

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

South Tipperary County

Planning Register Reference Number: **GEO ID 173**

An Bord Pleanála Reference Number: 23.SU.0071

APPLICATION FOR SUBSTITUTE CONSENT by Joseph Tobin care of Williams Planning and Environmental of Saint Roch, Windmill Hill, Rathcoole, County Dublin 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, and as further amended by the European Union (Substitute Consent) Regulations, 2011 and European Union (Environmental Impact Assessment and Habitats) Regulations, 2011.

LOCATION OF QUARRY: Tinnahinchy, Cappaghwhite, County Tipperary.

BOARD 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.

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

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

- (a) Council Directive 92/43/EEC on the Conservation and Natural Habitats and of Wild Fauna and Flora, as amended,
- (b) the provisions of the Planning and Development Acts, 2000 to 2015, and in particular Part XA,
- (c) the European Communities (Quality of Salmonid Waters) Regulations, 1988,
- (d) the “Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government (2010),
- (e) the ‘Quarries and Ancillary Activities - Guidelines for Planning Authorities’, issued by the Department of the Environment, Heritage and Local Government (2004),
- (f) the provisions of the South Tipperary County Development Plan 2009-2015,
- (g) the planning and quarry review history of the subject site,
- (h) the nature and limited scale of the subject site,
- (i) the dates of notification of the Lower River Suir Special Area of Conservation (Site Code 002137),
- (j) the remedial Natura impact statement submitted with the application for substitute consent,
- (k) the report and the opinion of the planning authority under section 177I of the Planning and Development Act 2000, as amended,
- (l) the submissions made in accordance with regulations under section 177N of the said Act, as amended,
- (m) aerial photographs and mapping indicating the historical scale of quarrying at this site, and

- (n) the report of the Board's Inspector, including the examination, analysis and evaluation undertaken in relation to Appropriate Assessment.

The Board was satisfied that the information before it was adequate to undertake an Appropriate Assessment and Environmental Impact Assessment in respect of the subject development.

Appropriate Assessment

Having regard to the nature, scale and extent of the proposed development, the remedial Natura impact statement submitted with the application, the mitigation measures contained therein, the submissions on file and the Inspector's assessment, the Board completed an Appropriate Assessment of the impacts of the proposed development on nearby Natura 2000 site, specifically the Lower River Suir Special Area of Conservation (Site Code 002137). The Board adopted the Inspector's report. The Board noted the absence on the site of any excavation below the groundwater table and of any discharge to the River Multeen. The Board further noted that the historic abstraction of water from the River Multeen did not exceed 2% of the 95% flow on six occasions annually. Subject to the implementation of the identified mitigation measures the Board concluded that, on the basis of the information available, the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of any European site, having regard to the conservation objectives of those sites.

Environmental Impact Statement

The Board completed an Environmental Impact Assessment in relation to the development in question and considered that the assessment and conclusions of the Inspector's report were satisfactory in identifying the environmental effects of the development undertaken. The Board adopted the Inspector's report and agreed with the Inspector's conclusions in relation to the acceptability of mitigation measures and residual effects.

Proper Planning and Sustainable Development

Having regard to the acceptability of the environmental impacts as set out in the foregoing it is considered that, subject to compliance with the conditions set out below, the subject development is not contrary to the proper planning and sustainable development of the area.

CONDITIONS

1. (a) This grant of substitute consent shall be in accordance within the plans and particulars submitted to An Bord Pleanála with the application and relates only to development undertaken as described in the application and does not authorise any structures or any future development, including excavation, on this site.
- (b) For the avoidance of doubt, this grant of substitute consent only applies to circa 3.5 hectare site submitted for determination to the Board under section 261A(2)(a) of the Planning and Development Act, 2000, as amended, and as determined by the Board on the 9th day of May, 2013 under An Bord Pleanála reference number 23.QV.0002.

Reason: In the interest of clarity.

2. (a) All environmental mitigation measures identified within the remedial Natura impact statement and the remedial Environmental Impact Statement and associated documentation submitted with the application shall be implemented in full, save as may otherwise be required in order to comply with the conditions set out below.
- (b) A compliance plan including a timeframe for implementation shall be submitted for the written agreement of the planning within three months of the date of this order.

Reason: In the interest of the protection of the environment.

3. Within three months of the date of this order, proposals shall be submitted to, and agreed in writing with, the planning authority for the following:
 - (a) a surface water drainage system to manage surface water flows within the site and to protect groundwater, and
 - (b) a programme for monitoring of groundwater levels and groundwater quality within the site.

Reason: In the interest of the protection of the environment.

4. Implementation-stage details of the restoration of the quarry shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this order, in accordance with the proposals set out in section 2.5 of the remedial Environmental Impact Statement and which shall include the following:
- (a) details of the finished gradients of the quarry faces,
 - (b) details of secure fencing for the boundaries of the site,
 - (c) a scheme of landscaping and tree planting,
 - (d) the control of dust emissions until such time as planting is established,
 - (e) proposals for an aftercare programme of five years, and
 - (f) a timeframe for implementation, including any proposals for phasing of the restoration works.

Reason: In the interest of the protection of the environment, landscape and public safety.

5. Within three months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security acceptable to the planning authority to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory restoration of any part of the site. 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 completion of the development.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities which have benefited development in the area of the planning authority that was provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid within three months of the date of this order or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to this grant of substitute consent.

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

Dated this day of 2016.