



An
Bord
Pleanála

Board Direction
BD-004563-19
ABP-304209-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on October 18th, 2019.

The file was considered at the same meeting as file ref. no. 304207-19, a substitute consent application in respect of the past development of the same quarry.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

REASONS AND CONSIDERATIONS

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

- the provisions of the Planning and Development Act, 2000, as amended, and in particular Section 37L,
- the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government in April 2004,
- the applicable national, regional and local planning policy including in particular the provisions of the Carlow County Development Plan 2015-2021,

- the Environmental Impact Assessment Report and the Natura Impact Statement and supporting documentation submitted with this application for further development,
- the proposed mitigation measures and the proposed restoration scheme,
- the report and the opinion of the planning authority, including recommended conditions, and the applicant's response to this report,
- the submissions received from prescribed bodies, including the submission from Inland Fisheries Ireland (IFI) on the parallel substitute consent application (304207-19) and the applicant's response to the IFI submission,
- the pattern of development in the area and the planning history of the subject site and adjoining lands,
- the nature, scale, characteristics and location of the proposed development, and
- the report of the Board's Inspector.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment in relation to the proposed development, taking account of:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,

(c) the submissions received from the planning authority, prescribed bodies and the applicant's response to submissions,

(d) the Inspector's assessment on environmental effects as set out in the Inspector's Report;

The Board considered that the environmental impact assessment report, supported by information provided by the applicant during the course of the application, identifies and describes adequately the direct and indirect effects on the environment of the proposed development. The Board is satisfied that the information contained in the Environmental Impact Assessment Report (EIAR) complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board 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 on the environment of the proposed development, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board considered that the Inspector's report was satisfactory in addressing the environmental effects of the development, agreed with the Inspector's conclusions in relation to the acceptability of mitigation measures and residual effects, and adopted her analysis and conclusions in this regard. The Board considered, and agreed with the inspector's reasoned conclusions, (which are up to date at the time of making this decision) that the main significant direct and indirect effects of the proposed development on the environment, and measures to avoid, prevent or reduce such effects, are as follows:

- **Aquatic Ecology and Water:** Impacts on aquatic ecology, including the Ardistan Fen, Roscat Stream and the aquifer, through surface water containing sediment and/or hydrocarbons, with potential for degradation of aquatic habitats and species. Such impacts would be mitigated by adherence to good environmental management and adherence to mitigation measures and commitments, which will be set out in an Environmental Management System (EMS), during the operation and restoration phases. These will include measures ensuring that all surface water runoff passes through a series of adequately designed and sized settlement ponds, proper refuelling

on the hardstand area, ensuring bunding of mobile fuel bowsers/tanks, ensuring that runoff from the hardstand area passes through a hydrocarbon interceptor prior to entering settlement ponds and ensuring stockpiled overburden will be made stable through establishing vegetation. Significant impacts on fish and macro-invertebrates as a result of altering the pH of the receiving water can be mitigated by ensuring, by condition, that no concrete block making/storage, or other concrete manufacturing takes place on the site (as indicated in the applicant's response to the IFI submission).

- **Birds:** Impacts on the established breeding colony of Sand Martin (*Riparia riparia*) on site which would be mitigated by ensuring that if any Sand Martins are found to be nesting in any of the stockpiles, then no activities would be undertaken within the stockpile during the Sand Martin breeding season (1st March – 31st August) and alternative breeding sites would be created in a disused area within the gravel pit site following standard published best practice guidance.
- **Land, soil and geology:** The proposed quarrying activities within the application site would result in a permanent loss of a geological resource and loss of land for arable crops / tillage purposes. However, such losses are not unacceptable, having regard to the primary function of the quarrying activities to extract the resource itself and in doing so would be beneficial to the construction and agricultural sectors. The loss of land would be imperceptible in size and scale when taken in context with the available agricultural lands in the area. The mitigation measures include the storage of stripped topsoil within berms for later re-use in the restoration of the quarry for agricultural use are also noted.
- **Landscape:** While the quarrying activities would alter the landscape locally resulting in moderate impacts at a local level, given the enclosed nature of the site which is well screened, and noting the purpose of the activity and the restoration plan proposed, including a requirement for phased restoration, such an impact is considered acceptable.

