

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kildare County

Planning Register Reference Number: QRA-20-06

An Bord Pleanála Reference Number: 09.QD.0006

Associated Substitute Consent Reference Number: 09.SU.0103

WHEREAS Patrick and Thomas Cullen care of CROSS Architect and Building Surveyor of 11 An Crois, Allenwood, Naas, County Kildare made an application to An Bord Pleanála on the 16th day of December, 2016, pursuant to section 37L of the Planning and Development Acts, 2000 to 2015, to further develop a quarry having a total site area of 20.104 hectares, including reinstatement of worked out quarry to agriculture using the existing topsoil and overburden and importation of inert subsoil and topsoil, installation of proprietary wastewater treatment plant and percolation area and relocation of existing entrance and all associated site works at Slatequarries, Rathmore, Naas, County Kildare, in accordance with plans and particulars lodged with the Board:

NOW THEREFORE, the Board, in accordance with section 37N of the said Act, and based on the Reasons and Considerations set out below, decided to **GRANT** permission to further develop the quarry, in accordance with the following conditions.

REASONS AND CONSIDERATIONS

In making its decision the Board had regard, inter alia, to the following:

- (a) the provisions of the Planning and Development Act, 2000, as amended, and in particular Section 37L,
- (b) the 'Quarry and Ancillary Activities, Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2004,
- (c) the provisions of the Kildare County Development Plan, 2011-2017,
- (d) the Environmental Impact Statement submitted with the application for further development,
- (e) the report and the opinion of the planning authority under section 37L(12)(a) of the 2000 Act, as amended,
- (f) the submissions made in accordance with regulations made under Article 270 of the Planning and Development (Amendment) (No. 2) Regulations 2015,
- (g) the report of the Board's Inspector, including in relation to potential significant effects on the environment,
- (h) the planning history of the site,
- (i) the pattern of development in the area,
- (j) the nature and scale of the development the subject of this application for further development, and
- (k) the decision by An Bord Pleanála to grant substitute consent in respect of part of the subject quarry under reference number 09.SU103.

Appropriate Assessment

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Poulaphouca Reservoir Special Protection Area (Site Code 004063) or the Red Bog, Kildare Special Area of Conservation (Site Code 000397), or any other European site, in view of the conservation objectives of those sites'.

Environmental Impact Assessment

The Board considered that the Environmental Impact Statement submitted with the application, the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, was adequate in identifying and describing the direct and indirect effects of the proposed development. The Board completed an environmental impact assessment, and agreed with the Inspector in her assessment of the likely significant effects of the proposed development, and agreed with her conclusions on the acceptability of the mitigation measures proposed and residual effects. The Board adopted the report of the Inspector. The Board concluded that, subject to the implementation of the mitigation measures proposed, the proposed development would not be likely to have adverse impacts on the environment and subject to the following conditions, the effect of the proposed development on the environment would be acceptable and would 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, 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 re-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. This grant of permission to further develop the quarry shall be for a period of 20 years from the date of this order.

Reason: To enable the effects of the development to be reassessed in the light of the operation of the permission to further develop the quarry and the circumstances then obtaining

3. The developer shall submit annually, for the lifetime of the permission to further develop the quarry, an aerial photograph which adequately enables the planning authority to assess the progress of the phases of extraction.

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

4. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to An Bord Pleanála on the 16th day of December, 2015, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to re-commencement of development.

- (b) Within three months of the date of this order, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 5. Prior to re-commencement of development, details of the surface water management system for the entire site shall be submitted to, and agreed in writing with, the planning authority.

These shall include the following:

- (a) Details of the capacity of the lagoon on site;
- (b) Calculations on the predicted surface water flow into the lagoon;
- (c) Predicted retention time of the existing settlement lagoon;
- (d) Time frame for implementation of any changes which may be required;
- (e) Management measures to cater for extreme rainfall events.

Reason: To ensure protection of groundwater quality and to provide for the satisfactory disposal of surface water.

- 6. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

7. The new site entrance as detailed on drawing number 6 - Site Layout – Site Entrance received by An Bord Pleanála on the 16th day of December, 2015 shall be constructed, the existing site entrance shall be closed up and the roadside boundary planted prior to re-commencement of development.

Reason: In the interest of traffic safety.

8. A detailed restoration scheme for the site according to the broad principles indicated on drawing number 2 of 3 - Sections A-A, B-B, C-C & D-D submitted to An Bord Pleanála on the 16th day of December, 2015, shall be submitted to, and agreed in writing with, the planning authority prior to re-commencement of development. The following details shall be provided in relation to the design and timing of the restoration plan:

- (a) the types of excavation procedure proposed; finished gradients of the cliff faces; the progressive and final restoration to be carried out;
- (b) measures to ensure safety during site restoration;
- (c) landscaping proposals including planting and mounding proposed; and
- (d) implementation plan including phasing timescale and proposals for an aftercare programme of five years.

