

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Cork County

Planning Register Reference Number: 15/4371

An Bord Pleanála Reference Number: PL 04.245998

APPEAL by the Residents of Ballinabointra and Ballyvodock West care of Dee Byrne of Bydon, Ballyvodock West, Midleton, County Cork against the decision made on the 9th day of December, 2015 by Cork County Council to grant subject to conditions a permission to Healy Investments Limited care of Murphy McCarthy of Eastpark House, Marina Commercial Park, Centre Park Road, Cork in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Extension of the existing limestone quarry including a new entrance, septic tank and percolation area, prefabricated office building, wheel wash, and associated site works at Ballynabointra, Milebush, Carrigtwohill, 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 Appropriate Assessment Screening report 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 pattern of development in the vicinity, and
- (h) the report of the Inspector.

Appropriate Assessment Screening

The Board carried out a screening exercise in relation to potential impacts on nearby European sites, specifically the Great Island Channel Special Area of Conservation (Site Code 001058) and the Cork Harbour Special Protection Area (Site Code 004030), and having regard to the nature and scale of the proposed development, the nature of the receiving environment, the screening report submitted, the submissions on file and the report of the Inspector which the Board has adopted in relation to Appropriate Assessment, the Board concluded that, on the basis of the information available, the proposed development would not be likely to have a significant effect on any European site, either individually or in combination with other plans and projects in view of the site's conservation objectives.

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, indirect and cumulative 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 and would not pose an unacceptable risk of environmental pollution. The proposed development would, therefore, be in accord 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 15th day of October, 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 five years from the date of this order and quarry output shall not exceed 200,000 tonnes of stone annually. The development of the quarry shall be in accordance with “Scenario 1” option presented in the application documents.

Reason: In the interest of clarity and orderly development.

3. No excavation, blasting or any other works within the site shall take place within one metre of the groundwater table and in any case no lower than 5.8 metres AOD.

The level of the groundwater table is to be agreed in writing with the planning authority following two years of independent monitoring.

Reason: In the interest of the protection of groundwater resources.

4. The quarry shall be operated between the hours of 0700 and 1800 hours, Monday to Friday, between 0700 to 1400 hours on Saturday and at no time on Sundays or bank holidays or other public holidays.

Reason: In the interest of residential amenity.

5. All of the environmental, construction and ecological mitigation measures associated with Scenario 1 set out in the Environmental Impact Statement and other particulars submitted with the application and as amended in the further information submitted by the developer shall be implemented in conjunction timelines set out in the foregoing, except as may otherwise be required in order to comply with this order.

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

6. (a) The buffer zone to the northwestern boundary of the site shall be increased to 20 metres.
- (b) The proposed excavated areas shall incorporate stepped or sloping edges.

Prior to commencement of development, a revised extraction plan and associated drawings shall be submitted to and agreed in writing with the planning authority making provision for the above changes.

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

7. The developer shall complete all works in the vicinity of the gas transmission pipeline in full accordance with the “2011 Code of Practice on Safety Advice for Working in the Vicinity of Natural Gas Pipelines”, published by Gas Networks Ireland.

Reason: In the interest of protecting nearby gas transmission pipeline.

8. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location or at any point along the boundary of the site 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.

- 9. (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 interests of public safety and residential amenity.

- 10. Lighting shall be in accordance with a scheme, which shall be designed to minimize glare and light pollution. Details in this regard 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.

- 11. Dust deposition levels during the operation of the quarry shall not exceed 350 mg/m²/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.

12. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

Reason: In the interest of public health.

13. 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.

Reason: In the interest of public health and to ensure a proper standard of development.

14. 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 accompanying the planning application for the development, as amended by the further information submitted to the planning authority on the 15th day of October, 2015.

- (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.

15. 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.

16. Prior to commencement of development, a landscaping scheme shall be submitted to the planning authority for written agreement. The scheme shall include for the planting of two rows of hawthorn/blackthorn/holly hedging along the new road boundary; it shall provide 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.

17. 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 local authority with regard to any necessary mitigating action (that is, preservation in situ, and/or excavation). The developer

shall facilitate the archaeologist in recording any material found.

- (c) The planning authority shall be furnished with a report describing the results of the monitoring.

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

- 18. Japanese knotweed shall be treated in situ with a suitable chemical prior to its removal and burial within the site in accordance with the procedures submitted in the further information response. The developer shall submit a site layout to the planning authority for its agreement prior to its removal for burial identifying the location of the burial of the material onsite. The developer shall erect signs on this area to indicate that Japanese Knotweed is buried there to ensure that this area is not disturbed.

Reason: To prevent the spread of invasive species.

- 19. Within three months of the date 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 the Board 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.

20. 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 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.

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

Dated this day of 2016.