Validation Checklist

Lodgement Number : **LDG-070465-24**
Case Number: **ABP-319198-24**
Customer: **Milford Quarries Limited**
Lodgement Date: **05/03/2024 14:41:00**
Validation Officer: **Daniel O'Connor**
PA Name: **Carlow County Council**
PA Reg Ref: **2360042**
Case Type: **Normal Planning Appeal PDA2000**
Lodgement Type: **Appeal**

Validation Checklist	Value
Confirm Classification	Confirmed - Correct
Confirm PA Case Link	Confirmed-Correct
Confirm ABP Case Link	Confirmed-Correct
Fee/Payment	Valid – Correct
Name and Address available	Yes
Agent Name and Address available (if engaged)	Yes
Subject Matter available	Yes
Grounds	Yes
Sufficient Fee Received	Yes
Received On time	Yes
3rd Party Acknowledgement	Not Applicable
Eligible to make lodgement	Yes
Completeness Check of Documentation	Yes
Valid Lodgement Channel	Yes

BP01 to issue to Applicant with receipt

Digital BP07 to issue to Planning Authority with copy of appeal

PA Notified

Please Keep a copy of the letters for the file

Run at: 05/03/2024 16:27

Run by: Daniel O'Connor

Lodgement Cover Sheet - LDG-070465-24

ABP-319198-24

DD-018345-24

An Bord Pleanála

Details

Lodgement Date	05/03/2024
Customer	Milford Quarries Limited
Lodgement Channel	In Person
Lodgement by Agent	Yes
Agent Name	Tom Phillips & Associates
Correspondence Primarily Sent to	Agent
Registered Post Reference	

Lodgement ID	LDG-070465-24
Map ID	
Created By	Aisling Litster
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	
PA Reg Ref	2360042

Categorisation

Lodgement Type	Appeal
Section	Processing

PA Name	Carlow County Council
Case Type (3rd Level Category)	

Fee and Payments

Specified Body	No
Oral Hearing	No
Fee Calculation Method	System
Currency	Euro
Fee Value	0.00
Refund Amount	0.00

Observation/Objection Allowed?	
Payment	PMT-054871-24
Related Payment Details Record	PD-054743-24

Decision - refused

Decision date - 7/2/24

Last day - 5/3/24

Appeal

Run at: 05/03/2024 14:48

Run by: Aisling Litster

PA Case Details Manual	
PA Case Number	
PA Decision	
PA Decision Date	
Lodgement Deadline	
Development Description	
Development Address	

Appeals Type	

Run at: 05/03/2024 14:48

Run by: Aisling Litster

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The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

Tuesday, 5th March 2024

Dear Sir/ Madam,

Re: First Party Appeal in relation to Carlow County Council Decision to Refuse permission for planning permission for the demolition of existing disused buildings and the development of a dimension stone quarry with a projected lifetime of c. 14 years (12-13 years operational with an additional 1-year to allow for the implementation of a restoration plan) at this site of c. 9.34 hectares at Bannagagole, Old Leighlin, Co. Carlow. (Carlow County Council Planning Register Ref 23/60042)

1. INTRODUCTION AND SUMMARY OF GROUNDS OF APPEAL

Milford Quarries Ltd.[1] have retained Tom Phillips + Associates (Town Planning Consultants)[2], to lodge this First Party Appeal against the Decision of Carlow County Council to Refuse permission for the above referenced development (Carlow County Council Planning Register Ref 23/60042). We enclose a cheque for the appropriate fee of €3,000.

The applicants submitted the above referenced application to Carlow County Council on 27th March 2023. A Request for Further Information (FI) was made on 19th May 2023 and this information was provided to the Planning Authority on 27 November 2023. On the 7th February 2024, the Planning Authority refused permission for the proposed development for the following reasons:

1. *It is considered that the submitted Environmental Impact Assessment Report (EIAR) and subsequent addendums to the EIAR provided as further information are both deficient in information with respect to an evaluation of potential cumulative impacts between the proposed development and other plans and projects, including the existing operational quarry adjoining the site, and with respect to an assessment of potential environmental impacts including from blasting as a method of extraction and proposals to crush and process aggregate on site. Therefore, to permit the proposed development in the absence of such assessments would present a risk of significant negative*

[1] Kilcarrig, Bagenalstown, Co. Carlow
[2] 80 Harcourt Street, Dublin D02 F449

environmental impacts in the area, which would be contrary to the proper planning and sustainable development of the area.

