

An
Bord
Pleanála

Board Order ABP-315686-23

Planning and Development Acts 2000 to 2022

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 22/264

Appeal by Maloney Consulting Engineers of Unit 5a, Moyvalley Business Park, Primrose Hill, Ballina, County Mayo against the decision made on the 5th day of January, 2023 by Kilkenny County Council to grant subject to conditions a permission to Mallwood Limited care of W. Raymond Walsh of Ballinlaw, Slieverue, County Kilkenny Via Waterford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Mobile crushing plant and a reduction in size of the compound area and parking areas as was granted under planning register reference number 20/485 and all ancillary works, all at Ballymountain, Slieverue, County Kilkenny.

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 the nature and scale of the proposed development, the planning history of the site, the pattern of development in the area, the policies and objectives of the Kilkenny City and County Development Plan 2021-2027, and, in particular, those relevant to Waste Management and to the Southern Region Waste Management Plan 2015-2021, and the proximity of the site to the national, regional and local road network, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute a sustainable development and would, subject to mitigation measures proposed in the Environmental Impact Screening Report, and with the conditions set out below, align with national and regional waste management policy, enabling increased rates of resource recovery. It is further considered that the proposed development would not seriously injure the amenities of the area or the amenity of the local environment, would not be prejudicial to public health, would not result in adverse significant environmental impacts, would be acceptable in respect of transport and road safety, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 1st day of December, 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. The proposed development shall comply with the conditions under planning register reference number 20/485, unless otherwise amended by the conditions of this permission.

Reason: In the interest of clarity.

3. The period during which the development hereby permitted may be carried out shall be 20 years from the date of this Order and a comprehensive plan for the restoration of the site following the cessation of quarrying works shall be submitted to, and agreed in writing with, the planning authority. This plan shall include proposals for re-use of the quarry and measures to ensure public safety therein. The developer shall commence implementation of the agreed site restoration plan within the area of the site within one month of cessation of extraction in this area and shall have completed this part of the plan within 12 months of commencement.

Reason: To ensure the satisfactory reinstatement of the site and in the interest of public amenity and public safety.

4. The mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Screening Report (March 2022) and the Assessment of the Potential Noise and Dust Impacts from the Operation of a Mobile Crusher (March 2022), shall be implemented in full, or as may be required in order to comply with the following conditions.

Reason: To ensure the protection of the environment and residential amenity.

5.
 - (a) The use of the site and operation of the mobile crusher shall be restricted to 0800 to 1800 hours Mondays to Fridays, inclusive and between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays.
 - (b) The volume of waste material to be imported and permitted at the site shall not exceed 24,000 tonnes per annum.

- (c) There shall be no unloading, deposit, handling, storage or sorting waste materials outside of the designated areas of the proposed facility.
- (d) The developer shall not be permitted to import or store hazardous waste on site within the facility.
- (e) The developer shall not be permitted to store, recycle or crush tarmacadam at the site.

Reason: In the interest of amenities, public health and safety.

- 6. Prior to commencement of development, the developer shall obtain, as necessary, a waste facility permit and shall comply with any conditions attached therein.

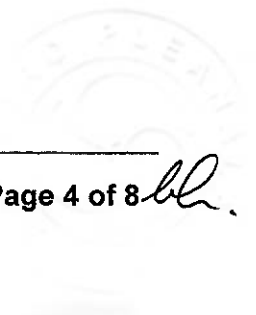
Reason: To comply with all statutory requirements.

- 7. A management plan for the control of alien invasive species, including a monitoring programme, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to prevent the spread of alien plant species.

- 8. (a) Final details of all proposed landscaping and site boundary treatments shall be agreed in writing with the planning authority prior to commencement of development and shall be implemented within six months of the date of this Order.
- (b) The schedule of landscape maintenance shall cover a period of at least three years and shall include details of the arrangements for its implementation.

Reason: In the interest of visual and residential amenities.



9. (a) Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the reports submitted and the requirements of the planning authority for such works and services.
- (b) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site.

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

10. (a) Prior to commencement of development, the developer shall submit a Traffic Management Plan for the construction and operational phases of the proposed development for the written agreement of the planning authority.
- (b) Details of a wheelwash facility on the site shall be agreed with the planning authority and shall be installed on site.
- (c) The internal road and vehicular circulation network serving the proposed development, including turning bays and parking areas, shall be in accordance with the detailed construction standards of the planning authority for such works.

Reason: In the interest of traffic safety and environmental protection.

11. (a) During the operational phase of the proposed development, the noise level arising from the proposed development during the proposed hours of operation, as measured at the nearest noise sensitive location, shall not exceed:
 - (i) An Leq, 1h value of 55 dB(A) during the period 0800 hours to 1800 hours.
 - (ii) An Leq, 15 min value of 45 dB(A) at any other time.
- (b) No pure tones or impulsive characteristics shall be audible at any noise sensitive location in the vicinity of the proposed development.

- (c) At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.
- (d) All sound measurements shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.
- (e) Noise monitoring shall be recorded and carried out at noise sensitive locations in accordance with details agreed in writing with the planning authority. Should the results of this monitoring show material exceedances of the limits set out in this condition, the developer shall provide such further mitigation as the planning authority may require in writing.

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

12. The construction of the proposed development shall be managed in accordance with a site-specific detailed Construction Environment 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 the intended construction practice for the proposed development, including measures for the protection of existing residential development, hours of working, traffic management during the construction phase, noise and dust management measures and off-site disposal of construction/demolition waste.

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

13. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

14. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays, inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays 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 order to safeguard the residential amenities of property in the vicinity.

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.



Mick Long

Member of An Bord Pleanála

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

Dated this 16th day of April 2024.