



An  
Bord  
Pleanála

## Inspector's Report PL26.248648

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<b>Development</b>	Amendments to permission ref 200223756/Board ref no. PL26.202259, relating to a change in profile of the permitted access road and all associated site works.
<b>Location</b>	Brownswood and Crefoge, Enniscorthy Rural, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20170215
<b>Applicant(s)</b>	Roadstone Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First-v-Condition
<b>Appellant(s).</b>	Roadstone Limited
<b>Date of Site Inspection</b>	21 <sup>st</sup> September 2017
<b>Inspector</b>	Colin McBride



## **1.0 Site Location and Description**

1.1 The appeal site, which has a stated area of 1.33 hectares is located in Brownswood approximately 2.5 kilometres south of Enniscorthy. Presently two quarries within 250 metres of each other are operated by Roadstone. These are located on the eastern side of N11 and are connected to each other by the remnants of the old N11 prior to its realignment. There is an existing public road running north south to the east of the existing quarry and permission granted for an extension to the quarrying activities on the eastern side of the public road under ref no. PL26.202259. The appeal site is strip of land on an east west axis that links the existing quarrying activity on the western side of the public road to the permitted extension on the eastern side, the access is to be in a culvert under the public road.

## **2.0 Proposed Development**

2.1. Permission is sought for an amendment to permission ref no. 20023756 (An Bord Pleanála ref no. PL26.202259). The amendments relate to a change in profile of the permitted access road that no longer has a requirement for an overland conveyor system. The proposed amendment will allow Roadstone Limited to transport processed aggregate by trucks from the granted quarry extension. The haul road will replace the granted conveyor system and will pass through the culvert under the local road which was granted permission under ref no. PL26.202259.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 5 conditions. Of note are the following conditions.

Condition no. 2: Noise emanating from the development shall not cause to be measured at the facing elevation (outside) of any dwelling in the area, during the hours 0700-2100 a noise level of 55dB(A)(Laeq 1 hour) and during the hours 21-0700 and Sundays and Bank Holidays a noise of 42 dB(A)(Laeq 1 hour). The noise

is also not to be impulsive in nature or have any tonal element which is 5 dB(A) above the adjacent frequencies.

Reason: In the interests of public health.

Condition 3: Dust emission or total particulate release to the airborne environment shall not exceed 350mg/m<sup>2</sup> per day. Dust measurements shall be carried out, in real time, by direct reading airborne particle measuring equipment, capable of measuring for different dust particle sizes simultaneously, to include at a minimum Total Suspended Particles (TSP), and Particulate Matter <10 um (PM10)) fractions. This equipment is to have the English EA MCERTS certification or equivalent, which ensures reliable and accurate recording of PM10 data.

Reason: In the interests of public health.

### **3.2. Local Authority and External reports**

3.2.1. Environment Section (31/03/13): Further information required including details of attenuation ponds and predicted surface water discharge volume.

3.2.2. Planning Report (03/04/17): Further information required as per the Environment Section report.

3.2.3. Environment Section (08/05/17): Grant of permission recommended subject to conditions.

3.2.4. Planning Report (): Grant of permission recommended subject to the conditions.

### **4.0 Planning History**

4.1 PL26.202259: Permission granted to extend quarry over an area of 39 hectares adjacent to existing operation, garage building and access road.

4.2 PL 26/5/68517 (Reg. Ref. 26/472) Permission granted for extension to quarry (1985).

4.3 PL 26.106559 (Reg. Ref. 98/0248) Permission granted for extension to quarry (3.8 acres) 1998.

4.4 PL 26.124446 (Reg. Ref. 99/2864) Permission granted for extension to quarry (3.02 hectares) 2001.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The relevant development plan is the Wexford County Development Plan 2013-2019.

## 6.0 The Appeal

### 6.1 Grounds of appeal

6.1.1 A first party appeal has been lodged by Malone O'Regan Environmental Services Ltd on behalf of Roadstone Limited. The grounds of appeal are as follows...

- The appeal relates to conditions no.s 2 and 3.
- The appellants note that condition no. 2 and in particular the stipulation of a 42 dB(A) night time noise limit and a statement of methodology to identify tonality that is not in line with EPA NG4 is at variance with section 4(c) of the DEHLG Guidelines and section 3.5.2 of the 2006 EPA Guidelines. The proposal included an Environmental Impact Report that identified daytime noise limits of 55dB(A) and night time noise limits of 45 dBA as the appropriate standards based on the various relevant guidelines. It is noted that such limits are in accordance with best practise guidelines (EPA 2006, DEHLG 2004) and are in keeping with noise limits stipulated for other

permitted development both on the appeal site and adjacent sites (PL26.245927 and PL26.202259).

