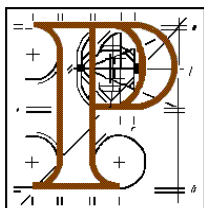


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Offaly County

Planning Register Reference Number: PL2/14/47

An Bord Pleanála Reference Number: PL 19.244624

APPEAL by An Taisce of The Tailor's Hall, Back Lane, Dublin against the decision made on the 19th day of February, 2015 by Offaly County Council to grant subject to conditions a permission to Cemex (ROI) Limited care of Golder Associates Ireland Limited of Town Centre House, Dublin Road, Naas, County Kildare in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Retention and completion of sand and gravel extraction over an area of 2.25 hectares at Clara Road, Ballyduff Townland, Tullamore, County Offaly.

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 nature and limited scale of the proposed development,
- its location adjacent to an existing substantial quarry operation, whereby the development in question forms an extension to this authorised operation,
- the planning history of the area including permissions granted governing the adjoining quarry, and the outcome of the section 261A process as it relates to the overall quarry operations (file EU/QY54), which found that no further action was required in relation to the EU Directives on Environmental Impact Assessment and Habitats, and
- the information received in support of the application and appeal including in relation to protection of water resources and the restoration of the subject site,

it is considered that, notwithstanding the landscape sensitivities of the area, the development to be retained and completed, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would not be detrimental to the Eiscir Riada and associated landscape in the area, and would not contravene any provisions of the Offaly County Development Plan.

The Board considered the Appropriate Assessment Screening Report submitted in support of the planning application, the screening assessment carried out by the planning authority, the Inspector's reports, and the revised Appropriate Assessment Screening document received by An Bord Pleanála on the 22nd day of December, 2015. The Board considered that the revised Appropriate Assessment screening report – which was accompanied by additional up-to-date information in relation to water resource management and quarry restoration - represented a thorough and reliable assessment of the potential for the subject development to have significant effects on any Natura 2000 sites. It was noted that the information presented by the applicant specifically examined the potential effects owing to interaction between quarrying operations and groundwater resources. It also demonstrated an integration of site restoration proposals with adjacent quarry lands. There was also a satisfactory examination of potential in-combination effects. The applicant's conclusions are therefore considered to be reliable and clearly demonstrated. The Board, therefore, adopted the revised

Appropriate Assessment Screening report and was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European Site in view of the site's conservation objectives.

In relation to the question of environmental impact, taking into consideration the planning history, it is considered that this minor extension to a substantial authorised quarry did not trigger any requirement for an Environmental Impact Assessment. This conclusion is consistent with the findings of the planning authority in its 'section 261A' analysis of the quarry operations in the area. The Board accepted that the inconsistency between the area outlined in section 261A mapping and the area submitted for the subject application site related to mapping differences, and was not material.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the concerns identified by the Inspector had been addressed in a satisfactory manner in the further information submitted to the Board, which enabled a holistic consideration of the site, including in relation to cumulative impacts. As set out above, the Board considered that a minor extension to this authorised quarry was acceptable in principle, that the applicant had furnished satisfactory information in relation to potential impacts on the environment and on European Sites to enable a thorough assessment by the Board, and that a grant of permission did not offend the need to protect the environment and the amenities of the area, nor did it offend any European directives.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23rd day of January, 2015 and as amended by the further plans and particulars received by An Bord Pleanála on the 22nd day of December, 2015, 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 in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The use of the site as a quarry shall cease within two years from the date of this Order, unless a further grant of planning permission shall have been obtained within that period.

Reason: In the interest of orderly development.

3. The depth of excavation shall not go below 56m OD as per the applicant's submission received by An Bord Pleanála on the 22nd day of December, 2015. A benchmark shall be constructed on site to enable ongoing monitoring of the excavation depth.

Reason: In the interest of clarity and groundwater protection.

4. The revised restoration plan drawing number ABP02 received by An Bord Pleanála on the 22nd day of December, 2015, shall be completed within fifty four months of the date of this Order.

Reason: In the interest of the amenities of the area and of orderly development.

5. The existing septic tank shall be upgraded to a wastewater treatment system and percolation area generally in accordance with the submission received by An Bord Pleanála on the 22nd day of December, 2015. All work shall be supervised and certified by a qualified and indemnified engineer. A completion certificate shall be submitted to the planning authority upon installation and commission of the wastewater treatment system and percolation area. Photographic evidence of each stage of the works shall be included in the completion certificate submission.

Reason: In the interest of public health.

6. During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-

- (a) An L_{Aeq} value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be one hour.

- (b) An L_{Aeq} value of 45 dB(A) during the period 2000 to 0800 hours. The T value shall be 15 minutes.

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

7. The quarry, its associated machinery and truck loading activities shall operate only between 0800 hours and 1800 hours, Monday to Friday, and 0800 hours and 1400 hours on Saturdays. There shall be no quarry operations or associated activities (such as truck loading activities) on Sundays or public holidays.

Reason: To protect residential amenities of the area.

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.

8. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. 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, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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.

9. 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, as amended. 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 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.

10. Prior to commencement of development, 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 completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, 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.

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

Dated this day of 2016.