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<b>Development</b>	Restore a quarry and construct a community park.
<b>Location</b>	Tullykane, Kilmessan, County Meath.
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	RA170127
<b>Applicant(s)</b>	Kilsaran Concrete
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party v grant
<b>Appellant(s)</b>	(1) Frankie de Dobbelaere (2) Duncan/Barbra Grehan & others. (3) Skane Valley Community Council (4) Gillian O'Toole
<b>Observer(s)</b>	(1) Kilmessan Hurling Club. (2) Cathal Duffy (3) Matthew Lawlor
<b>Date of Site Inspection</b>	2 <sup>nd</sup> August 2017
<b>Inspector</b>	Hugh Mannion

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## 1.0 Site Location and Description

- 1.1. The site of the proposed development comprises an inactive quarry and has a stated area of 51.44ha. The site is accessed over a local road L2206 which connects Kilmessan village (about 1km northwest) to Dunsany village (about 2kms to the south east) in County Meath. The N3 runs southeast to northwest about 7kms to the north and Trim town is about 10kms to the west. The available history indicates that the site was partially use as a quarry in 1964 and has benefitted from subsequent grants of planning permission. The quarry is not worked out but substantial excavation has taken place with the quarry floor is now located slightly off centre to the west within the site. The boundaries have been planted and the general area is characterised by a rolling drumlin topography. There is standing water on the quarry floor which is subject to some pumping into a lined tank in the northern corner of the site which, in turn, is discharged into a ditch which runs along the eastern and northern boundary. There is some quarry related machinery on the quarry floor. There is a paved access leading south out of the site to the local road L2206, there is a security cabin and wheel wash. The entrance to the public road is gated with splayed walls.
- 1.2. The dominant land use in the area is agriculture but there are a significant number of road side residential properties in the area both towards Kilmessan village and Dunsany crossroads. Immediately to the west of the site is a ribbon of 8 semidetached single storey houses (Swainstown cottages). These are set back from the public road and only the last (most eastern) house shares a boundary with the quarry site. The site boundary continues for about 300m along the public road from the site entrance to the east. Beyond this point are three houses; the last one of which is derelict. There are a further 4 or 5 houses before Dunsany crossroads. There is no road median line on the public road between Kilmessan and Dunsany cross roads. The speed limit is 80kph at the site entrance but changes to 50kph close to Dunsany crossroads and Kilmessan village.

## 2.0 Proposed Development

The proposed development comprises the restoration of a quarry permitted under reference numbers 99/1230 and TA/802731 to original ground levels and use as agricultural land importing 5,600,000 tonnes of inert natural materials, soil and stones, construct a community park with playing pitch with new entrance, fencing, landscaping and parking on existing ground, reinstating existing over burden contained on site and all other associated works for a period of 14 years at Tyullykane, Kilmessan, County Meath.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant planning permission subject to 23 conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planner's report recommended a grant of permission as set out in the manager's order.

#### 3.2.2. Other Technical Reports

The **Road Design Office** (report dated 31<sup>st</sup> March 2017) reported that there is an extant permission under TA802731 (PL17.233813) for the extraction of 750,000 tonnes of material over 20 years giving rise to 150 HGV movements on the local road network whereas the present application to fill the quarry void would give rise to 72 HBV journeys daily.

The proposed movements will give rise to a detrimental effect on local road L2206 and a special levy to offset against the costs of repair should be imposed on the developer.

### 3.3. Prescribed Bodies

3.4. An EPA letter addressed to the Planning Authority dated 23rd February 2017 stated that the applicant had been in contact with the agency in relation to responsibilities

under the Waste Management Acts but that as of that date no application had been received.

### 3.5. Third Party Observations

3.6. There were observations lodged at application stage which, generally, are reflected in the issues raised in the appeals and assessed in this report.

## 4.0 Planning History

4.1. Permission was **granted** under **PL17.233813** for the continuation of a quarry development previously granted (and associated plant and buildings) including extraction of a further two benches within the previous approved footprint for a new term of 22 years on a 46 ha site. Permission for a ready mix concrete batching facility on the existing quarry floor was refused. The refusal reason referred, *inter alia*, to the location of the site in a sensitive landscape as being an inappropriate location for industrial development. The risk of pollution to ground and surface water was also referenced.

4.2. Permission was **refused** under **PL17.223781** for a readymix concrete and concrete block batching plants comprising of two batching houses, 10 aggregate storage bins, three cement silos, conveyors, two water storage tanks and other ancillary plant and machinery (maximum height of structures 13 metres), a storage building (maximum height 7.2 metres) for the storage of block making machinery and banding (gross floor area 368 square metres), an ESB switch house (gross floor area 35 square metres), three number ground storage aggregate bays (area 388 square metres), a concrete recycler and washwater recycling lagoons, block yard (area 23,800 square metres), prefabricated office building (area 46.8 square metres) and truck parking area, The proposed development will be located on the existing quarry floor within a 3.5 hectare area of the Tullykane quarry development site (planning register reference number 99/1230). Permission was granted for retention of ESB substation (gross floor area 72 square metres). The refusal reasons referred to the inappropriate location of industrial development in a sensitive landscape and potential pollution of ground and surface water systems.

