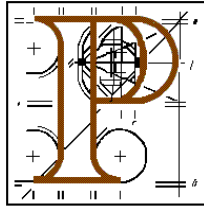


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Wexford County

Planning Register Reference Number: Q045

An Bord Pleanála Reference Number: 26.QD.0027

Associated Substitute Consent Reference Number: 26.SU.0113

WHEREAS Faser Court Limited care of PD Lane Associates of 1 Church Road, Greystones, County Wicklow made an application to An Bord Pleanála on the 22nd day of January, 2016, pursuant to section 37L of the Planning and Development Acts, 2000 to 2016, to further develop a quarry at Coolishal Upper, Gorey, County Wexford 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 Wexford County Development Plan, 2013-2019,
- (d) the Environmental Impact Statement submitted with the application to further develop the quarry,
- (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 to further develop the quarry, and
- (k) the decision of An Bord Pleanála to grant substitute consent in respect of the subject quarry under reference number 26.SU.0113.

Appropriate Assessment Screening

The Board carried out a screening exercise in relation to potential impacts on nearby European sites, specifically the Slaney River Valley Special Area of Conservation (Site Code 000781), and having regard to the nature and scale of the proposed development, the nature of the receiving environment, the screening report submitted, the submissions on file and the report of the Inspector, the Board concluded that, on the basis of the information available, the proposed development would not be likely to have a significant effect on any European site, either individually or in combinations with other plans and projects in view of the site's conservation objective. Areas where the Board's considerations did not align with those of the Inspector's are set out below.

Environmental Impact Assessment

The Board had regard to the Environmental Impact Statement and completed an Environmental Impact Assessment in relation to the proposed development in question, and considered that the assessment and conclusions of the Inspector's report were satisfactory in identifying the environmental effects of the development undertaken with the exception of her considerations in relation to geology, hydrogeology and surface waters. With these exceptions, the Board adopted the Inspector's report and agreed with the Inspector's conclusions in relation to the acceptability of mitigation measures and residual effects, which would be acceptable on the environment.

Conclusions

Having regard to the acceptability of the ecological and environmental impacts as set out in the foregoing it is considered that, subject to the implementation of the mitigation measures proposed and subject to compliance with the conditions set out below, the subject development would be acceptable in terms of the residential and other amenities of the area, would not seriously injure the ecological or water resources of the area, would be generally acceptable in terms of traffic safety and convenience and the effects on the environment would be acceptable. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Reasons for Not Accepting the Inspector's Recommendation to Refuse Permission

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to a number of matters. These are addressed in the following paragraphs.

The Board noted the Inspector's concern, having regard to the depth and limited intrusive investigations carried out in relation to the proposed development, that the applicant has failed to demonstrate sufficient knowledge of the impact of the proposed development on groundwater and surface waters, including as a result of dewatering. The Inspector's concern is that in the absence of this knowledge or a sound conceptual understanding of the groundwater system of the area it is difficult to gauge likely impacts on:

- (i) nearby private wells;
- (ii) public water resources;
- (iii) the nearby stream; and
- (iv) fisheries and the ecology of the Slaney River Valley Special Area of Conservation (Site Code 000781).

The Board understands the basis of the concern expressed by the Inspector but does not share it to the extent that it believes a refusal of planning permission is warranted. The Board considers that the extent of investigation undertaken and information presented is sufficiently detailed to allow an evaluation of the likely impacts of the proposed development on the environment to be made and that any residual matters can be addressed by way of condition. The Board's reasoning in this regard is set out in the following paragraphs.

Regarding the matter of the level of intrusive investigations undertaken at the site, it is firstly helpful to briefly consider again the location and setting of the site from a hydrogeological and hydrological perspective.

The site is located on the top of a hill that rises to a maximum height of 175 metres OD and comprises volcanic rock known as Felsic Volcanics that is part of the Campile formation. Notwithstanding this general classification the Environmental Impact Statement states (section 7.3.6, page 43) that the rock composition in the quarry is “highly variable” with elements of metamorphic origin as well as igneous or volcanic.

