

An
Bord
Pleanála

Board Order
ABP-307797-20

Planning and Development Acts 2000 to 2020

Planning Authority: Offaly County Council

Planning Register Reference Number: PL2/19/478

Appeal by Fionnan Cummins of Claragh, Screggan, Tullamore, County Offaly and by Brian Curley of Squire's Wood House, Screggan, Tullamore, County Offaly against the decision made on the 23rd day of July 2020 by Offaly County Council to grant subject to conditions a permission to Kilsaran Concrete (trading as Kilsaran Build) care of SLR Consulting Ireland of 7 Dundrum Business Park, Windy Arbour, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Continued use of the previously permitted development under planning register reference number 02/462 (appeal reference number PL 19.201727) consisting of the existing sand and gravel extraction and processing to include washing (with associated closed system silt storage lagoons) and related ancillary buildings and facilities including the readymix concrete batching plant, concrete block batching plant and block yard, asphalt plant, site office, prefabricated shipping office, wheelwash, weighbridge, electricity substation, single building comprising workshop/laboratory/canteen, two bunded and covered fuel tanks, a concrete reclaimer and a septic tank with puraflo liquid effluent treatment system and the existing site entrance onto the N2 road. Extension to the north and east of

CMG

the existing sand and gravel pit over an area of 31.3 hectares. The sand and gravel extraction will be dry working above the water table. Provision of a new sand washing and screening processing plant. Phased stripping and storage of topsoil and overburden materials over the extension lands for reuse in the restoration works. Restoration of the overall site will be to a beneficial agricultural after-use. All associated site works within an overall application area of 68.9 hectares, and all for a period of 18 years plus two years to complete restoration works (total duration of 20 years), all at Bunaterin, Claragh and Heath townlands, Screggan, Tullamore, County Offaly. The proposed development was revised by further public notices received by the planning authority on the 7th day of May 2020 and the 23rd day of May, 2020. The further information submitted to the planning authority on the 7th day of April 2020 included an amendment to the site boundaries consisting of a reduction in the landholding and planning application boundaries from 68.9 to 68.8 hectares, and a reduction in the sand and gravel extraction area of 31.3 hectares to 30.8 hectares.

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:

- (a) the policies set out in the National Planning Framework,
- (b) the policies set out in the Regional Spatial and Economic Strategy for the Midlands and Eastern Region,
- (c) the policies of the planning authority as set out in the Offaly County Development Plan 2014-2020, and the Draft Offaly County Development Plan, 2021-2027,
- (d) the nature of the proposed development that comprises the extension of an existing sand and gravel extraction facility, and the planning history of the site,
- (e) the distances of the proposed development to dwellings or other sensitive receptors,
- (f) the proposed phased extraction and proposals for the restoration of the site,
- (g) the nature and scale of the proposed development and the contents of the Environmental Impact Assessment Report, Screening for Appropriate Assessment Report and further information submitted by the applicant,
- (h) the range of mitigation measures set out in the documentation received, including the Environmental Impact Assessment Report and further submissions from the applicant to the Board in the course of the appeal,
- (i) the separation distance from the site of the proposed development to sites designated as part of the Natura 2000 network and the nature of the connections between them,

CM56

- (j) the topography and character of the landscape of the area and the character of the landscape in which the proposed expanded extraction area would be located,
- (k) the submissions made in the course of the planning application and appeal, and
- (l) the report of the Inspector.

Appropriate Assessment Screening

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 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 potential 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 the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites:

- Charleville Wood Special Area of Conservation (site code 000571),
- Clara Bog Special Area of Conservation (site code 000572),
- Clonaslee Eskers and Derry Bog Special Area of Conservation (site code 000859),
- Slieve Bloom Mountains Special Protection Area (site code 004160),
- River Barrow and River Nore Special Area of Conservation (site code 0002162),

or any other European site, in view of the site's conservation objectives, and Appropriate Assessment is not therefore required.

This screening determination is based on the following:

In the case of Clara Bog Special Area of Conservation, Clonaslee Eskers and Derry Bog Special Area of Conservation, the Slieve Bloom Mountains Special Protection Area, and the River Barrow and River Nore Special Area of Conservation it is not considered that there is a potential pathway between the appeal site and the European site.

In the case of Charleville Wood Special Area of Conservation, this screening determination is based:

- (a) The absence of any direct effects or any impacts due to severance.
- (b) The demonstrated lack of any hydrological connections between the appeal site and the Special Area of Conservation.
- (c) The separation distance and resulting absence of indirect effects arising from any potential airborne pathway.

Environmental Impact Assessment

The Board considered the Environmental Impact Assessment Report submitted with the application to the planning authority, the Further Information submitted to the planning authority, the submissions on file and the Inspector's assessment of the environmental impacts. The Board considered that the Environmental Impact Assessment Report, supported by the documentation 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 Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board noted and adopted the Inspector's report and conclusions in respect of the Environmental Impact Assessment.

Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information contained above, and in particular the Environmental Impact Assessment Report and supplementary information provided by the developer, including the response to further information submitted to the planning authority, and the submissions from the planning authority, prescribed bodies, appellants and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- (a) The proposed development would have potential negative impacts on surrounding sensitive receptors with regard to air quality. Subject to mitigation in the form of on-site practices to control dust generation and the phased extraction of the site, boundary treatment and the temporary nature of the impacts and attenuation by distance, it is not considered that these impacts would be significantly negative.
- (b) The proposed development would have potential negative impacts on groundwater and groundwater water supply sources that would be mitigated by the distance from such sources and on-site storage arrangements and operational practices that would minimise the risk of discharge of fuels, oils, or other contaminants to groundwater.
- (c) The proposed development would have the potential to impact negatively on human health arising from the emission of dust, noise, and potential impact on water supply sources. Emissions to air are not considered to be significantly negative post mitigation and the nature of the extracted material being based on limestone is not such that the material extracted would constitute a scheduled mineral and lead to the generation of fine silica material that could be hazardous to human health.