2. *Having regard to the nature and extent of the proposed development, the Planning Authority is not satisfied on the basis of the Appropriate Assessment carried out on the information contained in the planning application, the Environmental Impact Assessment Report and the Natura Impact Statement, that appropriate or adequate consideration has been given to the effects of the development on the environment, in accordance with Article 6(3) of the EU Habitats Directive, or that the integrity of Special Area of Conservation (River Barrow and River Nore SAC) would not be adversely affected by the proposed development. In these circumstances, the proposed development would contravene Policies NS P1 and NS P2 of the Carlow County Development Plan 2022-2028, which seek to support the conservation and protection of Natura 2000 sites and would therefore be contrary to the proper planning and sustainable development of the area.*

Following a review of the Planner's Report we consider that the principal concerns of the Planning Authority can be summarised as follows:

a) The potential for cumulative impacts between the proposed development and other plans and projects, particularly the existing operational quarry adjoining the site.

b) The potential environmental impacts including from

   i. blasting as a method of extraction, and

   ii. proposals to crush and process aggregate on site.

c) A determination that the EIAR & NIS submitted with the application have not fully ruled out the potential for effects on the River Barrow and Nore SAC.

The Applicants are very disappointed with the decision of Carlow County Council to Refuse permission for this application without affording them the opportunity to address any of the above matters by way of Clarification of Further Information under Section 33(3)(a) of the Planning and Development Regulation 2001 (as amended).

The Board will note that the applicants had sought an extension to the 6 month FI period to Respond to various items raised by the Planning Authority in their initial decision dated 19th May 2023. The extensive archaeological programme of surveying and test trenching in particular required that the additional extension of 3 months be sought due to the required turnaround in preparing the findings of this work. We estimate that the applicants had an additional 3 to 4 weeks remaining of the 9 month statutory period when the Refusal was issued by Carlow County Council. It is our view that all of the above matters were addressed satisfactorily at FI stage and simply required further clarification without the need to carry out any additional assessments. As is evident from the preparation of this First Party Appeal, there would have been sufficient time to respond to the Planning Authority concerns.

The Board will note from the Planner's Report on the final decision that the proposal was to the satisfaction of various sections of Carlow County Council as well as the Dept. of Housing, Local Government and Heritage who had sought the archaeological work to be carried out at FI stage. It also should be noted that the applicants also provided comprehensive and detailed responses to various concerns and objections raised by Third Parties as part of their FI Response.

We consider that the reasons for refusal are not substantive and are based on misinterpretations of the legislation in relation to the assessment of cumulative impacts, and apparent misunderstandings in relation to the proposed dimension stone quarrying activities. In terms of cumulative impacts, TPA in conjunction with Enviroguide Consulting set out a detailed position on this matter as part of the Response to FI submission, having regard to the provisions of the EIA legislation. Having reviewed the Carlow County Council planners report, it appears that this response has been dismissed with little elaboration.

The Planning Authority's misunderstandings in our view relate to the potential for dust impacts to the surrounding area and a misguided and disproportionate level of concern with regard to the need for blasting activity at the site. This is all the more difficult to comprehend as the proposed development is of a type that has already operated in this area for many years in the adjacent Kilkenny Limestone Quarry. The First Party Appeal is accompanied by an additional noise impact analysis carried out by Wave Dynamics which demonstrates that there is no potential for impact from noise or vibration and that the proposal will be fully compliant in terms of noise limits.

While we have sought to further clarify and expand on the matters that precipitated the Decision to Refuse, it should be noted that the applicants are not introducing any significant information that was not already provided for in the Planning Application and subsequent FI Response. For the avoidance of any doubt, the consolidated NIS as submitted with this appeal also includes drainage details and mitigation that formed part of the FI response addendum information. However, no new information has been provided at this point. Furthermore the applicants are seeking permission for a type of quarrying that has been carried out in this area for many years without incident.

The Board will note that the adjacent Kilkenny Limestone Quarry provides Annual Environmental Reports (AERs) to the Council which we have provided for the information of the Board and in support of this First Paty Appeal. These Reports demonstrate that there are no undue impacts to the surrounding area or sensitive receptors from crushing operations or indeed the infrequent blasting activities that may be required for dimension stone quarrying of this type. Vibration impacts from blasting at the adjacent site have been demonstrated to be well within the Peak particle velocity limits set in the planning permission pertaining to that site. The applicants aim would be to employ similarly small scale blasting, where required in

order to protect the value of the underlying dimension stone resource[3]. Further details on the type of blasting required and potential for impacts are included below.

Furthermore, we will demonstrate in this First Party Appeal that the NIS submitted with the application had full regard to the potential for effects to the nearby SAC. As outlined in the accompanying revision prepared by Enviroguide Consulting, it has been concluded beyond all reasonable scientific doubt that the Proposed Development will have no adverse effects on the QIs, SCIs and on the integrity and extent of River Barrow and River Barrow and River Nore SAC. This reasoned assessment had regard to baseline monitoring data which had been included as part of the submitted EIAR.