- 4.3. Permission was **granted under** PL17.119097 (reg. ref. 99/1230) for retention of intensification of a quarry development and associated processing on 46.5 hectares including improvements to the existing quarry entrance with provision for new office, wheelwash and relocation of weighbridge at Tullykane, Kilmessan, County Meath

## 5.0 **Policy Context**

### 5.1. **Development Plan**

- 5.1.1. The Meath County Development Plan 2013-2019 is the relevant County Development Plan for the area.

Policy WM POL1 is to:

“To adopt the provisions of the waste management hierarchy and implement policy in relation to the county’s requirements under the current or any subsequent waste management plan. All prospective developments in the county will be expected to take account of the provisions of the regional waste management plan and adhere to the requirements of the Plan. Account shall also be taken of the proximity principle and the inter regional movement of waste as provided for under appropriate Minister Directives from time to time”.

- 5.1.2. “A Resource Opportunity – Waste Management Policy in Ireland” (DOECLG, July 2012) recognises the necessity to include landfill in certain circumstances. This mandates local authorities to develop waste management plans in compliance with the Waste Framework Directive.

- 5.1.3. The Eastern-Midlands Region Waste Management Plan 2015-2021 is the relevant Waste Management Plan for Meath County Council and states that backfilling of inert waste meets the recovery definition of the Waste Framework Directive and may be subject to permissions by local authorities and EPA licences – specifically where it occurs in worked out quarries.

## 5.2. Natural Heritage Designations

See AA Screening below.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The planning authority's decision is flawed as the proposed development is incorrectly described in the application. The identity of the applicant is unclear from the application documents.
- The planning authority's decision has not imposed appropriate conditions. The conditions imposed are inadequate for being unenforceable/unclear.
- The previous permission required the creation of a lake on site following completion of quarrying activity. Condition 4 of the PL17.119097 required details of a restoration plan to be agreed with the planning authority.
- The application has not appropriately identified all the houses in the area which would be impacted by the proposed development.
- It is unclear for whom the community park is intended or how it will be managed. The 'playing pitch' is vague in its purpose. The local community should be compensated for disturbance.
- There is a history of unauthorised development/non-compliance with permissions on this site. Condition 16 and 17 of the decision under PL17.233813 have not been fulfilled.
- The traffic generated by the proposed development over a 14-year period will negatively impact on the value and amenity of property in the vicinity through noise pollution, dust pollution, dirt and health and safety issues. Local road L2206 in particular is inadequate to accommodate additional traffic.
- The period of 14 years underestimates the time it would take to finish this project; 24-30 year is more realistic.

- The proposed development will negatively impact on flora and fauna.
- The proposed development may impact on water quality.
- The planning authority should ensure that it holds security against risks arising from the proposed development.
- The application does not explain the treatment of waste proposed to take place on site. The proposal does not reflect the waste treatment hierarchy established by the EU.

## 6.2. Applicant Response

- There is a further potential for quarrying in this site for a further 14 years under current permissions. There is a shortage of recovery facilities in the Greater Dublin Area. Kilsaran Concert has taken a commercial decision to begin the quarry restoration process and meet a demand for fill capacity for inert waste.
- The quarry was in use in October 1963 but the use intensified in the 1980s, an application for intensification of the quarrying use was granted permission under reference 99/1230 (PL17.119097).
- The applicant's identity is clear – Kilsaran Concrete.
- Under reference TA802731 (PL17.233813) permission was granted for the extraction of 750,000 tonnes of aggregate up to the year 2033. The Board in that case concluded that the road network was adequate to accommodate the traffic volumes associated with this activity. The present application is to import 400,000 tonnes per year which is a reduction of 47% of the permitted loading. The EIS addressed this point.
- The planning authority required a special contribution towards the repair/maintenance of local roads serving the development to reflect increased wear/tear. The applicant supports this approach.
- There is no requirement arising from previous decisions to create a lake in the worked out quarry. Condition 4 of PL17.119097 required the submission and agreement of a restoration plan.



- The issue of ‘community gain’ does not arise in this application as it is not strategic infrastructure. The applicant consulted widely with the local community in relation to the eventual management of the proposed park.
- The EIS is explicit that the facility will operate under an EPA waste licence. No processing or material is proposed.
- The quarry is not disused – it is in a care and maintain state including pumping water out of the quarry void.

