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Bord  
Pleanála

## Inspector's Report ABP-304867-19

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<b>Development</b>	Retain existing structures at a sand/gravel pit.
<b>Location</b>	Ballynamona, Kilmuckridge, County Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20190228
<b>Applicant(s)</b>	Roadstone Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	First Party V Condition 7
<b>Appellant(s)</b>	Roadstone Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> October 2019.
<b>Inspector</b>	Hugh Mannion

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## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.56ha and is part of an existing sand and gravel pit at Ballynamona about 3.5kms south of Kilmuckridge and 4.5kms north of Blackwater in County Wexford. Access is to the east from the regional route R742 through a splayed gated entrance. The application site is undefined within the quarry site but is generally located in the western part of the site and closest to the site entrance and the regional route. No sand and gravel extraction activity was taking place on the day of my site inspection, but the working areas are visible stretching off to the east towards the Irish sea.
- 1.2. All the elements referenced in the application are in place on site. To the left at the head of the access road is the wheel wash. To the left (north) of the wheel wash is the single storey site office, adjoining this is a site lab, then a small canteen and to the east is a storage container. To the south of these elements are a number of sand/gravel storage bays.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the retention of existing structures at an existing sand and gravel pit comprising the site office, on-site laboratory, the staff facilities container, a storage container, a weighbridge, septic tank, one roofed aggregate storage bay and 6 open aggregate storage bays.
- 2.2. Permission is sought for a new waste water treatment system and percolation area. All at Ballynamona, Kilmuckridge, County Wexford.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant with 11 conditions. Condition 7 is as follows;

Total Suspended Particles (TSP) arising from on-site operations when measured at any point along the site boundary (boundary with land not owned or under

applicant's control) shall not exceed 150ug/m<sup>3</sup> over a 24-hour averaging time period. Dust is to be monitored utilising continuous monitoring equipment with 15-minute averaging intervals and which are capable of continuously indicating the concentration of Total Suspended Particulates and PM<sub>10</sub>.

**Reason:** To minimise the generation of dust by the proposed development in the interests of the orderly development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports.

3.2.2. Initially the planning authority requested additional information in reference to the ground level and invert level of the WWTS on site. The applicant submitted a drawing illustrating the levels and the planning authority granted permission on that basis.

The planner's report recommended a grant of permission as set out in the manager's order.

#### 3.2.3. Other Technical Reports

The **Environment Section** recommended requesting further information on ground levels and invert levels of the trench at the WWTS.

**Chief Fire Office** reported no objection.

**Roads Section** recommended a grant of planning permission.

## 4.0 Planning History

4.1. Under PL26.QC.2179 confirmed with modifications conditions of a grant of permission for quarry registration under Section 261.

4.2. Under SU.26.SU0025 the Board granted substitutive consent for 20.05ha of quarrying works at Kilmuckridge, County Wexford on the site of which the current application forms part.

## 5.0 Policy and Context

### 5.1. The Quarries and Ancillary Activities Guidelines for Planning Authorities

**(DOEHLG 2004)** sets out a summary of planning conditions which may be appropriate when planning permission is being granted for development of sets for quarrying and sand and gravel extraction.

### 5.2. The Regional Planning Guidelines for the South -East Region 2010-2022

seeks to maintain the character and vitality of rural areas by, *inter alia*, encouraging diversification of employment types.

### 5.3. County Development Plan

5.4. The Wexford County Development Plan 2013-2019 is the relevant county development plan for the area.

### 5.5. Objective ED09

To prohibit extractive industry development which could significantly impact on the areas designated as being of European and National importance (such as SACs, cSACs, SPAs, NHAs and pNHAs) where significant detrimental impacts cannot be satisfactorily mitigated, even if significant aggregate resources are identified in such areas by the GSI. A strict precautionary approach will be taken where designated sites will be affected.

### 5.6. Objective ED11

To ensure that extractive industry developments are sited, designed and operated in accordance with best practice. Cognisance should be paid to the following guideline documents (as may be superseded and/or updated) which are of particular relevance:

- Environmental Management in the Extractive Industry (EPA, 2006)
- Quarries and Ancillary Activities: Guidelines for Planning Authorities (DEHLG, 2004)
- Wildlife, Habitats and the Extractive Industry (Notice Nature/ Irish Concrete Federation / NPWS 2010)
- The Environmental Code (ICF, 2006)

- Geological Heritage Guidelines for the Extractive Industry (ICF and GSI, 2008)
- Archaeological Code of Practice (ICF and DEHLG, 2009)

## 5.7. Natural Heritage Designations

Not relevant.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The appeal is solely in relation to condition number 7.
- Monitoring of PM<sub>10</sub> is not a standard requirement and does not arise in the relevant guidelines Quarries and Ancillary Activities: Guidelines for Planning Authorities (DOEHLG 2004) or the Environmental Management in the Extractive Industry (Non-Scheduled Minerals) EPA 2006 and the Irish Concrete Federation Environmental Code (2005).
- The standard measure of dust deposition is the Bergerhoff Gauge and the limit is 350 milligrams per square metre per day averaged over a continuous period of 30 days. Condition 6 provides for this type of monitoring and the appropriate dust deposition limit.
- There have been no complaints of dust deposition in the area.

