



An  
Bord  
Pleanála

## Inspector's Report ABP-307636-20

### Development

Continued use of quarry, mobile concrete plant and ancillary works permitted under Plan Ref. No. 01/6926 (ABP Ref. PL 04.131372) and Plan Ref. No. 14/05979 with minor revisions to the extraction area and permission for the production of ground limestone and the provision of a storage shed

### Location

Kilnadrow, Mitchelstown, County Cork

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

19/6138

### Applicant(s)

Lagan Bitumen Ltd.

### Type of Application

Permission

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

### Appellant(s)

Jerry Beades

### Date of Site Inspection

13<sup>th</sup> October, 2020

### Inspector

Kevin Moore

## 1.0 Site Location and Description

- 1.1. The existing quarry is located approximately 8km to the south-west of Mitchelstown and 4km to the north-east of the village of Glanworth in north County Cork. The rock quarry is in operation and there is existing plant and associated structures on the site, inclusive of a weighbridge and office. Stockpiles of materials are located throughout. The site's frontage adjoins a local road linking Glanworth with Mitchelstown. The boundary comprises an embankment. The site is generally bounded by agricultural lands.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise the continued use and operation of an existing quarry, mobile concrete plant and ancillary works permitted under Plan Ref. No. 01/6926 (ABP Ref. PL 04.131372) and Plan Ref. No. 14/05979, with minor revisions to the permitted extraction area, and permission for the production of ground limestone using a mobile crushing mill and the provision of a storage shed of c. 60m<sup>2</sup> on a stated site area of 4.83 hectares. It is estimated that there are approximately 185,000 tonnes of stone remaining to be extracted from the quarry and that output levels of c. 30,000 tonnes per annum will remain in line with current levels. The working life of the proposed extraction area is scheduled to be approximately 6 years, with an additional year required for final restoration of the site.
- 2.2. Details submitted with the application included a Planning and Environmental Report and a Stage 1 Appropriate Assessment Screening. The appendices of the Planning and Environmental Report comprised a Noise and Vibration Impact Assessment, an Air Quality Impact Assessment, and a Traffic and Transport Assessment.

## 3.0 Planning Authority Decision

### 3.1. Decision

On 23<sup>rd</sup> June 2020, Cork County Council decided to grant permission for the proposed development subject to 26 conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planner noted the site's planning history, development plan provisions, and reports received. The principle of the development was seen to be compatible with development plan provisions. It was considered that the proposed development did not require EIA. It was submitted that the information on water quality requested from the Environment Section is required to complete the Appropriate Assessment screening. It was concluded that there would be no significant or negative visual impacts arising from the development. A request for further information was recommended based on the reports of the Environment Section and the Area Engineer.

The Senior Planner concurred with the planner's recommendation.

### 3.2.2. Other Technical Reports

The Area Engineer sought further information relating to haul roads and bridge condition surveys, on toilet and sewage disposal, and clarity relating to potential flooding.

The Environment Section, in reference to water-related issues, sought further information relating to the quarry layout, monitoring data, relocation of structures, dust suppression and noise abatement measures, hydrogeological impact on Ballykinley karst spring, groundwater contamination risk, environmental audit for the site, updated cross sections, an updated Environmental Management System Report, surface water drainage provisions, and a source-pathway-receptor risk assessment relating to groundwater and surface water.

The Environment Section, in reference to air and noise, requested that clarification be sought on dust and noise monitoring locations, dust modelling, impulsive or tonal noise generation, impact from screening, noise mitigation for the ground limestone mill, and details of the blast notification procedure.

### 3.3. Prescribed Bodies

An Taisce requested that all compliance issues relating to ABP PL 04.131372 be addressed as a preliminary matter.

The Geological Survey Ireland drew the planning authority's attention to the County Geological Site Ballykenny karst spring 0.7km from the site boundary, noted the need for groundwater protection, recommended that geohazards be taken into consideration, and referenced its support for geothermal energy.

### 3.4. Third Party Observations

A submission was received from Jerry Beades raising issues relating to disposal of excavated soils, recyclable concrete, and the restoration process.

- 3.5. A request for further information was issued on 22<sup>nd</sup> October 2019 and a response was received from the applicant on 13<sup>th</sup> May 2020. The reports to the planning authority were as follow:

The Area Engineer considered the further information to be acceptable and set out a schedule of conditions.

The Environment Section had no objections following the receipt of further information on air and noise and set out a schedule of conditions.

The Environment Section had no objections on water related issues following te receipt of further information and set out a schedule of conditions.

The Planner noted the response to the further information request and considered this acceptable. A grant of permission subject to conditions was recommended.

The Senior Planner concurred with the Planner's recommendation.

## 4.0 Planning History

ABP Ref. PL 04.131372 (P.A. Ref. 01/6926)

Permission was granted by the Board for quarrying of rock, crushing and secondary processing of same, a mobile concrete plant and ancillary works.

