



An
Bord
Pleanála

Inspector's Report 300919-18

Development

The retention of extraction of material over an area of 0.95 hectares and permission for the restoration to agricultural use of the same 0.95 hectares.

Location

Clonaderg, Ballinahown, County Offaly.

Planning Authority

Offaly County Council.

Planning Authority Reg. Ref.

17/408.

Applicant

Dermot Nally Stone Limited.

Type of Application

Permission.

Planning Authority Decision

Permission with conditions.

Type of Appeal

Third Party

Appellant

Ciaran Guinan.

Observer(s)

None.

Date of Site Inspection

4th May 2018.

Inspector

Derek Daly.

1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area approximately 3 kilometres southwest of the village of Ballinahown and 12 kilometres southeast of Athlone in County Offaly and in close proximity to the county boundary with County Westmeath.
- 1.2. The appeal site relates to a sand and gravel quarry which is located off a local road and which has access to the local road via a service road servicing the extraction area. The local public road is one of the main routes to Clonmacnoise and also at Ballinahown has a junction with the N62 the main traffic artery in the area and further north on the N62 to the M6 motorway.
- 1.3. On the site is an established working quarry. The subject site of 0.95 hectares is part of larger quarry area with further extraction areas to the northwest. The overall quarry has a stated area of 3.43 hectares.
- 1.4. The site is largely rural with residential development comprising of one off housing and farm houses fronting onto the road network. The area is generally flat with extensive working peat land areas in particular to the south and also working agriculture lands. There are also a series of low esker and moraine ridges also which are locally prominent in the landscape located to the north of the appeal site.

2.0 Proposed Development

- 2.1. The proposal as submitted to the planning authority on the 18th of October 2017 was for the retention of extraction of material over an area of 0.95 hectares and permission for the restoration to agricultural use of the same 0.95 hectares.
- 2.2. Details submitted with the application include;
 - Drawings including sections relating to the current levels and levels after restoration.
 - A cover letter which refers to the site's planning history and matters relating to submitting the current application.
 - An environmental report.
 - An Appropriate Assessment Screening Report.

2.3. Further information was submitted on the 19th of December 2017 in relation to the side slopes of the restored areas of the quarry, an ecologist's report on relation to the protection of wildlife and details relating to the nature, source and quantity of overburden required and it is indicated that 1,854 tonnes of fine material and soil will be imported to the site for the restoration works.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant planning permission for the development subject to 4 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Report

The planning report dated the 6th of December 2017 refers to:

- The site history
- Submissions received;
- An appraisal of the development;
- Reference is made in the appraisal to national guidance in relation to quarries, to the current provision of the Offaly County Development Plan in relation to the extractive industry.
- Screening of the site in relation to AA and sub threshold development.
- Further information is recommended.

A subsequent planning report dated the 17th of January 2018 refers to the further information as submitted. Permission was recommended.

3.2.2. Other reports.

The initial environment water services report recommended further information in relation to the side slopes, the protection of wildlife and details relating to the nature, source and quantity of overburden. A subsequent report dated the 8th of January 2017 (2018?) indicated no objections to the further information received.

3.3. Other submissions.

A third party submission was received, which refers to the planning history, the location of the site on the Pilgrim Road Esker SAC and potential impacts arising from the development on heritage.

4.0 **Planning History**

4.1. The quarry site has a planning history largely related to the lands to the northwest of the current site.

P.A. Reg. No PL2/87/224

Permission granted for the retention of a gravel pit of approximately 1 hectare and provision of a new entrance on the 13th of October 1987 subject to 6 conditions.

P.A. Reg. No QY75 EUQY75

Registration of a gravel and sand pit under section 261 subject to 16 conditions

P.A. Reg. No EUQY75

A determination under section 261A in relation to EIA and AA.

The site was/is the subject of enforcement action and proceedings in relation to unauthorised development.

5.0 **Policy Context**

5.1. **National Policy.**

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 including restoration of sites.

5.1.2. 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.

5.1.3. The environmental impacts identified include noise, vibration, dust, effects on the amount and quality of water, lowering of the water table, effects on the natural heritage, the cultural heritage, landscape, traffic and waste materials. The impact it is indicated can be permanent, even after closure and decommissioning, unless carefully planned rehabilitation and restoration is undertaken.

5.2. Development Plan

5.2.1. The current plan is the Offaly County Development Plan 2014-2020.

5.2.2. In chapter 2 of the plan there is recognition of the importance of the extractive industry in the county, to the importance of protecting the landscape and for the provision of landscaping and aftercare/restoration of quarry sites with policies RDP-03, RDP-14 and RDP-16 reflecting this position.

