

Submission No. 1

DUNCAN & GREHAN
PARTNERS

SOLICITORS
Commissioners for Oaths

Gainsboro House, 24 Suffolk Street, Dublin 2, D02 KF6S, Ireland.
DX: 212 001 Suffolk Street

Ms Noeleen Keavey
Office of Environmental Sustainability
Environmental Protection Agency
P.O. Box 3000
Johnstown Castle Estate
Wexford

Our Ref: dsjg/bk/gre-kil

Your Ref:

Date: 03/05/17

Environmental Protection
Agency
04 MAY 2017

Dear Ms Keavey,

Waste Licence Application Reg. No. W0296-01 – Kilsaran Concrete

Thank you for your e-mailed letter of 2 May responding to our preliminary questions.

At your request we are making this submission without delay in writing by post. Contrary to our wishes we understand that this submission cannot be treated as confidential. We have noted your confirmation "*that the Agency will have regard to the entire of the content of any submission, including any attachments*".

We are therefore now attaching our two letters of 26/04/17 delivered by hand to An Bord Pleanála written by us on behalf of the 39 persons who are listed and detailed therein called "*the co-appellants*" which for the purposes of this letter you are to treat as the persons on whose behalf we make submissions in objection and opposition to the Kilsaran Concrete application for a licence. The attached letters are supported also by the attached documents that are listed in the shorter of our two letters in support of this submission. We have not attached the documents listed under Section F. headed "*MCC letters acknowledging receipt and/or MCC receipts to co-appellants*" in the shorter of the two letters as these are not required by you.

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Duncan S.J. Grehan, M.A., LL.B. Malachy J. O'Callaghan, B.B.S. Éadaoin McLoughlin, B.Comm.Int.(German)

Duncan Grehan & Partners To ... Ms. Noeleen Keavey Date 03.05.17
Continuation Sheet No. - 2 -

Following further telephone enquiry with your office yesterday, we understand that at this stage where we are filing submissions in relation to the application, there is no fee due and that the entire of our attached documents will be reviewed before any decision on the application is made. We also understand that before any final decision is made, we will be invited to file objections. We understand at that stage then a fee of €120.00 will need to accompany the objections.

The submitters on whose behalf we are writing this letter are mainly residents in the locality of the in-fill site of the quarry which has been inactive now for over five years since January 2012 and which was formerly operated by the applicant, Kilsaran Concrete. They also include local interest groups and representative bodies and sports clubs.

The quarry is in a historic and heritage location. The ancient heritage sites in the fields around the quarry are clear from the maps that are with the application. Not made clear is that the local farmlands and woodlands have been in the Plunket family for over 750 years. The proposed 14-year in-fill plan involves one truck every four minutes passing along the local inadequate road network which has not changed in width since it was constructed in the mid-18th century for horse-drawn vehicles. The local roads are unmarked and scarcely wide enough to accommodate two HGV trucks passing each other quite apart from the frequent bus traffic, agricultural machinery, cars, cyclists and pedestrians constantly using the same roads. This is not addressed by the application nor indeed by Meath County Council in its very short road engineer's report. The latter conflicts with earlier sworn evidence to the High Court in proceedings taken by MCC against Kilsaran Concrete in 1999 at a time when Kilsaran had declined to file any application for planning permission for the quarry operations. MCC's evidence then was that the local roads were unsuitable and that the heavy traffic caused by the quarry truck movements is highly destructive and also dangerous to the health and safety and harmful to the amenity of the local residents, for many of whom we are writing this letter.


Many local residents depend on the purity of well water which is threatened by this application. The proposed system of monitoring the source of the material to be dumped in the in-fill quarry hole in return for payment over 14 years is fraught with risk. It is a self-regulation procedure. The applicant proposes only to have three of its staff on site to monitor the quality and compliance of each lorry load dumped there. The noise, dirt, pollution and irreparable damage caused by the truck traffic has been given little or no consideration when MCC gave Kilsaran Concrete conditional planning permission for the in-fill operation misdescribed as the "restoration" of the quarry hole and now the subject of appeals to An Bord Pleanála. The applicant places its own interest and profit above the health and safety and amenity concerns of the local residents and the public interest.

The applicant was issued a conditional permission to quarry subject to the creation of a lake over a 2-year period from the cessation of quarrying as the restoration method policy of the Regulator since it first issued permission some 20 years ago. MCC has departed from this policy without giving any reason. Quarrying ceased in January 2012.

Duncan Grehan & Partners To Ms Noeleen Keavey Date 03.05.17
Continuation Sheet No. 3

We would be obliged therefore if you would take please this letter and, more importantly, its attachments and the supporting documents into account when you are considering the application.

Yours sincerely,



Duncan S. J. Grehan
DUNCAN GREHAN & PARTNERS

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MANAHAN PLANNERS

Town Planning Consultants

38 Dawson Street, Dublin 2. Email: info@manahanplanners.com. Web: www.manahanplanners.com.
Tel: 01-6799094. Vat No: 2850391E. Tony Manahan B.A.(Hons), M.Phil (Edin), M.I.P.I.

26th April 2017

The Secretary,
An Bord Pleanala,
64 Marlborough Street
Dublin 1

Re: Third Party Appeal against Decision to Grant Permission on 05/04/2017, Ref. RA/170127, by Meath County Council.

Dear Sir/Madam,

We wish to support the appeal being lodged by Duncan Grehan Solicitors today on behalf of stated local residents against the above decision to grant permission. They are submitting a comprehensive submission which sets out the planning history, circumstances and very valid grounds of objection which residents have to the development the subject of this application.

The residents of this area have suffered traffic disruption and disturbance to their amenities for a considerable number of years. This appeared to be coming to an end with a 2 year requirement to complete the development by converting the quarry into a lake.

However a permission was granted by the Board in December 2011 (PL17.233813, dated 23/12/2011) to continue to extract from the quarry below the waterline, following which the 2 year reinstatement process would be carried out. We are instructed that no activity was carried out on foot of this permission, no doubt due to the downturn in the economy, but may also have been due to the unsuitability of the remaining deposit as claimed by some objectors. In that context the local residents were faced only with a 2 year completion process to turn this into a lake.

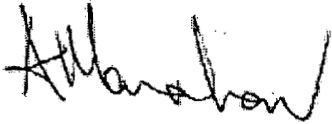
In this application however they are now been asked to suffer a 14 year period in which it is proposed to fill up the quarry with material brought in from outside the area. This is a new and unacceptable change from the current planning status quo in reality.

It is submitted that the Planning Authority have not sufficiently addressed the disturbance to the amenities of the area. The Traffic Section have compared the proposed traffic flows with that of the permission which is not being implemented. As the now proposed flows are lower, the Traffic section considers the proposal to be acceptable. It is submitted this is an insufficient analysis.

In a similar manner the Planning section of MCC have not analysed the new proposal sufficiently in terms of impact on the area. We cannot see in the file where it has been established that the amount of fill proposed is consistent with the capacity of the quarry to take fill. In other words, it is unclear whether the quantum proposed would fill, say, 70% of the void, thereby requiring more than 14 years of activity and truck movements to fill the void.

In such circumstances, we request that An Bord Pleanala refuse permission for this application. This should create the circumstances in which Meath County Council can enforce the reinstatement measures previously approved. This will provide for the protection of the amenities of the area in line with seeking consistency with the proper planning and sustainable development of the area.

Yours faithfully



Tony Manahan
Manahan Planners

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By Hand

An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

Our Ref: dsjg/bk/gre-kil

Your Ref:

Date: 26/04/17

By Hand

Dear Sirs,

Appeal from Permission granted 05/04/2017, Ref. RA/170127, of Meath County Council

Preface

We have been retained by many local Dunsany residents and community bodies who appeal to you to refuse and to overrule the decision of Meath County Council ("MCC") to this conditional permission. The co-appellants, many resident or active in the locality of the Kilsaran subject quarry have instructed us to re-address to you for your attention our attached and edited letter today originally dated 09/03/2017 of objection to the application to MCC dated 09/03/2017 and on which this appeal is being grounded the contents of which they wholly adopt.

We refer also to the letter of Tony Manahan, Manahan Planners, to you of 26/04/2017 supporting this appeal attached herewith.

We also attach herewith letters from many of the co-appellants setting out their additional grounds for this appeal.

A. Co-appellants whose additional letters grounding this appeal are attached:

1. Duncan Grehan and Barbara Grehan, Highfield, Dunsany, County Meath, for whom we were retained at the objection stage and sent our said letter of 09/03/2017 to MCC now adapted to the current circumstances and re-addressed to you attached herewith.
2. Colm Ryan and Kerrie Ryan, Dunsany, County Meath (dated 23/04/2017, 4 pages)

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Duncan S.J. Grehan, M.A., LL.B. Malachy J. O'Callaghan, B.B.S. Éadaoin McLoughlin, B.Comm.Int. (German)

3. Tommy Murphy and Joan Murphy, Arlonstown Lodge, Dunsany, County Meath (dated 23/04/2017, 3 pages)
4. Julian Jameson, Swainstown Hill, Kilmessan, County Meath (dated 22/04/2017, 2 pages)
5. Joseph Loughran and Christina Keating, Tullykane, Dunsany, County Meath (dated 23/04/2017, 2 pages)
6. Dominic and Joseph Loughran, Tullykane, Dunsany, County Meath (dated 22/04/2017 with attached letter of 14/03/2017 to MCC and Planning Submissions and Observations, 54 paragraphs with three copy photographs)
7. Matthew Tristan Lalor, Pianoforte, Dunsany, County Meath (dated 23/04/2017, 2 pages)
8. Dunsany GAA Club represented by Noel Smyth, Chairperson, Pàirc nGael, Dunsany, County Meath (dated 24/04/2017).
9. Patrick McEniff and Kathleen McEniff, The Glebe, Dunsany, County Meath (dated 25/04/2017).
10. Marianna Wieringa, 6 Swainstown, Kilmessan, County Meath (dated 10/03/2017, 3 pages)
11. Dominic Lunsden and Colette Lunsden, 7 Swainstown, Kilmessan, County Meath (dated 15/03/2017, 3 pages)

B. Further co-appellants who adopt this letter and our attached letter of even date:

12. Lady Grania Langrishe, Arlonstown, Dunsany, County Meath
13. Derval Maher and Francis Maher, Dunsany Cross, Dunsany, County Meath
14. Declan Brooks and Christine Brooks, Kilcarty Stud, Kilcarty, County Meath
15. Daisy Grehan, Highfield, Dunsany, County Meath
16. Mary Harrahill, President, Horace Plunket, Irish Countrywomens' Association, Dunsany, County Meath
17. Lilli Byrne, Old Road, Dunsany, County Meath
18. Deirde Duffy and Karl Duffy, Athronan, Dunsany, County Meath

19. Malachy Maguire and Fiona Maguire, 8 Swainstown, Kilmessan, County Meath
20. Stephen Duffy and Bridie Duffy, Ox Park, Dunsany, County Meath
21. Kevin Byrne and Bernie Byrne, Ox Park, Dunsany, County Meath
22. Harold and Anne Lawlor, Church View, Dunsany, County Meath
23. Sophie Sauverochi, Swainstown House, Dunsany, County Meath
24. John Stafford, 29 Bective Park, Bective Lodge, Kilmessan, County Meath
25. Margaret Tallon, Proudstown, Tara, County Meath

All of the above (hereafter the "co-appellants") have adopted as grounds for appeal the grounds for objection set out in our letter to you today attached originally of 09/03/2017 to Meath County Council at that time written on behalf of Duncan Grehan and Barbara Grehan and now filed herewith for your close attention.

