

18th April 2024

Administrative Officer,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1

MOR Ref: E2037

ABP Reference: ABP-319327-24

By Post

Re: Application for Prospective Development Consent by Scotshouse Quarries, Aghnaskew, Scotshouse, Co. Monaghan under Section 37L to be assessed in parallel with Section 177E Substitute Consent Application (ABP-316144-23)

A Chara,

Following receipt of the invalidation letter dated the 21st March 2024 in relation to case number: ABP-319327-24, we have made the required amendments, mainly;

- Update public notices to indicate '*Submissions or observations must be in writing and made within the period of 8 weeks beginning on the date of receipt of the application by An Bord Pleanála*', replacing the previously outlined '*5 week period*'.

Beyond the aforementioned change, THE prospective application remains the and is outlined as such below.

Introduction

This application is made under Section 37L in respect of proposed extractive development at the above quarry. The site was granted Leave to Apply for Substitute Consent in March 2022 (ABP-311755-21 refers). A subsequent application for Substitute Consent with rEIAR under Section 177E was made in March 2023 in respect of unauthorised quarrying which had occurred beyond the originally permitted area such as to offend the EIA Directive. The originally authorised quarrying and processing area, per Monaghan County Council permission 83/09, has remained in operation throughout the regularisation process (henceforth referred to as Scotshouse Quarry).

The Planning and Development, Maritime and Valuation (Amendment) Act 2022 contained provisions revising Section 37L which allows for parallel applications for prospective development on sites which are entering and already within the Section 177E Substitute Consent process. As the relevant provisions were commenced on December 15th, 2023 (with effect from 16th December 2023) and Substitute Consent application (ABP-31644-23) has not been decided upon, this application for further quarrying by way of extension of extraction area and continuance of use of the Substitute Consent area is now submitted for assessment in parallel.

This prospective element will provide for the sustainable development of this regionally important resource, and it is likely that past annual volumes of materials from this site can be re-established quickly upon a grant of permission in this instance.

General Description of the Proposed Development

Scotshouse Quarry, per 83/09, contains significant fixed processing plant and other site infrastructure but limited remaining accessible aggregate resources, although there is no limit to the extraction depth in that area. It also contains an authorised macadam plant, and other maintenance buildings. This area is not part of the Substitute Consent application and continues to operate under its original grant of permission.

Due to mistakes in the Section 261 registration process, a large additional area appeared to the operator and Planning Authority to have the benefit of the revised 'permission' (Section 261(6)(a)(ii) conditions) and was developed on that basis. By the time this error was realised in 2019/20, an additional area had been developed; this is the area upon which retrospective Substitute Consent has been applied for. This area also forms part of this prospective application as it is proposed to bring remaining reserves within this area down to the established quarry floor depth of ca.105m OD and further lower this area over time by a further 15m bench to 90m OD over time.

In addition to that Substitute Consent area, there is a further greenfield area for expansion of the current quarry footprint. This will be brought down in multiple benches by a total of 45-50m to 90m OD, with the upper benches (above 105m OD) worked in tandem with the deepening of the Substitute Consent area below 105m OD.

For efficiency, the industry best practice methodology of using a primary crusher in close proximity to the working quarry face will be employed with a selection of screening equipment there too. Semi-processed materials will then be transported to the fixed plant area for further processing, where necessary.

Water Management

The site has a Water Discharge Licence (WP26/15) under Section 4 of the Local Government (Water Pollution) Act 1977, with an authorised daily discharge limit within which the quarry operates comfortably. This licence is estimated to be sufficient to accommodate the deepened and expanded quarry in time without need for revision.

The water table has been assessed at being at or slightly above the current general quarry floor level of 105m OD though there is little clear evidence of groundwater as the rock is relatively impervious with a very low rate of transmittance of water. Consequently, the estimated discharge from the site will remain relatively small.

The phasing of the development is based on the precautionary principle with regard to the potential for extraordinary levels of stormwater to be periodically or very infrequently present, for example in the event of the occurrence of a 1 in 20/50/100 years' storm. Given the wish to control discharge volumes within the authorised level, the use of a two-tier series of benches for most of the term of the development will provide a significant capacity for attenuation in such rare instances. This is achieved by the development of a 'sump' by virtue of lowering part of the ground below 105m OD and which generally will be pumped out on a daily or weekly basis, but which is available as an attenuation void if/when a storm occurs.

