

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Cork County**

**Planning Register Reference Number: 14/00616**

An Bord Pleanála Reference Number: PL 88.245174

**APPEAL** by Patrick and Alice Hayes care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Smithfield, Dublin and by An Taisce of The Tailors' Hall, Back Lane, Dublin and by Murray Brothers Tarmacadam Limited care of McCutcheon Halley Walsh of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 26<sup>th</sup> day of June, 2015 by Cork County Council to grant subject to conditions a permission to the said Murray Brothers Tarmacadam Limited in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Development consisting of the quarrying of stone, with an extraction area of approximately 6 hectares and to a ground (quarry floor) level of 77 metres over datum (MOD) and all associated site works at Ardcahan (townland), Dunmanway, County Cork.

## 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

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

- (a) the Environmental Impact Statement prepared for the application,
- (b) the Natura Impact Statement prepared for the application,
- (c) the character and nature of the application site,
- (d) the location, scale and form of the existing and proposed development,
- (e) the proposed means to control and mitigate emissions arising from the development,
- (f) the policies of the planning authority in respect of extractive industry, landscape character and heritage,
- (g) the planning history of the site, including that the existing quarry has been deemed, by virtue of section 261(10) of the Planning and Development Act, 2000, as amended, to comprise unauthorised development by reason of the failure to register under section 261 of the 2000 Acts as amended, that an enforcement notice has been served by the planning authority and that the planning authority is satisfied that the enforcement notice has been complied with,
- (h) the fact the application is not prohibited under section 34(12) of the Planning and Development Act, 2000, as amended,
- (i) the pattern of development in the vicinity, and

- (j) the report of the Inspector.

#### *Appropriate Assessment*

Having regard to the nature, scale and extent of the proposed development, the Natura impact statement submitted to the planning authority as amended by further information and the mitigation measures contained therein, the submissions on file and the Inspector's assessment, the Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment and completed an appropriate assessment of the impacts of the proposed development on a nearby Natura 2000 site, specifically the Bandon River Special Area of Conservation (Site Code 002171). In completing the Appropriate Assessment, the Board accepted and adopted the Inspector's Report in relation to Appropriate Assessment with respect to the potential effects of the proposed development on the aforementioned Natura site, in view of the site's conservation objectives.

The Board was satisfied that, subject to the implementation of the identified mitigation measures and on the basis of the information available, the proposed development, either individually or in combination with other plans or projects, will not adversely affect the integrity of any Natura site, in view of the conservation objectives of those sites.

#### *Environmental Impact Assessment*

The Board considered that the Environmental Impact Statement submitted with the application, supported by the further information submitted to the planning authority, 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 his assessment of the likely significant effects of the proposed development, and generally agreed with his conclusions on the acceptability of the mitigation measures proposed and residual effects. The Board generally adopted the report of the Inspector. The Board concluded that, subject to the implementation of the mitigation measures proposed, the proposed development would not be likely to have significant effects on the environment.

## Conclusions

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health or would not pose an unacceptable risk of environmental pollution. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 10<sup>th</sup> day of March 2015 and the 15<sup>th</sup> day of May, 2015 and by unsolicited further information submitted on the 5<sup>th</sup> day of June, 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 and completed in accordance with the agreed particulars.

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

2. The duration of the permission shall be for 15 years from the date of this order and quarry output shall not exceed 150,000 tonnes of stone annually.

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

3. The quarry shall operate between the hours of 0730 and 1730 hours, Monday to Friday, between 0730 to 1400 hours on Saturday. No activity shall take place outside these hours or on Sundays or public holidays.

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

4. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Statement, Natura impact statement and other particulars submitted with the application and as amended by the further plans and particulars submitted on the 10<sup>th</sup> day of March 2015 and the 15<sup>th</sup> day of May, 2015 and the unsolicited further information submitted to the planning authority on the 5<sup>th</sup> day of June, 2015 shall be implemented in conjunction with the timelines set out in the foregoing, except as may otherwise be required in order to comply with the conditions attached to this permission.

**Reason:** In the interest of clarity and the protection of the environment during the construction and operational phases of the proposed development.

5. The proposed operational and restoration plans shall be amended to incorporate stepped or sloping edges to the proposed excavated areas in Phase 1 and Phase 3 as shown in drawing number L100 submitted as further information to the planning authority on the 10<sup>th</sup> day of March 2015. Appropriate documents and drawings suitably amended to incorporate this change shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public safety, visual amenity and ecological protection.

