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Our Ref: DM 10925 220622

23rd June 2022

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

RE: Applicant Request under Section 177E - of the Planning and Development Act 2000, as amended, Application for Substitute Consent.

Applicant: John Madden and Sons Limited.
Address of Site: Ballysheedy, Gort, County Galway

A Chara,

Further to receipt of a notice under Section 177D of the Planning and Development Act, 2000 (as amended) [Notice attached as **Attachment 1**], please find enclosed an application for Substitute Consent in relation to previous development at this site within the townland of Ballysheedy, Gort, Co. Galway, to regularise the planning status of the rewilding area of the former quarry lands.

In accordance with requirements of 177 E of the Planning and Development Act 2000, as amended and Part 19 of the Planning and Development Regulations, 2001, as amended, the application includes the following documents:

1. This Cover Letter
2. Application form- 6 copies
3. Site Notice - 6 copies
4. Newspaper Notice including original from Connacht Tribune + 6 copies

Directors: M. Shelly (Chairman) C. McGovern (Managing Director) E. Connaughton (Company Secretary)
R.F. Tobin B.J. Downes D. Grehan M. McDonnell
B. Carroll S. Kelly S. Tinnelly

Associate Directors M. Casey P. Cloonan P. Cunningham B. Gallagher B. Heaney C. Kelly L. Kennedy T. Mackey A. Mulligan J. O'Flaherty

5. Cheque made payable to An Bord Pleanála in the amount of €13,173 (attached to Cover Letter)
6. EIA portal confirmation notice (**Attachment 2** to this letter);
7. Planning Report - 6 Copies
8. Plans and Drawings - 6 copies
9. Remedial Environmental Impact Assessment Report - 6 copies
10. Non - Technical Summary - 6 copies
11. Remedial Natura Impact Statement - 6 copies
12. 1 x electronic copy of complete Substitute Consent Application

We trust that the above meets your approval and we look forward to hearing from you. Should you require any further information, please do not hesitate to contact us.

Yours sincerely,



Declan Meehan

Senior Project Manager

TOBIN Consulting Engineers



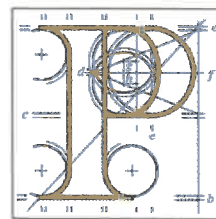
ATTACHEMENT 1





Our Case Number: ABP-310605-21

Your Reference: John Madden and Sons



**An
Bord
Pleanála**

TOBIN Consulting Engineers
Fairgreen House
Fairgreen Road
Co. Galway
H91 AXK8

Date: 01 APR 2022

Re: Application for leave to apply for substitute consent for quarrying.
Ballysheedy, Gort, Co Galway.

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned matter under the Planning and Development Acts 2000 to 2021. A copy of the order is enclosed.

The effect of this order is to direct you to make an application to the Board for substitute consent not later than 12 weeks after the date of the giving of the Board's decision (or such further period as the Board may allow). The application shall be accompanied by a remedial Environmental Impact Assessment Report and a remedial Natura impact statement.

Please note that the final date for the making of an application for substitute consent is 24th June, 2022.

Section 177E of the Planning and Development Act, 2000, as amended, sets out the requirements for a valid substitute consent application and your attention is also drawn to Part 19 of the Planning and Development Regulations, 2001, as amended, which requires, inter alia, the applicant to submit to the Board a newspaper/site notice. You are requested to contact the Board at bord@pleanala.ie in relation to the wording of the public notice prior to publication of same, or any other matter concerning the making of the application, A fee is also payable to the Board in respect of the substitute consent application.

Separately, it would greatly assist the Board to have a soft copy of the entire application submitted with six hard copies. In this regard, the drawings on the soft copy should be in PDF format.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is

Teil	Tel	(01) 858 8100
Glaao Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Yours faithfully,

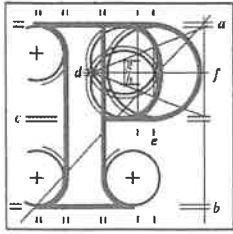


Miriam Baxter
Executive Officer

BP100QN

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**An
Bord
Pleanála**

**Board Order
ABP-310605-21**

Planning and Development Acts 2000 to 2021

Planning Authority: Galway County Council

Application for Leave To Apply For Substitute Consent by John Madden and Sons care of Tobin Consulting Engineers of Fairgreen House, Fairgreen Road, Galway.