It should be stated that the NIS conclusions have been reached without the introduction of any additional survey data or any additional mitigation being proposed, the enclosed statement has simply been supplemented with additional baseline data from the EIAR Hydrology chapter as previously submitted. The NIS submitted at FI stage did not assess the potential for dust deposition on the nearby SAC either from the proposal or in-combination with the existing quarry, as this possibility was seen as being sufficiently remote to not warrant assessment by the project ecologist due to the distances involved.

1.1 Summary grounds of first party appeal

- We disagree with the Planning Authority's contentions with regard to potential for in-combination effects with the existing quarry. As outlined at FI stage, the use of same will be very infrequent with limited potential for impact. The Applicants estimate that there may be a requirement for blasting up to 4 times per annum at a maximum and that this need will reduce as the quarry lifecycle progresses.
- The Planning Authority, who are provided with Annual Environmental Reports from the adjacent Kilkenny Limestone Quarry are aware of the infrequency of blasting in dimension stone quarrying. They are equally aware that the existing quarry has been operating without any reported impacts to nearby sensitive receptors for many years.
- Similarly, the process of rock crushing is infrequent and has been carried out at the adjacent quarry without incident. Unusable rock is typically allowed to stockpile before crushing equipment is brought to the site to process this material in a campaign, following which it is transported offsite.
- The Planning Authority's concerns regarding the potential for in-combination effects to the nearby SAC from dust emissions are completely unfounded. The applicant's ecologists have prepared a consolidated NIS (which combines the original document and addendum information provided at FI stage) to accompany this First Party Appeal which demonstrates that the Proposed Development will have no adverse effects on

[3] Intact blocks of dimension stone have up to 20 times the market value of unusable crushed rock.

the QIs, SCIs and on the integrity and extent of River Barrow and River Barrow and River Nore SAC.

1.2 Dimension Stone

The proposed development is for the extraction of dimensional stone, similar to the adjoining Kilkenny Limestone Quarry to the north of the site. The Glossary of Technical Terms included in the Quarry Guidelines for Planning Authorities defines dimension stone as *"a natural stone product that has been cut or fashioned to a particular size and shape."* Dimension stone performs a decorative function and has uses including curvestones, wallcapping, countertops and windowsills. Stone types typically extracted for dimension stone include limestone, granite, quartz or marble. This stone is required to be removed as largely intact as possible in order to be cut into shape later offsite. This is achieved through careful and methodical removal of unusable stone on the surface so as not to damage the target product below. The dimension stone is then carefully extracted using diamond wire saws. Dependent on ground conditions, small scale, targeted blasting may be required where ground conditions dictate the need for such. Dimension stone quarrying is distinct from crushed stone quarrying as the methods implemented onsite are more precise and focussed on removing smaller volumes of intact rock. Blasting occurrences also tend to reduce over the lifespan of a dimension stone quarry once unusable layers have been removed.

Owing to this, the application and subsequent Further information Responses made it abundantly clear to the Planning Authority that the proposed development would be of a similar nature to the existing Kilkenny Limestone Quarry to the North. Where ground conditions are suitable, the extraction of overburden and unusable stone is proposed to be carried out via mechanical and hydraulic means using standard excavators. This approach is preferable, as explained above it reduces risk of damage to the underlying dimension stone seams. However, there will be infrequent occasions where specific ground conditions require blasting to be employed. The effects of this have been assessed as *brief, slight, negative.* The applicants have also secured a safety method statement from Exsol Ltd. who will provide blasting services as needed. The safety method statement details the various measures to be undertaken during the blast sequence. This includes notification of residents in the vicinity of the site as well as the Gardaí. It also details the provision of appropriate signage and safety procedures.

We consider the concerns of the Planning Authority with regard to blasting to be exaggerated. Dimension stone quarries of this nature rely on blasting infrequently as the method of extraction for the reasons highlighted above. The Annual Environmental Reports submitted by the adjoining Kilkenny Limestone Quarry show that only 4 blasts have occurred between 2016 and 2021 and no blast events have taken place in over two years. These reports show the scale and noise and vibration impact are relatively low, which is addressed in further detail in the sections below.

3. SITE LOCATION AND CONTEXT

The application site occupies a total area of approximately c. 9.34 hectares and includes a proposed quarry void area of c. 2.44 ha. The site is located approximately 1.5 km south of the village of Old Leighlin, approximately 5km southwest of Leighlinbridge and just south of the existing Old Leighlin Quarry. The lands are situated approximately 17 km south of Carlow Town and 22 km northeast of Kilkenny.

