



An
Bord
Pleanála

Inspector's Report

ABP-321587-25

Development	Retention and permission for continued usage of land for ancillary quarry activities.
Location	Ballaverty and Mullaghatten, Riverstown, Co. Louth, A91 PW62
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	2460636
Applicant(s)	Ready Mixed Concrete (IRE) Limited
Type of Application	Retention Permission
Planning Authority Decision	Grant
Type of Appeal	First Party v Section 48—Contributions
Appellant(s)	Ready Mixed Concrete (IRE) Limited
Observer(s)	None
Date of Site Inspection	N/A
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1. The site relates to an existing sand and gravel pit and concrete manufacturing facility operated by Ready Mixed Concrete (Ireland) Ltd at Ballaverty and Mullaghatten, Riverstown, Co. Louth, A91 PW62. The main sand and gravel extraction area covers approximately 3.5 hectares and is situated to the east of the application area. Access to the site is provided via a secure gated entrance off the L3057, approximately 150 meters west of the junction of the R173 with the R175 (Bush). The site includes an office, weighbridge, manufacturing activities, water management system, stone processing area, and stockpiles of material. The three parcels of land in question (Parcel A, Parcel B, and Parcel C) are centrally located within the wider operational site.

2.0 Proposed Development

- 2.1. Retention permission and planning permission is sought for the following:
- a) Retention Permission for the continued use of three parcels of land within the existing sand and gravel pit for ancillary quarry activities:
 - Parcel A: A 0.15-hectare area used for internal access and stockpiling of excavated material.
 - Parcel B: A 0.49-hectare area used for stockpiling of excavated material.
 - Parcel C: A 0.36-hectare area used for internal access to processing areas and includes a settlement lagoon that forms part of the site's water management system.
 - The three parcels with a cumulative stated area of 1.0 hectares.
 - b) Planning Permission for the continued use of these areas to support ongoing sand and gravel pit operations, including material storage, internal access, and water management.
 - c) No extraction is proposed within these areas. The permission is proposed to align with the existing planning permission for the site, extending to 22nd November 2029.

- 2.2. I note the planners report which states that the above areas were meant to be restored under condition 3 of Pl. Ref. 81/878 but due to the continued operational needs of the site, these areas have been retained as they are considered necessary to support ongoing site activities, particularly the internal access and stockpiling functions that are crucial for the efficient and safe operation of the expanded pit. It is noted that the existing quarry is operating under authorised development 09/96 which is due to expire in 2029.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission on the 5th of December 2025 subject to 5.no conditions. Of relevance to this appeal is conditions no.5 outlined below:

5. In accordance with the Council's Development Contribution Scheme (DCS) 2023, made under the provisions of section 48 of the Planning and Development Act 2000 the developer shall pay a contribution to the Planning Authority, (or such increased amount in accordance with the changes on an annual basis to the Chartered Surveyors of Ireland Construction Tender Price Index) towards the costs already incurred or to be incurred by the Planning Authority on the provision of each of the public facilities listed below, which will benefit development in the area of the Planning Authority. Unless otherwise agreed in writing with the Planning Authority the said contribution shall be paid in full within 6 months of the final grant of permission.

Class 7 – Extractive Industry: €2,400 per 0.1ha, minimum fee €10,000

Section 11.5 – Retention Fee: 1.5 times the appropriate rate:

Total Contribution: 1.0ha/0.1ha x (€2,400 x 1.5) = **€36,000.00.**

Total Contribution Due: (Thirty-six thousand Euro).

Other conditions include:

2. The operational period for this permission for retention hereby granted shall expire concurrent with Planning Reference 09/96, upon which it is dependent, on 22nd November 2029.
3. The development shall comply with conditions 3 to 5 inclusive, condition 11, conditions 15 to 16 inclusive, conditions 17(1) to 17(3) inclusive and condition 17(5) where it relates to Storm Water, of Pl. Ref. 09/96.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report forms the decision to grant permission which is summarised below:
 - The development is considered acceptable in principle, given its established nature and compliance with national and local policies.
 - The parcels of lands are not visible from nearby residential properties, and the development does not impact residential amenity.
 - No additional traffic movements are expected, and existing access arrangements are deemed sufficient.
 - No concerns with respect to AA or EIA.

3.2.2. Other Technical Reports

- Environmental Compliance – No report received.
- Placemaking & Physical Development Section - No objection to the proposed development, subject to conditions.

3.3. Prescribed Bodies

- The Arts Council – No comment received.