In periods of ongoing particularly wet weather, a second bench at the upper level within the current greenfield area will be employed for working of aggregates, with the lower void attenuating stormwater and being pumped at a constant rate. This a standard operational feature of modern rock quarries where operating below the water table and occurs as resources are being accessed. In this case, the measure is being taken to provide for total water management in the worst-case scenario.

As the level of the 83/09 permission area will be maintained during the term of this development (reserved for extraction at some future date near exhaustion of the overall site), this will serve to contain the water, when necessary, in the deepened area the subject of this application. As is the current system, collected water in the Substitute Consent area will flow to the site settlement ponds in the 83/09 area before discharge in due course. Therefore, there is no change in the method of discharge (with the exception of actively pumping given the difference in gradient).

All fuel and lubricant/oil storage is, and continue to be, located within secure storage in Scotshouse Quarry, and all plant working within the application area will be fuelled directly by bowser or oil supplier.

Archaeological Matters

In the course of preparation of the Archaeological Impact Assessment, Dr Charles Mount identified a recorded monument in the land adjoining the lower area of Scotshouse Quarry within the ownership of a different landowner, although there is some scepticism as to whether the purported monument was ever actually present.

Dr Mount's view is that the monument, if present, would be out of context compared with the normal setting associated with other identical type monuments in the wider area. Dr Mount also takes the view that there is a question as to whether the monument existed, as the evidence on site is unconvincing and inconsistent with the nature of the monument as recorded.

This was reported in the Substitute Consent application and some small remediation works to the protection area proposed. For clarity, there is no suggestion that the applicant has caused any damage to the monument on the adjoining lands, if actually present, and this application does not worsen in any way the post Substitute Consent state of preservation of the monument (if present).

EIA and AA Considerations

The Leave to Apply for Substitute Consent application resulted in confirmation of an EIA offence only. Consequently, the Substitute Consent was submitted with an rEIAR only, in accordance with the Board's direction.

While various biodiversity measures are discussed in that section of the EIAR that accompanies this application, there was nothing of consequence to be assessed that related to the Habitats legislation. A field study for bats was also undertaken but nothing material identified, and only precautionary measures suggested.

While the deepening and extension of the quarry footprint widens the area for consideration, the low level of transmittance of water through the rock body does not of itself create a new water management issue as a result of increasing the quarry face area or deepening the quarry. As such, the existing management measures remain the same.

The deepening of the Site for the purposes of harvesting rock resources has the indirect effect of providing further attenuation should that prove necessary but is not necessary to employ for the purposes of protection of any Natura site. Any excessive accumulation of water in the deepened quarry void cannot escape the site naturally. The existing historic water settlement ponds in the 83/09 area will continue in use as they are without modification. The changes in caselaw on foot of ECJ-C721/21 are to be noted.

Consequently, there are no mitigation measures proposed for the protection of any Natura site as a result of the proposed development and Stage 1 Screening for AA can screen out Stage 2 AA to the threshold of 'beyond scientific doubt' as required by *Kelly v An Bord Pleanála [2014] IEHC 422*. In periods of ongoing particularly wet weather, a second bench at the upper

level within the current greenfield area will be employed for working of aggregates, with the lower void attenuating stormwater and being pumped at a constant rate. This a standard operational feature of modern rock quarries where operating below the water table and occurs as resources are being accessed. In this case, the measure is being taken to provide for total water management in the worst-case scenario.

Proposed Term

An Board Pleanála is requested to take into account the identified reserves proposed for authorisation and the anticipated annual output from the site. With ca. 8,000,000 tonnes available, and a maximum demand of 350,000 tonnes per annum with likely annual average output of 350,000 tonnes/annum, the appropriate term for the development is 35 years.

It is accepted that this is higher than would normally be granted to rock quarries, but the regional importance must be considered in addition to the slow and limited land take involved. The quarry had pre-63 origins before going for permission in the 1980s and is a long-accepted part of the Scotshouse community environs. It is worth noting that 83/09, being a permission granted prior to the Planning & Development Act 2000, as amended, does not have a term and the proposed permission should have sufficient term to supply blast rock form processing on-site while such reserves remain.

