

An
Bord
Pleanála

Board Order
ABP-315323-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 2233

Appeal by Geraldine O'Shea of Rangue, Killorglin, County Kerry and by Others against the decision made on the 2nd day of December, 2022 by Kerry County Council to grant, subject to conditions, a permission to Michael F. Quirke and Sons care of OES Consulting of 8 Osborne Promenade, Warrenpoint, Newry, County Down, Northern Ireland in accordance with plans and particulars lodged with the said Council:

Proposed Development: (1) Continuation of use of the existing factory site at Rangue as presently permitted under planning permission reference number PL.08/125728; (2) extraction of aggregates and pre-processing by dry screening and grading in a new contiguous site in the townland of Knocknaboola for supply to the factory site and direct sale; (3) construction of temporary entrance from the Caragh Lake Road (L-4021) to the proposed new extraction site at Knocknaboola; (4) construction of an underpass beneath the Caragh Lake Road (L-4021) to facilitate the direct transportation of aggregates from the Knocknaboola site to the factory site, all at Rangue and Knocknaboola, Killorglin, County Kerry. The proposed development was revised by further public notices received by the planning authority on the 10th day of October 2022.

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:

- (a) the policies set out in the Kerry County Development Plan 2022-2028 relating to the extractive industry,
- (b) the provisions of the Guidelines for Planning Authorities on Quarries and Ancillary Activities issued by the Department of the Environment, Heritage and Local Government in 2004,
- (c) the pattern of development in the area,
- (d) the range of mitigation measures set out in the documentation received, including the Environmental Impact Assessment Report, the Natura Impact Statement and Further Information,
- (e) the planning history of the site,
- (f) the submissions made in connection with the planning application and appeal, and
- (g) the report of the Planning Inspector.

Appropriate Assessment: Stage 1:

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out an Appropriate Assessment screening exercise 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 Planning Inspector's report that the Castlemaine Harbour Special Area of Conservation (Site Code 000343), Castlemaine Harbour Special Protection Area (Site Code 004029) and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code 000365) are the only European Sites 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 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 aforementioned European Sites 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 site-specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

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 Sites, 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.

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,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the planning application, including the further information material, and
- (c) the submissions received during the course of the application.

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 in the course of the planning 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:

Population and Human Health

Potential impacts on population and human health associated with noise and dust emissions from the development, which will be mitigated by environmental management measures, as set out in the relevant Environmental Impact Assessment Report chapters 8 and 9 respectively. Positive impacts on population and human health associated with the economic and social benefit of employment created as a result of the development.

Biodiversity

Biodiversity impacts relating to loss of habitats at the new excavation area including areas of wet grassland, wet heath, cutover bog and bog woodland, which are rated as locally important and circa 3.2 hectares of lowland blanket bog rated as nationally important. Also disturbance/displacement of species due to noise and lighting associated with the development and with potential impacts on water quality at the Glashacoomnafanada Stream. These impacts will be mitigated by environmental management measures including control of noise and light emissions and control of surface water runoff, along with ongoing monitoring of various parameters including noise and dust deposition, as set out in the Environmental Impact Assessment Report and the proposed Environmental Management System. The excavated area will ultimately be restored to create new habitats using peat and soil stored at the site, with biodiversity enhancement measures including bat, bird and insect nesting boxes. There is also a positive biodiversity impact associated with the elimination of invasive species currently present at the development site.

Land, Soil, Geology and Hydrogeology

Impacts on land, soils, geology and hydrogeology as a result of the removal of circa 16.75 hectares of peat and soils overburden and the permanent removal of an estimated 1,630,400 cubic metres of sand and aggregates at the development site. These impacts will be mitigated by the storage of peat and soils at the site, for eventual use in site restoration. No excavation will take place below the water table. The development is likely to result in a small reduction in baseflow to the Glashacoomnafanada Stream, which will be offset by a small increase in baseflow to surface water downgradient of the site due to increased percolation to groundwater at the excavated area.

Abstraction of groundwater at the Rangue lands and discharge to the Glashacoomnafanada Stream will continue under licence. Potential contamination of groundwater due to increased groundwater vulnerability at the new extraction area will be mitigated by environmental management measures, as set out in the Environmental Impact Assessment Report and proposed Environmental Management System.

