

An
Bord
Pleanála

Board Order
ABP-320180-24

Planning and Development Acts 2000 to 2022

Planning Authority: Carlow County Council

Planning Register Reference Number: 2360263

Appeal by George Doyle of Curracruit, Bagenalstown, County Carlow against the decision made on the 9th day of July 2024 by Carlow County Council to grant, subject to conditions, a permission to Milford Quarries Limited care of Peter Bolger of Newtown House, Bachelors Walk, Bagenalstown, County Carlow in accordance with plans and particulars lodged with the said Council:

Proposed Development: Change of use from quarry to recovery activities, over a total area of 4.84-hectares, comprising: The infilling of lands as a soil recovery facility with inert waste consisting of suitable uncontaminated soil and stone and dredging spoil, to improve land for agricultural use (that is, 4.792-hectare area, total net import of 199,500 tonnes over 8 years); An Administration Area (that is, 0.048-hectare area), to include a site hut/site office and portable chemical toilet; and all associated site works and services required to facilitate the development, at Mary Kelly's Pit, Powerstown, Milford, County Carlow. A Natura Impact Statement (NIS) has been prepared in respect of the proposed development and will be submitted with the application.

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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 planning history relating to the site and adjoining land, the nature and extent of the proposed development and its location within a rural area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety. The proposed development would be in accordance with the provisions and policies of the Carlow County Development Plan 2022-2028 policy and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Board considered the Natura Impact Statement submitted with the application, and all the other relevant submissions on file, and carried out an appropriate assessment in relation to the potential effects of the proposed development on relevant European Sites. The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the River Barrow and River Nore Special Area of Conservation (Site Code 002162) is the only European Site in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on the River Barrow and River Nore Special Area of Conservation (Site Code 002162) in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Site,
- (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 Site.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars submitted on the 25th day of April 2024, 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 mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European Sites.

3. The mitigation measures contained in the Environmental Impact Assessment screening report shall be implemented.

Reason: To protect the environment.

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4. This permission shall apply for a period of eight years (a maximum of 24,937 tonnes per year) 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 regulate the duration of the development, and in the interest of the proper planning and sustainable development of the area.

5. The imported material to be deposited on the land shall comprise clean uncontaminated inert soil, stone and topsoil only, and shall be levelled, contoured and seeded upon the completion of the works and protected until established.

Reason: In the interest of clarity and in order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.

6. No activities shall commence until a waste permit licence has been issued for the proposed operations.

Reason: In the interest of amenity and to prevent environmental pollution.

7. The developer shall submit to the planning authority on an annual basis from the date of this order, details of the tonnage intake into the site for the preceding year.

Reason: In the interest of orderly development and to monitor the activities on the site on an annual basis.

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8. The infilling operation and the operation of associated machinery shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays, between the hours of 0800 and 1400 on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times will 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.

9. The infilling operation shall be carried out in accordance with submitted plans Dwg No. J887-PL01-001 and J887 PL03-001, in a phased manner with a minimum five metre-wide buffer zone shall be maintained between that part of the site to be filled and adjacent boundaries. Existing hedgerows and trees along the boundaries of the site shall be retained, preserved and maintained except where altered or amended by conditions in this permission.

Reason: In the interest of clarity and environmental protection.

10. The development shall be operated and managed in accordance with a finalised Environmental Management Plan, which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:
- (a) Proposals for the on-going monitoring of sound emissions at noise sensitive locations in the vicinity.
 - (b) Proposals for the suppression of dust and monitoring of dust at prior agreed locations, on site.

- (c) All fuels and lubrication shall be stored in fully bunded storage areas and proposals to deal with accidental spillage shall be submitted to the planning authority.
- (d) On going monitoring of ground and surface water quality, levels and discharges.
- (e) Site to be maintained free of litter and all waste to be disposed of at an authorised facility.
- (f) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.
- (g) Mitigation measures in Natura Impact Statement and Environmental Management Plan.

Reason: In order to safeguard local amenities and protection of the environment.

11. During the construction phase of the proposed development, the noise level from within the boundaries of the site measured at the façade of the nearest noise existing sensitive location in the vicinity shall not exceed the following:

- (a) A rating of LAr, 1 hr value of 55 dB(A) during the period 0800 to 1800 hours Monday to Friday (inclusive) and 0800 to 1400 hours on Saturdays, and
- (b) An LAr, 15 min value of 45 dB(A) at any other time.

Clearly audible and impulsive tones at noise sensitive locations during the evening and night shall be avoided.

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

12. During the construction phase, dust emissions 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, the commencement date and the frequency of monitoring results.

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

13. (i) All necessary measures shall be taken by the developer to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the developers own expense.
- (ii) The developer shall be responsible for the full cost of repair in respect of any damage cause to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of the planning authority or pay the Council the cost of making good any such damage upon requirement by the Council.

Reason: To protect the amenities of the area.

14. Prior to the commencement of the development the developer shall enter into a Connection Agreement with Uisce Éireann to provide for a service connection to the public water network and adhere to the standards and conditions set out in the agreement.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

15. Measures shall be implemented to prevent the spread of Alien Invasive Species during construction works and control measures shall have regard to The Management of Noxious Weeds and Non-native Invasive Plant Species on National Roads (NRA publication).

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

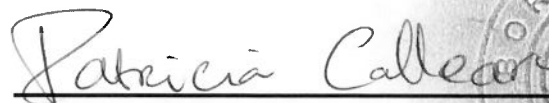
16. Details of road signage including advance warning notices and proposals for traffic management at the site entrance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

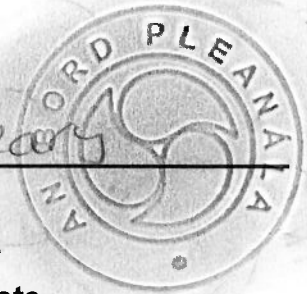
Reason: In the interest of traffic safety.

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17. 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.


Patricia Calleary
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 19th day of May 2025.