The M9 motorway is located to the east of the site with the closest access point being located approximately 7 km to the south at junction 7. Junction 6 of the M9 at Powerstown is located approximately 10 km to the northeast.

The surrounding lands are largely agricultural in nature with several one-off houses located within a 1km radius. There is an equestrian centre located approximately 2km to the east.

The River Barrow is located approximately 4km to the east while the Madlin River, a tributary of the Barrow runs in a west to east direction approximately 1.5 km north of the subject lands. The topography to the west of the site rises steeply.

The lands are accessed via local roads which connects to the village of Old Leighlin to the north and the R448 to the east.

4. PROPOSED DEVELOPMENT

As per the Statutory Notices, the proposed development is described as follows.

Milford Quarries Limited intend to apply for planning permission for the demolition of existing disused buildings and the development of a dimension stone quarry with a projected lifetime of c. 14 years (12 – 13 years operational with an additional 1-year to allow for the implementation of a restoration plan) at this site of c. 9.34 hectares at Bannagagole, Old Leighlin, Co. Carlow.

The proposed quarry void (c. 2.44 ha) will be extracted to a depth of 2 no. benches of c. 10m from top of bedrock, with a final floor level of c. 56.5m AOD with a proposed rate of rock extraction of c.30,000 cubic metres (84,000 tonnes) per annum. A proposed working area of c. 1.2 hectares to the south of the extraction zone will provide for the crushing / processing of unusable stone and temporary storage of dimensional stone and will include machinery storage shed (c. 115m^2), staff welfare (c. 45.7 m^2) , wastewater holding tank, weighbridge & Office (c. 14m^2) and staff car parking area.

The proposed development will also include for earthen screening berms to a height of c. 3 m, a wheelwash facility; Installation of surface water attenuation and settlement ponds for the treatment of suspended solids in the floor of the quarry void; soil storage area with an average storage depth of c. 4 m and all other site development works above and below ground including the restoration of the final quarry void (extractive area). Access to the proposed development will be facilitated by a HGV site entrance from the L3036 at the eastern boundary of the proposed site.

4.1 Request for Further Information

In response to the application documents submitted, the Planning Authority requested further information to address its concerns. In relation to the submitted EIAR the following was requested:

> 3. *The content of the submitted Environmental Impact Assessment Report (EIAR) has been considered and the following is noted therein:*
>
> *The EIAR fails to consider the cumulative impacts arising from all other existing projects and/or proposed projects, including the existing operational limestone quarry directly adjoining the subject site to the north particularly with regard to cumulative impacts arising from traffic, noise, air/dust, structural stability and visual amenity. As a result, the approach to a baseline scenario is inadequate and does not meet the requirements of the EIA Directive 2014/52/EU (the Directive).*
>
> *It is proposed to extract dimensional limestone from the application site and to then transport it elsewhere for processing. There will be a clear connection between the application site and the site(s) where the limestone will be processed. The EIAR fails to address the cumulative impacts arising from this inter-dependency.*
>
> *The description of alternatives examined in the EIAR is considered to be largely generic. No real consideration of reasonable alternatives has been provided contrary to the requirements of the Directive. Reasonable alternatives include location and may relate to matters such as project design, technology, size and scale. More appropriate consideration of alternatives having regard to the foregoing matters are required.*
>
> *The EIAR does not detail the impacts expected during the restoration and post restoration (decommissioning) phases of the proposed development.*
>
> *There are inconsistencies in the identification of sensitive receptors in the EIAR which formed the basis for assessment relating to noise, dust, traffic, hydrology and hydrogeology. Contrary to the details set out in the EIAR there are three sensitive receptors within 100m of the application site, two of which are located 40 and 45 m to the northeast of the application site respectively which do not appear to have been fully accounted for in the assessments submitted.*
>
> *For the reasons listed above you are required to update and revise the EIAR along with any necessary revised supporting plans.*
>
> *Having examined the plans and particulars submitted the Planning Authority consider that some of the aspects of the proposed development remain unclear and require further information to enable a full and comprehensive assessment of the proposed development. The applicant is therefore requested to clarify the following:*
>
> *Confirm whether all 158,928 m3 of overburden will be retained on site for use in the proposed berms and retained in the soil storage area. The extent of overburden in each phase shall be clearly documented.*

Limited information has been provided on the proposed methods to be used in carrying out the stripping of overburden / unusable stone. The estimated quantity of unusable stone shall be outlined. The application refers to the proposed extraction vis blasting and hydraulic breaking while other section refer to breaking only. The applicant is requested to clarify how exactly material will be excavated, and if blasting will be involved, which shall be fully assessed in the EIAR.

