

An
Bord
Pleanála

Board Order
ABP-312864-22

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 21/24

Appeal by Thomas Duggan of Coologue, Toomevara, Nenagh, County Tipperary against the decision made on the 31st day of January, 2022 by Tipperary County Council to grant subject to conditions a permission to Seamus Ryan Sand and Gravel Limited care of Q.E.D. Engineering Limited of Unit 5, M-TEK Building 1, Armagh Road, Monaghan, County Monaghan in accordance with plans and particulars lodged with the said Council:

Proposed Development: Extension of the existing sand and gravel quarry and for continued use of the site entrance, access laneway, weighbridge, maintenance shed, settlement lagoons, site office, toilet, plant and machinery and ancillary works. The extension area will be 13.818 hectares in lands to the north-west of the existing quarry. An Environmental Impact Assessment Report has been prepared and is submitted with the application. All at Ballybeg and Aghnameadle, Toomevara, County Tipperary, as revised by the further public notice received by An Bord Pleanála on the 25th day of October, 2023.

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.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the policies set out in the National Planning Framework;
- (b) the policies of the planning authority, as set out in the Tipperary County Development Plan 2022 – 2028;
- (c) National Guidelines including “Quarries and Ancillary Activities, Guidelines for Planning Authorities”, issued by the Department of the Environment, Heritage and Local Government in April 2004;
- (d) the planning history of the site, in particular Substitute Consent Permission granted under An Bord Pleanála appeal reference number 22.SU.0032 and permission for extension of existing sand and gravel quarry granted under An Bord Pleanála appeal reference number PL92.245499 (planning register reference number 14/600418);
- (e) 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;
- (f) the distances of the proposed development to dwellings or other sensitive receptors;
- (g) the proposed phased extraction and proposals for the restoration of the site;
- (h) the nature and scale of the proposed development and the contents of the Environmental Impact Assessment Report, and further information submitted by the applicant;

- (i) the range of mitigation measures set out in the documentation received, including the Environmental Impact Assessment Report and further submissions from the applicant to An Bord Pleanála in the course of the appeal;
- (j) 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;
- (k) 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; and
- (l) the submissions made in the course of the planning application and the appeal.

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 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 Lough Derg North-East Shore Special Area of Conservation (Site Code: 002241), the Lower River Shannon Special Area of Conservation (Site Code: 002165), or any other European site, in view of the sites' conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

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This screening determination is based on the following:

- the nature and scale of the proposed development;
- the intervening land uses;
- the distance from European sites; and
- the absence of direct connections with regard to the source-pathway-receptor model.

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 (EIAR) and associated documentation submitted in support of the application and appeal;
- (c) the submissions from the planning authority and the third-party appellant in the course of the application; and
- (d) the Planning Inspector's report.

The Board considered that the EIAR, supported by the documentation submitted by the applicant, 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 EIAR and associated documentation submitted by the applicant and submissions made in the course of the application.

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Reasoned Conclusion on the Significant Effects

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be, mitigated as follows:

- The proposed development would have potential negative impacts on surrounding sensitive receptors with regard to air quality and noise. Subject to mitigation in the form of on-site practices to control dust generation, noise 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.
- The proposed development would have potential negative impacts on surface water and groundwater that would be mitigated by the design of the surface water management system and on-site storage arrangements that would minimise the risk of discharge of fuels, oils, or other contaminants to groundwater.
- 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 boundary berms, boundary planting and by attenuation by distance, and by the restoration plan. Having regard to the above, the Board is satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on the environment.
- Potential biodiversity impacts would arise due to the removal of 854 metres of hedgerow, removal of topsoil, and extraction of materials from the site. Appropriate mitigation has been considered as part of the development and the Board is satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on the environment.

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Conclusions on Proper Planning and Sustainable Development

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

- would be in accordance with national and local policy relating to the extractive industry;
- would be in accordance with the provisions of the Tipperary County Development Plan, 2022 - 2028, including the policies relating to extractive industries, and the protection of landscapes and scenic amenity;
- would not seriously injure the visual amenities of the area or have a significant negative impact on the landscape;
- would not seriously injure the amenities or depreciate the value of properties in the vicinity of the site;
- would not give rise to a risk of pollution;
- would not detract from archaeological features;
- would be acceptable in terms of traffic safety; and
- 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 29th day of November, 2021 and by the further plans and particulars received by An Bord Pleanála on the 8th day of September, 2023, 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. All mitigation measures and environmental monitoring requirements identified in the EIAR, in the Compendium of all Mitigation and Monitoring Commitments (September 2023), and in all 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. Activities at the facility shall be restricted to the excavation, processing, haulage and storage of sand and gravel materials won from within the development site. This grant of permission relates only to the areas outlined for excavation on Drawing Number Figure 1 of the Further Information received by the planning authority on the 29th day of November, 2021.