- An Taisce – No comment received.
- The Heritage Council – No comment received.
- Department of Housing Local Government & Heritage – Requested further Information for an Archaeological Impact Assessment, to assess any impact on archaeological remains within the proposed development site.

3.4. Third Party Observations

None

4.0 Planning History

The planning history for the site includes several permissions granted over the years for various developments and extensions:

- **PI. Ref. 71/570:** Permission granted for a concrete area, garage, and store to Cooley Concrete Products.
- **PI. Ref. 74/24:** Permission granted to Dundalk Quarry Products Ltd for a quarry development of 37 acres, subject to conditions including financial security, landscaping, reinstatement, and environmental controls.
- **PI. Ref. 75/384:** Permission granted for new offices to Cooley Concrete Products.
- **PI. Ref. 81/798:** Permission granted for an extension of the production area (32 acres), subject to conditions including cessation by 31/10/98, orderly excavation, reinstatement, and environmental controls. I note condition 3 of PA Ref. 81/798 related to the restoration of the subject lands
- **PI. Ref. 94/43:** Permission granted for a block-making building at Ballaverty, Riverstown, Dundalk, subject to conditions including signage, road drainage, relocation, planting, and financial contribution.

- **PI. Ref. 98/870:** Permission granted for an extension of duration for a quarry and washing facility, limited to 2 years until 7th October 2000.
- **PI. Ref. 99/796:** Permission granted for an industrial building with ancillary offices, with no conditions.
- **PI. Ref. 00/267:** Permission granted for continuation and extension of sand and gravel extraction, office and amenity block, workshop, and other facilities on a 30ha site, subject to conditions including operational period, environmental controls, and restoration.
- **PI. Ref. 02/945:** Application for construction of a MV substation deemed invalid.
- **PI. Ref. 02/1252:** Permission granted for an MV substation, subject to conditions.
- **PI. Ref. 09/96:** Permission granted for a sand and gravel quarry extension of 9.7ha, including internal haul road, landscaping, administration building, and other facilities, subject to conditions including environmental controls and restoration. Notable condition includes condition no.8 from development contribution levied for the site at €225,719. However, it should be noted the red line site boundary are lands to the east of the appeal site.
- **PI. Ref. No.11/554:** Permission granted for an administrative building, wastewater treatment system, weighbridge, wheel wash, car park, signage, and associated development, subject to conditions.
- **PI. Ref. 15/26:** Permission granted for continuation of use of existing processing plant, ancillary activities, and concrete manufacturing plant within the existing facility. Note the appeal site is not located within this permission.

5.0 Policy Context

5.1. National Guidelines

Development Contributions - Guidelines for Planning Authorities (2013)

- General Development Contribution Schemes: Under section 48 of the Planning and Development Acts, planning authorities must draw up a development contribution scheme in respect of certain public infrastructure and facilities.

Development Management – Guidelines for Planning Authorities (2007)

- Section 7.12 of the Guidelines provides guidance on planning conditions relating to development contributions. Any scheme may be the subject of an appeal where the applicant considers that the terms of the scheme were not properly applied. To help minimise unnecessary appeals, the planning decision should clearly set out how the relevant terms were interpreted and applied to the proposed development.
- Section 8.12 of the Guidelines refers specifically to appeals in respect of development contribution conditions and reiterates that an appeal against a contribution condition can only be made where the applicant contends that the terms of the contribution scheme have not been properly applied.

5.2. Development Plan

The Louth Development Plan 2021 – 2027 is the operative Development Plan for the subject site.

5.3. Louth County Council Development Contribution Scheme 18th September 2023

The Development Contribution Scheme refers to the basis for determination of contributions, 15 no. categories/classes of development, unit of measurement and the associated rates of charge. In terms of extractive Industry, the following is stated:

Development Category	Description	Rate
No.7	Extractive Industry: The winning and working of minerals including the extraction of sand, gravel and stone including the storage of quarrying aggregates or related outputs.	€2,400 per 0.1 hectare or part thereof with a minimum rate of €10,000.

Note 6: All retention permissions will be charged a multiple of 1.5 times the appropriate rates for any development.

5.4. Natural Heritage Designations

The site is not located within or adjacent to any designated Natura 2000 site. The closest European Sites are as follows:

- Carlingford Lough SPA, IE0004078, 3.9 km, to the north-east.
- Carlingford Shore SAC, IE00002306, 3.85 km to the north-east.
- Carlingford Mountain SAC, IE0000453, 830 metres to the north.
- Dundalk Bay SPA, IE0004026, 2.6 km to the south.
- Dundalk Bay SAC, IE0000455, 2.4km to the south.

