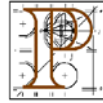


**An Bord Pleanála Ref.: PL 19.244624**

**An Bord Pleanála**



**Inspector's Supplementary Report**

**Development:** Retention and completion of sand and gravel extraction over an area of 2.25 hectares.

**Location:** Clara Road, Ballyduff Townland, Tullamore, Co Offaly.

**Planning Application:**

Planning Authority:	Offaly County Council
Planning Authority Reg. Ref.:	14/47
Applicant:	Cemex (ROI) Ltd. <sup>1</sup>
Type of Application:	Permission
Planning Authority Decision:	Grant Permission subject to conditions.

**Planning Appeal:**

Appellants:	An Taisce
Type of Appeals:	3 <sup>rd</sup> Party v Permission
Observers:	None
Date of inspection:	1 <sup>st</sup> July 2015
Inspector:	Bríd Maxwell

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<sup>1</sup> I note that as outlined in further information response received by the local authority on 23 January 2015, ownership of the site changed from Cemex (ROI) Ltd to Roadstone Ltd in late 2014, during the course of the application to the council.

## **1.0 INTRODUCTION**

1.1 This supplementary report should be read in conjunction with the Inspector's Report of 16<sup>th</sup> July 2015 which sets out the nature of the development proposed for retention and continuation, the grounds of appeal and responses thereto in detail.

1.2 Following consideration of the appeal at the Board Meeting of 12<sup>th</sup> August 2015, the Board decided to defer consideration of the case and to request an addendum report in accordance with the Memorandum from the Assistant Director of Planning dated 26<sup>th</sup> August 2015 which recommended that the following matters be addressed in a supplementary report:

- Identifying the existing extracted area (area for retention) versus the area proposed for further extraction, noting that the former was at 1.7 hectares at the time of the Planning Authorities S261 examination.
- Assessing whether or not EIA, or a determination in relation to EIA would have been required for the retention element had an application for permission for it been lodged prior to its commencement.
- Assessing whether or not EIA is required for the proposed element of the development.
- In relation to AA screening identifying and assessing the specific likely significant effects arising from the development the subject of this application again distinguishing between the existing extracted area (area for retention) and the proposed extraction area.
- Assessing impacts on the Eiscir Riada and other specific impacts referenced by the third party appellant.
- Assessing any other planning issues considered to be of significance.

1.3 My assessment of the issues raised under the relevant headings is set out as follows:

**2.0 Identification of the existing extracted area (area for retention) versus the area proposed for further extraction, noting that the former was at 1.7 hectares at the time of the Planning Authorities S261 examination.**

2.1 I note that the application drawings and details do not provide a sufficient level of detail to provide a current snapshot of the level of abstraction carried out to date on the site in order to enable the precise line between the development for retention and the proposed further development to be drawn. The appeal site relates to a site area of 2.25 hectares located internally within the established sand and gravel quarry the overall area of which is estimated to be in the region of approximately 40 hectares. Notably at the time of the assessment by Offaly County Council of the quarry under Section 261A of the Planning and Development Act 2010, (which was conducted in mid-2012), the Council noted that the quarry had extended beyond the permitted extraction area by an estimated 1.7 hectares. Within the First Party Response to the appeal by Tom Phillips and Associates received by the Board on 15<sup>th</sup> April 2015, page 3-4, it was outlined that “the Planning Authority estimated the extent of extraction outside the permitted area as shown in the Figure 11 of Appendix 1 of the Offaly County Council Quarry Assessment Under Section 261A to be circa 1.7 hectares. However, more accurate measurement provided by Golder Associates Ireland Limited as part of this planning application show that the relevant area identified is in fact 2.25 hectares and this is the area for which retention permission has been sought.

2.2 I note that within the further information response submitted to Offaly County Council on 23<sup>rd</sup> January 2015 on the issue of timeframe for implementation of quarry restoration and timeframe for the carrying out of quarrying to cease on the site, the applicant indicated that extraction is expected to proceed for a further 24 months. When activities have ceased at this site, the applicant proposes to implement a final restoration plan which is expected to take six months to implement with a further 12 to 24 months for the establishment of hedgerows and other planted / seeded areas.

2.3 On the basis of the information provided on the appeal file it is evident therefore that the area for retention relates to the site area of 2.25 hectares.

