - the regularisation of the development would not circumvent the purpose or objectives of the Environmental Impact Assessment Directive and the Habitats Directive;
 - the applicant had or could reasonably have had a belief that the development was not unauthorised;
 - the ability to carry out an assessment of environmental impacts of the development for the purposes of Environmental Impact Assessment and Appropriate Assessment and to provide for public participation in such an assessment has not been substantially impaired;
 - there is a lengthy planning history associated with this site and the adjacent quarry lands, and

the Board also considered:

- the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the development; and
- the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated.

The Board concluded, having taken all of the matters under Section 177D(2) of the Planning and Development Act, 2000, as amended, into account, that exceptional circumstances exist such that the Board considers it appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent.

The Board noted and considered the Inspector's recommendation not to seek a remedial Environmental Impact Statement on the basis of the subject development not being of a class of development for the purposes of Environmental Impact Assessment as it does not fall within any of the Classes in Schedule 5 of the Planning and Development Regulations, 2001, as amended, or relevant preceding regulations or Annexes to the Directives. The letter issued by An Bord Pleanála on the 4th day of February, 2016, similarly indicated that "this element of the development is not of a class of development for the purpose of Environmental Impact Assessment, the Environmental Impact Assessment requirements do not appear to arise".

In deciding not to accept the Inspector's recommendation, the Board took into consideration the associated application for the quarry site under An Bord Pleanála reference number 01.LQ.0001 – an application to seek leave to apply for substitute consent under sections 261A(21)-(24) of the Planning and Development Act, 2000 - which the Board considered at the same meeting. The Board considered that the production/manufacturing plant area identified in application 01.LS.0019 initially developed as a result of the substantial quarrying operation on these lands and was, therefore, an integral part of the overall development. Accordingly, the Board considered that, in this instance, the quarry and the production area, while requiring separate application processes, are closely interlinked and, therefore, concluded that a single common remedial Environmental Impact Statement and remedial Natura Impact Statement should be submitted with each application (An Bord Pleanála reference numbers 01.LQ.0001 and 01.LS.0019) to facilitate the Board's assessments.

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

Dated this day of 2017.