

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Clare County

An Bord Pleanála Reference Number: 03.QD.0011

Associated Substitute Consent Reference Number: 03.SU.0127

WHEREAS Jim Bolton Sand and Gravel Limited care of HRA Planning of 3 Hartstonge Street, Limerick made an application to An Bord Pleanála on the 23rd day of December, 2015, pursuant to section 37L of the Planning and Development Acts, 2000 to 2015, to further develop a quarry including replacement settlement pond and decommissioning of existing settlement pond, all ancillary site development works including wheelwash, bunded fuel area, Class 1 retention petrol interceptor, landscaping treatments, new drainage channels and site restoration measures at Faheymore North, O'Briensbridge, County Clare 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 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 Clare County Development Plan 2011-2017, as varied,
- (d) the nature and scale of the proposed development,
- (e) the planning and enforcement history of the site, including the grant of substitute consent under 03.SU0127,
- (f) the planning history of the area generally; the history of the neighbouring quarry to the north, including the grant of substitute consent under 03.SU0040; the history of the quarry to the south, including the quarry review under 03.QV0322,
- (g) the pattern of development in the area, including the separation distances to houses, and the access to the regional road network,
- (h) the environmental impact statement submitted with the application,
- (i) the report of the planning authority, and the submissions made 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 Board was satisfied that the information before it was adequate to undertake environmental impact assessment and a screening for appropriate assessment in respect of the proposed 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 screening statement, the documentation and submissions on file generally, the planning and development history of the site and of neighbouring sites, the separation distances to 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 plans or projects in the vicinity, the proposed development would not be likely to have significant effects on European Sites in light of the conservation objectives for those Sites.

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 generally, the planning and development history of the site and of neighbouring sites, the submissions on file, and the report of the Inspector. It is considered that the environmental impact statement 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. 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. The Board was also satisfied that the loss of hedgerow would not be significant in terms of potential impacts on bats, in light of the substantial alternative such habitat in the vicinity.

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 Clare County Development Plan 2011 – 2017, as varied, would not seriously injure the amenities of the area or of residential property in the vicinity, would not detract from a scenic route, would not result in a risk of pollution, would not affect known 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, 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 the quarry shall be for a period of 15 years from the date of this order.

Reason: In the interest of clarity, in light of the described extent and intensity of the proposed development, and 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. (a) No extraction shall take place below 64 metres Ordnance Datum, and shall not in any event take place deeper than five metres above the water table.
- (b) The annual extraction rate shall not exceed 130,000 tonnes.
- (c) No drilling, blasting, or rock-breaking are permitted.

Reason: In the interest of clarity, of protection of water quality, and of protection of the amenities of the area.

5. The quarry, and all activities occurring therein, shall only operate between 07:00 hours and 19:00 hours on Monday to Friday and between 07:00 hours and 13:00 hours on Saturdays. No activity shall take place outside of these hours or on Sundays or public holidays.

Reason: In the interest of amenity and of clarity.

6. The developer shall submit survey drawings and an aerial photograph 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.

7. Prior to the commencement of development, details of the proposed surface water management system for the entire site shall be submitted to, and agreed in writing with, the planning authority. This shall include the following:
- (a) drawings of the proposed drainage management system, which shall include a series of suitably sized ponds; water shall not discharge from the site,
 - (b) calculations of the predicted water volume that would be treated by the settlement ponds series, including surface water flow and wash water,
 - (c) details of the proposed retention time and capacity of the ponds, including provision for storm events,
 - (d) details of the proposed wheelwash to illustrate how silt, dust or mud shall be prevented from discharging to the road at the site entrance,
 - (e) proposals for phasing of the development of the surface water management system, including detailed section drawings, and
 - (f) a time frame for implementation, incorporating phasing and remediation requirements.

Reason: In the interest of orderly development and to protect water quality.

8. Prior to commencement of development, implementation-stage details of the restoration of the entire quarry shall be submitted to, and agreed in writing with, the planning authority, in accordance with the approach set out in Drawing Number 144-176-114-Rev PL (Restoration Plan) and Drawing Number 144-176-128-Rev PL0 (Typical Restoration Detail along Quarry Boundary) and the measures set out in Sections 2.8 and 4.4 of the environmental impact statement, which details shall include the following:

- (a) detailed drawings of the finished gradients of the quarry faces,
- (b) a detailed scheme of landscaping and tree planting, and measures for the control of invasive species,
- (c) measures for the control of dust emissions until such time as planting is established,
- (d) measures to protect sand martins,
- (e) proposals for an aftercare programme of five years, and
- (f) a timeframe for implementation, incorporating the progressive phasing and final restoration works.

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

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

Reason: In the interest of clarity.

10. 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 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,
 - (b) measures to protect water quality during refuelling, including the use of drip-trays,
 - (c) provision of warning signs and of stock-proof fencing at site boundaries,
 - (d) proposals for landscaping, including additional tree and hedgerow planting at site boundaries within the first planting season following commencement of development, and the control of invasive species,
 - (e) measures to protect the sand martin colony in the southern tip of the existing quarry, following consultation with the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs,
 - (f) a programme for the monitoring of groundwater levels and of ground and surface water quality, including details of a water sampling mechanism prior to discharge, and
 - (g) details of site manager, contact numbers (including out-of-hours) and public information signs at the entrance to the facility.

Reason: To protect the amenities of the area and the environment.

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 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, commencement date, the frequency of monitoring results, and details of all dust suppression measures for the entire quarry.

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

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 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 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.

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 the Board for determination.

Reason: To ensure the satisfactory restoration of the site in the interest of visual 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 Planning and Development Act 2000, as amended. The contribution shall relate to the site as set out in the application to further develop the quarry and 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 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 2016.