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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 17/1224**

**Appeal** by Kilsaran Concrete trading as Kilsaran Build care of Tom Phillips and Associates of 80 Harcourt Street, Dublin, by Ian Conway of Corbally, Newbridge, County Kildare and by others against the decision made on the 4<sup>th</sup> day of July, 2018 by Kildare County Council to grant subject to conditions a permission to the said Kilsaran Concrete trading as Kilsaran Build in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Continuance of the following development previously permitted under Kildare County Council (KCC) planning register reference number 07/707; An Bord Pleanála appeal reference number PL09.226792 and Kildare County Council planning register reference number 14/920. The development will consist of (1) extraction of sand and gravel and processing on circa 85.9 hectares for a 20-year period, with control cabin and canteen facilities, electricity substation, bunded fuel tanks, Electricity Supply Board substation and switch-house and septic tank, aggregate crushing, washing and screening plants and the continued use of the internal access road and existing site access onto the R448 with a further two years to complete site restoration to agriculture. The development proposes

progressive restoration throughout the life of sand and gravel extraction; (2) Dry Batch Mortar Plant comprising structures and pieces of plant and machinery:- loading ramp and receiving hopper; a feed conveyor; a drying plant building (circa 8.6 metres high); external bucket elevators (up to circa 24.8 metres high); a storage and mixing plant building (circa 23.5 metres high) (housing plant and machinery); two number finished product storage silos with bulk loadout machinery (circa 20.5 metres high); prefabricated office; prefabricated compressor container; prefabricated control and switchgear container; a bunded and covered fuel tank; truck and car parking areas; (3) storage at the existing Overburden Storage Mound (area of circa 3.4 hectares) which is covered with topsoil and is grass seeded and will ultimately be used in the restoration of the aforementioned sand and gravel development site; (4) Dry Mortar Bagging Plant and Storage Hall Structure (circa 7 metres high); (5) existing weighbridge and wheelwash within the development site; (6) covered aggregate storage bays, a sand storage shed and a bagging shed. Permission is also sought for the provision of new works including an office building (and two proprietary sewage effluent treatment systems), dry batch mortar plant extension (including plant and machinery), tile manufacturing plant; associated switch-house; car parking; provision of two weighbridges; covered storage sheds; rerouting of internal access road to plant site; the demolition of a storage shed and weighbridge; extraction of sand and gravel to the south-west of previously permitted extraction area and extension to existing overburden storage mound; landscaped screening berms and overburden storage mounds along perimeter of the site. All development will be within the circa 85.9 hectare Kilsaran Concrete landholding for a period of 20 years and a further two years for site restoration at Brownstown, Corbally and Silliothill, County Kildare.

## **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**

In making its decision, the Board had regard, *inter alia*, to the following:

- (a) the provisions of the Planning and Development Act, 2000, as amended,
- (b) the provisions of the Planning and Development Regulations, 2001, as amended,
- (c) Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna, as amended,
- (d) 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 provisions of the Kildare County Development Plan 2017-2023,
- (f) the Environmental Impact Assessment Report submitted with the application to further develop the quarry,
- (g) the Appropriate Assessment Screening Report submitted with the
- (h) application to further develop the quarry,
- (i) the submissions received from the applicant in response to the section 131 notice of An Bord Pleanála,
- (j) the nature and scale of the development the subject of this application to further develop the quarry,
- (k) the planning history of the site, and
- (l) the pattern of development in the area, and the proximity of the quarry to any European site,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and 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 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 the Pollardstown Fen Special Area of Conservation (Site Code 000396) or Mouds Bog Special Area of Conservation (Site Code 002331), or any other European site, in view of the site's conservation objectives.

## **Environmental Impact Assessment**

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 in support of the application,
- (c) the submissions from the planning authority, the observers and the prescribed bodies in the course of the application, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

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.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- impacts on **population and human health** as a result of **noise, dust and traffic during** the operational phase. The potential impacts would be mitigated by mitigation measures, such as the limiting of hours and appropriate emissions limit values,
- impacts on **Biodiversity** are likely to arise due to the removal of habitat and disturbance associated with noise and human activity on site. The impacts arising from the removal of habitat and disturbance would be mitigated by minimising the removal of existing vegetation and the progressive restoration of the site,
- **landscape and visual** impacts would arise on the landscape from the increased extraction area new structures proposed. Implementation of the landscape management plan to include the retention of existing landscaping features, and ongoing landscape maintenance would greatly assist in assimilating the works into the landscape and reduce the impact at operational phase, and

- **positive significant impacts** would arise during the operational phase.

The Board completed an environmental impact assessment in relation to the proposed development and concluded subject to the implementation of the mitigation measures proposed and subject to compliance with the conditions set out below, the effects on the environment of the proposed development by itself and in combination with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions 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 details submitted on the 14<sup>th</sup> day of May, 2018, 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. Mitigation and monitoring measures outlined in the Environmental Impact Assessment Report submitted with the application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

3. This grant of planning permission for further extraction of sand and gravel, relates only to the areas outlined on the drawings submitted on the 14<sup>th</sup> day of May, 2018. All extraction and processing operations on site shall cease 18 years from the date of this Order. All plant and machinery including the dry batch mortar plant, bagging and storage hall and tile manufacturing plant shall cease operation and shall be removed from site within 19 years from the date of this Order. Restoration of the site shall be in accordance with the restoration plan submitted on the 2<sup>nd</sup> day of November, 2017 and as amended by the further plans received on the 14<sup>th</sup> day of May, 2018 and shall be completed within 20 years from the date of this Order unless, prior to the end of that period, planning permission is granted for the continuance of use.