### 6.3. **Planning Authority Response**

6.4. The planning authority stated that the applicant was granted permission as it complies with the policies and objectives set out in the Meath County Development Plan 2013-2019.

### 6.5. **Observations**

6.6. Observations have been received by the Board from Killmessen hurling club, Matthew Tristan Lawlor, Cathal Duffy.

- The proposed development may give rise to surface water pollution in the Alicebrook River, Skane River and the Boyne River. The proposed development may pollute ground water and impact on private and public wells.
- The local road network is inadequate and the proposed development will give rise to traffic hazard. In particular, the associated traffic will impact on participants in the Killmessen hurling club.
- No consideration has been given to a community gain fund.
- The previous permissions on site required the creation of a lake subsequent to the end of quarrying operations.
- The application does not address impacts on a house at Dunsany Crossroads which is a protected structure and listed in the NIAH. The traffic arising from the proposed development will negatively impact on the structural integrity of

the house and the amenity of that house which is home to a composer of classical music.

## 6.7. Further Submissions

- 6.8. The Board (24<sup>th</sup> July 2017) informed of the application the subject of this appeal and asked the EPA if there were any licence applications before the EPA in relation to the site.
- 6.9. EPA (12<sup>th</sup> September 2017) made a submission to the Board stating that an application for a waste licence had been received in relation to this development.
- 6.10. The EPA (21<sup>st</sup> November 2017) sought the Board's observations on the licence application and EIS.
- 6.11. The Board (letter dated 29<sup>th</sup> November 2017) set out the planning history of the site and confirmed that the EIS received in relation to the planning application and available on the EPA website was the same as submitted in relation to the Waste Licence application.

## 7.0 Planning Assessment

7.1. This planning assessment will address the following matters:

- (1) Background to the current application.
- (2) The Key Planning Issues;
  - Surface/groundwater
  - Impact on Flora and Fauna
  - Waste Management
  - Residential amenity/Protected Structures
  - Compliance with previous permissions.
  - Management of Community Park
  - Validity of Planning Decision

7.2. **Background.**

7.3. This application arises from the need to restore a worked-out quarry.

7.4. There was a pre-1964 quarry on lands which included the present site in the late 1990s when a dispute arose between the then landowner and Meath County Council as to if a further extension to the quarry constituted development. The Board decided in referral reference PL17. RF.0831 that the further extension of the quarry was development.

7.5. On foot of that decision an application for the retention of quarrying on 46.5ha was made and subsequently came on appeal under PL17.119097. The Board determined that appeal in October 2001 and granted a permission with a 10-year lifetime (condition 2) and included as condition 4 that;

Within two months of the date of this order, a comprehensive plan for the restoration and detail landscaping of the site shall be submitted to the planning authority for agreement. Thereafter the restoration and landscaping of the site shall commence in accordance with the agreed plan and shall be completed within two years of the ceasing of quarrying and extraction operations on the site.

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

7.6. Under PL17.223791 in March 2008 the Board refused permission for readymix concrete and concrete block batching plants comprising of two batching houses and associated works for reasons related to (1) the inappropriate location of industrial development in a sensitive landscape and (2) potential pollution of ground and surface water systems.

7.7. Under PL17.233813 the Board granted permission for continuation of the quarrying activity permitted under PL17.119097 with additional elements for 22 years from December 2011. The Board refused permission for readymix concrete batching plant and associated works for reasons related to (1) the inappropriate location of

industrial development in a sensitive landscape and (2) potential pollution of ground and surface water systems.

7.8. That grant of permission included two conditions; number 16 and 17.

16. A comprehensive plan for the restoration of the site, following the cessation of quarrying works, generally in accordance with the proposals set out in the EIS received by the planning authority on the 16th day of September 2008, shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this order. This plan shall include a program for its implementation.

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

17. 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 the Board for determination.

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

7.9. Matters raised in relation to compliance with these conditions are dealt with below.

7.10. There is a current waste licence application with the EPA in relation to the infill of this worked out quarry (reference W0296-01).

