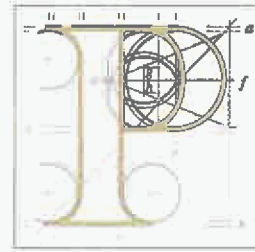


Our Ref: PL 27.248297
P.A.Reg.Ref: 16/574

Your Ref:



An
Bord
Pleanála

ENVIRONMENTAL PROTECTION AGENCY

- 3 AUG 2018

CORK

Environmental Licensing Programme,
EPA Regional Inspectorate,
Inniscarra,
Cork.

- 2 AUG 2018

Appeal

Re: Restoration of quarry, establishment of inert soil waste recovery facility, service infrastructure and temporary stockpiling.
Calary Quarry, Killough Upper and Glencap Commons Upper,
Kilmacanogue, Co. Wicklow.

Dear Sir/Madam,

An order has been made by An Bord Pleanála determining the above-mentioned matter under the Planning and Development Acts 2000 to 2017. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Yours faithfully,

Miriam Baxter
Executive Officer

Encl:

BP 100n.ltr

Tel: (01) 858 8100
LoCall: 1800 275 175
Fax: (01) 872 2684
Website: www.pleanala.ie
Email: board@pleanala.ie

Sráid Maoilbhríde
Baile Átha Cliath 1

64 Marlborough Street
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D01 V902

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An
Bord
Pleanála

Board Order
PL 27.248297

Planning and Development Acts 2000 to 2017

Planning Authority: Wicklow County Council

Planning Register Reference Number: 16/574

Appeal by Albert Kerr of 92 Seacrest, Bray, County Wicklow against the decision made on the 10th day of March, 2017 by Wicklow County Council to grant subject to conditions a permission to Roadstone Limited care of SLR Consulting Ireland of 7 Dundrum Business Park, Windy Arbour, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: (i) Restoration of a large quarry void created by previous extraction of bedrock by backfilling to former ground level and establishing a heathland/grassland habitat similar to that which existed prior to quarrying; (ii) establishment of an inert soil waste recovery facility to provide for the importation of approximately 3,280,000 tonnes of natural inert waste materials, principally excess soil, stone and/or broken rock to backfill the quarry void; (iii) construction of temporary site and services infrastructure including site office, staff welfare facilities, weighbridge (with dedicated office), wheelwash, settlement ponds, pumphouse, hardstand areas, fuel and water storage tanks, waste inspection and quarantine facility and storage sheds; (iv) temporary stockpiling of topsoil pending reuse as cover material for final restoration of the site all at Calary Quarry, Killough Upper and Glencap Commons Upper, Kilmacanogue, County Wicklow.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the provisions of the Eastern-Midlands Region Waste Management Plan 2015-2021, to the provisions of the Wicklow County Development Plan 2016 – 2022, to the planning history of the site and its permitted use as a quarry and to the requirement to obtain a Waste Management Licence from the Environmental Protection Agency under the Waste Management Act 1996, as amended, it is considered that the proposed development, subject to compliance with the conditions set out below, would not give rise to water pollution, traffic hazard or injury to the visual amenity of the area or the residential amenity of property in the vicinity. The restoration of the existing quarry void to its former ground level would have a positive landscape effect. The current need for an inert waste recovery facility for south Dublin and north east Wicklow has also been established. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on Wicklow Mountains Special Protection Area (Site Code number 004040) or any other European site, in view of the Conservation Objectives for those sites. The Board was satisfied that a Stage 2 Appropriate Assessment and submission of a Natura Impact Statement is not, therefore, required.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- the nature, scale, extent and location of the proposed development;
- the Environmental Impact Statement submitted with the application,
- the documents on file including the submissions from the planning authority and from the parties and observer lodged in the course of the application and appeal,

- the requirement to obtain a Waste Management Licence from the Environmental Protection Agency under the Waste Management Act 1996, as amended, and
- the Inspector's report.

The Board considered that the Environmental Impact Statement identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board completed an Environmental Impact Assessment in relation to the subject development, by itself and in combination with other development in the vicinity, and agreed with the Inspector in her assessment of the likely significant effects of the development, and agreed with her conclusions on the acceptability of the mitigation measures proposed. The Board concluded that, subject to the implementation of the mitigation measures proposed, and subject to the following conditions, the effects of the proposed development on the environment would be acceptable. In doing so, the Board adopted the report of the Inspector.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 18th day of January 2017 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Development shall not commence until a licence under the Waste Management Act 1996, as amended, has been granted by the Environmental Protection Agency.

Reason: In the interest of clarity and environmental protection.

3. The developer shall establish, maintain and implement an invasive species management plan having regard to relevant published guidance and codes of practice. The plan shall be prepared by an appropriately qualified consultant. Details of the invasive species management plan shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of nature conservation and to prevent the possible spread of invasive species.

4. The developer shall submit by 31st January annually, for the lifetime of this grant of permission, a record of the quantity of material imported into the site and details, including drawings based on an up-to-date 3D topographic survey which facilitates the planning authority to monitor the progress of the phases of restoration.

Reason: In order to facilitate monitoring and control of the development by the planning authority.

5. Details of road signage, warning the public of the entrance, and of proposals for traffic management at the site entrance, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

6. Operations shall occur between 0700 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays only. No activity shall take place outside these hours or on Sundays or public holidays.

