

An
Bord
Pleanála

Board Order
ABP-310965-21

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 21/618

Appeal by Kilsaran Concrete care of SLR Consulting Ireland of 7 Dundrum Business Park, Windy Arbour, Dublin against the decision made on the 1st day of July, 2021 by Kildare County Council to refuse permission for the proposed development.

Proposed Development: (1) An application area of circa 39.5 hectares. (2) Continued use on lands measuring circa 28.1 hectares of the existing permitted developments under planning register reference numbers 17/1344 (An Bord Pleanála reference number PL09.302526); 06/651 (and 17/188) consisting of: processing of sand and gravel that includes crushing, washing (with associated silt disposal lagoons) and screening and all related ancillary works and structures; site facilities consisting of prefabricated offices, WC and wastewater treatment and percolation area, canteen and cloakroom, ESB substation and switch house, concrete laboratory, bunded fuel tanks and water recycling bays, weighbridge and wheelwash granted under planning register reference number 06/651. (3) Continued use of the existing readymix concrete batching plant originally granted under planning register reference numbers 94/1109 and 90/52; and sand and gravel workings, with associated plant and facilities originally granted under planning register reference numbers 94/1109 and 89/150. (4) The proposed development will

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also consist of an extension (circa 11.4 hectares) to the existing permitted site with extraction of sand and gravel over an area of circa 10.8 hectares and processing taking place at the existing processing plant within the existing permitted development areas of planning register reference numbers 17/1344 and 06/651 with provision of a screening berm surrounding the proposed extension area. (5) Restoration of the entire site to a combination of agricultural and nature conservation areas. (6) The proposed operational period is for eight years plus two years to complete restoration (total duration sought 10 years) at Ballysaxhills townland, Kilcullen, 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.

Reasons and Considerations

Having regard to:

- (a) the provisions of the Kildare County Development Plan 2023 – 2029,
- (b) the planning history on the site and the established quarry use on the site,
- (c) the nature, location and extent of the proposed development and to the established character and pattern of development in the vicinity of the site,
- (d) the proposed extension of the quarry, by reason of its location, scale, nature and distance from Dún Ailinne, which is a site of significant archaeological interest,
- (e) the established character and pattern of development in the vicinity of the site,
- (f) the absence of any sensitive landscape features, dominant landscape points or ridgelines in the vicinity of the site,

- (g) the quarry extraction works are medium term and, therefore, any visual impact arising on the surrounding area would be mitigated by restoration of the site post operational phase,
- (h) the mitigation measures set out in the Environmental Impact Assessment Report and the Natura Impact Statement,
- (i) the report of the planning authority and supporting technical reports,
- (j) the submissions made to the planning authority from prescribed bodies and third parties, and
- (k) the grounds of the appeal from the first party and observations made during the course of the appeal,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would not have an unacceptable negative impact on archaeological or cultural heritage, would be acceptable in terms of traffic safety and the protection of ground and surface water quality, and would, therefore, be in accordance with the provisions of the Kildare County Development Plan 2023 – 2029, including policy to in relation to Mineral Resources and Extractive Industry set out in Chapter 9 (Rural Economy). The proposed development would, therefore, be in accordance and with the proper planning and sustainable development of the area.

Appropriate Assessment Screening – Stage 1

Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not give rise to significant effects on the following:

- River Barrow and River Nore Special Area of Conservation (Site Code: 002162)
- Mouds Bog Special Area of Conservation (Site Code: 002331)
- Poulaphouca Reservoir Special Protection Area (Site Code: 004063)

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Pollardstown Fen Special Area of Conservation (Site Code: 000396) is the only European site for which there is a possibility of significant effects and must, therefore, be subject to Appropriate Assessment.

Appropriate Assessment - Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the Pollardstown Fen Special Area of Conservation (Site Code: 000396) in view of this site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the site's conservation objectives, the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects and the mitigation measures which are included as part of the current proposal. The Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the Pollardstown Fen Special Area of Conservation (Site Code: 000396) having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of this European site or any other European site, in view of the sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

This conclusion is based on:

- a full and detail assessment of all aspects of the proposed project including proposed mitigation measures and environmental monitoring in relation to the Conservation Objectives of Pollardstown Fen Special Area of Conservation (Site Code: 000396),
- an assessment of in-combination effects with other plans and projects including historical projects, current proposals and future plans, and
- no reasonable scientific doubt as to the absence of adverse effects on the integrity of Pollardstown Fen Special Area of Conservation (Site Code: 000396).

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Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development.
- (b) the environmental impact assessment report and associated documentation submitted in support of the application and appeal.
- (c) the submissions from the planning authority and the third-party appellant in the course of the application, and
- (d) the planning 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.

