

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2007

Cork County

Planning Register Reference Number: 06/10088

An Bord Pleanála Reference Number: PL 04.224250

APPEAL by John A. Wood Limited of Barnagore, Ovens, County Cork against the decision made on the 12th day of June, 2007 by Cork County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Continuation of quarrying activities including the processing of aggregates, landscaping, restoration and associated works, all at the existing registered quarry lands at Midleton Quarry, Carrigshane, County Cork.

DECISION

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to **ATTACH** conditions numbers 2, 4, 7 and 37 and the reasons therefor, to **REMOVE** conditions numbers 27, 44 and 48 and the reasons therefor and to **AMEND** conditions numbers 3, 22, 24, 29, 41, 43 and 49 so that they shall be as follows for the reasons set out:

3. This permission is for a period of fifteen years from the date of this order.

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

22. A ground water monitoring programme shall be undertaken by the operator to ensure that ground water levels and quality in the vicinity of the site will not be impacted by the development. The first ground water survey shall be carried out within six months of the date of this order and at intervals thereafter to be agreed with the planning authority. The following requirements shall be complied with:
- (a) A suitably qualified competent person carrying out the survey shall prepare a report within one month of the date of the survey of their findings and conclusions.
 - (b) The report shall identify any non-compliance with this condition and condition number 21 of the planning authority's decision and shall set out proposals and a time frame for ensuring that the said conditions are complied with in all operations carried out on the premises within the time frame set out, unless otherwise directed by the planning authority.
 - (c) After the first report, every subsequent report shall include details of the progress with implementing proposals for ensuring that this condition and condition number 21 of the planning authority's decision are complied with in all operations carried out on the premises.
 - (d) The report shall also identify all reports of water pollution/impacts on water quality/quantity received by the operator of the facility and shall include details of the operator's investigation and response.
 - (e) All reports shall be kept on the premises by the operator for a period of five years and copies shall be made available to any member of the public or any officer of the planning authority who requests them.
 - (f) All reports which contain details of a non-compliance with this condition and condition number 21 of the planning authority's decision or reports of water pollution/impact on water quality/quantity received by the operator shall be forwarded to the planning authority.

Reason: In the interest of protecting the groundwater resources of the area.

24. Noise levels emanating from the quarry, when measured at the nearest noise sensitive receptor, shall not exceed 55 dB(A) L_{Aeq} (one hour) between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. Noise emissions shall not exceed 45 dB(A) L_{Aeq} (15 minutes) at any other time. 95 per cent of all noise levels shall comply with the specified limit value(s). No noise level shall exceed the limit value by more than 2 dB(A). These levels may be exceeded to allow temporary but exceptionally noisy phases in the extraction process or for a short term construction activity which is required to bring long term environmental benefits following written consent by the planning authority.

Reason: In the interest of residential amenities.

29. In advance of blasting operations, the developer shall inform all dwellings within 500 metres of the quarry that blasting will take place and for whatever period of time it is likely to continue. Proposals in this regard shall be submitted to the planning authority for agreement within one month of the date of this order.

Reason: In the interest of protecting the amenities of the area.

41. The operator of the site shall keep records of all monitoring carried out and shall retain such records for a minimum period of five years. These records shall state clearly the full name and address of the occupier, the full name and address of the owner of the site, a full list of activities being carried out on the site and who is responsible for each activity. These records shall also have details of any other person or persons carrying out activity on the site and who is responsible for complying with the permission in relation to all activities. These records shall be available for inspection by authorised personnel representing any statutory body involved in pollution control at all reasonable times. Any non-compliance with the terms of the permission shall be highlighted and the reason why this occurred shall also be outlined.

Reason: In the interest of protecting the amenities of the area.

43. Within 12 months of the date of this order, a fully detailed proposal for the phasing of development and for the progressive restoration/landscaping of the site and its aftercare for a period of five years following completion of restoration, prepared by a suitably qualified expert in landscape architecture/ecology and having regard to the advice/guidance provided in the EPA document “Environmental Management Guidelines, Environmental Management in the Extractive Industry (Non-Scheduled Minerals)” shall be submitted to and agreed with the planning authority. In this regard, it is required that the nature of the excavation be designed/amended to enable a future beneficial use to the land and to prevent the creation of a significant hazard to public safety.

The scheme shall provide for the following:

- (a) Detailed proposals for the future use of the lands, a time frame and detailed phasing programme for the proposed restoration works.
- (b) A review of the nature conservation opportunities and constraints for the workings taking into account requirements for the conservation of Leahill Bog (proposed National Heritage Area site code number 002417).
- (c) Details of the proposed final land form and phased progression of workings toward this form.

- (d) Details of soil movement and management.
- (e) Description of target habitats and range of species appropriate for the workings.
- (f) Selection of appropriate strategies for maintaining or introducing target habitats and species.
- (g) Techniques and practices for establishing habitats and species.
- (h) Sources of soil forming materials, plant stock and other species introductions.
- (i) Method statement for ground forming, soil preparation and habitat and species establishment.
- (j) Species, varieties, number and locations of all existing and proposed trees and shrubs, which should comprise predominantly native species and varieties.
- (k) Detailed proposals for initial aftercare and long term management.
- (l) Timing of the restoration operations in relation to phased working of the mineral site.
- (m) Proposals for monitoring the success of all restoration works.
- (n) Proposals for ensuring prevention of contamination of the groundwater system at the site.
- (o) Proposals for disposal of wastes arising from the restoration.

The overall restoration plan shall be implemented within one month of cessation of all extraction within the quarry site and shall be completed within 12 months of its commencement.

Reason: In the interest of protecting the amenities of the area.

49. Details of the road widening proposals along the road boundaries of the site, in accordance with the plans and particulars received by the planning authority on the 18th day of April, 2007, shall be agreed with the planning authority and the works shall be completed within 12 months of the date of this order, unless otherwise agreed with the planning authority.

Reason: In the interest of road safety.

REASONS AND CONSIDERATIONS

The Board generally agreed with the Inspector's reasoning in relation to conditions numbers 2, 3, 4, 7, 22, 27, 41, 44 and 48.

The Board decided to amend condition number 24 in relation to noise to apply standard limits and hours in order to adequately protect the amenities of the area. It is considered that the means of notification for blast events (condition number 29) should be agreed with the planning authority. The Board considered that it was reasonable in this case for the public to be able to inspect monitoring records at the facility (condition number 37).

In relation to condition number 43, the Board considered that requiring shallow gradients on all side slopes of the quarry in this instance was not reasonable, and amended the condition accordingly, noting that comprehensive restoration proposals are required under this condition for agreement by the planning authority.

In relation to condition number 49, the Board considered that it was reasonable for the developer to complete the local road improvements proposed by the developer along his site in the interest of traffic safety and convenience of road users.

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.

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

Dated this day of 2008.