



An  
Bord  
Pleanála

**Board Direction**  
**BD-001621-18**  
**ABP-300425-17**

The submissions on this file and the Inspector's report were considered at a Board meetings held on 25<sup>th</sup> October 2018 and again on the 31<sup>st</sup> 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 the application for substitute consent for the plant area at Clonmelsh Quarry, Nurney (ABP-300037) were considered at the same meetings.

The Board, in accordance with section 37N of the Planning and Development Act, 2000 (as amended), and based on the Reasons and Considerations set out below, decided to GRANT permission to further develop the quarry, 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 Act, 2000, as amended, and in particular, section 37L,
- 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 Environmental Impact Assessment Report submitted with the application to further develop the quarry,
- g) the Natura Impact Statement submitted with the application to further develop the quarry,
- h) the submissions received from the applicant in response to the Section 132 notice of An Bord Pleanála,
- i) the report and the opinion of the planning authority under section 37L(12)(a) of the Planning and Development Act, 2000 (as amended),
- j) the submissions made in accordance with regulations made under Articles 270 and 271 of the Planning and Development Regulations, 2001 (as amended),
- k) further submissions from the parties in response to reports/observations
- l) the decisions of the Board to grant substitute consent in respect of part of the subject quarry, refs. ABP-300034-17 and ABP-300037-17 and the nature and scale of those developments,
- m) the nature and scale of the development the subject of this application to further develop the quarry,
- n) the planning, legal history and historical pattern of quarrying of the site,

- o) the Licence to Discharge Ref. DL7/233 as amended by 01.WW0371 decision of the An Bord Pleanála,
- p) the mitigation measures and the restoration scheme proposed, and
- q) the pattern of development in the area, and the proximity of the quarry to an European site.

## **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 proposed development,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the planning application,
- (c) the submissions received from the Planning Authority, prescribed bodies and observers,
- (d) to the remedial Environmental Impact Assessment Reports submitted with the associated applications for substitute consent ABP-300034-17 and ABP-300037-17 and the nature and scale of those developments, and
- (e) the Inspector's report.

The Board considered that the Environmental Impact Assessment report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development 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 considered, and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment would be, and included measures to avoid, prevent or reduce, in particular:

- **Land, soil and geology:** There will be a permanent loss of agriculture land, sand, gravel and rock at the subject quarry. The loss of agriculture is not considered significant in the context of the amount of such land in the vicinity. 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 quarry edges at Clonmelsh to agricultural use (with some woodland planting) using the stored topsoil, so in these areas the loss is a temporary one. The extraction of rock and sand will have a beneficial impact for the construction industry in the country.
- **Cultural Heritage:** The quarry is located within an area of high archaeological potential and there are two monuments identified on the Sites and Monuments Record located within the proposed quarry development. CW012-093 was excavated and preserved by record in 2008. CW012-202 is to be persevered *in situ* through the application of a 30meter setback buffer around the monument, see condition below.
- **Water and Hydrogeology:** The Clonmelsh Stream is ephemeral and is stated to run dry in summer months. This stream has been diverted to the south in the past, to facilitate extraction from the Clonmelsh quarry. Mitigation measures include conditions attached to the Discharge Licence (DL7/233) controlling the quality of surface water, appropriate systems to manage surface water collected in the quarry void, the reuse and recycling of water for quarry processes and the proposed construction of a lined, re-routed Clonmelsh Stream. No permanent effects on surface or ground water expected.

The Board is satisfied that the EIAR complies with Articles 94 and 111 of the Planning and Development Regulations, 2001 (as amended). The EIAR identified the likely significant direct and indirect effects of the proposed development. Cumulative impacts with other development in the area, in particular the Clonmelsh

quarry plant area ref. ABP-300037 and the Clonmelsh quarry ref. ABP-300034, were also assessed.

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

### **Appropriate Assessment**

The Board noted that the proposed 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.

**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).

**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 proposed 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 was 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 the integrity of any European site, having regard to the conservation objectives of any such site.

The Board agreed with the summary and examination, set out in the Inspector's Report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's Report sets out how these were addressed in the examination and recommendation (including environmental conditions) and are incorporated into the Board's decision.