Development: Quarry at Ballysheedy, Gort, County Galway.

Decision

GRANT leave to apply for substitute consent under section 177D of the Planning and Development Act 2000, as amended, based on the reasons and considerations set out below

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.

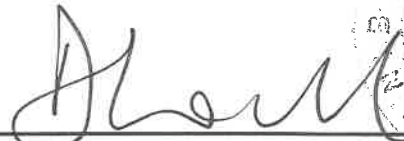
Reasons and Considerations

Having regard to Section 177D of the Planning and Development Acts, 2000-2016, as inserted by Section 57 of the Planning and Development (Amendment) Act 2010, and taking account of the following matters:

- (a) the regularisation of the development would not circumvent the purpose and objectives of the Environmental Impact Assessment Directive or Habitats Directive;
- (b) the applicant had, or could reasonably have had, a belief that the development was not unauthorised;
- (c) the ability to carry out an assessment of the environmental impacts of the development for the purpose of an Environment Impact Assessment and Appropriate Assessment and in particular to provide for public participation in such assessment, has not been substantially impaired;
- (d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European Site, if any, resulting from the carrying out of the development, could likely be substantially remediated;

- (e) the applicant has not otherwise carried out any unauthorised development.

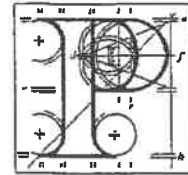
the Board is satisfied that the development is one where an Environment Impact Assessment or a determination as to whether Environment Impact Assessment is required, where Appropriate Assessment (AA) is also required, having regard to its proximity to European Sites, and where exceptional circumstances exist, and concluded that it would be appropriate to consider an application for the regularisation of the development by means of an application for substitute consent.



Dave Walsh

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

Dated this 31st day of March 2022.



An
Bord
Pleanála

Judicial Review Notice

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act 2000 (as amended)

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

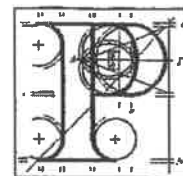
The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website,
www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice. Modified 30/11/2011

Fógra faoi Athbhreithniú Breithiúnach



An
Bord
Pleanála

Athbhreithniú breithiúnach ar chinneadh a rinne An Bord Pleanála faoi fhorálacha an Achta um Pleanáil agus Forbairt, 2000 (arna leasú)

Nuair is mian le duine agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird caithfear é sin a dhéanamh trí athbhreithniú breithiúnach amháin. Tá na forálacha chun agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird le fáil in ailt 50, 50A agus 50B san Acht um Pleanáil agus Forbairt, 2000 (arna ionadú le halt 13 den Acht um Pleanáil agus Forbairt (Bonneagar Straitéiseach) 2006, le halt 32 agus 33 den Acht um Pleanáil agus Forbairt (leasú), 2010 agus le halt 20 agus 21 den Acht Comhshaoil (Forálacha Ilghnéitheacha), 2011.)

Ní féidir ceistiú a dhéanamh in aghaidh cinnidh an Bhoird ach amháin trí iarratas ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúirteanna (I.R. Uimhir 15 de 1986). Faoi réir fho-alt 50(6) den Acht um Pleanáil agus Forbairt, 2000 déanfar iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach laistigh den tréimhse 8 seachtain den dáta a rinne an Bord an cinneadh nó laistigh d'aon síneadh ama a cheadaíonn an Ard-Chúirt faoi fho-alt 50(8). Tabhair faoi deara nuair atá athbhreithniú breithiúnach i gceist faoi alt 50 nach féidir ach bailíocht an cinnidh a cheistiú agus ní thugann an Chúirt aon chinneadh faoi fhiúntas na forbartha ó thaobh prionsabail pleanála cuí nó forbairt inchothaithe na háite nó éifeachtaí ar an timpeallacht. Tá sé leagtha síos in alt 50 nach ndeonófar cead d'athbhreithniú breithiúnach muna bhfuil an Chúirt sásta go bhfuil forais shubstantiúla ann chun argóint a dhéanamh go bhfuil an cinneadh neamhbhailí nó gur ceart é a neamhniú agus go bhfuil suim shásúil ag an iarratasóir leis an ábhar i gceist san iarratas nó i gcásanna a bhaineann le measúnacht tionchair timpeallachta gur eagraíocht í an t-iarratasóir a chomhlíonann coinníollacha áirithe.