Appropriate Assessment

Appropriate Assessment Stage 1 (Screening)

The Board noted that the proposed development is not necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board noted the documentation submitted with the application and the appropriate screening assessment carried out by the Inspector. The Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' Conservation Objectives. The Board agreed with the Screening Assessment carried out by the Inspector which concluded that significant effects on other European sites, other than the River Barrow and River Nore SAC (Site Code: 002162), could be ruled out, and was therefore satisfied that the subject development would not be likely to have significant effects on any other European sites, arising from the significant separation distances involved, and otherwise an absence of potential for connectivity.

Appropriate Assessment Stage 2

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 SAC (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. In

doing so, the Board accepted and adopted the assessment and conclusion carried out in the Inspector's report, and is therefore satisfied that, subject to the implementation of the identified mitigation measures and on the basis of the information available, and subject to the conditions set out below, the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of this European site, in view of its conservation objectives.

Conclusion

Having regard to the acceptability of the environmental impacts, and the lack of adverse impacts on Natura sites, as set out above, and having regard to the reasons and considerations set out above, and subject to the conditions set out below, it is considered that the proposed development would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. (a) The development shall be carried out in accordance with the plans and particulars lodged with the application submitted to An Bord Pleanála on the 15th day of April 2019, including the mitigation measures described in the Environmental Impact Assessment Report and the Natura Impact Statement, 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 re-commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars.

- (b) This permission relates solely to the further development of the quarry, as a quarry, and does not authorise the production or manufacturing of concrete blocks or other concrete products. This permission to further develop the quarry does not authorise any quarrying outside the area outlined in red on submitted drawings.

Reason: In the interest of clarity, and to delimit the nature and extent of the development hereby permitted.

2. (a) This grant of planning permission for further extraction of sand and gravel relates only to the 14.7 hectare area outlined in red on drawing number PP-120-00, submitted with the application on the 15th April 2019, and

(b) Extraction of sand and gravel within this quarry extension shall not take place below a level of 63 metres above Ordnance Datum or within one metre of the groundwater table, whichever is the higher level.

Reason: In the interest of clarity and to ensure that there is no adverse impact on the groundwater regime in the area and in particular on the nearby Ardristan Fen Proposed Natural Heritage Area.

3. This grant of permission to further develop the quarry shall be for a period of 20 years from the date of this order. At the end of this period, the quarry use shall then cease and all related structures removed and remedial works including restoration works, in accordance with the general principles set out in the application, shall be carried out, unless, before the end of that period, planning permission shall have been granted for the continuance of quarrying for a further period. The site restoration works described in the application shall be completed within 2 years of the cessation of quarrying on the site.

Reason: To enable the effects of the development to be reassessed in the light of the operation of the permission to further develop the quarry and the circumstances then obtaining.

4. This grant of permission to further develop the quarry does not authorise the importation of materials for the restoration of the site. Any such importation shall be the subject of a separate application for planning permission.

Reason: In the interest of clarity, and to allow the planning authority to assess the impact of any importation of materials onto the subject site through the statutory planning process.

5. No more than 50,000 tonnes of sand and gravel shall be extracted from the subject quarry within any one-year period.

Reason: In the interest of clarity, having regard to the fact that this extraction rate was used for the analysis set out in the submitted Environmental Impact Assessment Report submitted with the application.

6. The existing concrete plinth/hardstanding shall be used solely for the parking of cars, vehicles and plant and shall not be used for the storage or manufacturing of concrete, concrete blocks or cement.

Reason: in the interest of environmental protection and to ensure that no surface or ground water is contaminated.

7. (a) 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 conditions attached to this permission. The Schedule shall be included in an Environmental Management System (EMS) which shall be submitted to and agreed with the Planning Authority prior to re-commencement of the development.