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 will be mitigated as follows:

- **Biodiversity** due to the removal of hedgerows and changes to the cliff face which could result in a loss of sand martin breeding habitats. It is considered that there would be no long term significant negative impacts on any habitats or species on the site, or within the vicinity, as sufficient breeding habitats will be retained onsite. Works affecting areas where sand martin nests are present will be done outside of the breeding season (mid-March to September) and the future site restoration plan would re-establish and provide improved opportunities for biodiversity and wildlife enhancement post operational stage.
- **Groundwater and / or surface water** as part of the construction phase through an absence of control of measures during excavation and construction, the mobilisation of sediments and other materials and the requirement to undertake construction activities in the vicinity of groundwater sources. The construction of the proposed project could also potentially impact negatively on ground and surface waters by way of contamination through accidents, spillages and leakages. These impacts would be mitigated by measures outlined in a Construction and Environmental Management Plan and the implementation of measures related to control and management of sediments, accidental spills, contamination, drainage management and maintenance of plant, machinery, and equipment.

- **Cultural Heritage** due to the importance and setting of Dún Ailinne (a site of significant archaeological interest) in the vicinity of the site. A significant part of the existing quarry and the proposed expansion area would be screened behind dense strips of vegetation, screening berms and would also be naturally screened in places because of the local topography. This includes views from the top of Knockaulin Hill and other locations around Dún Ailinne towards the site. The majority of onsite plant, processing machinery and buildings are hidden from view and the proposed extension does not include any additional plant as the recovered material would be transported to the existing infrastructure for processing and refinement purposes. In relation to the presence and preservation of onsite archaeological features, the archaeological assessment accompanying the application has been prepared by a suitably qualified archaeologist. It has also influenced the siting and design of the proposed development in such a way so that it avoids and minimises the potential impact on cultural and archaeological heritage.
- **Landscape** as the proposed development would be partly visible from the surrounding area, including from Dún Ailinne. The appeal site itself, however, is not within a sensitive landscape and it is considered that given the scale, nature and physical distance of the development proposed from Dún Ailinne that it would not result in unacceptable negative visual impacts arising.
- **Residential amenity** during the construction phase in terms of noise, air borne emissions / dust, traffic safety and general disturbance. These impacts would be mitigated by the implementation of measures related to the protection of air quality, control of noise and dust, traffic management and the installation of screening berms and landscape planting by the agreement of measures within a Construction and Environment Management Plan.

- **Quarry related vehicular traffic** on the adjoining road network due to the continuation of the quarry and its proposed expansion would be less. The predicted number of HGV trips over a working day is expected to decrease in accordance with the reduction in the average annual extraction rate of quarried materials from the sand and gravel pit. The mitigation of impacts on the existing road network and the adjoining land uses (including residential uses) would include limiting traffic to the haulage routes identified in the EIAR, the implementation of various dust and suppression measures, and maintenance and installation of road signage, where appropriate.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 period during which the development hereby permitted may be carried out shall be eight years from the date of this Order. The quarry use shall then cease, with all related structures removed and remedial works including reinstatement works to be carried out to the satisfaction of the planning authority, unless prior to the end of that period, planning permission has been granted for the continuance of the use for a further specified period.

The site restoration works described in the application shall be completed within two years of the date of cessation of quarrying activities on the site.

Reason: In the interest of visual amenity and orderly development.

3. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permissions granted under appeal reference numbers ABP-302526-18 (Register Reference Number 17/1344) and PL09.223574 (Register Reference Number 06/651) and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permissions.

4. The total volume of extracted material from the site shall not exceed 200,000 tonnes per annum.

Reason: In the interest of clarity.

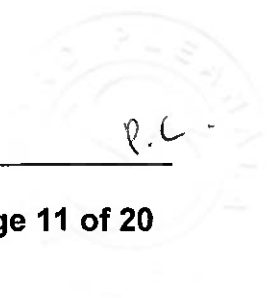
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5. (a) All of the mitigation measures set out in the Environmental Impact Assessment Report and Natura Impact Statement (including updates and supplementary submitted to the planning authority) shall be implemented in full, except as may be required in order to comply with the conditions hereunder.
- (b) Prior to the commencement of development, the applicant shall furnish the planning authority a standalone document containing a comprehensive list of all of the mitigation measures set out in the above reports, together with a timescale for the implementation of each measure over the lifetime of the development.

Reason: In the interest of environmental protection.

6. The site shall be screened in accordance with a scheme of screening measures and boundary treatments which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the timeframe, specific locations, and final form and height of proposed screening berms; details of all planting proposed on existing and proposed screen berms; details of the ongoing care and management of such planting; details of a phased programme of landscaping within the quarry and details of an adequate barrier to prevent unrestricted access to the top of the quarry face from adjacent lands.