Water

Potential impacts on water quality at the Glashacoomnafanada Stream, with consequent impacts on aquatic habitats and species, due to silt laden runoff or to contamination by hydrocarbons or other spillages. These impacts will be mitigated by the continued recycling of wastewater at the factory via settlement ponds, also measures to control silt at the overall site including silt traps on drains; planted berms around the new excavated area and particularly at the eastern site boundary; a silt fence at the eastern site boundary and a 17 metres buffer between the excavated area and the stream; correct storage of fuel and other materials, along with other environmental management measures, as set out in the Environmental Impact Assessment Report and proposed Environmental Management System. Positive impacts

on water associated with the replacement of existing wastewater treatment at the factory with a new upgraded wastewater treatment system.

Air Quality

Potential adverse impacts on air quality in the vicinity of the site associated with dust deposition as a result of excavation and movement of aggregates at the overall site, also processing of aggregates at the factory. These impacts are to be mitigated by environmental management measures as set out in the Environmental Impact Assessment Report and proposed Environmental Management System including storage of peat and soil removed from the excavated area in planted berms; spray of machinery and haul routes during dry weather; adequate maintenance of machinery; limited truck speeds and drop height; road sweeping and other dust management measures during extraction and processing activities. Ongoing dust emissions are to be monitored at the site.

Landscape

Potential adverse impacts on the landscape due to the creation of the new excavation area and associated roads infrastructure, which will be visible from adjacent houses and in the wider landscape. These will be mitigated by the retention of existing vegetation at roadside boundaries, the creation of planted berms around the excavated area and the planting of a woodland buffer at the eastern site boundary. The excavated area will ultimately be restored to create new habitats. No impacts on any designated views or prospects are anticipated.

Noise and Vibration

Potential noise impacts at the factory and excavation area will be managed by mitigation measures as set out in the Environmental Impact Assessment

Report and proposed Environmental Management System including limited hours of operation; erection of berms around the extraction area to act as acoustic barriers; adequate maintenance of site haul roads; site management measures including type and maintenance of machinery and the ongoing maintenance of a noise monitoring programme to ensure compliance with noise limits set out in conditions of permission. The development excludes screening and processing of aggregates at the Knocknaboola site.

Traffic

The development will generate limited additional HGV movements on local roads. Local junctions will continue to operate within capacity. Impacts will be mitigated by the construction of an underpass at the L4021 to connect the new extraction area to the factory, also by limited access of HGVs to the factory site using the entrance from the L7504 only. Other traffic mitigation measures include use of prescribed haul routes, regular maintenance of haulage vehicles and limited hours of operation.

Conclusions on Proper Planning and Sustainable Development

Having regard to nature and extent of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development is considered to be in accordance with the provisions of the Kerry County Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience of road users. 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 revised by the further plans and particulars received by the planning authority on 12th day of September 2022, and further unsolicited plans and particulars submitted to the planning authority on the 11th day of November 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. (a) All mitigation and monitoring commitments identified in the Environmental Impact Assessment Report, the Natura Impact Statement, the Site Restoration Plan and other particulars submitted with the application and as amended in the Further Information submitted on the 12th day of September 2022 shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions. They shall be compiled into a single Schedule of Monitoring and Mitigation Measures and submitted to the planning authority, for their written agreement, within six months of the date of this Order.
- (b) Before January 15th of each calendar year, the developer shall submit a summary report of all monitoring carried out in the previous twelve months. This report shall evaluate the operation of the facilities available on site in light of the results achieved in the

previous year. All monthly and annual monitoring shall be certified as accurate and representative by the applicants.

Reason: In the interest of clarity and protection of the environment.

3. The duration of permission shall be for a period of 20 years from the date of this Order. The site shall be fully restored within two years of this date unless a further grant of planning permission has been made for continued operation.

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

4. (a) The daily rate of export of material from the site shall not exceed 800 tonnes per working day (Monday to Saturday inclusive).
- (b) No extraction shall take place below the level of the water table.

Reason: To protect groundwater in the area.

5. (a) No screening or processing of aggregates shall take place at the Knocknaboola site.
- (b) All screening and processing shall be carried out at the Rangué processing facility only.

Reason: In the interests of the amenities of the area and the protection of the environment.

