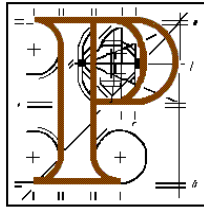


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Clare County

Planning Register Reference Number: EUQY53

An Bord Pleanála Reference Number: 03.SU.0127

APPLICATION FOR SUBSTITUTE CONSENT by Jim Bolton Sand and Gravel Limited care of HRA Planning of 3 Hartstonge Street, Limerick in accordance with section 177E of the Planning and Development Act, 2000, as amended.

LOCATION OF QUARRY: Fahey more North, O'Briensbridge, County Clare.

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) the provisions of the Planning and Development Acts, 2000 to 2015, and Part XA in particular,
- (b) the “Quarries and Ancillary Activities, Guidelines for Planning Authorities”, issued by the Department of the Environment, Heritage and Local Government (2004),
- (c) the policies of the planning authority as set out in the Clare County Development Plan 2011 – 2017, as varied,
- (d) the nature and scale of the development,
- (e) the development and enforcement history of the site, its registration under planning authority register reference number QY53, and the quarry review history of the site under EUQY53 and 03.QV0323,
- (f) the planning history of the area generally; the planning and enforcement history of the neighbouring quarry to the north, its registration under QY93, the discharge licence under WP170, the quarry review under EUQY93, the grant of substitute consent under 03.SU0040, and the remedial environmental impact assessment undertaken under that process; the development and enforcement history of the quarry to the south, its registration under QY181, and the quarry review under EUQY181 and 03.QV0322,
- (g) the pattern of development in the area, including the separation distances to houses, and the access to the regional road network,

- (h) the remedial environmental impact statement submitted with the application,
- (i) the report and the opinion of the planning authority, and the submissions on file, and
- (j) the report of the Inspector, including the examination, analysis and evaluation undertaken in relation to environmental impact assessment.

The Board was satisfied that the information before it was adequate to undertake an environmental impact assessment and a screening for appropriate assessment in respect of the development.

Environmental Impact Assessment

The Board considered the nature, scale and location of the development, the remedial environmental impact statement, the documentation submitted in support of the application, the registration and quarry review history of the site and of neighbouring sites, the submissions on file, and the report of the Inspector. It is considered that the remedial environmental impact statement identifies and describes adequately the direct and indirect effects on the environment of the development that have taken place. The Board completed an environmental impact assessment in relation to the development, by itself and in cumulation with other development in the vicinity, including the two neighbouring quarries. The Board concluded that the development of the quarry did not and would not be likely to have unacceptable effects on the environment. In doing so, the Board adopted the report of the Inspector.

In coming to its conclusion, the Board had regard to the information available on file in relation to neighbouring quarries, including information on the environmental operation of the quarries, to enable the Board to undertake cumulative environmental assessment. In particular, the Board had regard to the grant of substitute consent by An Bord Pleanála under 03.SU0040, and the remedial environmental impact assessment undertaken by the Board under that process.

In light of this material, the report of the Inspector, and the assessment undertaken by the Board under 03.SU.0040, the Board was satisfied that the main potential environmental impacts that had or have a potential to arise in relation to cumulative development relate to traffic, surface water quality, visual impact, and the effects of noise or dust on residential amenity.

The Board is satisfied that cumulative effects resulted from heavy goods vehicles on the regional road network. The Board is also satisfied that the regional road network in this area is acceptable in general for such traffic, and notwithstanding the likelihood of some effects on the amenities of villages such as Bridgetown and O'Briensbridge in the past, the Board did not consider that consent should be refused for this reason.

The Bridgetown River was inspected in relation to each of the three quarries in the vicinity on multiple occasions, over a considerable time period, by the planning authority, by An Bord Pleanála Inspectors, and by the Health Service Executive. There was no evidence of any deterioration of water quality in the Bridgetown River. The Board also noted the submission of the Health Service Executive in relation to surface water quality. The Board is satisfied that any discharges to the Bridgetown River from the development, in cumulation with those from neighbouring quarries, were not likely to have resulted in significant effects on the water quality of the Bridgetown River, or of the Black River, into which it flows.