The details provided on the proposed restoration of the site are limited despite these works forming part of the development description set out in the public notices. In addition, the indicative restoration plan submitted is not annotated to include predicted ground levels. Full detailed proposals are required for the restoration and post restoration (decommissioning) of the site, together with confirmation as to whether imported materials will/ will not be required to facilitate restoration. The EIAR and NIS will require updating to account for this proposed development.

It is considered by the Planning Authority that the Natura Impact Statement submitted has not addressed the potential for cumulative and in-combination impacts on the River Barrow and River Nore SAC (Site Code: 002162) of the proposed development and the existing limestone quarry adjoining the subject site to the north. Therefore, it cannot be objectively concluded that the proposed development on its own and in combination with other plans and projects will not adversely affect the integrity of the River Barrow and River Nore SAC

Accordingly, the applicant is requested to submit a revised NIS to address this issue which examines the in-combination impacts of the existing limestone quarry with the proposed quarry on the Natura Site.

This information was submitted on the 27th November 2023, and included the following items:

- RFI Response/Cover Letter
- EIAR addendum prepared by Enviroguide Consulting including updated chapter 15 – Landscape and Visual Impact Assessment
- Additional Photomontages prepared by Redline
- Construction and Environmental Management Plan (including demolition details) prepared by Enviroguide Consulting
- Blasting Safety Method Statement prepared by Exsol Limited
- Site Lighting Plan and Specifications prepared by Axiseng
- Additional drawings prepared by Hydo-Environmental Services

The Planners Report dated 7/2/2024 states 'The EIAR has not been updated and revised as requested however the applicant has submitted addendums to update the information.' The Board will note that it is common practice to submit an addendum to an EIAR in response to a request for further information, rather than submitting a refreshed EIAR.

5. GROUNDS OF APPEAL

Our appeal is made on the following grounds:

a) The Planning Authority was incorrect in their assertion that the submitted EIAR did not consider the cumulative impacts of the existing adjacent quarry, as the environmental impacts of the existing quarry are a part of the baseline. The EIAR has been completed in full compliance with the Directive and the Planning and Development Regulations.

b) The Planning Authority's concerns regarding perceived unresolved issues could have been addressed through a request for clarification of further information. We enclose additional information to address these concerns.

5.1 Cumulative Impacts

We remain firm in our contention that the Planning Authority has misinterpreted the meaning of cumulative impacts as defined in the legislation and various guidance. Schedule 6 of the Planning and Development Regulations outlines the information to be contained in EIAR including a description of the likely significant effects on the environment of a proposed development. Section (2)(e)(i)(V) of Schedule 6 refers:

> *the cumulation of effects with other existing or approved developments, or both, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources.*

The approach of Enviroguide Consulting in preparing the EIAR that accompanied the application was to establish the baseline, assess the potential impact of the proposal in combination with this baseline and then to assess the potential for cumulative impact in combination with any other planned or approved projects in the area. This was stated at various stages throughout the EIAR including in chapter 9 as follows:

> *All planning applications which have been granted permission and are already developed have been incorporated into the baseline assessment of this application. There is an operational quarry located directly north of the Proposed Development site.*

The assessment of baseline traffic included any existing traffic flows from the quarry to the north. Equally assessment of baseline noise would have been inclusive of any existing noise impacts generated by the existing quarry. A further consideration of effects cumulatively with the existing adjacent quarry would in our view amount to a "double counting" exercise as the quarry has been operational for some time.

Further to this, the EPA Guidance from 2022, when referring to cumulative impacts provides the following example:

> *effects on traffic due to an individual industrial project may be acceptable; however, it may be necessary to assess the cumulative effects taking account of traffic generated by other permitted or planned projects.*

The above clearly refers to permitted or planned projects, i.e. those that are being developed or are reasonably foreseeable in the near future. This interpretation stands to reason, as the operational effects of such projects are unlikely to have been identified in any baseline surveying or analysis.

The EC guidance (2017) uses the following definition for cumulative effects are defined as:

> *"Changes to the environment that are caused by activities/projects in combination with other activities/projects".*

The term "project" is itself defined by Article 1(2)(a) as meaning: "– the execution of construction works or of other installations or schemes. Given that it is long established we do not consider that the existing quarry to the north fits into the definition of a project.

In their assessment of the above response, the Planning Authority has stated that it found the response unsatisfactory and continued to assert that an evaluation taking into account the adjoining quarry has not been made. The Authority failed to properly substantiate their view in our opinion.

As explained above, assessing cumulative impacts of long-established uses is not requirement of the Directive and would not produce a workable EIAR as the adjoining quarry is already permitted and operational. The impacts of the proposed quarry are assessed against a baseline including the adjoining quarry and therefore the impacts of both quarries in operation simultaneously have been assessed and is the basis of the EIAR.