### 7.11. **Ground and Surface Water**

- 7.12. The proposed development will comprise the importation of soil and rock with a small amount of concrete for access roads. There are no contaminants expected in the fill material. Applying the source-pathway-receptor model, the source of any contaminants would be the fill material, the pathway is ground or surface water flows and the receptors are the groundwater/wells or streams/rivers. The floor of the quarry is between 72.5m OD and 73.7m OD, and is below the water table; this currently necessitates pumping water from sumps on the quarry floor to the ephemeral stream on the site boundary. 'Effective rainfall' – that is total rainfall less evaporation – contributes to the water collecting within the quarry site. This combination of ground and surface water is pumped to the ephemeral stream which flows west along the northern boundary of the site. Tests have shown that the direction of flow in the aquifer is south/southwest. The ground water vulnerability of the site is rated as extreme reflecting that there is no soil/overburden cover over the bedrock. There is a public water supply well for Kilmessan about 750m to the west and other domestic and agriculture linked private wells have been mapped.
- 7.13. The pumping of water from the ponds on the quarry floor will continue during operational phase of the proposed development. After backfilling the quarry has ceased the dewatering/back filling will cease and the new land surface will be about 10m above the ground water level of about 80m to 85m OD. The ground water vulnerability will improve due to this depth of cover. No organic material or liquids will be included in the fill material so no contaminants will enter the ground water. The possibility of fine silt entering the ground water will be mitigated through sealing any investigation holes and the two remaining pumping wells. Therefore, there will be no significant impacts on ground water quality.
- 7.14. There will be no significant effect on the public or private wells in the area since dewatering in the site will end with completing of the proposed back filling.
- 7.15. There are no surface water features within the site. The stream on the northern boundary is ephemeral – it disappears in dry conditions. When there is sufficient rainfall or when sufficient water is pumped out of the existing quarry there is flow in this stream and it joins the Skane River and eventually the River Boyne. The quarry water is pumped under a discharge licence and there is regular monitoring by the

EPA up and down stream of the discharge point. This monitoring has demonstrated that the discharge from the quarry improves the water quality downstream.

7.16. To mitigate any impact on surface water quality arising by way of silt or other contaminants surface water and ground water will be separated during the operational phase. The two existing sumps will be upgraded to ensure that only ground water will be pumped out. The quarry floor will be divided into cells where rain water will be collected and drained to settlement ponds prior to discharge to the stream. Surface water contamination will be further mitigated by ensuring that refuelling will be in designated bunded areas, plant and machinery will be properly serviced, no maintenance will take place on site. Staff will be trained and accidental spills contained.

7.17. The EIS is accurate in its description of the hydrology of the site as operated at present. The rainfall arising within the site and an element of ground water are collected via a drain which snakes around the worked area of quarry floor, generally along its northern edge, and this collected water is pumped to a sealed retention tank in the north-western corner of the application site. The sealed retention tank was dry when inspected (August 2017) as was the ephemeral stream on the northern boundary. This confirms the observations set out in the EIS. The potential impacts identified in the EIS – contamination of ground and surface from fine silts and hydrocarbons are credible. The mitigation measures in relation to preventing ingress of fine silts into the ground water through preferential pathways (test holes and sumps) which comprise sealing off these preferential pathways are reasonable and achievable. The point is well made that the restoration of overburden on top of the currently exposed bedrock will permanently reduce the vulnerability of the groundwater resource. The major potential sources of surface water contamination are reasonably identified as escaped hydrocarbons and fine silts. The mitigation measures outlined such as fuel and plant and machinery management on site and provision of settlement ponds for rain water are acceptable and can be reasonably expected to prevent surface water pollution. I conclude that there is no foreseeable danger of water pollution arising from the proposed development.

### 7.18. **Impact on Flora and Fauna**

7.19. The appeal makes the point that the proposed development will negatively impact on the flora and fauna within the site. The application in the EIS reasonably identifies the more important flora on site. There are no protected flora within the site while there are two rare species (Blue Fleabane and Bristly Oxtongue) whose conservation status is described as being of 'Least Concern' in the Irish Red Data Book. The conservation of these species will be achieved by being transplanting within the site.

7.20. The fauna on site (foxes and rabbits) may be disturbed to an acceptable extent. The EIS reported that whereas no bats were identified on site the EIS admits the possibility that there may be roosting bats in the quarry face. I recommend a condition addressing this issue.

### 7.21. **Waste Management**

7.22. The appeal makes the case that the application is deficient in terms of the treatment of waste on site and that the application does not reflect the waste hierarchy established by EU policy.

7.23. The details lodged with the planning application are sufficiently clear that what is proposed is the deposition of inert waste with no foreseeable leachate arising. The deposition of other materials with other emissions is not part of this application.

7.24. The Waste Management Acts established a waste hierarchy in the order of (a) prevention, (b) preparation for re-use (c) recycling, (d) other recovery and (e) disposal. The current national policy which articulates this hierarchy is the document "A Resource Opportunity – Waste Management Policy in Ireland" (DOECLG, July 2012) which admits the necessity to include landfill in certain circumstances. The Eastern-Midlands Region Waste Management Plan 2015-2021 is the relevant Waste Management Plan for Meath County Council and states that backfilling of inert waste meets the recovery definition of the Waste Framework Directive and may be subject to permissions by local authorities and EPA licences – specifically where it occurs in worked out quarries.