C. We attach our cheque for €220.00 payable to you.

D. Documents in support of this appeal:

1. Copy Affidavit of Michael English, Executive Engineer, Meath County Council, as its engineer for the Dunshaughlin area sworn 12 May 1999.
2. Copy Affidavit of Des Foley, Administrative Officer in the Planning Department of MCC sworn 12 May 1999.
3. Notification to Mr and Mrs Grehan from MCC of 05/04/2017 of its decision of that date against which this appeal is filed.
4. Decision reference PL17.233813 (P.A Reg. Ref.: TA/802731) of An Bord Pleanála dated 23 December 2012 and Board Direction that following the closure of the quarry the formation of a lake is acceptable and "*would not seriously injure the amenities of the area or conflict with the policy of the development plan*".
5. Planning Application Form declared "... *correct and accurate and fully compliant* ..." on 01/02/2017 by Sean Boyle, Architect for Kilsaran Concrete.
6. Letter of Objection and Submissions of 15/03/2017 Skane Valley Community Council (Jim O'Leary, Chairman) to MCC.
7. MCC Road Design Office Report of 31/03/2017.

E. Persons who have retained us to make submissions on their behalf but who did not file any submissions with MCC

1. Deirdre and Joe Carolan, Athronan, Dunsany, County Meath.

F. MCC letters acknowledging receipt and/or MCC receipts to co-appellants

1. Letter of 10/03/2017 MCC to Duncan and Barbara Grehan.
2. Letter of 15/03/2017 MCC to Joan and Tommy Murphy.
3. Letter of 14/03/2017 MCC to Colm and Kerrie Ryan with attached receipt.
4. Letter MCC to Matthew Tristan Lalor.
5. Letter of 05/04/2017 MCC to Joseph and Dominic Loughran.
6. Letter of 05/04/2017 MCC to Derval and Francis Maher.
7. Letter of 05/04/2017 MCC to Lady Grania Langrishe.
8. Letter of 16/03/2017 MCC to Lady Grania Langrishe.
9. Letter MCC to Patrick and Kathleen McEniff.
10. Letter of 16/03/2017 MCC to Caroline Preston.
11. Letter 16/03/2017 MCC to Daisy Grehan with attached receipt.
12. Letter 05/04/2017 MCC to Barbara Grehan.
13. Letter of 05/04/2017 MCC to Margaret Tallon.
14. Letter of 20/03/17 MCC to Declan and Christine Brooks with attached receipt.
15. Letter of 20/03/2017 MCC to Mary Harrahill, President of Dunsany ICA.
16. Letter of 05/04/2017 MCC to Lilli Byrne.
17. Letter of 05/04/2017 MCC to Deirdre and Karl Duffy.
18. Letter of 14/03/2017 MCC to Malachy and Fiona Maguire.
19. Letter of 14/03/2017 MCC to Stephen and Bridie Duffy with receipt attached.
20. Letter of 14/03/2017 MCC to Kevin and Bernie Byrne with receipt attached.

21. Letter of 05/04/2017 MCC to Harold and Anne Lawlor.
22. Letter of 05/04/2017 MCC to Sophie Sauverochi.
23. Letter of 05/04/2017 MCC to John Stafford.
24. Letter of 16/03/2017 MCC to Julian Jameson with receipt attached.
25. Letter of 14/03/2017 MCC to Joey Loughran and Christine Keating with receipt attached.
26. Letter of 14/03/2017 MCC to Dunsany GAA Club.
27. Letter of 14/03/2017 MCC to Marianne Wieringen with receipt.
28. Letter of 15/03/2017 MCC to Dominic and Colette Lunsden with receipt.
29. Printout from MCC website (8 pages) of the names and acknowledged date of receipt of 30 letters of objection from multiple local objectors.

Additional Comments

The Board is asked to kindly consider and analyse all of the arguments in the attached letters and attached supporting documentation grounding this appeal as well as these:

1. The co-appellants conclude that MCC have not given careful or adequate analysis to the overwhelming local objection to any grant of permission to Kilsaran Concrete ("the Applicant"). It has preferred the business interests of the Applicant over the greater public interest in health, safety, protection of amenity and real estate values.
2. The Applicant's identity has not been concisely disclosed in the documents supporting the application and MCC in its permission of 05/04/2017 has not identified to whom it is granting the permission. Nowhere does it make any reference to the decision beneficiary.
3. MCC's decision of 05/04/2017 is not to be upheld because it fails to provide any reasons for the decision. It does not identify the party to whom the permission is granted. It does not confirm that it has made any grant as its opening paragraph omits this information.
4. The MCC decision of 05/04/2017 has ignored our argument here repeated that this application should be for permission for a change of use of the quarry from the business of excavation to the business of carrying on over a (minimum) 14-year period of selling in-fill space to third parties. The decision is for the permission, as requested, for the so-called "*restoration of the existing excavated*

quarry previously granted planning permission under Register Reference 99/1230 and TA/802731 (see attached ABP's decision of 23/12/2011, Ref. PL17.233813) to the original ground levels and use as agricultural land by importing 5,600,000 tonnes of imported inert natural material soil stones ...". The true nature of the application is for permission to carry on an in-fill commercial business. The "restoration" is a side effect.

5. Restoration of the quarry hole to a level agricultural field will only occur if the Applicant is compelled to ensure that it does fill it in and if satisfactory security is in place to cover the event of a default. Adequate security, including first fixed charges, insurance and the personal guarantees of the Directors, is absent.
6. MCC has offered no new reason as to why it has over-ridden the long-term development policy of the Planning Regulator (MCC and ABP) over the 20-year plus history of the Applicant's activities at this quarry that when quarrying ceases, it shall be restored to a lake over a 2-year period. Instead it has brushed the policy to create a lake aside and, without giving reasons, it has relieved the Applicant of that duty which the Board made a condition to any quarrying and allows it to start up a new business of in-filling which it can carry on for 14 years.
7. There is no community benefit whatsoever to this Applicant being granted permission to commence its new business activities at the quarry which has been closed down since January 2012. MCC has accepted, without any constructive analysis or argument, that the Applicant may sell the space in its quarry hole to third parties over a minimum 14 years on the basis that it will be an agricultural field after 5,600,000 tonnes of "imported inert natural materials, soil and stones" have been dumped in the quarry hole. MCC has failed to analyse that proposition nor given any indication that it has done the maths. It has not taken into account that the Applicant may not start its in-fill activity until some time in the future. It may turn out that the quarry is less than an agricultural field at the end of 14 years and still a considerable hole in the landscape in full view of the Hill of Tara.
8. The local community have relied on the Planning Regulator's long-term policy to require the Applicant to restore the quarry hole to a lake over a 2-year period. In breach of this requirement, the Applicant has not commenced the creation of a lake although quarrying has been stopped for the past five years. The public interest is not to have the local amenity devalued and damaged and not to have massive health and safety risks reintroduced to a wide area over 10 square miles or more by heavily loaded HGVs passing by each other and all villages and towns en route every 4 minutes from 8.00 a.m. to 6.00 p.m. Mondays to Fridays and 8.00 a.m. to 2.00 p.m. Saturdays for at least the next 14 years.
9. Perhaps the reason why the quarry activity ceased in January 2012 was because the Applicant's business model failed and the quarried stone was no longer saleable. The Applicant does not admit this to MCC in its application and MCC does not query it. An Bord Pleanála's Decision (attached) of 23/12/2011 was to

refuse permission for a new readymix concrete batching facility to be located on the existing quarry floor which business was intended to be coupled with the quarrying. Furthermore, the main customers for the quarried stone were no longer available as the motorways work had now been completed and the global economic crisis and local bank crisis had collapsed credit lines. Lastly, and as pointed out in a detailed submission and the letter of objection (attached) from Skane Valley Community Council to MCC received 16/03/2017, the excavated material was no longer suitable nor compliant with legal standards as it contains pyrite.

