



An  
Bord  
Pleanála

## Inspector's Report PL10.247592.

### Development

Permission/retention permission is sought for retention of an existing quarry with an extraction area of approximately 1.20ha; an extension to the quarry of approximately 0.80ha; the processing of the extracted rock and all associated site works. The amount of material to be extracted is approximately 200,000 tonnes. Permission is sought for a period of 15 years.

### Location

Castlegannon, Ballyhale, Co.  
Kilkenny.

### Planning Authority

Kilkenny County Council.

### Planning Authority Reg. Ref.

16/41.

### Applicants

S Malone and J Meaney.

### Type of Application

Retention/Permission.

### Planning Authority Decision

Permission with conditions.

<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	1. Denis, Breda, Richard and James Deasy and others. 2. Mountain View Golf Club. 3. Daniel O'Neill.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	15 <sup>th</sup> February 2017.
<b>Inspector</b>	Derek Daly.

## 1.0 Site Location and Description

- 1.1. The proposed development is located in the townland of Castlegannon a rural area approximately 5 kilometres south of Ballyhale and 8 kilometres north of Mullinavat in the south of County Kilkenny.
- 1.2. The appeal site is located off the R448 Regional Route the former N9 National Primary Route connecting both villages and is connected to the regional road via an access roadway, which is also indicated as part of the overall appeal site. This roadway serves forestry and agricultural lands in addition to the subject quarry. The roadway is relatively narrow and unsurfaced and there are a number of sharp bends on the route of the roadway from the public road to the quarry. The road rises in elevation away from regional route and quarry is not visible from the regional route.
- 1.3. The quarry is approximately 300 metres to the west of the regional route and the access road is approximately 400 metres in length. At the time of the site inspection there was no extraction operations occurring at the quarry. Access to the working area was block by two plant vehicles the only plant visible at the site.
- 1.4. Within the working area there were a number of stockpiles of stone, some coarse and angular and others of graded rounded material. The working face of the quarry is located at the northern end of the site. There was also a stockpile of soil and overburden located at the southern end of the site.

## 2.0 Proposed Development

- 2.1. The development as submitted to the planning authority on the 29<sup>th</sup> of January 2016 as stated in the public notices was for
  - The retention of an existing quarry with an extraction area of approximately 1.20ha.
  - An extension to the quarry of approximately 0.80ha.
  - The processing of the extracted rock.
  - Associated site works including the provision of a wheel wash and oil interceptor in close proximity to the access onto the public road.

- The amount of material to be extracted is approximately 200,000 tonnes.
- Permission is sought for a period of 15 years.

Other documentation submitted included;

- A planning and environmental report.
- A traffic and transportation assessment.

2.2. Further information was submitted on 28<sup>th</sup> of September 2016.

2.3. Details submitted included

- New public notices.
- Drawings relating to the upgrading of the road access, surface water drainage; autotracking for vehicles; sightline visibility and wheel washing and associated drainage.
- A site layout indicating existing and proposed area of extraction. The extension of quarrying is to the north of the existing extraction area.
- A drawing relating to restoration/rehabilitation of the site.
- The submission includes a response to the matter raised in the request of further information relating to traffic, control of dust, surface water drainage; results from noise monitoring undertaken; a proposed environmental monitoring plan and management system; clarification on blasting; clarification relating to depth of the quarry and interaction with groundwater; clarification in relation to restoration.
- A closure plan.
- An environmental noise report.
- A road safety audit.
- An updated traffic and transportation assessment.

## 3.0 Planning Authority Decision

### 3.1. Decision

The decision of the planning authority was to grant permission subject to 13 conditions. Conditions of note include;

- Condition no 2 relates to a financial contribution of €16,000.
- Condition no 3 relates to a financial contribution of €8,000.
- Condition no 4 refers to an operation period of 15 years for the quarry and the implementation of site restoration closure plan.
- Condition no. 5 relates to payment of a bond for the implementation of the site restoration closure plan.
- Condition no. 7 relates to management of water on the site.
- Condition no. 8 relates to noise and hours of operation.
- Condition no. 11 relates to the requirement of additional monitoring if required.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planning report refers to;

- The site's planning history.
- Submissions received.
- That an EIS is not required.
- A screening exercise was carried out in relation to Natura 2000 sites.
- An assessment of the development.
- Further information was recommended relating to 18 matters for clarification.

