

An
Bord
Pleanála

Board Order
ABP-307697-20

Planning and Development Acts 2000 to 2021

Planning Authority: Cork County Council

Planning Register Reference Number: 19/05802

Appeal by Tim O'Keeffe care of Sean R. McCarthy Consulting Engineers Limited of Drimnamore, Sneem, County Kerry and by the Concerned Residents care of Sean R. McCarthy Consulting Engineers Limited of Drimnamore, Sneem, County Kerry against the decision made on the 2nd day of July, 2020 by Cork County Council to grant subject to conditions a permission to David O'Flynn care of RKA Consulting Engineers of 2 Clogheen Business Park, Blarney Road, Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: An extension to the existing limestone quarry and all associated site development and landscaping works. The proposed extension is 5 hectares to the east of the existing quarry and will be accessed via a new access road, to be constructed, to the west of the existing quarry, leading directly onto the L1201-57. The applicant is seeking a 15 year planning permission. The proposed development will include; (1) a change of extraction method to blasting; (2) crushing and screening of aggregates; (3) construction of the new access road and upon completion of this new access road, cessation of use of existing access onto the L5302-12 for quarrying activities; (4) installation of a prefabricated administration office and portable toilet; (5) parking area; (6) wheel wash; (7) weighbridge; (8) covered fuel

storage area; (9) entrance signs; (10) lighting; (11) CCTV cameras; (12) a rainwater harvesting tank and (13) new overhead and underground power supply all in the townlands of Scart, Ballyclough, and Kilgilky South, Cecilstown, Mallow, County Cork.

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 coming to its decision, the Board had regard to:

- (a) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018, relating to the extractive industry including National Policy Objective 23,
- (b) the provisions of the Guidelines for Planning Authorities on Quarries and Ancillary Activities issued by the Department of the Environment, Heritage and Local Government in 2004,
- (c) the policies set out in the Cork County Development Plan 2014 relating to the extractive industry,
- (d) the planning history of the site and wider area and the established use,
- (e) the pattern of development in the area,
- (f) the range of mitigation measures set out in the documentation received, including the Environmental Impact Assessment Report, Natura Impact Statement and further information,
- (g) the submissions made in connection with the planning application and appeal, and
- (h) the report of the Inspector.

Appropriate Assessment Stage 1

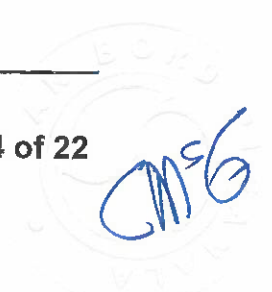
The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment carried out and conclusions reached in the Inspector's report that the Blackwater River (Cork/Waterford) Special Area of Conservation (site code 002170) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment Stage 2

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the aforementioned European Site in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the 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 Site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site – the Blackwater River (Cork/Waterford) Special Area of Conservation (site code 002170), in view of the site's conservation objectives and there is no reasonable scientific doubt as to the absence of such affects.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development,
- (b) the environmental impact assessment report and associated documentation submitted in support of the planning application,
- (c) the submissions from the planning authority, prescribed bodies, the appellants and the observers in the course of the application, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the 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.

Reasoned Conclusions on the Significant Effects

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 are as follows:

Population and Human Health - impacts arising from emissions of dust, noise and vibration during operation, with potential for nuisance to sensitive residential receptors proximate to the site. Such impacts are proposed to be mitigated by measures to reduce and control the emissions in the first instance and thereafter by the adoption of specific measures, including those forming part of the operation of the development including monitoring proposals.

Biodiversity – impacts arising from extraction activities including noise and vibration from blasting, removal of scrub and existing vegetation. Such impacts are proposed to be mitigated by measures to avoid habitat loss, disturbance/displacement, controls in terms of timing and location of blasting and clearance of scrub and vegetation, and monitoring proposals.

Water – impacts on surface water and groundwater will be minimised by the layout and design of the extraction area which will not interfere with the water table. Impacts on surface water from the construction and use of the proposed access route. Such impacts are proposed to be mitigated by specific measures to control the quality of the discharge including a water management system with earthworks and bridge crossing works conducted in dry weather, installation of silt fences and all water directed to ground. To avoid pluvial flooding in the vicinity of the new road, the surface material will be permeable and the road will be at an elevation above surrounding lands. Surface water monitoring of the discharge waters and ground water monitoring will be carried out.

Archaeology – impacts will be mitigated by preservation in situ for CO024-252 and 254, preservation by record will be undertaken under licence from the National Monuments Service in respect of CO024-253 and a 20 metre buffer zone will be established around CO024-088.

