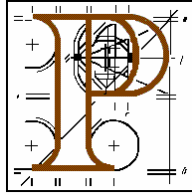


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2010

Cork County

Planning Register Reference Number: 09/7066

An Bord Pleanála Reference Number: PL 04.236346

APPEAL by Michael Barry care of Sean R. McCarthy of The Orchard, Cork Road, Fermoy, County Cork and by Edward and Adrienne Forbes care of Murphy McCarthy of Unit D, Marina Commercial Park, Centre Park Road, Cork and by others against the decision made on the 23rd day of February, 2010 by Cork County Council to grant subject to conditions a permission to the said Edward and Adrienne Forbes in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: (a) Retention of existing quarry including crushing, screening and ancillary plant, (b) retention of existing pump house, water tank, and mobile home (for use as office, canteen, toilet), (c) retention of existing access roadway and entrance, and (d) new wheelwash, patent domestic sewage treatment and raised soil polishing filter at Glasshouse, Curraghlass, County Cork.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions 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 the relatively modest scale of the quarry, the limited volume of traffic likely to be generated and the proposed improvements to the local road network it is considered that, subject to compliance with the conditions set out below, the retention of the quarry would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 4th day of December 2009 and on the 27th day of January, 2010, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Rock extraction and the stripping of top soil shall be restricted to the maximum area of 1.8 acres as shown shaded grey on the site layout plan (drawing number 27265-02 Rev. C) received by the planning authority on the 16th day of September, 2009 and excavation shall not take place lower than the levels indicated on the site section drawings (drawing numbers 27265-03 Rev.D and 27265-04 Rev.C) received by the planning authority on the 16th day of September, 2009.

Reason: In the interest of clarity and environmental protection.

3. The development herein permitted shall cease on the expiration of a period of 10 years from the date of this order.

Reason: In the interest of protecting the amenities of the area.

4. No blasting and no washing of sand or gravel shall take place on site.

Reason: In the interest of protecting the amenities of the area.

5. Trucks accessing or exiting the quarry shall only use the Quarry Road (L5839) west of the entrance. Details of measures, including layout changes at the entrance and signage, to enforce the use of this route shall be submitted to and agreed in writing with the planning authority within three months from the date of this order.

Reason: In the interest of traffic safety and to protect the amenities of the area.

6. All proposed landscaping works shall be carried out as detailed on the plans submitted to the planning authority on the 27th day of January, 2010 (drawing numbers 830-09-06 PD Rev. 1 and 830-09-08 PD and accompanying report) within three months from the date of this order. Any planting failures shall be replaced within one planting season.

Reason: In the interest of visual amenity.

7. Restoration shall be carried out in accordance with a restoration plan, which shall include existing and proposed finished ground levels, landscaping proposals and a timescale for implementation. This plan shall be prepared by the developer, and shall be submitted to, and agreed in writing with, the planning authority within three months from the date of this order.

Reason: To ensure the satisfactory restoration of the site, in the interest of visual amenity.

8. The quarry, and all activities occurring therein, shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays. No rock-breaking activity shall be undertaken within any part of the site before 0800 hours on any day.

Reason: In order to protect the amenities of the area.

9. The noise levels generated during the operation of the sand and gravel quarry shall not exceed 50 dB(A) L_{Aeq} (one hour) when measured at the nearest occupied house.

Reason: In order to protect the residential amenities of property in the vicinity.

10. Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days.

Reason: To control dust emissions in the interest of protecting the amenities of the area.

11. A vehicle washing facility shall be provided and used at the entrance to the site to clean vehicles leaving the site. Details of the proposed construction and operation of the facility shall be submitted to and agreed in writing with the planning authority within three months from the date of this order.

Reason: In the interest of traffic safety and to maintain the roads in a safe condition.

12. A fixed water spray system shall be installed to include the access road, all internal roads, all processing areas, storage yards/storage bays and bins. Mobile water browsers/sprayers shall be operated in locations where it is impractical or inappropriate to use a fixed water system.

Reason: To safeguard the amenities of the area.

13. All trucks hauling dusty materials onto and from the site shall be covered.

Reason: To safeguard the amenities of the area.

14. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority within three months from the date of this order. This shall include the following:

- (a) Proposals for the suppression of on-site noise.
- (b) Proposals for the suppression of dust on site, including the access road and on the public road.
- (c) Proposals for the bunding of the refuelling and routine maintenance area and details of appropriate grit traps and hydrocarbon interceptors.
- (d) Details of safety measures for the land above the quarry, to include warning signs and stock proof fencing.
- (e) Proposals for on-going monitoring of noise and dust emissions.
- (f) Monitoring of ground and surface water quality, levels and discharges.
- (g) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.
- (h) Details of record keeping and reporting arrangements for all monitoring carried out.

Reason: In order to safeguard local amenities and to ensure the proper operation of the quarry.

15. The operator of the site shall keep records of all monitoring carried out and shall retain such records for a minimum period of five years. These records shall state clearly the full name and address of the occupier, the full name and address of the owner of the site, a full list of activities being carried out on the site and who is responsible for each activity. These records shall also have details of any other persons or persons carrying out activity on the site and who is responsible for complying with the permission in relation to all activities. These records shall be available for inspection by authorised personnel representing any statutory body involved in pollution control at all reasonable times. Any non-compliance with the terms of the permission shall be highlighted and the reason why this occurred shall also be outlined.

Reason: To safeguard the amenities of the area.

16. Within three months from the date of this order, details of a suitable surface water drainage system for the site access road and entrance area shall be submitted to and agreed in writing with the planning authority. The agreed system shall be implemented by the developer within two months of the date of written confirmation of such agreement by the planning authority.

Reason: In the interest of preventing surface water runoff to the public road or to adjacent lands.

17. A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and arrangements in relation to the ongoing maintenance of the system, shall be submitted to, and agreed in writing with, the planning authority within three months from the date of this order.

Reason: In the interest of public health.

18. The developer shall record all complaints received relating to site operations. The record shall contain the name of the complainant, nature, time and date and a summary of the company's investigation and response including the name of the person who investigated the complaint and their relationship to the developer or operator of the site. All records of complaints shall be made available to the planning authority on request.

Reason: To safeguard the amenities of the area.

19. Within three months from the date of this order, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the satisfactory completion of the proposed road improvement works, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the road improvement works. The security to be lodged shall be as follows -

- (a) an approved insurance company bond in the sum of €50,000 (fifty thousand euro), or
- (b) a cash sum of €50,000 (fifty thousand euro) to be applied by the planning authority at its absolute discretion if such works are not provided to its satisfaction, or
- (c) such other security as may be accepted in writing by the planning authority.

Reason: To ensure the satisfactory completion or the proposed road improvement works.

20. Within three months from the date of this order, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the satisfactory completion of tree and shrub planting, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of the tree and shrub planting. The security to be lodged shall be as follows -
- (a) an approved insurance company bond in the sum of €10,000 (ten thousand euro), or
 - (b) a cash sum of €10,000 (ten thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or
 - (c) such other security as may be accepted in writing by the planning authority.

Reason: To ensure the satisfactory completion tree and shrub planting.

21. Within three months from the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory restoration/reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such restoration/reinstatement. 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 the Board for determination.

Reason: To ensure the satisfactory restoration/reinstatement of the site in the interest of visual amenity.

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

23. The developer shall pay the sum of €30,000 (thirty thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of the provision of asphalt surfacing at the quarry entrance and at the Glengoura road junction. This contribution shall be paid within three months from the date of this order or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

Dated this day of 2010.