**3.0 Whether or not EIA, or a determination in relation to EIA would have been required for the retention element had an application for permission for it been lodged prior to its commencement.**

3.1 Category 2.2(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 provides that an EIS shall be prepared in respect of a planning application for the following development:

*“Extraction of stone, gravel, sand or clay where the area of extraction would be greater than 5 hectares”-*

*Category 13 Changes, extensions, development and testing:*

*(a) Any change or extension of development, which would:*

*(i) Result in an increase in size greater than*

*- 25 per cent, or*

*- an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.*

- 3.2 I note that as set out within the First Party response to the appeal the retention element of the development relates to an excavation area of 2.25 hectares. The registered area under Section 261 of the Planning and Development Act 2000 as amended relates to a total area of 34.25 hectares. The extension area proposed for retention in itself would not trigger the requirement for an EIA therefore for the purposes of deciding if EIA would have been required falls below the relevant thresholds therefore does not require a mandatory EIS but would be regarded as sub threshold development.
- 3.3 Schedule 7 of the Planning and Development Regulations refers to the criteria for determining whether a development would or would not be likely to have significant effects on the environment as set out in Annex III of the EIA Directive 97/11/EC that is the characteristics of the proposed development, location of the proposed development and characteristics of potential impact. It is necessary for there to be a finding that there will not be any significant effects on the environment, having considered all of the above for a decision to be taken that sub threshold development does not require EIA.
- 3.4 In addressing the question of whether the development proposed for retention would be likely to have significant effects on the environment having regard to the characteristics of the development proposed for retention, the sand and gravel extraction process includes a range of activities which have the potential to have significant effects. These include the extraction process and transport impacts and waste production. Having regard to the characteristics of the development proposed for retention, the potential for significant impact exists.

- 3.5 As regards the location of the proposed development, whilst the development proposed for retention would be compatible with the existing land use, I note a number of sensitive aspects of the site and locality, notably proximity to designated “high sensitivity” landscape, proximity to the Eiscir Riada, proximity to the Silver River and location within an area which in terms of groundwater vulnerability is designated as high vulnerability. Having regard to the location of the development and having regard to the cumulative effects of the established quarrying and related operations I conclude that the potential for significant impact exists.
- 3.6 As regards the characteristics of potential impacts, based on the scale of the development proposed for retention, both in itself and in view of its context as part of a larger sand and gravel quarry operation, the potential impacts would include noise, dust, air quality impacts, water quality effects, impact on natural heritage, cultural heritage, landscape and visual impacts and waste production and traffic impacts. Having regard to the particular sensitivities of the site location in particular relating to water quality and landscape status, I consider that the development proposed for retention has the potential for significant effect and on this basis I conclude that a determination in relation to EIA and an EIA would have been required for the retention element had an application for permission been lodged prior to its commencement.
- 3.7 As set out in my previous report of 16<sup>th</sup> July 2015 the issue of the limits of the site boundary give rise to questions in respect of project splitting for the avoidance to undergo EIA. The matter of cumulative impact is also an issue of concern.

**4.0 Assessing whether or not EIA is required for the proposed element of the development.**

4.1 As outlined above the level of detail provided on the appeal file does not enable the precise differentiation between the retention element and the proposed element of the development. Based on the information provided, I consider that on the basis of the characteristics of the proposed development, the location of the proposed development and the characteristics of the potential impacts Environmental Impact Assessment is required for the proposed element of the development.

**5.0 In relation to AA screening identifying and assessing the specific likely significant effects arising from the development the subject of this application again distinguishing between the existing extracted area (area for retention) and the proposed extraction area.**

5.1 As outlined above, within the application, the distinction between the development for retention and the proposed development is not clearly defined. As clarified in the first party response to the appeal whilst Offaly County Council estimated the partially excavated area to be 1.7 hectares in 2012, more accurate measurements provided by the first party clarify that the area referred to and identified on the maps is in fact 2.25 hectares.

5.2 The application includes a screening for appropriate assessment dated February 2014 by Golder Associates. The Screening identifies two Natura sites within 15 kilometres of the appeal site, namely Charleville Wood SAC (Site Code 00571) which is approximately 3km to the south of the appeal

site, and Clara Bog SAC (Site Code 000572) which is approximately 4 kilometres to the west of the appeal site.