The planning report dated the 24<sup>th</sup> of October 2016 having considered the further information recommended permission.

#### 3.2.2. Other Technical Reports

The **environment section** report dated the 9<sup>th</sup> of March 2016 refers to issues of noise, dirt, dust and debris observed during a site inspection. Further information was recommended regarding surface water run off; impacts on surface water quality; noise monitoring; the submission of an environmental monitoring plan and details relating to blasting and clarification in relation to whether it occurs.

The **environment section** report dated the 17<sup>th</sup> of October 2016 has no objections to the development and includes in the report recommended conditions.

The **area office** report dated the 20<sup>th</sup> of October 2016 raises no objections.

The **roads** report dated the 20<sup>th</sup> of October 2016 raises no objections.

### 3.3. **Third Party Observations**

Submissions were received from Mr Edward O'Neill; Denis, Breda, Richard and James Deasy and others c/o Peter Thomson Planning Solutions; Professor John Wells; Jane and Patrick O'Grady; John Smullen; Mountain View Golf Course in relation to the initial submission and also the further information submitted.

## 4.0 **Planning History**

The site has a planning history.

### **QY25**

The site was registered in accordance with Section 261 subject to 11 conditions.

Condition no.3 is of note indicating the quarry shall not be used for commercial purposes.

### **QR 085**

The planning authority considered no further action was required in relation to Section 261A.

## **5.0 Policy Context**

### **5.1. Quarries and Ancillary Activities Guidelines for Planning Authorities 2004.**

- 5.1.1. The purpose of the guidelines is to offer guidance to planning authorities on planning for the quarrying industry through the development plan and determining applications for planning permission for quarrying.
- 5.1.2. Section 1.3 refers to the economic importance of quarries. Chapter 3 refers to the environmental implications and that there are a wide range of potential environmental effects caused by quarries which need to be considered when dealing with proposals for new development, or for significant expansion of existing extractive industries and such impacts may arise during the development stage or may endure throughout the life of the quarry, possibly over several decades. The impact it is indicated can be permanent, even after closure and decommissioning, unless carefully planned rehabilitation is undertaken.
- 5.1.3. Section 3.5 relating to natural heritage indicates that these habitats can be damaged or lost entirely as a result of quarrying and extraction, and features such as hedgerows, stone walls and trees can be removed.
- 5.1.4. Section 3.10 refers to the use of Environmental management systems (EMS), as a form of environmental monitoring, whether quantitative or qualitative, should be considered as best practice for the environmental management of quarries.
- 5.1.5. Section 4.7 of the above guidelines outline possible planning conditions in relation to quarries and these included the implementation of mitigation measures in relation to the times of operation; the control of noise, blasting, and dust; and the control of water pollution.

### **5.2. Development Plan**

- 5.2.1. The operative plan is the Kilkenny County Development Plan 2014-2020.
- 5.2.2. The site is not within any designated amenity or scenic area.
- 5.2.3. Section 6.4 of the plan relates to extractive industries and outlines policies and guidance in relation to these industries.

### 5.3. Natural Heritage Designations

The appeal site is not within or proximate to any Natura 2000 site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. **Denis, Breda, Richard and James Deasy and others** c/o Peter Thomson Planning Solutions in a submission dated the 16<sup>th</sup> of November 2016 refer to;

- The appellants request an oral hearing;
- The appellants are adamant there was no quarrying of the site from 1960 to 2002, which was the basis of the section 261 registration and evidence in the planning authority files confirm this.
- The applicants should provide evidence of the operations of the quarry over the years.
- Reference is made to issues of blasting and impacts on health.
- Wells used for drinking water were polluted and remedial works were required to be carried out.
- There has been traffic accidents in the vicinity of the quarry.
- The issue of whether there is a current bond in place is raised.
- The history of the site is referred to in detail and in particular the quarry registration process, section 261, and the level of operations at the time of registration.
- The conditions of the registration (no.3) restricted the quarry operation to non-commercial quarrying.
- The quarry was subsequently considered under Section 261A and the planning authority determined substitute consent was not required in July 2012.
- The site was the subject of enforcement proceedings in relation to intensification in 2011 and further investigated in 2015 where the pre 1964



operation was questioned based on the evidence of aerial photography in 1973 showed no signs of quarrying and the first signs of quarrying are evident in aerial photographs in 2005.