- It is noted that the issue of tonality is dealt with by the EPA's Guidelines for Noise: License Applications, Surveys and Assessments in relation to Scheduled Activities (NG4), 2016, Section 5.
- It is noted that Condition no. 3 varies from the 2004 DEHLG Guidelines and 2006 EPA Guidelines based on criteria including specifying direct reading airborne particulate measuring equipment and requirement for PM10 monitoring. It is noted that EIR was based on dust emission limit value at the site boundaries of 350mg/m<sup>2</sup>/day average over a 30 day period. This limit is in keeping with the best practise guidelines, DEHLG 2004 and EPA 2006 guidelines and also in keeping with the standards attached to permissions concerning this site (PL26.202259).

## **6.2 Responses**

### **6.2.1 Response by Wexford County Council.**

- The response of the Planning Authority notes that the conditions no. 2 and 3 are attached based on the recommendation of the Council's Environment Section.
- In regards to condition no. 2, it is noted that the applicant's agents failed to take cognisance of more recent noise guidelines with the EPA document, Guidance Note for Noise: License Applications, Surveys and Assessments in relation to Scheduled Activities (NG4), published in 2012.
- It is noted there is a need to impose a penalty of 5dB for tonal/or impulsive elements to the daytime and evening elements and there is to be no tonal or impulsive elements during the night time. It is noted that the fact the area could be described as an area of low background noise means limits of 45, 40 and 35dB should be applied to more nuance time band of daytime, evening and night-time.

- It is noted that given the existing nature of the development, an allowance was made allowing for a more lenient noise limits above that given in the EPA Guidance Document, with limits of 55dBA and 42dBA given in condition 2 with stricter limits possible under the 2012 EPA guidance document with Table 1 noted.
- It is noted in regards to condition no. 3 that with increasing knowledge of the sources of PM10, PM2.5 and their impact on public health, there is increasing awareness of the need to monitor these emissions. It is noted that the standards referred to by the applicant/appellant refer to guidance over 10 years old and fail to take account of more recent documents such as the EPA's Guidance for the Quarrying Sector in compiling and reporting information for the purposes of the PRTR Regulations 2011'.

#### 6.2.3 Response by Malone O'Regan Environmental Services Ltd on behalf of Roadstone Limited.

- The response reiterates that the conditions attached are not consistent with best practise guidelines the EPA (2006) and DEHLG (2004) guidelines. It is also noted that the conditions are not consistent with standards applied under conditions for noise and dust on the existing permissions at this location.

## 7.0 Assessment

7.1 At the outset, I wish to point out that following consideration of the documentation on the appeal file and the site location and context, I am satisfied consideration of the proposal on a de novo basis, (that is as if the application had been made to the Board in the first instance), is unwarranted and that it is appropriate to determine the appeal in accordance with the provisions of Section 139 of the Planning and Development Act, 2000 as amended. Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal,

Condition no. 2

Condition no. 3

### 7.2 Condition no. 2:

7.2.1 Condition no. 2 is as follows...

Noise emanating from the development shall not cause to be measured at the facing elevation (outside) of any dwelling in the area, during the hours 0700-2100 a noise level of 55dB(A)(Laeq 1 hour) and during the hours 21-0700 and Sundays and Bank Holidays a noise of 42 dB(A)(Laeq 1 hour). The noise is also not to be impulsive in nature or have any tonal element which is 5 dB(A) above the adjacent frequencies.

Reason: In the interests of public health.

The appellants note that the terms of this condition is not in keeping with the standards recommend under the Department of Environment's 2004 guidelines and the EPA Guidelines (2006) relating to quarrying activities and in particular the night time noise limit and the restriction on tonality. The Local Authority response indicates that the condition is in keeping with more up to date guidance standards such as the EPA 2012 document. The applicants note that this condition is not consistent with the condition used under the original permission under ref no. PL26.202259.

Condition no. 11 of permission ref no. PL26.202259 specifies a daytime noise limit of 55dBA (08:00-17:00 Monday to Saturday) and 45dBA at any other time.



7.2.2 The Local Authority note that condition no. 2 is based on more up to date standards set out under EPA document, Guidance Note for Noise: License Applications, Surveys and Assessments in relation to Scheduled Activities (NG4), published in 2012. Having examined the most recent EPA publication, Guidance Note for Noise: License Applications, Surveys and Assessments in relation to Scheduled Activities (NG4) (January 2016), the recommended noise limit criteria under Table 1 (attached) has stricter noise limits in evening time and night time that specified under the grant of permission for PL26.202259 and are stricter than the standards noted in the DEHLG Quarries and Ancillary Activities, Guidelines for Planning Authorities (April 2004). The standards applied under condition no. 2 are more lenient than the recommended standards under the most up to date EPA guidelines (42dBA).

