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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P18/818**

**Appeal** by Liam Moloney of Ballyfineen, Ardnacrusha, County Clare against the decision made on the 23<sup>rd</sup> day of May, 2019 by Clare County Council to grant subject to conditions a permission to Bobby O'Connell and Sons Limited care of Earth Science Partnership (Ireland) Limited of Tonranny, Westport, County Mayo in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** A 16 year permission for quarrying of an area consisting of 10 hectares located adjacent to the existing working quarry including extraction of rock by blasting means down to 150 metres OD - extracted rock will be processed at the existing working quarry, landscaping of the quarry during the operational phase and restoration of the quarry on completion of extraction, and all associated ancillary facilities/works, at Ballycar, Ardnacrusha, County Clare. The proposed development was revised by further public notices received by the planning authority on the 29th day of May, 2019

## **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 of the proposed development comprising continuation of quarrying at a site where quarrying is an established use,
- the 'Quarries and Ancillary Activities - Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government in April, 2004,
- Policy CDP 10.13 of the Clare County Development Plan 2017 – 2023, and
- the pattern of development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health, would not conflict with the provisions of the development plan and would generally be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **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,
- (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, the appellant and observers, 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 (EIAR), 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 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 (EIAR) and associated documentation submitted by the applicant and submissions made in the course of the application. 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 EIAR, 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.

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 such effects, are as follows:

- The most significant effect will arise from the permanent removal of forestry and the removal of a geological resource arising from the quarrying activity. However, the continued supply of aggregate during the working life of the quarry will ensure continued supply of aggregate and stone and building material for construction works in the local and wider area. The proposal will also result in continued employment which will have a positive benefit on the local economy.
- The impacts on population and human health. These will be minimal as the quarry is located in a sparsely populated upland area. Noise and vibration and dust generation effects would not be significant in terms of impacting on surrounding residential amenity. The potential impacts would also be mitigated by noise and vibration measures, such as the limiting of construction hours, the use of plant with low inherent potential of noise and/or vibration, the construction of berms around the perimeter

of the site. Dust suppression measures are also to be incorporated into the operational regime.

- Traffic impacts were a major cause of concern in the grounds of appeal. However, traffic levels are not anticipated to increase as a result of the extension, subject to the inclusion of a condition limiting the intensification of activities envisaged under the current application.
- Potential impacts on water will be mitigated by the incorporation of settlement ponds within the quarry to ensure that any water discharged off site will be subject to appropriate attenuation and treatment so as not to result in water pollution of adjoining water courses. Water pollution is the subject of a separate consent process by way of a local authority discharge license.
- The main significant direct and indirect effects of the proposed development on the environment and potential impacts would be primarily mitigated by environmental management measures, as appropriate. Following mitigation, no residual significant long-term negative impacts on the environment or sensitive receptors would remain as a result of the proposed quarry extension.

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

## **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 Stage 1 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 Lower River Shannon Special Area of Conservation (Site Code:002165) or any other European site, in view of the site's Conservation Objectives.

## **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 plans and particulars received by the planning authority on the 15<sup>th</sup> day of March, 2019, 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. (a) This permission shall cease to have effect on the 20<sup>th</sup> day of April, 2034.
- (b) The extraction rates from this development, and associated levels of traffic, shall not exceed the extraction rates and levels of traffic from the existing quarry, as approved under An Bord Pleanála appeal reference number PL 03.227746 (planning register reference number P07/885).

**Reason:** In the interest of clarity and to define the scope of the permission.

3. All environmental, construction and ecological mitigation measures set out in the Environmental Impact Assessment Report submitted with the application, together with other documentation submitted with the original application, and the further information received by the planning authority on the 15<sup>th</sup> day of March, 2019, shall be implemented in full by the developer in accordance with the timelines set out in the documentation submitted, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

4. All heavy goods vehicles to and from the site shall be via the L7062 running south from the quarry only. No heavy goods vehicles shall access the site or egress from the site along the L7062 to the north of the quarry entrance.

