

An  
Bord  
Pleanála

## Board Direction ABP-313730-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/04/2024.

The Board decided, as set out in the following Order, that the continuation of quarrying in a manner commensurate with the level of activity which prevailed pre-1963, is development and is not exempted development.

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the continuation of quarrying in a manner commensurate with the level of activity which prevailed pre-1963, is or is not development or is or is not exempted development

**AND WHEREAS** Timothy O'Sullivan requested a declaration on this question from Kerry County Council and the Council did not make a Declaration in this instance.

**AND WHEREAS** Kerry County Council referred this declaration for determination by An Bord Pleanála, received on the 7<sup>th</sup> June 2022.

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

(a) sections 2, 3, 4 & 5 of the Planning and Development Act 2000, as amended,

- (b) section 4(4) of the Planning and Development Act 2000 as substituted by section 17(1)(b) of the Environmental (Miscellaneous Provisions) Act, 2011,
- (c) the nature, scale and location of the development and works on lands assessed over a period of time, existing use and planning history of the site,
- (d) the planning history on the lands
- (e) the submissions of the Requester/Owner/Occupier and the Referrer and
- (f) the report of the Inspector:

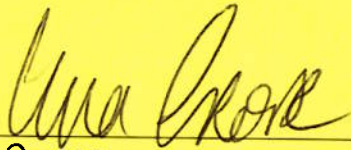
**AND WHEREAS** An Bord Pleanála has concluded that the continuation of quarrying in a manner commensurate with the level of activity which prevailed pre-1963

- (a) Does constitute the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000 as amended
- (b) the area of the quarry registered under Section 261 formed part of the overall quarry that was the subject of the planning authority's notice under Section 261A(3)(a).
- (c) the development undertaken at this quarry after the 1st day of February, 1990 would have required an EIA, which was not undertaken.
- (d) the development undertaken at this quarry after the 26<sup>th</sup> day of February 1997 would have required an AA, which was not undertaken.
- (e) The overall quarry was the subject of an assessment under section 261A of the Planning and Development Act 2000 (as amended), wherein it was determined that substitute consent would be required, but no subsequent application in this regard has been made to An Bord Pleanála. Given that no such application was made, under Section 177O(3), the quarry constituted development and not exempted development, and
- (f) the planning history of the site including the applications for leave to apply for substitute consent, the documentation within which confirm the significant expansion and intensification of quarrying activity, the continuation of

quarrying at this location would be development and would not be exempted development.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the continuation of quarrying in a manner commensurate with the level of activity which prevailed pre-1963 subject to this referral is development and is not exempted development.

**Board Member:**

  
Una Crosse

**Date:** 29/04/2024