Notwithstanding this, and in relation to the concerns of the impacts of operations such as blasting or the crushing and processing of aggregate on site as detailed further below, a Noise Impact Assessment has been prepared by Wave Dynamics Acoustics (WDA) to predict the noise and vibration impact from the development when it is in operation. The assessment considered the noise from activities (quarrying, stockpiling, and pumping) from the existing operations, future operations and the potential combined impact from the new and existing quarries in operation simultaneously. For the combined noise impact a "worst case" scenario prediction has been undertaken. This includes an assumption that the sources will be doubled on the site and all equipment operational on the same day. The applicant has confirmed that this scenario is unlikely however for the purpose of the "worst case" predictions it has been considered in this instance.

The noise sources from the adjacent development, proposed development, in-combination noise impacts (from both the proposed and adjacent quarries in operation simultaneously), and the cumulative noise impacts (with other developments) were considered and modelled. The assessment predicted that the project criteria will be achieved at the noise sensitive receptors for all scenarios.

In summary we disagree with the contention of the Planning Authority as outlined in item 2(i) of the RFI and their subsequent assessment of the information provided. The baseline assessment of the proposed development has accounted for the existing operational quarry to the north of the site. A further noise impact assessment has also taken into account the current operation of the adjacent quarry and found that there would be no adverse impact in terms of noise. The potential for cumulative effects has been assessed in terms of any planned or approved developments in the area in accordance with the Directive and the Planning and Development Regulations.

5.2 Blasting

We believe unresolved concerns regarding blasting activities could have been addressed in a request for clarification of response to further information and we disagree with a refusal on the basis of 'deficient information' as stated in the reasons for refusal dated 7/2/2024. Restrictions on blasting could also have been set by condition, as is the case with the permitted quarry to the north[4]. Regardless, we aim to address the concerns of the Planning Authority through further consideration of the intended blasting operations including technique, frequency, and magnitude. This analysis is supported by a Noise Impact Assessment, including an assessment of vibration potential prepared by Wave Dynamics Acoustics.

The maximum instantaneous charge weight (MIC) in blasting refers to the largest number of explosives detonated per delay. The aim is to achieve the required results with the minimum amount of charge so as to avoid damage to underlying dimension stone layers. The Board will note that intact dimension stone can be sold for in the region of 20 times the value of crushed stone. It is therefore imperative from the point of view of the applicants that blasting activity is kept to a minimum and where it is employed, it does not result in damage to underlying dimension stone layers.

In addition, as these precise charges are triggered at millisecond intervals, it would be virtually impossible for an in-combination vibration effect with the adjacent quarry to take place. Further to this, the applicants would welcome a condition on any final grant requiring consultation with the adjacent quarry and Planning Authority to ensure no overlap in blasting operations.

The response to Further Information Request item 4(ii) regarding details of blasting stated that where ground conditions are suitable, the extraction of overburden and unusable stone is proposed to be carried out via mechanical and hydraulic means using standard excavators. This approach is preferable as it reduces risk of damage to the underlying dimension stone seams. However, there will be infrequent occasions where specific ground conditions require blasting to be employed. The requirement for blasting is greater earlier on in the lifespan of the dimension stone quarry. The applicants estimate that they may require up to 4 blasting

[4] Condition 6 of Planning Ref: 17/64

events per year during the initial quarry extraction phases. Once the overburden and unusable stone layers have been removed this requirement is reduced considerably, and blasting will only be required should a vein of fractured rock or unusable stone be encountered. This is evident from the annual environmental auditing by Kilkenny Limestone Ltd., which detail two blasting events that took place in 2021 and none in 2022. This confirms that blasting events at the proposed quarry would be similarly infrequent once it progresses to the later stages of its lifespan. Planning condition No. 7a of the P. Reg. Ref. No. 17/64 states:

> *"Vibrations levels from blasting shall not exceed a peak particle velocity of 12 millimetres /second when measured in any three mutually orthogonal directions at any sensitive location. The peak particle velocity relates to low frequency vibration of less than 40 hertz. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin) max peak with a 95 per cent confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin). "*

Table 13 of the accompanying Wave Dynamics report includes results from previous onsite blasting from the adjacent quarry and confirms that of the two blast events in 2021, both were below the 12 mm/sec peak particle velocity limit set by condition 7(a) of Planning Ref: 17/64.

The environmental effects of blasting have been assessed as *brief, slight, negative.* The applicants have also secured a safety method statement from Exsol Ltd. who will provide blasting services as needed. The safety method statement which was included as part of the Response to FI details the various measures to be undertaken during the blast sequence. This includes notification of residents in the vicinity of the site as well as the Gardaí. It also details the provision of appropriate signage and safety procedures.

