



Planning and Development Acts 2000 to 2020

Planning Authority: Kildare County Council

Planning Register Reference Number: 19/523

Appeal by Punchestown Racecourse care of Declan Brassil and Company of Lincoln House, Phoenix Street, Smithfield, Dublin and by Blackhall Road Residents Association of AKM Design of Unit 4, Orchard Business Centre, 2009 Orchard Avenue, Citywest Business Campus, Dublin against the decision made on the 21st day of February 2020 by Kildare County Council in relation to the application by said Punchestown Racecourse for permission for the extension and enhancement of the established racecourse facilities at Punchestown Racecourse, the extraction of topsoil, subsoil, sand and gravel materials from lands adjoining the racecourse to facilitate those works, and the restoration of the proposed extraction area and adjoining lands that are currently being restored from a disused sand and gravel pit to agricultural use under planning register reference number 08/2159 and EPA Waste Licence reference number: W0254-01 (Walshetown). The proposed development and works comprise: the extension of the existing racetrack by approximately 660 metres and raising ground levels on the track extension area to tie into existing site levels that range from approximately 160 metres OD to the east to 140 metres OD to the west; widening of the home straight over a distance of 800 metres by between 30 metres and 35 metres; a new ambulance track over a length of 1,890 metres and ancillary infrastructure; and, landscape enhancement works within and adjoining the racecourse facilities including

landscaping planting and the relocation of two number existing attenuation ponds and the creation of an additional two number attenuation ponds. To facilitate these works, site levels will be raised to match existing contours and will require approximately 1.15 million tonnes of topsoil, subsoil, sand and gravel. These materials will be extracted from lands adjoining the established racecourse that are currently being restored from a disused sand and gravel pit to agricultural use under planning register reference number 08/2159 and EPA Waste Licence reference number W0254-01 (Walshestown). The permission granted under planning register reference number 08/2159 will expire in 2020. Permission for the continuance of the permitted restoration use of the Walshestown lands for a period of an additional 8.5 years to complete the current permission restoration works, and an additional 3.5 years to restore the additional area of extraction required for the racecourse extension works (12 years in total). All proposed restoration works are consistent with those previously permitted under planning register reference number 08/2159. The proposed restoration works include the importation and placement of inert materials over an area of circa 40.05 hectares; processing of non-hazardous materials including crushing, screening, and magnetic separation using mobile machinery for the purpose of recovery and recycling of engineering materials; storage, and the continued use of all established and permitted structures, storage facilities, hardstanding, drainage infrastructure, utilities and works. Permission is also sought for a proposed maintenance and storage shed of 3,500 square metres gross floor area to facilitate the proposed restoration use, and all ancillary development and works. The proposed use will require the current Waste Licence reference number W0254-01 to be reviewed by the EPA to facilitate these works. The proposed extraction and restoration works will involve the continuation of the Walshestown operations for a total period of 12 years. Accordingly, a 12-year permission is sought for that element of the works relating to extraction and restoration of the Walshetown lands, all at Punchestown, Walshestown, Blackhall, Tipperkevin and Bawnogue, Naas, County Kildare. Revised public notices were received by the planning authority on the 20th day of December

2019 to now include road improvement works along the L6042, including proposed visibility splays and boundary walls.

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 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,

- (d) the submissions and observations received, and
- (e) the Inspector's report.

Appropriate Assessment Screening

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 the submissions on file. In completing the screening exercise, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's Report 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 site's conservation objectives, 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 considered 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 the appeal.

Reasoned Conclusions on the Significant Effects

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:

- (a) Benefits/positive effects on population, land, biodiversity and landscape and 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.

- (b) Impacts arising on soils and 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 one metre 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.
- (c) 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.
- (d) 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 Construction Industry Research and Information Association guidance document on 'control and management of water pollution from construction sites' would be implemented.
- (e) 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.

- (f) 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 or 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 13th day of December 2019, 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 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. 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.

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. The restoration element of this permission shall be permitted for a period of 12 years from the date of this Order.

Reason: In the interest of orderly development.

4. Prior to 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, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity and orderly development.

5. 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, and agreed in writing with, the planning authority prior to commencement of development.

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

6. No extraction of aggregates shall take place below a level of at least one metre above the winter water table.

Reason: To protect groundwater in the area.

7. 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.

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

8. 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.

Reason: In the interest of public health and to protect water quality.

9. The noise levels generated during the extraction of materials shall not exceed 55 dB(A) Leq,1 hour 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.

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

10. 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.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the south eastern area of the site as indicated in Figure 13-6 of the Environment Impact Assessment Report. 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 within this area,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (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. 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 site and to secure the preservation and protection of any remains that may exist within the site.

12. 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.

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

13. 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.

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

14. 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.

15. 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.

16. 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, 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.

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

Dated this day of 2021