

Planning and Development Acts 2000 to 2022

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 21/772

Appeal by Terence and Mary McCarthy of Rockvilla, Canty, Cappagh, County Waterford and by Roadstone Limited care of SLR Consulting Ireland of Unit 7 Dundrum Business Park, Windy Arbour, Dundrum, Dublin against the decision made on the 2nd day of June, 2022 by Waterford City and County Council to grant subject to conditions a permission to Roadstone Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: Satellite quarry to the east of Cappagh Quarry (previously permitted under planning register reference number 06/1599 and An Bord Pleanála reference number PL 24.225443) and the local access passageway which delineates its eastern boundary. The satellite quarry will extend to 13.6 hectares (33.6 acres) of which 9.7 hectares (24.0 acres) will be extracted. Construction of a 40-metre long sub-surface reinforced concrete tunnel underpass (with internal cross-section measuring 6 metres wide by 5.5 metres high), beneath the local access passageway (previously permitted under planning register reference number 920/97) to connect the satellite quarry to the existing quarry at quarry floor level; stripping of overburden soils at the satellite quarry for use in construction of environmental bunds and ongoing site restoration works and subsequent excavation of a single quarry

bench in limestone bedrock using mechanical excavation and blasting techniques. The proposed quarry floor will not extend below 10m OD or into the underlying groundwater body, processing (crushing and screening) of excavated rock to produce aggregates and agricultural ground limestone, demolition of an existing derelict house in the north-western corner of the proposed satellite quarry, removal of existing internal hedgerows, construction of new perimeter fence and installation of access gates leading from the local access passageway to a perimeter track running above and around the satellite quarry, temporary diversion of section of the existing local access passageway to facilitate construction and installation of the proposed tunnel underpass and re-instatement of the access passageway above it thereafter, provision of a temporary access gate and ramp at the existing quarry to facilitate the temporary haulage of materials to and from the satellite quarry and across the existing passageway until the proposed tunnel underpass is in place, demolition of concrete supports for the former crushing plant, construction and operation of new concrete batching facility (which comprises four number cement silos, batching/mixing unit, aggregate storage bins, an aggregate loading hopper and connecting conveyor systems), all on a concrete paved area on the existing quarry floor, in front of the northern quarry face, provision of a batching control office and mixture storage shed, construction of a closed loop concrete recycling facility, comprising a concrete truck wash out area, settlement lagoons and 70,000 litre water storage/recycling tank immediately behind (north of) the concrete batching plant, construction of an aggregate storage hardstanding area (covering 1 hectare) immediately to the east of the proposed concrete batching plant, continued use of established site infrastructure in service of the proposed satellite quarry and a new batching plant, re-alignment of boundary wall and demolition/removal of an existing structure to the east of the existing quarry access junction to provide enhanced sightlines for traffic egressing the quarry, implementation of a progressing restoration scheme (in phases) in tandem with extraction activities across the satellite quarry are. Permission sought for

up to 20 years, on a site of 18.2 hectares at Cappy Quarry, Ballykennedy, Kilgreany and Canty Townlands, Cappagh, Dungarvan, County Waterford.

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

Having regard to:

- (a) the Project Ireland 2040 National Planning Framework,
- (b) the Climate Action Plan 2024, with which the proposed development is consistent with,
- (c) the National Biodiversity Plan 2023-2030,
- (d) the policies and objectives set out in the Waterford County Development Plan 2022-2028,
- (e) the nature, scale and extent of the proposed development,
- (f) the mitigation measures proposed for the construction and operation of the site and subject works,
- (g) the submissions and observations on file including those from prescribed bodies, the planning authority and other third parties,
- (h) the distance to existing dwellings or other sensitive receptors,

- (i) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites, and
- (j) the report and recommendation of the Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or otherwise of property in the vicinity, would not have an unacceptable impact on the character of the landscape or cultural or archaeological heritage, would not have a significant adverse impact on ecology, would be acceptable in terms of traffic safety and convenience and public health and would make a positive contribution to the economy. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1

The Board considered the Screening Report for Appropriate Assessment and all other relevant submissions and carried out an appropriate assessment screening exercise relation to the potential effects of the proposed development on designated European sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale, and location of the proposed development. The Board agreed generally with the screening report submitted with the application and with the screening exercise carried out by the Inspector.