10. MCC's Road Design Office short report of 31/03/2017 (attached) is wholly inadequate and is no basis for MCC to decide in favour of a private family-owned company's interests (only three local employees will be involved) over the greater public interest and concern for health and safety and damage to amenity in this heritage area of County Meath. The report makes no reference to the fact that the local roadways are unmarked, have no signage and have soft margins making it impossible for moving HGVs to pass safely along these roads without considerable damage resulting. It is otiose and negligent to try even to argue that these roads have given rise to new fatalities. MCC's conclusion that the roads are suitable is in total conflict with the sworn evidence of MCC's County Engineer and Administrative Officer to the High Court in its 1999 action against this Applicant, Kilsaran Concrete, when it refused to accept that it was subject to the planning laws and when Injunction Orders were being sought to prevent it from carrying on its activity of the high risk causing road damage pending its submission to the planning laws. Since 1999 MCC have taken no measures whatever to make the local roads any more suitable for the business which it has nevertheless now permitted the Applicant to carry on for at least 14 years. It has never since 1999 rendered these roads any more suited or safe. Its Road Design Office have contributed nothing to improving these roads to a 21st century safety standard. Its report recommends permission only if any further extraction is not permitted. So, this seems to accept that the HGV traffic volume from quarrying is such to require its cessation. The report says that under the existing permission [TA802731] the Applicant may extract 750,000 tonnes a year for 20 years (expiring 2031) equating to 150 HGV trips to and from the quarry daily whereas if the in-fill is permitted by importing 5,600,000 tonnes over 14 years, this equates to 72 HGV trips per day or a reduction of 52% HGV movements. But 72 trips equate in fact to 72 x 2 trips per day each way, i. e. 144. So the maths is wrong. So too is the logic. The roads are unsuited, unsafe for any such traffic. Skane Valley Community Council have objected to the application and say it will average 144 HGV movements to these roads, or 14 movements per hour, or 1 every 4 minutes. SVCC reject as spurious that traffic volumes as forecasted are not an issue because they are lower than what they would be if quarrying was permitted to recommence. They detail the massive health and safety risk created by such HGV movements.

DUNCAN GREHAN
PARTNERS

Duncan Grehan & Partners To An Bord Pleanála Date 26.04.17
Continuation Sheet No. 8

11. The Applicant has a history of misconduct and non-compliance with conditions to planning permissions for its activities at this quarry. The security proposed by the MCC decision falls catastrophically short of the financial and other security required to ensure the Planning Regulator's policy for the creation of a lake over a 2-year period following the cessation of quarrying or if restoration of the original field and the foreseen repairs to the local roads and many 19th century hand-carved local bridges over the (minimum) 10-square-mile radius that will be injuriously affected and rendered unsafe and dangerous by quarry HGVs should this proposed in-fill business be permitted. The application states it will require 72 trucks every 4 minutes to pass by the co-appellants' residences and those of many others in the local community to achieve the dumping of 5,600,000 tonnes of waste material into the quarry hole over 14 years. Whether such tonnage will restore it to a level field is doubted and unproven.

We respectfully request An Bord Pleanála to refuse permission as sought by the MCC application and to overturn the decision of Meath County Council. To refuse it will be for the common good and the greater public interest.

Yours faithfully,



DUNCAN GREHAN & PARTNERS

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By Hand
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

Our Ref: dsjg/bk/gre-kil

Your Ref:

Date: 26/04/17

By Hand

Dear Sirs,

Appeal from Permission granted 05/04/2017, Ref. RA/170127, of Meath County Council

We refer to our letter to you of equal date in this matter in which we list and detail the 39 persons who have retained us solely to appeal ("the co-appellants") the decision of Meath County Council ("MCC") dated 05/04/2017, reference RA/170127. It presents some of the grounds of appeal from MCC's unclear permission apparently to Kilsaran Concrete ("the Applicant") to restore an excavated quarry by the 5.6 million tonnes allegedly required to be dumped into it over 14 years from whenever the Applicant decides to start its business of charging third parties for each lorry load passing over its weigh bridge at the quarry entrance as may be permitted by any Environmental Protection Agency licence issued. Attached to it also are the supporting documents, the MCC acknowledgements of the receipt of objections and our cheque to An Bord Pleanála ("ABP"/"the Board") for €220.00.

We refer also to the letter of Tony Manahan, Manahan Planners, to you of 26/04/2017 supporting this appeal and also attached to our second letter to you of even date.

This letter has been adopted in full by each of the 39 co-appellants. It was originally prepared by us as a letter of objection for Duncan and Barbara Grehan and hand-delivered dated 09/03/2017 to MCC. It is now re-addressed to you for full re-consideration and has been modified to deal with the MCC permission issued subsequent to 09/03/2017 against which it grounds this appeal.

It is noteworthy that MCC have issued on 05/04/2017 a conditional permission in the terms of the Applicant's application declared by its authorised agent, an architect, Sean Boyle, to be "*correct, accurate and fully compliant with the Planning and Development Act 2000 and the Regulations made thereunder*". The permission does not state anywhere that it has been "*granted*" or otherwise issued. It does not identify the beneficiary of the permission. It fails, extraordinarily and in breach of due and democratic process, to state the reasons and grounds for its decision to permit the new business of filling in a quarry

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hole over a 14-year period on the basis of the Applicant's mathematics. This permitted business use is wholly different to the existing permission of the Board, number PL17.233813, dated 23/12/2011 "*for development comprising the continuation of a quarry development (including associated plant and buildings) previously granted under Planning Authority Register Reference Number 99/1230*", subject to 18 conditions and omits any consideration of the Board's view that "*the impacts on landscape character associated with the formation of a lake (following the closure of the site) were acceptable and would not seriously injure the amenities of the area or conflict with the policy of the development plan*".

It has been the policy of the Planning Regulator (ABP and MCC) throughout the 20-year history of the quarry from when the Applicant conceded it was subject to the planning laws following MCC's High Court injunction proceedings to when the quarrying ceased (in January 2012), that the hole would be restored by the creation of a lake over a 2-year period. MCC in its permission, the subject of this appeal, has given no reason why it has changed this long-standing planning policy upon which the public and local community have relied to allow the Applicant out of its liability to create a lake over 2 years to permit it instead to slowly start filling it in over 14 years and to make huge profits at the expense of the local community and public interest or for such longer period until such time as the quarry hole in fact is restored to an agricultural field.

MCC has made no complaint about the misdescription of the purpose of the application (attached). Instead, it has permitted that "*the proposed development described as the development will consist of the restoration of the existing excavated quarry (previously granted planning permission under Register Reference Number 99/1230 and TA/802731) the original ground levels and use as agricultural land by importing 5,600,000 tonnes (i) of imported inert natural materials, soil and stones ...*". MCC has not in its decision considered it necessary to refuse the application on the grounds that it has been misdescribed and that it is misleading. It does not reject it because this ought to have been an application for a permission for the change of the permitted quarrying use to a permission for an entirely new business of in-filling the quarry hole.

The permission tolerates the Applicant's proposals for self-regulation and quality control by management visits to the sites of third party sources and by the activities of the mere three employees who will be carrying out all monitoring operations and all health and safety compliance tasks on site.

These are some of the reasons for which the co-appellants are requesting the Board to refuse this permission.

MCC has also as requested permitted the construction of a community park and playing pitch on the Applicant's quarry lands allowing it full discretion to proceed or not and that it alone may decide if and when and to whom any community park and playing pitch is to be given and subject to what terms. As a further sign of the Applicant having little concern for health and safety, it alone decides whether to construct, the only limit being that any such construction must have commenced within two years of the permission.

The Applicant accepts no role in the future maintenance, upkeep and security of any such park and disclaims all future liability. This is the only term which its application makes clear.

The further text of this letter is what we submitted by way of objection to the application to MCC. It is set out again here although what has changed in the interim is that MCC has issued a permission in response to the application.

A. Summary of Objections

The co-appellants object to any grant of permission under this application and appeal against any such grant on the grounds hereunder, as above, in our letter of even date and in each co-appellant's own letter to you, all attached:

1. The Applicant has failed to adhere to the law and planning regulations and, more particularly, to the conditions permitting it to operate a quarry at Tullykane. Initially it refused to accept that it was subject to the planning laws. It later agreed with MCC to submit an application for planning permission and then breached that agreement. Only when MCC commenced proceedings before the High Court seeking injunctions to close down the illegal operation did the Applicant apply. It then did not accept the conditions of the permit which became the subject matter of an appeal to An Bord Pleanála ("the Board"). Over the past c. 20 years it has made a number of applications to MCC relating to the quarry. MCC has refused the permissions applied for on the grounds that the proposed development is contrary to the proper planning and sustainable development of the area. The Board has on appeal upheld the MCC permissions or reversed them. The Board's latest permission of 23/12/2011 is subject to strict conditions which have not been complied with. MCC has issued the Applicant with warning letters under Section 152 of the Planning and Development Acts 2000-2011 to the effect that it may have carried on an unauthorised use of the land for the continuation of a quarry relating to activity after the 10-year permission issued 21 October 2001 had expired and before the permission of 23 December 2011 had issued.
2. The Applicant in effect has tainted and rendered void and/or abandoned the Board's permission by its violation of the Board's conditions and, on its own admission, without consultation with the local community or MCC, ceased quarrying activities in January 2012. Five years later that remains the position today. But the Applicant now proposes and threatens to reactivate quarrying activities although the permit has been wasting ("withering"), unless its application for the so-called "*restoration of the existing excavated quarry*" is permitted.

This misdescription of the proposed change of use from quarrying to the business of charging suppliers of stones, soil and inert aggregate material for dumping them in the existing quarry hole over a period of at least 14 years in effect is intentional. So, too, is its application also for permission to "*construct a community park and*

playing pitch" which is the carrot held out to the co-appellants and to the local community.

Local amenities and house market prices are to be adversely affected if the back-fill business is permitted because of the negative impact of heavy traffic on the local roads which will also cause the cessation of the local community's peaceful enjoyment of their properties. Heavy-loaded trucks will every four minutes or so pass along the local road by the co-appellants' and other locals' properties creating dirt, dust, noise and a massive health and safety risk to the detriment of the public interest.

The community park carrot will only be activated at the absolute discretion of the Applicant who refuses to take any long-term future responsibility for its maintenance in perpetuity and who will only construct it if satisfied that there is an "eligible" established constituted local community organisation fit to be the recipient of the "gift". The application for a permission for the construction of the park lacks any detail or draft contract terms. It is inappropriate and incorrect for MCC to consider any permission. It would be irresponsible and contrary to the proper planning and sustainable development of the area to permit an in-fill use as proposed and the construction of a park when there is no democratically selected and constituted recipient properly funded to operate the park in perpetuity safely.

