



An
Bord
Pleanála

Board Order PL 17.248391

Planning and Development Acts 2000 to 2017

Planning Authority: Meath County Council

Planning Register Reference Number: RA/170127

Appeal by Frankie de Dobbelaere of Glane Great, Dunsany, County Meath and by others against the decision made on the 5th day of April, 2017 by Meath County Council to grant subject to conditions a permission to Kilsaran Concrete care of Sean Boyle Architect of Unit 3, Second Floor, Donohoe Building, Kennedy Centre, Kennedy Road, Navan, County Meath in accordance with plans and particulars lodged with the said Council:

Proposed Development: The restoration of the existing excavated quarry (previously granted permission under planning register reference number 99/1230 and TA/802731) to the original ground levels and use as agricultural land importing 5,600,000 tonnes (i) of imported inert natural materials, soil and stones, (ii) construct a community park and playing pitch with new entrance, fencing, landscaping and parking on existing ground, (iii) re-instating existing overburden contained on site and all other associated site works for a period of 14 years. This planning application is accompanied by an Environmental Impact Statement. The application relates to a restoration development for the purpose of an activity requiring a waste licence to be issued by the Environmental Protection Agency, all on a site at Tullykane, Kilmessan, County Meath.

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 planning history of the site and its permitted use as a quarry,
- the current excavated state of the site and proposed restoration to original ground level and use as agricultural land with inert natural materials, soil and stones,
- the mitigation measures set out in the submitted Environmental Impact Statement submitted with the application,
- the provisions of the Eastern-Midlands Region Waste Management Plan 2015-2021,
- the provisions of the Meath County Development Plan 2013 – 2019,
- the Waste Framework Directive 2008/98EC,
- A Resource Opportunity – Waste Management Policy in Ireland, July 2012 (Department of the Environment, Community and Local Government),

- the requirement to obtain from the Environmental Protection Agency a Waste Licence under the Waste Management Act 1996, as amended,
- the provision of a community park with playing pitch as part of the proposed restoration, and
- the report and recommendations of the Planning Inspector.

Appropriate Assessment

The Board noted that the proposed development is not directly connected with, or necessary to, the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report that on the basis of the Appropriate Assessment screening report, submissions made in the course of the application and appeal, the information published by the National Parks and Wildlife Service and the Inspector's site inspection, that adequate information was available in order to issue a screening determination. The Board was satisfied that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the River Boyne and River Blackwater Special Area of Conservation (002299) and the River Boyne and River Blackwater Special Protection Area (004232) or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not, therefore, required.

Environmental Impact Assessment

The Board considered the nature, scale and location of the proposed development, the documentation submitted with the application including the Environmental Impact Statement, the submissions made on file, the applicant's response to submissions, the mitigation measures proposed, and the report, assessment and conclusions of the Planning Inspector. It is 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 in relation to the proposed development, by itself and in cumulation with other development in the vicinity and concluded that, subject to the mitigation measures proposed, and the conditions set out below, the effects of the proposed development on the environment would be acceptable. In doing so the Board adopted the report of the Inspector appointed by the Board.

Conclusions on Proper Planning and Sustainable Development:

It is considered that, subject to compliance with the conditions set out below:

- (a) the proposed development is consistent with European, national, regional and local planning policy, notably the Eastern-Midlands Region Waste Management Plan 2015-2021 which states that backfilling of inert waste meets the recovery definition of the Waste Framework Directive and may be appropriate for worked out quarries,
- (b) the requirement for the proposed development to obtain from the Environmental Protection Agency a Waste Licence under the Waste Management Act 1996, as amended, which will control emissions to air and discharges to water. The proposed development will not, therefore, have any significant adverse impact on the residential amenities of adjacent properties,

- (c) the proposed development entails the restoration of the quarry to original ground level for use as agricultural land and will, therefore, improve the visual and landscape characteristics of the area,
- (d) traffic levels will be below the levels associated with the permitted quarrying activity, and
- (e) the provision of a community park with playing pitch will be locally beneficial,

the Board concluded that the proposed development would not seriously injure the amenities of the area or of residential and other property in the vicinity, would not be prejudicial to public health, would not give rise to water or air pollution, would not affect cultural heritage or material assets, would improve the visual and landscape characteristics, would be beneficial in terms of community facilities, would be acceptable in terms of traffic safety and convenience and would 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 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 restoration shall be completed within 14 years from the date of the commencing of the development, unless a further permission for a longer duration is in place.

Reason: In the interests of clarity and orderly development.

3. Prior to commencement of development, detailed proposals for the following shall be submitted to, and agreed in writing with, the planning authority:-
 - (a) a phasing programme for the delivery of the community park within three years of the commencement of development, and
 - (b) agreement for the transfer and management of the proposed community facility following its completion to a legally constituted management company, or to the local authority in the event of the development being taken in charge.

Reason: To ensure the satisfactory and timely completion and maintenance of this element of the development.

4. Material to be used in the in backfill shall be inert soil and stone (EWC Code 170504). Inert construction and demolition material (EWC Code 170101, 170102, 170103 and 170107) may be used for construction of haul roads and hard standing only.

Reason: In the interests of clarity and environmental protection.

5. The developer shall submit on an annual basis for the lifetime of this grant of permission a record of the quantity of material imported into the site and details, including topographic survey drawings, which facilitates the planning authority to monitor the progress of the phases of restoration.

Reason: In order to facilitate monitoring and control of the development by the planning authority.

6. A further study of the potential for roosting bats in quarry face crevices should be undertaken by the developer and detailed measures in relation to the protection of bats shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

7. Details of road signage, warning the public of the entrance and of proposals for traffic management at the site entrance, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

8. Operations shall occur between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays only. No activity shall take place outside these hours or on Sundays or public holidays.

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

9. 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.

10. 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) undertake archaeological monitoring during any stripping of topsoil at Area 1 as described in the Proposed Mitigation Measures set out in the Cultural Heritage Report contained in the submitted Environmental Impacts Assessment,
 - (c) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (d) 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.

11. The development shall be managed in accordance with an Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended practice for the development, including, but not limited to, designated refuelling area, noise and dust management measures, protection of soils, protection of flora and fauna and the protection of ground and surface water.

Reason: In the interests of proper planning, environmental protection and residential amenity.

12. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This shall apply to the reinstated agriculture lands and shall exclude community park. This scheme shall include contoured drawings to scale of not less than 1:500 showing:-

- (i) a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal;
- (ii) a continuous hedge of indigenous species (for example, holly, hawthorn, beech or field maple) planted for the full length of the site boundary (excluding the community park);
- (iii) the establishment of individual fields within the reinstated area marked out by indigenous hedgerows;
- (iv) proposals for adequate protection of new planting from damage until established.

Species to be used shall not include either cupressocyparis x leylandii or grisellinia.

Reason: In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.

13. The developer shall pay the sum of €200,000 (two hundred thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of restoration of the structural integrity of Local Road L2206. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