6. Extraction and removal of overburden works at the Knocknaboola site shall not commence until the proposed underpass at the L4021 is completed and operational. The construction of the underpass shall include the diversion of an existing watermain at this location, in accordance with the requirements of Uisce Éireann.

Reason: In the interest of residential amenities and in order to reduce HGV movements on the local road network.

7. The proposed wastewater treatment system to serve the factory and ancillary facilities at the Rangué lands shall be amended to cater for the proposed 38 number employees at the facility. Revised proposals in this regard shall be submitted to the planning authority for agreement in writing prior to installation.

Reason: In the interest of public health.

8. The quarry shall be fully restored in accordance with the provisions contained in the Environmental Impact Assessment Report and the Site Restoration Plan submitted with the planning application within twenty-four months of the cessation of quarrying operations. The developer shall ascertain from the planning authority and submit exact details relating to the Site Restoration Plan for their written agreement, within six months of the date of this Order to include:

- (a) existing and proposed finished ground levels and details relating to the finished gradients of the quarry face,
- (b) landscaping and tree planting proposals,
- (c) details of fencing,
- (d) proposals for an aftercare programme, and

- (e) a timescale for implementation, including proposals for phasing of the restoration works.

Restoration of the site shall be carried out in accordance with this plan.

Reason: To ensure the rehabilitation of the site in the interests of visual amenity.

- 9. The quarry and all activities occurring therein, shall only operate between 0800 and 1800 hours, Monday to Friday and between 0900 and 1400 hours on Saturdays. No activity shall take place outside of these hours or on Sundays or public holidays.

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

- 10. The development shall be operated and managed in accordance with an Environmental Management System, which shall be submitted by the developer to, and agreed in writing with, the planning authority within three months of the date of this Order. This shall include, inter alia, 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 on the access road.
- (d) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage.
- (e) Details of safety measures for the land above the quarry, to include warning signs and stockproof fencing.

- (f) Details for the management of all landscaping.
- (g) Monitoring of ground and surface water quality, levels and discharges, noise and air emissions.
- (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.

11. The noise levels generated during the operation of the quarry shall not exceed 55dB(A) (30 minutes LAR) when measured at the nearest noise sensitive receptor between 0800 and 1800 hours, Monday to Friday and between 0900 and 1400 hours on Saturdays, excluding public and bank holidays.

Noise levels shall not exceed 45dB(A) (15 minute Leq) at any other time. When measuring specific noise, the time shall be any one period during which the sound emission for the quarry is at its maximum level.

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

12. All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics-Description and Measurement of Environmental Noise Levels as amended.

Reason: In the interest of clarity.

13. (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 monthly 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 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.

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

- 14. (a) The developer shall monitor and record groundwater, surface water flow, noise and dust deposition levels at monitoring and recording stations, the location of which shall be agreed in writing with the planning authority prior to commencement of development. Monitoring results shall be submitted to the planning authority at monthly intervals for groundwater, surface water and noise.
- (b) On an annual basis, for the lifetime of the facility (within two months of each year end), the developer shall submit to the planning authority five copies of an environmental audit. Independent environmental auditors approved of in writing by the planning

authority shall carry out this audit. This audit shall be carried out at the expense of the developer and shall be made available for public inspection at the offices of the planning authority and at such other locations as may be agreed in writing with the authority. This report shall contain:

- (i) A written record derived from the on-site weighbridge (if present) of the quantity of material leaving the site. This quantity shall be specified in tonnes.
 - (ii) 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 and restored. On the basis of this, a full materials balance shall be provided to the planning authority.
 - (iii) A record of groundwater levels measured at monthly intervals.
 - (iv) A written record of all complaints, including actions taken in response to each complaint.
- (c) In addition to this annual audit, the developer shall submit quarterly reports with full records of dust monitoring, noise monitoring, surface water quality 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 surface or groundwater pollution or incidents that may result in groundwater pollution, shall be notified to the planning authority without delay.
- (d) 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 interest of protecting residential amenities and ensuring a sustainable use of non-renewable resources.


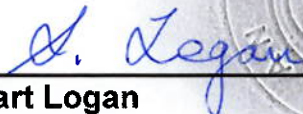
15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering 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.

16. 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 3rd day of September 2024.