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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Louth County Council**

**Planning Register Reference Number: 18226**

**Appeal** by Joseph and Rosaleen Mullan of 6 Kellys Road, Killeen, Newry, Northern Ireland and by Ballymakellet and District Residents Group care of EHP Services of 154 Riverside Drive, Red Barns Road, Dundalk, County Louth against the decision made on the 15<sup>th</sup> day of November, 2018 by Louth County Council to grant subject to conditions a permission to Arabtec Capital unlimited care of JSPE of 31 Athlumney Castle, Navan, County Meath in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Re-opening of an existing stone quarry for the production of road making and aggregate materials together with all associated site development works including temporary office, welfare facilities, weighbridge and wheel wash at Ballymakellet, Ravensdale, Dundalk, County Louth. (As amended by the further public notice issued by An Bord Pleanála on the 31st day of July, 2019 in which a Natura Impact Statement was received by An Bord Pleanála on the 5th day of July, 2019).

## **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**

Having regard to:

- the location of the site, nature and scale of the proposed development,
- the means to protect and enhance the geological heritage and control emission from the site,
- the temporary nature of the proposed development and arrangements to restore it in a progressive manner,
- the resource-based nature of the proposed development, and the provisions in respect of the extractive industry set out in the Louth County Development Plan 2015-2021,

it is considered, subject to compliance with the conditions set out below, that the proposed development would be consistent with the zoning objective for the site, would not detract from the geological interest of the site, landscape character or visual amenity of the area, biodiversity or residential amenity and would not endanger public safety by reason of public health or traffic hazard. 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 27<sup>th</sup> day of September, 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. The operational period of the extraction works shall be for a period of five years from the grant of this permission, with a further two years for the restoration of the site to be completed.

**Reason:** In the interest of orderly development and to protect the amenities of the area.

3. Progressive working, decommissioning and restoration of the site shall be in accordance with details to be agreed in writing with Geological Survey Ireland and the planning authority, prior to the commencement of development. This shall include:
- (a) details of progressive working, decommissioning and restoration of the site (including on-going monitoring of restoration),
  - (b) means to report on compliance with progressive restoration scheme,
  - (c) measures to protect and enhance geological heritage,
  - (d) measures to increase biodiversity within the site, and
  - (e) details of information panels on the geological features of the site to be erected (to be agreed in advance with Mourne-Cooley-Gullion Geotourism Project).

**Reason:** In the interest of orderly development and to protect geological heritage and the amenities of the area.

4. No blasting shall take place on site.

**Reason:** To protect the residential amenities of adjoining dwellings.

5. No extraction of aggregates shall take place below the level of the water table. No washing of aggregates shall be carried out on site.

**Reason:** To protect groundwater and surface water in the area.

6. The proposed works on site shall commence during the period 1st September to the last day of February of the following year. In the event that it is necessary to commence work outside this period, a suitably qualified ecologist shall be appointed to ensure that appropriate measures are put in place to minimise damage to any breeding species present. These measures shall be submitted to the planning authority for written agreement in advance of any works on site.

**Reason:** In the interest of protecting biodiversity.

7. Vehicles transporting material to and from the site, and accessing the site, shall use the R174 running from the quarry to the R173 only.

**Reason:** In the interest of traffic safety and in order to mitigate the extent of maintenance and upgrading works to the local road network necessitated by vehicular traffic accessing the site.

8. Mitigation measures set out in the Environmental Impact Assessment Report and the Natura Impact Statement and in other plans and particulars submitted with the application and appeal shall be (a) set out in a schedule to the planning authority prior to the commencement of development, and (b) implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity and environmental protection.

9. 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 the following:
- (a) Proposals for the suppression of on-site noise (in order to comply with conditions, set out in this permission).
  - (b) Proposals for the on-going monitoring of sound emissions at dwellings in the vicinity.
  - (c) Proposals for the suppression of dust on site.
  - (d) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage.
  - (e) Details of safety measures for the land above the quarry, to include warning signs and stock proof fencing (with works to be carried out within one month of the written agreement of the planning authority to these details).
  - (f) Management of all landscaping with particular reference to enhancing the ecological value of the woodland/grassland on the bunds and buffer areas.
  - (g) Monitoring of ground and surface water quality, levels and discharges.

- (h) Details of measures to prevent, and if necessary remove, any spillage or deposit of clay, rubble or other debris on the public road.
- (i) Details of the site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

**Reason:** In the interest of orderly development and to safeguard local amenities.

- 10. All landscaping, including improvements to boundaries and the provision of any fencing and berms, shall be completed prior to the commencement of extraction on site.

**Reason:** In the interest of visual amenity and to safeguard the amenities of adjoining dwellings during the operational phase of the development.

- 11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (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, and

- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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



12. 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. Monitoring results shall be submitted to the planning authority at monthly intervals for groundwater, surface water, noise and ground vibration.
- (a) 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 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 topographical survey carried out by an independent qualified surveyor approved in writing by 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 written record of all complaints, including actions taken in response to each complaint.

- (b) 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.

- 13. All topsoil shall be stripped and stored separately from overburden. Detailed proposals in this regard shall be submitted to and have received the written agreement of the planning authority prior to the commencement of the development.

**Reason:** In the interest of orderly development and the protection of the amenities of the area.

- 14. (a) The wheels and undersides of all vehicles transporting aggregate from the site onto the public road shall, prior to the exit of such vehicles onto the public road, be washed in a wheel washing facility which shall be constructed to the satisfaction of the planning authority.
- (b) Vehicles used for the transport of materials from the site shall be so equipped as to prevent spillage and dust blow.

**Reason:** In the interest of the amenities of the area and of traffic safety and convenience.

15. The quarry, and all activities occurring therein, shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1300 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.

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

16. The noise levels generated by on site operations shall not exceed 55 dB(A) Leq,1 hour, during working hours, when measured at any noise sensitive receptor in the locality. During construction of screening berms, noise levels up to 75 dB(A) Leq, 1 hour, may be permitted for a period not to exceed 14 working days relative to any particular noise sensitive receptor and subject to prior notice and agreement of the planning authority.

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

17. 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). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.

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

18. No work shall commence on site until the visibility splays (as shown on the Proposed Site Layout Plan drawing number 1564-111-D) have been provided to the satisfaction of the planning authority.

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

19. Details of road signage, warning the public of the entrance and of proposals for traffic management at the site entrance, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

20. Prior to the commencement of development, the applicant shall submit to the planning authority for written agreement, details of how existing site boundaries shall be retained, protected and, if necessary, augmented during the lifetime of the quarry.

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

21. Scrap metal and other waste material shall be removed at least annually from the site in accordance with the written requirements of the planning authority.

**Reason:** To protect the amenities of the area.

22. All over ground tanks containing liquids (other than water) shall be contained in a waterproof bunded area, which shall be of sufficient volume to hold 110 per cent of the volume of the tanks within the bund. All water contaminated with hydrocarbons, including stormwater, shall be discharged via a grit trap and three-way oil interceptor with sump to a watercourse. The sump shall be provided with an inspection chamber and shall be installed and operated in accordance with the written requirements of the planning authority.

**Reason:** In order to protect groundwater.

23. No water from the wheel wash shall be discharged at the development other than to a drainage system that outfalls to the uppermost settlement lagoon.

**Reason:** In order to protect groundwater.

24. 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 geological heritage, biodiversity, visual and residential amenity.

25. 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.

26. 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 specific exceptional costs of strengthening the carriageway of the R174. The amount of the contribution 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 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.

**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.

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

**Dated this            day of            2019.**