3. The Board's permission of 23/12/2011 and its permission of 21/10/2001 which expired on 21 October 2011, as well as each MCC permission, have issued in relation to this quarry on condition that following the cessation of quarrying (this occurred in January 2012) the quarry operator Applicant would have two years (instead of the current request for 14 years) to restore the quarry by the creation of a lake. It is the clear decision of the Planning Regulators (MCC and the Board) that the restoration of the quarry hole is to be by the creation of a lake over a 2-year period from the cessation of quarrying (in 2012). The Board has reserved to itself the right to take financial or other security from the Applicant to achieve this.
4. Were the Applicant permitted to refill the quarry over a 14-year period leading to its restoration as an agricultural field, there would be massive heavy road traffic on narrow Victorian road networks of insufficient width to permit such additional traffic to pass safely along the roads taking into account the steadily increasing frequent use of the existing local traffic of supply lorries, commuter motor cars, cyclists, pedestrians, sportsmen and horse riders, mothers and children in prams. The road is not wide enough. Soft margins adjoining all of the 20 local residences along the L2206 road will be destroyed and the dirt will increase considerably causing destruction of hedgerows and tree leaves. The roads have many bends and blind spots causing health and safety risks, particularly as heavily loaded HGVs are slower to bring to a halt when required. Lastly, there is no road marking on the local road L2206. It has no centre continuous or broken white lines.

There are no side margin markings or reflectors. Most importantly, the road is seen by the Road Authority incorrectly to merit a speed limit of 80 km/h. Ironically, the 5 km stretch from Kilsaran's headquarters at Clonee along its local road has a slower speed limit of 60 km/h although it is a dual carriageway with bus lanes and footpaths, fully marked, lit and with cats' eyes.

5. If permitted, the business of selling space to suppliers of waste stone, rock and inert materials to dump in the Tullykane quarry hole would result in noise pollution, dust pollution, dirt, health and safety concerns, all of which will cause irreparable damage to the peaceful and quiet enjoyment of the local residents' properties and their values. It will cause the destruction of the local amenity if this activity is permitted for the period miscalculated and misdescribed by the Applicant as being 14 years required to back-fill and restore the quarry hole to an agricultural field.
6. The application's calculations as to the time period required to achieve a restoration of the quarry to an agricultural field and the annual quantities of inert and other materials required to be deposited do not add up. Were the quantities proposed used, we are informed that the time period would be considerably greater than 14 years and perhaps as long as 24-30 years.
7. The Applicant makes no proposal to offer any financial and other security to MCC on behalf of the local community and residents to enable MCC to complete any back-fill/in-fill operation permitted should, for whatever reason, the Applicant cease to operate or exist, become insolvent or have a change of ownership and directorship with the possibility of a change of business strategies away from the so-called "restoration plan".
8. The Applicant offers no viable fund contribution programme to go towards compensation for the irreparable damage and adverse consequences suffered by the co-appellants and the greater local community as it has never done over the past 25 years of its profitable but injurious local business presence.

B. Identity Issues

1. Quarry Identity

The Applicant's documents name its quarry variously as "Kilsaran Quarry", "Kilmessan Quarry" and "Swainstown Quarry".

2. The co-appellants

Mr and Mrs Grehan (for whom this letter of objection to MCC was originally drafted) own and have resided at Highfield, Dunsany, since January 1992. Highfield is a house and stable yard on just over 3 acres adjoining the local road L2206 from Dunsany crossroads to Kilmessan along which the Applicant's land and quarry also is adjoining.

Highfield is about 1 km and the second residential property on the right-hand side of the L2206 road from Dunsany crossroads. The Applicant's land and quarry is about a further 1 km along the road from Highfield on the same right-hand side. Highfield is one of some 20 residential properties adjoining the L2206 road between Dunsany and Kilmessan. Highfield has not been shown or referred to on any of the Applicant's maps or illustrations of the quarry locality. (Since the MCC permission, the co-appellants have realised that this appeal will be better administered by a united front. Many of their residences have not been identified by the application as being in the firing line or on the route of truck traffic as they in fact are.)

3. Applicant

The Applicant identifies itself as "Kilsaran Concrete" which, after investigation, is a private unlimited corporation with company number 23927 incorporated 7 July 1966 with registered office at Piercetown, Dunboyne, County Meath. It has had a number of previous names. Confusingly, the application documentation which has been filed with MCC names the Applicant also as a number of other individuals or corporations. This is of concern because it renders uncertain the offers, promises, covenants and proposals set out in the application and the supporting documentation. The form of application at the time that permission was originally granted under Planning Authority Register Reference Number 99/1230 did not require, for some unknown reason, the Planning Regulator to carefully and correctly identify the party to whom permission was being granted. So, for example, the then Applicant, "Kilsaran Concrete", did not identify itself by supplying the place of incorporation, registered office address or, more importantly, the registered number issued to it by the Companies Registration Office or any other office wherever it was incorporated in the world. The Planning Application, the subject of this appeal, on the other hand requires the Applicant to identify itself as Kilsaran Concrete which, according to CRO, is an "unlimited company" incorporated 07/07/1966. It has made its application relying on the permission issued by the Board on 21/12/2011 which in turn was a permission for the continuation of the permitted use which it had issued to an unknown and unidentified applicant known as "Kilsaran Concrete" in 2001. No restoration plan was agreed in writing with MCC in compliance with the conditions and the Applicant is now seeking to have its duty to create a lake over a 2-year period within the cessation of quarrying replaced by a permission to allow it to carry on a 14-year business of selling in-fill space. This is of concern because of the history of non-compliance to the considerable detriment of the public interest and local community, local property values and health and safety (see below page 7 ff "History of Non-Compliance")

In particular:

- a) The Environmental Impact Assessment Report prepared by Raphael McEvoy dated 27/01/17 describes the Applicant as "Kilsaran Concrete" (page 3) but also as "Kilsaran International" (page 5).
- b) The Noise Impact Assessment Report prepared by Raphael McEvoy dated January 2017 does not identify the Applicant at all. It makes no reference

whatever to Kilsaran Concrete or any other person, the subject of the application, and refers to the location for restoration as being "*Kilmessan Quarry*" (page 3).

- c) The Planning Application Notice published 4 February 2017 in Meath Chronicle confusingly starts "*We, Kilsaran Concrete, intend to apply ...*" making it unclear how many "*Kilsaran Concrete*" entities there are involved.
- d) The Cultural Heritage Report dated October 2016 of Dr. Charles Mount is stated to be a report on archaeology and cultural heritage prepared for "*Kilsaran Build*" and it states that the EIS is prepared on behalf of that entity (page 1) but refers to the land, the subject of the application as being "*Kilmessan Quarry*".
- e) The EIS Report referred to at b) above at page 34 states that Scott Cawley Limited was commissioned by Raphael McEvoy on behalf of "*Kilsaran International Concrete Limited*" to undertake an Ecological Impact Assessment of the proposed "*rehabilitation works*" at "*Tullykane Quarry*".
- f) The report (37 pages undated and unsigned) accredited to its authorised architect, Sean Boyle called "*Landscape and Visual Impact Assessment for Restoration of Existing Quarry Fill with Inert Soil and Stone and Provision of a Public Amenity Park*" nowhere refers to the identity of the party for whom the report has been prepared nor to the Applicant. It describes the location as being "*Tullykane Quarry*". Only on its page 23 is there any reference to the identity of the Applicant but then also obtusely by stating: "*Although extraction activities have been significantly reduced at the site due to the current economic climate, it has planning permission ...*". It does not identify who "*it*" is.

C. History of Non-Compliance

The co-appellants have been involved in opposing the Applicant's quarry operations since they intensified during the 1990s. Their objections and concerns have been shared by and large by MCC. The Applicant initially claimed that it could quarry without any planning permission or third party regulation such as by the EPA. It claimed to be exempt because quarrying activities had been carried on at the location prior to 1964 when the planning laws were first introduced. It applied to An Bord Pleanála ("the Board") under Section 5 of the Local Government (Planning and Development) Act, 1963 on 25/08/1997 to clarify the boundaries of the quarry which it operated at the subject location and on 24/02/1998 (reference number PL17, RF.0831) the Board decided that the quarrying of rock at Tullykane on a site of 133 acres was development for which permission from MCC was required. So as to bring the quarry within the control of the planning laws and the regulation of MCC, it granted the Applicant a very short-term 5-year permission for retention of the intensification of the quarry development and its decision was upheld on appeal by the Board in 2001 (reg. ref. number 99/1230 and PL17.119097) (albeit extended to 10 years). The quarry had been purchased by the Applicant in or about 1991/1992. It increased the quarry area from 1.5 acres to about 10 acres in 1992. By July of 1999 the area of the workings has extended to 40 acres and by the time it had lodged an appeal

against the MCC permission for the retention of intensification of use in or about April 2000, the quarrying area had risen to about 60 acres.

In May 1999 following the failure by the Applicant to apply for planning permission in breach of its promises to MCC to do so, MCC was obliged to seek Injunctions and Enforcement Orders from the High Court and Affidavits in support of that application by it were sworn by its Executive Engineer, Michael English, and its Administrative Officer, Des Foley. MCC also sought a compensation order for the damage caused by the Applicant to the local roads network around where the co-appellants live. At MCC's request their engineer, Mr English, averred in his High Court Affidavit that in 1996 Kilsaran Concrete Limited engaged with MCC as to whether planning permission was required and that the Applicant had illegally demolished Tullykane House, a habitable home, without having sought nor obtained the required permission for its demolition. Further he averred that the Applicant had illegally constructed an embankment for which it had not sought the required planning permission.

It was only after the Applicant had filed an application for planning permission in June 1999 that the High Court proceedings were withdrawn and a decision to grant a limited permission was made by MCC in March 2000 which was upheld subsequently with some changes by the Board in 2001. The documentation submitted by the Applicant to MCC at that time claimed that its full landholding of 133 acres could be developed as a quarry without any limitation as to the quarry depth. Its statutory notice for its planning application in 1999 described its application to MCC as "*planning permission for the retention of intensification of a quarry development and associated processing on 46.5 hectares at Tullykane, Kilmessan, County Meath*".

The 1999 permission issued by the Board, Condition 2, stated that the use of the quarry would cease within ten years unless a further permission issued to the contrary. So, the permission would end on 16 October 2011 when the permission would expire and any further quarrying activities would be illegal.

