

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Kilkenny County

Planning Register Reference Number: 16/41

An Bord Pleanála Reference Number: PL 10.247592

APPEAL by Denis, Breda, Richard, and James Deasy and others care of Peter Thomson Planning Solutions of Suite 1 Burchall House, Parnell Street, Waterford and by others against the decision made on the 24th day of October, 2016 by Kilkenny County Council to grant subject to conditions a permission to Shay Malone and Jim Meaney care of Williams Planning and Environmental Limited of Saint Roch, Windmill Hill, Rathcoole, County Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Development consisting of retention of an existing quarry with an extraction area of approximately 1.20 hectares, a lateral extension to the quarry with a proposed extraction area of 0.80 hectares, processing of the extracted rock using mobile crushing and screening equipment, sale off-site of the processed aggregate, installation of wheel cleaning system, all ancillary operations, the amount of material to be extracted is approximately 200,000 tonnes in total and permission is sought for a period of 15 years, all within an application area of circa 2.9 hectares at Castlegannon, Ballyhale, County Kilkenny. The proposed development was revised by further public notices received by the planning authority on the 28th day of September, 2016.

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 development to be retained, to the scale and resource-based nature of the development within an existing quarry, to the planning history of the site including QY25 and QR085, to the strategic role of mineral extraction as set out in national guidelines, and to the provisions of the Kilkenny County Development Plan 2014-2020 in respect of the extractive industry, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, would not give rise to risk of pollution, would not detract from the natural or cultural heritage of the area, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board considered the nature, scale and location of the proposed development, the documentation and further information on file, the submissions made, the context of the existing quarry on this site, its planning and development history, the significant hydrological distance to the River Barrow and River Nore Special Area of Conservation (Site Code 002162), the poor potential for connectivity to other European Sites, and the report of the Inspector. The Board undertook an Appropriate Assessment screening exercise, and concluded that the proposed development, either by itself or in combination with other plans or projects, would not be likely to have significant effect on any European Site, in view of the site's conservation objectives.

Environmental Impact Assessment Screening

The Board noted the planning authority has screened the proposed development in relation to environmental impact assessment and concluded that an Environmental Impact Statement was not required. The Board noted and adopted the Inspector's screening which also concluded that the 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 the 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 retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 28th day of September 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 and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission shall be for a period of 15 years from the date of this Order, unless otherwise authorised by a further grant of planning permission. Prior to the end of that period, the quarrying equipment and related ancillary structures shall be removed. The restoration plan shall be completed to the satisfaction of the planning authority within two years of the closure of the quarry.

Reason: To enable the planning authority to review the operation of the quarry in the light of the circumstances then prevailing.

3. All environmental mitigation measures set out in the Planning and Environmental report and associated documentation submitted by the applicant shall be implemented in full, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of protection of the environment.

4. Within three months of the date of this order, the developer shall submit to and agree in writing with the planning authority, a proposal for an environmental management system in respect of the proposed development, incorporating provisions for the water, noise, dust and vibration monitoring measures required under the conditions of this permission generally, and for the following:-

- (a) details of safety measures for perimeter of the quarry, to include warning signs and stock-proof fencing, which shall be implemented to the written satisfaction of the planning authority within three months of the date of this Order,
- (b) management of all buffer areas on the perimeter of the site,
- (c) monitoring of ground and surface water quality,
- (d) a complaints management procedure,
- (e) details of the operation of the wheel wash,
- (f) details of the site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility, and
- (g) associated procedures for reporting to the planning authority.

Reason: In the interests of orderly development and of the amenities of the area.

5. The operation of the quarry, and all activities occurring therein, including loading and deliveries, shall be restricted to between 0700 hours and 1900 hours on Monday to Friday, and between 0700 hours and 1300 hours on Saturdays. No operations shall take place outside these hours or on Sundays or public holidays.

Reason: In the interests of the amenities of residential property in the vicinity and of clarity.

6. (1) The noise levels generated during the operation of the quarry, including all ancillary activities within this site, shall not exceed 55 dB(A) LAeq when measured at the nearest occupied house, in accordance with noise monitoring procedures to be submitted to, and agreed in writing with, the planning authority within three months of the date of this order. These details shall include monitoring locations, the frequency of monitoring, and details of all noise suppression measures.
- (2) All noise measurement shall be carried out in accordance with the provisions of ISO 1996:2007: Acoustics – Description, Measurement and Assessment of Environmental Noise.

Reason: In the interest of the amenities of residential property in the vicinity.

7. In the event of blasting operations occurring on the site, blasting and drilling operations shall only take place between 1000 hours and 1630 hours on Monday to Friday, and shall not take place at other times. Monitoring of the noise and vibration arising from blasting, and the frequency of such blasting, shall be carried out by an independent contractor in accordance with details that shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this order.

Prior to the firing of any blast, the developer shall give a minimum of 24 hours' notice of this intention to the occupiers of 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 dwellings adjacent to the quarry.

Reason: In the interests of public safety, residential amenity and of clarity.

8. Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres per second when measured in any three mutually orthogonal directions, where blasting occurs no more than once in seven continuous days. Where blasting operations are more frequent, the peak particle velocity limit shall not exceed eight millimetres per second. The air overpressure from any blast shall not exceed a value of 125 dB (Lin) max peak within a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin).

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

9. Total dust emissions arising from the on-site operations shall not exceed 350mg/m²/day averaged over a continuous period of 30 days (Bergerhoff gauge), when measured as a deposition of insoluble and soluble particulate matter. Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this order. These details shall include monitoring locations, the frequency of monitoring, and details of all dust suppression measures.

Reason: To protect the amenities of the area.

10. The water management system shall be operated in accordance with the requirements of the planning authority.

Reason: In the interests of orderly development and to control water quality.

11. Fuel supplies and other services on-site shall be used only to service vehicles and machinery directly involved in the extraction of aggregate within the development site, the product of that aggregate on site, and the transport of those materials and products. Drip trays shall be used for all re-fuelling.

Reason: In the interest of orderly development

12. A plan containing details for the management of waste and recyclable materials within the quarry, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials, for scrap metals in particular, and for the ongoing operation of these facilities, shall be submitted to, and agreed in writing with, the planning authority with three months of the date of this order. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and recyclable materials, in the interests of protecting the environment and of orderly development.

13. The site closure plan including the timescale of implementation shall be agreed with the planning authority within three months of the date of this order.

Reason: To ensure the satisfactory reinstatement and rehabilitation of the site.

14. The developer shall keep a record on site for inspection of the weights of all loads leaving the site, and a record of the vehicle on which the load was contained.

Reason: In the interest of traffic safety and to ensure that excessive loads are not carried on public roads.

15. The entrance to the site from the public road shall be upgraded, the realignment of the internal access road, the associated berm along the side of the access road and the surfacing of the road shall be carried out in accordance with the details submitted and carried out to the satisfaction of the planning authority within three months from the date of this order.

Reason: In the interest of traffic safety.

16. Within six 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 reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the site. The form and amount of the security shall be 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 reinstatement of the site, in the interest of visual amenity.

17. 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 within three months of the date of this order 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 2017.