

An
Bord
Pleanála

Board Order ABP-314995-22

Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 22/5298

Appeal by Patrick O'Keeffe and Joe Philpott care of Tanner Structural Designs Limited of Unit 2, Connolly House, Connolly Street, Fermoy, County Cork against the decision made on the 7th day of October, 2022 by Cork County Council to grant subject to conditions a permission to Greenvally Transport and Land Reclamation Limited care of Byrne Looby Partners (Ireland) Limited of Building 2100, Unit K, Ground Floor, Cork Airport Business Park, Kinsale Road, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Importation of clean and inert soil and stone, for a duration of eight years, for the purpose of raising the levels of a disused quarry in order to improve the agricultural output of the site, including all associated site enabling works to facilitate the development, including construction of a proposed infiltration basin/pond and an artificial pond, all at Scartbarry, Watergrasshill, County Cork.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars for the reasons and considerations under and subject to the conditions set out below.

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 have unacceptable impacts on the environment, 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 Stage 1:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment Stage 2:

The Board considered the Natura Impact Statement and other environmental documentation submitted with the application for approval, the mitigation measures contained therein, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170) in view of the site's Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an 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 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 integrity of the aforementioned European Site, having regard to the site's 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 Site, in light of the site's Conservation Objectives.

Conditions

1. The proposed 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 received by the planning authority on the 16th day of August, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission shall apply for a period of eight 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 mitigation measures contained in the Natura Impact Statement and Construction Environmental Management Plan and Ecological Impact Assessment submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

Reason: To protect biodiversity and to protect the integrity of the European Site.

4. The developer shall submit annually to the planning authority for the lifetime of this grant of permission a record of the quantity of material imported into the site and details, including drawings, which facilitates the planning authority to monitor the progress of the phases of restoration.

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

5. The maximum quantities of inert soil and stone to be accepted at the site shall not exceed 186,247 tonnes in total over the period referred to in condition number 2 of this permission and shall not exceed 25,000 tonnes in any one year with the number of deliveries limited to a maximum of five number loads per day.

Reason: In the interest of clarity and traffic safety.

6. Only clean, uncontaminated soil and stones shall be imported into the site. The final use of the site after completion of the importation of materials shall be for agricultural purposes only and the lands shall be reinstated, and the haulage route removed.

Reason: In the interest of clarity and amenity.

7. Detailed design of all surface management measures shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. The construction of the proposed development shall be managed in accordance with the Construction and Environmental Management Plan submitted with the application.

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

9. The restoration of the site shall be managed in accordance with the Restoration Plan submitted with the application, except where otherwise required by conditions attached to this permission. Implementation of this plan shall be carried out under the supervision of an ecologist/ecological clerk of works.

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

10. Wildflower seed mixes shall not be allowed. Wildflower shall be allowed to generate naturally, with wildflowers occurring within the seed bank encouraged to flourish through a management regime.

Reason: In the interest of biodiversity.

11. Site development works and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and, if the need arises for cleaning works to be carried out on the adjoining public roads, the cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

12. The detailed design of the entrance, signage and any works to the public road network shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: In the interest of public safety and amenity.

13. 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, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays, bank or public holidays. Deviation from these times shall 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.

14. 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.

15. During the construction phase of the proposed development, the noise level from within the boundaries of the site 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 1800 from Mondays to Fridays, 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.

16. 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). The monitoring and mitigation measures outlined within Section 4.4 of the submitted Construction and Environmental Management Plan shall be implemented in full during the construction development.

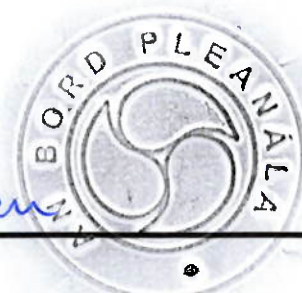
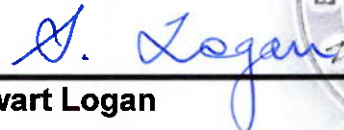
Reason: To protect the residential amenities of property in the vicinity.

17. Prior to commencement of development, the developer shall prepare an Invasive Alien Plant Species Management Plan, which shall address the eradication of any invasive alien plant species, tasks associated with the construction phase to avoid the risk of transporting or spreading invasive alien plant species and landscaping works to avoid the risk of invasive alien plant species re-establishing. The plan shall be agreed in writing with the planning authority prior to the commencement of works and, thereafter, shall be strictly adhered to in the development.

Reason: In the interest of proper planning and sustainable development.

18. 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.



Stewart Logan

Member of An Bord Pleanála

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

Dated this 24th day of July 2024.