As described above, blasting at this kind of quarry would be at smaller charges to avoid any damage to the target dimension stone below. These charges are designed to remove 10% or less of the quantity of stone compared to a typical quarry blasting operation (where the purpose of blasting is the ready all the blasted rock for crushing in to aggregate). Therefore, the blast envisaged at the dimension stone quarry would be of a significantly lower impact. As the quarry matures over time, less blasts would be required as evidenced by the adjacent quarry where no blasting events have taken place in over two years.

Each blast is specifically designed to release a quantum of rock from the working quarry face. In this regard, a pre-determined grid of vertical holes is drilled on top of the quarry face to a required depth. The intervals between the drill holes are specifically designed having regard to the explosives to be placed within each of the holes and the depth of the rock, which is sought to be released. There are pre-determined intervals or delays in the detonation of explosives in the drilled holes. This process minimises vibration arising from the blasting and increases the efficiency with which the rock can be removed. The shotfiring of the blasts and the explosives used are monitored by the Quarry Manager.

Notwithstanding the unlikelihood of two concurrent blast events at both quarries, given the need for Garda Licences to be issued, the use of the techniques as described above render it

virtually impossible for blast events to occur at exactly the same time. Therefore, the impacts of a blast in terms of vibration impact will mirror those of the adjoining quarry to date. The records included with the accompanying noise assessment demonstrate that Peak Particle Velocity did not exceed 3mm/s at any sensitive receptors in previous events. This is well within the limits defined in condition 7 of Planning Ref: 17/64) of 12mm/sec.

We note the application (CCC ref 17/64) for the continuance of use of the existing permitted quarry at the adjacent site included Condition 6 in the grant of permission dated 30/03/2018 as follows:

a) *Blasting operations shall take place only between the hours of 11:00 and 17:00 from Monday to Friday, and shall not take place on Saturdays, Sundays, Bank or Public Holidays. Monitoring of the noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the Planning Authority.*

b) *Prior to the firing of any blast, the developer shall give notice of his intention to the occupiers of all 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 such dwellings.*

c) *The number of blasting(s) per annum shall not exceed 2 / 3 and shall be agreed with the Planning Authority prior to the commencement of development.*

Reason: In the interest of public safety and residential amenity.

A similar condition such as the above on the proposed quarry, following the initial development stages would ensure that blast events are kept to a minimum and with the expressed agreement of the Planning Authority. Blasting at both sites on the same day or week can also be easily avoided and the applicants are committed to engaging with Kilkenny Limestone Quarries in this regard.

In summary, we can confirm that blasting will be an infrequently used extraction method that will have minimal impact on the surrounding noise receptors. The applicants undertake that they would carry out full consultation with the adjacent quarry and local residents. This requirement could be addressed through a compliance condition on any final grant.

5.3 Crushing and Processing Aggregate on site

We believe unresolved concerns regarding the proposals to crush and process aggregates on site could have been addressed in a request for clarification of response to further information and we disagree with a refusal on the basis of 'deficient information' as stated in the reasons for refusal dated 7/2/2024. Concurrent crushing campaigns with the adjacent quarry could easily be avoided by condition. Regardless, we aim to address the concerns of the Planning Authority in this First Party Appeal.

There is an approximately 6 metres depth of unusable stone across the site. This will be removed in order to extract the dimension stone below. The unusable stone will then be crushed and processed into aggregate on site through the use of mobile crushing plant, the noise impact of which is detailed in the Noise Impact Assessment.

Given the nature of the quarry and the product sought to be extracted, stone will not be crushed and processed as frequently as a typical quarry where aggregate is the primary product. The unusable stone will be removed in a campaign style, where unusable rock will be removed through ripping, breaking, or pulling away techniques and stockpiled on site. The mobile crushing plant will be deployed, and the unusable stone (approx. 80% of annual output or c. 24,000 m3) will be processed and removed from the site gradually over time. As the intention of the proposal is to obtain as much intact dimension stone as possible, given the much higher value of this product, crushing of unusable rock will be limited as much as possible.

In summary, we believe that crushing and processing of unusable stones onsite will be required infrequently and will not be a continuous source of noise or dust emission. As the quarry matures over time, less stone will need to be processed in this way. Given the maturity of the adjoining quarry, it is unlikely that crushing would be in operation at both sites simultaneously. This could also be ensured by way of condition.