- (d) The proposed development would have potential negative impacts on the landscape and views in the vicinity of the site. These potential impacts would be successfully mitigated by screening of the site including through berm construction and boundary planting and by attenuation by distance.

Having regard to the above, it is considered that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on the environment.

The Board considered that the information provided is reasonable and sufficient to allow a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. Overall, the Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU.

The Board completed an Environmental Impact Assessment and concluded that the proposed development, subject to compliance with the mitigation measures proposed, and subject to compliance with the conditions set out below, would be acceptable having regard to the proper planning and sustainable development of the area.

Conclusions on Proper Planning and Sustainable Development.

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

- (a) would be in accordance with national and regional policy relating to the extractive industry,
- (b) would be in accordance with the provisions of the Offaly County Development Plan, 2014-2020, including the policies relating to



extractive industries, and the protection of landscapes and scenic amenity,

- (c) would not seriously injure the visual amenities of the area or have a significant negative impact on the landscape,
- (d) would not seriously injure the amenities or depreciate the value of properties in the vicinity of the site,
- (e) would not give rise to a risk of pollution,
- (f) would not detract from archaeological features or from architectural heritage,
- (g) would be acceptable in terms of traffic safety and convenience, and
- (h) would not be prejudicial to public health.

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 7th day of April 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.

CM36

2. All mitigation measures and environmental monitoring requirements identified in the Environmental Impact Assessment Report and other plans and particulars submitted with the application shall be complied with in the development.

Reason: In the interests of clarity and the protection of the environment.

3. The period during which the development hereby permitted may be carried out shall be 20 years from the date of this Order.

Reason: In the interest of clarity.

4. This permission authorises the extraction of up to 360,000 tonnes of material per annum at the site over the 18 years commencing on the date of this Order.

Reason: In the interest of clarity.

5. The quarry, and all activities occurring therein, shall only operate between 0700 hours and 1800 hours, Monday to Friday and between 0700 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.

Reason: In order to protect the 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. 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 for the monitoring of dust at the site boundaries.
 - (d) Proposals for the bunding of fuel and lubrication storage areas, and details of emergency action in the event of accidental spillage.
 - (e) Management of all landscaping.
 - (f) Monitoring of groundwater quality, levels, and discharges.
 - (g) 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.

7. Restoration shall be carried out in accordance with the restoration plan details submitted with the application, as amended by further information submitted on the 7th day of April 2020. The lands shall be restored for use as agricultural use.

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

8. Vehicles transporting material to and from the site, and accessing the site, shall use the existing access road at the southern end of the site accessing onto the N52. No quarry related traffic shall use the agricultural access onto the local road at the northern end of the site.

Reason: In the interest of traffic safety and residential amenity.

9. All proposed 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 property in the vicinity during the operating phase of the development.

10. The developer shall facilitate the archaeological appraisal of the site and shall provide for 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, and
- (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all topsoil stripping associated with the proposed development. The assessment shall address the following issues:
 - (i) the nature and location of archaeological material on the site, and

- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements prior to commencement of construction works.

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

11. The following requirements relating to noise shall be complied with in the development:
 - (a) During the operational phase of the proposed development, the noise level from within the boundaries of the site when measured at noise sensitive locations in the vicinity, shall not exceed:
 - (i) an Leq, 1h value of 55 dB(A) between 0700 hours and 1800 hours, Monday to Friday and between 0700 hours and 1400 hours on Saturdays
 - (ii) an Leq, 15 min value of 45 dB(A) at any other time. Night-time emissions shall have no tonal component.
 - (b) During temporary site set up works such as the construction of perimeter berms and stripping of soil, the noise level measured at noise sensitive locations in the vicinity shall not exceed a limit of

70 dB(A) LAeq 1 hour up to a maximum period of eight weeks in any year.

Details of the noise monitoring locations and methodology for recording noise levels and demonstrating compliance with the above limit values shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

12. 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, the frequency of monitoring results, and details of all dust suppression measures.

Reason: To control dust emissions arising from the development and in the interest of the amenity of the area.



13. (a) The developer shall monitor and record groundwater, 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.
- (b) The developer shall submit quarterly reports with full records of dust monitoring, noise 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 groundwater pollution or incidents that may result in groundwater pollution, shall be notified to the planning authority without delay.
- (c) 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.

14. On or before the 1st day of January every year, the developer shall submit to the planning authority, a written report compiled by an independent quarry expert, plus drawings, detailing the extent of all works, including the excavation and reinstatement, carried out on site to date, and a programme of works for the incoming year.

Reason: In order to ensure the restoration programme and the extraction is being carried out in a co-ordinated and orderly manner.

15. The developer shall provide all landowners within 500 metres of the site with appropriate contact details which may be used in the event that any such landowner wishes to inform the developer of any incident, or otherwise to make a complaint in respect of an aspect of quarry operation.

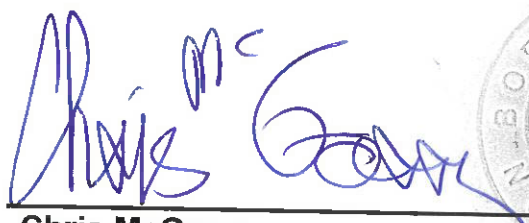
Reason: In the interest of the protection of residential amenity and planning control.

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 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.

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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is 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.


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

Dated this 21st day of June 2021.