

23rd March 2023

**Administrative Officer,
An Bord Pleanála,,
64 Marlborough Street,
Dublin 1
MOR Ref: E2037**

By Hand

**Re: Application for Substitute Consent by Scotshouse Quarries, Aghaskew,
Scotshouse, Co. Monaghan pursuant to Decision to Grant Leave to Apply (ABP-
311755-21)**

A Chara,

Introduction

This application is made under Section 177E for Substitute Consent in respect of unauthorised quarrying which occurred beyond the originally permitted area such as to offend the EIA Directive.

The offence arose primarily from procedural error following the Quarry Registration process of 2004-2007, and was not identified until 2020/2021 at which time the applicant immediately did everything available to access the necessary sequential provisions of Section 177 to regularise the planning status of this long established site, culminating in this application.

In particular, a Section 177C application was made to An Bord Pleanála (ABP) setting out the details of the offence and seeking Leave to Apply for Substitute Consent in respect of the offending area, ABP-311755-21 refers. In granting 'Leave to Apply' under Section 177D, ABP confirmed that an EIA offence only existed, having carried out Stage 1 Screening Assessment for AA.

The deadline permitted for making this application, as extended on application, is 31st March 2023 which has now been met by this application with rEIAR.

Exceptional Circumstances

While the applicant has arrived at this point following the Sections 177C/D process, during which the presence and nature of exceptional circumstances were assessed and decided upon by ABP, case law of 2019 and subsequent amending legislation of December 2019 requires that the details of exceptional circumstances are again submitted for public consultation and re-assessment within the substantive Section 177E application.

To that end, a Statement of Exceptional Circumstances with relevant documents as appendices is included with this application, to enable fully informed consultation on the matter.

Section 177E Application

For obvious reasons, retrospective EIA has its difficulties, but the various expert Chapters have endeavoured to provide the key information to allow for the assessment of potential

impacts and the likelihood of their occurrence in line with the most recent EPA Guidance on the information to be contained in an Environmental Impact assessment Report (May 2022).

In particular, the approach has been to ensure that the application can objectively assert that 'the ability to carry out an assessment of the environmental impacts of the development for the purposes of an Environmental Impact Assessment, and provide public participation in such assessments, has not been substantially impaired'.

Archaeological Matter

In the course of preparation of the Archaeological Impact Assessment, Dr. Charles Mount identified a recorded monument in the records, which allegedly occurred in the land adjoining the quarry which is owned by a different landowner. On investigation, the landowner was not aware that any such monument was on his land, and obviously neither was the applicant in the adjacent quarry.

Dr. Mount's view is that the monument, if present, would be out of context compared with the normal setting associated with other identical type monuments in the wider area, and that there is a question as to whether the monument actually existed as the evidence on site is unconvincing and inconsistent with the nature of the monument as recorded.

It would appear that a small area of the zone of protection of this recorded monument is within the Substitute Consent area and may require remediation as proposed in the application; this is a matter of a protective berm being built virtually on the quarry boundary. For clarity, there is no suggestion that the applicant has caused any damage to the monument on the adjoining lands, if actually present.

Depth of Excavation

This site has always been considered a 'dry' site operating above the winter water table. This view was supported over time by the low volumes of water which would collect in the quarry, which was attributed to stormwater by the operator.

As part of the preparation of the Water (Hydrology and Hydro-Geology) Chapter of the rEIAR, a number of boreholes were drilled under supervision of a hydro-geologist, and tested for hydraulic conductivity. It was found that the winter water table is likely marginally above the quarry floor level in the Substitute Consent area. However, the conductivity of the rock is of a low character, such that water inflow is minimal. Consequently, the discharge licence operated onsite to handle stormwater inflow (Process Water outflow) has also successfully managed suspected groundwater ingress.

Conclusion

This application to regularise the offending area of the quarry is in line with current guidance and demonstrates that the site was not and is not having a significant environmental impact on the surrounding area alone or cumulatively with the ongoing authorised area of the quarry.

The applicant has done everything possible to regularise the status as soon as the offence was properly identified, and hopes to continue to develop this regionally important quarry for decades to come subject to achieving substitute consent and a further permission for prospective development.

To that end, An Bord Pleanála is respectfully requested to process this application as quickly as is reasonably possible as this previously unknown issue has caused and continues to cause enormous damage to a once thriving business and important regional supplier of premium aggregates and road materials.

An Bord Pleanála's inspector should contact Mr. Paddy Connolly of Scotshouse Quarry when arranging a site inspection at (086) 258 3536 or pconnolly1958@gmail.com .

Yours sincerely,

for Malone O'Regan



David Dwyer