P.A. Ref. 14/05979

Permission was granted for the extension of the duration of the above referenced permission.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2014

#### Mineral Extraction

The Plan notes that mineral extraction and the aggregate industry are important to the economy of the county in terms of employment generation and providing raw materials to the construction industry. It is also noted that quarrying operations can give rise to land use and environmental issues which require mitigation and control. It is stated that it is necessary to ensure that minerals can be sourced without significantly damaging the landscape, environment, groundwater and aquifer sources, road network, heritage and / or residential amenities of the area.

Objectives include:

#### *EE 12-3: Impacts of Mineral Extraction*

Minimise environmental and other impacts of mineral extraction through rigorous application of licensing, development management and enforcement requirements for the extractive industry and ancillary developments.

All extractive industry developments to have regard to the “Quarries and Ancillary Activities Guidelines for Planning Authorities (2004)” published by the DoEHLG or as may be amended from time to time.

With new quarries and mines and extensions to existing quarries and mines regard should be had to visual impacts, methods of extraction, noise levels, dust prevention, protection of rivers, lakes, European sites and other water sources, impacts on residential and other amenities, impacts on the road network (particularly with regard to making good any damage to roads), road safety, phasing, reinstatement and landscaping of worked sites.

## 5.2. **Appropriate Assessment**

The site of the proposed development is not on, in or near any European site. Thus, there would be no direct loss or fragmentation of habitats in any such site. The nearest European site is the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170) which is over 8km to the south-east of the site. The quarry would continue to operate above the water table and no dewatering of the quarry void would be required. There would be no discharge to any watercourses from the quarry and there is no direct surface water connection between the site and the nearest European sites. There is no other known ecological connectivity between the site and any European site.

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## 5.3. **EIA Screening**

I first note that the original planning application relating to this quarry site proposed an extraction area of approximately 4 hectares and that an Environmental Impact Statement was submitted as part of that application. I acknowledge, however, that the western portion of this quarry site has been deemed by the quarry operator to be unsuitable for extraction and that it has not been worked out. The existing extracted area of the quarry is now approximately 1.35 hectares in area and further extraction is proposed over an area of approximately 0.67 hectares. The proposed development is very significantly below the 5 hectare threshold set out in paragraph 2 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). The environmental impacts of the proposed development are considered in my assessment below. Suffice to indicate that the proposed development would not result in any significant environmental impacts. There is no requirement for the applicant to submit an Environmental Impact Assessment Report and for the Board to undertake environmental impact assessment in this instance.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the appeal may be synopsised as follows:

- Further to Condition 2 of the planning authority's decision, the quarry should be restored on an ongoing basis and the extraction process should be linked to a requisite tonnage of material suitable for restoration purposes on a continuous basis. The exposed quarry floor should be continuously filled as material is being exported. Restoration must commence immediately on the grant of any permission.
- There is a direct correlation between the extraction industry and construction needs for clay deposition. Allowing extraction of limestone unabated for a further 6 years until the exhaustion process is complete is not conducive to environmental balance. The delay in restoration is equivalent to land hoarding. The restoration process can proceed in the absence of a waste facility permit.
- An adequate bond/security should apply to empower the local authority to ensure restoration.
- Reference is made to the appropriate application of Conditions 3, 4 and 15 of the planning authority's decision. Improved conditions in the interest of biodiversity, climate change and the environment must be applied.
- The applicant has not given adequate reason for the requirements for the 60sqm storage shed. A storage shed in conjunction with a mobile crushing mill seems at odds. The shed should not delay the restoration process and it should not have an extended existence at a later stage.

### 6.2. Applicant Response

The applicant's response to the appeal may be synopsised as follows:

- The main concerns of the appellant do not relate to the continued use of the existing quarry. It is questioned if the appeal is the best forum for the main points being made by the appellant.

- The appeal relates to restoration and specifically Condition 2. The Board is asked to limit its assessment to the site's restoration proposals and the related conditions.
- The proposal is to restore the site to a natural habitat. The only materials for this are those already on the site. Restoration of the site to original ground levels by importing materials is not a viable option.
- Progressive restoration via backfilling on this site is not possible or practical due to the small-scale nature of the operation and the size of the open extraction area. The open extraction area is required in connection with processing and storage of materials and providing sufficient space for the safe circulation of plant and machinery within the quarry. Any phased restoration would restrict the operator in the safe and practical working of the site.
- Conditions 2 and 3 of the planning authority's decision are noted. The restoration plan is required to include details of the proposed phasing of habitat restoration works.
- The proposed storage shed will be removed on exhaustion of limestone reserves and will not impact on the restoration proposals for the quarry.

