

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Donegal County

Planning Register Reference Number: 15/50132

An Bord Pleanála Reference Number: PL 05E.246791

APPEAL by An Taisce of Tailors' Hall, Back Lane, Dublin against the decision made on the 26th day of May, 2016 by Donegal County Council to grant subject to conditions a permission to Moyle Plant Limited care of Canavan Associates Limited of 23 Prince's Street, Derry, Northern Ireland in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: A 20 year planning permission for development consisting of the continuation of sand and gravel extraction and rock quarrying together with all ancillary facilities and associated works as detailed in the particulars of the application. This development was recently granted substitute consent by An Bord Pleanála reference number 05E.SU.0042, all at site at Fawnmore Townland, Falcarragh, County Donegal

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 coming to its decision, the Board had regard to:

- (a) the provisions of the “Quarries and Ancillary Activities Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2004,
- (b) the policies set out in the Donegal County Development Plan 2012-2018 relating to the extractive industry, in particular policies EX-P-1,
- (c) the location of the site within an area that is not designated for the protection of the landscape or natural heritage,
- (d) the pattern of development in the area and the location of the proposed development relative to dwellings,
- (e) the range of mitigation measures set out in the documentation received, including the Environmental Impact Statement, Natura impact statement and further information submitted to the planning authority,
- (f) the planning history of the site and surrounds,
- (g) the submissions made in connection with the planning application and the appeal, and
- (h) the report of the Inspector.

Appropriate Assessment

The Board considered the Natura impact statement submitted and all other relevant submissions, including from appellant and observers, and carried out an appropriate assessment of the implications of the proposed development for this European site in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the assessment the Board considered, in particular:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects in the area,
- (ii) the mitigation measures which are included as part of the current proposal,
- (iii) the conservation objectives for the European site set out above, and
- (iv) the view of the Department of Arts, Heritage and the Gaeltacht.

In completing the Appropriate Assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development either individually or in combination with other plans or projects would not adversely affect the integrity of the European site in view of the site's conservation objectives.

Environmental Impact Assessment

The Board considered 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, including the appellant and observers. The Board considered that this information 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's assessment of the likely significant effects of the proposed development, and agreed with the Inspector's 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 effects of the proposed development on the environment would be acceptable.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the character of the area, would not seriously injure the amenities of property in the vicinity, would not have unacceptable impacts on ecology, water quality or the landscape and would be acceptable in terms of traffic safety and convenience. 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 27th day of July, 2015 and the 27th day of November, 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. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Statement, the Natura Impact Statement and other particulars submitted with the application and as amended by the further information submitted to the planning authority shall be implemented by the developer in conjunction with the timelines set out in the foregoing, except as may be otherwise required in order to comply with the conditions attached to this order.

Reason: In the interest of the protection of the environment during the operation of the development.

3. This permission authorises the quarrying of material from the site for 20 years from the date of this order. The site shall be fully restored within two years of the latter date in accordance with the quarry restoration and landscaping plans submitted to the planning authority on the 27th day of July, 2015 unless a further grant of planning permission has been made for continued operation. Implementation stage details of restoration plans for the entire quarry shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

4. The total output from the quarry herein authorised, measured cumulatively with the output from any other works on the landholding outlined in blue on the site location map submitted with the application, shall not exceed 60,000 tonnes per annum. Records shall be kept of all material exported from the site and shall be submitted to the planning authority every two years.

Reason: In the interest of clarity.

5. The works authorised by this permission shall proceed on the site in accordance with the Extraction Management Plan submitted to the planning authority on the 27th day of November, 2015. Excavations shall not occur below a level of 30.5 metres OD.

Prior to the commencement of development, a benchmark shall be established on site as a reference point from which all levels shall be taken. Details of the location and construction of the benchmark to be referenced to Ordnance Datum shall be agreed in writing with the planning authority. A topographical survey of the site shall be submitted to the planning authority at least once every two years.

Reason: In the interest of orderly development.

6. Water abstraction from the tributary of the Ray River that runs along the southern boundary of the site shall not exceed 3,000 cubic metres in any one year or 25% of the flow of the tributary at the time of abstraction.

Reason: To protect the quality of waters, in the interest of environmental protection.

7. Operating hours for the development shall be restricted to between 0800 hours and 1800, Monday to Friday and between 0800 and 1600 hours on Saturday. The facility shall not operate outside these hours or on Sundays or Public Holidays.

Reason: To protect the residential amenity of the area.

8. Details of all blasting, including blast design and implementation and the hours during which blasting will be permitted shall be agreed in writing with the planning authority at least one month prior to the commencement of development. Blasting shall take place between 1000 and 1600 hours, Monday to Friday only. The frequency of the blasting operation on the entire landholding outlined in blue on the site location map submitted with the application shall be limited to not more one a month, unless the prior written agreement of the planning authority has been given. Monitoring of the noise and vibration arising from the blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the planning authority.

Prior to the firing of any blast, the developer shall give notice of its intention to occupiers of all dwellings within 500 metres of the site. An audible alarm for a minimum period of one minute shall be sounded. The alarm should be of sufficient power to be heard at all dwellings adjacent to the quarry.

Reason: In the interest of residential amenity.

9. The vibration levels from blasting operations shall not exceed a peak particle velocity of 12 millimetres per second when measured at any three mutually orthogonal directions. The air over-pressure from any blast will not exceed a value of 125 dB(lin) maximum peak. Details of a system to monitor blasting shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. During the operational phase of the proposed development, the noise level from within the boundaries of the site as measured at the noise sensitive locations in the vicinity identified in the Environmental Impact Statement, shall not exceed:

(a) an Leq,1h value of 55 dB(A) during 0800 to 1800 hours,.

- (b) an Leq, 15 min value of 45 dB(A) at any other time. Night time emissions shall have no tonal component.

Reason: In order to protect the residential amenities of property in the vicinity.

- 11. (a) 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.
- (b) A monthly survey and monitoring programme of dust and particulate emissions shall be undertaken to provide for compliance with these limits. Details of this programme, including the location of dust monitoring stations, and details of dust suppression measures to be carried out within the entire quarry complex, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall include an annual review of all dust monitoring data, to 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 control dust emissions arising from the development and in the interest of the amenity of the area.

- 12. (a) The wheels of all vehicles transporting aggregate from the site onto the public road shall, prior to the exit of such vehicles onto the public road, be washed in a wheelwashing facility, which shall be located a minimum distance of 30 metres from the public road and shall be constructed to the written satisfaction of the planning authority.

- (b) The entrance/access road shall be surfaced using bitumen macadam material or other materials acceptable to the planning authority, between the public road and the wheelwash.
- (c) In dry weather conditions, all roads within the site and the active working face shall be sprayed with water at least three times a day.

Reason: In the interest of traffic safety and convenience, and to protect the amenities of the area.

13. All over-ground tanks containing liquids other than water shall be contained in a waterproof bunded area, which shall be of sufficient volume to hold 110 per cent of the volume of the tanks within the bund. All water contaminated with hydrocarbons, including stormwater shall be discharged via a grit trap and oil interceptor with sump.

Reason: In the interest of orderly development.

14. Prior to the commencement of development, a drainage management plan incorporating a monitoring programme relating to control and management of water on site shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of public health.

15. The proposed treatment and disposal system for domestic effluent shall be in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health.

16. Prior to the commencement of development, a stock-proof security fence shall be erected around the entire perimeter of the site.

Reason: In the interest of public safety.

17. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
- (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.

18. 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 restoration and making safe 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.

19. 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.