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

7. A maximum of 3,280,000 tonnes of material shall be imported into the site within the lifetime of this grant of permission.

Reason: In the interest of clarity.

8. (a) During backfilling operations, the site shall be screened in accordance with a scheme of screening measures and boundary treatment, details of which shall include all planting proposed on existing and proposed screen berms, details of the ongoing care and management of such planting as well as details of an adequate barrier to prevent unrestricted access to the site from adjacent lands, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) A detailed landscape plan, which shall include details of all planting, hedging and boundary treatment to be undertaken on completion of backfilling, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to safeguard the amenities of residential property in the vicinity during the operating phase of the development.

9. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of road improvement works to the R755 regional road. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

10. 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 the Board 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.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory restoration of the site in the interest of visual amenity.

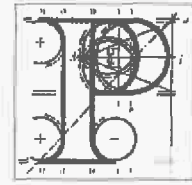
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Eugene Nixon

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 1st day of August 2018



An
Bord
Pleanála

Judicial Review Notice

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act 2000 (as amended)

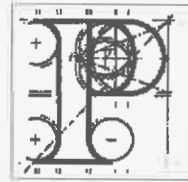
A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice. Modified 30/11/2011



Fógra faoi Athbhreithniú Breithiúnach

Athbhreithniú breithiúnach ar chinneadh a rinne An Bord Pleanála faoi fhorálacha an Achta um Pleanáil agus Forbairt, 2000 (arna leasú)

Nuair is mian le duine agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird caithfear é sin a dhéanamh trí athbhreithniú breithiúnach amháin. Tá na forálacha chun agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird le fáil in ailt 50, 50A agus 50B san Acht um Pleanáil agus Forbairt, 2000 (arna ionadú le hait 13 den Acht um Pleanáil agus Forbairt (Bonneagar Straitéiseach) 2006, le hait 32 agus 33 den Acht um Pleanáil agus Forbairt (leasú), 2010 agus le hait 20 agus 21 den Acht Comhshaoil (Forálacha Ighnéitheacha), 2011.)

Ní féidir ceistiú a dhéanamh in aghaidh cinnidh an Bhoird ach amháin trí iarratas ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúirteanna (I.R. Uimhir 15 de 1986). Faoi réir fho-alt 50(6) den Acht um Pleanáil agus Forbairt, 2000 déanfar iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach laistigh den tréimhse 8 seachtain den dáta a rinne an Bord an cinneadh nó laistigh d'aon síneadh ama a cheadaíonn an Ard-Chúirt faoi fho-alt 50(8). Tabhair faoi deara nuair atá athbhreithniú breithiúnach i gceist faoi alt 50 nach féidir ach bailíocht an chinnidh a cheistiú agus ní thugann an Chúirt aon chinneadh faoi fhiúntas na forbartha ó thaobh prósabail pleanála cuí nó forbairt inchothaithe na háite nó éifeachtaí ar an timpeallacht. Tá sé leagtha síos in alt 50 nach ndéanfar cead d'athbhreithniú breithiúnach muna bhfuil an Chúirt sásta go bhfuil forais shubstantiúla ann chun argóint a dhéanamh go bhfuil an cinneadh neamhbhaillí nó gur ceart é a neamhniú agus go bhfuil suim shásúil ag an iarratasóir leis an ábhar i gceist san iarratas nó i gcásanna a bhaineann le measúnacht tionchair timpeallachta gur eagraíocht í an t-iarratasóir a chomhlíonann coinníollacha áirithe.

Tá forálacha in alt 50B mar gheall ar chostais maidir le himeachtaí san Ard-Chúirt i dtaobh athbhreithniú breithiúnach i gcásanna áirithe (lena n-áirítear imeachtaí faoi chinntí nó gníomhartha de bhun dlí de chuid an Stáit lena dtugtar éifeacht do na forálacha faoi rannpháirtíocht an phobail agus rochtain ar an gceartas atá leagtha amach i dTreoir 85/337/CEE i.e. an Treoir faoi mheasúnacht tionchair timpeallachta agus na forálacha i dTreoir 2001/42/CE maidir le héifeachtaí pleananna agus clár áirithe ar an timpeallacht a mheasúnú). Is í an fhoráil ghinearálta in imeachtaí lena mbaineann alt 50B ná go n-íocfaidh gach páirtí a chostais féin. Is féidir leis an gCúirt costais a bhronnadh i gcoinne aon pháirtí i gcásanna áirithe. Chomh maith le sin tá forálacha i bhfeidhm ionas gur féidir leis an gCúirt iomlán a chostas nó cuid díobh a bhronnadh ar an iarratasóir, in aghaidh fhreagróra nó fhógrapáirtí i gcásanna ina bhfaightear faoiseamh mar gheall ar gníomhú nó neamhfheidhm an fhreagróra nó an fhógrapáirtí.

Tá eolas ginearálta faoi athbhreithniú breithiúnach le fáil ar an suíomh idirlín www.citizensinformation.ie.

Séanadh: Tá an t-eolas thuas tugtha mar threoirlíne. Ní éilítear gur léirmhíniú dlí faoi na forálacha ábhartha atá ann agus dá mbeadh sé ar intinn ag éinne cás dlí a thógáil in aghaidh an Bhoird bheadh sé inmholta comhairle dlí a fháil ar dtús. Athbhreithníthe 30/11/2011