



An
Bord
Pleanála

Board Direction
BD-001620-18
ABP-300037-17

The submissions on this file and the Inspector's report were considered at a Board meetings held on 25th October, 2018 and again on the 31st October, 2018

The file relating to the application for substitute consent for the quarries at Clonmelsh and Garryhundon (ABP-300034) and the file relating to further development of an existing quarry at Powerstown, Nurney (ABP-300425) were considered at the same meetings.

The Board, in accordance with section 177K of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, decided to GRANT substitute consent in accordance with the following conditions.

REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard *inter alia* to the following:

- a) the provisions of the Planning and Development Acts, 2000, as amended, and in particular, Part XA,
- b) the provisions of the Planning and Development Regulations, 2001 as amended,

- c) Council Directive 92/43/EEC on the Conservation of natural Habitats and of Wild Flora and Fauna, as amended,
- d) the 'Quarries and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government, in April 2004,
- e) the provisions of the Carlow County Development Plan 2015 – 2021,
- f) the remedial Environmental Impact Assessment Report and the remedial Natura Impact Statement submitted with the application for substitute consent, and supporting documentation,
- g) the submissions received from the applicant in response to the Section 132 notice from An Bord Pleanála,
- h) the report and the opinion of the planning authority under section 177I of the Planning and Development Act, 2000 (as amended),
- i) the submissions made in accordance with regulations under section 177N of the Planning and Development Act, 2000 Act (as amended),
- j) further submissions from the parties in response to reports/observations
- k) the decision of the Board to grant leave to apply for substitute consent under section 177D of the Planning and Development Act, 2000 (as amended), – ref. 01.LS0019, on the 7th day of April 2017,
- l) the report of the Board's Inspector, including in relation to potential significant effects on the environment and on European sites,
- m) the nature and scale of the development the subject of this application for substitute consent,

- n) the planning, legal history and historical pattern of development of the site,
- o) the Licence to Discharge Ref. DL7/233 as amended by 01.WW0371 decision of An Bord Pleanála,
- p) Air Pollution Licence (APL 10/01) as amended by An Bord Pleanála
- q) the mitigation measures which were/are in place and the restoration scheme proposed,
- r) the nature and scale of the development the subject of an associated application for substitute consent, ref. ABP-300034, to the south of the subject plant area,
- s) the pattern of development in the area, and the proximity of the quarry to a European site.

Remedial Environmental Impact Assessment:

The Board completed an environmental impact assessment of the development taking account of:

- (a) the nature, scale, location and extent of the development for substitute consent,
- (b) the remedial Environmental Impact Assessment Report (rEIAR) and associated documentation submitted in support of the application,
- (c) the submissions received from the Planning Authority, prescribed bodies and observers, and
- (d) the Inspector's report.

The Board considered that the remedial Environmental Impact Assessment report, supported by the documentation submitted by the applicant, adequately considers the past operations of the quarry plant area and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the past operations on the environment. The Board completed an Environmental Impact Assessment in relation to the subject development, by itself and in combination with other development in the vicinity. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the remedial environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application. The Board considered there is an adequate summary of the rEIAR in non-technical language.

The Board considered, and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the past operations on the environment were and would be, and included measures to avoid, prevent or reduce, in particular:

- **Land, soil and geology:** There has been, and will continue to be, a loss of agriculture land at the plant area over the duration of the quarrying activity at this location. The mitigation measures in place include the storage of stripped topsoil within berms, for later re-use in restoration and the stabilisation of the berms through re-seeding or self-seeding. It is intended to restore the plant area to agricultural and non-agriculture land, native tree and scrub lands and woodland using the stored topsoil, so in these areas the loss is a temporary one. The extraction of rock and sand and gravel is regarded as a beneficial impact for the construction industry in the country.
- **Water and Hydrogeology:** All surface, process and wash water is treated and discharged to the Powerstown River under Discharge Licence (DL7/233). Mitigation measures include conditions attached to the Discharge Licence, surface and groundwater monitoring, attenuation and settlement lagoons on the quarry floor, reuse and recycling of water for quarry processes, appropriate wastewater treatment system and management and emergency spill kits and bunding.

