

An
Bord
Pleanála

Board Order ABP-313845-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 22/346

Appeal by Mary Fleming of Inchicorrigane East, Kilcummin, Killarney, County Kerry against the decision made on the 24th day of May, 2022 by Kerry County Council to grant permission subject to conditions, to Michael F. Quirke and Sons care of Michael O'Connor of Longfield, Firies, Killarney, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construct a waste facility for the importation of waste material comprising of construction and demolition wastes including concrete (waste code: 17 01 01), bricks (waste code: 17 01 02), tiles and ceramics (waste code: 17 01 03), non-contaminated soil and stones (waste code: 17 05 04), mixtures of concrete, brick, tiles and ceramics (waste code: 17 01 07) for the purposes of filling or raising lands to facilitate land reclamation at Inchicorrigane East, Kilcummin, Killarney, County Kerry.

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.

22/05/21

ABP- 313845-22

Board Order

Page 1 of 9

Reasons and Considerations

Having regard to the nature and extent of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

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 Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365) is the only European Site in respect of which the proposed development has the potential to have a significant effect in view of the site's Conservation Objectives and that a Stage 2 Appropriate Assessment was, therefore, required.

Appropriate Assessment

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 Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365) in view of the sites' 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 sites' 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 Sites, in view of the sites Conservation Objectives.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.

An amendment to this
Board Order has been made
Dated 22/05/24
Signed: Secretary *EW*

Board Order

Page 3 of 9

2. This permission shall apply for a period of five years from the date of this order. Following the expiration of this period, the importation of material to the site and operations on site shall cease, unless prior to the end of the period, planning permission shall have been granted for a further period.

Reason: To enable a review of the effect of the development on the amenities of the area.

3. The maximum quantities of inert soil and stone to be accepted at the site shall not exceed 60,000 tonnes in total over the period referred to in condition number 2 of this permission with the number of deliveries limited to a maximum of two number loads per day.

Reason: In the interests of clarity and traffic safety.


4. All of the environmental, construction and ecological mitigation measures, as set out in the Natura Impact Statement and associated documentation submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

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

5. The imported material to be deposited on the land shall comprise inert soil, stone and topsoil only and shall be levelled, contoured and seeded upon the completion of the works and protected until established.

Reason: In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.

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ABP- 313845-22

Board Order

Page 4 of 9



6. (a) A minimum 10-metre-wide buffer zone shall be maintained between the proposed fill area of the site and the identified site boundary along the eastern side of the site (being 10 metres from the bank of the adjacent stream).
- (b) A minimum 10-metre-wide buffer zone shall be maintained between the proposed fill area of the site and the drains which run along the northern, western and southern boundaries of the site.
- (c) The buffer zones shall be cordoned off from earth movement works and suitable bunds, barriers and silt fencing shall be erected along the boundary of the infill area and the buffer zone to prevent soil and sediment from entering watercourses throughout the course of works. No inert, or any other material shall be deposited in these buffer zones.
- (d) Details of the buffer zone and the provision of bunds, barriers and silt fencing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, including at the proposed access and turning head area where there is an interface with previously filled areas.
- (e) Prior to the commencement of development, revised drawings and fully scaled cross sections shall be submitted to, and agreed in writing with, the planning authority clearly identifying the buffer zones, including proposals to provide appropriate barriers to prevent accidental deposition of material within the buffer zones, including at the proposed access and turning head area where there is an interface with previously filled areas.

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Dated 22/05/24

ABP-313845-22 Secretary Board Order

Page 5 of 9

- (f) The revised plans and sections required to comply with this condition shall clearly show the original/existing level profile and the proposed finished level profile and details of the minimum, maximum and average depth of fill shall be noted. The fill area in square metres and fill volume in cubic metres shall also be submitted to the planning authority for agreement.

Reason: In the interest of clarity and in order to protect receiving waters.

7. (a) Prior to commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority.
- (b) All works on the site shall be carried out strictly in accordance with the mitigation measures specified in the Construction Environmental Management Plan (CEMP).
- (c) No development shall be commenced on the site until part (a) of this condition is complied with.

Reason: In the interest of environmental protection.

8. A Temporary Bench Mark (TBM) to which the existing and proposed levels relate, shall be installed and maintained for the duration of the proposed works. Full details of the TBM, including photographic evidence and details of its location on a site layout drawing, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any development on the site.

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

An amendment to this
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9. The importation of inert soil, stone and topsoil and the operation of associated machinery shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, between 0900 to 1400 hours on Saturdays and not at all on Sundays, bank 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 the interest of good traffic management and to protect the amenities of the area.

10. (a) Details of road signage including advance warning notices and proposals for traffic management at the site entrance, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) A wheel wash facility shall be installed at the exit of the site. The public roadway shall be kept clean and tidy at all stages of the development.

Reason: In the interest of traffic safety.

11. The development shall not commence on this site until a Waste Facility Permit has been issued and site operations shall be in accordance with the said Permit.

Reason: In the interest of amenity and to prevent environmental pollution.

12. All trees and hedgerows on the boundaries of the site shall be retained and maintained. Retained trees and hedgerows shall be protected from damage during construction and infill development works.

Reason: To protect trees and planting during the construction and infill period, in the interest of visual amenity and biodiversity.

13. During the construction phase of the proposed development, the noise level from within the boundaries of the site, as measured at noise sensitive locations in the vicinity, shall not exceed-

(a) an L_{Ar,T} value of 55 dB(A) between the hours of 0800 and 1900 from Mondays to Fridays, and between the hours of 0800 and 1400 on Saturdays (excluding public holidays).

(b) an L_{Aeq, T} value of 45 dB(A) at any other time.

Reason: To protect the residential amenities of property in the vicinity.

14. During the construction stage, dust emissions 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, the commencement date and the frequency of monitoring results.

Reason: To protect the residential amenities of property in the vicinity.

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ABP- 313845-22

Board Order

Page 8 of 9

15. 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.


Stephen Bohan

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

Dated this 8th day of February 2024

**An amendment to this
Board Order has been made**

Dated 22/05/24

Signed: Secretary

ABP- 313845-22

 Board Order

Page 9 of 9