5.3 The screening report notes that no water abstractions have been undertaken at the application site. (However no consideration is given to water abstraction in connection with associated operations on the larger quarry site of which the appeal site forms part.) Screening report also indicates that “Cemex (ROI) Ltd. have confirmed that there are no discharges to the Silver River from the application site.” As regards potential for impact on groundwater it is outlined that The Tullamore Groundwater Body beneath the site is not connected to Clara Bog SAC, however the wetland areas of Charleville Wood SAC may depend to some extent on Tullamore Groundwater Body. It is noted that the Tullamore Body is currently rated as Good Status under the Water Framework Directive. It is asserted that potential impacts to groundwater have been identified from possible accidental spillages from machinery during extraction. Cemex (ROI) Ltd, has addressed this through the implementation of Best Practice - Environmental Management in in the Extractive Industry (EPA, 2006) in its operational practices. The site is covered by an EMS which is accredited to ISO14001 standard. In relation to cumulative impacts of the existing quarry it is asserted that they are not likely to cause significant impacts on the designated features of the Natura 2000 sites. The rehabilitation of the extracted area aims to return the lands to low intensity agricultural calcareous grasslands. The development of vegetation on the quarry floor would also aim to provide a protective layer for the underlying groundwater body.”

5.4 As outlined above, I consider that the restrictions of the site and level of detail provided within the application and appeal



does not enable full and appropriate consideration of the potential for impact on Natura 2000 sites in particular in relation to potential for impacts on key indicators of conservation value in particular changes in water quality. I consider that surface water management gives rise to potential for significant effect in terms of impact on water quality and in this regard the proposed development generates the need for appropriate assessment under the provisions of Article 6 of the Habitats Directive 92/43/EC. Based on the level of detail provided it is not possible to conclude that the development for retention in itself and the proposed development, in combination with other plans and projects would not be likely to have a significant effect on Natura 2000 sites.

## **6.0 Assessing impacts on the Eiscir Riada and other specific impacts referenced by the third party appellant.**

6.1 The site is to the south of the Eiscir Riada, the linear glacial deposit which traverses the northwest corner of County Offaly (ultimately running from Dublin to Galway). The Eiscir Riada is a gravel ridge traversing the raised bogs of the Irish midlands and is significant in the study of pattern of deglaciation. As set out within the County Development Plan, the Eiscir Riada is worthy of conservation due to its geomorphologic, scientific, historical, recreational and amenity value and uniqueness. Policy NHP-23 of the County Development Pan is “the policy to consider, in consultation with the National Parks and Wildlife Service, Westmeath County Council, the Geological Survey of Ireland and others, the potential designation of the north Offaly esker landscape as a UNESCO geo-park, to promote the unique geological heritage of the area. Other development objectives include provision for the development of nature walks along the eiscir riada.

6.2 The First party notes that the quarry extension proposed for retention and continuation falls outside the area designated for protection as an esker or an area of high amenity within the County Development Plan. However I would note concerns relation to the cumulative impact of quarry operations on the Eiscir Riada. I note also the vulnerability of the esker landscape to groundwater pollution on the basis of the highly porous nature of this environment. Detailed further information would be required to inform a complete assessment of the impact of the development proposed for retention and continuation on the eiscir riada in terms of its cultural heritage, scientific importance, geological, botanical, zoological and other natural value.

**7.0 Assessing any other planning issues considered to be of significance.**

7.1 I note a number of sensitive aspects of the site and locality notably the closeness to a number of landscape features in particular the Eiscir Riada, proximity to the Silver River which runs in an east west direction to the north of the site and the potential for groundwater and surface water contamination. I note that quarrying operations have been ongoing at this location for a number of years. There have therefore been ongoing impacts on material assets including traffic, water, soil, ecology and air. Notably the EIS completed by Frank Benson and Partners Planning and Development Consultants as part of planning application 99//1129 envisaged the completion of extraction within the area within a 20 year period.

7.2 As raised within the grounds of the appeal of An Taisce the development proposed for retention and continuation has a

significant impact on the mitigation measures and restoration of the existing permitted quarry. I have noted specific areas of concern in relation to water and hydrogeology, landscape and visual impact and archaeological and cultural heritage impact. I consider that having regard to the passage of time, updated baseline information, additional surveys and environmental monitoring details would be required to enable a complete and thorough assessment of the development proposed for retention and continuation.

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Brid Maxwell

Planning Inspector

11<sup>th</sup> September 2015