

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Kilkenny County

An Bord Pleanála Reference Number: 10.QD.0001

Associated Substitute Consent Reference Number: 10.SU.0122

**WHEREAS** Bennettsbridge Limestone Quarries care of AOS Planning of 2<sup>nd</sup> Floor, The Courtyard, 25 Great Strand Street, Dublin made an application to An Bord Pleanála on the 17<sup>th</sup> day of September, 2015, pursuant to section 37L of the Planning and Development Acts, 2000 to 2015, to further develop a quarry including (a) the deepening of 14.03 hectares of the existing quarry to a finished floor level of -6.0m AOD, thereby extending the life of the quarry by 25 years, (b) modification of condition number 2 attached to an existing planning permission (Kilkenny register reference number 99/1161 and An Bord Pleanála reference number PL10.120270) to allow for the continuation of use of ancillary development (namely site infrastructure) on the site beyond December 2018, in-line with the extended operational life of the quarry and (c) ancillary works associated with implementation of a restoration plan for the site at Kilree, Sheastown, Bennettsbridge, County Kilkenny in accordance with plans and particulars lodged with the Board. (As amended by the revised public notice received by An Bord Pleanála on the 18<sup>th</sup> day of December, 2015 as follows: further development of the 33.38 hectares quarry as a quarry including the deepening of 14.03 hectares of the existing quarry to a finished floor level of -6m AOD, thereby extending the life of the quarry by 25 years, and ancillary works associated with implementation of a restoration plan for the site.

**NOW THEREFORE**, the Board, in accordance with section 37N of the said Act, and based on the Reasons and Considerations set out below, decided to **REFUSE** permission to further develop the quarry, in accordance with the reasons and considerations set out below.

## **REASONS AND CONSIDERATIONS**

In making its decision the Board had regard, inter alia, to the following:

- (a) the provisions of the Planning and Development Act, 2000, as amended, and in particular Section 37L,
- (b) the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in April 2004,
- (c) the provisions of the Kilkenny County Development Plan 2014-2020,
- (d) the Environmental Impact Statement, and the Habitats Directive Screening Report for Appropriate Assessment (Stage 1), submitted with the application for further development of the quarry,
- (e) the report and the opinion of the planning authority under section 37L(12)(a),
- (f) the submissions made in accordance with regulations made under Article 270 of the Planning and Development (Amendment) (No. 2) Regulations 2015,
- (g) the report of the Board's Inspector, including in relation to potential significant effects on the environment and potential effects on European sites,
- (h) the planning history of the site,
- (i) the decision by Kilkenny County Council in relation to the grant of a review of a licence for the discharge of a trade effluent reference number ENV/W/78, as amended by the Board reference number 10.WW.0411 in respect of the subject quarry,
- (j) the pattern of development in the area,
- (k) the nature and scale of the development the subject of this application for further development of the quarry, and
- (l) the decision of the Board to grant substitute consent in respect of part of the subject quarry under reference number 10.SU.0122.

1. The Board is not satisfied, based on the information submitted with the application, that the further development of this quarry, including the deepening of the existing excavation (which is already significantly below the water table), would not give rise to further dewatering from the quarry which would result in the lowering of the water table in the vicinity of the quarry, with potential adverse impacts on groundwater dependent wells in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
  
2. Based on the information submitted with the application, and in the absence of definitive information relating to the underlying geology and hydrogeology, the Board is not satisfied that the potential impact of dewatering arising from the further development of this quarry, and consequent increased volume of waters to be discharged off site, which ultimately discharge into the River Barrow, would not undermine the treatment capacity of the existing lagoon particularly in relation to suspended solids. Accordingly, on the basis of the information provided with the application, including the screening report for Appropriate Assessment (Stage 1) and the data and modelling provided in the submitted Environmental Impact Statement, and in the light of the above considerations, the Board is not satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of the River Barrow and Nore Special Area of Conservation (Site Code 002162), in view of the qualifying interests and the conservation objectives of this site. In such circumstances, the Board is precluded from granting permission to further develop this quarry.

In not accepting the recommendation of the Inspector, which was to make a split decision to grant permission for the further development of the quarry to a limit of excavation of 30m AOD, while refusing permission for further excavation below this level, the Board was of opinion that it could not be satisfied, beyond reasonable scientific doubt, that the potential impact of dewatering arising from the further development of this quarry, and consequent discharges, in the absence of definitive information relating to the underlying geology and hydrogeology, would not have adverse impacts on the River Barrow and River Nore Special Area of Conservation (Site Code 002162), having regard to the qualifying interests and conservation objectives of this European site. The Board noted the concerns expressed by the Inspector in relation to the further deepening of the quarry, but did not believe that sufficient information had been provided in the application to establish

that permitting the partial further development of the quarry, to levels of 30m AOD, might not similarly raise such concerns, particularly having regard to the Inspector's analysis of the karstic nature of the geology in the area and in relation to the extent of water ingress already taking place into the quarry void (as noted in his inspection), and the admitted exceedances of the discharge limits for suspended solids under the waste water discharge licence in respect of the existing quarry development on site, particularly at times of heavy rainfall. Furthermore, the Board noted the conditions which had been imposed on the revised discharge licence (An Bord Pleanála reference number 10.WW.0411), and concurred with the Inspector that the discharge limits of this licence would most likely be breached, based on the documentation submitted with the Environmental Impact Statement submitted with the present planning application.

### **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.

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

**Dated this            day of            2016.**