- The Planning Authority in June 2015 advised the quarry operators that the Planning Authority did not consider the site had the benefit of pre 1964 status and to cease operations of the quarry and lodge a planning application.
- The current application arises from the enforcement correspondence but works on the site have never ceased and have intensified since the submission of the current application.
- The appellants have experienced adverse impacts arising from blasting, noise, traffic, pollution and health.
- Reference is made to the application made and that in the request for further information it is illegally implied that part of the site is authorised on the basis it was registered under section 261 as file QR-085 confirms that there was no quarry on the site pre-1964 and section 261 should not have been given.
- The correct position is, therefore, that there is no authorised permission on the site and the principle of quarrying on the site has not been established.
- This position and the observer submissions concerns do not appear to have been given assessment in the Planning Authority decision.
- It is therefore difficult to be clear as to what has been granted, the quarrying areas beyond the QY25 registered boundary or the entire site.
- The information available point to the quarry being established between 2002 and 2005 with a view of supplying material to the M9 motorway construction and this is supported by aerial photography.
- In the context of the site history can there is a risk that the development will not be carried out in accordance with the conditions granted.
- Conditions of the section 261 registration were not complied with and the details relating this are outlined.
- There has been intensification of activity beyond a non-commercial quarry.
- The Board are requested to take these matters into consideration.

- Issues therefore arise in relation to the access used for the quarry and has the traffic assessment considered the current operation of the quarrying activities.
- The regional route has been the subject of accidents.
- There are issues in relation to surface water drainage at the entrance onto the regional route.
- The development impacts on the amenities of local residents.
- Issues arise in relation to the working hours of the quarry which are breached and impact on residential amenities.
- Dust arising from the quarry and the traffic using the site is an issue. The condition requiring monitoring of dust does not provide for mitigation.
- Blasting has occurred in contravention to the section 261 registration conditions. This has impacted on residential properties. There are also issues in relation to the use of rock breakers and the crushing of rock and the noise impacts arising.
- The development has impacted on property values in the area.
- Groundwater pollution has arisen in relation to the development with runoff to watercourses and contamination of wells.
- There is a pathway from the watercourses to the Derrylackey River, a tributary of the River Blackwater which in turn is a tributary of the River Suir which is a SAC. It is considered that a significant effect on the integrity of the SAC cannot be ruled out.
- No information is submitted in relation to a demand for material from the site.
- Eight appendices are submitted in support of the grounds of appeal and the matters raised in the appeal

6.1.2. **Mountain View Golf Club** in a submission dated the 16<sup>th</sup> of November 2016 refers to;

- The development will impact on the golf club's future.
- The Castlegannon quarry development which is illegal impacts on the viability of authorised quarries which support the golf club

6.1.3. **Daniel O'Neill** in a submission dated the 16<sup>th</sup> of November 2016 refers to;

- There was never a quarry located at the site in Castlegannon.
- It is illegally operating and extracting stone at hours to avoid detection.
- Works are now occurring outside of the section 261 registration area and was not addressed during the substitute consent process and reference is made to Figure FI D01 of the further information response in this regard.
- Reference is made to an output of 200,000tpa and the traffic implications of this are not addressed.
- The development is unsustainable and there is an absence of need for additional quarrying in the area.
- The quarry is operated on a leasehold arrangement and this has implications in relation to long term accountability for rehabilitation of the site.
- The appellant operates a quarry in the area and this quarry subsidises the Mountain View Golf Club and the ongoing operation of the Castlegannon quarry will impact on the viability of these operations.