- 7.25. The County Development Plan (objective WMPOL1) commits the planning authority to have regard to the waste management hierarchy and have regard to the waste management plan. I conclude therefore having regard to national, regional and local policy that the proposed development accords with the current applicable waste management policy.
- 7.26. An application for a waste licence has been lodged with the EPA but not determined at the time of writing (March 2018). Section 257 of the Planning and Development Act 2000, as amended, amends the Waste Management Act, 1996, to provide that where a waste licence under the Waste Management Act has been granted or will be required that the Board shall not, where it decides to grant permission, impose conditions relating to emissions from the operation of the activity including prevention, limitation, elimination, abatement or reduction of these emissions. Contrariwise the Board may refuse permission where the proposed development would be contrary to the proper planning and sustainable development of the area having regard to environmental impacts.
- 7.27. **Residential Amenity/Protected Structures**
- 7.28. The appeal makes the point that the proposed development will give rise to negative impacts on the residential amenity of property in the area. An observer makes the point that the proposed development will negatively impact on the amenity of a protected structure at Dunsany crossroads.
- 7.29. The site benefits from a current grant of permission for quarrying which can reasonably be anticipated to give rise to a level of noise, dust and traffic. The EIS has addressed these issues and other factors which may impact on amenity such as visual intrusion. The EIS has reasonably mapped the sensitive uses within 1KM and further afield and set out reasonable and implementable mitigation measures such as noise suppression on working machinery, noise reducing berms along the site boundaries, dust suppression through keeping working areas and internal roads damp in dry or windy weather. Provision is also made for sweeping the public road in the area of the site entrance. I conclude on the basis of the material submitted with the application and appeal that the proposed development will not seriously injure the amenity of residential property in the area.



7.30. The EIS listed 5 protected structures within 1k of the site and concluded that there would be no significant impact on these structures. The protected structure at Dunsany crossroads is approximately 1.75kms from the site and is not separately considered in the EIS. Nonetheless and having particular regard to the predicted fewer number of vehicular movements attributable to the back filling use proposed in the present application over and above the vehicular movements predicted in PL17.233813 and the other measures provided for in the application such as noise and dust suppression measures I conclude that the proposed development will not seriously injure the amenity of houses at Dunsany crossroads or elsewhere in the vicinity.

**7.31. Compliance with previous permissions**

7.32. The appeal makes the point that the current development has not complied with conditions of previous permissions. In particular reference is made to condition 4 of PL17.119097 (reg. ref. 99/1230) which required the submission of a restoration plan for the quarry within two months of the date of that permission (16th October 2001) providing that the restoration works would be completed within two years of the completion of quarrying activity. The applicant makes the case that such a plan was submitted and encloses a copy of a covering letter to the planning authority which stated that a plan was enclosed. The appeal makes the point that condition 4 of PL17.233813 (reg. ref TA 802731) has not been complied with but that condition provides for the cessation of the quarry on 21 December 2031. Condition 16 of PL233813 provides for submission of a restoration plan for the site in accordance with the EIS which accompanied that application. Condition 17 required the lodgement of a bond to ensure the satisfactory re-instatement of the site.

7.33. I do not find in these conditions or elsewhere a requirement to facilitate the development of a lake in the worked-out quarry. The issue of compliance with the conditions attached to planning permissions is a matter for the planning authority. In the present case the Board is constrained to consider the current application on its merits.

#### 7.34. **Community Park**

7.35. The appeal makes the point that the final ownership/management of the community park remains unclear.

7.36. The ownership of the community park is not central to the planning merits in this case and may be regulated by condition. I recommend a condition requiring the details of the final management arrangements for the public park to be agreed between the planning authority and the developer.

#### 7.37. **Validity of Planning Decision**

7.38. The appeal makes the case that the applicant has not been clearly identified and that the planning authority's decision is therefore flawed. Having reviewed the application form, public notice and EIS I am satisfied that the application meets the standard set out in Part 4 of the Planning and Development Regulations, 2001, as amended. The applicant is identified as Kilsaran Concrete.

7.39. The appeal makes the point that the conditions imposed by the planning authority are unclear or unenforceable. It may be noted that the Board's order will set aside the conditions imposed by the planning authority.

### 8.0 **Environmental Impact Assessment**

8.1. This application was submitted prior to 16 May 2017, the date for transposition of Directive 2014/52/EU amending the 2011 EIA Directive. Under the transitional provisions of the 2014 Directive, the 2011 Directive (Directive 2011/92/EU) as transposed into Irish legislation will apply to the application.

8.2. I am satisfied that the information contained in the EIS complies with article 94 of the Planning and Development Regulations 2000. I consider that the EIS has correctly identified the likely significant environmental impacts. Of those identified I consider that protection of surface and ground water and the traffic impacts to be the most significant.

### 8.3. **Alternatives**

8.4. Section 2.1 of the EIS considered the alternative to reinstatement of the quarry and considered that this do-nothing option would give rise to a loss of economic benefit to the applicant, deprive the area of jobs, deprive developers of a place to deposit inert waste, loss of opportunity to restore quarry to agricultural use, loss of potential to protect ground water, and contravene an existing planning permission. I conclude that a reasonable case is made that the proposed use is the preferable future use for the application site.