In conclusion, having regard to the above identified significant effects, it is considered that the proposed development would not have any unacceptable direct or indirect impacts on the environment, subject to the implementation of the mitigation measures and any conditions recommended in section 13 of this report.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

Conclusions on Proper Planning and Sustainable Development

Having regard to the nature and extent of the development and to the acceptability of the environmental impacts as set out above, it is considered that, subject to compliance with the conditions set out below, the proposed lateral extension of the existing extraction area would be in accordance with the provisions of the current Cork County Development Plan, would not seriously injure the visual or residential amenities of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience of road users. The proposed development would, therefore, 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, as amended by the further plans and particulars submitted on the 20th day of December, 2019 and the 16th day of March 2020, 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 duration of permission shall be for a period of 15 years from the date of this Order unless, prior to the end of the period, planning permission for a further period shall have been granted. The site shall be fully restored within two years of this date, or any later date confirmed subsequent to a further planning permission.

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

3. The proposed development shall be amended as follows: -
 - (a) A revised comprehensive rehabilitation and landscape plan shall be prepared, which shall include the retention of the existing berms and tree planting along the site boundaries of the main quarry site, as shown on the landscape plans lodged on the 18th day of July 2019 and the 20th day of December, 2019. These landscape features shall be retained in their entirety and in perpetuity and the berms shall not be removed, disturbed or regraded.

- (b) The existing boundary hedge along the L1201 shall be retained except to the extent that its removal is necessary to provide for the new entrance to the site. Sight distances of 80 metres shall be provided in each direction for a centre point 4.5 metres back from the public road edge. No vegetation or structure shall exceed one metre in height over the public road within the sight triangle. Any utility poles within the sight triangle or surface manholes in front of the entrance shall be relocated to the satisfaction of the planning authority prior to the commencement of development
- (c) Where removal of existing boundary hedging is necessary as at item (b) above, a sod and stone boundary treatment, with hedge plants of native species and varieties, shall be reinstated along the public road at the site of the new entrance, within the first planting season following completion of quarrying operations, unless otherwise agreed with the planning authority.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity and of traffic safety.

4. No extraction shall take place below the level of the water table.

Reason: To protect groundwater in the area.



5. All mitigation and monitoring measures set out in the Environmental Impact Assessment Report, the Natura Impact Statement and other particulars submitted with the application and as amended in the further information submitted on the 20th day of December, 2019 and the 16th day of March, 2020 shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions.

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

6. Surface water run-off from the new access road shall not be discharged directly to any watercourse and shall not be permitted to flow onto the public road. All such water shall be trapped and directed to a constructed percolation area with temporary settling pond as required. A detailed drainage management plan for the entrance and access road shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To protect water quality and prevent flooding in the area.

7. The quarry and all activities occurring therein, shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No activity shall take place outside of these hours or on Sundays or public holidays.

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

8. The removal of scrub habitat to provide access from the existing quarry pit to the new quarry site shall be carried out only between the months of September and February and under the supervision of an Ecologist. Details of the methodology to be used shall be submitted for the written agreement of the planning authority prior to the commencement of development.

Reason: In the interest of biodiversity.

9. The landscaping scheme shown on the Proposed Landscaping Plan drawing number 103 PL3 and in the Scart Planting Summary, as submitted to the planning authority on the 20th day of December 2019, shall be carried out within the first planting season following substantial completion of the preparatory earthworks. In addition to the proposals in the submitted scheme, the following information shall be submitted to the planning authority:

- (a) Planting proposals for the existing and proposed berms, which shall comprise native species only.
- (b) Planting proposals to mitigate the planned removal of 0.36 hectare of scrub woodland habitat from the site, which shall comprise native species only.
- (c) Details of long-term monitoring and maintenance for areas of new and supplementary planting.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the commencement of the development shall be replaced within the next planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

10. A comprehensive plan for the restoration of the entire quarry following cessation of the quarrying works shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include proposals for re-use of the quarry and measures to ensure public safety therein. The developer shall commence implementation of the agreed site restoration plan within the area of the site within one month of cessation of extraction in this area and shall have completed this part of the plan within 12 months of commencement.

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

11. Vehicles transporting material to and from the site, and accessing the site, shall use the L1201 only and Heavy Goods Vehicles (HGVs) associated with the quarry operation shall not be allowed to use Local Road L5302. Access to the R580 shall be to the north along the L1201 and access to the N72 shall be to the south along the L1201 in accordance with the details of the haul routes submitted with the application. In addition, the following road safety matters as set out in the documentation received by the planning authority on the 18th day of July, 2019 and the 20th day of December, 2019, shall be implemented -
- (a) Installation of wheel washes.
 - (b) Recommendations of the Road Safety Audit.
 - (c) Signage on either side of the entrance to warn motorist to the presence of a quarry entrance.