## 6.2. **Applicant Response**

The applicant in a response dated the 15<sup>th</sup> of December 2016 refers to,

- The application is for a small operation and the reserve of rock is 200,000 tonnes.
- In relation to blasting there are very strict rules and regulations in relation to blasting, however no blasting has occurred on the site.
- Noise levels measured are in accordance with guidelines for the operation of quarries.
- There is no significant issue in relation to dust, there are no dust stockpiles and quarry dust is not sold off the site.
- Dust arises from the current road but the proposal includes surfacing the road with a tar and chip surface which will address the issue.

- Traffic was assessed in the traffic and transportation assessment which concluded no adverse capacity or safety issues.
- Issues in relation to residential amenity are addressed in the submitted application and further information.
- There is no evidence of properties being devalued by quarrying operations.
- No wells have been polluted and no evidence produced in this regard.
- The quarry and extension is situated well above the groundwater table and there is no discharge of surface water from the quarry.
- The issue of surface water drainage onto the road is addressed.
- It cannot be deduced that quarrying did not occur until 2000 onwards as claimed in the grounds of appeal.
- The site is not illegal and a valid application was lodged.
- The development is small in nature and not affect other quarries.
- It is not the purpose of the planning system to create monopolies in relation to businesses.

### 6.3. Planning Authority Response

The planning authority in a response dated the 13<sup>th</sup> of December 2016 refers to'

- Reference is made to the planning history; that the area registered under section 261 has been extracted and worked out.
- The scale of the operations has only intensified in recent years extending outside of registration area boundary and hence the current application and retention to regularise same.
- Intensification of the site is acknowledged and the application is to regularise this and address any deviations from the registration.
- Submissions received were considered.
- The further information received distinguishes between the registration area and the area of the current application.

- The mitigation measures and conditions address third party concerns.
- The details proposed represent an improvement and upgrade conditions included in the registration of the site.
- A warning notice has been served on the site since the planning authority's decision to cease operations and the operator of the quarry responded not to undertake any extraction or processing pending a decision on the current application.
- It is considered that the development would accord with the proper planning and sustainable development of the area.

## 7.0 **Assessment**

7.1. The development as submitted to the planning authority on the 29<sup>th</sup> of January 2016 as stated in the public notices was for the retention of an existing quarry with an extraction area of approximately 1.20ha. and an extension to the quarry of approximately 0.80ha. The amount of material to be extracted is approximately 200,000 tonnes and permission is sought for a period of 15 years. Associated site works including the provision of a wheel wash and oil interceptor in close proximity to the access onto the public road and the upgrading of the road.

Documentation submitted includes a planning and environmental report; a traffic and transportation assessment; details relating to restoration/rehabilitation of the site; a closure plan; an environmental noise report and a road safety audit.

7.2. The grounds of appeal refer to the site history in particular the registration of the site whether the site has pre 1964 use and issues relating to intensification. This report although noting these matters notes the current application/appeal does provide for the retention of the quarry extraction area and to extend the extraction area. The quarry does not have the benefit of a planning permission but has a registration consent.

### 7.3. **Sub threshold development.**

7.3.1. The application was accompanied by an environmental report. In relation to EIA the development is sub threshold in area having regard to

Schedule 5 Part 3 Class 2(b) relating to extractive industry “*extraction of stone, gravel, sand or clay, where the area of extraction would be greater than 5 hectares*”.

In relation to article 109 of the Planning and Development Regulations 2001 as amended and consideration of sub threshold applications and whether the application should be accompanied by an EIS or to require an EIS.

Having regard to subsections (2) and (3) and as to whether the development would be likely to have significant effects on the environment which would require the applicant to submit an EIS, I do not consider, that the development would have the potential to impact on the sites referred to in subsections (2) and (3) and submission of an EIS is therefore not required in relation to this development.

