



An  
Bord  
Pleanála

**Board Direction**  
**BD-012550-23**  
**ABP-310989-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/06/2023.

The Board decided to treat this case under section 139 of the Planning and Development Act, 2000. The Board also decided, based on the Reasons and Considerations set out below that the planning authority be directed, as follows:

**Condition No. 2**

To **RETAIN** Condition No. 2 as follows for the reasons and considerations set out hereunder:

*2 (a). This permission shall apply for a period of 5 years from the date of commencement.*

*(b). The annual intake of inert soil and stone waste shall not exceed 20,000 tonnes.*

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

**Reasons and Considerations (1)**

The proposal to increase the amount of material specified in Condition No. 2 (b) to 24,000 tonnes per annum would represent an increase of 20% on what was originally stated in the application. An increase of this level cannot be addressed on appeal without a further assessment of the potential impacts of the requested increase on the receiving environment.

**Condition No. 17**

To **REMOVE** Condition No. 17 for the reasons and considerations set out hereunder:

### **Reasons and Considerations (2)**

It is considered that Condition No. 17 is not reasonable or precise and would be a disproportionate requirement on the developer having regard to the wider use of the road. It is further considered that it would have been more appropriate for the Planning Authority to attach a Section 48(2)(c) condition to be levied proportionally on developments using the L4016 but such a special contribution was not provided for by the Planning Authority in its decision.

### **Condition No. 21**

To **REMOVE** Condition No. 21 for the reasons and considerations set out hereunder:

### **Reasons and Considerations (3)**

It is considered that, given the nature and scale of the proposed development, and the use of an existing and previously permitted entrance, that a Stage 2 and 3 Road Safety Assessment is unwarranted in this instance.

### **Condition No. 23**

To **AMEND** Condition No. 23 as follows for the reasons and considerations set out hereunder.

Condition No. 23 should be amended as follows,

*(a) The Developer shall ensure that the works are carried out in accordance with the Traffic Management Plan submitted on 10/06/2021 and that any further subsequent mitigation measures, requested by the Municipal District Office, are put in place.*

*(b) The Developer shall restrict the Hours of Operation, as follows:*

*From April to October-*

- *Monday to Friday from 8.00 to 19.00*

*From November to March –*

- *Monday to Friday from 8.00 to 16.00*

*From 8.00 to 14.00 on Saturdays throughout the year, and,  
Not at all on Sundays and Bank Holidays.*

**Reason:** *To mitigate the impact of traffic on neighbouring residents.*

#### **Reasons and Considerations (4)**

It is considered that the alterations to the operating hours will not result in any undue negative impact on the residential amenity of nearby houses, would accommodate intake of materials, and would ensure that the site operates during daylight hours only throughout the year.

#### **Condition No. 24 and Condition 25**

To **AMEND** Condition No. 24 and include Condition 25 within same for the following reasons and considerations.

(a) The Developer shall provide adequate lighting at the entrance to the site from the L4016 which shall be agreed in writing with the Planning Authority. This lighting shall be designed to consider the safety of road users, nearby residents and the nature of the rural area. The lighting shall be agreed in writing with the Planning Authority and shall be fully commissioned prior to use of the facility.

(b) The Developer shall comply with the requirements of the Planning Authority in relation to any lighting which may be required within the site to facilitate operations.

**Reason:** In the interest of road safety and to protect the amenities of the area.

#### **Reasons and Considerations (5)**

While Condition No. 23 restricts the operating hours of the development to daylight hours only, it is considered while the requirement for public lighting would therefore be limited, in the interests of road safety some lighting should be provided at the new junction to facilitate the satisfactory operation of the facility at the start and end of daylight hours. Lighting within and around the site shall be considered within the context of the specific requirements of the planning authority for such facilities.

## Condition No. 26

To **AMEND** Condition No. 26 for the following reasons and considerations.

*Condition No. 26 should be amended as follows,*

The Applicant/ Developer to pay to Kildare County Council the sum of €21,750 being the appropriate contribution to be applied to this development in accordance with that Development Contribution Scheme adopted by Kildare County Council on the 19<sup>th</sup> December 2022 in accordance with section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with section 13 of Development Contribution Scheme adopted by Kildare County Council on the 19<sup>th</sup> December 2022.

**Note:** Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Irish water.

**Reason:** It is considered reasonable that the developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of 'the Planning Authority.

### Reasons and Considerations (6)

It is considered that the terms of the Kildare County Council Development Contribution Scheme 2023-2029 have been properly applied regarding Sections 8.2.3 and 13 of the Scheme which relate to the level of contributions applicable to the scheme and to the payment of contributions under the Scheme. However, Section 10.1 of the Scheme was not appropriately applied and allows for a reduction of 50% for temporary permissions of up to 5 years and the condition has been amended to reflect this reduction.

Board Member:

  
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Una Crosse

Date: 23/06/2023