5.2.3. Chapter 7 relates to Heritage and Landscape and the importance of protecting heritage. Section 7.2.22 specifically refers to the after use of sand and gravel quarries and the importance of biodiversity arising in worked out quarries. Relevant policies include NHP-04, NHP-08, NHP-17, LAP-01 and LAP-02.

5.2.4. AHAP-01 is a policy in relation to the protection of the county's areas of high amenity and these areas are identified in map 7.17 which identifies these areas of High Amenity. The site is not located within such an area.

5.2.5. Map 7.21 identifies the Clonmacnoise Heritage Zone and the appeal site is not located within this zone.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant Ciaran Guinan in a submission dated the 13th of February 2018 refers to:

- The appellant refers to the planning history of the site.
- The site is located on the Pilgrim Road Esker, which is also part of the Esker Riada Range. The Pilgrim Road Esker is listed as a SAC site code 001776 but the current site where the quarry is located was delisted.

- Reference is made to the current county development plan in relation to heritage and in particular policy AHAP-01.
- Reference is made to a report in 2006 the County Offaly Survey that indicated quarrying is not compatible with the maintenance of the Esker geodiversity and biodiversity. (Extract of report included in appeal submission.)
- The site is located within the boundaries of the Clonmacnoise World Heritage Site Management Plan.
- This gravel pit and other active pits are threatening the Esker and its integral geomorphological feature.
- Reference is made to quarries and non-compliance with planning including the current applicant on the appeal site and other quarries operated by the applicant.
- Reference is made to file Ref. PL2/98/340 and its refusal of planning permission.
- The illegal quarry is a serious threat to neighbouring people, wildlife and endangered nature areas.
- Cumulative effects were not considered.

6.2. Response to the Grounds of appeal

6.3. Planning Authority Response.

6.3.1. The planning authority in a response dated the 13th of March 2018 indicates;

- The subject site is 3.2 kilometres east of the Clonmacnoise Heritage Zone as per map 7.21 of Volume 1 of the Offaly County Development Plan 2014-2020.
- The subject site is 2.2 kilometres east of the Pilgrim's Road SAC.
- The site referred to PL2/98/340 is a totally different site which is located 250-300 metres east of the appeal site.
- The Board is requested to uphold the decision of the planning authority.

6.4. Applicant Response

6.4.1. The applicant c/o Earth Science Partnership (Ire) Ltd in a response dated the 14th of March 2018 refers to;

- The applicant wishes to clarify that the application is to retain works and to restore the site and it is not to authorise areas for future extraction.
- The applicant indicates that they operate other quarries but not PL2/98/340.
- The appeal site is not within the Eiscir Riada area of High Amenity.
- The site is not located within the Pilgrim's Road SAC or the esker. Reports in relation to this matter are submitted in support of this.
- The appeal site is not within an area of High Amenity or the Clonmacnoise Heritage Zone and maps 7.17 and 7.21 of the current Offaly County Development Plan are referred to in this regard.
- The Clonmacnoise site is not a UNESCO World Heritage Site and status for this designation has as not as yet being initiated by the State.
- There is no definitive boundary determined for the Clonmacnoise site but the site does not appear to be within any defined boundary and there is no statutory basis as yet for any boundary.
- In relation to impact on biodiversity the site is already in existence as a quarry with no grasslands of national and international importance.
- There are proposals to assist biodiversity as part of the reinstatement plan for the site.
- Reference is made to the legal status of other quarries operated by the applicant.
- Report submitted by Sarah Ingham in relation to the location of the site in the context of Pilgrim Road SAC and matters relating to biodiversity.
- Report submitted by Dr Charles Mount in relation to the Pilgrim Road RMP, proximity to Areas of High Amenity and Clonmacnoise.