#### **7.4. Principle of the development.**

- 7.4.1. In section 5 of this report I have outlined the policy context at national and county level relating to the extractive industry.
- 7.4.2. At national level current planning guidance as provided in the Planning Guidelines for quarries and related development emphasises the importance of the sector in overall economic development. Environmental impacts and environmental designations must, however, also be considered. In general, there is a presumption in favour of quarry development in suitable circumstances.
- 7.4.3. In relation to local/county policy the operative policy guidance is the Kilkenny County Development Plan 2014-2020.
- 7.4.4. In relation to the site it is not within any amenity designation identified in the plan. Section 6.4 of the county development plan relates to a policy on extractive industry and reflects a similar position to national guidance as it recognises the importance of quarrying and other extractive industries to the economic life of the County. There is also reference that such activity shall not be allowed at the expense of avoidable or irretrievable losses of natural resources and that the overall quality of the environment affected by extraction should be preserved or improved over time.
- 7.4.5. Section 6.4.2 outlines development management standards referring to rehabilitation of pits and proper land use management; restoration programmes and criteria to be assessed including, consideration of visual matters; noise levels, dust prevention; protection of ground and surface waters; impacts on residential and other amenities;

impacts on the road network; road safety, and phasing, re-instatement and landscaping of worked sites.

7.4.6. Having regard to the provisions set out in the current Kilkenny County Development Plan there is no policy objection to the principle of development of an extension to an existing quarry and the provisions of the plan favour that current quarries are worked out and restored before new sites are allowed. In this context as it is an extension to an existing quarry and that there is no landscape or other designations which preclude consideration of the proposal the development is acceptable in principle. It is, however, noted that other matters and criteria including site specific matters, which require site specific examination and assessment and these are considered further under the relevant headings below.

7.4.7. In overall terms quarry development is by its nature a tied resource based development and application must be assessed in this context. There are no clearly identifiable constraints in the plan to exclude consideration of the proposed development. The principle of the development in the location and in the area which is the subject of this appeal is therefore, I consider, reasonable.

7.5. In relation to the proposed development I propose to consider the site specific considerations under the following

- Visual and landscape considerations
- Roads and traffic
- Air and Climate
- Soils and water
- Residential amenities

#### 7.6. **Visual and landscape considerations.**

7.6.1. In relation to visual impact the site is not located in an area of scenic designation. It is located over 300 metres distant from the public road network and is not visible from the regional route. A quarry in particular a rock quarry will give rise to an impact, which will be permanent but given the scale of the development both in relation to area and depth of the working bench it will not, I consider, be a significant adverse impact. Any visual impact is immediate to the site and not the wider area.

- 7.6.2. It is noted the submitted details both in the initial submission and further information provide for aftercare and closure plan largely involving the laying down of soil and overburden on the quarry floor with some grading at the sides of the quarry resulting in an end state of grassland in the central area and natural regeneration at the periphery in a method referred to as managed natural reclamation.
- 7.6.3. I would have no objections to the proposals as submitted subject to conditions requiring the provision of a bond for the implementation of the closure plan.

## 7.7. **Roads and traffic.**

- 7.7.1. The site has access onto the R448 Regional Route the former N9 along a section which is of reasonable width and alignment. Due to the construction of the M9 the volumes of traffic on this route have decreased and the road network has the capacity to meet traffic generated by this development.
- 7.7.2. The anticipated traffic generated by this development is referred to in the planning report submitted and in greater detail in the Traffic Impact Assessment. The assessment is based on an annual output of 20,000 tonnes of extracted material annually and it is indicated that tractor and trailer movements will account for 80% of the material removed with the remainder by HGVs. Using both forms of vehicles the annual number of vehicular movements is estimated as 1,000 movements annually equating to 20 per week.
- 7.7.3. The TIA has indicated current AADT levels on the R448 as 1,200, so in terms of additional traffic on the route, the daily traffic arising from the site 4 daily tractors/HGVs with additional car movements associated with employees is not significant.
- 7.7.4. There are proposals to upgrade the entrance to the site to address what is currently deficient. Having examined the proposals to upgrade the entrance and associated proposals to address surface water discharging onto the public road I consider that the proposals as submitted are adequate in the context of the scale proposed.
- 7.7.5. Having considered the details submitted I consider that there are no issues in relation to traffic and transport that are not addressed by the details as submitted or cannot be addressed by condition.

