

**Eoin O'Sullivan**

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**From:** Bord  
**Sent:** Wednesday 13 January 2021 08:52  
**To:** Appeals2  
**Subject:** FW: Case No. ABP-308844-20 Planning Auth. Ref. No. 10/5 Our Client: Nutgrove Sand and Gravel Ltd. Our Ref:GT/PD/7597.6  
**Attachments:** Ltr. to Mk. Lenehan ABP-7597.6-12 01 21.pdf; Enf. Not.- Nutgrove Sand & Gravel Ltd 05 11 15.pdf; Enf. Not.-Sean Wisley - 05 11 15.pdf; Enf. Not.-John Wisley - 05 11 15.pdf; Enf. Not.-James Sherlock - 05 11 15.pdf; District Court Summons - Wisley - Portlaoise.pdf  
**Importance:** High

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**From:** Patricia Flynn <PFlynn@wptoolan.com>  
**Sent:** Tuesday 12 January 2021 15:36  
**To:** Bord <bord@pleanala.ie>  
**Cc:** Appeals2 <appeals@pleanala.ie>  
**Subject:** Case No. ABP-308844-20 Planning Auth. Ref. No. 10/5 Our Client: Nutgrove Sand and Gravel Ltd. Our Ref:GT/PD/7597.6  
**Importance:** High

Dear Sir,

Please see letter attached.

Regards

WP Toolan & Sons

# WALTER P. TOOLAN & SONS

## SOLICITORS

*Principal Solicitor*  
Gabriel A. Toolan  
B.A. (Hons.), LL.M. (Advocacy)  
DLS, Dip. Environmental & Planning Law,  
Accredited Mediator.

The Law Office  
High Street  
Ballinamore  
Co. Leitrim  
N41KV56

*Solicitor*  
Dónal Ó Néill, B.A., M.Sc.

Tel. 071 96 44004/96 81000  
Fax. 071 96 44788  
E-mail: law@wptoolan.com

Date: 12 January 2021

Your Ref: ABP-30884420

Our Ref: GT/PD/7597.6

Mr. Mark Lenehan  
An Bord Pleanála  
64 Marlborough Street,  
Dublin 1.  
DO1 V902

Email: [bord@pleanala.ie](mailto:bord@pleanala.ie)  
[appeals@pleanala.ie](mailto:appeals@pleanala.ie)

**Case Number: ABP-308844-20**

**Planning Authority Reference Number: 10/5**

**Our client: Nutgrove Sand and Gravel Limited**

Dear Sirs,

We act on behalf of the above named Company.

1. Your letter of the 9<sup>th</sup> of December 2020 addressed to our client was not received until the morning of the 14<sup>th</sup> of December and we wish to point out that the period of referral for a period of 4 weeks should not commence until the 14<sup>th</sup> of December 2020 when our client actually received the documentation and should not conclude until the expiry of the 4 week period taking account of the 9 additional days for the Christmas vacation.
2. We wish to point out that this referral under Section 5 of the Planning and Development Act, 2000(as amended) is not a valid referral pursuant to the Act. Furthermore if we are correct in this assertion we wish to state that the Local Authority has no jurisdiction to refer this matter to An Bord Pleanála.
3. Please note that the documentation received by our client was duplicative in many respects and it appears that some of the documentation the subject matter of the Application was not furnished to our

**PLANNING AND DEVELOPMENT ACTS 2000-2015  
(SECTION 154)  
ENFORCEMENT NOTICE  
(UNAUTHORISED DEVELOPMENT)**

Enforcement notice served on:

Nutgrove Sand & Gravel Limited,  
Nutgrove,  
Rosenallis,  
Co. Laois.

U.D. 15/09

Notice

Laois County Council, as Local Authority with responsibility for enforcement of the Planning and Development Acts 2000 - 2015 as amended in the County of Laois, hereby issues this Enforcement Notice to you pursuant to Section 154 and Section 155 of the Planning and Development Act 2000 as amended in respect of unauthorised development carried on by you at postal address of Kilmainham, Mountmellick, Co. Laois and townland of Kilmainham, barony of Portnahinch and County of Laois, more particularly identified in the map annexed to this notice and outlined with a red line. The lands in question are referred to below as "the lands".