**Reason:** In the interests of orderly development and to ensure the appropriate restoration of the site.

4. The phasing of extraction on site shall as indicated in the phasing plan submitted and the extraction volumes on site shall not exceed 450,000 tonnes per annum.

**Reason:** In the interest of clarity and to limit the extent of the development to the extraction level proposed.

5. No extraction of aggregates shall take place below the level of the water table and shall be confined to within one metre of the winter water table level as specified.

**Reason:** To protect groundwater in the area.



6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features which exist within the site. In this regard, the applicant is required to engage the services of a suitably qualified archaeologist to monitor all topsoil stripping within this site. Having completed this initial monitoring, the archaeologist shall submit a written report to the planning authority and to the National Monument Section of the Department of Culture, Heritage and the Gaeltacht. Where archaeological material/features are shown to be present, preservation in situ, preservation by record (excavation) or monitoring may be required. In the event of archaeological material being uncovered during the course of such monitoring, the archaeologist shall have works ceased in the vicinity of such material pending receipt of advice from the National Monuments Section of the Department of Culture, Heritage and the Gaeltacht with regard to additional mitigation measures that may be required and these requirements shall be implemented in full. Following completion of all monitoring and other possible archaeological investigation the archaeologist shall prepare a report for submission to the planning authority and the Department of Culture, Heritage and the Gaeltacht.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (*in-site* or by record) and protection of any archaeological remains that may exist within the site.

7. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority, prior to commencement of development. This shall include proposals for the following:

- (a) suppression of on-site noise,

- (b) on-going monitoring of sound emissions at dwellings in the vicinity,
- (c) suppression of on-site dust,
- (d) safety measures for the land above the extended quarry void to including warning signs and stock-proof fencing/hedgerows,
- (e) management of all landscaping,
- (f) monitoring of ground and surface water quality, levels and discharges, and
- (g) details of site manager, contact numbers (including out-of-hours) and public information signs at the entrance to the site.

**Reason:** In order to safeguard local amenities.

8. All groundwater ingress and surface water within the extended quarry void area shall be discharged via the existing siltation lagoon network on site. No groundwater or surface water shall be discharged to the adjoining road network, or to the adjacent lands.

**Reason:** In order to protect groundwater and surface water quality in the area, and in the interest of traffic safety.

9. The noise level from within the boundaries of the quarry extension area, measured at noise sensitive locations in the vicinity, shall not exceed –
- (a) an  $L_{A,T}$  value of 55dB(A) during 0700 to 1800 hours Monday to Friday and 0700 to 1400 on Saturdays. The T-value shall be one hour,

- (b) an  $L_{AeqT}$  value of 45dB(A) at any other time. The T-value shall be 15 minutes.

**Reason:** To protect the residential amenities of property in the vicinity.

10. All HGVs departing the quarry void shall do so via a wheelwash. Any aggregate, silt or muck carried out onto the public road shall be promptly removed by the developer.

**Reason:** In the interest of traffic safety.

11. (a) Dust levels at the site boundaries shall not exceed 350 milligrams per square metre per day, averaged over a continuous period of 30 days (Bergerhoff Gauge).
- (b) A monthly survey and monitoring programme of dust and particulate emissions shall be undertaken to provide for compliance with these limits. Details of this programme, including the location of dust monitoring stations, and details of dust suppression measures to be carried out within the entire quarry complex, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall include an annual review of all dust monitoring data, to be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.

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

12. No signage of any sort shall be erected on the boundary of the quarry extension or within it (so as to be visible from adjacent public roads), without a prior grant of planning permission.

**Reason:** In the interest of visual amenity.

13. The quarry extension, including extraction and aggregate production, shall only operate between 0700 hours and 1800 hours, Monday to Friday and between 0700 hours and 1400 hours on Saturdays. The internal operation of the mortar batching plant, bagging hall and storage hall and the tile manufacturing plant are the only operations allowed to be accrued out outside of these specified hours.

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

14. The developer shall submit, every second year, for the 20-year lifetime of the permission to further develop the quarry, an aerial photograph which adequately enables the planning authority to assess the progress of the phases of extraction. The first such shall be submitted two years from the date of this Order.

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

15. This grant of permission to further develop the quarry does not authorise the importation of materials for the restoration of the site.

**Reason:** In the interest of clarity.

16. (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 agreed in writing with the planning authority prior to commencement of development. Monitoring results shall be submitted to the planning authority on an annual basis for groundwater, surface water, noise and ground vibration.
- (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 five copies of an environmental audit. Independent environmental auditors approved of in writing with 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 planning 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) An annual topographical survey carried out by an independent qualified surveyor approved in writing with the planning authority. This survey shall show all areas excavated and restored. On the basis of this a full materials balance shall be provided to the planning authority.
  - (iii) A record of groundwater levels measured at monthly intervals.

- (iv) 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 submitted to, and 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.

17. No blasting shall take place on site.

**Reason:** In the interests of public safety and residential amenity.

18. (a) The existing wastewater treatment site shall be decommissioned and removed.

- (b) The proposed effluent treatment and disposal systems shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 2nd day of November, 2017 and in accordance with the requirements of the document “Wastewater Treatment Manual: Treatment Systems for Small Communities, Business, Leisure Centres and Hotels, Environmental Protection Agency (current edition). Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) Within three months of the installation of the wastewater treatment systems, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

19. 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.

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

20. The developer shall pay to the planning authority a financial contribution of €1,517,064.35 (one million five hundred and seventeen thousand and sixty-four euro and thirty-five cents) 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. The application of any indexation required by this condition 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.

**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.

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

**Dated this            day of            2019.**