## 7.8. **Air and Climate**



- 7.8.1. Many of the issues raised in third party submissions relate to issues of adverse impacts, dust emissions, noise emissions and blasting.
- 7.8.2. In relation to dust emissions and the control of dust this is addressed in sections 3.9 and 4.4 of the planning and environmental report and in the further information submission.
- 7.8.3. Having identified the sources of dust emissions results of testing and monitoring of dust collected at the boundary of the site which are below the limit values set out in the Quarries and Ancillary Activities Guidelines for Planning Authorities, DoEHLG 2004 of  $350\text{mg}/\text{m}^2/\text{d}$ . There are no dwellings located in immediately proximate to the boundaries of the appeal site. Mitigation measures are outlined to minimise the generation of dust at the site operations and there are also proposals in relation to control of dust at the site entrance. Ongoing monitoring is also indicated.
- 7.8.4. In relation to noise, section 3.10 of the planning and environmental report identifies the main source of noise is from the operation of a rock breaker on the site and other plant operating on the site.
- 7.8.5. Noise also arises in relation to traffic and arises to a large degree from the nature of the current poor and uneven road surface on the access road serving the site. To mitigate existing noise levels, the road surface will surface dressed with a tar and chip surface and there will also be a berm along the southern side of the access road which will assist in reducing noise levels arising from the road at the nearest sensitive noise receptor.
- 7.8.6. Noise levels have been assessed in relation to the nearest sensitive noise receptor and the results indicate that the level of noise is below the limit values set out in the Quarries and Ancillary Activities Guidelines for Planning Authorities, DoEHLG 2004. The applicant has also presented the position that as excavation operations moves in a northerly direction the potential level of impact to sensitive receptors will diminish.
- 7.8.7. Mitigation measures including ongoing monitoring is indicated and outlined.
- 7.8.8. Reference is made in the third party submission to blasting. The applicant has indicated that no blasting has occurred on the site at any time but in the event of such an activity occurring standard procedures in relation to blasting would be adhered to.

- 7.8.9. Quarrying operations by their nature gives rise emissions of noise and dust. The site is not in close proximity to a sensitive receptor. The results of monitoring of noise and dust levels as submitted indicate operations on the site are below the limit values set out in the Quarries and Ancillary Activities Guidelines for Planning Authorities, DoEHLG 2004.
- 7.8.10. Given the scale and nature of the operations on the site I am satisfied that the operations on site to date do not and have not posed a significant impact or residual impact to the air quality of the area. I also consider that the noise environment is generally acceptable and do not significantly impact on the amenities of the area. With the continued implementation of appropriate mitigation measures and the implementation of ongoing monitoring as set out by the applicant I would have no objections to the development. I do consider appropriate that hours of operation require to be stated in any decision to grant permission to ensure operations do not occur at night and through weekends.

#### **7.9. Soils and Water.**

- 7.9.1. In relation to management of water the site is relatively elevated in the context of the area. The site excavations are above the water table and no dewatering and pumping arises. The site has a dry working area. The site is not in close proximity to a watercourse and surface water arising on the site is discharged to ground.
- 7.9.2. The grounds of appeal indicate that issues arise in relation to wells in the area being contaminated and discoloured but there are no details submitted in relation to the nature of this.
- 7.9.3. The planning and environment report identifies the main sources of risk and hazard to water as accidental discharge from oils and hydrocarbons and sediment soiled water. There is no fuel stored on the site and mitigation measures are outlined in the event of accidental discharge.
- 7.9.4. The removal of the soil and overburden has exposed groundwater to increased vulnerability but as indicated the site operates above the water table.
- 7.9.5. Given the scale and nature of the operations on the site I am satisfied that the operations on site to date do not and have not posed a significant impact or residual impact to water quality of the area. With the continued implementation of appropriate mitigation measures and the implementation of ongoing monitoring as set out by the

applicant I do not consider that the water quality and resources in the area are impacted. The measures to improve drainage at the site entrance will control the nature and volume of water discharge and dust discharge to the road and the resultant roadside water drainage which discharge to surface drains and watercourses.

#### **7.10. Residential amenities**

7.10.1. In relation to residential amenities and any impact arising, the third party appellants have raised the impacts of the development on the amenities of properties in the area. Many of issues arising have already been referred to in the assessment. I would accept that the development by its nature impacts on the area and receiving environment.