### 8.5. **Human Beings**

8.6. Section 3.1 of the EIS identifies the expected significant impacts on human beings under the headings of; land use, population and settlement, economy and employment, social infrastructure, amenity/tourism and recreation and construction. The long term land use proposed will see the re-integration of the quarry lands into the agricultural landscape. The public park will support sports/athletics/amenity and tourism in the area. The proposal will aid the long term sustainability of the local population. About 20 driver jobs and 2 or 3 fulltime operational phase jobs will be created.

8.7. Having regard to the permitted use of the site as a quarry, its location within a rural area relatively distant from centres of population, that the predominant land use in the area is agriculture and the eventual use of eth lands as agriculture and open space/recreation I conclude that the proposed development will not give rise to unreasonable negative significant impacts.

### 8.8. **Flora/Fauna**

8.9. Section 3.2 addresses the likely significant impacts on flora and fauna. Section 3.2.3.5 describes the habitats identifiable within the 51.44ha site according to the Heritage Council's habitat classification system. The habitats identified are dry

meadows and grassy verges, wet grasslands, hedgerows, treelines, scrub, ornamental/non-native shrub, exposed calcareous rock, exposed sand, gravel and till, recolonising bare ground, refuse and other wastes, buildings and artificial surfaces, artificial lands and ponds, depositing lowland rivers, drainage ditches and calcareous springs. None of these features contain protected flora; two rare flora species (Blue Fleabane and Bristly Oxtongue) were identified but the conservation status of these two species are listed as being of 'least concern' in the Irish Red Data Book. Three invasive species, two classified as medium risk and one as low risk, are recorded on the site. There are foxes and rabbits on site, no badgers were observed. No bats were observed on site. Six bird species were observed on site.

8.10. The impacts of infilling the quarry on plant species will be significant but rare species will be relocated to a more suitable site. The three invasive species identified on site will be eradicated while care will be taken not to introduce new invasive species (rhododendron or Japanese knotweed). A further precautionary study of the potential for roosting bats in quarry face crevices should be undertaken before development and a derogation licence may be necessary. Impacts on birds should be mitigated through limiting vegetation removal to outside the nesting period (1st March to 31st August and infilling close to a sand martin colony should be undertaken outside their breeding period (April to September).

8.11. I consider that the EIS is accurate in its description of the flora and fauna species on site and its analysis of the relative importance of these species and the impacts that will result from the proposed development. I note the mitigation measures included in the EIS - in particular the transplanting within the site of significant plant species. I conclude that there are no species of flora or fauna whose conservation requires refusal of planning permission in this case and furthermore that the impacts are proportional and acceptable.

8.12. **Soils and Geology.**

8.13. Section 3.3 deals with soils and geology. The proposal will impact solely on areas previously impacted on by quarrying and quarrying related activity. No virgin soil, sands or gravels will be disturbed. Only inert non-leaching material will be imported

and soil will not be moved if excessively dry or in windy weather. No indirect impacts have been identified.

8.14. Having regard to the nature of the existing land use and the proposed landuse I consider that no further significant disturbance to soils and geology within the site will occur and I conclude that the impacts on soils and geology and geology will not be significant.

#### 8.15. **Water**

8.16. Section 3.4 deals with water. The stream along the eastern and northern site boundary is ephemeral, joins the Skane river to the west of the site and thereafter joins the Boyne. Rainwater and some ground water from the quarry floor will enter this stream and rainfall from outside the site on the site margins will flow to the stream. Mitigation measures will be put in place to ensure that contaminated surface water is allowed to settle out and does not mix with ground water before being pumped from the site into the ephemeral stream. Fuel and oils will be managed to prevent spillages and therefore contamination of either ground or surface water. Over time the reinstatement of levels within the site will provide protection for ground water quality. The infill with inert waste will not impact in water quality in local wells.

8.17. I consider that the existing land use, in so far as it has removed much of the overburden within the site, is more likely to expose ground water to contaminants whereas the reintroduction of inert material which provides a barrier between the surface and groundwater would have the effect of mitigating any infiltration of contaminants from the surface. I consider that the mitigation measures set out in the EIS in particular in relation to control of hydrocarbons in the ground or surface water and the prevention of silt entering the surface water system are reasonable and I conclude that the proposed development will not give rise to ground or surface water pollution.

#### 8.18. **Air and Climate**

8.19. Section 3.5 concludes that there will be no impact on climate. Section 3.6 deals with air quality. Direct impacts will arise when dust blowing when machinery is moving soils and other materials, from dry materials when windy, vehicular moments,

tipping, levelling and loading materials. Mitigation will be managed through watering of internal roads and tipping areas, imposing speed limits within the site, wheel washing, sweeping the public roads and on-going dust monitoring to ensure threshold limits are not exceeded.