The Board concluded that, having regard to the qualifying interests for which the sites were designated and in the absence of connections to, and distance between, the application site and the European Site – the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170), could be screened out from the further consideration and that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effects on this European Site in view of the sites' conservation objectives and that a Stage 2 Appropriate Assessment is, therefore not, required in relation to this European Site.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the Dungarvan Harbour Special Protection Area (Site Code: 004032) 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 as well as the report of the Inspector.

In completing the assessment, the Board considered the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the conservation objectives for this European Site. 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 would not adversely affect the integrity of Dungarvan Harbour Special Protection Area (Site Code: 004032) in view of the sites' conservation objectives.

Environmental Impact Assessment:

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location, and extent of the proposed development on a greenfield site,
- (b) the Environmental Impact Assessment Report (EIAR), associated documentation and Supplementary Environmental Impact Assessment Report, submitted in support of the application,
- (c) the submissions received from the prescribed bodies, planning authority, first and third parties and observers, 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 during the application. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Noise and dust during the construction and operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report, and Supplementary Noise Report, which includes specific provisions relating to the control of dust and noise.
- The increase in vehicle movements and resulting traffic during the construction and operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report.
- The impacts on residential amenity during the construction and operational phases in terms of noise, disturbance, nuisance and visual impact would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report which includes specific provisions relating to the control and management of dust, noise, water quality and traffic movement.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

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 to the planning authority on the 31st day of March, 2022, 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 grant of permission shall be for a maximum period of 20 years from the date of this Order. At the end of 17 years from the date of this Order, the proposed satellite quarry and batching plant use shall cease and all related structures removed and remedial works including restoration works, in accordance with the general principles set out in the application, shall be carried out, unless, before the end of that period, planning permission shall have been granted for the continuance of quarrying for a further period. The site restoration works described in the application shall be completed within two years of the cessation of quarrying on the site.

Reason: In the interests of visual amenity and orderly development.

3. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

4. The mitigation measures contained in the submitted Environmental Impact Assessment Report (EIAR), shall be implemented.

Reason: To protect the environment.

5. Prior to commencement of the development, the developer shall carry out structural surveys of all the dwellings within 500 metres of the subject site which shall be used as a reference record to assess the impact from blasting, and submit the surveys to the planning authority and relevant residents.

Reason: To establish the structural integrity of the dwellings prior to construction.

6. No extraction shall take place below 10 metres Ordnance Datum, as detailed in the Environmental Impact Assessment Volume 1 (dated July 2021) report submitted to the planning authority, and all extraction shall take place above the water table.

Reason: To protect groundwater in the area.

7. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, details of all landscaping mitigation measures to be implemented on the site during the construction and operational phase of the development. This shall include the details and locations of all berms, planting, and overburden areas and will include a triangular landscape area, measuring 0.6 hectares, on the eastern boundary of the satellite quarry, immediately to the south of the proposed triangular landscaped area.

Reason: In the interests of residential and visual amenity.

8. (a) The satellite quarry and all associated activities with the quarry shall only operate between 0800 hours and 1800 hours, Monday to Friday inclusive and between 0800 hours and 1400 hours on Saturdays.
- (b) The operating hours of the concrete batching plant and all associated activity with the plant shall only operate between 0700 hours and 1800 hours, Monday to Friday inclusive and between 0800 hours and 1400 hours on Saturdays.

- (c) Rock breaking within the site shall be carried out a maximum of one day per week and shall be limited to 0800 hours and 1800 hours Monday to Friday inclusive only.
- (d) Blasting shall not occur more than four times a year and shall be confined to 1100 hours and 1500 hours Monday to Fridays inclusive only.

Reason: In order to protect the residential amenity in the vicinity.

- 9. (a) Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres/second, when measured in any three mutually orthogonal directions at any sensitive location.
- (b) 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.
- (c) Transient vibration shall not exceed 15 millimetres/second at low frequencies, rising to 20 millimetres/second at 15 Hertz and 50 millimetres/second at 40 hertz and above.
- (d) 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.

- (e) A monitoring programme, 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 the 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 review.