### 6.3. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

## 7.0 Assessment

### 7.1. Introduction

7.1.1 I note that there is an existing quarry at this site which has been subject to previous permissions. The applicant seeks to continue this operation for another period to exploit the remaining rock resource. The proposal incorporates minor revisions to the extraction area, seeks the extension of the activities to include the production of ground limestone, and the construction of a small storage shed. While the site contains a functioning quarry which has been substantially worked out and which has included significant embankments, the provision of internal haul roads, an



established entrance, the provision of plant and associated buildings, etc., this assessment will briefly address the likely environmental impacts arising from the proposed development. This will include the principal issue of concern raised by the appellant, namely the restoration of the quarry. Reference will also be made to the proposed storage shed.

## 7.2. Environmental Impacts

My considerations on the environmental impacts are as follows:

### 7.2.1 *Policy Context*

I note that the quarry is established and seeks some changes in production methods. The continued functioning of this quarry would be in keeping with the provisions of Cork County Development Plan as they relate to the extraction process, where it is recognised that mineral extraction and the aggregate industry are important to the economy of the county in terms of employment generation and providing raw materials to the construction industry.

### 7.2.2 *Alternatives*

The proposed development seeks the continuation of quarrying operations in an established quarry. There are no other relevant alternatives to be considered having regard to the nature and extent of the proposed development.

### 7.2.3 *Population and Human Health*

The existing quarry is well established in this rural location which is remote from population centres and in an area where residential development is sporadic and of low density. The ongoing operations of this quarry to allow the completion of the working out of the natural rock resource would not culminate in any known significant additional adverse impact on the local community.

#### 7.2.4 *Biodiversity*

I note that the proposal seeks the continuation of quarry operations within a site that has been substantially worked. It is a typical quarry operation with extensive areas worked out, stockpiles of materials, internal haul roads, exposed rock faces, etc. I acknowledge that the extraction process would not affect the water table and there are no discharges beyond the site to watercourses. There are no known habitats or species of conservation significance on this site. I further note my earlier considerations on likely impacts on European sites within the wider area. The ongoing operations would not likely result in any significant impacts on biodiversity.

#### 7.2.5 *Land, Soil, and Geology*

The proposal seeks to continue the exploitation of the rock resource on the site for another five years to exhaust the available materials. The lands and soils within the site have already been subject to substantial change with stripping of topsoils and preparation for excavation. With regard to geology, much of the site has been subject to the extraction process. The additional remaining extraction will continue to have a significant impact on the geology of the site.

#### 7.2.6 *Water and Hydrogeology*

The management of the hydrogeology of the site will remain consistent with the operations to date. There will be no excavation below the water table and there will be no discharge of waters to watercourses beyond the site, with on-site containment, continued use of silt ponds, etc. remaining.

#### 7.2.7 *Noise and Vibration*

I note the applicant's Noise and Vibration Impact Assessment submitted with the application and the estimated impacts on nearest sensitive receptors. There is an established quarry operation on this site and it is proposed that daytime noise criteria limits will not be exceeded. Standard noise and vibration mitigation measures are proposed to continue at the quarry. The development will continue to be subject to noise and blast monitoring.

### 7.2.8 *Climate and Air Quality*

The ongoing operation of the quarry will be short-term with an estimated remaining life of five years. It is not considered that this relatively small-scale quarry operation would have any significant additional adverse impacts on climate arising from the remaining quarry operations. The applicant's Air Quality Impact Assessment and estimated impacts on nearest sensitive receptors are noted, inclusive of the range of mitigation measures proposed. I acknowledge the contained nature of the site, the provision of peripheral embankments, and the significant separation distance between the quarry and nearest residences. The monitoring of dust deposition is proposed to be continued at this site. No significant air quality concerns are seen to result from the continued operation of the quarry.

### 7.2.9 *Material Assets*

The site constitutes an established quarry operation. It is a relatively small-scale operation and has made provisions for the servicing of the operation. The functioning of the quarry is reliant upon the use of local roads in the first instance as haulage routes and the nature of the HGV traffic ultimately impacts on the structure and condition of this road network. I acknowledge Condition 5 of the planning authority's decision and consider that it is reasonable that a pavement condition survey be undertaken in association with the Council and appropriate repair works follow.

### 7.2.10 *Traffic and Transport*

Once again I note that there is a functioning quarry on this site and the proposal seeks to complete the exploitation of the rock resource in a short timeframe. The applicant's Traffic and Transport Assessment is acknowledged. The current annual output of approximately 30,000 tonnes is proposed to remain. The current production rate of 10,000 – 12,000m<sup>3</sup> per annum at the concrete batching plant is proposed to remain. The concrete batching plant is permitted to produce up to a maximum of 30,000m<sup>3</sup> of readymix concrete per annum. The applicant estimates that the maximum number of trips resulting from the quarry would be approximately 94 per day. The additional traffic generated by the proposed development if maximum permitted extraction was conducted is estimated to represent between 7.4% and

8.3% of the total traffic on the L1412 between 2019 and 2034. However, it is anticipated that output levels will remain at current levels. There are no particular concerns in terms of the carrying capacity of the road network over the remaining short life of the quarry operation, having regard to the additional traffic that would be generated. The proposal would not have any known increased impact on the capacity of existing junctions along the haul route in the wider area. Finally, I note the long-established entrance and the available sightlines at the entrance onto the local road. There are no particular safety concerns arising from the continued use of this entrance.