On 11 May 2007 MCC granted the Applicant, subject to 29 conditions, a permission for development at the quarry of batching houses, storage bins, cement silos, water storage tanks, ancillary plant and machinery and an Electricity Supply Board switch house to be located on the quarry floor. The entirety of this was then appealed by a number of local residents including the co-appellants and on 14 March 2008, save for the retention of the ESB substation, the entirety of the MCC permission was overturned and the application was refused by the Board.

By decision dated 29/04/2009, planning PR number TA/802731, MCC refused the Applicant permission for an extension or continuation of the quarry development including its associated plants and buildings which had been granted under Planning Registration Reference Number 99/1230. Kilsaran appealed. 2 ½ years later the Board decided to grant permission for the further development of the quarry including the extraction by a further two benches but within the previously approved extraction footprint area under a new permission term of 22 years (20 years extraction and 2 years

to implement final restoration) on a 46 hectare site. It imposed a base of excavation at 37.1 metres above ordinance datum.

The Board's decision issued on 23 December 2011, that is following the expiry of the previous permission on 16 October 2011. Condition 4 of the 2001 permission had required the Applicant to have submitted to, and to have agreed in writing, a 2-year restoration plan for the quarry with MCC within two months of 16/10/2001.

That plan was not submitted by the Applicant on time by 16/12/2001. Indeed, by June 2007, at the time the co-appellants were making submissions to An Bord Pleanála from the Order made 11/05/2007 [Planning Reference Number TA60605], no restoration plan had been agreed with MCC. The Condition 4 required that the restoration 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*". No provision was made in the permission for what would happen should no plan have been agreed. Under the Board's permission dated 23 December 2011 the Applicant was obliged under Condition 16 as follows:

"A comprehensive plan for the restoration of the site, following the cessation of quarrying works, generally in accordance with the proposal 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." The reason given for this Condition is: "*In the interest of public amenity and public safety*".

Nowhere in the current application to which the co-appellants are objecting, is any reference made to "*a comprehensive plan for the restoration of the site*" having been "*submitted to, and agreed in writing with, the Planning Authority within six months of the date of this Order (23 December 2011)*".

The Applicant states that quarrying has ceased since January 2012.

If no restoration plan has been submitted and agreed in writing, then the planning permission of 23/12/2011 has been breached and the Applicant has no current valid planning permission to recommence quarrying as by its non-compliance the permission is void having been breached and disregarded illegally.

We refer to a letter of 1 December 2011 from MCC to us in which it is confirmed by MCC that "*... no agreement exists between the operator and this Planning Authority in respect of the ongoing quarry operations post the expiry of permission granted under PL17.119097*". That confirmation was obtained following our complaint on the co-appellants' behalf to MCC that the Applicant was carrying on an unauthorised development following the expiry on 16 October 2011 of the permission. Please note that An Bord Pleanála only 2 ½ months later issued permission for the continuation of quarrying on 23 December 2011, but subject to a restoration plan being agreed in writing

within six months, that is by 23 June 2012. Quarrying ceased January 2012 and no restoration plan has been agreed nor implemented.

In a letter of 28/03/2012 which we received from Mark Harrington of the MCC Planning Department, he was first able to provide confirmation at that stage, some three months after the Board's permission of 23/12/2011, that only then (late and in breach of permission) had the Applicant complied with Permission Conditions 10 (a) and (b) (dealing with the submission of dust monitoring), 13 (vibration and blasting monitoring), 2 (submission of revised drawings), and 14 (the submission in writing and written agreement with MCC of an Environmental Management System before commencement of development concerning the suppression of on-site noise, of dust, concerning fuel and lubrication storage and emergency action in the event of a spillage, safety measures, landscaping, ground and surface water quality levels and discharges and access to the site manager 24/7).

However, your letter of 28/03/2012 made no reference whatsoever to any compliance with Condition 16, the submission and agreement in writing of a comprehensive plan for the restoration of the site following cessation of the quarrying works to have been reached within six months of 23/12/2011. Indeed, the letter even failed to state the date when compliance with Conditions 10, 13, 2 and 14 had been achieved.

Following the expiry of its then current permission on 16/10/2011 and before the issue of a permission on 23/12/2011 by the Board, in that 2 ½-month period the development continued illegally without permission. MCC opened an Unauthorised Development file and initiated an investigation (see letter of 01/12/2011 from MCC to us).

Having put the co-appellants and hundreds of local residents to considerable cost, trouble and inconvenience from the mid-1990s through to the issue by the Board of a limited permission to continue quarrying for 20 years on 23/12/2011 (but refusing any permission to operate a concrete block manufacturing business on the quarry floor by the transfer of such operations from its Navan site to its Tullykane site) to date, there have been repeated breaches of the law and contempt by the Applicant for the health, safety and amenity of the co-appellants and the hundreds of adversely affected local residents.

The Applicant now admits that from January 2012 it simply closed down all operations, activities and quarrying at Tullykane Quarry and that remains the position until today. It threatens to re-start quarrying unless it is permitted to sell a back-fill dumping service to third party suppliers for a 14-year period of restoration when it has failed to comply with the Board's permits to have agreed in writing with MCC a 2-year restoration and the creation of a lake.

Opposition to the Applicant's conduct of quarrying in breach of planning law and regulations not only has been brought by MCC to the attention of the High Court and An Bord Pleanála, MCC has received complaints about this from some hundreds of local residents listed in the Inspector's Report to An Bord Pleanála dated 14 December 2007. This led to the Board's decision, on the appeal brought by local residents including the

co-appellants, to overturn MCC's decision of 11/05/2007 and to refuse the Applicant permission to set up a Readymix concrete and concrete block batching plants on the quarry floor.

The Report's Appendix 1 gives the names and addresses of 169 persons who made representations to MCC. It also clarifies that the permission granted by MCC in response, but subject to 29 conditions, was appealed to the Board by 18 local residents via two separate law firms at considerable cost. This appeal was successful. The conditional permission issued by MCC was overturned.

The application supporting documentation reveals that the Applicant decided in early 2012 to cease further quarry activity and since then it has not operated a quarry at Tullykane. This decision was taken without consultation with the local community. It gave no notice to the Environmental Monitoring Committee which should have been set up within two months of the Board's permission in October 2001 but, instead, was only set up one year later in 2002 but from which the Applicant had unilaterally withdrawn from participation thereby effectively closing down the Committee's business and meetings. The Committee has not met since then. Mr Grehan was the local resident member of the 3-person committee, the other two being from MCC and from Kilsaran. He was not informed in 2012 by either the Applicant or MCC of the decision to cease the quarry activity although we were in correspondence with both for him then. The quarry has remained closed without any explanation since the start of 2012 for over five years. The reasons only now given are because of the downturn of the economy.

The Applicant forecasts an upswing and a demand for an in-fill facility with full planning permission. For that reason it is making this application. It makes no reference to the current market demand (if any) for quarried stone aggregate from its quarry at Tullykane.

It makes no effort to address the public concern that the reason why the quarry has been inactive and why its permission has been let waste over the past five years is because the stone aggregate from it includes pyrite or similar unsaleable material. It does not admit that following the Board's refusal to permit it to make concrete blocks at the Tullykane quarry the business model has failed.

On behalf of the Grehans we wrote to MCC and the Applicant about its illegal quarrying activities following the expiry of the planning permission on 21 October 2011 prior to the current permission being issued on 23/12/2011 by the Board. The Applicant did not provide any undertaking to cease its quarrying activity as we requested. Instead, it engaged the services of one of Ireland's largest law firms, Arthur Cox, which as instructed replied to us that the Applicant was permitted to quarry for the following 22 years. Arthur Cox did not communicate any undertaking not to quarry nor did it use the opportunity to give notice that Kilsaran intended to immediately cease quarrying for economic reasons, as it has only now revealed in this application. In disregard of community concerns and interests, it simply decided without public notification or consultation in its own best interests.

D. Objections to the Application and Further Reasons for the Appeal

Not least because of its history of non-compliance with the planning laws and permissions, the co-appellants mistrust the Applicant. Its misleading and irregular approach to compliance may be due to its pursuit of self-interest. They understand that the duty of the Applicant's Directors is to act in the best interest of the Applicant, for its benefit and that of its shareholder. It is clear that this family-owned and managed Applicant is skilled at directing corporate activities. This application is made as the Applicant sees an opportunity to make profit by selling an in-fill service to replace the former quarrying operation at Tullykane. It has decided that greater opportunity for profit arises in selling an in-fill service than in selling quarried aggregate stone for which it has decided five years ago that there is no market.

This is an application in fact for a change to the use permitted subject to conditions by the Board in its decision of 23/12/2011 from a quarry to an inert materials, stones and soil back-fill facility. This application is wholly dependent on and inter-mixed with the Board's conditional decision of 23/12/2011, with which the Applicant has not complied.

The Applicant's approach to publicising the application in pre-application meetings with select local community members is sharp, misleading and openly threatening. It is carrot-and-stick.

The carrot is the so-called offer to provide a public amenity park. That offer is misdescribed:

Firstly, it is conditional on MCC granting it permission to sell an in-fill service to bring about a restoration of the quarry to agricultural land over a minimum 14 years' service period. The permission granted by the Board on 23/12/2011 foresaw that the restoration of the quarry as a condition to the permission would only require two years following the cessation of the quarry activity by the creation of a lake.

Secondly, the Applicant reserves to itself absolute discretion on whether to implement the offer to provide a park. It is the Applicant that will decide on the suitability and eligibility of the recipient of the "gift" of the amenity park. On page 18 of the EIS of Raphael McEvoy it is made clear that the Applicant will only provide an amenity park if it decides that the recipient is a so-called, in its opinion, "*constituted eligible local organisation*". The Applicant makes it clear that if it decides at its discretion that it does not want to make such provision, and it reserves the right to decide at any time after it has been given permission to sell the in-fill service at Tullykane and restore its quarry over a minimum of 14 years, then it threatens simply to not provide the carrot of a community play land. Instead, it presents its stick. It threatens at its discretion to simply restore to agricultural use the land designated by it in its application for a park.

Should the local residents and stakeholders not agree with the application and instead object to it thereby causing or contributing to a decision by MCC to refuse the application or any such refusal, it threatens to re-open the quarry and continue with the quarry

extraction and accompanying devastating truck traffic for the remainder of the 20-year so-called permission and any time extension thereof which it may be later granted.