6.0 EIA Screening

- 6.1. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

A first party appeal has been lodged against the content of financial contributions of condition No. 5 of the planning authority's decision to grant permission. The grounds of appeal can be broadly summarised as follows:

- Unfair Application of Development Contributions: The appeal argues that the development permission under appeal is for retained and continuing use only of lands previously authorised for development and extracted under a past authorisation. The continued use serves only to facilitate an extant permission which contains extractive works on adjacent lands, for which contributions have already been paid under PA Ref: 00/267.
- Double Charging: The appeal claims that charging contributions again for the use of the ground constitutes double charging, which is precluded under the Development Contribution Guidelines for Planning Authorities (DECLG 2013).
- Change of Use Exemption: The appeal contends that the use of these areas for storage and access is merely a change of use from the past primary use for extraction and does not intensify the parent permissions for the current extraction and processing areas or impose any burden on the Planning Authority. Therefore, it should be exempt from development contributions in line with Sections 9.5 and 9.9 of the Louth County Development Contribution Scheme.
- Temporary Permissions Reduction: The appeal suggests that a 50% reduction in contributions is warranted if any contributions are deemed payable, as the permission has been linked to the site parent permission which expires on 22 November 2029.

7.2. Planning Authority Response

Response received dated 31st January 2025 outlining the following:

- The appellant argues that the Development Category 7 contribution should not apply as there is no winning or working of minerals, only storage of aggregates. However, the Planning Authority contends that the wording of Development Category 7 includes both the extraction and storage of quarrying aggregates, making the contribution applicable.
- The Planning Authority maintains that the application of the development contribution is accurate, reasonable, and in accordance with the Louth County Council Development Contribution Scheme, 2023 and requests the Board to uphold the decision to include condition 5.

7.3. Applicant Response to Planning Authority

Response received dated 26th February 2025 outlining the following:

- The Development Contribution Scheme must be regarded in terms of greenfield development, noting the entire processing area within this quarry was historically developed under earlier permissions.
- The PA seeks to have the contributions scheme interpreted in a very legally positivist manner without regard to past authorised uses of which this application constitutes a related change of use from extraction areas to stockpiling areas for authorised aggregates and access areas to extant permissions.
- The PA is doubling charging in that the original development was levied for contributions under former schemes which is precluded under the Development Contributions Guidelines for Planning Authorities (2023).

7.4. Observations

None

8.0 Assessment

8.1. Introduction

8.1.1. This first party appeal has been brought to An Bord Pleanála under the provisions of section 48 (10) of the Planning and Development Act 2000 (as amended) being an appeal against a development contribution.

8.1.2. Section 48(10) (b) of the Act, makes provision for an appeal to be brought to the Board where an applicant for permission under section 34 considers that the terms of the relevant development contribution scheme have not been properly applied in respect of any condition laid down by the planning authority. An appeal in relation to the application of a development contribution, the Board will not determine the application as if it was made to it in the first instance and will only determine the matters under appeal, which is whether the terms of the scheme have been properly applied.

8.1.3. I consider the issues can be addressed under the following headings:

- Condition No.5

8.2. Conditions No.5

8.2.1. The appeal is seeking to omit condition No.5 of permission 24/60636 which requires, a financial contribution of €36,000 shall be paid within 6 months of the final grant by the developer to the PA towards the costs already incurred or to be incurred by the PA on the provision of public facilities.

8.2.2. The appellant argues that the permission sought pertains to the retention and continued use of previously authorised lands, for which development contributions

have already been paid under PA Ref: 00/267. They contend that imposing additional charges constitutes double charging, which is precluded under the Development Contribution Guidelines for Planning Authorities (2013). The appeal further references: section 9.5 of the Development Contribution Scheme, which exempts change-of-use applications that do not necessitate new or upgraded infrastructure/services, section 9.9, which pertains to ancillary developments and section 10.5, which allows a 50% reduction for temporary permissions.

8.2.3. The PA maintains that the Development Contribution Scheme, specifically Development Category 7, includes provisions for both the extraction and storage of quarrying aggregates. Accordingly, they argue that the contribution remains applicable in this instance.

8.2.4. I have reviewed the Louth Development Contribution Scheme dated 18th September 2023, which applies to extractive industries. Under this scheme, I note it includes mineral extraction, as well as the storage of quarrying aggregates or related outputs, with a levy of €2,400 per 0.1 hectare (or part thereof), subject to a minimum charge of €10,000. The development description explicitly refers to the storage and stockpiling of extracted materials, thereby it is my view the development falls within the scope of the contribution scheme.

