

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Offaly County

Planning Authority Register Reference Number: EUQY028

An Bord Pleanála Reference Number: 19.QD.0008

Associated Substitute Consent Reference Number: 19.SU.0131

WHEREAS Condron Concrete Limited care of Malone O'Regan of 2B Richview Office Park, Clonskeagh, Dublin made an application to An Bord Pleanála on the 17th day of December, 2015, pursuant to section 37L of the Planning and Development Act, 2000, as amended, to further develop a quarry including the extension of the area of the quarry by circa 9.8 hectares which area will be utilised for extraction to 54mOD in line with the existing quarry floor. The extension area will also be utilised for dry screening and short term stockpiling of aggregates. This further development application additionally provides for haul routes, road access, mobile and fixed dry screening plant, stockpiling areas and associated power and water infrastructure in the existing and extended quarry areas at Agall, Screggan, Tullamore, County Offaly 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 to the following:

- (a) the provisions of the Planning and Development Act, 2000, as amended, and Section 37L in particular,
- (b) the “Quarry and Ancillary Activities, Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government (2004),
- (c) the policies of the planning authority as set out in the Offaly County Development Plan 2014-2020,
- (d) the nature and scale of the proposed development, and its location in proximity to the National and regional road network,
- (e) the pattern of development in the area, including the separation distances to houses,
- (f) the development and enforcement history of the site, including its registration under planning authority register reference number QY28, the quarry review history of the site under EUQY028 and 19.QV.0187, and the decision made to grant substitute consent under 19.SU.0131,
- (g) the pattern of development in the area, including the separation distances to houses, and the other quarries in the vicinity,
- (h) the environmental impact statement submitted with the application,
- (i) the report and opinion of the planning authority, and the documentation and submissions on file, and
- (j) the report of the Inspector, including the examination, analysis and evaluation undertaken in relation to environmental impact assessment and screening for Appropriate Assessment.

The Inspector had raised concerns in relation to the adequacy of the information available on file to allow an environmental impact assessment to be undertaken. The Board did not concur with this view, and decided not to accept the Inspector's recommendation to refuse permission, based on the analysis set out below. The Board accepted the position of the planning authority on this matter. The Board was satisfied that the information before it was adequate to undertake an environmental impact assessment, for the reasons set out below.

Environmental Impact Assessment

The Board considered the nature, scale and location of the proposed development, the environmental impact statement, the documentation and submissions on file, the development history of the site, the submissions on file, and the reports of the Inspector and of the planning authority. It is considered that the environmental impact statement, together with the substantial documentation on file, including in particular the material available under 19.SU.0131, identifies and describes adequately the direct and indirect effects on the environment of the proposed development. The Board completed an environmental impact assessment in relation to the proposed development, by itself and in cumulation with other development in the vicinity, including other quarries in the area. The Board concluded that, subject to compliance with the mitigation measures proposed and with the conditions set out below, the effects of the proposed development on the environment would be acceptable. In doing so, the Board adopted the report of the Inspector in part, in relation to the analysis undertaken of effects on human beings, soils and geology (except where addressing hydrogeology), hydrology, air quality and climate, noise and vibration, landscape and visual impact, cultural heritage, and material assets including traffic.

The Board did not concur with the Inspector's analysis in relation to flora and fauna, hydrogeology or cumulative effects, as set out below.

Flora and Fauna

Red Hemp Nettle, Blue Fleabane, Sand Martins and Kestrel are located within the existing quarry. No new extraction is proposed in this area. The mitigation measures proposed under 19.SU.0131 will provide appropriately for their future protection. It is considered appropriate that the measures proposed in that case be applied in relation to the proposed development by means of condition. Mitigation measures for Sand Martins are also proposed in the environmental impact statement for the subject application. It is noted that these species benefit from a quarry environment, and it is considered that the proposed new extraction area is unlikely to result in adverse direct or indirect effects on these species. Hedgerow habitat of local importance would be lost as a result of the proposed development, which is proposed to be mitigated on reinstatement. This is considered to be acceptable.