The Geological Survey of Ireland classifies the Campile formation as a Regionally Important Fissured Bedrock Aquifer (Rf) – see Environmental Impact Statement (page 47). The quarry site is underlain by two groundwater bodies (GWBs). The north-west of the quarry is underlain by the Ballyglass GWB which the Environmental Impact Statement (page 48) says has “a poorly productive flow regime”. The south-east of the site is underlain by the more productive Gorey GWB. The latter is presumed to underlie the bulk of the quarry lands and is also the source of the groundwater used in the public abstraction scheme developed nearby by Wexford County Council and now managed by Irish Water.

The crest of Coolishal hill forms a watershed between two surface water catchments. To the south-east is the Gorey river catchment, a tributary of the Owenavorrhagh River which flows northeast to enter the Irish Sea north of Courtown. The area north-west of the quarry is part of the River Bann catchment which is in turn a tributary of the River Slaney which flows south to enter the sea at Wexford Harbour. Much of the latter catchment forms part of the Slaney River Valley Special Area of Conservation (Site Code 000781).

The existing quarry is of relatively moderate extent – when viewed in the context of the extent of the underlying groundwater bodies. The total area of the lands is slightly in excess of 30 hectares of which approximately 7.5 hectares have been the subject of extraction activity. The proposed extension is 3.8 hectares which would result in a total extraction area slightly in excess of 11 hectares. This (potential) total area may be compared with the extent of the two groundwater bodies (GWB) underlying the site: the Gorey GWB of 81 square kilometres (8,100 hectares) and the Ballyglass GWB of 1,397 square kilometres (13,970 hectares).

Notwithstanding its relatively modest scale in these terms, the existing quarry is, in ground investigation terms, in effect a significant intrusive element in itself. The existing quarry extends to some 7.5 hectares and has a floor level at or below 100 metres OD. By its existence much is inevitably revealed about the local sub-surface environment.

The planning history of the lands is noted with extraction having commenced sometime prior to a grant of “retention and continuation” in 1980 – that is, nearly 40 years – and given its depth and extent any effects on the local environment and certainly any significant effects, including impacts on the ground- and surface water regimes, could reasonably be presumed to have manifested themselves by now and thus be amenable to detection and observation. Thus, for example, very little groundwater inflow to the existing extraction area has been noted.

While no intrusive investigations were specifically undertaken for the current proposal, it is not the case that such works have not been carried out in the past. In 2011 three new wells were drilled (MW1, MW2, MW3) adding to three pre-existing wells (TW1, TW2 and TW3). While the latter served mainly as abstraction points in the past, the former were specifically installed to monitor groundwater at the site. Two of these wells, MW2 and MW3 are located within the bounds of the present proposed development while MW1 is located in the adjoining area (the subject of substitute consent application 26.SU.0113).

These three wells helped to reveal much useful information concerning the hydrogeological characteristics of the site and were employed in a 2011 study of the lands by White Young Green entitled “Hydrogeological Assessment of Proposed Quarry Extension” undertaken in support of a previous planning application. This report sought, inter alia, to assess the likely impacts on surface and groundwater of extracting rock to a maximum depth of 100 metres OD in broadly the same plot of land as the current application. The analyses and modelling work presented in the 2011 WYG report are highly relevant to the present proposed development.

In combining these elements of fact – that is, the scale of the existing and proposed extraction areas, the long established nature of the extraction activity at the site and the investigative opportunities afforded both by the existence of the quarry itself as well as of specially installed boreholes plus the analytical work undertaken by WYG in 2011 – the Board disagreed with the Inspector and considers that adequate information is available to allow a sound conceptual understanding of the local groundwater system to be developed and to permit an assessment to be made of the likely impacts of the proposed development on the environment and specifically on items listed (i) to (iv) above. These items are considered below.