- **Visual impact:** Visual impact results from the quarry plant and berms. The plant equipment is visible from local roads and scenic routes but not from the Barrow Way. Berms, planting and screening limit the views of the void. Changes to the finished colour of the plant from yellow to green/grey, as conditioned below, will further mitigate this visual impact.

The Board is satisfied that the rEIAR complies with Articles 94 and 111 of the Planning and Development Regulations, 2001 (as amended). The rEIAR identified the likely significant direct and indirect effects of the past operation of the quarry and associated plant on the environment, and also identified any likely continuing impacts. Cumulative impacts with other development in the area, in particular the quarry operations to the south of the plant area ref. ABP-300034.

The Board completed an environmental impact assessment in relation to the development and concluded that, subject to the implementation of the mitigation measures proposed in the rEIAR, and subject to compliance with the conditions set out below, the effects of the past development on the environment, by itself and in combination with other plans and projects in the vicinity, were and would be acceptable. In doing so, the Board generally adopted the report and conclusions of the Inspector.

Remedial Appropriate Assessment

The Board noted that the development is not directly connected with or necessary for the management of a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Inspector. The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites.

Remedial Appropriate Assessment (Screening): The Board agreed with the Screening Assessment carried out by the Inspector which concluded that the following European Site is that for which a Stage II appropriate assessment is required, and that significant effects on any other European Sites can be ruled out:

River Barrow and River Nore Special Area of Conservation (Site code 002162).

Remedial Appropriate Assessment (Stage II): The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the River Barrow and River Nore Special Area of Conservation (Site code 002162) in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered the likely direct and indirect impacts arising from the development, both individually or in combination with other plans or projects, the mitigation measures set out in the Natura Impact Statement and the Conservation Objectives for the European Site.

The Board is satisfied that, subject to the implementation of the identified mitigation measures, and, on the basis of the information available, the development, either individually or in combination with other plans or projects, would not adversely affect,

or would not have adversely affected, the integrity of any European site, having regard to the conservation objectives of any such site.

Proper planning and sustainable development.

Having regard to the nature, scale and extent of the subject development and to the decisions made in respect of an Environmental Impact Assessment and an Appropriate Assessment, and, subject to compliance with the conditions set out below, the Board is satisfied that the subject development:

- did not and does not seriously injure the amenities of the area or of property in the vicinity,
- did not or does not have an unacceptable impact on the ecology, landscape or visual amenities of the area,
- was and would be acceptable in terms of public health, traffic safety and convenience,
- made a positive contribution to Ireland's requirements for sand, gravel and rock to support development
- was and would be in accordance with the Carlow County Development Plan 2015-2021, and

is therefore in accordance with the proper planning and sustainable development of the area.

Conditions

1. This grant of substitute consent shall be in accordance with, the plans and particulars submitted to An Bord Pleanála with the application, and further information submitted on the 21st day of March and the 16th day of April 2018, except as may otherwise be required 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 in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This grant of permission relates only to the plant area and shall be limited to a period of 20 years from the date of this order. The plant area shall operate in conjunction with the adjacent quarry permitted under ABP Ref. 300425 and shall not be leased, let or otherwise transferred or conveyed save as part of the joint operation.

Reason: In the interest of clarity and orderly development.

3. Mitigation and monitoring measures outlined in the Environmental Impact Assessment Report, the Natura Impact Statement and associated documents submitted with this application, shall be compiled into a single Schedule of Monitoring and Mitigation Measures and submitted to the planning authority. These measures shall be carried out in full, except where otherwise required by condition attached to this permission to further develop the quarry.

Reason: In the interest of clarity and of protecting the environment and in the interest of public health.

4. Within three months of the date of this order, the wheel-wash facility at the exit from the quarry shall be extended, so as to ensure all HGVs exiting

from the quarry onto the L3050 road pass through the wheel-wash.

Reason: In the interest of public health, traffic safety and visual amenity.

5. No well on site shall be used for potable purposes, unless and until quality testing has been carried out to establish the potability of the supply.

Reason: In the interest of public health.

6. The septic tank and percolation area serving the quarry shall be maintained in accordance with the standards set out in the document entitled “Wastewater Treatment Manual – Treatment Systems for Single Houses” issued by the Environmental Protection Agency (current edition).

Reason: In the interest of public health.