Hydrogeology

The proposed development will not operate below the water table and provides for a minimum depth of 5 metres between quarry excavation and the water table. Detailed information on hydrogeology is available on file under 19.SU.0131, whereby the site investigations and hydrogeological conceptual model for the site established the poor potential for any material connectivity with the Agall Spring. This was not addressed in detail by the Inspector. The Board's reasons for not accepting the Inspector's view on this matter was set out in that case, where the Board concluded that there is no evidence of any material pathway for suspended solids or any other pollutant to leave the site. The Board is of the same view in relation to the proposed development, which is located farther away from the Agall Spring and no deeper than the existing quarry, the development of which did not result in any identified deleterious effects on water quality. The Board is satisfied that site investigations undertaken are also sufficiently representative of the proposed development to allow this conclusion to be arrived at.

The Board accepted that Irish Water, who now have responsibility for Agall Spring, expressed concern in relation to the proposed development. They did not recommend a refusal of permission. It is also noted that the local authority, who were the operators of the Agall Spring water supply, did not express any objection to the development on the basis of concern about water quality. However, the Board did consider that it would be reasonable to provide for groundwater monitoring by means of condition, as a precautionary measure. The Board did not share the Inspector's view that further information would be necessary in this respect, as there is no evidence of a substantial risk arising. The Board is, therefore, satisfied that it is appropriate that details of the monitoring be agreed with the planning authority.

Neither did the Board did share the Inspector's concerns in relation to the potential for effects on neighbouring wells. The proposed development would operate above the water table. The well would be used only for dust suppression involving less than 2 m³/day, and would not result in any drawdown at wells serving dwellings given the small scale of the well operation and the distance to houses. There is no other use of water at the quarry, no washing, no water discharge from the quarry, and no connection to surface water. There is no direct connectivity with the underlying aquifer, as set out under 19.SU.0131. The Board is, therefore, satisfied that there is no potential for impacts on neighbouring wells. A public mains water supply serves the area.

Cumulative Effects

In light of the overall assessment undertaken above, the Board was satisfied that the main potential for cumulative effects sufficient to merit examination relate to traffic, visual impact, and the potential effects of noise or dust on residential amenity.

Traffic impacts were addressed in the environmental impact statement, which noted that 12 quarries are located within 5 kilometres of the proposed development. There are two quarries to the south of Blackwood, which have accesses on to the N52 national road. There are also seven smaller quarries to the west of the site, six of which take access from the same local road, which in turn connects to the R357 regional road. The proposed development is expected to result in 10-15 heavy goods vehicles/day, which will not in itself have a significant impact. The Board considered nonetheless that some degree of cumulative effects is likely to arise from heavy goods vehicles on the public road network. The Board is satisfied that this would not be at an unacceptable level, especially in view of the proximity of the national and regional road network in this area. The Board also considered that cumulative heavy goods traffic could also result in some disamenity for the occupants of dwellings on the County road leading to the R327 in terms of noise and general disturbance on a local road. The Board did not consider that permission should be refused for this reason.

The Board is satisfied that the potential for significant cumulative visual impact with the existing quarry or other quarries in the vicinity is low. The existing quarry is well screened, and the proposed mitigation measures will adequately reduce visual impact from the proposed development.

It is considered that the potential for cumulative residential impact to arise in relation to noise or dust from quarries in the vicinity is low, including for dwellings to the north, and was satisfied that the separation distances involved will provide effective mitigation.

The Board was, therefore, satisfied that no unacceptable cumulative effects did or would arise as a result of the development.

Appropriate Assessment Screening

In conducting a screening exercise for Appropriate Assessment, the Board considered the nature, scale and location of the proposed development, the Appropriate Assessment Stage 1 Screening Report submitted in support of the application, the documentation and submissions on file, the development history of the site and in the vicinity, the separation distances to and limited potential for connectivity with European Sites, and the assessment of the Inspector in relation to the potential for effects on such Sites. In undertaking the screening exercise, the Board accepted the analysis and conclusions of the Inspector. The Board, therefore, concluded that, by itself and in combination with other development in the vicinity, the proposed development would not be likely to have significant effects on European Sites in view of their conservation objectives.

Conclusions on the Proper Planning and Sustainable Development of the Area

The Board is satisfied that, in itself and in conjunction with other development in the vicinity, and subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Offaly County Development Plan 2014-2020, would not seriously injure the amenities of the area or of residential property in the vicinity, would not result in a risk of pollution, would not be detrimental to rare or protected species, would not detract from archaeological features or architectural heritage, and would be acceptable in terms of traffic safety and convenience. It is, therefore, considered that the proposed development 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 submitted to An Bord Pleanála on the 17th day of November, 2015, including the mitigation measures described in the environmental impact statement, 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. All environmental mitigation measures identified in the environmental impact statement shall be implemented in full.