6. (a) During the operational phase of the proposed development, the noise level from within the boundaries of the site as measured at the nearest noise sensitive location shall not exceed:-
- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be [one hour.]
  - (ii) An LAeqT value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.

[At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.]

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1 and 2 "Description and Measurement of Environmental Noise" as applicable.

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

- 7. (a) Blasting operations shall take place only between 1000 hours and 1600 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 interest of public safety and residential amenity.

- 8. Lighting shall be in accordance with a scheme, which shall be designed to minimize glare and light pollution, and details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

9. Dust deposition levels during the operation of the quarry shall not exceed 350 milligrams per square metre per day when measured at the site boundaries and averaged over 30 days. Monitoring of dust deposition shall be carried out in accordance with the requirements of the planning authority.

**Reason:** To protect the residential amenities of the area.

10. (a) Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- (b) The penstock weir required to control water flow to Pond I and associated works shall be installed prior to the commencement of development and in accordance with the specifications set out in documentation submitted as further information to the planning authority on the 10<sup>th</sup> day of March 2015.

**Reason:** In the interest of public health, to ensure a proper standard of development and in order to protect the Bandon River Special Area of Conservation (Site Code 002171).

11. Within three months from the date of this order and prior to the commencement of development, the developer shall submit to the planning authority for written agreement a proposal for an Environmental Management System (EMS) for the facility. The Environmental Management System shall include the following: -
- (a) proposals for refuelling of plant/machinery including emergency action in the event of accidental spillage,
- (b) monitoring of ground water,
- (c) monitoring of dust and or noise at the application site boundaries,
- (d) full details of site manager, contact numbers (including out of hours) and public information signs on the entrance to the facility.

- (e) details of the implementation of all mitigation measures set out in the Environmental Impact Statement and Natura Impact Statement accompanying the planning application for the development, as amended by the further information submitted on the 10<sup>th</sup> day of March 2015 and the 15<sup>th</sup> day of May, 2015, and
- (f) monitoring and frequencies reports shall be in accordance with the requirements of the planning authority. An Annual Environmental Report showing detailed results of all monitoring shall be submitted to the planning authority each year.

**Reason:** In the interest of orderly development, public safety and to safeguard local amenities.

12. Storage tanks shall be inspected by a chartered engineer and certified as structurally sound for the purpose they were intended and at five year intervals thereafter.

**Reason:** In the interest of public health and to prevent water pollution.

13. Prior to commencement of development, a landscaping scheme shall be submitted to, and agreed in writing with, the planning authority. This scheme shall include details of all existing trees and hedgerows on the site, specifying those proposed for retention, together with measures for their protection during the period in which the development is carried out. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.

**Reason:** In the interest of visual amenity and protecting residential amenities.

14. Archaeological Monitoring shall consist of the following:

- (a) the Developer shall engage the services of a suitably qualified Archaeologist licensed under the National Monuments (Amendment) Acts, 1930 – 2004, to monitor all topsoil stripping associated with the development,



- (b) should archaeological material be found during the course of monitoring, the Archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the planning authority with regard to any necessary mitigating action (for example, preservation in situ, and/or excavation). The developer shall facilitate the archaeologist in recording any material found, and
- (c) a report describing the results of the monitoring shall be submitted to the planning authority.

**Reason:** To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

15. Habitat improvement works to the wetland area in the south west of the site shall be completed in accordance with a detailed plan which shall be submitted to, and agreed in writing with, the planning authority. These works shall be completed prior to the commencement of quarrying.

**Reason:** In the interests of ensuring the protection of the River Bandon Special Area of Conservation (Site Code 002171).

16. Within three months from the date of grant 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 satisfactory completion and the associated on-going continued maintenance of the closed-out quarry, coupled with an agreement empowering the planning authority to apply such security or part thereof for the satisfactory rehabilitation, closure or maintenance 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. The amount of the fund shall, at all times, be sufficient to meet the costs of rehabilitation of all works and the subsequent on-going maintenance of the property to the satisfaction of the planning authority.

**Reason:** To ensure the satisfactory completion and the continued ongoing maintenance of the development.

17. The developer shall pay the sum of €147,760 (one hundred and forty-seven thousand, seven hundred and sixty euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended, in respect of works proposed to be carried out, for the provision of road improvements and maintenance, specifically overlay works for the Local Road L4621-9 and works at the junction with regional road R587. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

**Dated this                      day of                      2016.**