



Planning and Development Acts 2000 to 2021

Planning Authority: Kildare County Council

Planning Register Reference Number: 20/1586

APPEAL by Kilcarrig Quarries Limited care of Peter Bolger of Newtown House, Bachelors Walk, Bagenalstown, County Carlow against the decision made on the 6th day of July, 2021 by Kildare County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: Retention of use of part of the pit floor (0.35 hectares) as open storage of aggregate stockpiles (no processing) following expiry of permission under planning register reference number 05/586 (An Bord Pleanála reference number PL 09.215775) to date. Planning permission is sought for the restoration of former pit through the importation and deposition of inert soil and stones on an area of 2.90 hectares, spreading of existing site won soils on an area of 0.17 hectares, both to result in return to agricultural use of the pit formerly authorised under planning register reference number 05/586 (An Bord Pleanála reference number PL 09.215775). The importation of additional material will use the existing site access point, all works to be within an area of 3.07 hectares, all associated civil works, which includes grading of pit floor and existing banks as part of the restoration works, and the re-commissioning and use of the existing wheelbath. A term of five years is sought for the development, all at Graney East, Castledermot, County Kildare.

Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act 2000, as amended, to **RETAIN** condition numbers 2, to **AMEND** condition numbers 23, 24, 25 and 26 and to **REMOVE** condition numbers 17 and 21 so that they shall be as follows for the reasons out.

23. (a) The developer shall ensure that the works are carried out in accordance with the Traffic Management Plan submitted on the 10th day of June, 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 0800 hours to 1900 hours

From November to March –

- Monday to Friday from 0800 hours to 1600 hours

From 0800 hours to 1400 hours on Saturdays throughout the year, and,

Not at all on Sundays or Bank Holidays.

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

24. 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 with the planning authority and shall be fully commissioned prior to use of the facility.

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

25. 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.

26. The developer shall pay to Kildare County Council the sum of €21,750 (twenty one thousand and seven hundred and fifty euro) being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on the 19th December, 2022 in accordance with section 48 of the Planning and Development Act 2000, as amended. Payments of the contribution are strictly in accordance with section 13 of the Development Contribution Scheme adopted by Kildare County Council on the 19th December, 2022.

Note: Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable to Uisce Éireann.

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

In relation to condition number 2:

The proposal to increase the amount of material specified in condition number 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 would have on the receiving environment.

In relation to condition number 17

It is considered that condition number 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.

In relation to condition number 21:

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.

In relation to condition number 23:

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.



In relation to conditions numbers 24 and 25:

While condition number 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.

In relation to condition number 26:

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 five years and the condition has been amended to reflect this reduction.



Una Crosse

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



Dated this  day of  2023.