D. 1) Application for permission to construct a community park and playing pitch with new entrance, fencing, landscaping and parking

The application for permission to construct a “community park” and “playing pitch” lacks precision, certainty and because it is entirely conditional and at the absolute discretion of the Applicant as to whether, if permitted, it will ever be implemented, it lacks integrity. The application provides no detail whatever about the Applicant’s intentions, if permitted. It attaches no draft contract for the transfer, leasing or licencing of the park (described in drawing number 6978) to any “constituted eligible local organisation” (see page 18 of EIS) it selects. It does make clear the following:

1. It will only contemplate arrangements for the use of a community park if granted permission by MCC to develop it as per its plan and drawing as outlined in the application and documents attached.
2. Should it decide to allow any third party use of the permitted play land/parkland, then it will decide when it will do that and subject to what conditions.
3. It will not accept any liability or responsibility for any such future use of the play land.
4. It gives no indication of what eligibility parameters it will impose. For example, will it define what activities will be able to take place on its “playing pitch”? Will this be rugby, Gaelic football, hurling, cricket, basketball, hockey, soccer or croquet?
5. It offers no plan as to how the use of the community park and playing pitch and other facilities described in its drawing is to be maintained in perpetuity into the future. It is clear to anyone that such facilities require regular maintenance, groundsmen, cleaning, lighting, security, insurance cover, repair and cyclical reinvestment. It distances itself from any such ongoing relationship.
6. There is no assurance that the Applicant will not retain direct or indirect beneficial ownership and control but without any liability or responsibility.
7. There is no public interest regulator to ensure that the “constituted eligible local organisation” selected will be honest, well-funded and made up of trustees for a widely defined community interest as opposed to some elite and exclusive cadre to whom the ownership or use is transferred.
8. A community park and the proposed facilities will lead to renewed and more traffic risk along the local road L2206 from Dunsany to Kilmessan including pedestrian traffic, women with prams, school children and cyclists coming to the

park and pitch from Kilmessan, about 1 km away, or from Dunsany, about 2 km away.

D. 2) An application for permission for the restoration of the existing excavated quarry to the original ground levels and use as agricultural land by importing 5,600,000 tonnes of materials

The Applicant misdescribed the permission sought because rather than seeking permission to restore an existing quarry it in fact is seeking permission to sell its services as operators of an in-fill for imported inert natural materials, soil and stones from undisclosed suppliers at undisclosed terms over a lengthy period of time (projected by it at 400,000 tonnes a year over 14 years, that is 5,600,000 tonnes). Much of what the application maintains is correct were the sole objective to restore the quarry to the original ground levels for use as agricultural land.

The real objective of the Applicant is to make profit from selling a service of receiving such inert materials from third parties at a price into the existing excavated quarry until such time as the quarry hole has been filled and when the Applicant agrees to cover that material with subsoil and topsoil – if permitted.

The supporting documents for the application for permission are largely filed so that the Applicant has complied with the conditions to validate the application according to law and regulations. The Environmental Impact Assessment, non-technical summary, prepared by Raphael McEvoy, is the core document and its first paragraph refers not to a restoration target but rather to “rehabilitation”. It reveals that the purpose of the application is to “bring forward the closure of the facility” and that the report is generated merely to comply with the regulation by which the projects that are likely to have a significant effect on the environment must in any planning or licence application be supported by an Environmental Impact Assessment of the environmental impact. It must propose mitigation measures. It explains that these lead to the production of an Environmental Impact Statement or EIS which then relates to the process for the rehabilitation of this limestone aggregate quarry owned by the Applicant. Its second paragraph (page 3 under the heading “Proposed Restoration Works”) states, inaccurately, thereby leading MCC to a negative decision in relation to the application:

“The facility is operated in full compliance with the existing planning permissions and has never had any issues regarding the management of the quarry from regulatory or locally concerned stakeholders within the lifetime of the facility.”

This initial inaccuracy highlights the belief of the Applicant that its largely self-interested misconduct when operating the quarry to gain profit without any contribution, payback or benefit to the local community whatsoever at any time will not be remembered and that its record will not be taken into account. The co-appellants hope that this letter will lead to the application being rejected because of the repeated breach of promise and trust, regulation and duty by the Applicant and its failure to strictly observe the law and conditions of permitted operation.

The EIS continues under the same heading with a statement:

"In addition to the proposal to back-fill the quarry, it is also proposed to provide for the local community a public amenity park comprising a sports field, biodiversity walks, sensory parks and a children's playground. This park will be located to the Southwest of the site and will see Kilsaran Concrete gift this park to the community should it be in a position to accept it."

It does not emphasise that any such gift will be at the absolute discretion of the Applicant and if and only if the Applicant is permitted to proceed with its back-fill profit-making slow landfill over 14 years. In relation to the surrounding land use (page 6 of the EIS introduction), it is admitted, misleadingly and incorrectly:

"There are a number of one-off residences in the area immediately surrounding the existing facility."

It again seeks to intentionally cause the reader to believe that the quarry is in the middle of an agricultural belt and that there are hardly any people living in the area when in fact the quarry adjoins a busy roadway, the L2206, along which there are some twenty family homes on this narrow, short 4 km-length old road and which is used daily by commuters, a public bus service every half hour in both directions, joggers, mothers and babies walking with prams, dog-walkers, and multiple cyclists as well as many other agricultural machinery, lorries and delivery trucks.

The EIS explains confusingly that the extraction regime at the quarry has ceased since 2007 (quarrying ceased only in 2012). Were quarrying to have ceased in 2007 as the EIS misleadingly states, then this would mean that there has been no quarrying for ten years when in fact quarrying continued to January 2012. There has been no quarrying for over five years.

This EIS dated 27/01/2017 and prepared for the Applicant as part of this application, however, states (page 8):

"... The extraction regime at the quarry is currently on hold due in major part to the economic issues faced nationally during the period 2007 to present."

It goes on then to threaten that:

"As part of the alternative to the current proposal Kilsaran are assessing whether to restart the extraction operations at Tullykane for the remaining period until December 12th, 2031 when the current planning permission runs out. There will then, in line with the existing planning permission, be a 2-year period of restoration of the quarry to a level prior to the creation of a lake as part of the finished remedial works."

This statement is inaccurate, wrong and incorrect. Quarrying ceased in 2012. The economic crisis started in 2007 when the world bank crisis triggered the domestic bank

crisis. That crisis did not stop quarrying until five years later. Perhaps the true reason is because the motorways had been completed, the principal customer for the excavated stone no longer had demand and there was no other market for this stone, the quality of which is in doubt. To use pyrite-tainted stone for construction purposes, for example, would have led to multiple claims against Kilsaran. The business model of quarrying and block-making had not been permitted by the Board. Its threat at the same time does accept that the Board expects a 2-year restoration plan and the creation of a lake.

A reason why the Applicant decided in January 2012 to cease is possibly because of the collapse of the market for the quarried aggregate stone due to the main customer, motorway construction, having no longer any further demand and, most importantly, because the Board refused to permit it to develop and operate its proposed Readymix concrete batching facility on the quarry floor application lands.

E. Renewal of the Board's Conditional Permission of 23/12/2011 subject to a 2-Year Restoration and the Creation of a Lake

The permission is stated in the Applicant's EIS (page 8) to expire 12 December 2031. The Board's decision of 23/12/2011 was a split decision. It refused the proposal for a Readymix concrete batching facility. It did conditionally grant the quarry a continuation of time and permission to upgrade its septic tank.

Condition 4 states:

"The use of the site as a quarry shall cease on or before the 31st December 2031, and restoration shall be completed within a further two years, unless planning permission shall have been granted for a further period, prior to that date."

Its Condition 1 states that where its 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".

Many of the conditions attached to the Board's permission are imposed "in the interest of environmental protection and in order to safeguard local amenities" or "in order to protect the residential amenities of property in the vicinity" or, importantly, "to ensure the satisfactory restoration of the site in the interest of visual and residential amenity".

The quarry was required to be operated only between 08:00 hours and 18:00 hours, Monday to Friday, and between 08:00 hours and 14:00 hours on Saturdays with no activity to take place outside those hours or on Sundays or public holidays.

Condition 4 required restoration to be completed within two years. The Applicant currently seeks permission to restore over a 14-year period. The Board has decided that restoration by the creation of a lake will be quick and satisfactory. Two years has been the permitted restoration time period in all planning permissions ever granted to the

Applicant and the co-appellants have always assumed that this is the restoration period which proper and sustainable development in their locality requires.

Conditions 16 states plainly:

“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 programme for its implementation.”

In breach of that Condition, no restoration plan had been submitted to, and therefore had not been agreed in writing, with the planning authority by 23 June 2012. Although, on its own admission, the Applicant ceased any quarrying activities from January 2012, no work to commence the restoration of the site began or has been concluded.

Condition 17 of the Board's permission required the Applicant developer to lodge with MCC a cash deposit or such other security acceptable to the planning authority to ensure 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 Board reserved to itself the right to decide the form and amount of the security for the satisfactory reinstatement of the site in default of it being agreed between the planning authority and the developer. The Board's reason for imposing this condition on its permission was *“to ensure the satisfactory restoration of the site in the interest of visual and residential amenity”*.

The Applicant is therefore again in breach of the Board's permission by not adhering to the conditions to have filed a comprehensive plan for the restoration of the site and to have agreed it in writing with the planning authority by 23 June 2012. Does MCC as a result of the Board's Condition 17 have the cash deposit, a bond of an insurance company or such other security to secure the satisfactory reinstatement of the site as per the terms of the Board's Condition 17? If not, is it not now the right of the Board to decide the form and amount of the security?