Reason: In the interest of the visual amenities of the area, to ensure public safety, and to ensure that the quarry restoration protects and enhances ecology.

9. This grant of permission to further develop the quarry does not authorise the importation of materials for the restoration of the site.

Reason: In the interest of clarity.

10. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to re-commencement of development. This shall include 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;
 - (d) Details of safety measures for the land above the quarry, to include warning signs and stock proof fencing;
 - (e) Management of all landscaping;
 - (f) Monitoring of ground and surface water quality, levels and discharges;
 - (g) 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 depth of the excavation shall be no lower than 270 metres Ordnance Datum and, in any case, all excavation shall be above the water table.

Reason: To protect groundwater in the area

12. All over ground tanks containing liquids (other than water) shall be contained in a waterproof bunded area, which shall be of sufficient volume to hold 110 per cent of the volume of the tanks within the bund. All water contaminated with hydrocarbons, including stormwater, shall be discharged via a grit trap and three-way oil interceptor with sump to a watercourse. The sump shall be provided with an inspection chamber and shall be installed and operated in accordance with the written requirements of the planning authority.

Reason: In order to protect groundwater.

13. Scrap metal and other waste material shall be removed at least annually from the site in accordance with the written requirements of the planning authority. Such materials shall be deemed to include scrapped trucks, other scrapped vehicles, empty oil barrels, broken or otherwise unusable truck bodies, worn out conveyor belts/chains, worn out batteries, unusable tyres and worn out conveyor/roller shafts.

Reason: To protect the amenities of the area.

14. The site shall be screened in accordance with a scheme of screening measures and boundary treatment in respect of the entire quarry complex which shall be submitted to, and agreed in writing with, the planning authority prior to re-commencement of development. This scheme shall include the timeframe, specific locations, and final form and height of proposed screening berms, details of all planting proposed on existing and proposed screen berms, details of the ongoing care and management of such planting, details of a phased programme of landscaping within the quarry and details of an adequate barrier to prevent unrestricted access to the top of the quarry face from adjacent lands.

Reason: In the interest of visual amenity and to safeguard the amenities of property in the vicinity during the operating phase of the development.

15. The quarry, and all activities occurring therein, shall only operate between 0700 hours and 1900 hours, Monday to Friday and between 0700 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays. No rock-breaking activity shall be undertaken within any part of the site before 0800 hours on any day.

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

16. During the operational 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 LArT value of 55 dB(A) during 0700 and 1900 hours. The T value shall be one hour.
- (b) an LAeqT value of 45 dB(A) at any other time. The T value shall be 5 minutes.

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

17. (a) Blasting operations shall take place only between 1000 hours and 1700 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays. Monitoring of the noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the planning authority.
- (b) Prior to the firing of any blast, the developer shall give notice of his intention to the occupiers of all dwellings within 500 metres of the site. An audible alarm for a minimum period of one minute shall be sounded. This alarm shall be of sufficient power to be heard at all such dwellings.

Reason: In the interest of public safety and residential amenity

18. (a) Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres/second, when measured in any three mutually orthogonal directions at any sensitive location. The peak particle velocity relates to low frequency vibration of less than 40 hertz where blasting occurs no more than once in seven continuous days. Where blasting operations are more frequent, the peak particle velocity limit is reduced to eight millimetres per second. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin)max peak with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin).
- (b) A monitoring programme, which shall include reviews to be undertaken at annual intervals, shall be developed to assess the impact of quarry blasts. Details of this programme shall be submitted to, and agreed in writing with, the planning authority prior to re-commencement of any quarrying works on the site. This programme shall 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 protect the residential amenity of property in the vicinity.

19. (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 re-commencement of development. Details to be submitted shall include monitoring locations, re-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 entire quarry complex, shall be submitted to, and agreed in writing with, the planning authority prior to re-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.

- 20. The developer shall facilitate the archaeological appraisal of Field No. 2 as delineated on Figure 4 in the Environmental Impact Statement received by An Bord Pleanála on the 16th day of December, 2015 and in the vicinity of the townland boundary extending along the eastern edge of the quarry and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements including, if necessary, archaeological excavation prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

21. 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 relate to the greenfield area of the site which has not to date been excavated and shall be paid prior to re-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 to further develop the quarry.

22. Prior to re-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 the Board for determination.

Reason: To ensure the satisfactory restoration of the site in the interest of visual amenity.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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

Dated this day of 2016.