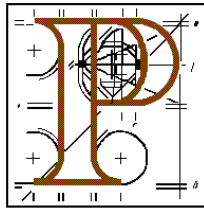


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Offaly County

Planning Authority Reference Number: DEC 15/8

An Bord Pleanála Reference Number: 19.RL.3434

WHEREAS a question has arisen as to whether prospective restoration works on previously authorised and unauthorised quarrying lands at Boolinarrig Big, Birr, Co Offaly are or are not development or are or are not exempted development:

AND WHEREAS Dermot Nally Stone Limited of Baylin, Athlone, County Westmeath requested a declaration on this question from Offaly County Council and the Council issued a declaration on the 27th day of October 2015, stating that the matters the subject matter of the request were development and were not exempted development:

AND WHEREAS Dermot Nally Stone Limited referred this declaration for review to An Bord Pleanála on the 17th day of November, 2015:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,

- (b) sections 261A and 177O(3) of the Planning and Development Act, 2000, as amended,
- (c) Articles 6, 8 and 9 of the Planning and Development Regulations, 2001, as amended, and Schedule 2 to those Regulations,
- (d) the planning history of the site, including in particular the planning authority determination in respect of the entire quarry, pursuant to Section 261A of the Planning and Development Act 2000, as amended, and planning register reference number 02/400 (An Bord Pleanála reference number PL 19.202155), and conditions numbers 2 and 3 of that permission, and
- (e) the nature, scale and location of the site and of quarrying on these lands assessed over a period of time:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) having regard to the existing quarry use of the subject lands and the nature of the proposed activity/operation, this activity/operation constitutes works within the scope of the definition in Section 2(1) of the Planning and Development Act, 2000, as amended, and, therefore, constitutes development as defined in Section 3 of the Act,
- (b) the overall quarry was the subject of an assessment under section 261A of the Planning and Development Act 2000, as amended, wherein it was determined that quarrying was carried out after the 1st day of February 1990, which development would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment, but that such an assessment was not carried out or made. The applicant was directed to apply to An Bord Pleanála for Substitute Consent with a remedial Environmental Impact Statement. No such application was made, and, therefore, under Section 177O(3) of the Planning and Development Act, 2000, as amended, and notwithstanding any other provision in the Act, the entire quarry, which would have required an environmental impact assessment, constitutes unauthorised development. The entire quarry, therefore, comes within the scope of Section 4(4) of the Planning and Development Act, 2000, as amended,