7.0 Assessment

- 7.1. Having regard to the submissions received and the documentation submitted the primary issue in relation to this appeal relates to the acceptability of the nature of the development as proposed in particular in the context of policy and national guidance.
- 7.2. Initially it is important to indicate that the current appeal relates to the retention of extraction of material over an area of 0.95 hectares and permission for the restoration to agricultural use of the same 0.95 hectares. The development is not for an extension of the extraction area.
- 7.3. The first issue to consider is the principle of the development.
 - 7.3.1. In section 5 of this appeal I have outlined the main policy provisions as currently apply at both national and county level including the requirement for the restoration of worked out quarries. The Offaly County Development Plan 2014-2020 in chapter 2 of the plan indicate recognition of the importance of the extractive industry in the county, to the importance of protecting the landscape and for the provision of landscaping and aftercare/restoration of quarry sites with policies RDP-03, RDP-14 and RDP-16 reflecting this position.
 - 7.3.2. Chapter 7 of the plan relates to Heritage and Landscape and to the importance of protecting heritage. Section 7.2.22 specifically refers to the after use of sand and gravel quarries which this development provides for and to the importance of biodiversity arising in worked out quarries.
 - 7.3.3. Reference is made in the grounds of appeal that the site is located on the Pilgrim Road Esker, which is also part of the Esker Riada Range; to the current county development plan in relation to heritage and in particular policy AHAP-01 and that the site is located within the boundaries of the Clonmacnoise World Heritage Site Management Plan.
 - 7.3.4. AHAP-01 is a policy in relation to the protection of the county's areas of high amenity and these areas are identified in map 7.17. The site is not located within such an area. Specifically, the site is not within the Eiscir Riada area of High Amenity or the Pilgrim's Road SAC which is associated with the Eiscir Riada. It is also noted from examination of Map 7.21 of the plan which identifies the Clonmacnoise Heritage Zone that the appeal site is not located within this zone.

- 7.3.5. Based on the above given the provisions as stated the principle of the development is, I consider, acceptable.
- 7.4. In relation to the actual proposal I would have no objection to the retention of the extraction area or to the details as submitted in relation to restoration which provides for a 1 in 2 graded slope which will be reseeded to facilitate restoration to agricultural use.
- 7.5. As part of the submissions received with the application an Environmental Report was submitted which addresses the development under a number of headings including biodiversity, flora and fauna, soils and geology, water, air quality, noise, visual impact, traffic and heritage.
- 7.6. The submissions do not identify any perceptible impacts arising from the development as proposed under the various heading and I would agree with the findings and conclusions.
- 7.7. In relation to the issue of visual impact, the site is set back from the public road network and the existing worked out areas are not visible and the restoration works as proposed will remove the current scarring which is currently only evident in the immediate vicinity of the site itself.
- 7.8. I would have no objections to the development which provides for the restoration of a quarry.
- 7.9. **Appropriate Assessment - Screening.**
- 7.9.1. The applicant submitted an Appropriate Assessment Screening Statement.
- 7.9.2. The site is not within a designated site. The screening report identifies 14 Natura sites within 15 kilometres of the site outlined in table 1 of the statement. The sites were assessed individually to assess in relation to the qualifying interests and in relation to identification of pathways between the appeal site and the various Natura Sites. No threat was identified in relation to the Natura Sites from the activities carried out on the appeal site or hydrologically linkages to give rise to an impact. In combination assessment was also addressed.
- 7.9.3. The site itself has no watercourse immediate to it and in relation to a potential link in the context of Source-Pathway-Receptor between the appeal site and a SAC site, the site is not immediately proximate to a watercourse within the catchment of the

Upper Shannon Catchment and there is no discharge to surface water given the working levels of the quarry. Water discharge on the working area of the site is to groundwater. Migration to the River Shannon Callows SAC (site code 00216) and the Middle Shannon Callows SPA (site code 004096) located in excess of 3.2 kilometres from the site would be indirect groundwater flows and there is evidence to suggest any significant hydrological link or pathway to these sites. In relation to the Pilgrim's Road Esker SAC (Site code 001776), the nearest Natura site at 2.4 kilometres, there is no evidence to indicate that the existing works on the appeal site given the distance to the site and the nature of the qualifying interests would affect the qualifying interests of this site.

- 7.9.4. In the context of the distance from the Natura Sites and the absence of a clearly identifiable link between the appeal site and a Natura Sites, the potential of likely and significant effects (direct or indirect) of the project alone and in combination with other projects I consider be reasonably ruled out on the basis of objective scientific information.
- 7.9.5. There is therefore no evidence to suggest any connectivity between the appeal site and Natura Sites.
- 7.9.6. 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. It is recommended that retention permission be granted for the area of the quarry stated and that permission be granted for the restoration of the area as stated for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the nature of the development and the proposal as submitted; its planning history; national and local policy and guidance in relation to the restoration

of quarries; its location and the tied resource nature of the development, it is considered that the development, would not be contrary to the proper planning sustainable development or injurious to the visual amenities of properties 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 development on this site, its planning and development history, the nature of the development proposed, the significant hydrological distance to the Natura Sites, the absence and poor potential for connectivity to 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 18th of October 2017 and the 19th of December 2017, 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 mitigation measures as outlined in the submitted documentation shall be strictly adhered to.

Reason: In the interests of orderly development

- 3 The restoration works and the construction of the graded side slopes shall

be carried out in accordance with the details submitted to the planning authority on the 19th of December 2017.

Reason: In the interests of clarity and orderly development

- 4 The development works associated with the restoration of the site shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 5 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

30th May 2018