### **Proper planning and sustainable development.**

Having regard to the nature, scale and extent of the subject proposed 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:

- would not seriously injure the amenities of the area or of property in the vicinity,
- would not have an unacceptable impact on the ecology, landscape or visual amenities of the area,
- would not have an unacceptable impact on cultural heritage,
- would be acceptable in terms of public health, traffic safety and convenience,

- will made a positive contribution to Ireland's requirements for sand, gravel and rock to support development
- would be in accordance with National Policy Objective 23 set out in the National Planning Framework,
- would be in accordance with the Carlow County Development Plan 2015-2021, and

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

## 1.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and further information received by An Bord Pleanála on the 26<sup>th</sup> day of April 2018, 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 prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. 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 protecting the environment and in the interest of public health.

3. This grant of planning permission for further extraction of sand & gravel and rock:

(a) relates only to the 21.9-hectare area outlined in red on drawing number 04 Rev A, submitted with the application on the 5<sup>th</sup> day of December 2017, and

(b) shall be limited to a period of 20 years from the date of this order.

**Reason:** In the interest of clarity and to enable a review of the appropriateness of the continued operation of the quarry in light of the circumstances prevailing at the time.

4. Extraction of rock, or any other material within this quarry extension, shall not take place below a level of 25m OD.

**Reason:** In the interest of clarity and to limit the extent of the development to the extraction level in the adjoining Clonmelsh quarry.

5. The proposed extraction area shall be adjusted to reflect the precise location of the Recorded Monument Recorded Monument CW012-202 (ring ditch) and no extraction shall take place within 30 meters of the outer extension of the monument. Prior to commencement of any development, a revised extraction layout shall be submitted for the written agreement of the planning authority to reflect the correct location of this monument and to indicate the required 30m set-back of quarrying from it.

**Reason:** In the interest of clarity, and to protect subsurface archaeology which may exist within the site. The location of Recorded Monument CW012-202 has been incorrectly identified when establishing the footprint of the proposed extension area. The monument is located within the southeastern section of the site rather than within the northeastern section.



6. The developer shall facilitate the archaeological appraisal of the extension area. In this regard, the developer shall:
  - (a) notify the planning authority, in writing, at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works, and
  - (c) provide arrangements, acceptable to the planning authority for the recording and for the removal of any archaeological material which the planning authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (*in-situ* or by record) and protection of any archaeological remains that may exist within the site.

7. 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, prior to commencement of development. 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 dust on the site and the access road and the prompt removal of any aggregate, silt or muck carried out onto the public road
  - (d) measures to prevent and remove material that has been fly tipped

within the quarry site and surroundings,

- (e) safety measures for the land above the extended quarry void; to include warning signs and stock-proof fencing/hedgerows,
- (f) management of all landscaping,
- (g) monitoring of ground and surface water quality, levels and discharges,
- (h) bunding of fuel and lubrication storage areas, location of emergency spill kits and details of emergency action in the event of accidental spillage, and
- (i) details of site manager, contact numbers (including out-of-hours).

**Reason:** In order to safeguard local amenities.

8. Prior to commencement of development, 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.

9. The Clonmelsh Stream shall be diverted within a channel, lined with a 200mm thickness of low-permeability clay and overlain with a substrate of unsorted gravels of varying thickness along the eastern and southern and western boundaries of the quarry extension, to tie in with the already diverted Clonmelsh Stream bed on the western boundary of the Clonmelsh quarry. The specific details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of protecting and enhancing the environment, and to preserve, insofar as is possible, the watercourse network in the area.

10. All groundwater ingress and surface water within the extended quarry void area shall be discharged to the Powerstown River, in accordance with the

Discharge Licence (DL7/233), via the existing siltation lagoon network on the floor of the adjoining Clonmelsh quarry. No groundwater or surface water shall be discharged to the adjoining road network, diverted Clonmelsh Stream or to adjacent lands.

**Reason:** In order to protect groundwater and surface water quality in the area, and in the interest of traffic safety.

11. (a) Blasting operations shall take place only between 1000-1700 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays. Monitoring of the noise and vibration arising from blasting, and the frequency of such blasting, shall be carried out at the developer's expense, by an independent contractor, which shall be agreed, in writing, with the planning authority.
- (b) Prior to the firing of any blast, the developer shall give notice of intention to the occupiers of all dwellings within 500 metres of the site. An audible alarm for a minimum period of one minute shall be sounded. This alarm shall be of sufficient power to be heard at all such dwellings.

