

An
Coimisiún
Pleanála

Commission Order
ABP-314374-22

Planning and Development Acts 2000 to 2024

Planning Authority: Wicklow County Council

Application for Substitute Consent by ECT Sand and Gravel Limited care of Tom Philips and Associates of 80 Harcourt Stret, Dublin in accordance with section 177E of the Planning and Development Act, 2000, as amended by the insertion on section 57 of the Planning and Development (Amendment) Act, 2010, as amended.

Location of Quarry: Ballinabarney North and Bolagh Lower, Redcross, County Wicklow.

Decision

The Commission, in accordance with section 177K of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, decided to **GRANT** substitute consent in accordance with the following conditions.

Reasons and Considerations

The Commission had regard to the following:

- (a) the provisions of the Planning and Development Act, 2000, as amended, and in particular Part XA, and the provisions of the Planning and Development Regulations, 2001, as amended,
- (b) the National Planning Framework, Revised 2025 (Project Ireland 2040),
- (c) the 'Quarries and Ancillary Activities, Guidelines for Planning Authorities', issued by the Department of the Environment, Heritage and Local Government, April 2004,
- (d) the Supplementary Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government, July 2012,
- (e) the applicable national, regional and local planning policy provisions including the Wicklow County Development Plan 2022-2028,
- (f) the remedial Environmental Impact Assessment Report submitted with the application for substitute consent, and documentation on file generally,
- (g) the report and the opinion of the planning authority under section 177I of the Planning and Development Act 2000, as amended,
- (h) the submission received from prescribed bodies,
- (i) the planning history of the site,

- (j) the pattern of development in the area, and
- (k) the nature, scale, characteristics and location of the historic development, the subject of this application for substitute consent including in relation to potential significant effects on the environment and on the integrity of European sites in the area.

Appropriate Assessment Screening

The Commission noted that the development is not directly connected with or necessary to the management of a European Site.

In completing the screening for Appropriate Assessment, the Commission considered the applicant's Screening for Appropriate Assessment (mistitled 'Remedial Stage 2 Natura Impact Statement, dated August 2022) and the Inspector's Appropriate Assessment Stage 1 - Screening. The Commission concurred with the conclusion of the Inspector's Appropriate Assessment Screening in respect of 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 and projects, on these European sites in view of the sites' conservation objectives. The Commission was satisfied that the development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Deputy's Pass Nature Reserve Special Area of Conservation (site code: 000717) and the Vale of Clara (Rathdrum Wood) Special Area of Conservation (site code: 000733), or any other European site, in view of the sites' conservation objectives.

This screening determination is based on the following:

- the nature and scale of the works,
- the distance between the application site and the nearest European sites, being the Deputy's Pass Nature Reserve Special Area of Conservation (site code: 000717) circa 3.6 kilometres and the Vale of Clara (Rathdrum Wood) Special Area of Conservation (site code: 000733) circa 3.8 kilometres,
- the qualifying interests of the Deputy's Pass Nature Reserve Special Area of Conservation (site code: 000717) and the Vale of Clara (Rathdrum Wood) Special Area of Conservation (site code 000733),
- the nature of the potential source-pathway-receptor connection between the application site and the said European sites, the distance and dilution factor involved, and
- the results of groundwater and surface water monitoring carried out.

The Commission did not take into consideration any mitigations measures in its screening for Appropriate Assessment.

Environmental Impact Assessment

The Commission completed an environmental impact assessment of the development, taking into account:

- the nature, scale, location, and extent of the development,
- the remedial Environmental Impact Assessment Report received by An Bord Pleanála on the 10th day of August 2022 and associated documentation submitted with the application,
- the submissions received during the course of the substitute consent application, and
- the Inspector's report.

The Commission considered that the remedial 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 development on the environment.

The Commission agreed with the examination, set out in the Inspector's report of the information contained in the remedial Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

Reasoned Conclusion for Environmental Impact Assessment

The Commission considered that the remedial Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Commission to reach a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment. The Commission is satisfied that the information contained in the remedial Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Commission considered that the main significant direct and indirect effects of the historic development on the environment, with the implementation of measures to avoid, prevent or reduce such effects are likely to have been as follows:

- **Land, Soils, and Geology:** The quarrying activities within the application site have resulted in a permanent loss of a geological resource and significant loss of land for agricultural purposes. However, such losses are not unacceptable, having regard to the primary function of the quarrying activities to extract the resource which itself brings benefits to the construction and agricultural sectors and would be imperceptible in size and scale when taken in context with the available agricultural lands in the area. Mitigation measures are stated to have included ensuring refuelling within a designated hardstand area, ensuring bunding of mobile fuel bowsers/tanks, and ensuring stockpiled overburden was made stable through establishing vegetation.
- **Material Assets, Cultural Heritage and the Landscape:** While the quarrying activities altered the local landscape resulting in significant impacts at a local level, given the partially enclosed nature of the site, which is reasonably well screened from views, the gradual (rather than abrupt) nature of changes to the landscape over time, and noting the purpose of the activity, and distance from the public road and adjoining dwellings such an impact is considered acceptable.
- **Ecology and Water:** The quarry development has resulted in significantly changed environment which has resulted in a different and diverse habitat and resultant ecology. Impacts on aquatic ecology, including the underlying locally important aquifer, through ground water containing sediment and/or hydrocarbons, with potential for degradation of habitats, species and water quality. Such impacts are stated to have been mitigated by adherence to good environmental management during the quarry operation and rewilding phases. The mitigation measures include the natural revegetation of the site, the carrying out of water monitoring quality within the site boundaries and refuelling within designated bunded areas, the retention of the lagoon

feature and the proposals for planting to the northern part of the site. Nonetheless, having regard to all the information on file, there is no evidence that adverse impacts of this nature arose on the receiving environment.

