



Planning and Development Acts 2000 to 2018

Planning Authority: Wexford County Council

Planning Register Reference Number: 20171532

Appeal by James and Elizabeth Cash care of Mahon Fox of Iberius House, Common Quay Street, Wexford and by Aidan Cash of Ballinra, Screen, Enniscorthy, County Wexford against the decision made on the 16th day of April, 2018 by Wexford County Council to grant subject to conditions a permission to Sean and Michael Kelly care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Permission for a period of 20 years on a site of circa 8.45 hectares. Permission is sought for the extension of the existing quarry (permitted under Wexford County Council register reference number 20082323) onto adjoining lands to the west comprising an extraction area of circa 5.83 hectares. The quarry extension is sought to a maximum depth of circa 38 metres OD and will be extracted at a rate of circa 100,000 tonnes per annum. The proposed development includes all ancillary site development, areas of stockpiling, landscaping and boundary treatment works above and below ground, including the progressive restoration of the final pit void (extractive area) to original level through the importation of inert soils, all at Ballinrooaun, Screen, County Wexford.

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 making its decision, the Board had regard to the submissions on this file and the Inspector's report and, inter alia, to the following:

- (a) the provisions of the Planning and Development Act, 2000, as amended,
- (b) the provisions of the Planning and Development Regulations, 2001, as amended,
- (c) the 'Quarries and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government in April 2004,
- (d) the provisions of the Wexford County Development Plan 2013-2019,

- (e) the Environmental Impact Assessment Report submitted with the application to develop the quarry,
- (f) the Appropriate Assessment Screening Report submitted as further information to the planning authority on the 21st day of February, 2018 to develop the quarry,
- (g) the nature and scale of the development the subject of this application to develop the quarry,
- (h) the proposed mitigation measures and restoration scheme proposed,
- (i) the planning history of the site, and
- (j) further submissions from the parties in response to reports/observations.

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, would not be prejudicial to public health and would not pose an unacceptable risk of environmental pollution. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Stage 1 Screening for 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 in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Wexford Harbour and Slobbs Special Protection Area (Site Code 004076), the Slaney River Valley Special Area of Conservation (Site Code 000781), the Screen Hills Special Area of Conservation (Site Code 000708), the Raven Special Protection Area (Site Code 004019) or any other European site, in view of the site's conservation objectives.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the development taking account of:

- (a) the nature, scale, location and extent of the development for substitute consent,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions received from the planning authority, prescribed bodies and observers, and the Inspector's report, and

(d) the report of the Board's Inspector, including in relation to potential significant effects on the environment and on European Sites,

the Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers the direct, indirect, and cumulative effects of the development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board considered there is an adequate summary of the Environmental Impact Assessment Report in non-technical language. The Board is satisfied that the Inspector's report sets out how these were addressed in the examination and recommendation (including environmental conditions) and are incorporated into the Board's decision.

The Board considered, and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment included measures to avoid, prevent or reduce, in particular:

- Impacts on population and human health as a result of noise, dust and traffic during the operational phase. The potential impacts would be mitigated by mitigation measures, such as the limiting of hours of operation and appropriate emission limit values.

- Impacts on Biodiversity are likely to arise due to the removal of habitat and disturbance. The impacts arising from the removal of habitat and disturbance would be mitigated by progressive restoration of the site to full restoration.
- Landscape and Visual impacts would arise on the landscape from the extraction area proposed. The implementation of landscaping and the full restoration to pre-quarry levels would mitigate potential adverse landscape and visual impacts.
- Positive significant impacts would arise during the operational phase and benefits would include employment and economic benefits.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board generally adopted the report and conclusions of the Inspector.

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 details submitted on the 21st day of February 2018, 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. Mitigation and monitoring measures outlined in the Environmental Impact Assessment Report submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. This grant of planning permission for further extraction of sand and gravel, relates only to the areas outlined on the drawings submitted on the 23rd day of November, 2017 and the 21st day of February, 2018. All extraction and processing operations on site shall cease 20 years from the date of this Order. All plant and machinery shall cease operation and shall be removed from site within 20 years from the date of this Order. Restoration of the site shall be in accordance with the restoration plans submitted on the 23rd day of November, 2017 and as amended by the further plans received on the 21st day of February 2018 and shall be completed within 20 years from the date of this Order, unless prior to the end of that period, planning permission is granted for the continuance of use.

Reason: In the interests of orderly development and to ensure the appropriate restoration of the site.

4. (a) The phasing of extraction on site shall be as indicated in the phasing plan submitted on the 21st day of February, 2018 and the extraction volumes on site shall not exceed 100,000 tonnes per annum.
- (b) The maximum depth of extraction shall be 38 metres A.O.D.

Reason: In the interest of clarity and to limit the extent of the development to the extraction level proposed.

5. No extraction of aggregates shall take place below the level of the water table and shall be confined to a minimum of five metres above the winter water table level as specified.

Reason: To protect groundwater in the area.

6. Final restoration contours shall match the original topographical survey submitted to the planning authority on the 21st day of February, 2018. Upon completion of restoration, the developer shall submit to the planning authority for written agreement, a digital topographical survey of the final restored contours.

Reason: To ensure full restoration of the landscape.

7. The developer shall submit to the planning authority evidence of having obtained the required Environmental Protection Agency Licence to allow for the importation of inert fill material to carry out the restoration works. In the event of an Environmental Protection Agency Licence not being in place by the end of the third year of extraction, no further extraction works shall be carried out and the planning authority shall be notified and restoration proposals shall be submitted for written agreement prior to closure of the quarry.