**Reason:** In the interest of public safety and residential amenity.

12. (a) Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres/second, when measured in any three mutually orthogonal directions at any sensitive location. The peak particle velocity relates to low frequency vibration of less than 40 hertz where blasting occurs no more than once in seven continuous days. Where blasting operations are more frequent, the peak particle velocity limit is reduced to 8 millimetres per second. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of  $125\text{dB}_{(\text{Lin}) \text{ max peak}}$  with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than  $5\text{dB}_{(\text{Lin})}$ .

(b) A monitoring programme, which shall include reviews to be undertaken at annual intervals, shall be developed to assess the impact of quarry blasts. Details of this programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of quarrying works on the site. This programme shall 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:** In order to protect the amenities of property in the vicinity.

13. The noise level from within the boundaries of the quarry extension area, measured at noise sensitive locations in the vicinity, shall not exceed-
- (a) an  $L_{A_{rT}}$  value of 55dB(A) during 0700-1800 hours Monday to Friday and 0700-1400 hours on Saturdays. The T-value shall be one hour.
  - (b) an  $L_{A_{eqT}}$  value of 45dB(A) at any other time. The T-value shall be fifteen minutes.

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

14. All HGVs departing the quarry void shall do so via a wheel-wash at the plant area adjacent to the L3050 road.

**Reason:** In the interest of traffic safety.

15. (a) Dust levels at the eastern, southern and western site boundaries shall not exceed 350mg/m<sup>2</sup>/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 entire quarry complex, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. 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 and in the interest of the amenities of the area.

16. No signage of any sort shall be erected on the boundary of the quarry extension or within it (so as to be visible from adjacent public roads), without a prior specific grant of planning permission.

**Reason:** In the interest of visual amenity.

17. All overhead electricity cables traversing the site, shall be relocated, with the agreement planning authority.

**Reason:** In the interest of orderly development.

18. The quarry extension, and all activities occurring therein, shall only operate between 0700 hours and 1800 hours, Monday to Friday and between 0700 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays without the 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.

19. The developer shall submit, every second year, for the twenty-year lifetime of the permission to further develop the quarry, a 3D topographical survey carried out by an independent qualified surveyor approved in writing by the planning authority. This survey shall show all areas excavated and restored. On the basis of this a full materials balance shall be provided to the planning authority. The first such survey report shall be submitted two years from the date of this order.

**Reason:** In order to facilitate monitoring and control of the development by the planning authority.

20. This grant of permission to further develop the quarry does not authorise the importation of materials for the restoration of the site.

**Reason:** In the interest of clarity.

21. Scrap metal and other waste material shall be removed, at least annually, from the site, and from the adjoining Clonmelsh quarry, in accordance with the written requirements of the planning authority. Such materials shall be deemed to include scrapped trucks, other scrapped vehicles, empty oil barrels, broken or otherwise unusable truck bodies, worn out conveyor belts/chains, worn out batteries, unusable tyres and worn out conveyor/roller shafts.

**Reason:** In the interest of visual amenity and protection of ground and surface waters, in the interest of public health.

22. Prior to commencement of development, a restoration plan generally in accordance with drawings received by An Bord Pleanála on 26<sup>th</sup> April 2018 (Drawing no.s 05a Rev B & 05b Rev B), shall be submitted to, and agreed in writing with, the planning authority for the restoration of the entire Clonmelsh quarry/plant area, and the extension hereby permitted. The plan shall include, *inter alia*,

- (a) existing and proposed finished ground levels and details relating to the finished gradients of the quarry face
- (b) estimated water level within the flooded void,
- (c) an area of sloped access, extending above and below the water line of the future water body, and of not less than 50 meters along the shoreline, to facilitate safe access and egress to the future water body,
- (d) landscaping and tree planting proposals, and
- (e) details of fencing,
- (f) proposals for an aftercare programme
- (g) a timescale for implementation, including proposals for phasing of the restoration works

Restoration of the site shall be carried out in accordance with this plan.

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

23. 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 Planning and Development Act 2000, as amended. The contribution shall relate to the greenfield area of the site, which has not, to date, been excavated, and shall be paid prior to recommencement 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as

amended, 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 to further develop the quarry.

24. Prior to recommencement of development, 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 reinstatement of the site (together with the adjoining Clonmelsh quarry), coupled with an agreement empowering the planning authority to apply such security or part thereof to such 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 of the site in the interest of visual amenity.

**Board Member**

**Date:** 13/11/2018

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Eugene Nixon