(i) nearby private wells

In section 7.3.13 of the Environmental Impact Statement it is noted that a domestic well survey was completed in 1999 in support of an earlier application for planning permission. It is further stated that the properties closest to the quarry were revisited in 2011 and again in 2014 “in order to determine if there had been any change in the water supply in the area”. No change was reported.

A similar point is also made in the WYG report of 2011 (see page 54) where it is stated that “the domestic wells in the vicinity have not been affected by current practices in the quarry” and that modelling indicated that in the event of extraction down to 100 metres OD in the subject area “the potential impact on the wells will be negligible”.

It is further noted that while both the planning authority and the Health Service Executive in their respective submissions to the Board on the current proposal voice a need to avoid negative impacts on domestic wells in the future neither body reports any history of complaint regarding such impacts to date.

(ii) public water resources

The location of some of the public abstraction wells in the vicinity of the site is shown in Figure 7.6 (page 51) of the Environmental Impact Statement. Irish Water in its submission of the 21st March 2016 indicates that the quarry is some 800 metres from the Coolishal Borehole and Water Treatment Plant.

The Environmental Impact Statement (page 54) states that “based on borehole data” groundwater flow in the vicinity of the site is in an east to south-easterly direction”. Groundwater contours are indicated in Figure 7.7, page 55. Thus the public wells would all appear to be downgradient of the site and are within the Gorey GWB. The Environmental Impact Statement states (page 69) there is no record or report indicating that the quarrying activity undertaken to date has impacted negatively on the public abstraction wells, for example in terms of yield, and concludes that impact on the regional groundwater flow regime will be “imperceptible”. The WYG report of 2011 is more categorical in stating that the “quarry is not in the zone of contribution to the production wells” (section 7.4.5.1, page 42) thereby effectively eliminating the possibility of impacts.

(iii) the nearby stream

Historically, excess or surplus water from the site was discharged to a small stream to the north of the site at a point identified in the documents as SW3. The question of which of the two local catchments this small stream forms a part of is somewhat unresolved in the documentation. It seems likely it may flow into the upper reaches of the River Bann and thence to the River Slaney.

If this is the case, then it is instructive to note that the Environmental Protection Agency river quality data presented in Table 7.6 (page 45) of the Environmental Impact Statement shows that water quality in the upper River Bann has been consistently high over an extended period of time (Q-Value of 4 or 4-5).

The water quality data for the Banoge River, which forms part of the Gorey River system and to which the quarry would appear never to have made direct surface water discharges, is shown on the other hand to be consistently Poor (Q-Values of 2-3). It seems likely that much of this deterioration in quality is due to agricultural practices.

It is not evident that the hypothesis that quarrying activity has had an impact on the dynamics of either catchment is borne out by the available evidence. Indeed, the reverse would seem to be more likely. The WYG report of 2011 notes that the groundwater modelling undertaken “indicates the zone of contribution does not extend to any of the significant water bodies in the area”.

(iv) fisheries and the ecology of the Slaney River Valley Special Area of Conservation (Site Code 000781)

The last quote is equally relevant under this heading. Concerns relating to fisheries resources are expressed in the submission of Inland Fisheries Ireland (IFI) dated the 10th March 2016. It may be noted that many of the points made in that submission echo those made by IFI in respect of the application for substitute consent 26.SU.0113 on lands immediately adjoining the present proposed development.

IFI’s concerns relate to the potential created by the proposed development for negative impact on the quality and quantity of water in both the Bann/Slaney system (a candidate Special Area of Conservation) and the Banoge/Gorey system. Both of these river systems are important salmonid waters and the Bann is also known to hold populations of *Margaritifera margaritifera*.

IFI identify the main threats as contaminated discharges from the site and the potential for a preferential flow path from the underlying regionally important fissured bedrock aquifer (that is, the Gorey GWB) resulting in the transfer of significant volumes of water from this catchment to that of the Bann and Slaney.