Reason: In the interest of traffic safety and in order to mitigate the extent of maintenance and upgrading works of the local road network necessitated by vehicular traffic accessing the site.



12. All proposed screening measures, including improvements to boundaries and the provision of any fencing or berms, shall be completed prior to the commencement of extraction on the site. The timescale for the construction and planting of the berms along the boundaries of the extraction area shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interests of the residential and visual amenities of the area.

13. A buffer zone of 20 metres shall be established within the development site from archaeological monuments CO024-252, CO024-254 and CO024-088 prior to the commencement of development by a suitably qualified archaeologist. Details of the delineation, layout, fencing and signage of the buffer zones shall be submitted for agreement in writing to the planning authority prior to the establishment of the buffer zones. No construction works, stockpiling of materials, topsoil etc, or any development or landscaping shall take place within the buffer zones. No trees or plants shall be removed from the buffer zones. Following the completion of development, the buffer zones shall remain in place until the completion of the development on the site.

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.

14. The developer shall comply with the following requirements: -
- (a) An archaeological excavation shall be carried out on the site under licence from the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht of CO024-253 and a minimal area of eight metres around it. This area shall be extended if further archaeological material is identified and should any archaeological features be identified in the monitoring following written approval for same with the National Monuments Service and the planning authority. The archaeological excavation shall be carried out prior to commencement of development or at such later date as may be agreed in writing with the planning authority.
 - (b) The work shall be conducted by the archaeologist in accordance with a Method Statement to be agreed with the National Monuments Services and the planning authority. The archaeologist shall advise on such measures as may be necessary to ensure that any damage to the remaining archaeological material is avoided or minimised. No ground works are to take place on the site in the absence of the archaeologist
 - (c) The development shall not proceed until the National Monuments Service and the planning authority have received a preliminary Archaeological Excavation Report and written permission to commence works has been issued.

Reason: In order to conserve the archaeological heritage of the site, it is considered reasonable that the developer should facilitate the preservation by record of CO024-253 and any other archaeological features or materials which may exist within it.

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features which 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 under licence from the National Monuments Service, 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.

16. The development shall be operated and managed in accordance with a revised Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority within three months of the date of this order. This shall include, inter alia, 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 access road.

- (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 stockproof fencing.
- (f) Management of all landscaping.
- (g) Monitoring of ground and surface water quality, levels and discharges, noise and air emissions.
- (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.

17. The noise levels generated during the operation of the quarry shall not exceed 55dBA (30 minutes LAR) when measured at the nearest noise sensitive receptor between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays, excluding public and bank holidays. Noise levels shall not exceed 45dBA (15 minute Leq) at any other time. When measuring specific noise, the time shall be any one period during which the sound emission for the quarry is at its maximum level.

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

18. All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics-Description and Measurement of Environmental Noise Levels as amended.

Reason: In the interest of clarity.

19. (a) The frequency of blasting shall not be more than once per month, save in accordance with any revised blasting schedule as may be approved in writing by the planning authority.
- (b) Blasting operations shall take place only between 1000 hours and 1800 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays. Monitoring of the noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense and by an independent contractor who shall be agreed in writing with the planning authority.
- (c) 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. This alarm shall be of sufficient power to be heard at all such dwellings.

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

20. (a) Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres per 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 8 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 amenities of property in the vicinity.

21. (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.

22. (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 at monthly intervals 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 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.

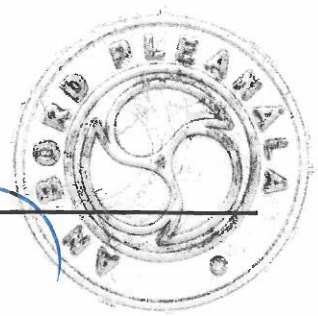
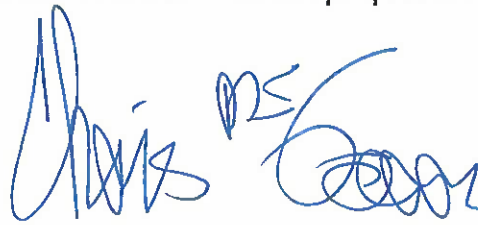
Reason: In the interest of protecting residential amenities and ensuring a sustainable use of non-renewable resources.

23. The construction of the development shall be managed in accordance with a Construction 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 construction practice for the development, including, noise management measures and off-site disposal of construction/demolition waste.

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

24. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of the proposed upgrading works on local road L1201 in the vicinity of the new entrance, the junction between the L1201-57 and LP1201-31 and to the junction with the LP1203 to the south. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be 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.

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.



Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 9th day of March 2022.