The site is relatively isolated and generally hidden yet can access good regional roads easily; it is well placed to service both Monaghan and Cavan with ease as well as east Leitrim and the border area of Northern Ireland, bearing in mind the products produced, of relative rarity, have a longer delivery reach than traditional limestone quarries. It is submitted that, on the face of it, it is entirely appropriate that its future should be secured with a long-term permission.

It is submitted that this reserve is of regional importance as a high PSV source, as required for wearing course skid resistance road construction materials. The term provided should be supportive of the need to harvest this rare deposit for the identified societal demand.

Development Contributions

The provisions of the Monaghan County Council Development Contribution Scheme 2021-2026 are to be noted. It is worth noting that all work had ceased in the Substitute Consent area prior to the coming into force of this Scheme, and it is presumed that the historical nature of that development will be assessed with that in mind. Of particular relevance to this application is the need to ensure that the substantial overlap in application area of the Section 177E application and this Section 37L application for prospective development does not result in a double application of contributions.

A reasonable view would be, given the prospective development sought in all of the Substitute Consent area, that such contributions would, if granted permission as applied for, not be levied under the Substitute Consent permission but instead reserved for application over the entirety of the area in this application and that phasing of such payments be provided for.

The total extraction area included in this application area 12.9 hectares. The Scheme sets out the appropriate contribution rate in the current Scheme at Appendix 3 Category 3(i) Extraction of Other Minerals/Materials as €3,160 per hectare or part thereof as of September 2021, thereby providing for the necessary calculation for the entirety of the development beyond the boundary of 83/09, provided that there is no corresponding charges attached to the outturn of the parallel Substitute Consent application.

It is to be noted that there is no requirement for public infrastructure benefitting the development such that Special Contributions do not appear to be applicable.

Documents Supplied

Please find the following documents supplied:

- Six (6No.) copies of the full EIAR, including:

- Volume I: Non-Technical Summary;
- Volume II: EIAR; and
- Volume III: Appendices;
- Six (6No.) copies of the Appropriate Assessment (AA);
- Six (6No.) copies of the Engineering Drawings (showing proposed site layout);
- Six (6No.) copies of the Public Notices Location Map (scale 1:2500 and 1:10560);
- 10 (10.) copies of existing site layout;
- Four (4No.) Letters of Consent from the current owners of the expansion lands:
 - James Boylan and Mary Boylan;
 - John Thomas Markey and Margaret Mary Markey;
 - Patrick Connolly and Pauline Connolly; and
 - Ronald Charles Soden;
- One (1No.) copy of the completed Application Form;
- One (1No.) copy of the EIA portal confirmation;
- One (1No.) copy of the Site Notice; and,
- One (1No.) copy of the Newspaper Advertisement in the Anglo-Celt newspaper.

Please also find included:

- An electronic copy provided via USB stick; and,
- A cheque for the payment of the application fee (€6,620.00).

Basis for Fee – Calculation

Class 6a – 12.9ha – $12.9 \times 500/\text{ha} = €6,450.00$

Class 13 – 1.7ha – $1.7\text{ha} \times 100/\text{ha} = €170.00$

Total – **€6,620.00**

Conclusion

This application is to provide prospective permission for this site to return to past levels of output and to secure this valuable resource for societal benefit into the future. Without these, the current reduced operation is unsustainable, and this region of the country would be left without this regionally important source of high PSV (anti-skid) stone and source for surface dressing chippings and wearing course macadams.

This application with an EIAR and Stage 1 Screening for AA is in line with current guidance and demonstrates that the future operation of the Site will not have a significant environmental impact on the surrounding area, alone or cumulatively with the ongoing authorised area of Scotshouse Quarry.

The applicant has done everything possible to regularise the status as soon as the offence was properly identified and hopes to continue to develop this regionally important quarry for decades to come, subject to achieving Substitute Consent and this Section 37L further permission for prospective development for an extended term.

An Bord Pleanála is respectfully requested to process this application as quickly as is reasonably possible as this previously unknown issue has caused and continues to cause enormous damage to a once thriving business and important regional supplier of premium aggregates and road materials.

An Bord Pleanála's inspector should contact Mr. Paddy Connolly of Scotshouse Quarry when arranging a site inspection at (086) 258 3536 or pconnolly1958@gmail.com.

Yours sincerely,

for Malone O'Regan



David Dwyer