

An
Bord
Pleanála

Board Order
ABP-317874-23

Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Planning Register Reference Number: 22/1306

Appeal by Dempsey Sand and Gravel Limited care of Enviroguide of 3D, Core C, Block 71, The Plaza, Park West, Dublin against the decision made on the 2nd day of August, 2023 by Wicklow County Council to refuse permission for the proposed development.

Proposed Development: Extraction of sand and gravel materials from the site. The proposed site area is 8.44 hectares, and the proposed extraction area is 5.52 hectares. The proposed development includes a surface mounted weighbridge, wheel wash, portacabin office, canteen and welfare facilities with all site ancillary works, and fencing. It is proposed to extract 50,000 tonnes per annum for a period of 10 years. All at Walterstown, Hollywood, County Wicklow, as amended by the further public notices received by the planning authority on the 26th day of June, 2023.

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.

Reasons and Considerations

The Board had regard to:

- (a) the policies and objectives of the Wicklow County Development Plan 2022-2028 that seek to support the Extractive Industry in rural areas of the County Wicklow,
- (b) the proposals consistency with the provisions of the Climate Action Plan 2024, the Climate Action and Low Carbon Development Act 2015, as amended,
- (c) the objectives and targets in Ireland's 4th National Biodiversity Action Plan 2023-2030,
- (d) the National Planning Framework (Project Ireland 2040), the Regional Spatial and Economic Strategy for the Eastern and Midlands Region 2019-2031 and the Quarries and Ancillary Activities - Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2004,
- (e) the distance between the quarry to dwellings or other sensitive receptors,
- (f) the submissions made in connection with the application,
- (g) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites, and
- (h) the nature and scale of the proposed development, as set out in planning application documentation and the pattern of development in the surrounding area.

Appropriate Assessment Stage 1

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within relative proximity to the nearest designated site (Poulaphouca Reservoir Special Protection Area (site code 004063) located circa 700 metres to the north of the appeal site which is considered to be within the potential zone of influence of the proposed development, furthermore the Board noted the site's close proximity to the Toor River which is hydrologically connected to the Special Protection Area.

In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development could potentially have a significant effect on the Poulaphouca Reservoir Special Protection (site code 004063) - a European site in view of the conservation objectives of the site and therefore a Stage 2 Appropriate Assessment and Natura Impact Statement was required.

Appropriate Assessment Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an appropriate assessment of the implications of the proposed development on the Poulaphouca Reservoir Special Protection Area (site code 004063) in view of the site's conservation objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European site.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the Poulaphouca Reservoir Special Protection Area (site code 004063) in view of the conservation objectives of the site. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

Environmental Impact Assessment (EIA)

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location, and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application,
- (c) the content of the appeal, the reports of the planning authority, and prescribed bodies, and

(d) the report of the Planning Inspector.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation, including environmental conditions, and these are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

Population and Human Health

The potential for significant adverse impacts on human health during the construction and operational phases can be avoided, managed, and mitigated by the measures that form part of the proposed development, the additional proposed mitigation measures set out in the Environmental Impact Assessment Report and through suitable conditions. In addition, the proposed development would have a neutral impact on the local socio-economic environment.

Biodiversity

The proposed development will result in the permanent loss of habitats within the site to facilitate the proposed extraction activities. No significant habitats were identified on site and the site was considered to be of low ecological significance. As a result of the habitat loss, negative impacts to mammals on site (Small Mammals, Badger, Birds and Bats) will arise that range from slight to moderate. Significant impacts will not arise given the overall scale of the development and the suite of mitigation measures proposed. In addition, the proposed development provides for the site's phased restoration in tandem with the extraction activities and will allow the site to return to its original use upon the cessation of the quarrying activities, i.e. agriculture. It is considered that potential impacts will be mitigated by the application of best practice construction methodologies, as set out in the project documentation and the application of proposed site and species specific mitigation measures, such that no significant adverse effects arise.

Land, Soil, Water, Air and Climate

Given the nature of the proposed development, significant impacts will arise in terms of the loss of soil and subsoil. In addition, the proposed development will result in the permanent loss of sand due to the proposed extraction activity and its restoration will not involve the use of inert materials to bring back the site back to its original levels. Notwithstanding this, the site can return to its current use upon the cessation of the quarrying activities.

In terms of water, a Conceptual Site Model (CSM) has been developed for the site which demonstrates that rainfall to the site will infiltrate to the ground or discharge as overland flow to the Toor and King's River. There is no requirement for wet working or dewatering for the proposed development and all extraction will be above the groundwater table. The implementation of

mitigation measures and compliance with suitable conditions will ensure that the potential impacts on the ground and surface water environment do not occur during the construction and operational phase of the proposed development and the residual impact will be imperceptible. Therefore, no significant adverse direct, indirect, or cumulative effects on the water environment, water quality or WFD objectives will arise as a consequence of the proposed development.