**Reason:** In the interest of traffic safety and to mitigate the extent of maintenance and upgrade of works to the local road network necessitated by traffic accessing the site.

5. The quarry shall operate only between the hours of 0700 to 1800 hours Mondays to Fridays inclusive, between 0800 hours and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

6. (a) Blasting operations shall take place only between 1100 hours and 1700 hours Monday to Friday and shall not take place on Saturday, Sundays or public holidays. Monitoring of noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor 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. The alarm shall be of sufficient power to be heard at all such dwellings.

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



7. No extraction of aggregates shall take place below the water table or below 150 metres OD, whichever is the higher level, and the full extent of excavation shall not exceed that indicated on the site layout plan and cross-sections received by the planning authority on the 17<sup>th</sup> day of October, 2018, as amended by the further information received by the planning authority on 15<sup>th</sup> day of March, 2019.

**Reason:** To protect groundwater in the area.

8. (a) Two groundwater monitoring wells shall be installed around the boundary of the site at locations to be agreed in writing with the planning authority prior to commencement of development. Water levels in these wells shall be recorded every month. A log of these levels shall be submitted to the planning authority on a quarterly basis.
- (b) An alternative water supply shall be made available by the developer at his expense where it immediately 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.

9. Surface water run-off from open cut areas shall not be discharged directly to any watercourse.

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

10. (a) Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres/second, when measured in any three mutually orthogonal directions at any sensitive location. The peak particle velocity relates to low frequency vibration of less than 40 Hertz where blasting occurs no more than once in seven continuous days. Where blasting operations are more frequent, the peak particle velocity limit is reduced to eight millimetres per second. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin)max peak with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin).
- (b) A monitoring programme, which shall include reviews to be undertaken at annual intervals, 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 prior to commencement of any quarrying works on the site. This 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.

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 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 measures required by the planning authority following this annual review.
- (c) All vehicles containing aggregates or other materials from the quarry shall be fully covered prior to exiting the quarry.

**Reason:** To control dust emissions arising from the development including fugitive dust arising from the transportation of materials and in the interest of the amenity of the area.

12. 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.

13. 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 the following:
  - (a) Proposals for the suppression of on-site noise.
  - (b) Proposals for the on-going monitoring of sound emissions at dwellings in the vicinity.
  - (c) Proposals for the suppression of dust on site and on the L7062 haul route in full compliance with condition number 11 of this Order.
  - (d) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage.
  - (e) Details of safety measures for the land above the quarry, to include warning signs and stock proof fencing.

- (f) Management of all landscaping with particular reference to enhancing the ecological value of the woodland/grassland on the bunds and buffer areas.
- (g) Specification of limits in relation to monitoring of ground and surface water quality, levels and discharges.
- (h) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

**Reason:** In order to safeguard local amenities.

14. The developer shall manage drainage in accordance with a drainage management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate a monitoring programme relating to control and management of water on the site. The plan shall provide for the monitoring of ground and surface water quality, levels and discharges on the site and for ongoing sampling upstream and downstream of any discharge and ongoing monitoring of the capacity of the settlement lagoons.

**Reason:** In order to protect water quality.

15. All proposed landscape screening measures, including improvements to boundaries and the provision of any fencing and berms, shall be completed prior to commencement of extraction on site.

**Reason:** In the interest of visual amenity and to safeguard the amenities of residential property in the vicinity during the operating phase of the development.

16. 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.

17. The developer shall submit annually to the planning authority for the lifetime of the permission, a map of the progression of the phased development of the quarry and of the quarry perimeter, surveyed against the established perimeter beacons, the form and location of which shall be agreed in writing with the planning authority prior to the commencement of quarrying works.

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

18. (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 submitted to and agreed in writing with the planning authority prior to commencement of development. Monitoring results shall be submitted to the planning authority at monthly intervals for groundwater, surface water, noise and ground vibration.
- (b) On an annual basis, for the lifetime of the facility (and 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 in writing by 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 such information shall be 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.

19. 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.

- 20. 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 and residential amenity.

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

**Dated this            day of            2019.**