5.4 Appropriate Assessment

The assertion by the Planning Authority that the assessment to date did not provide "sufficient information to conclude beyond all reasonable scientific doubt that the proposed development will not result in any significant impacts on the River Barrow and River Nore SAC"[5] is in our view incorrect. The potential effects to water and hydrology were addressed comprehensively in the EIAR and the Ecologist who prepared the NIS had full regard to surface and groundwater impacts. Notwithstanding this sentiment, this analysis has been included in the addendum submitted with this appeal for clarification. The impact of dust had not been assessed as it was not considered to be credible scenario given the distance of the SAC from the quarry site. The Annual Environmental Reports from the adjoining quarry demonstrate low dust emissions. Even if both sites were operating at their maximum output, it would not be credible for significant dust particles to reach the SAC and shouldn't need to be obviated in an NIS. We refer specifically to page 46 of the consolidated NIS enclosed with this First Party Appeal which states the following:

> *Air and land pathways are considered to be limited to surrounding areas within approx. 200-300m from the Site boundary for any noise and dust sources, depending on prevailing weather conditions. .....*
>
> *Studies have found that "95% of dust particles from mineral workings have a relatively high mass and generally deposit within 100m of the point of release, with the*

[5] Updated Environmental Impact Assessment, page 7.

remainder being deposited within 200 – 500 m of source" (IAQM[6], 2016). Due to the nature and localised scale of the works, emissions to air during Construction will be limited to dust generation within 100m of the Site (based on TII assessment criteria for major-sized construction sites), and emissions from construction machinery and vehicles (NRA, 2011).

As such, the distance of 1.1km was deemed sufficient to exclude any effects propagated via air / land pathways such as dust deposition of leaves and root systems of the vegetation of QI habitats associated with River Barrow and River Nore SAC (002162) during Construction and Operation of the Proposed Development, in-combination with any other plans or projects.

The likelihood of the proposed development of itself having an impact on the nearby SAC in terms of dust deposition is virtually impossible. We would point out to the Board that the proposed development includes for significant dust suppression mitigation, as outlined in the EIAR that accompanied the application. Equally the likelihood of in-combination effects from overlapping dust plumes with the adjacent quarry is negligible and this matter should not in our view have informed the Planning Authority Decision to Refuse permission.

In summary, the level of dust expected to be emitted from the quarry activities is considered to have no impact on the SAC given its distance from the site, and the relevant environmental assessments as part of the application have adequately considered all potential impacts on the SAC, including the cumulative/In-combination impacts of both quarries operating at a maximum output which is considered to be a low possibility. The Proposed Development will have no adverse effects on the QIs, SCIs and on the integrity and extent of River Barrow and River Barrow and River Nore SAC. Accordingly, the Proposed Development will not adversely affect the integrity of any relevant European site.

6. CONCLUSION

In summary, we consider that the decision of the Planning Authority to refuse permission for the proposed development was poorly substantiated and based on exaggerated concerns which have little basis in scientific fact. The Applicants are disappointed that the Planning Authority failed to utilise all of the administrative tools at their disposal to seek clarification for apparent unresolved concerns to the further information provided. As evidenced through the preparation of this First Party Appeal, the concerns of the Planning Authority could have been addressed conclusively within the remaining statutory timeframe afforded to the applicants. The potential for the proposed development to result in combinatory effects in conjunction with the existing, adjoining quarry have been thoroughly assessed across EIAR, NIS, and Noise Impact Assessment. We continue to contend that the Planning Authority has misinterpreted the manner in which such cumulative impacts should be assessed and has sought an assessment of the current proposal that goes beyond the requirements of the

[6] Institute of Air Quality Management

Directive, and which would have resulted in an obfuscated environmental assessment. Due to the type of quarry activity proposed, which is the same as the adjoining quarry, the use of blasting and the crushing and processing of aggregate onsite will be infrequent and will reduce as the quarry matures. Furthermore as the adjoining quarry is long established, it would be unlikely that blasting events or aggregate crushing would occur at both sites at the same time. and such occurrence can be easily avoided, or indeed conditioned so that they have to be avoided. Blasting records from the adjacent quarry demonstrate that relatively small charges are used in this type of quarrying. The aim of this is to protect the valuable dimension stone product and minimise the quantity of unusable crushed stone extracted from the resource. As such, dust impacts would remain at a similar level as have done in the area such that there would be no likelihood of impact on the SAC.

Please do not hesitate to contact us should there be any queries on any of the above matters.

Yours Sincerely,

Bernard Dwyer

Senior Planner
Tom Phillips + Associates

Encls.

- EIAR Addendum prepared by Enviroguide Consulting.
- Consolidated NIS prepared by Enviroguide Consulting.
- Noise Assessment prepared by Wave Dynamics.
- Annual Environmental Reports from adjacent Kilkenny Limestone Quarry.