Tá forálacha in alt 50B mar gheall ar chostais maidir le himeachtaí san Ard-Chúirt i dtaobh athbhreithniú breithiúnach i gcásanna áirithe (lena n-áirítear imeachtaí faoi chinntí nó gníomhartha de bhun dlí de chuid an Stáit lena dtugtar éifeacht do na forálacha faoi rannpháirtíocht an phobail agus rochtain ar an gceartas atá leagtha amach i dTreoir 85/337/CEE i.e. an Treoir faoi mheasúnacht tionchair timpeallachta agus na forálacha i dTreoir 2001/42/CE maidir le héifeachtaí pleananna agus clár áirithe ar an timpeallacht a mheasúnú). Is í an fhoráil ghinearálta in imeachtaí lena mbaineann alt 50B ná go n-íocfaidh gach páirtí a chostais féin. Is féidir leis an gCúirt costais a bhronnadh i gcoinne aon pháirtí i gcásanna áirithe. Chomh maith le sin tá forálacha i bhfeidhm ionas gur féidir leis an gCúirt iomlán a chostas nó cuid díobh a bhronnadh ar an iarratasóir, in aghaidh fhreagróra nó fhógrapáirtí i gcásanna ina bhfaightear faoiseamh mar gheall ar gníomhú nó neamhfheidhm an fhreagróra nó an fhógrapáirtí.

Tá eolas ginearálta faoi athbhreithniú breithiúnach le fáil ar an suíomh idirlín www.citizensinformation.ie.

Séanadh: Tá an t-eolas thuas tugtha mar threoirlíne. Ní éilfear gur léirmhíniú dlí faoi na forálacha ábhartha atá ann agus dá mbeadh sé ar intinn ag éinne cás dlí a thógáil in aghaidh an Bhoird bheadh sé inmholta comhairle dlí a fháil ar dtús. Athbhreithnithe 30/11/2011

ATTACHMENT 2



Declan Meehan

From: Housing Eiaportal <EIAportal@housing.gov.ie>
Sent: Friday 17 June 2022 12:03
To: Declan Meehan
Subject: EIA Portal Confirmation Notice Portal ID 2022111

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe. Forward unusual emails to spam@tobin.ie for verification.

Dear Declan

An EIA Portal notification was received on 16/06/2022 in respect of this proposed application. The information provided has been uploaded to the EIA Portal on 17/06/2022 under EIA Portal ID number **2022111** and is available to view at

<http://housinggovie.maps.arcgis.com/apps/webappviewer/index.html?id=d7d5a3d48f104ecbb206e7e5f84b71f1>.

Portal ID: 2022111

Competent Authority: An Bord Pleanála

Applicant Name: John Madden and Sons Ltd

Location: Ballysheedy, Gort, Co. Galway

Description: John Madden & Sons Limited, intend to apply for substitute consent for previous development at this site within the townland of Ballysheedy, Gort, Co. Galway, to regularise the planning status of the rewilding area of the former quarry land.

Linear Development: No

Date Uploaded to Portal: 17/06/2022

Regards

Grace

EIA Portal team

An Roinn Tithíochta, Rialtais Áitiúil agus Oidhreachta
Department of Housing, Local Government and Heritage

Teach an Chustaim, Baile Átha Cliath 1, D01 W6X0
Custom House, Dublin 1, D01 W6X0

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www.gov.ie/housing



**An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreachta
Department of Housing,
Local Government and Heritage**