You are the developer of the lands and the person responsible for carrying on the unauthorised development on them.

Nature of Unauthorised Development

The unauthorised development consists of:

- Non compliance with conditions 1, 10, 12 & 14 of Planning Permission Reference No: 08/943.

This development is unauthorised because:

- \* The carrying on of this development on the lands is not exempted development and is unauthorised development comprising unauthorised works and / or an unauthorised use.
- \* The carrying out of development which is the subject of a permission granted under either under Section 34 or 37 of the Planning and Development Act 2000 as amended or under Part IV of the Local Government (Planning and Development) Act 1963 in non-compliance with a condition to which that permission is subject is unauthorised works and amounts to unauthorised development as defined in Section 2 of the Planning and Development Act 2000 as amended.
- \* The development commenced on or after 1 October 1964.

Requirements


(Pursuant to Sections 154(5)(a) and (b)) of the Planning and Development Act 2000 as amended)

You are hereby required to:

1. Refrain from quarrying outside the site permitted under condition no.1 of Planning Permission Reference No: 08/943 on receipt of this notice.

in the vicinity of the site it is necessary to take urgent action, has served this notice under Section 154 and 155 notwithstanding Sections 152 and 153 of the Planning and Development Act 2000 as amended.

Signed on behalf of Laois County Council:

  
\_\_\_\_\_  
ANGELA MCEVOY,  
SENIOR PLANNER,  
PLANNING DEPARTMENT.

Dated:

5<sup>th</sup>, NOVEMBER 2015

PLANNING AND DEVELOPMENT ACTS 2000-2015  
(SECTION 154)  
ENFORCEMENT NOTICE  
(UNAUTHORISED DEVELOPMENT)

Enforcement notice served on:

U.D. 15/09

Sean Wisely,  
Director,  
Nutgrove Sand & Gravel Limited,  
Nutgrove,  
Rosenallis,  
Co. Laois.

Notice

Laois County Council, as Local Authority with responsibility for enforcement of the Planning and Development Acts 2000 - 2015 as amended in the County of Laois, hereby issues this Enforcement Notice to you pursuant to Section 154 and Section 155 of the Planning and Development Act 2000 as amended in respect of unauthorised development carried on by you at postal address of Kilmainham, Mountmellick, Co. Laois and townland of Kilmainham, barony of Portnahinch and County of Laois, more particularly identified in the map annexed to this notice and outlined with a red line. The lands in question are referred to below as "the lands".

You are the developer of the lands and the person responsible for carrying on the unauthorised development on them.

Nature of Unauthorised Development

The unauthorised development consists of:

- Non compliance with conditions 1, 10, 12 & 14 of Planning Permission Reference No: 08/943.

This development is unauthorised because:

- \* The carrying on of this development on the lands is not exempted development and is unauthorised development comprising unauthorised works and / or an unauthorised use.
- \* The carrying out of development which is the subject of a permission granted under either under Section 34 or 37 of the Planning and Development Act 2000 as amended or under Part IV of the Local Government (Planning and Development) Act 1963 in non-compliance with a condition to which that permission is subject is unauthorised works and amounts to unauthorised development as defined in Section 2 of the Planning and Development Act 2000 as amended.
- \* The development commenced on or after 1 October 1964.

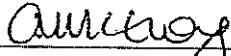
Requirements

(Pursuant to Sections 154(5)(a) and (b)) of the Planning and Development Act 2000 as amended)

You are hereby required to:

The Council, being of the opinion that, due to the nature of the unauthorised development, i.e. quarrying outside the permitted site and below the water table, the environmental effects on the site and on the area in the vicinity of the site it is necessary to take urgent action, has served this notice under Section 154 and 155 notwithstanding Sections 152 and 153 of the Planning and Development Act 2000 as amended.