8.20. Having regard to mitigation measures set out in the EIS, in particular in relation to dust suppression, I conclude that that proposed development will not give rise to unreasonably negative impacts on air quality in the area.

#### 8.21. **Noise**

8.22. Section 3.7 addresses noise and identifies movement of trucks within the site, bulldozer placing and grading of materials and processing plant as the main noise sources within the proposed development. Noise monitoring of the operational quarrying phase on the site was undertaken in 2012 and results are set out in table 3.7.1 and monitoring locations are mapped on figure 3.7.2. These results were within the noise limit levels permitted by previous planning permissions. These can be taken as the worst case scenario for the proposed development which is considerably less likely to give rise to noise emissions. Nonetheless mitigation of noise impacts will be achieved by way of the provision of perimeter screen banks on site, the location of activity generally on or close to quarry floor and distant from noise sensitive locations. Traffic will use designated haul routes as far as possible from noise sensitive locations. Proper maintenance of machinery will reduce noise at source.

8.23. Having regard to the permitted quarrying use on the site which may be reasonably expected to give rise to some noise impacts, to the noise mitigation measures set out in the application and the separation distance between the site and the nearest noise sensitive location I conclude that the proposed development will not unreasonably negatively impact on adjoining land uses.

#### 8.24. **Landscape and Visual Assessment**

8.25. Section 3.8 addresses landscape and visual assessment. The landscape is characterised as large lowland landscape composed of rolling drumlins interspersed with large estates and associated parkland, with a lower population in scattered dwellings and concentrations of houses in villages. Views of the quarry from the local road network are limited to those of the southern landscaped and planted screen

mounds on the southern end of the site from the L2206. The main effects will be change to landform within the site and removal of temporary stockpiles of overburden. The result will be agricultural land and a public park. There are no mitigation measures proposed as the visual impact outside the site will be minimal.

8.26. The landform in the immediate area of the site does not lend itself to very extensive views, the existing use of the site as a quarry has given rise to impacts on the landscape and there is significant screening along the boundary with the public road. Having regard to these factors and the material set out in the EIS I conclude that the proposed development will not unreasonably negatively impact on the landscape and visual amenity of the area.

#### 8.27. **Cultural Heritage**

8.28. Section 3.10 addresses cultural heritage. There are 5 protected structures with 1k of the site and 15 structures within the wider area. The protected structures are Swainstown Kilmessan Country House, railway bridge at Kilmessan Railway Station, Kilmessan Church of Ireland Church, Kilmessan Rectory and Conabery House/Kilmessan house. There will be no impacts on any of these protected structures. There will be no impacts on structures in the wider area. There is an area within the application site (area 1 on plate 11-3) where, notwithstanding that there are no indications of cultural heritage significance, topsoil stripping should be subject to archaeological monitoring. Overall there are no other predictable cultural heritage impacts.

8.29. Having regard to the material set out in the EIS and in particular the distance between the application site and any protected structures I conclude that the proposed development will not negatively impact on the cultural heritage of the area.

#### 8.30. **Cultural Assets.**

8.31. Section 3.10 refers to cultural assets. The identified cultural assets are identified as local villages including Swainstown cottages (immediately to the west of the quarry entrance), the landscape in the area, local road network including the L2206, the R147 and the M3 motorway, the public water supply and electricity supply in the area, cultural assets and natural heritage. No long term negative impacts are identified.

- 8.32. Having regard to the nature of the existing land use on site and the separation distance between the site and significant cultural assets in the area I conclude that the proposed development will not negatively impact on the cultural assets of the area.
- 8.33. **Traffic**
- 8.34. Section 3.11 refers to traffic impacts. The application site is served by the L2206 which links to the L2207 at Dunsany Crossroads and L2206 at Kilmessan. The permission granted under PL17.233813 allowed for extraction of 750,000 tonnes of aggregate over a period of 20 years with a further 2 years factored in for reinstatement. The Board determined that the continued operation of this quarry and extraction of rock below the water table, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience of road users, would not be detrimental to the cultural heritage of the general area, and would not materially contravene the policies of the development plan for the area. Table 3.11.1 sets out the traffic flows on the road network which will serve the site including the L2206 to Dunsany and to Kilmessan. The permitted use will give rise to 150 HGV trips per day on the local road network over a period of 20 years while the proposal will give rise to 72 trips or a reduction of 52% over a 14-year period. Traffic impacts will be mitigated by the provision of additional signage in the vicinity of the quarry entrance.
- 8.35. I accept the conclusions in the EIS that the proposed development will ultimately give rise to lower traffic volumes on the local road network. Having regard to this factor and the ability of the public road network in the area to accommodate the proposed traffic volumes I conclude that the traffic impacts are acceptable.
- 8.36. **Conclusion.**
- 8.37. The EIS identifies a number of mitigation measures to protect ground water quality such as avoidance of hydrocarbon spills and separation of soiled surface water from clean ground water. In relation to the protection of surface water in the Skane and Boyne River systems the measures unidentified in the EIS are reasonable, clearly stated and implementable. The EIS makes the point that the permitted traffic loading on the local road network is reduced in consequence of this application for