### 6.2. Planning Authority Response

- No comment.

### 6.3. Observations

- None

## 7.0 **Assessment**

7.1. This assessment will deal with the background to the appeal, visual amenity, effluent treatment, traffic safety, EIA screening, condition 7 and appropriate assessment screening.

### 7.2. **Background**

7.3. A permission was granted in 1980 under planning reference 199858 for 5.24ha of quarrying activity on part of the lands the subject of the substitute consent granted under PL26.SU.0025.

7.4. Section 261 of the Planning and Development Act 2000 set up a new regime for quarry registration. An application to register the quarry (planning authority reference Q2) was made to Wexford County Council and the planning authority registered the quarry under Section 261 and imposed 22 conditions. The planning authority accepted that a pre-63 quarry existing within the site but determined that the additional areas subject to quarrying were not natural extensions of the original works and required separate registration. The applicant appealed conditions 2, 4, 9, 17 and 18 of that order to the Board PL26.QC.2179. The Board confirmed the planning authority's decision and modified some of the appealed conditions (file attached).

7.5. Following the ECJ judgement in C-215/06 in relation to retention permissions for developments requiring environmental impact assessment, screening for environmental impact assessment or appropriate assessment section 261 was replaced by section 261A which allowed planning authorities to direct quarry operators to make applications to the Board for substitute consent and submission of Remedial Environmental Impact Statement.

7.6. In relation to this sand and gravel quarry Wexford County Council determined that such an application should be made to the Board and that application was made under reference PL26.SU.0025. The Board decided that case and granted substitute consent subject to conditions on the 9<sup>th</sup> December 2015. None of the conditions attached to that consent referred to dust deposition (file attached).

**7.7. Visual Amenity.**

7.8. The County Development Plan (chapter 14 set out a landscape character assessment). The application site is in an area designated as Coastal which is described as generally characterised by long, relatively straight coasts of sand and shingle backed up by low cliffs and sand dunes. The south coast has long beaches and dune systems. The coastal landscape is punctuated by prominent features such as promontories, water bodies, slob lands and the Hook Peninsula which add interesting dimensions to the qualities of the landscape. It includes major urban areas such as Courtown, Wexford, Rosslare Strand and Rosslare Harbour. The zone is under pressure from tourism related works and residential development.

7.9. The proposed development is well screened by roadside berms and, I conclude, will not detract from the landscape in which it is located, seriously impact on the visual amenity of the area or be contrary to an objective set out in the County Development Plan.

**7.10. Effluent Treatment**

7.11. The proposed development includes a domestic scale foul effluent treatment system. The site assessment report submitted with the application confirms that the subsoil comprises largely sand and has a fast infiltration rate. This is consistent with the observable features on site. To address this fast infiltration rate the application proposes a proprietary effluent treatment system which will ensure an acceptable quality of effluent before it enters the subsoil. The planning authority's environment section queried the ground levels relative to the invert levels of the proposed WWTS. The applicant submitted an additional drawing showing these levels and this was acceptable to the planning authority.

7.12. Having regard to the material submitted with the application and appeal, the reports of the planning authority and the conditions observable on site I conclude that the proposed development will not give rise to ground water pollution or endanger public health.



**7.13. Road Safety.**

7.14. The proposed development will use an existing splayed entrance set back from the regional route to the overall quarry where there is adequate vehicle queueing space and sightlines are adequate. The planning authority's roads department recommended a grant of planning permission.

7.15. I conclude that the proposed development is acceptable from traffic safety point of view.

**7.16. EIA Screening**

7.17. The site of the proposed development is part of a larger sand and gravel pit which was registered under 261 and conditions under relating to noise and dust management. Subsequently substitute consent subject to conditions was granted on the 9<sup>th</sup> December 2015 under reference PL26.SU.0025. In that case the site was 20.06ha. The application was accompanied by a remedial EIS. The Board carried out an environmental impact assessment and considered that the environment impacts arising from the proposed development would be acceptable.

7.18. Schedule 5 Part 2 Class 2(b) requires the submission of an EIAR for the extraction of stone, gravel, sand or clay where the area of extraction would be greater than 5ha.

7.19. Having regard to the nature of the application relating to the retention of a site office, on-site laboratory, the staff facilities container, a storage container, a weighbridge, septic tank, one roofed aggregate storage bay and 6 open aggregate storage bays and permission for a new waste water treatment system and percolation area and the site area of 0.56ha I conclude that the proposed development does not comprise extraction of stone, gravel, sand or clay and therefore does not come within a class or exceed a threshold which triggers the requirement for the submission of an EIAR and carrying out of EIA.