Reason: In the interest of visual amenity.



7. (a) During the operation of the site, the groundwater level shall be monitored in order to ensure that the pit floor remains fully above the winter groundwater level. In this regard, the developer shall complete –
- (i) Monthly groundwater level measurements at groundwater monitoring boreholes at the site to ensure excavations remain above the groundwater table,
 - (ii) An annual topographical survey of the site to demonstrate that the sand and gravel extraction has remained above the groundwater table, and
 - (iii) An Environmental Management Plan which shall be updated regularly with annual groundwater monitoring reports shall be submitted to the planning authority to their satisfaction.
- (b) All mitigation measures outlined in Chapter 5 and Chapter 12 of the Environmental Impact Assessment Report (EIAR) (and within the Natura Impact Statement (NIS)) shall be carried out as specified.
- (c) Interpretation of the Geological Heritage of the site with input from Geological Survey Ireland, shall be provided during the life time of the application and before restoration is completed.

- (d) An Ecological Clerk of Works (ECoW) with suitable experience shall be appointed to ensure all mitigation measures outlined in EIAR and Natura Impact Statement shall be carried out. The Ecological Clerk of Works shall submit yearly reports to the planning authority demonstrating compliance with mitigation measures and ecological considerations during restoration of the quarry.

Reason: In the interest of clarity to mitigate the environmental effects of the proposed quarry.

8. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements.

Reason: In the interest of amenity and of traffic and pedestrian safety.

9. The construction of works and operation of the site shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(a) This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

(b) The plan shall comply with the requirements of the planning authority in relation to environmental monitoring on the site for surface water, groundwater, noise, dust deposition levels and existing and proposed monitoring stations.

- (c) The Plan shall include all necessary requirements by the planning authority with regard to the provision of an environmental audit and any such reports necessary to ensure no environmental degradation of the site or surrounding area.

Reason: In the interests of public safety and ecological protection.

10. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to safeguard local amenities.

11. Prior to commencement of development the developer shall submit to and agree in writing, with the planning authority, measures to protect the nesting areas of sand martins within the application site.

Reason: To protect biodiversity within the application site.

12. (a) 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.
- (b) Prior to commencement of quarrying works on the expansion site, the developer shall have installed on lands within their control, a mechanism to facilitate treatment of all discharges to surface water arising from the entire quarry complex. The specific nature, layout and location of such facility shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (c) The soiled water management and lagoon operations shall comply with the relevant statutory regulations.

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

13. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

14. All overground 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 and surface water.

15. The settlement ponds shall be cleaned out at monthly intervals. Details of the proposed use, handling, and destination of the removed silt shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Any excavation required to accommodate the settlement ponds or cut-off drains shall be agreed in writing with the planning authority prior to such works being undertaken.

Reason: In order to ensure the efficient operation of the settlement ponds.

16. (a) 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.
- (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 site, 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 amenity of the area.

17. All loads of dry fine materials shall be either sprayed with water or covered/sheeted prior to exiting the quarry.

Reason: In order to prevent dust emissions, in the interest of amenity and traffic safety.

18. 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, must be washed in a dedicated wheel-washing facility.

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

19. During the operation phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed

- (a) an Leq, 1h value of 55 dB(A) between 0800 and 2000 hours,
- (b) an Leq, 15 min value of 45 dB(A) at any other time. Night time emissions shall have no tonal component.

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

20. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works,
 - (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 and
 - (d) agree in writing the archaeological method statements for mitigation with the Department of Culture, Heritage and the Gaeltacht, prior to commencement of any works on site.

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.

21. A comprehensive plan for the restoration of the entire quarry following the cessation of quarrying works shall be submitted to, and agreed in writing with, the planning authority within six months from the date of this Order. This plan shall include proposals for re-use of the quarry, measures to ensure public safety, the existing and proposed finished ground levels, landscaping proposals and a timescale for implementation. The developer shall commence implementation of the agreed site restoration within one month of cessation of extraction and shall complete the phased completion of the restoration plan within two years of commencement.

Reason: In the interest of public amenity and public safety.

22. 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.

23. The developer shall provide all occupied residential property owners within 500 metres of the quarry complex with appropriate contact details which may be used in the event that any such property owner wishes to inform the developer of any incident, or otherwise to make a complaint in respect of an aspect of quarry operation.

Reason: In the interest of the protection of residential amenity and planning control.

24. 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.



Patricia Calleary

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

Dated this *14* day of *December* 2023