In terms of Impacts on Air Quality, the Applicant's Disamenity Dust Assessment and Air Dispersion Model demonstrates that no significant, adverse direct, indirect, or cumulative effects will arise as a consequence of the proposed development. Noting the size and duration of the construction phase, the predicted traffic movements during the operational phase, the quantity and scale of machinery and the mitigation measures proposed, the effect of the proposed development on national GHG emissions will be insignificant in terms of Ireland's obligations under the Kyoto Protocol. Therefore, the proposed development will have no considerable impact on climate.

Due to the separation distances, in excess of 450 metres between the workings of the quarry and the nearest noise sensitive receptors no residual impacts are anticipated with respect to noise and vibration.

Material Assets, Cultural Heritage, and the Landscape

In terms of material assets, the proposed development will not generate traffic levels during construction and operational phases that will give rise to a significant impact. No impact on waste and utilities are anticipated. Potential direct impacts on unknown features of archaeology may arise during the construction and operational phase. However, these impacts will be mitigated

by archaeological monitoring of groundworks and compliance with the various mitigation measures and suitable conditions.

In the context of landscape, moderate impacts to the receiving landscape from certain vantage points (i.e. from the R756) will arise during the initial years of the construction and operational phase. However, the impact will be short-term in duration and can be successfully mitigated by the proposed landscaping proposals and its phased restoration. Having regard to the overall scale of the extraction activities, the separation distance between the extraction area and the R756, the location and topography of the site in a relatively low-lying area of the landscape, the landscaping proposals for the proposed development and the restoration proposals which are now proposed to be carried out in tandem with the extraction activities, and subject to compliance with appropriate conditions, mitigation measures and monitoring, the subject development will not give rise to significant direct, indirect, or cumulative effects on the receiving landscape.

The Board is, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative effects on the environment.

Conclusions on Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have unacceptable impacts on the environment, including biodiversity, water, air quality, landscape and cultural heritage, would not seriously injure the residential amenities of the area, in particular with respect to associated noise impacts and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars received by the planning authority on the 8th day of June 2023, and as amended by the further plans and particulars submitted with the appeal, 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. The mitigation measures identified in the Environmental Impact Assessment Report (EIAR) submitted (and the Supplementary Information and Clarifications Report on the Environmental Impact Assessment Report received by the planning authority on the 8th day of June, 2023) and other plans and particulars submitted with the planning application and appeal, shall be implemented in full by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this permission.

Reason: To protect the environment.

3. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

4. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. A record of daily checks that the construction works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept at the construction site office for inspection by the planning authority. The Construction Environmental Management Plan shall be prepared in conjunction with and signed off by the project ecologist and shall detail and have regard to the various mitigation measures included within the Natura Impact Statement and the Environmental Impact Assessment Report (and the Supplementary Information and Clarifications Report on the Environmental Impact Assessment Report received by the planning authority on the 8th day of June, 2023) submitted with the application. The agreed Construction Environmental Management Plan shall be implemented in full in the carrying out of the development.

Reason: In the interest of environmental protection.

5. The developer/operator shall submit to the planning authority an annual monitoring report throughout the lifetime of the permission. The monitoring report shall be prepared by the Ecological Clerk of Works (ECOW) and shall demonstrate the ongoing maintenance of the proposed on-site water treatment infrastructure (including drains and silt fences).

Reason: In the interest of environmental protection.

6. This grant of permission shall be for a period of 10 years from the date of the commencement of the quarrying activities on site. The developer /operator shall notify the planning authority upon the commencement of operations on site. Extraction is limited to a maximum of 50,000 tonnes of sand and gravel materials per annum.

Reason: In the interests of visual amenity and orderly development.

7. The site restoration works described in the application shall be undertaken in a phased basis in accordance with the Updated Phased Restoration Plan (drawing number AI-03) as received by the planning authority on the 8th day of June, 2023. The developer shall submit annually, for the lifetime of the permission, an aerial photograph which adequately enables the planning authority to assess the progress of the phases of extraction. The developer shall be restricted from commencing each additional phase of extraction (i.e. Phases 2-5) until evidence of same (i.e. restoration) is submitted to the planning authority.

Reason: In the interests of visual amenity and orderly development.

8. No extraction of rock, sand or gravel shall take place below two metres above the level of the winter groundwater table.

Reason: To protect groundwater in the area.

9. A wheel-wash facility shall be provided adjacent to the site exit as detailed on the further plans and particulars received by the planning authority on the 8th day of June, 2023. The specifications, details and provisions for wash waters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of traffic safety and convenience, and to protect the amenities of the area.

10. Prior to the commencement of development, the developer shall provide a copy of consent from the Office of Public Works, under Section 50 of the Arterial Drainage Act 1945, as amended, to install the new prefabricated bridge over the Toor River, or alternatively provide a copy of a letter or email from the Office of Public Works confirming that the bridge is exempt from section 50 of the Arterial Drainage Act 1945, as amended.