Double Charging Consideration

8.2.5. The appellant asserts that contributions have already been paid under PA Ref: 00/267 and that the current charge constitutes double charging. However, a review of the appeal file indicates no substantive evidence to verify this claim. In the absence of documentary proof demonstrating prior payment of levies for these works, I consider there is no basis to conclude that double charging has occurred.

Exemption Under Section 9.5

8.2.6. Section 9.5 of the contribution scheme exempts change-of-use applications from development contributions where the change does not lead to additional

infrastructure/service demands. I note the appellant claims that transitioning from active quarrying to material storage constitutes a change of use. However, in my opinion the current application seeks retention permission for stockpiling activities rather than a formal change-of-use application with prior planning permission. Given the development description before me refers to retention permission of the existing stockpiling of materials and as such it is my view the change of use exemption under 9.5 would not be applicable in this case.

Applicability of Section 9.9 (Ancillary Developments)

- 8.2.7. Section 9.9 provides exemptions for ancillary developments related to categories specified in sections 9.1 – 9.8. However, extractive industries are not explicitly listed under these exemptions, except where a change-of-use exemption applies under section 9.5 (which, as discussed, does not apply in this instance). Furthermore, a review of the planning history indicates that the stockpiled materials, in my view, were originally intended for site restoration under Condition No. 3 of PA Ref. 81/798, meaning the development did not benefit from a prior valid planning application.

Application of Section 10.5 (Temporary Permissions)

- 8.2.8. I note the appellant referred to section 10.5 of the scheme allows which for a 50% reduction in contributions for temporary permissions related to structures or changes of use. The Planning and Development Act 2000 defines a “structure” broadly, encompassing excavations or constructions on land. Since the proposal involves retaining excavated stockpiled materials, it falls within this definition. Additionally, the permission is linked to a temporary approval under PA Ref: 09/96, which expires in 2029. Notwithstanding, as the development relates to retention permission, the 50 % reduction in my view does not apply. Instead, as per section 11.5 of the scheme all retention permissions are charged at a multiple of 1.5 times the appropriate rates for any development.

Calculation of Fee

- 8.2.9. As discussed, the Development Category 7 “Extractive Industry” of the scheme applies a levy of €2,400 per 0.1 hectare or part thereof with a minimum rate of €10,000. The appeal site has a stated site area of 1.0 hectare. Applying the extractive industry levy and section 11.5 (1.5 times retention rate) it is my view the contribution applicable is as follows; $1.0/0.1 \times (\text{€}2,400 \times 1.5 \text{ (retention rate)}) = \text{€}36,000$.

Conclusion

- 8.2.10. Based on the assessment above, it is my opinion the appeal does not provide sufficient grounds to omit Condition No. 5 entirely. Therefore, I conclude that the contribution scheme has been correctly applied in this case, in accordance with Section 48(10)(b) of the Act.

9.0 Appropriate Assessment Screening

- 9.1. Refer to Appendix 2. Having regard to nature, scale and location of the proposed development and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Recommendation

- 10.1. I recommend that condition No. 5 be ATTACHED, as set out hereunder.

11.0 Reasons and Considerations

- 11.1. Having regard to:

- a) the Louth Development Contribution Scheme 2023,
- b) section 48 of the Planning and Development Act 2000, as amended,

- c) the nature of the proposed development being retention permission,
- d) the information provided.

The Board, in accordance with section 48 of the Planning and Development Act 2000 (as amended) considered that the terms of the Louth Development Contribution Scheme 2023 for the area has been properly applied in respect of Condition No. 5 and directs the said Louth County Council to ATTACH the said condition.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Gerard Kellett
Planning Inspector
8th April 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321587-25		
Proposed Development Summary	Retention and permission for continued usage of land for ancillary quarry activities.		
Development Address	Ballaverty and Mullaghatten, Riverstown, Co. Louth, A91 PW62		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	√
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√		No further action required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	√	Screening determination remains as above (Q1 to Q4)	
Yes			

Inspector: _____

Date: _____

Appendix 2

AA Screening

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The site is not located within or adjacent to any designated Natura 2000 site. The closest European Sites are as follows:

- Carlingford Lough SPA, IE0004078, 3.9 km, to the north-east.
- Carlingford Shore SAC, IE00002306, 3.85 km to the north-east.
- Carlingford Mountain SAC, IE0000453, 830 metres to the north.
- Dundalk Bay SPA, IE0004026, 2.6 km to the south.
- Dundalk Bay SAC, IE0000455, 2.4km to the south.

Having considered the nature and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- The nature of the development.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.