7.10.2. The development although it will impact it will not, I consider, be at a level to adversely impact on the area if appropriate conditions are included to provide for ongoing monitoring through an Environmental Management System (EMS).

#### **7.11. Appropriate Assessment - Screening.**

7.11.1. The site is not within a designated site. The nearest sites are the River Barrow and River Nore SAC site code 002162 and the Hugginstown Fen SAC site code 000404.

7.11.2. The River Barrow and River Nore SAC covers a vast area consisting of the freshwater stretches of the Barrow and Nore River catchments as far upstream as the Slieve Bloom Mountains, and it also includes the tidal elements and estuary as far downstream as Creadun Head in Waterford. The SAC also includes many of the tributaries of the main rivers and includes many habitats and species of conservation interest. The appeal site is in excess of 6 kilometres from the SAC.

7.11.3. In relation to potential link in the context of Source-Pathway-Receptor between the appeal site and the SAC site, the site would be within the overall drainage catchment of the River Barrow. However, the site is not immediately proximate to a watercourse within the catchment. Water discharge on the working area of the site is to groundwater and works on the site are above the water table.

7.11.4. In the context of the distance from the SAC and the absence of a clearly identifiable link between the appeal site and SAC, the potential of likely and significant effects

(direct or indirect) of the project alone and in combination with other projects can, I consider, be reasonably ruled out on the basis of objective scientific information.

7.11.5. The Hugginstown Fen SAC habitat of conservation interest is 7230 Alkaline fens. The site is approximately 3 kilometres west of the appeal site and to the west of the M9 motorway. There is no evidence to suggest any connectivity between the appeal site and the SAC.

7.11.6. In conclusion, therefore, having regard to the scale, nature and operation of the development, the absence of defined connectivity and/or proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

8.1. Having considered the submissions received in relation to this appeal I recommend that permission be granted.

## **9.0 Reasons and Considerations**

Having regard to the scale and resource-based nature of the development within an existing quarry, the strategic role of mineral extraction as set out in national guidelines, and the provisions of the Kilkenny County Development Plan 2014-2020 in respect of the extractive industry, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, would not give rise to risk of pollution, would not detract from the natural or cultural heritage of the area, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening.

The Board considered the nature, scale and location of the proposed development, the documentation and further information on file, the submissions made, the context of the existing quarry on this site, its planning and development history, the

significant hydrological distance to the River Barrow and River Nore Special Area of Conservation (Site Code 002162), the poor potential for connectivity to other European Sites, and the report of the Inspector. The Board undertook an Appropriate Assessment screening exercise, and concluded that the proposed development would not be likely to have significant effects on any European Sites, either by itself or in combination with other plans or projects.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 29<sup>th</sup> day of January, 2016 and the 28<sup>th</sup> day of September 2016, 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 interests of clarity

2. The permission shall be for a period of 15 years from the date of this Order, unless otherwise authorised by a further grant of planning permission. Prior to the end of that period, the quarrying equipment and related ancillary structures shall be removed. The restoration plan shall be completed to the satisfaction of the planning authority within two years of the closure of the quarry.

**Reason:** To enable the planning authority to review the operation of the quarry in the light of the circumstances then prevailing

3. All environmental mitigation measures set out in the Planning and Environmental report and associated documentation submitted

by the applicant shall be implemented in full, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of protection of the environment.

4. Within three months of the date of this order the developer shall submit to and agree in writing with the planning authority, a proposal for an environmental management system in respect of the proposed development, incorporating provisions for the water, noise, dust and vibration monitoring measures required under the conditions of this permission generally, and for the following:-
  - (a) details of safety measures for perimeter of the quarry, to include warning signs and stock-proof fencing, which shall be implemented to the written satisfaction of the planning authority within three months of the date of this Order,
  - (b) management of all buffer areas on the perimeter of the site,
  - (c) monitoring of ground and surface water quality,
  - (d) a complaints management procedure,
  - (e) details of the operation of the wheel wash,
  - (f) details of the site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility, and
  - (g) associated procedures for reporting to the planning authority.