7.20. **Condition 7.**

7.21. The appeal is limited to Condition 7 which states;

“Total Suspended Particles (TSP) arising from on-site operations when measured at any point along the site boundary (boundary with land not owned or under applicant’s control) shall not exceed 150ug/m<sup>3</sup> over a 24-hour averaging time period. Dust is to be monitored utilising continuous monitoring equipment with 15-minute averaging intervals and which are capable of continuously indicating the concentration of Total Suspended Particulates and PM<sub>10</sub>.”

**Reason:** To minimise the generation of dust by the proposed development in the interests of the orderly development of the area”.

7.22. The published statutory guidance in relation to dust deposition outside site boundaries is as follows;

7.23. The **Quarries and Ancillary Activities Guidelines for Planning Authorities (DOEHLG 2004)** at paragraph 3.3 make the point dust may impact on residents within 0.5kms of quarrying operations. Additionally, the guidelines state that;

“there are a number of methods to measure dust deposition (such as the Frisbee method) but only the German TA Luft Air Quality Standard relates a specific method (i.e. Bergerhoff) of measuring dust deposition with dust nuisance. On this basis it is recommended that the following TA Luft dust deposition limit value be adopted at site boundaries near quarry developments:

Total dust deposition (soluble and insoluble): 350 milligram per square metre per day (when averaged over a 30-day period)”.

7.24. The **Environmental Management in the Extractive Industry (Non-Scheduled Minerals) (EPA 2006)** states that “there are currently no Irish statutory standards or EPA guidelines relating specifically to dust deposition thresholds for inert mineral dust. There are a number of methods to measure dust deposition but only the German TA Luft Air Quality Standards (TA Luft, 1986) specify a method of measuring dust deposition – The Bergerhoff Method (German Standard VDI 2119, 1972) – with dust nuisance. It is the only enforceable method available. Where this method is deemed unsuitable for use, and only in these circumstances, an alternative method may be agreed with the local authority. On this basis, it is

recommended that the following TA Luft dust deposition limit value be adopted at site boundaries associated with quarry developments – total dust deposition (soluble and insoluble): 350 mg/m<sup>2</sup>/day (when averaged over a 30-day period).

- 7.25. The **Irish Concrete Federation Environment Code (Second Edition 2005)** recommends (paragraph 4(iii)) that dust deposition for the activity (quarrying or sand and gravel extraction) beyond the site boundary should not exceed 350 milligrams per square metre per day monthly mean in accordance with TA Luft VDI Method 2119 (Bergerhoff Gauge).
- 7.26. The Wexford County Development Plan (objective ED11) commits the planning authority to have regard to the EPA's 2006 guidance on environmental management, to the Quarries Guidelines 2004 and to the Irish Concrete Federation's environmental code. The planning authority's Environment Section makes a distinction between "dust" and "total suspended particles" which is not supported by any of the published guidance referenced in the County Development Plan and generally relied on in Ireland. The planning authority did not comment on the appeal.
- 7.27. There is potential for windblown dust arising from the movement of sand or gravel between the open storage bunkers proposed for retention and therefore it is appropriate to impose a condition allowing the planning to regulate the emission of dust from the proposed development. The Board imposed a condition under PL26.QC.2179 in relation to dust from the overall quarry which, I conclude, achieves the objective of limiting the dust emissions and allowing monitoring of the emissions in keeping with the available guidance.
- 7.28. **Appropriate Assessment.**
- 7.29. The Board carried out an appropriate assessment screening under reference PL26.SU0025 in relation to that application for substitute consent for approximately 22ha of which the present site forms part. In that case the Board concluded that the submission of a NIS and full appropriate assessment was not required.
- 7.30. Having regard to nature of this application for retention of relatively modest elements and permission for a domestic scale WWTS and foreseeable emissions arising therefrom 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. I recommend that the Board treat this appeal in accordance with section 139 of the Act and direct the removal of conditions 6 and 7 and the imposition of a new condition as follows.

### 8.2. Reasons and Considerations

8.3. Having regard to the location of the application site within a larger site wherein the extraction of sand and gravel is a permitted use, to the relatively minor nature of the structures proposed for retention and the waste water treatment system for which planning permission is sought it is considered that the control of dust emissions is a reasonable objective which will be facilitated by the removal of conditions 6 and 7 and the attachment of a new condition as set out below.

## 9.0 Conditions

<p>Dust levels at the site boundary shall not exceed 350 milligrammes per square metres per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of the proposed monitoring shall be submitted to and agreed in writing with the planning authority within three months of the date of this order. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results. Details of dust suppression measures shall also be agreed with the planning authority within this timeframe.</p> <p><b>Reason:</b> To control dust emissions from the development and in the interest of the amenity of the area.</p>
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Hugh Mannion  
Senior Planning Inspector

11<sup>th</sup> November 2019