#### *7.2.11 Cultural Heritage*

There are no known features of archaeological interest on this site and it is far removed from any other features of cultural significance in the wider area. This site has been extensively excavated to date and there are no particular concerns that the continued operation would have any adverse impacts on cultural heritage.

#### *7.2.12 Landscape*

The established quarry is wholly enclosed when viewed from the public road, with the exception of the site entrance. Embankments have been provided around the periphery of the site and there are no exposed quarry operations. The continued quarry operation will have no additional significant landscape impacts.

#### *7.2.13 Cumulative Impacts*

There are no known other developments in the vicinity with which the proposed development would have any distinct cumulative impacts on the environment.

#### *7.2.14 Restoration*

I note that the appellant's principal concern relates to the restoration process of this quarry operation. In response to this issue, I comment as follows:

- Condition 22 of the Board's previous decision under ABP Ref. PL 04.131372, which is the parent permission for this quarry development, required that the developer submit and agree a phased programme of restoration prior to the commencement of development. It is important to acknowledge that this condition required the programme of restoration to commence within one month of the cessation of extraction and that it was to be completed within 12 months of the restoration's commencement. Thus, it is apparent that the Board was satisfied that ongoing restoration of the quarry, as extraction progressed across the site, was not a requirement and such restoration was effectively to be completed as an end phase of the overall development.
- I note the relatively small-scale quarry operation at this site, the various stockpiling locations, the mobile functioning of plant, internal haul roads, etc. I accept that progressive restoration by way of backfilling of this site is not a feasible option by the nature of the activities within this confined area.
- The restoration of the quarry site is to take the form of returning the site to a natural habitat by utilising the materials that have been stored on the site for such use that have been taken from the land in the first instance. It is not intended to import any materials from elsewhere onto this site. Therefore, there is no direct linkage between the restoration of the quarry and any external operations elsewhere.
- The remaining quarry operations will occur within a short timeframe, estimated by the applicant to be over a period of five years. The small scale, short term operation does not demand any comprehensive phasing of restoration works in this instance.
- The appellant makes reference to Conditions 2, 3, 4 and 15 of the planning authority's decision. I note that the proposed development seeks the continued operation of the existing quarry permitted under ABP Ref. PL 04.131372. This continued operation should remain subject to the conditions set down by the Board under that previous permission, with any additional conditions considered necessary being attached.

### 7.2.15 Conclusion

I am satisfied to conclude that the continued operation of the quarry, the production of ground limestone and the construction of a storage shed would not have any significant adverse environmental impacts.

### 7.3 The Storage Shed

7.3.1 The proposed development would include a small storage shed of approximately 60 square metres. In the context of the functioning quarry with its associated plant and other structures, the provision of such a shed would have no notable significant environmental concerns. It is acknowledged that this structure would be removed following the cessation of quarrying, which would facilitate the undertaking of the restoration programme.

## 8.0 Recommendation

8.1. I recommend that permission is granted subject to the following reasons, considerations and conditions.

## 9.0 Reasons and Considerations

Having regard to the planning history of the site, the resource based nature of the proposed development, the pattern of development in the area and the provisions of the Cork County Development Plan 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 amenities of the area or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would otherwise be in accordance with the proper planning and sustainable development of the area.

## 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 13<sup>th</sup> day of May, 2020, 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 interest of clarity.

2. This permission shall cease to have effect six years from the date of this order. Full restoration of the site shall be carried out by that date unless, prior to the end of the period, planning permission shall have been granted for a further period. A final restoration programme shall be agreed in writing with the planning authority within six months of the date of this order.

**Reason:** To limit the impact of the development on the amenities of the area and to ensure appropriate restoration of the site.

3. Condition nos. 3-24 of planning permission granted under ABP Ref. PL 04.131372, which governs the development of the site, shall be complied with in full.

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

4. A pavement condition survey shall be carried out by the developer with the planning authority on an annual basis for the duration of the planning permission which shall facilitate the making of necessary public road repairs arising from the quarry operation. Details of the survey methodologies and subsequent road works arising shall be agreed in writing with the planning authority within three months of the date of this order.

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

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 the 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.

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Kevin Moore  
Senior Planning Inspector

21<sup>st</sup> October 2020