**Reason:** In the interests of orderly development and of the amenities of the area.

5. The operation of the quarry, and all activities occurring therein, including loading and deliveries, shall be restricted to between 0700 hours and 1900 hours on Monday to Friday, and between 0700 hours and 1300 hours on Saturdays. No operations shall take place outside these hours or on Sundays or public holidays.

**Reason:** In the interests of the amenities of residential property in the

vicinity and of clarity.

- 6 (1) The noise levels generated during the operation of the quarry, including all ancillary activities within this site, shall not exceed 55 dB(A)  $L_{Aeq}$  when measured at the nearest occupied house, in accordance with noise monitoring procedures to be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These details shall include monitoring locations, the frequency of monitoring, and details of all noise suppression measures.

(2) All noise measurement shall be carried out in accordance with the provisions of ISO 1996:2007: Acoustics – Description, Measurement and Assessment of Environmental Noise.

**Reason:** In the interest of the amenities of residential property in the vicinity.

7. In the event of blasting operations occurring on the site, blasting and drilling operations shall only take place between 1000 hours and 1630 hours on Monday to Friday, and shall not take place at other times. Monitoring of the noise and vibration arising from blasting, and the frequency of such blasting, shall be carried out by an independent contractor in accordance with details that shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Prior to the firing of any blast, the developer shall give a minimum of 24 hours' notice of this intention to the occupiers of 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 dwellings adjacent to the quarry.

**Reason:** In the interests of public safety, residential amenity and of clarity.

- 8 Vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres per second when measured in any three mutually orthogonal directions, where blasting occurs no more than once in seven continuous

days. Where blasting operations are more frequent, the peak particle velocity limit shall not exceed 8 millimetres per second. The air overpressure from any blast shall not exceed a value of 125 dB (Lin)<sub>max</sub> within a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin).

**Reason:** In the interests of public safety and residential amenity.

- 9 Total dust emissions arising from the on-site operations shall not exceed 350mg/m<sup>2</sup>/day averaged over a continuous period of 30 days (Bergerhoff gauge), when measured as a deposition of insoluble and soluble particulate matter. Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These details shall include monitoring locations, the frequency of monitoring, and details of all dust suppression measures.

**Reason:** To protect the amenities of the area.

- 10 The water management system shall be operated in accordance with the requirements of the planning authority.

**Reason:** In the interests of orderly development and to control water quality.

- 11 Fuel supplies and other services on-site shall be used only to service vehicles and machinery directly involved in the extraction of aggregate within the development site, the product of that aggregate on site, and the transport of those materials and products. Drip trays shall be used for all re-fuelling.

**Reason:** In the interest of orderly development

- 12 A plan containing details for the management of waste and recyclable materials within the quarry, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials, for



scrap metals in particular, and for the ongoing operation of these facilities, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and recyclable materials, in the interests of protecting the environment and of orderly development.

- .
- 13 The site closure plan including the timescale of implementation shall be agreed with the planning authority within three months of the date of this order

**Reason:** To ensure the satisfactory reinstatement and rehabilitation of the site

- .
14. The developer shall keep a record on site for inspection of the weights of all loads leaving the site, and a record of the vehicle on which the load was contained.

**Reason:** In the interest of traffic safety and to ensure that excessive loads are not carried on public roads.

- .
- 15 The entrance to the site from the public road shall be upgraded, the realignment of the internal access road, the associated berm along the side of the access road and the surfacing of the road shall be carried out in accordance with the details submitted and carried out to the satisfaction of the planning authority within 3 months

**Reason:** In the interest of traffic safety

- .
- 16 Within 6 months of the date of this order, the developer shall lodge with the planning authority an updated bond, cash deposit, a bond of an insurance company, or other security to secure the satisfactory completion and

restoration of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The amount of the security to be lodged and date of submission of the bond/security shall be agreed with the planning authority prior to commencement of development or, in default of agreement shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the quarry in the interest of visual amenity.

- 17 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 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.

---

Derek Daly  
Planning Inspector

1<sup>st</sup> March 2017