IFI also voice a concern that the proposed development could result in reduced flows in the Bann River – presumably due to the capture of some of the groundwater baseflows of this system.

The Board notes these concerns but considers that there is little or no evidence to hand to suggest that the relatively modest scale of the proposed extension to the long established rock extraction at the site will result in the kind of potential significant hydrogeological impacts identified by IFI. Rather, the available evidence suggests minimal or negligible impacts as discussed in the foregoing sections.

The matter of the quality and quantity of the discharges from the site to surface waters, if any, is a matter that may reasonably be addressed by way of condition, as was indeed envisaged by the Board in a previous grant of planning permission (see condition number 3 of appeal reference number PL 26.235738) and as envisaged by the Inspector (see sections 7.2.8 and 7.2.9 of Report).

Likewise, it is considered that the depth of extraction in the proposed development be limited to a maximum of 100 metres OD, that is, the same maximum depth utilized in the analyses and modelling undertaken by WYG in its report supporting a previous and unsuccessful planning application seeking permission to extract rock in these lands and similar in depth to the immediately adjoining lands the subject of substitute consent application 26.SU.0113.

Having regard to the foregoing the Board is satisfied that the effects of the proposed development on geology, hydrogeology and surface waters are acceptable.

The Board is also satisfied that no significant effects on any Natura site are likely as a consequence of the proposed development either individually or in combination with other plans and projects, in view of the site's conservation objectives.

In conclusion the Board considers that, subject to compliance with the conditions set out below, the proposed development is 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, including mitigation measures proposed, 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. 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 depth of the excavation shall be no lower than 100 metres Ordnance Datum.

Reason: In the interest of clarity.

4. Mitigation and monitoring measures outlined in the Environmental Impact Statement submitted with this application, shall be carried out in full, except where otherwise required by condition attached to this permission to further develop the quarry.

Reason: In the interest of protecting the environment and in the interest of public health.

5. (a) Details of a comprehensive site drainage management system, generally in accordance with the proposals set out in Chapter 7 of the Environmental Impact Statement, shall be submitted to and agreed in writing with the planning authority prior to re-commencement of development.
- (b) The agreed system shall be installed to the written satisfaction of the planning authority prior to re-commencement of development.
- (c) There shall be no discharge of quarry water from the site to any roadside drain or adjacent watercourse in the absence of a discharge licence.

Reason: In order to protect ground and surface waters.

6. 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.

7. 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; and

- (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.

8. Within three months of the date of grant of permission to further develop the quarry, 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 resources.

9. 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.

10. Quarrying within the proposed expansion area, and all activities occurring therein, shall only operate between 0700 hours and 1800 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.

11. 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 0700-1800 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 15 minutes.

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

12. The wheel wash facility at the quarry exit shall be used by all Heavy Goods Vehicles leaving the site. Any aggregate, silt or muck carried out onto the public road shall be promptly removed by the developer.

Reason: In the interest of traffic safety.

13. (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, 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 in the interest of the amenity of the area and of nature conservation within the Slaney River Valley Special Area of Conservation (Site Code 000781).

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

15. The developer shall facilitate the archaeological appraisal of the extension area. 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,
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works, and

- (c) provide arrangements, acceptable to the planning authority for the recording and for the removal of any archaeological material which the planning authority considers appropriate to remove.

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.

- 16. Prior to re-commencement of development, a restoration plan which shall be based on the principles set out in Section 10.5 and drawing number C-33-127 of the Environmental Impact Statement accompanying the application, shall be submitted to, and agreed in writing with, the planning authority. The plan which shall be based on best practice shall include, inter alia, existing and proposed finished ground levels, landscaping proposals, proposals for the enhancement of the biodiversity of the area post-closure, safety measures proposed for steep faces and areas of deep water and a timescale for implementation. Restoration of the site shall be carried out in accordance with this plan.

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

- 17. 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.

18. 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 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.

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.