

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Clare County

Planning Register Reference Number: EUQY19

An Bord Pleanála Reference Number: 03.SU.0134

APPLICATION FOR SUBSTITUTE CONSENT by Michael King of Derrynalecka, Kilmurry McMahon, County Clare in accordance with section 177E of the Planning and Development Act, 2000, as amended.

LOCATION OF QUARRY: Derrynalecka, Kilmurry McMahon, 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) 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 2016, and in particular Part XA,
- (c) the 'Quarries and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government, April 2004,
- (d) the provisions of the current Clare County Development Plan,
- (e) the remedial Natura Impact Statement submitted with the application for substitute consent, as amended by further information, and documentation on file generally,
- (f) the report and the opinion of the planning authority under section 177I of the Planning and Development Act 2000, as amended,
- (g) the submissions made in accordance with regulations under section 177N of the said Act, as amended,
- (h) the planning history of the site,

- (i) the pattern of development in the area,
- (j) the details contained within the application for substitute consent on the subject site,
- (k) the nature and scale of the development the subject of this application for substitute consent, and
- (l) the report of the Board's Inspector, including in relation to potential significant effects on the environment.

Appropriate Assessment

Having regard to the nature, scale and extent of the development carried out, the remedial Natura Impact Statement, as amended by further information, and the mitigation measures contained therein, the submissions on file and the Inspector's assessment, the Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment and completed an appropriate assessment of the impacts of the development on nearby Natura 2000 sites, specifically the Lower River Shannon Special Area of Conservation (Site Code 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077). In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects the development has or had on the aforementioned Natura sites, having regard to the sites' conservation objectives.

The Board was satisfied that, subject to the implementation of the identified mitigation measures and on the basis of the information available, the development, either individually or in combination with other plans or projects, would not adversely affect or would not have adversely affected the integrity of any Natura sites, having regard to the conservation objectives of those sites.

Conclusion

Having regard to the acceptability of the impacts as set out above, it is considered that, subject to compliance with the conditions set out below, the subject development would not be likely to have had or have a significant effect on the environment and is, therefore, not contrary to 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 16th day of September, 2015, as amended by the further information received by An Bord Pleanála on the 15th day of October, 2015 and on the 15th day of March, 2016, except as may otherwise be required in order to comply with the following conditions.
- (b) This grant of substitute consent relates only to development undertaken, as described in the application, and does not authorise any future development, including excavation, on the subject site.

Reason: In the interest of clarity.

2. All environmental mitigation measures identified within the remedial Natura Impact Statement shall be implemented in full, except as may otherwise be required in order to comply with the conditions attaching to this order.

Reason: To protect the environment and amenities of the area and in the interest of the proper planning and sustainable development of the area.

3. (a) The settlement pond located in the south-western section of the site shall have sufficient capacity to cater for extreme rainfall events and management measures relating to release of stored water shall be provided. Design details in this regard shall be agreed in writing with the planning authority within three months of the date of the order.
- (b) There shall be no discharge of quarry water to any roadside drains or adjacent watercourses in the absence of a Discharge Licence.

Reason: In order to protect ground and surface water from contamination and pollution.

4. A detailed restoration scheme for the site shall be submitted to the planning authority for written agreement within three months of the date of this order. The following shall apply in relation to the design and timing of the restoration plan:
 - (a) The site restoration shall provide for the immediate re-vegetation of the site where suitable and/or the provision of features to control sediments which could result in surface water pollution.
 - (b) The scheme shall incorporate tree planting to screen the quarry from key vantage points along the local road network.
 - (c) Details of site safety measures shall be provided.
 - (d) A timescale for implementation and proposals for an aftercare programme of five years shall be agreed with the planning authority.

Reason: In the interest of the visual amenities of the area, to ensure public safety and to ensure that the quarry restoration protects and enhances ecology.

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 restoration of the site in the interest of visual amenity.

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

Dated this day of 2017.