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

10. (a) Free-field noise levels attributable to the operation of the development when measured at the nearest noise sensitive locations shall not exceed
- (i) 55 dB(A) Leq, 1 hour between the hours of 0700-1800 Monday to Friday inclusive, and
 - (ii) 0700-1400 hours on Saturday and shall not exceed 45 dB(A) Leq, 15 minutes at any other time.
- (b) Notwithstanding (a) above, where any temporary quarry activity could potentially exceed the noise limits above, this shall be notified in advance to the planning authority, and to residents in the vicinity, indicating the reason for such activity, and its likely duration. No such exceedance of noise limits shall occur without the prior written agreement of the planning authority.
- (c) Notwithstanding (a) and (b) above, 95% of all noise levels shall comply with the above specified limit values. No noise level shall exceed the limit value by more than 2 dB(A).

- (d) A noise survey and assessment programme, during the hours of construction and operation, shall be undertaken to assess the impact of noise emissions arising from the operation of the entire quarry complex. The scope and methodology of this survey and assessment programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. The results obtained from the programme shall be submitted for review at quarterly intervals, unless otherwise agreed to the planning authority. The developer shall carry out any amendments to the programme required by the planning authority, following this review.
- (e) During soil stripping and the construction of the berms and tunnel, the noise limit shall not exceed 70dB LAeq (1 hour) between the hours of 0800 hours and 1800 hours Monday to Friday. This limit shall apply for a period of eight weeks from the commencement of the operations on site.
- (f) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2017: Acoustics - Description and Measurement of Environmental Noise.
- (g) Monitoring of the noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the planning authority.

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

11. (a) Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.
- (b) A regular 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 frequency, 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.
- (c) The conveyor belt of the batching plant shall be enclosed/housed and the hardstanding area to be used for the storage of aggregates (1 hectare) shall be screened/enclosed, details of which shall be submitted prior to commencement of the development for the written agreement of the planning authority.

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

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

Reason: In order to protect ground water quality.

13. (a) Prior to commencement of the development, the onsite wastewater treatment system including the percolation area/soil polishing filter hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted to the planning authority on the 31st day of March, 2022 and shall be in accordance with the standards set out in the document entitled "Code of Practice- Domestic Waste Treatment Systems (Population Equivalent ≤ 10)"- Environmental Protection Agency 2021.
- (b) The location, construction and commissioning of the wastewater treatment system and percolation area shall be installed under the supervision of a civil engineer or appropriately qualified professional, who upon completion of works/commissioning shall submit to the planning authority certification supported by photographs that the system has been laid out and constructed in accordance with the relevant codes of practice.
- (c) The developer of the site shall be responsible for the maintenance of the wastewater treatment system.

- (d) The existing septic tank and percolation area shall be decommissioned once the system permitted is operational.

Reason: In the interest of public health and to prevent water pollution.

14. The developer shall provide and arrange for the continuous and indefinite provision of an adequate supply of potable water for the sanitary needs of the development.

Reason: In the interest of public health.

15. 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. The Environmental Management System shall incorporate the relevant conditions of this permission to include the following:

- (a) Proposals for the suppression of on-site noise levels.
- (b) Proposals for the on-going monitoring of sound emissions at dwellings in the vicinity.
- (c) 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, depth of excavation, those areas being actively managed for biodiversity gain and restored.
- (d) Proposals for the suppression of dust on site and on the access road.
- (e) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage.

- (f) A written record from the on-site weighbridge of the quantity of material leaving the site. This quantity shall be specified in tonnes.
- (g) Details of safety measures for the lands adjoining the quarry, to include warning signs and stockproof fencing.
- (h) Management of all landscaping.
- (i) Specification of extraction limits in relation to the following parameters between 185,000-215,000 tonnes per annum annually.
- (j) Monitoring of ground and surface water quality, levels and discharges.
- (k) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.
- (l) A record of the volumes of waste oils, used batteries, used tyres, disused plant and machinery, and scrap metal arising within the site shall be kept on-site and made available to the planning authority on request.
- (m) A written record of all complaints, including actions taken in response to each complaint.