7. No further signage shall be erected at the quarry entrance or affixed to quarry plant – so as to be visible from outside the quarry – without a prior specific grant of planning permission.

Reason: In the interest of visual amenity.

8. All over-ground tanks containing liquids (other than water) shall be contained within waterproof bunded areas, which shall be of sufficient volume to store 110% of the volume of the tanks within the bund. All water contaminated with hydrocarbons, including stormwater, shall be discharged via a grit trap and hydrocarbon interceptor (with sump) to one of the siltation lagoons within the site or within the adjoining quarry void. The sump shall be provided with an inspection chamber and shall be installed and operated in accordance with the written requirements of the planning authority.

Reason: In order to protect water quality in the interests of public health and the conservation of the environment.

9. The site 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 of the date of this order. This shall include proposals for the following:

- (a) suppression of on-site noise,
- (b) on-going monitoring of sound emissions at dwellings in the vicinity,
- (c) suppression of odours from the asphalt plant, and
- (d) suppression of dust on site and on the adjacent L3050 road, and
- (e) removal of any aggregate, silt or muck carried out onto the L3053 road shall be promptly removed.

Reason: In order to safeguard local amenities.

10. All surface-, processing-, and wash-water generated within the plant area shall be discharged off-site via the siltation lagoons located within the adjoining Clonmelsh quarry void in accordance with Discharge Licence (DL7/233).

Reason: In the interest of public health and in the interests of conservation of the environment.

11. Within three months of the date of this order, signage, alerting road users to the existence of a quarry entrance, shall be erected on the L3050 road approach – from the west.

Reason: In the interest of traffic safety.

12. The hours of operation of the plant area shall be between 0600 hours and 1900 hours, Monday to Friday and between 0700 hours and 1600 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays without prior written agreement of the planning authority.

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 property in the vicinity.

13. Floodlighting within the site shall be angled in such a manner as not to cause distraction or glare to users of the L3050 or any other road.

Reason: In the interest of traffic safety.

14. The noise level from within the boundaries of the site, as measured at noise sensitive locations in the vicinity, shall not exceed-

- (a) an L_{ArT} value of 55 dB(A) during 0600-1900 hours Monday to Friday and 0700-1600 hours on Saturdays: the T-value shall be one hour.
- (b) an L_{AeqT} value of 45 dB(A) at any other time: the T-value shall be fifteen minutes.

Reason: To protect the residential amenities of property in the vicinity.

15. (a) Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day, averaged over a continuous period of 30 days (Bergerhoff Gauge).
- (b) A monthly survey and monitoring programme of dust and particulate emissions shall be undertaken to provide for compliance with these limits. Details of this programme, including the location of dust monitoring stations, and details of dust suppression measures to be carried out within the site, shall be submitted to, and agreed in writing with, the planning authority, within three months of the date of this order. This programme shall include an annual review of all dust monitoring data, to be undertaken by a suitably qualified person, acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any

amendments to the programme required by the planning authority following this annual review.

Reason: To control dust emissions arising from the development in the interest of the amenity and conservation of the environment in the area.

16. Within six months of the date of this order, all plant on the site, roadside and internal fencing shall be finished externally in a green or grey colour to mitigate visual impact. Furthermore, measures to enhance the visual amenity of the entrance and the adjoining roadside, including improved landscaping shall be developed. Details to be submitted and agreed in writing with the planning authority within three months of the date of this order.

Reason: In the interest of visual amenity.

17. Unless a permission for the further development of the adjacent quarry is implemented, implementation-stage details of the restoration of the Clonmelsh quarry and plant area generally, in accordance with chapter 12 of the remedial Environmental Impact Assessment Report, shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this order, and shall include the following:

- (a) details relating to the removal of all plant and buildings and an indication of finished levels of the quarry plant area,
- (b) the control of dust emissions, until such time as the restoration is established,
- (c) a scheme of landscaping and tree planting,
- (d) details of fencing,
- (e) proposals for an aftercare programme of five years, and
- (f) a timeframe for implementation, including proposals for phasing of the restoration works.

Reason: In the interest of protection of the environment, landscape and public safety.

18. Unless a permission for the further development of the adjacent quarry, Ref ABP - 300425 is implemented; within six months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. 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 An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

Board Member

Date: 13/11/2018

Eugene Nixon