7.2.3 I would note that condition no. 2 applies a more restrictive noise limit condition than that recommended for quarrying and ancillary activities under the national guidelines in the form of the Quarries and Ancillary Activities, Guidelines for Planning Authorities DEHLG (April 2004). I would note that these are the current planning guidelines for quarrying activities and until such have been updated to provide for a more restrictive standard, I would consider that recommended noise limit standards of 55dB(A) during daytime and 45dB(A) during night time be applied and would note that such was the standard applied under condition no. 11 of ref no. PL26.202259. In addition, I would note that the proposal is an amendment of part of the existing permission and is not a consideration of the development permitted under PL26.202259 afresh. I would recommend that the wording of condition no. 2 be amended to the following...

2. During the operation and restoration phase of the proposed development the noise level from the operations measured at the site boundaries shall not exceed

(i) an Laeq T value of 55 dB(A) during the period 0800 hours to 1700

hours Monday to Saturday,

(ii) an Laeq T value of 45 dB(A) at any other time.

All sound measurements shall be carried out in accordance with the ISO recommendations 1996 (assessment of noise with respect to community response) as amended by ISO Recommendations 1996/1, 2 and 3 (description and measurement of environmental noise (as appropriate)). All machinery and vehicles employed on the site shall be fitted with effective silencers of a type appropriate to the specification and at all times the best available technology, not entailing excessive costs, shall be employed to prevent or counteract defects of noise emitted by vehicles, plant machinery or otherwise arising from the quarry activities.

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

### **7.3 Condition no. 3:**

#### 7.3.1 Condition no. 3 is as follows...

Dust emission or total particulate release to the airborne environment shall not exceed 350mg/m<sup>2</sup> per day. Dust measurements shall be carried out, in real time, by direct reading airborne particle measuring equipment, capable of measuring for different dust particle sizes simultaneously, to include at a minimum Total Suspended Particles (TSP), and Particulate Matter <10 um (PM10)) fractions. This equipment is to have the English EA MCERTS certification or equivalent, which ensures reliable and accurate recording of PM10 data.

Reason: In the interests of public health.

7.3.2 The appellants note that the terms of this condition is not in keeping with the standards recommend under the Department of Environments 2004 guidelines and the EPA Guidelines (2006) relating to quarrying activities. The Local Authority response indicates that the condition is in keeping with more up to date standards such as the EPA publication, Guidance for the Quarrying Sectors in compiling and reporting information for the purposes of the PRTR Regulations (2011). The appellants note that the condition applied is more restrictive than that applied under condition no. 9 which specifies the following...

Dust outfall (maximum measured total dust deposition rate – soluble plus insoluble) measured at any point of the site boundary shall not exceed 350 milligrammes per square metre per day (DIN method).

Reason: To minimise the generation of dust and to protect amenities of adjoining properties.

7.3.3 As noted in the section regarding condition no. 2, the relevant national guidelines for such quarrying activities is the Quarries and Ancillary Activities, Guidelines for Planning Authorities DEHLG (April 2004). Under this publication the recommended standards regarding dust and the type of condition indicates a level of 350 milligram per square metre per day (when averaged over a 30-day period). I would recommend a condition in keeping with national guidelines and would consider that the wording of condition no. 3 should be amended as follows...

3. Dust outfall (maximum measured total dust deposition rate – soluble plus insoluble) measured at any point of the site boundary shall not exceed 350 milligrammes per square metre per day (DIN method).

Reason: To minimise the generation of dust and to protect amenities of adjoining properties.

## DESCISION

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139

of the Planning and Development Act, 2000 to AMEND Condition No's 2 and 3 as follows, and the reasons therefor.

2. During the operation and restoration phase of the proposed development the noise level from the operations measured at the site boundaries shall not exceed

(i) an Laeq T value of 55 dB(A) during the period 0800 hours to 1700

hours Monday to Saturday,

(ii) an Laeq T value of 45 dB(A) at any other time.

All sound measurements shall be carried out in accordance with the ISO recommendations 1996 (assessment of noise with respect to community response) as amended by ISO Recommendations 1996/1, 2 and 3 (description and measurement of environmental noise (as appropriate)). All machinery and vehicles employed on the site shall be fitted with effective silencers of a type appropriate to the specification and at all times the best available technology, not entailing excessive costs, shall be employed to prevent or counteract defects of noise emitted by vehicles, plant machinery or otherwise arising from the quarry activities.

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

3. Dust outfall (maximum measured total dust deposition rate – soluble plus insoluble) measured at any point of the site boundary shall not exceed 350 milligrammes per square metre per day (DIN method).

Reason: To minimise the generation of dust and to protect amenities of adjoining properties.

## REASON AND CONSIDERATIONS

(a) Having regard to the nature of the development proposed, which is an amendment to part of an existing permission granted under PL26.202259 and having regard to the recommendations of the national guidelines, Quarries and Ancillary Activities, Guidelines for Planning Authorities DEHLG (April 2004), it is considered that the imposition of stricter standards than that recommended under national planning guidelines for such activities and the original permission under ref no. PL26.202259 is unwarranted.

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Colin McBride  
Planning Inspector

04<sup>th</sup> October 2017