



Planning and Development Acts 2000 to 2019

Planning Authority: Laois County Council

Planning Register Reference Number: 18/419

Appeal by John and Patrick Staunton of Ballyouskill, Attanagh, County Laois against the decision made on the 10th day of December, 2018 by Laois County Council to grant subject to conditions a permission to Wholesale Suppliers Limited care of Golder Associates of Town Centre House, Dublin Road, Naas, County Kildare in accordance with plans and particulars lodged with the said Council:

Proposed Development: Extraction of sand and gravel (above the water table) over an area of circa 2.0 hectares, including the construction of overburden storage and landscape screening mounds along the perimeter of this extraction area; (2) permission for the on-site processing (dry screening) of aggregate; (3) permission for the construction of a wheel wash and the erection of portable welfare facilities; and (4) permission for the re-use of the existing site entrance. The proposed development proposes progressive and phased restoration throughout the life of the development at Ironmills (or Kilrush), Ballinakill, County Laois.

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 established use of the site and adjoining quarry, the planning history, the nature, location and extent of the proposed development and to the established character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or other amenities of the area, 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.

Appropriate Assessment Screening

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) and the River Nore Special Protection Area (Site Code: 004233) are the European sites for which there is a likelihood of significant effects.

Appropriate Assessment

The Board considered the Natura impact statement submitted by the applicant and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the site's Conservation Objectives (River Barrow and River Nore Special Area of Conservation (Site Code: 002162) and River Nore Special Protection Area (Site Code: 004233)). 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, the likely direct and indirect impacts arising from the proposed development, particularly in relation to water quality, both individually or in combination with other plans or projects, the mitigation measures set out in Section 6 of the Nature impact statement and the Conservation Objectives for these European Sites.

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 Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) or the River Nore Special Protection Area (Site Code: 004233) or any other site in view of the sites' Conservation Objectives.

Environmental Impact Assessment

The Board completed in compliance with section 172 of the Planning and Development Act 2000 an environmental impact assessment of the proposed development, taking into account:

- the nature, scale, location, and extent of the proposed development;
- the Environmental Impact Assessment Report and associated documentation submitted with the application;
- the submissions from the applicant, the appellant, the planning authority, and prescribed bodies;
- the Planning Inspector's report;

The Board considered that the Environmental Impact Assessment Report, supported by the information submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIAR 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 and the appeal. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's 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, and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting inspector.

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

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application (including the Environmental Impact Assessment Report and Natura impact statement) as amended by the further plans and particulars submitted on the 19th day of October 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. This grant of permission shall be for a period of 10 years from the date of this Order. The site restoration works described in the submission shall be completed within one year of this date or within one year of the date of cessation of quarrying activities on the site (whichever is the sooner).

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

3. No extraction of sand and gravel shall take place below three metres above the level of the water table.

Reason: To protect groundwater in the area.

4. The proposals, mitigation measures and commitments set out in the Environmental Impact Assessment Report and the Natura impact statement shall be implemented in full as part of the proposed development.

Reason: In the interest of clarity, to mitigate the environmental effects of the proposed quarry and to protect the amenities of the area and of property in the vicinity.

5. The quarry, and all activities occurring therein, shall only operate between 0700 hours and 1900 hours, Monday to Friday and between 0700 hours and 1430 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 property in the vicinity.

6. 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.

Reason: In order to safeguard local amenities.

7. 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.

8. 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 three-way oil interceptor with sump to a watercourse. The sump shall be provided with an inspection chamber and shall be installed and operated in accordance with the written requirements of the planning authority.

Reason: In order to protect groundwater and surface water.

9. (a) Water levels in the existing and proposed borehole well (shown on Figure 2 of the response to further information received by the planning authority on 19th day of October 2018) shall be recorded bi-annually. A log of these levels shall be submitted to the planning authority on an annual basis.

- (b) An alternative water supply shall be made available by the developer, at his expense, immediately it becomes evident from the monitoring programme that the quality or quantity of water in the vicinity is being adversely affected. Alternative water supplies may be secured by the deepening of private wells, drilling of new wells or other such alternatives as may be specified by the planning authority.

Reason: To protect and monitor groundwater in the vicinity of the site.

10. Surface water sampling points shall be established upstream and downstream of the ephemeral stream discharge in to the Moneyclear River in addition to the groundwater boreholes. A baseline sample shall be taken before the commencement of operations.

Reason: In the interests of proper planning, public health and residential amenity.

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 site, 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. During the operation phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed
- (a) an Leq, 1h value of 55 dB(A) between 0800 and 2000 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.

13. 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 and methodology/frequency of monitoring/submission of results shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

14. 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.

15. Restoration shall be carried out in accordance with a restoration plan, which shall include existing and proposed finished ground levels, landscaping proposals and a timescale for implementation. This plan shall be prepared by the developer, and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory restoration of the site, in the interest of visual amenity.

16. 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 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.

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 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.

Maria FitzGerald

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board

Dated this day of 2019