On issuing the permission, the Board also issued Directions and further detailed explanations for its reasons and considerations in granting the permission. We request MCC when considering this application to again have regard to those Directions. In granting the permission it specifically stated that the proposed development would be in accordance with the proper planning and sustainable development of the area *“subject to compliance with the conditions”*. The Board did not agree with the MCC decision to refuse permission to the Applicant from which it appealed to the Board, on the basis that the development for which permission was sought amounted to a material contravention of the development plan in relation to land use of an industrial nature in a rural area. The Board accepted that that reason pertains to the proposed Readymix concrete batching facility for which it refused permission. It felt that it was not constrained for that reason to consider a grant of permission for the continued quarrying activity. It noted that not

only had MCC refused the application for that reason but it had also not accepted its own Inspector's recommendation to refuse permission in relation to landscape considerations. The Board stated within its reasons heading that:

"It was considered that the impacts on landscape character associated with the formation of a lake (following closure of the site) were acceptable and would not seriously injure the amenities of the area of conflict with the policy of the development plan."

In the Board's Direction, under the heading "Conditions 4", it states:

"The use of the site as a quarry shall cease on 31 December 2031, and restoration shall be completed within a further two years, unless planning permission has been granted for a further period (standardised wording)."

The reason for this was to enable the appropriateness of continued quarrying to be reassessed having regard to the circumstances prevailing at that time.

F. The Applicant's EIS Report

1) Local consultations

In the EIS report prepared in support of this application again, inaccurately and misleadingly, the reporter, Raphael McEvoy states (page 8):

"The Applicant has at all stages of this process emphasised the importance of a local acceptance in respect of the existing operations and of any future operations. In that light the Applicant and their representatives have personally approached each of the local residents"

Each of the local residents were not approached. Some were. Its chronological chart explains that on two days, 15 September and 25 September 2016, the Applicant delivered "flyers" to local residents but, misleadingly and inaccurately, claims to have done so to "all residences". On 25/10/2016 it refers to having held "an information evening for concerned local residents". The co-appellants attended that meeting although they had not been invited. When Mr Grehan asked Mr Boyle and the quarry manager, Mr Curran, to explain to whom use of the community park and pitch was to be gifted and subject to what terms, neither of them were able to reply. Both of them, misleadingly and intentionally, were overheard by Mr Grehan stating incorrectly the remaining permitted term of the quarry and they made no reference to the permission requiring it to be restored over a 2-year period by the creation of a lake. When questioned, both appeared to be taken by surprise. The chronology admits that on the same evening the Applicant's team later met with a select number of local residents who the Applicant considered to be the nearest to the existing and proposed development.

Although the EIS report admits that there were "very serious and vocal concerns voiced at the local residents' meetings initially and certainly when through the passage of time

the residents had had an opportunity to discuss among themselves the possible ramifications of a resumption of activity at the site” (page 10), it does not, however, itemise those very serious and vocal concerns in its report so that they can be taken into consideration by MCC when considering this application.

2) Unsafe roads

On pages 10-12 the report briefly summarises the issues of road suitability and safety raised by the local residents around the “*restoration*” activities as proposed and around the proposed amenity park. It reports that the Applicant has no power to make any amendments to the local road layout. It does not address the local residents’ concerns about the narrowness and unsafe width of the roadways to accommodate heavy tonnage, highly dangerous haulage trucks, particularly when meeting other such trucks, approaching pedestrians, horsemen, persons walking dogs and other pets, parents with children in prams as well as at the same time or separately other traffic coming in the opposite direction such as other lorries, delivery trucks, public buses, school buses, joggers, cyclists and walkers.

The traffic on the local road between Dunsany and Kilmessan (L2206) has been increasing steadily since the quarry activities first became subject to conditional planning law permissions and law enforcement when on 24 February 1998 the Board decided that the quarrying of rock at Tullykane was a development for which permission was required. The populations of the villages in and around the Dunsany/Kilmessan catchment have grown. So, too, have the local retail facilities requiring more frequent deliveries. Within the last six months a public bus route has been introduced along the local road L2206 where buses pass each half hour daily. Additionally, there are the school buses along this route at rush hour times when under the Board’s quarry permission trucks are also permitted to operate. The road is used by the increasing numbers of commuters in the area as a rat run. Although free of heavy quarry truck traffic for the past five years, should this traffic be reintroduced following any new decision to reactivate the quarry or any permission granted on foot of the current application, the situation on the local road will be catastrophic, chaotic and high risk. That L2206 road has no road markings. There are no central line markings, no road margin markings, no “*cats’ eyes*”, no special signage to warn all road users of extra vigilance because of the heavy traffic and no special speed limit imposed. Noteworthy is the recently constructed, generously wide 2-lane dual direction road joining the Fairyhouse roundabout to the Clonee roundabout parallel to the M3 motorway leading to the Kilsaran Concrete headquarters and block manufacturing which is alongside the under-construction Shire development and the conversion of Plantagen to Avoca. The speed limit imposed is 60 km/h (rarely observed by any drivers and never policed or enforced) whereas along the local road L2206, which is not wide enough to safely allow two trucks to pass by each other without having to pass over the side soft margin, its extraordinary speed limit is at 80 km/h. This is negligent of the competent public authority that has the duty to care for public health issues. This limit is enjoyed by the truck drivers as they hurtle along the road regardless of other users even when within the permitted speed limit. Some truck drivers may believe that “*might is right*” and that all other traffic must make way.

The local road width was set in Victorian times before motorised vehicles existed. Indeed, the quarry trucks are obliged when approaching Dunsany from Batterjohn to motor over a beautiful high-pitched hand-made carved stone railway bridge over which all other traffic including HGVs must pass. The projected 14-year volume of HGVs passing over that bridge is liable to cause it structural, irremediable irreparable damage. The bridge was designed for horse-drawn traffic. It can never be restored once rendered unsound. Dunsany/Kilmessan is also a heritage area with a number of castle estates and large landholdings. In consequence, for hundreds of years and continuing today there are local herds of wild deer. There is no road signage warning of same.

Enquiries should be made as to the proposed contract arrangements to be made by the Applicant with the truck drivers and their principals. If drivers are paid by the load with a limit on the number of loads per day, then drivers will be inclined to speed. If the quantity of inert material from the supplier viewpoint is what needs to be moved to the maximum levels to the quarry, then inevitably trucks will be overloaded. This will cause trucks to be heavier and less fit to slow or brake in emergencies or as required. Heavy trucks also damage the road grass margins of the 20 private residents along the local road. The local road is not straight. There are multiple corners and blind spots when passing traffic cannot continue to move and must stop in order to avoid collisions or damage. Road tailbacks, congestions and accidents will regularly occur. The road safety management is critical therefore when any consideration to this application is being given. The Applicant declines any responsibility for ensuring that its proposed new use of the quarry to sell back-fill services will not result in public health and safety risks due to the HGV traffic on the local Victorian road network. It proposes to introduce a HGV at the L2206 crossroads at Dunsany every 4 minutes from 08:00 hours to 18:00 hours, Monday to Friday.

MCC, if not competent to regulate the use of public roads, should lobby the competent public authority and ensure that no permission is granted until the competent authority has imposed a safety regime necessitated by any new in-fill business proposed by the Applicant. It has expressly distanced itself from any competency or responsibility for ensuring safe and appropriate road networks to access its quarry. The EIS report states:

“Kilsaran International would have no power to make any amendments to the road, road layout or to develop footpaths on any carriageway that was run and maintained by the local authority/National Roads Authority.” (page 10)

It is important also to note the further factual error in the EIS report that: *“The most recent planning permission for quarrying with register reference TA/802731 (PL17.233813) granted permission on 23rd December 2011, this permission has not yet commenced.”* (page 75 EIS)

It further reports that the average daily HGV quarry traffic generation (were quarrying still permitted and had the Applicant not breached its conditions rendering it invalid) creates 250 vehicle trips per day whereas if the back-fill project is permitted, the average daily HGV traffic generation would be 72 trips or a 52% reduction in the overall potential

traffic generation. Projected forward, this is calculated at being 280,000 trips over the 14-year period (excluding the additional traffic that would be generated were the community park also constructed).

The commentary on the traffic impact neglects to make any reference to the considerable risk and safety issues that will arise as HGVs pass and repass at Dunsany crossroads where there are four local residences whose peace and quiet will now be disturbed. It makes no reference to the local Dunsany national school nor that there is a public bus stop at Dunsany Cross where the Community Hall is also located and it is 100 yards from the local school and church. Further, along the road from Dunsany Cross back to Dunshaughlin at Killeen Castle there is a relatively recently constructed narrow roundabout around which the large HGVs will have difficulties navigating without causing damage. Many of the local roads and, particularly, the local L2206 road have bends. Drivers cannot see around the bends as to whether there is oncoming traffic or pedestrians, cyclists or children playing. There is no signage to warn of extra caution. There are no footpaths or cycle paths or road markings. That there have been no fatalities is no legal reason for not ensuring that the roads network is suitable and fit for such proposed HGV concentrated use.

3) Proposed amenity park

This proposal is so conditional as to make it difficult for local residents to make any useful additional comments at this stage. It may only ever come into existence if the Applicant's proposed business of charging customers to fill in the quarry with stones and inert materials is permitted. However, even then the Applicant reserves complete and full discretion to itself to whether in fact it will proceed at all. The carrot poised by the Applicant is undetailed. The park sketch presents one option. Kilsaran has made it clear (at page 8 EIS report) that:

"... the park would only be built in the event that a local constituted body expressed interest in taking over the operation and management of the park. Kilsaran ... did not wish to have any future role in the operation and management of the facility. There would be a period of two years made available for a properly designated constituted local group to come forward to take on the park and if this did not materialise, then Kilsaran would take back in charge the land and restore it in conjunction with the restoration activities to the main quarry, or possibly put the area into forestry or something similar".

The proposal therefore is extremely vague.

Kilsaran have "... reiterated that the park would only be developed for a fully constituted body who had the local community objectives as part of their overall mandate ..." and it does not clarify whether it intends to transfer full ownership, licence or assign the use of the area but has stated that it will ensure that "a caveat installed in the handover agreement that the site will be managed correctly and in the event that it is not, the company will retain the right to take back the site ...". Given this lack of certainty and detail, MCC is in no position whatever to grant permission to the Applicant for this

development. It has already notified everyone that even if permitted, the development may never be activated. Such is the degree of concern and interest which the Applicant has in ever actually contributing to local community resources and needs (as it has never done in the past).