- (b) The EMS shall include, as a minimum, the following:
- i. proposals for the suppression of on-site noise;
 - ii. proposals for the on-going monitoring of sound emissions at noise sensitive receptors in the vicinity;
 - iii. proposals for the suppression of dust on site;
 - iv. details of safety measures for the land above the quarry, to include warning signs and stock-proof fencing;
 - v. management of all landscaping;
 - vi. monitoring of ground and surface water quality, levels and discharges;
 - vii. downstream groundwater monitoring point and measures to ensure the final discharges from the settlement lagoons will not impact on the Ardristan Fen proposed Natural Heritage Area and
 - viii. details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.
- (c) The development shall be operated and managed in accordance with the agreed EMS required under a) above.

Reason: In the interest of protecting the environment and the residential amenities of property in the vicinity and in the interest of public health.

8. (a) The developer shall monitor and record groundwater, surface water flow, noise, ground vibration, and dust deposition levels at monitoring and recording stations, the location of which shall be agreed in writing with the planning authority prior to commencement of development. Monitoring results shall be submitted to the planning authority at annual intervals for groundwater, surface water, noise and ground vibration.

(b) On an annual basis, for the lifetime of the facility (within two months of each year end), the developer shall submit to the planning authority five copies of an environmental audit. Independent environmental auditors approved of in writing by the planning authority shall carry out this audit. This audit shall be carried out

at the expense of the developer and shall be made available for public inspection at the offices of the planning authority and at such other locations as may be agreed in writing with the authority. This report shall contain:

(i) A written record derived from the on-site weighbridge of the quantity of material leaving the site, to ensure compliance with the limits set out in condition number 5 of this permission. This quantity shall be specified in tonnes;

(ii) An annual 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;

(iii) A written record of all complaints, including actions taken in response to each complaint.

(c) All incidents where levels of noise or dust exceed the levels specified in this permission shall be notified to the planning authority within two working days. Incidents of surface or groundwater pollution, or incidents that may result in groundwater pollution, shall be notified to the planning authority without delay.

(d) Following submission of the audit or of such reports, or where such incidents occur, the developer shall comply with any requirements that the planning authority may impose in writing in order to bring the development in compliance with the conditions of this permission to further develop the quarry.

Reason: In the interest of protecting residential amenities and ensuring a sustainable use of non-renewable resources.

9. The quarry, 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.

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

10. During the operational phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed:
- an LArT value of 55 dB(A) during 0800 and 2000 hours. The T value shall be one hour
 - an LAeqT value of 45 dB(A) at any other time. The T value shall be 5 minutes

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

11. 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). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to re-commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.

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

12. All Heavy Goods Vehicles departing the quarry void shall do so via a wheel-wash at a location on the site adjacent to the public road. Prior to re-

commencement of the development, technical details of the wheel-wash design and operation and its location shall be submitted to and agreed in writing with the Planning Authority.

Reason: In the interest of ensuring that a clean road surface is maintained and in the interest of traffic safety.

13. Any existing surface water drainage elements currently in place on site and which are proposed to be utilised shall be first checked and verified for effectiveness in protecting the surrounding watercourses and Aquifer Fen pNHA and details of these checks and verification backed up by engineering calculations together with any updates required shall be submitted to, and agreed with the planning authority.

Reason: To ensure protection of adjoining receiving watercourses and the adjoining Ardristan Fen pNHA.

14. The developer shall facilitate the archaeological appraisal of the enabling phase 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.

15. Prior to re-commencement of development, details for a phased restoration plan, generally in accordance with the principles as set out in the application, shall be submitted to, and agreed in writing with, the planning authority. The plan which shall be based on best practice shall include, inter alia, existing and proposed finished ground levels, landscaping proposals, proposals for the enhancement of the biodiversity of the area post-closure, safety measures proposed for steep faces and areas of deep water and a timescale for implementation. Phased restoration of the site shall be carried out in accordance with this plan.

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

16. 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 and Development Act 2000, as amended. The contribution shall be paid prior to re-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 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.

- 17 Prior to re-commencement 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, 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: 20th November 2019

Philip Jones