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

16. Prior to commencement of the development, the existing vehicular entrance shall be fully upgraded to comply with the following:
- (a) The entrance shall be upgraded so that clear and unobstructed sightlines available from a point of 4.5 metres back from the nearside edge of the roadway at the centre of the entrance to a point to the left and right on the nearer edge of the roadway (which includes the hard shoulder) for a distance of 160 metres. The roadside boundary shall be set back behind the sightlines to accommodate this requirement.
 - (b) Any existing service or utility poles between the new road fence line and the roadway shall be relocated with the agreement of the relevant service provider, and relocated at the same time as when the roadside boundary is being removed.
 - (c) The existing finished road levels shall not be raised or lowered to facilitate the development without prior consultation with the Roads Department and the subsequent written agreement of the planning authority.

Reason: In the interest of traffic safety.

17. The developer shall comply with the requirements of the planning authority with regard to traffic management and access arrangements and the details of such works, including general road works, shall be agreed in writing prior to the commencement of development.

Reason: In order to safeguard local amenities.

18. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, a signage scheme warning road users of the existence of the quarry. This signage scheme shall be maintained at the developer's expense for the duration of the quarrying activity permitted by this grant of planning permission.

Reason: In the interest of traffic safety.

19. (a) The developer shall engage a suitably qualified archaeologist (licensed under the National Monuments Acts) to carry out pre-development of archaeological excavation as identified in the Archaeological Assessment Report submitted on the 1st day of April, 2022.
- (b) An archaeological assessment of any karst features will be carried out in advance of development works.
- (c) A detailed methodology to facilitate archaeological monitoring/recording of the areas shall be prepared and submitted to the Licensing Section of the Department of Housing, Local Government and Heritage for consideration and no site preparation, site investigation, construction or extraction works shall proceed on site until the required archaeological methodology has been agreed with the Department and the necessary archaeological excavation has been completed on site.

- (d) All topsoil stripping/groundworks within the confined of the site shall be monitored by a suitably qualified archaeologist licensed under the National Monuments Act. Should archaeological material be found during the during the course of monitoring, the archaeologist may have work on the site stopped pending consultation with the Department of Housing, Local Government and Heritage to agree the appropriate treatment of archaeological remains and any mitigation action to facilitate recording any material found.
- (e) A detailed report describing the results of the archaeological excavations, monitoring works, post excavation reports and analysis shall be submitted to the planning authority following the completion of all archaeological work on site and all post excavation analysis.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

- 20. (a) The works to the derelict cottage and its curtilage shall be carried out in accordance with the submitted further information on the 31st day of March 2022, having regard to Birdwatch Ireland's 2021 Guidance Document, 'Wildlife in Buildings Linking our Built and Natural Heritage'. The site shall then be monitored for three seasons to establish continued use as a nesting habitat. Confirmation of the continued use or any interventions shall be submitted to the planning authority.
- (b) Works to secure the building shall be carried out outside the bird nesting season (i.e. March 1st to August 31st).
- (c) All measures detailed in the Biodiversity Management Plan shall be implemented in full.

Reason: In the interest of protecting biodiversity.

21. Restoration shall be carried out in accordance with a restoration plan, which shall include existing and proposed ground levels, landscaping proposals and a timescale for implementation. This plan shall be prepared by the developer, and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

22. The construction of the development shall be managed in accordance with a Construction and 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 hours of working, noise management measures and off-site disposal of waste.

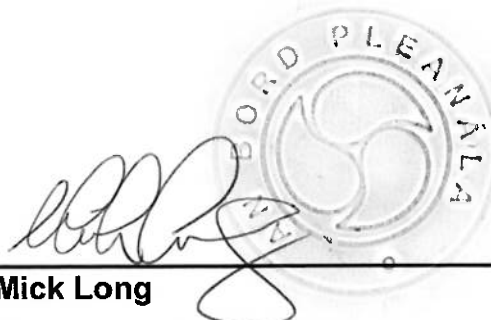
Reason: In the interests of public safety and residential amenity.

23. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. 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 amenity.

24. 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.

A handwritten signature in black ink is written over a circular official seal. The seal features a stylized 'S' in the center and the words 'AN BORD PLEANÁLA' around the perimeter. A horizontal line is drawn across the signature and seal.

Mick Long

Member of An Bord Pleanála

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

Dated this 10 day of December 2024.