The Board is satisfied that the potential for significant cumulative visual impact is low. The development is not readily visible from the designated scenic route to the south due to vegetation screening in particular, as well as the nature of the topography. It has a localised visual impact when viewed from the local road to the north, and neither of the neighbouring quarries are visible from that location.

The Board considered the potential for cumulative residential impact to have arisen in relation to noise or dust, and was satisfied that the separation distances involved would have provided effective mitigation against such cumulative impacts.

The Board was, therefore, satisfied that no unacceptable cumulative effects did or would arise as a result of the development.

Appropriate Assessment Screening

In conducting a screening exercise for appropriate assessment, the Board considered the nature, scale and location of the development, the documentation on file generally, the registration and quarry review history of the site and of neighbouring sites, and the submission of the Health Service Executive. The Board accepted that the need for Appropriate Assessment had been screened out by the planning authority under EUQY53, EUQY93 and EUQY181.

It is noted that the Lower River Shannon Special Area of Conservation (Site Code 002165) has some potential for connectivity with the development through the Bridgetown River and the Black River, at approximately six kilometres distance. Arising from the distance involved and the nature of the conservation objectives, the Board is satisfied that the only potential for effects to arise relates to surface water quality. In light of its conclusions above in relation to surface water quality, the Board is also satisfied that no significant effects arose or were likely to arise in relation to the Lower River Shannon Special Area of Conservation (Site Code 002165) in light of its conservation objectives as a result of the development, either in itself or in combination with other development in the vicinity, including neighbouring quarries. Furthermore, the Board is satisfied that there is and was no potential for effects to arise from the development in relation to other European Sites, arising from the absence of connectivity with such sites and the separation distances involved.

The Board, therefore, concurred with the assessment of the planning authority under EUQY53, and was satisfied that a Stage 2 Appropriate Assessment was not required. In coming to this conclusion, the Board also had regard to the assessments undertaken by the planning authority under EUQY93 and EUQY181.

Conclusions on the Proper Planning and Sustainable Development of the Area

The Board is satisfied that, in itself and in conjunction with other development in the vicinity, and subject to compliance with the conditions set out below, the development did not and would not conflict with the provisions of the Clare County Development Plan 2011 – 2017, as varied, did not and would not seriously injure the amenities of the area or of residential property in the vicinity, did not and would not detract from a scenic route, did not and would not result in a risk of pollution, did not affect known archaeological features or architectural heritage, and was acceptable in terms of traffic safety and convenience. It is, therefore, considered that the development was and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application on the 4th day of December, 2014 and the further information submitted to An Bord Pleanála on the 22nd day of December, 2014, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority within six months of the date of this order, and the development shall be in accordance with the agreed particulars.
- (b) This grant of substitute consent relates only to past quarrying that has been undertaken as described in the documentation supporting the application, and does not authorise any structures or any future development on this site, including excavation, unless authorised by a prior grant of planning permission.

Reason: In the interest of clarity.

2. All environmental mitigation measures identified in the remedial environmental impact statement and associated documentation shall be implemented in full.

Reason: In the interests of the conservation of the environment and of the amenities of the area.

3. Within six 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 a timeframe for its implementation; surface water shall not discharge to roadside drains,
 - (b) a programme for the monitoring of groundwater levels and of ground and surface water quality, and
 - (c) the provision of bunding around all fuel storage tanks.

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, in accordance with Drawing Number 144-168-015-Rev PL1 (Restoration Plan) received by An Bord Pleanála on the 22nd day of December, 2014 and the measures set out in Section 2.7.1 of the remedial environmental impact statement (Site Restoration Scheme), which details 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, and control of invasive species,
 - (d) the control of dust emissions until such time as planting is established, and
 - (e) proposals for an aftercare programme of five years.

The restoration shall be completed to the written satisfaction of the planning authority within six months of the date of this order in accordance with the agreed details, unless a grant of permission for the further development of this site is implemented.

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

5. Unless a permission for the further development of the site is implemented, the developer shall lodge with the planning authority, within six months of the date of this order, 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 restoration of the site.

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

Dated this day of 2016.