permission over and above the permitted quarrying use. This is a reasonable point. The EIS sets out a number of mitigation measures such as road cleaning and dust suppression which will mitigate impacts on nearby sensitive uses, in particular dwelling houses. Noise barriers are proposed which will reduce the impact of traffic movements on residential properties during operational phase.

- 8.38. The appeal makes the point that the EIS is inadequate in identifying the houses in the area likely to be subject to significant environmental impacts. It may be noted that on several occasions within the EIS sensitive receptors at various distances are identified in a manner which allows for a reasonable assessment of predicted impacts. Having regard to the foregoing I conclude that the proposed development would not give rise to unreasonable significant environmental impacts.

## **9.0 Appropriate Assessment - Screening**

- 9.1. The application provided a AA screening assessment which identified two European sites within 15Kms of the application site. These are the River Boyne and River Blackwater SAC (002299) and the River Boyne and River Blackwater SPA (004232). The conservation objectives for the SAC are “to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected”. The annex I habitats are Alkaline fens, Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*. The annex II species are sea lamprey, salmon and otter. The conservation objectives for the SPA are “to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA”. The conservation interest is the kingfisher.
- 9.2. The AA screening states that there are no ground water linkages between the application site and the area of the SAC. There may be surface linkages between the application site and SAC but no significant effects are predicted. Furthermore, there is no risk of significant impact on the kingfisher population in the SPA.

### 9.3. **Assessment**

- 9.4. I agree with the AA screening report submitted with the application that the pathway for contaminants from the site to a Natura 2000 site is through surface water. Having regard to material in the application, and in particular the sections of the EIS in relation to ground and surface water, the best practice construction methods which will be implemented to prevent the release of hydrocarbons within the site or the release of water borne silt or hydrocarbons off-site I conclude that there is no potential for significant effects on any Natura 2000 site arising from the proposed development.
- 9.5. It is reasonable to conclude on the basis of the AA screening assessment, the other information submitted with the application and appeal, the information published by the NPWS and my site inspection, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the River Boyne and River Blackwater SAC (002299) and the River Boyne and River Blackwater SPA (004232) or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

### 10.0 **Recommendation**

Having regard to the foregoing I recommend a grant of permission subject to the conditions set out below.

### 11.0 **Reasons and Considerations**

Having regard to the provisions of the Eastern-Midlands Region Waste Management Plan 2015-2021, to the provisions of the Meath County Development Plan 2013 – 2019, to the planning history of the site and the its permitted use as a quarry and subject to compliance with the conditions set out below it is considered that the proposed development would not give rise to water pollution, traffic hazard or injury to the visual amenity of the area or the residential amenity of property in the vicinity. Therefore, the proposed development would accord with the proper planning and sustainable development of the areas.

## 12.0 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 14 years from the date of this order.

**Reason:** Having regard to the nature of the development the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3. 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, 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.

4. The developer shall submit annually for the lifetime of this grant of permission a record of the quantity of material imported into the site and details, including drawings, which facilitates the planning authority to monitor the progress of the phases of restoration.

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

5. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of wildlife protection.

6. The management and maintenance of the proposed community facility following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals for this shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

7. 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.

8. Operations shall occur between 0700 hours and 1800 hours, Monday to Friday and between 0700 hours and 1400 hours on Saturdays only. 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.

9. A maximum of 5,600,000 tonnes of material shall be imported into the site within the lifetime of this grant of permission. A maximum of 400,000 shall be imported in any one year.

**Reason:** To limit traffic impacts in the interest of road safety and residential amenity.

10. Only clean, uncontaminated soil and stones shall be imported into the site.

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

11. A wheel-wash facility shall be provided adjacent to the site exit, the location and details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. The site shall be screened in accordance with a scheme of screening measures and boundary treatment in respect of the site, 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 site and details of an adequate barrier to prevent unrestricted access to the site from adjacent lands.

**Reason:** In the interest of visual amenity and to safeguard the amenities of residential property in the vicinity during the operating phase of the development.

13. 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 the maintenance and repair of local road L2206 for the duration of the works the subject of this grant of planning permission. 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 the Board for determination. The contribution shall be paid prior to the commencement of the 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.

14. 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. 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. 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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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Hugh Mannion  
Senior Planning Inspector

15<sup>th</sup> March 2018