Signed on behalf of Laois County Council:

  
\_\_\_\_\_  
ANGELA MCEVOY,  
SENIOR PLANNER,  
PLANNING DEPARTMENT.

Dated:

  
\_\_\_\_\_, NOVEMBER 2015

**PLANNING AND DEVELOPMENT ACTS 2000-2015  
(SECTION 154)  
ENFORCEMENT NOTICE  
(UNAUTHORISED DEVELOPMENT)**

Enforcement notice served on:

U.D. 15/09

John Wisely,  
Director,  
Nutgrove Sand & Gravel Limited,  
Nutgrove,  
Rosenallis,  
Co. Laois.

Notice

Laois County Council, as Local Authority with responsibility for enforcement of the Planning and Development Acts 2000 - 2015 as amended in the County of Laois, hereby issues this Enforcement Notice to you pursuant to Section 154 and Section 155 of the Planning and Development Act 2000 as amended in respect of unauthorised development carried on by you at postal address of **Kilmainham, Mountmellick, Co. Laois and townland of Kilmainham, barony of Portnahinch and County of Laois**, more particularly identified in the map annexed to this notice and outlined with a red line. The lands in question are referred to below as "the lands".

You are the developer of the lands and the person responsible for carrying on the unauthorised development on them.

Nature of Unauthorised Development

The unauthorised development consists of:

- Non compliance with conditions 1, 10, 12 & 14 of Planning Permission Reference No: 08/943.

This development is unauthorised because:

\* The carrying on of this development on the lands is not exempted development and is unauthorised development comprising unauthorised works and / or an unauthorised use.

\* The carrying out of development which is the subject of a permission granted under either under Section 34 or 37 of the Planning and Development Act 2000 as amended or under Part IV of the Local Government (Planning and Development) Act 1963 in non-compliance with a condition to which that permission is subject is unauthorised works and amounts to unauthorised development as defined in Section 2 of the Planning and Development Act 2000 as amended.

\* The development commenced on or after 1 October 1964.


Requirements

(Pursuant to Sections 154(5)(a) and (b)) of the Planning and Development Act 2000 as amended)

You are hereby required to:

The Council, being of the opinion that, due to the nature of the unauthorised development, i.e. quarrying outside the permitted site and below the water table, the environmental effects on the site and on the area in the vicinity of the site it is necessary to take urgent action, has served this notice under Section 154 and 155 notwithstanding Sections 152 and 153 of the Planning and Development Act 2000 as amended.

Signed on behalf of Laois County Council:

  
\_\_\_\_\_  
ANGELA MCEVOY,  
SENIOR PLANNER,  
PLANNING DEPARTMENT.

Dated:

  
\_\_\_\_\_, NOVEMBER 2015



PLANNING AND DEVELOPMENT ACTS 2000-2015  
(SECTION 154)  
ENFORCEMENT NOTICE  
(UNAUTHORISED DEVELOPMENT)

Enforcement notice served on:

U.D. 15/09

James Sherlock,  
Kilmainham,  
Mountmellick,  
Co. Laois.

Notice

Laois County Council, as Local Authority with responsibility for enforcement of the Planning and Development Acts 2000 - 2015 as amended in the County of Laois, hereby issues this Enforcement Notice to you pursuant to Section 154 and Section 155 of the Planning and Development Act 2000 as amended in respect of unauthorised development carried on by you at postal address of Kilmainham, Mountmellick, Co. Laois and townland of Kilmainham, barony of Portnahinch and County of Laois, more particularly identified in the map annexed to this notice and outlined with a red line. The lands in question are referred to below as "the lands".

You are the owner of the lands on which the unauthorised development has been carried out and a person concerned with the matters to which the notice relates.

Nature of Unauthorised Development

The unauthorised development consists of:

- Non compliance with conditions 1, 10, 12 & 14 of Planning Permission Reference No: 08/943.

