



Board Direction

Ref: 03.QD0012

The submissions on this file and the Inspector's report were considered at a Board meeting held on January 20th, 2017.

The file was considered at the same meeting as 03.SU0111, a substitute consent application in respect of the same quarry operation.

The Board decided to grant permission to further develop the quarry generally in accordance with the Inspector's recommendation, for the reasons and considerations, and subject to the conditions, set out below.

REASONS AND CONSIDERATIONS

In making 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 'Quarry and Ancillary Activities, Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in April 2004,
- (c) the provisions of the Clare County Development Plan 2011-2017,
- (d) the Environmental Impact Statement and Natura Impact Statement submitted with the application for further development,
- (e) the report and the opinion of the planning authority under section 37L(12)(a) of the Planning and Development Act 2000, as amended,
- (f) the submissions made in accordance with regulations made under Article 270 of the Planning and Development (Amendment) (No. 2) Regulations 2015,
- (g) the report of the Board's Inspector,

- (h) the planning history of the site and adjoining quarry development, and in particular planning permission register reference number 06/2561, and discharge licence reference number WP173,
- (i) the pattern of development in the area,
- (j) the nature and scale of the development the subject of this application for further development, and
- (k) the decision of An Bord Pleanála to grant substitute consent for this part of the overall quarry under Reference Number 03.SU0111.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, 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 concurred with and adopted the Inspector's conclusions that the only European site with the potential for significant effects was the Lower River Shannon Special Area of Conservation (site code 002165).

Appropriate Assessment

Having regard to the nature, scale and extent of the proposed development, the Natura Impact Statement submitted with the application and the mitigation measures contained therein, the submissions on file and the Inspector's assessment, which the Board accepted and adopted, the Board completed an Appropriate Assessment of the impacts of the development on the Lower River Shannon Special Area of Conservation (site code 002165). The Board concluded that, on the basis of the information available, the proposed development (as modified by the conditions set out below), either individually or in combination with other plans or projects, including the adjoining quarry operation, would not adversely affect the integrity of the Lower River Shannon Special Area of Conservation (site code 002165), in the light of the site's conservation objectives.

Environmental Impact Assessment

The Board considered the Environmental Impact Statement submitted with the application, which it noted encompassed a cumulative analysis of the impact of the overall quarry on the environment. The Board also noted that the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, was adequate in identifying and describing the direct and indirect effects of the proposed development. The Board completed an environmental impact assessment, and agreed with the Inspector in her assessment of the likely significant effects of the proposed development, and agreed with her conclusions on the acceptability of the mitigation measures proposed and residual effects. The Board adopted the report of the Inspector. The Board concluded that, subject to the implementation of the mitigation measures proposed, and subject to the following conditions, the effect of the proposed development on the environment would be acceptable.

Conclusion

It is considered that, subject to the implementation of the mitigation measures proposed and subject to the following conditions, the effects of the proposed development on the environment would be acceptable and there would no adverse impacts on Natura sites, as set out above. The proposed development would, therefore, 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 23rd day of December 2015, including the mitigation measures described in the Environmental Impact Statement 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 to the deepening of the existing levels within the already quarried area outlined in red on submitted drawings, as modified by condition 2 of this permission. 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 extent of the development hereby permitted.

2. The proposed development shall be restricted to Phases 1, 2 and 3, as outlined in submitted drawings, and the quarry shall not be excavated nor deepened below the level of +6 metres AOD without a further grant of planning permission.

Reason: In the interest of ensuring that there is no adverse impact on the groundwater regime in the area and in particular on wells/groundwater abstractions in proximity to the overall site boundary, and to permit a re-assessment of any such impacts, or potential impacts, in the light of the circumstances then obtaining, as part of any future application for planning permission for excavation below this level.

3. This grant of permission to further develop the quarry shall be for a period of 20 years from the 22nd day of August 2012. 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 Environmental Impact Statement, 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 EIS 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, and to align the development of this part of the quarry with the permitted duration of quarrying on the remaining part of the overall quarry operation.

4. 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.

5. 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 the re-commencement of development under this permission. This shall include the following:

(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. 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.

(e) An alternative water supply shall be made available by the developer, at his expense, immediately it becomes evident from the monitoring / environmental audit that the quality or quantity of water in the vicinity is being adversely affected. Alternative water supplies may be secured by the deepening of private wells, drilling of new wells or such alternatives as may be specified by the planning authority.

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

6. 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. 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.

7.
 - (a) Blasting operations shall take place only between 10.00 hours and 17.00 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 who shall be agreed in writing with the planning authority.
 - (b) Prior to the firing of any blast, the developer shall give notice of his 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 interests of public safety and residential amenity.

8. 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.

9. (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 eight millimetres per second. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin)max peak with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (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 re-commencement of any 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: To protect the residential amenity 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 (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.

11. A 30 metre wide buffer zone shall be maintained between the extraction area and the site boundaries (other than the active quarry to the south). Prior to re-commencement of development, details of all boundaries of the site shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of preserving the integrity of adjacent land, and of public safety.

12. Full details and location of the earthen berm to be constructed along the eastern site boundary, as indicated in Figure 10.2 of the Environmental Impact Statement, shall be submitted to and agreed in writing with the planning authority prior to re-commencement of development, and shall be provided within six months of such agreement.

Reason: In the interest of visual amenity and order to protect the amenities of property in the vicinity.

13. 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.

16. 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: 2nd March 2017
Philip Jones