Reason: In the interest of orderly development, having regard to section 34 (4)(n) of the Planning and Development Act, 2000, as amended.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features which exist within the site. In this regard, the developer is required to engage the services of a suitably qualified archaeologist to monitor all topsoil stripping within this site. Having completed this initial monitoring, the archaeologist shall submit a written report to the planning authority and to the National Monument Section of the Department of Culture, Heritage and the Gaeltacht. Where archaeological material/features are shown to be present, preservation in situ, preservation by record (excavation) or monitoring may be required. In the event of archaeological material being uncovered during the course of such monitoring, the archaeologist shall have works ceased in the vicinity of such material pending receipt of advice from the National Monuments section of the Department of Culture, Heritage and the Gaeltacht with regard to additional mitigation measures that may be required, and these requirements shall be implemented in full. Following completion of all monitoring and other possible archaeological investigation, the archaeologist shall prepare a report for submission to the planning authority and the Department of Culture, Heritage and the Gaeltacht.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

9. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority, prior to commencement of development. This shall include proposals for the following:
- (a) suppression of on-site noise,
 - (b) on-going monitoring of sound emissions at dwellings in the vicinity,
 - (c) suppression of on-site dust,
 - (d) safety measures for the land above the extended quarry void; to include warning signs and stock-proof fencing/hedgerows,
 - (e) management of all landscaping,
 - (f) monitoring of ground and surface water quality, levels and discharges, and
 - (g) details of site manager, contact numbers (including out-of-hours) and public information signs at the entrance to the site.

Reason: In order to safeguard local amenities.

10. No groundwater or surface water shall be discharged to the adjoining road network, or to adjacent lands.

Reason: In order to protect groundwater and surface water quality in the area, and in the interest of traffic safety.

11. (a) Activities at the site shall not give rise to noise levels off-site at noise sensitive locations which exceed the following sound pressure limits (Leq,T):

Day 55dB(A) LAeq (30 minutes) (0800 hours to 2200 hours).

Night 45dB(A) LAeq (30 minutes) (2200 hours to 0800 hours).

Noise levels shall be measured at the noise monitoring locations. Monitoring results shall be submitted to the planning authority on a quarterly basis per year.

- (b) There shall be no tonal or impulsive noise at noise sensitive receptors during night-time hours due to activities carried out on site.

Reason: To control emissions from the facility and provide for the protection of the environment.

12. All HGVs departing the quarry void shall do so via a wheel-wash. Any aggregate, silt or muck carried out onto the public road shall be promptly removed by the developer.

Reason: In the interest of traffic safety.

13. (a) Dust levels at the site boundaries shall not exceed 350 milligrams per square metre per day, averaged over a continuous period of 30 days (Bergerhoff Gauge).
- (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 amenities of the area.

14. The site shall be effectively secured at all times with appropriate warning signage displayed to prevent and deter unauthorised or accidental access. The access gate shall be closed and locked when there is no authorised person at the quarry.

Reason: In the interest of public safety and the proper planning and sustainable development of the area.

15. The quarry extension shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0900 hours and 1300 hours on Saturdays and shall not operate on Sundays or Bank Holidays.

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

16. The developer shall submit, every second year, for the twenty-year lifetime of the permission to further develop the quarry, an aerial photograph which adequately enables the planning authority to assess the progress of the phases of extraction and restoration. The first aerial photograph shall be submitted two years from the date of this Order.

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

17. (a) The developer shall monitor and record groundwater, surface water flow, noise, ground vibration, and dust deposition levels at monitoring and recording stations, the location of which shall be agreed in writing with the planning authority prior to commencement of development. Monitoring results shall be submitted to the planning authority on an annual basis for groundwater, surface water, noise and ground vibration.

- (b) On an annual basis, for the lifetime of the facility (within two months of each year end), the developer shall submit to the planning authority five copies of an environmental audit. Independent environmental auditors approved of in writing with the planning authority shall carry out this audit. This audit shall be carried out at the expense of the developer and shall be made available for public inspection at the offices of the planning authority and at such other locations as may be agreed in writing with the authority. This report shall contain:
- (i) A written record derived from the on-site weighbridge of the quantity of material leaving the site. This quantity shall be specified in tonnes.
 - (ii) An annual topographical survey carried out by an independent qualified surveyor approved in writing by the planning authority. This survey shall show all areas excavated and restored. On the basis of this, a full materials balance shall be provided to the planning authority.
 - (iii) A record of groundwater levels measured at monthly intervals.
 - (iv) A written record of all complaints, including actions taken in response to each complaint.

- (c) In addition to this annual audit, the developer shall submit quarterly reports with full records of dust monitoring, noise monitoring, surface water quality monitoring, and groundwater monitoring. Details of these quarterly reports shall be submitted to, and agreed in writing with, the planning authority. Notwithstanding this requirement, all incidents where levels of noise or dust exceed specified levels shall be notified to the planning authority within two working days. Incidents of surface or groundwater pollution or incidents that may result in groundwater pollution, shall be notified to the planning authority without delay.
- (d) Following submission of the audit or of such reports, or where such incidents occur, the developer shall comply with any requirements that the planning authority may impose in writing in order to bring the development in compliance with the conditions of this permission.

Reason: In the interest of protecting residential amenities and ensuring a sustainable use of non-renewable resources.

18. No blasting shall take place on site.

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

19. 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 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.

20. 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 the 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.

Stephen Bohan

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

Dated this day of 2019.