This development is unauthorised because:

- \* The carrying on of this development on the lands is not exempted development and is unauthorised development comprising unauthorised works and / or an unauthorised use.
- \* The carrying out of development which is the subject of a permission granted under either under Section 34 or 37 of the Planning and Development Act 2000 as amended or under Part IV of the Local Government (Planning and Development) Act 1963 in non-compliance with a condition to which that permission is subject is unauthorised works and amounts to unauthorised development as defined in Section 2 of the Planning and Development Act 2000 as amended.
- \* The development commenced on or after 1 October 1964.

Requirements

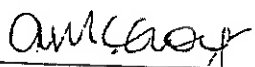
(Pursuant to Sections 154(5)(a) and (b)) of the Planning and Development Act 2000 as amended)

You are hereby required to:

1. Refrain from quarrying outside the site permitted under condition no.1 of Planning Permission Reference No: 08/943 on receipt of this notice.

in the vicinity of the site it is necessary to take urgent action, has served this notice under Section 154 and 155 notwithstanding Sections 152 and 153 of the Planning and Development Act 2000 as amended.

Signed on behalf of Laois County Council:

  
\_\_\_\_\_  
ANGELA MCEVOY,  
SENIOR PLANNER,  
PLANNING DEPARTMENT.

Dated:

  
\_\_\_\_\_, NOVEMBER 2015

AN CHUIRT DUICHE  
(THE DISTRICT COURT)

DISTRICT COURT AREA OF PORTLAOISE

DISTRICT NO.15

PLANNING AND DEVELOPMENT ACT 2000-2015

BETWEEN/

LAOIS COUNTY COUNCIL

Complainant

and

JOHN WISLEY

Defendant

SUMMONS

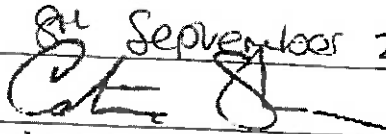
WHEREAS a complaint has been made to me that you the Defendant having been served with an Enforcement Notice by the Complainant pursuant to section 154 of the Planning and Development Act and dated the 5<sup>th</sup> day of November 2015 concerning unauthorised development at the property situate at Kilmainham, Mountmellick in the County of Laois, in the District and Court area aforesaid, and having been duly served with the said Enforcement Notice aforesaid, have on and since the 26<sup>th</sup> day of November 2015 failed to comply with the terms of the said Notice contrary to section 154 of the Planning and Development Act (as amended) and section 156(1)(b) as amended by section 46 of the Planning and Development (Amendment) Act 2010

This is the command you to appear as the accused on the hearing of the said complaint at the District Court at the Courthouse, PORTLAOISE in the said court area and district aforesaid on FRIDAY 16<sup>th</sup> December 2016 at 10.30 a.m. in the forenoon to answer the said complaint.

Dated

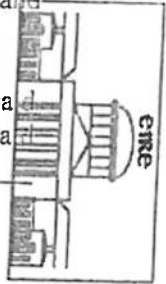
8<sup>th</sup> September 2016

Signed

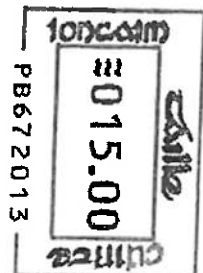


Judge of the District Court

To/  
Mr. John Wisley  
Director  
Nutgrove Sand & Gravel Limited  
Nutgrove  
Rosenallis  
Co. Laois  
C3784



125196951



08<sup>th</sup> September, 2014

Carmel Crampton,  
Byrne & Byrne,  
Ryland Road,  
Bunclody,  
Co. Wexford.

**Re: PL 06/882 – Planning Permission for construction of 130 no. dwellings, 1 no creche and 20 no. serviced sites and an element of inner relief road to facilitate the proposed development and all associated site works with connection to existing public services at Mortarstown, Co. Carlow.**

A Chara,

I wish to acknowledge receipt of your recent e-mail in relation to the above. I can confirm that the amount payable per unit in respect of development contributions is €5631.46.

Mise le Meas

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**Ronan FitzGerald**  
**Financial Accountant**