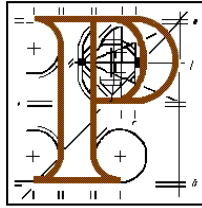


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kerry County

Planning Register Reference Number: 15/524 (Listowel)

An Bord Pleanála Reference Number: PL 08.246268

APPEAL by Brendan McGrath and Associates of Riverstown Cottage, Corrofin, County Clare of behalf of the Concerned Residents of Tullahennel care of Anthony Dowd against the decision made on the 12th day of February, 2016 by Kerry County Council to grant subject to conditions a permission to Karol Kissane care of JOAM Consulting of Harbour View, Cromane, Killorglin, County Kerry in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: (as revised by further public notices received by the planning authority on the 18th day of January, 2016). A 10 year permission to develop a borrow pit/repository and improve existing access track to adjoining property, all at Tullahennell South, Ballylongford, County Kerry.

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 extent of the proposed development and the pattern of development and recent planning decisions in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or depreciate the value of property in the vicinity and would, otherwise, be in accordance with the proper planning and sustainable development of the area.

The Board completed a screening exercise, taking into account the screening report submitted with the application and the Inspector's report and submissions on file, in relation to potential impacts of the site having regard to the nature and scale of the proposed development and characteristics of nearby European sites including the Lower River Shannon Special Area of Conservation (Site Code 002165) and the River Shannon and Fergus Estuaries Special Protection Area (Site Code 004077). The Board agreed with the Inspector and adapted his report and concluded that no Appropriate Assessment issues arise and the Board concluded on the basis of the information available that the application for consent for proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on a European site and in particular the Lower River Shannon Special Area of Conservation (Site Code 002165) and the River Shannon and Fergus Estuaries Special Protection Area (Site Code 004077).

The Board also had regard to the addendum report of the Inspector completed on the 9th day of August 2016 and carried out a screening exercise in relation to Environmental Impact Assessment that had regard to the nature and scale of the proposed development and the thresholds and criteria set out in Schedules 5 and 7 of the Planning and Development Regulations 2000- 2011. The Board agreed with the Inspector and concluded that the proposed development would not be likely to have significant effects on the environment, either individually or in combination with other plans or projects. 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 11th day of December, 2015 and the 18th day of January, 2016, 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. This permission shall expire upon the expiration of the planning permission for the wind farm (planning register reference number 09/1175) which the borrow pit is intended to serve. Material extracted shall be used only in the construction of internal roads and hardstanding for the wind farm. No aggregate shall be hauled out onto the public road to the north-west of the site.

Reason: In the interest of orderly development and to limit the extent of the development to that set out in the planning application documentation or other suitable spoil.

3. Within 24 months of commencement of development, all extraction of aggregate shall cease. The quarry site shall be remediated with peat from the adjoining wind farm development site only. No other materials shall be imported into the worked-out borrow pit. The ground contours shall be restored to what exists at present.

Reason: In the interest of orderly development and residential amenity.

4. All environmental and ecological mitigation measures outlined in documentation submitted to the planning authority on the 19th day of June 2015, the 11th day of December 2015, and the 18th day of January 2016, shall be implemented in full. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:
- (a) Proposals for the suppression of on-site noise.
 - (b) Proposals for the on-going monitoring of sound emissions at dwellings in the vicinity.
 - (c) Proposals for the suppression of dust on site and on the haul route.
 - (d) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage.
 - (e) Monitoring of ground and surface water quality, levels and discharges.
 - (f) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

Reason: In order to safeguard local amenities.

5. No blasting or crushing of stone shall be carried out within the borrow pit.

Reason: In the interest of residential amenity having regard to the proximity of nearby houses.

6. The treatment of excess rainwater groundwater ingress to the borrow pit shall be as outlined in the 'Hydrological and Hydrogeological Risk Assessment Report' submitted to the planning authority on the 11th day of December, 2015. No extraction of aggregate shall take place until such time as all the mitigation measures outlined in this Report are in place.

Reason: To protect the quality of groundwater and surface water in the area.

7. The borrow pit and all activities occurring therein, shall only operate between 0700 and 1800 hours, Monday to Friday, and between 0700 and 1400 hours on Saturdays. No activity shall take place outside these hours or 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 residential amenities of property in the vicinity.

8. The earth bank and hedgerow on the north-western boundary of the borrow pit shall be retained in its entirety, and shall be fenced-off during the operation of the borrow pit to prevent damage by heavy machinery.

Reason: To help screen the borrow pit from view in the interest of visual amenity and to help control fugitive dust emissions in the interest of residential amenity.

9. 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-

- (a) an $L_{A,T}$ value of 55 dB(A) during 0700 to 1800 hours. The T value shall be one hour.
- (b) an $L_{Aeq,T}$ value of 45 dB(A) at any other time. The T value shall be 15 minutes.

Reason: In order to protect the residential amenities 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 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. The developer shall facilitate the archaeological monitoring of topsoil stripping within the borrow pit 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the 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 site and to secure the preservation and protection of any remains that may exist within the site.

12. Prior to 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 An Bord Pleanála for determination.

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

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

Dated this day of 2016.