



An
Bord
Pleanála

Board Direction
BD-007587-21
ABP-306929-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/02/2021.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the following:

- a) the policy objectives set out in the National Planning Framework 2040 and the Eastern and Midland Regional Spatial and Economic Strategy.
- b) the policies and objectives in the Kildare County Development Plan 2017-2023;
- c) the established uses and planning history on the site and the pattern of existing and permitted development in the area, and
- d) the submissions and observations received.
- e) The report of the Inspector

Appropriate Assessment

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 an existing racecourse and restoration facility, the information for the

Screening for Appropriate Assessment submitted with the application, the Inspector's Report and submissions on file. 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 would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board, in accordance with the requirements of Section 172 of the Planning and Development Act 2000, as amended, completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development on the site,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application,
- (c) the planning history associated with the site,
- (d) the submissions received, including those from the planning authority and prescribed bodies, and
- (e) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the 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 application and appeal. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Benefits/positive effects on **population, land, biodiversity** and **landscape & visual** by the restoration of a former quarry and area of proposed extraction to recreate the former landscape profile, provide usable land with amenity values and habitat creation and enhancement providing grassland and wetland areas to support a wide variety of wildlife.
- Impacts arising on **soils & land** and **water** by the extraction of 639,000m³ of materials over an area of 164,550m² from within the former quarry to facilitate the construction of the extended racetrack. The impacts are mitigated by the extraction 1m above the recorded water levels, the internal transport of the materials to the site of the track extension and the restoration of the lands with the finished contours as per the previously approved levels.
- Impacts arising on **biodiversity** as a result of spread of invasive species (Japanese Knotweed) present on the site and which would be mitigated by the continuation of the implementation of an Invasive Species Management Plan and method statement for the control of disturbance of soils containing Japanese Knotweed and the requirement that a suitably qualified ecologist would be engaged to oversee the undertaking of a pre-construction survey and the implementation of the Invasive Species Management Plan and monitor the success of the mitigation measures post-construction.
- Risk of pollution of **water** as a result of accidental spillages of chemicals, hydrocarbons or other contaminants during the construction and operational phases. The impacts would be mitigated by measures within a Construction and Environmental Monitoring Plan (CEMP) and adherence to best practice construction measures and incorporation of appropriate drainage facilities. Measures set out in the CIRIA guidance document on 'control and management of water pollution from construction sites' would be implemented.
- Potential effects on the **road network** during the construction phase that will be mitigated by the transport of material from the proposed area of extraction to the proposed track extension internally within the site.
- Potential effects on the **road network** during the construction and operational phase that will be mitigated by event management planning associated with events at the Racecourse and the upgrade works proposed to part of the L6042

to facilitate the continued restoration of the Walshestown lands which will be completed in the medium term.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in Chapter 17 of the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking the decision.

Proper Planning and Sustainable Development

The Board considered that the proposed development would be compliant with the current Kildare County Development Plan 2017-2023 and would therefore be in accordance with the proper planning and sustainable development of the area. Furthermore, the Board considered that, subject to compliance with the conditions set out below, that the proposed development would constitute an acceptable form of development, would not seriously injure the residential or visual amenities of the area, and would be acceptable in terms of traffic safety. 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 as amended by the further plans and particulars submitted on the 13 day of December 2019 and by the further plans and particulars received by An Bord Pleanála on the 9th day of April, 2020, 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
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	<p>development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.</p> <p>Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for written agreement.</p> <p>Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.</p>
3.	<p>The restoration element of this permission shall be permitted for a period of 12 years from the date of this Order.</p> <p>Reason: In the interest of orderly development.</p>
4.	<p>Prior to the commencement of development, a consolidated site layout plan setting out the detailed design and the direction of works within the proposed extraction area shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of clarity and orderly development.</p>
5.	<p>Prior to commencement of development, the developer shall undertake a pre-construction invasive species survey and following same shall update the Invasive Species Management Plan for the development site. The Plan shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>

6.	<p>No extraction of aggregates shall take place below a level of at least 1 metre above the level of the winter water table.</p> <p>Reason: To protect groundwater in the area.</p>
7.	<p>The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
8.	<p>Surface water run-off from open cut areas shall not be discharged directly to any watercourse. All such water shall be trapped and directed to temporary settling ponds.</p> <p>Reason: In the interest of public health and to protect water quality.</p>
9.	<p>The noise levels generated during the extraction of materials shall not exceed 55 dB(A) Leq,1hr when measured at the nearest noise sensitive receptor. 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.</p> <p>Reason: In order to protect the residential amenities of property in the vicinity.</p>
10.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a satisfactory standard of development.</p>
11.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the south eastern</p>

	<p>area of the site as indicated in Figure 13-6 of the EIAR. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development within this area,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
12.	<p>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.</p> <p>Reason: In order to protect the residential amenities of property in the vicinity.</p>
13.	<p>The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.</p> <p>Reason: To protect the residential amenities of property in the vicinity.</p>
14.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or</p>

	<p>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.</p> <p>Reason: To ensure the satisfactory restoration of the site in the interest of visual and residential amenity.</p>
15.	<p>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.</p> <p>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.</p>
16.	<p>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 facilitating the completion of further resurfacing and road improvement works on the L6042, for 1 km extending from the existing L6042/L6041 priority junction to the existing L2023/L6042 priority junction. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement,</p>

<p>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.</p> <p>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.</p>
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Board Member

Date: 23/02/2021

Terry Prendergast