Exceptional circumstances

Having regard to section 177K(1)(J) of the Planning and Development Act 2000, as amended, the Commission is satisfied that exceptional circumstances exist having regard to the following:

- The regularisation of the development would not circumvent the purpose or objectives of the EIA Directive or Habitats Directive. The application was accompanied by a remedial Environmental Impact Assessment Report and the Commission is satisfied that Appropriate Assessment (Stage 2) is not, therefore, required.
- The applicant had or could reasonably have had a belief that the development was not unauthorised. The planning history and development history pertaining to the subject lands was considered by the Commission in assessing this belief.
- The Commission's ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment (EIA) has not been substantially impaired. Public participation in that assessment was provided for through the public notification of the submission of the substitute consent application to An Bord Pleanála.
- The actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out of the development. The Commission completed an Environmental Impact Assessment in relation to the development in question and concluded that the remedial Environmental Impact Assessment Report identified and described adequately the direct and indirect effects on

the environment of the development. The Commission determined that there is no likelihood of significant effects on European sites, and an Appropriate Assessment (Stage 2) is not, therefore, required.

- The extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated. The Commission considered that the remedial Environmental Impact Assessment Report and Inspector's report were satisfactory in addressing the likely significant environmental effects of the development and also agreed with the conclusions in relation to the acceptability of mitigation measures proposed and residual effects. The Commission determined that there is no likelihood of significant effects on European sites and an Appropriate Assessment (Stage 2) is not, therefore, required. No consideration was given by the Commission to mitigation or remediation in screening for Appropriate Assessment.
- The applicant has complied with a previous planning permission. There is no evidence to indicate that the applicant has not substantially complied with the terms and conditions of the previous planning permission pertaining to the subject lands. As stated above, the Board is satisfied that the applicant had or could reasonably have had a belief that all development undertaken on site was authorised.
- Other matters as the Commission considers relevant: the desire of the applicant to regularise the planning status of the quarry, no submissions were received from members of the public indicating that exceptional circumstances do not exist in this instance.

Conclusion on Proper Planning and Sustainable Development

Having regard to the nature, scale and location of the development, the provisions of the Wicklow County Development Plan 2022-2028, including policies and objectives in relation to the extractive industry (including CPO 9.52 and CPO 9.55), the landscape designations applicable to the site, the acceptability of the environmental impacts as set out above, and the exceptional circumstances that exist in this instance as set out above, it is considered that, subject to the compliance with the conditions set out below, the proposed development would not adversely impact on the receiving environment including ground and surface water, would not seriously injure the visual or residential amenities of the area or pose an unacceptable risk to traffic safety and would provide aggregates needed for residential, commercial, infrastructural and other development in the State. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. The Commission has performed its function in a manner consistent with the Climate Action and Low Carbon Development Act 2015 (as amended) and the Climate Action Plan 2024 and the Climate Action Plan 2025.

Conditions

1. This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála on the 10th day of August, 2022 and relates solely to the area as outlined in red on the drawings submitted with the application, except as may otherwise be required to comply with the following conditions.

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

2. This Order gives consent only to the extraction of aggregate already carried out at the application site on or prior to the date of the making of the application on the 10th day of August, 2022. The area of extraction consented pursuant to this Order (and already carried out) is as defined by the red line boundary as indicated on the drawing titled 'Existing Conditions' (drawing number 03 Rev. A) and down to the ground levels marked 'Existing Ground Level' on the drawing titled 'Cross Sections A&B – North South' (drawing number 04a Rev. A) and drawing titled 'Cross Sections C&D – West East' (drawing number 04b Rev. A), said drawings as received by An Bord Pleanála on the 10th day of August 2022. Any extractions after the 10th day of August, 2022 and beyond the area and ground levels referred to above, are not consented pursuant to this Order.

Reason: In the interest of clarity and to clearly indicate what works have been consented to pursuant to this Order at the application site.

3. All environmental mitigation measures identified within the remedial Environmental Impact Report received by the An Bord Pleanála on the 10th day of August, 2022 shall be implemented in full.

Reason: To protect the environment.

4. A detailed plan for the revegetation and rewilding for the subject site, based solely on the extent of quarry extraction that has taken place to date, shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this Order, unless, prior to that time, a planning permission has been granted for the further quarry development within the area covered by this grant of substitute consent.

Reason: In the interest of visual amenity and in order to enhance ecological value and to ensure public safety.

5. Unless permission is granted for the further quarry development within the area covered by this grant of substitute consent has been granted prior to that date, the developer shall lodge with the planning authority, within 12 months of the date of this Order, a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration/revegetation of the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory restoration/revegetation 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 Coimisiún Pleanála for determination.

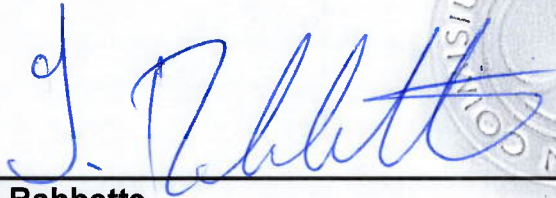
Reason: To ensure the satisfactory restoration of the site.

6. A programme and timescale for ongoing monitoring of water quality shall be submitted to, and agreed in writing with, the planning authority. It shall include proposals for monitoring to be undertaken to establish a baseline and for the period during the restoration/revegetation works. Reports on the findings should be submitted to the planning authority.

Reason: To ensure protection of water quality.

7. 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 within six months of the date of this permission 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 Coimisiún 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.



Tom Rabbette

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**

Dated this 8th day of July 2026.