

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Clare County

**Planning Register Reference Number: P15/734**

An Bord Pleanála Reference Number: PL 03.247004

**APPEAL** by Paul McCann, Statutory Receiver of Whelans Limestone Quarries Limited care of Grant Thornton of 24-26 City Quay, Dublin against the decision made on the 7<sup>th</sup> day of July, 2016 by Clare County Council to grant subject to conditions a permission to Tullagower Quarries Limited care of Jackie Whelan of Tullagower, Kilrush, County Clare in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Extension of the existing quarry at the site, to quarry 0.95 hectares of land for stone extraction within a 2.34 hectares area of the site. These lands are within the existing landholding of Tullagower Quarries Limited. The site area includes the provision of area for spoil storage and establishment of appropriate boundary buffer areas, located in the townland of Tullagower, Kilrush, County Clare.

## 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 established use for quarrying activity on part of the lands and to the pattern of development in the vicinity, 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 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.

### Appropriate Assessment

The Board carried out a screening exercise in relation to potential impacts on nearby European sites, specifically the Lower River Shannon Special Area of Conservation (Site Code 002165), 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, the Board concluded that, on the basis of the information available, 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.

### Environmental Impact Assessment

The Board noted the planning authority had screened the proposed development in relation to environmental impact assessment and concluded that no significant adverse effects on the environment would occur. The Board noted and adopted the Inspector's screening which also concluded that an Environmental Impact Statement was not required as the development proposed, is of a class specified in Schedule 5 of the Planning and Development Regulations, 2001, as amended, and is sub-threshold. Having regard to criteria for determining whether a development would or would not be likely to have significant effects on the environment (Schedule 7 of the Regulations refers), the Board concurred with the Planning Inspector that the proposed development would not be likely to have significant effects on the environment and accordingly an Environmental Impact Statement is not required.

## 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 10th day of June 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 be for a period of 10 years from the date of this order. The quarry use shall then cease, with all related structures removed and remedial works including reinstatement works to be carried out to the satisfaction of the planning authority, unless prior to the end of that period, planning permission shall have been granted for the continuance of the use and retention of the structures for a further specified period.

**Reason:** To allow for a review of the development having regard to the circumstances then pertaining and the proper planning and sustainable development of the area.

3.
  - (a) The proposed extraction area shall be relocated eastwards a distance of no less than 20 metres from the western boundary, to provide a buffer of minimum 20 metres width between the proposed quarry extension and the existing quarry to the west.
  - (b) All faces shall be stepped such that no face is more than 10 metres high. Steps shall be a minimum 5 metres wide.
  - (c) No excavation shall take place below 57 metres Ordance Datum.

**Reason:** In the interest of protecting existing land uses in the area and the groundwater resources of the area and in the interest of orderly development.

4. Within one month of the date of this order, details of safety measures for the quarry perimeter, to include stock proof fencing and warning signs, shall be submitted for the written agreement of the planning authority and shall be implemented in full prior to the commencement of development.

**Reason:** In the interest of public safety.

5. 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.

6. The quarry and all activities occurring therein, with the exception of blasting operations, shall only operate between 0800 hours and 1800 hours Monday to Friday and between 0800 and 1600 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.

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

7. (a) Blasting operations shall take place only between 1000 hours and 1700 hours Monday to Friday and shall not take place on Saturdays, Sundays or public holidays. Monitoring of the noise and vibration resulting 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. (a) Vibration levels from blasting shall not exceed a peak particle velocity of 12mm/second, when measured in any three mutually orthogonal directions at any sensitive location.
- (b) Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 d B (Lin) max peak with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 d B (Lin).
- (c) A monitoring programme, which shall include an annual review, shall be developed to assess the impact of quarry blasts. Details of this programme shall be submitted to, and agreed in writing with, the planning authority. The programme shall 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 protect the residential amenity of property in the vicinity.

9. Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day, averaged over a continuous period of 30 days. Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority within two months of the date of this order. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures. 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 in the interest of the amenities of the area.

10. During the operational phase of the development, the noise levels from within the boundaries of the site, measured at noise sensitive locations in the vicinity, shall not exceed the following:
- (a) An  $L_{AeqT}$  value of 55 d B(A) during the period 0800 hours to 1800 hours Monday to Friday inclusive and 0800 to 1600 hours on Saturday. The T value shall be one hour.
  - (b) An  $L_{AeqT}$  value of 45 d B(A) at any other time. The T value shall be 15 minutes. Night time emissions shall have no tonal component.

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

11. A comprehensive plan for the restoration of the entire quarry following the cessation of quarrying works shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include proposals for re-use of the quarry and measures to ensure public safety therein. The developer shall commence implementation of the agreed site restoration plan within the area of the site within one month of cessation of extraction in this area and shall have completed this part of the plan within 12 months of commencement.

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

12. A wheel-wash facility shall be provided adjacent to the site exit, the location 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 traffic safety and convenience, and to protect the amenities of the area.

13. 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.

14. 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.

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

**Dated this            day of            2017.**