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

3. This grant of permission to further develop a 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 pertaining.

4. No extraction shall take place below a level of 5 metres over the water table.

Reason: In the interest of clarity.

5. The proposed development shall only operate between 07:00 and 19:00 on Monday to Friday and between 08:00 and 14:00 on Saturdays. No activity shall take place outside of these hours or on Sundays or public holidays.

Reason: In the interest of the amenities of property in the vicinity and of clarity.

6. Prior to commencement of quarrying, groundwater monitoring wells shall be installed to the written satisfaction of the planning authority. A programme of monitoring of water quality and levels shall be undertaken in accordance with details that shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and following consultation with Irish Water. These details shall provide for the number and location of boreholes, frequency of sampling and reporting, and the water quality parameters to be monitored.

Reason: As a precautionary measure to protect water quality.

7. Prior to commencement of development, the mitigation measures proposed under 19.SU.0131 in Section 10.5 of the remedial environmental impact statement, which relate to the protection of rare and protected flora and fauna, shall be have been implemented to the written satisfaction of the planning authority, including provision for the ongoing safety and maintenance of the implemented measures.

Reason: In the interest of orderly development, and to protect rare and protected species.

8. The development shall be operated and managed in accordance with an environmental management system, which shall be submitted to, and agreed in writing with, the planning authority prior to the 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 noise emissions in the vicinity of dwellings in the vicinity,
 - (c) management of landscaping,
 - (d) provision for a wheelwash in proximity to the site entrance,
 - (e) proposals for the bunding of hydrocarbon storage areas and re-fuelling areas, details of a hydrocarbon interceptor to serve this area, and details of emergency action in the event of accidental spillage,

- (f) measures to protect water quality during refuelling, including the use of drip-trays,
- (g) details of site manager contact numbers (including out of hours) and public information signs at the entrance to the facility, and
- (h) details of reporting requirements to the planning authority.

Reason: To safeguard the amenities of the area, public safety and the environment.

9. Prior to commencement of development, construction-stage details of surface water management measures, and a time frame for implementation, shall be submitted to, and agreed in writing with, the planning authority. No waters shall be discharged from the site without a prior grant of planning permission.

Reason: In the interests of orderly development and the protection of the environment.

10. Prior to commencement of development, it shall be demonstrated to the written satisfaction to the planning authority that suitable Portaloo waste water treatment facilities are available to serve the site including arrangements for management and maintenance.

Reason: To protect water quality, and in the interest of public health.

11. The noise level shall not exceed 55 dB(A) (corrected by penalty for tonal and impulsive components) at dwellings in the vicinity. Procedures for determining compliance with this limit, including frequency of reporting, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. Dust levels at the site boundary shall not exceed 350 mg/m²/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 frequency of monitoring results, details of dust suppression measures for the entire quarry, and details of reporting requirements to the planning authority.

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

13. Prior to commencement of development, appropriate secure fencing shall be installed to safeguard quarry boundaries to the satisfaction of the planning authority, in accordance with details that shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of public safety and of orderly development.

14. 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 include old vehicles, empty oil barrels, and worn out equipment, batteries or tyres.

Reason: To protect the amenities of the area.

15. Survey drawings and an aerial photograph shall be submitted annually to the planning authority to enable the assessment of the progress of extraction.

Reason: To facilitate monitoring and control of the development by the planning authority.

16. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details, including a time schedule for completion, that shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants that die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: To screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

17. Prior to commencement of development, implementation-stage details of the proposed restoration shall be submitted to, and agreed in writing with, the planning authority, in accordance with the approach set out in Sections 3.4, 6.8 and 11.5 of the environmental impact statement, which details shall include the following:

- (a) details of safe finished gradients for the quarry faces,
- (b) details of landscaping, and measures for the control of invasive species,
- (c) measures for the control of dust emissions until such time as vegetation is established,
- (d) proposals for an aftercare programme of five years, and
- (e) a timeframe for implementation, incorporating progressive phasing and final restoration works.

Reason: In the interest of protection of the environment, landscape and public safety.

18. This grant of planning permission does not authorise the importation of materials for the restoration of the site or otherwise.

Reason: In the interest of clarity.

19. The developer shall facilitate the archaeological appraisal of the site 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.

20. Prior to commencement of quarrying on the subject site, 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 restoration of the quarry, 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.

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 be paid prior to commencement of quarrying on the subject site 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.

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 2017.