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

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

Reason: To protect groundwater in the area.

5. The quarry, and all activities occurring therein, shall only operate between the hours of 0800 and 1800 from Mondays to Fridays and between the hours of 0800 and 1400 on Saturdays. No activity shall take place outside these hours or 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 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.

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- (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 ground water quality, levels, and discharges.
- (g) A permanent benchmark set up on the site in a location to be submitted to the planning authority before any new excavation occurs.
- (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.

- 7. (a) Surface water within the extended quarry area shall be discharged via the existing and proposed siltation lagoon network on site. No groundwater or surface water from the quarry pit shall be discharged to the adjoining road network, or to adjacent lands.
- (b) Details in relation to the construction methodology for the settlement/pumping ponds shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

8. Prior to commencement of extraction within the greenfield area to the north-west of the existing quarry, the developer shall:
- (a) Remove the entire existing stockpile of quarry material at the entrance to the site adjoining the L3240.
 - (b) Complete the hedgerow planting along the western boundary of the site.
 - (c) Submit a comprehensive boundary and landscaping plan for the written agreement of the planning authority identifying details of native hedgerows to be planted, hedgerows to be retained, and location and details of all fencing and berms around the boundaries of the site.

Reason: In the interests of orderly development, visual amenity and to safeguard the amenities in the vicinity during the operating phase of the development.

9. (a) Primary vehicular access to the quarry extension shall be via the existing access from the public road to the quarry, with limited access via the existing agricultural entrance to facilitate topsoil stripping. All vehicles transporting material from the quarry shall be covered before exiting the site and all vehicles shall exit the site via wheel wash facilities.
- (b) Details of the concrete finish to the access lane from the gated entrance at the public road back to the weighbridge within the site, including associated swale and attenuation pond, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (c) Any damage caused by the development to the roads, kerbs, or footpaths in the vicinity of the site shall be reinstated as may be required to the specifications and reasonable satisfaction of the Roads Section of the planning authority.
- (d) The developer shall be responsible for maintaining the adjoining public road in a clean state, free from mud and other debris. Site management shall provide for the routine removal of any such mud or debris (including loose material in verges) in the public roadway on a daily basis towards the close of business each day.

Reason: In the interests of traffic safety and orderly development.

10. The restoration of the quarry shall be phased alongside the quarry extension in accordance with a detailed phasing scheme, which shall include timelines for restoration linked to new extraction areas, with progression of extraction only permitted once the restoration works within each phase are complete. Details of the phasing scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The revised phasing scheme shall be incorporated into a new updated version of the submitted 'Revised Quarry Restoration and Aftercare Plan', dated November 2021. Restoration of the existing and proposed quarry shall be completed within 20 years of the date of grant of permission.

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

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

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

12. 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 measured at currently existing noise sensitive locations in the vicinity, shall not exceed:

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- (i) an Leq, one hour value of 55 dB(A) between 0700 hours and 1800 hours from Mondays to Fridays and between 0700 hours and 1600 hours on Saturdays
 - (ii) an Leq, 15 minutes 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 70dB(A) LAeq one 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 agreed in writing with the planning authority prior to the commencement of development.

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

13. 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.

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14. (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 interests of protecting residential amenities and ensuring a sustainable use of non-renewable resources.

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15. The developer shall submit bi-annually, 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 established perimeter beacons, the form and location of which shall be agreed in writing with the planning authority prior to commencement of quarrying works.

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

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.

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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.

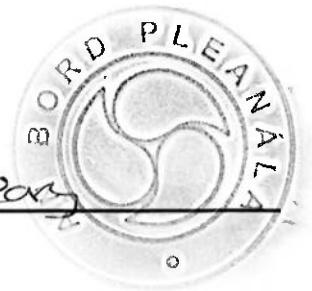
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Patricia Calleary

Member of An Bord Pleanála

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



Dated this 28 day of February 2024.