

James Sweeney

From: Bord
Sent: Monday 5 December 2022 16:00
To: Appeals2
Subject: FW: ABP 314374-22 - ECT Sand and Gravel
Attachments: 221202_WicklowCC_Sub_Response.pdf

From: Bernard Dwyer <bernard@tpa.ie>
Sent: Monday, December 5, 2022 3:48 PM
To: Bord <bord@pleanala.ie>
Subject: ABP 314374-22 - ECT Sand and Gravel


Good afternoon,

Please find attached Response to correspondence from the Board (14th November 2022) in relation to the above referenced Substitute Consent Application. I would be grateful if you could confirm receipt of same.

Regards,
Bernard

Bernard Dwyer
Senior Planner

Tom Phillips + Associates
Town Planning Consultants

 <p>CELEBRATING TWENTY YEARS 20</p> <p>TOM PHILLIPS + ASSOCIATES PLANNING FOR THE FUTURE</p>	<p>Contact 80 Harcourt Street, Dublin 2, D02 F449 + Suite 437 + 455, No. 1 Horgan's Quay, Waterfront Sq, Cork City, T23 PPT8 T +353 1 478 6055 M +353 87 242 8184</p>	<p>w www.tpa.ie e info@tpa.ie</p>
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In response to the Irish Government's guidance to prevent further spread of the Covid-19 virus, Tom Phillips + Associates will be implementing remote working practices for staff. Staff are still contactable and we remain open for business during this time. The office is still contactable via info@TPA.ie or via phone (01-478 6055) and we will respond at our earliest convenience. If you need to contact me, my mobile number is listed above.

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The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

5th December 2022
[By Email]

Dear Sir / Madam

**RE: ABP – 314374-22 – ECT SAND AND GRAVEL LTD.
APPLICATION FOR SUBSTITUTE CONSENT IN RELATION TO QUARRY AT BALLYNABARNEY,
REDCROSS, CO. WICKLOW.**

ECT Sand and Gravel Limited ¹has retained Tom Phillips + Associates², (TPA) Town Planning Consultants, to coordinate the submission of an application for Substitute Consent to An Bord Pleanála (ABP). The application was submitted to the Board on 11th August 2022.

We are writing in response to correspondence issued by An Bord Pleanála on 14th November 2022, in relation to a submission received by Wicklow County Council on 12th October 2022.

We note the opinion issued by Wicklow County Council as per S1771 (2) (e) (i) which states:

The Chief Executive recommends that substitute consent should be granted, as the proposed development would not result in significant effects on the environment, or a European Site, would not result in adverse impacts on the amenities of the area and adjoining properties, and would therefore be in accordance with the proper planning and sustainable development of the area.

We welcome the opinion of Wicklow County Council and we hope that the Board will be minded to grant permission for the substitute consent application as it has been demonstrated in the supporting documentation that accompanied the application, including the remedial NIS and remedial EIAR, that the proposal would not result in significant effects on the environment, a European site or the amenities of the area.

We note the conditions that Wicklow County Council have recommended be attached to any final decision as they pertain to the pre-existing quarry. The Board will note that it is the intention of the applicants to submit an application to further develop the quarry in accordance with Section 37 L of the Planning and Development Act as amended.

¹ Kilmacree Lower, Ballinabarney, Co. Wicklow.A67 X027

² Tom Phillips + Associates, Town Planning Consultants, 80 Harcourt Street, Dublin 2. D02 F449



As the Board will be aware, such applications typically need to be made within 6 weeks of the initial substitute consent application. However, the existing 37L mechanisms only allow for an application to be made pursuant to *subsection (7), (10) or (12) of section 261A*. The current substitute consent application was made under the provisions of S177E and, as a result, an application to further develop the quarry must be made in accordance with the amendment to S37L as contained in the Maritime and Valuation (Amendment) Act 2022.

It is our understanding that once the new provisions contained in section 17 the Maritime and Valuation Act 2022 are in force (text below) and subject to a decision having yet to be made by the Board, the applicants will be permitted to submit a S37L application.

“(5) Where prior to the date of the coming into operation of section 17 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022, an application for substitute consent has been made under section 177E, but no decision has been made by the Board in respect of that application prior to or on that date, an application for permission may be made under subsection (1) as substituted by that section 17, within 6 months of that date.”

Prior to writing this response, we made enquiries with the Department of Housing, Local Government and were informed that the Department are currently working to finalise the supplementary Ministerial Regulations to go alongside the primary legislation. These are due to commence in the coming months, but as yet there is no definitive date. Accordingly, the existing legislation concerning 37L still stands.

Please do not hesitate to contact us should there be any queries on the above.

Yours faithfully

Bernard Dwyer
Senior Planner
Tom Phillips + Associates