Reason: In the interest of the proper planning and sustainable development of the area.

11. Prior to the commencement of development, the developer shall submit a lighting design for the construction and operational phases of the proposed development and shall be prepared in conjunction with a bat specialist.

Reason: In the interest of environmental protection.

12. The developer shall comply with the requirements of the planning authority with regard to traffic management and access arrangements and the details of such works, including general road works, shall be agreed in writing prior to the commencement of development. In particular, the developer shall:

- (a) Be responsible for maintaining the adjoining public road in a clean state free from mud and debris cause by the extraction of materials from this facility.
- (b) Conduct regular condition surveys with the planning authority on the public roads during the lifetime of the extraction and any issues identified that can be attributed to the extraction are to be dealt with in a timely manner by the applicant in agreement with the planning authority.
- (c) Submit details of new advance warning signs to be installed on the public road and at the development access point. These shall be agreed with planning authority and shall be installed prior to commencement of development.
- (d) All loads of dry fine materials shall be either sprayed with water or covered/sheeted prior to exiting the quarry.

- (e) All unladen trucks entering the site shall approach from the N81 Hollywood to the west of the site.

Reason: In order to safeguard local amenities.

- 13. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To prevent flooding and in the interest of sustainable drainage.

- 14. (a) The developer shall monitor and record groundwater, surface water flow, noise, ground vibration, and dust deposition levels at monitoring and recording stations, the location of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) On an annual basis, for the lifetime of the facility (within two months of each year end), the developer shall submit to the planning authority copies of an environmental audit. Independent environmental auditors approved in writing by the planning authority shall carry out this audit. This audit shall be carried out at the expense of the developer and shall be made available for public inspection at the offices of the planning authority and at such other locations as may be agreed in writing with the authority. This report shall contain:

- (i) A written record derived from the on-site weighbridge of the quantity of material leaving the site. This quantity shall be specified in tonnes.

- (ii) A record of groundwater levels measured at monthly intervals.

- (iii) A written record of all complaints, including actions taken in response to each complaint.

- (c) In addition to this annual audit, the developer shall submit quarterly reports with full records of dust monitoring, noise monitoring, surface water quality monitoring, and groundwater monitoring. Details of such information shall be agreed in writing with the planning authority. Notwithstanding this requirement, all incidents where levels of noise or dust exceed specified levels shall be notified to the planning authority within two working days. Incidents of surface or groundwater pollution or incidents that may result in groundwater pollution, shall be notified to the planning authority without delay.
- (d) Following submission of the audit or of such reports, or where such incidents occur, the developer shall comply with any requirements that the planning authority may impose in writing in order to bring the development in compliance with the conditions of this permission.

Reason: In the interest of protecting residential amenities and ensuring a sustainable use of non-renewable resources.

15. Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge).

Reason: To control dust emissions arising from the development and in the interest of the amenity of the area.

16. The noise levels generated during the operation of the sand and gravel quarry shall not exceed 55 dB(A) Leq, one hour when measured at the boundary of the site during permitted operating hours and shall not exceed 45 dB (a) Leq 15 minutes at any other time. When measuring the specific noise, the time shall be any one hour period during which the sound emission from the quarry is at its maximum level.

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

17. The quarry, and all activities occurring therein, shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

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

18. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, an Arboricultural Impact Assessment for the site which includes a tree survey plan and details of all tree protection measures. This shall include an assessment of trees and hedgerows on either side of the entrance to the site on the R756. In addition, a pre-felling survey shall be carried out by a qualified bat specialist to confirm the presence or absence of bats. Should bats be found, felling will be postponed until advice is obtained from the National Parkes and Wildlife Services.

Reason: In the interests of visual amenity and orderly development.

19. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, a comprehensive landscape masterplan for the site which is to be prepared by a suitably qualified landscape architect. The landscape masterplan shall provide full details of the proposed planting across the site, including the species and size of the hedgerow, evergreen and native planting. The landscape masterplan shall be informed by the Arboricultural Impact Assessment and shall clearly identify the trees which are proposed to be retained, with details provided of appropriate tree protection measures. All landscaping shall be implemented in full prior to the operation of the proposed quarry.

Reason: In the interests of visual amenity and orderly development.

20. All mitigation measures in relation to archaeology and cultural heritage as set out in Chapter 11 of the Environmental Impact Assessment Report included in application documents and submitted as Further Information to the planning authority shall be implemented in full, except as may otherwise be required in order to comply with this order. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/ excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

21. 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 and residential amenity.

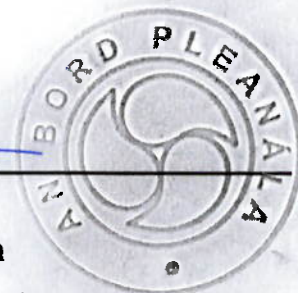
22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Paul Caprani

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



Dated this 22nd day of January 2025.