4) The in-fill proposal instead of a lake

The application for permission to operate a service of selling space in its quarry for third parties wishing to dump stones, construction materials and other inert materials lacks any detail of the business model. The Applicant, however, does put everyone on notice that whether it continues to excavate the quarry or whether it is permitted to "restore" the quarry by using it as a dump for third party inert materials from a timescale point of view is irrelevant as either will involve a further 14 years of heavy-vehicle high-risk road traffic, dirt, dust, pollution, noise, anti-amenity impact and a dilution of the current high heritage standing that the locality has. The Applicant threatens that if no permission for the back-fill is granted, it will reactivate the quarry and that "... *the existing planning permission allows for double the volume of extraction and vehicular movement versus the current proposal*" (page 13 EIS). It fails to mention that the Board's permission to quarry requires the Applicant to restore the quarry and to create a lake over a 2-year period from cessation of the quarry in 2012 rather than this application's proposal of a 14-year "restoration" by back-filling. The Applicant seeks to talk-down rather than support the idea of a lake restoration project by merely stating that "... *the creation of a lake will bring with it all of the hazard associated with water safety*" (page 13 EIS). It fails to emphasise the beauty of a lake in the area, the potential public recreation facility and the constructive utility of a lake as a substantial water reservoir, particularly as many of the residences on the local road are serviced by wells rather than by public water systems. It disregards the long-held Planning Regulator's policy that the quarrying is permitted on condition that a lake is created to fill it in over a 2-year period.

5) Negative impact on real estate values

The co-appellants do not accept the conclusions reached by the Applicant and its agents in relation to the impact of the proposed in-fill business operation for their amenity value. Curiously, the impact that the proposal may have on the real estate market value of the 20 or so residences along the local road has not been mentioned whatsoever. There is no doubt that the residences have a higher value today than what they will have when they become located on a narrow local road trafficked by heavy trucks throughout each working day for the next 14 years at 4-minute intervals Monday to Saturday, were MCC inclined to permit such harmful activity. It is accepted that the actual back-filling activity will take place off the road out of sight in the quarry and that therefore they will have little impact if managed in compliance with EPA standards and conditions on the local water resource, the climate, the air quality. The activity will negatively affect the landscape and the local significantly important national views and sites such as the nearby Hill of Tara from which the back-filling activities will be clearly observed. Ineffectively, and incorrectly, this Applicant seeks to prove that the quarry is not in sight from the Hill of Tara by exhibiting a photograph to show that "*the glare from the sun makes it difficult*

to pick out the quarry, below the horizon” (page 24 Landscape and Visual Impact Assessment Report, Sean Boyle Architects).

6) Flora and fauna

The co-appellants have noted the Applicant’s experts’ admissions that, if proposed, the in-fill/back-fill business operation will have potentially negative impacts on both flora and fauna and their habitats. It states that potentially there will be “*the loss of two rare plant species Blue Fleabane and Bristly Oxtongue as it would result in the direct loss of the habit types in which these plant species are found*” (page 36 EIS). It also may “*result in the loss of the Calcareous Springs habitat located within the subject lands*” (ibid.). It will have “*a negative impact on roosting bats*” caused by the slow filling in of the cliff face and if there are any electric lights on when darkness falls. If there is any in-filling on the quarry floor in the period “*from April to September, it could result in the direct mortality of Sand Martins that may be utilising the existing burrows within the subject lands*” and that this “*would result in a significant impact on Sand Martin at a local geographic scale*” (page 37 EIS). The report concludes:

“*Habitat loss at the site, and in combination with development in the environs, is considered to be significant at a local geographic scale.*” (page 38 EIS)

The same reporter is concerned about the import into the quarry by in-fill suppliers of non-native, invasive specimens such as rhododendron, Japanese knotweed and cherry laurel as well as many other plants.

7) Water contamination risk

To protect the local water supply and the aquifer from being contaminated by the in-fill materials, the Applicant concedes that all existing entry points or potential entry points into the aquifer water table are to be plugged. This is recommended by the Applicant’s own experts who state (page 45 EIS) that “*to ensure that there is no washout of finds and sediments (from the imported fill) down through the existing underlying quarry floor, it is proposed that all remaining site investigation holes on the floor (76 no.) will be sealed and plugged. The 2 no. pumping wells and all the remaining monitoring wells in the quarry floor will also be back-filled and grouted up to current quarry floor level*”. This should be made a pre-condition and should be overseen and ensured before the commencement of any in-fill work if it is to be permitted. Independent engineers should oversee this work and also oversee the plugging of any potential fractures, fissions or permeable holes through which water could escape into the aquifer. It should be required as a condition to any permission that such independent engineers submit signed-off certificates that this work has been overseen and completed to the engineer’s satisfaction. Any such engineer should carry and maintain vouched appropriate professional indemnity insurance. It is to be always kept to the forefront that many of the local houses depend on their water supply from the aquifer and private wells. The same reporter admits that “*there is a high risk of poor quality surface water run-off (i. e. suspended sediments) entering the dewatering system and being pumped off-site to local surface waters*” (page 46 EIS).

The independent engineer should also oversee the proposed division of the quarry floor into a network of compartments to ensure that the design as implemented is approved as being fit for purpose, namely to control the surfaced water run-off and to ensure that each compartment has a sump of adequate capacity fit for the purpose of pumping the surface water to the proposed newly constructed settlement pond or series of settlement ponds. The engineer should oversee the construction of those ponds and ensure that there is a suitably safe and fit system for the dewatering and emptying of the sediment ponds to dry on a regular basis and that the water be exported to a location where it will pose no threat or harm to human and animal and landscape health and safety.

8) Risk insurance and restoration security

If MCC contemplates a permission to this, then it should be conditioned on the Applicant having and maintaining full and adequate insurance to cover the considerable risks that the proposed business will create. No doubt MCC will require, firstly, to check whether the security that it has already obtained from the Applicant to cover the quarry risks in compliance with the Board's conditional permission of 23/12/2011 is still in place and will continue to be valid with the annual premiums discharged for so long as MCC is satisfied that the quarry, as presently left inactive or abandoned, no longer poses any public risk. Furthermore, no doubt MCC would obtain appropriate levels of financial security, whether through insurances, bonds or cash deposits, to secure into the future the risks from any permitted proposed in-fill operation. Such bonds and financial security should also cover the eventuality that the Applicant sells on its assets, permits and business operations to third parties or becomes insolvent or falls into financial distress causing it to not have funds available to maintain the insurance premiums required fully paid up and the health and safety safeguards promised and made a condition to any such permission.

9) Quality Control

The Planning Regulator is requested to pay particular attention to the self-regulatory quality control steps proposed to ensure that the material for the back-fill/in-fill operation to be dumped in the quarry over the proposed 14-year "restoration" period. No doubt that the Environmental Protection Agency will attach conditions to any licence and that the licence will be kept under review and will need renewal from time to time. However, the co-appellants consider that the system of quality control proposed by the Applicant is lightly outlined and lacks any adequate detail. The family-owned and directed Applicant company admits that there will only be three (3) employees at the in-fill quarry site to oversee lorries entering, unloading and exiting. While assurances are provided that management will have visited the site sources of suppliers' in-fill material to check its acceptability and while there will be a system of auditable documentation, it is anticipated that in practice this system of quality control will be open to frequent and repeated failure and abuse. It is of concern that neither MCC nor the EPA will have the resources available to continually monitor and police the compliance by the Applicant of quality control standards and systems and that failures will only become apparent after they have occurred. Thus, while the Applicant argues that the proposed in-fill will reduce the current

permitted tonnage of excavated stone that is transported along the public roadways down from 750,000 tonnes per annum to 400,000 tonnes per annum of in-fill materials being transported into the quarry area and that this represents their estimate of a 52% reduction in truck journeys (page 54 EIS), the practice will be different. Trucks will travel the narrow winding roads at unsafe speeds, loaded to the maximum capacity (and more likely overloaded). A system of control requires the Applicant to have sufficient staff to monitor the weight of material entering the quarry for offloading, staff to then monitor the quality of the material being offloaded and to deal with the problems where tonnage and quality are non-compliant. Staff are required to administer a contamination sector on site as well as ensuring the operation of water sprays to dampen likely dust blows, the operation of the on-site water bowser, the policing and operation of sufficient and fit wheel wash facilities to ensure all vehicles exiting the site onto the public roads are cleaned beforehand. Staff are required on site to maintain, drain and ensure the safety of internal roadways and waste ponds. The provision for this service made by the Applicant falls short of what will be required. Three on-site staff members are not enough.

G) Conclusion

1. This application is misdescribed and misconstrued intentionally so as to secure a permission subject to the least onerous conditions possible typical of the Applicant's past behaviour and contempt for the conditions attached to the previous permissions obtained by it from the Planning Regulator since the late 1990s when it agreed only to quarry subject to the terms of any permissions to quarry which were issued to it by the Regulator. The current application is misdescribed. It is an application for permission to restore the excavated quarry over a 14-year period by in-filling it with inert materials and stones and soil and for the construction of a community amenity park and the removal of an embankment. You will note when you have reviewed the application that it should in fact be an application for permission for a change of use from quarrying to the business of selling the quarry hole as a space for the dumping of third party inert material, stone and soil over a 14-year term. Instead, the application has been dressed up as one for the "*restoration of the existing excavated quarry*".
2. Permissions issued to the Applicant by the Board on 21/10/2001 and again on 23/12/2011 for the quarrying business and not for the proposed in-fill business were conditional. The Applicant has not adhered to those conditions nor complied with them. The planning authorities (both the Board and MCC) in all permissions issued for quarrying have made them conditional on the quarry being restored within a 2-year period by the creation of a lake.
3. The permissions to quarry were made conditional on the Applicant submitting any drawings and details required and to have agreed them in writing with MCC, in particular in relation to the 2-year restoration plan by the creation of a lake.
4. Compliance with the Board's conditions was protected by the Board's condition that the Applicant and MCC agree on financial security, insurance or other devices

to permit the completion of the restoration plan should the Applicant default, as it has. Should no such agreement prove possible, the Board has reserved to itself the right to impose such security measures as it deems fit to secure the 2-year restoration plan and the creation of a lake.

5. This Applicant has repeatedly acted in contempt of the Planning Regulator's conditions and seeks to secure permission on foot of its application by misdescription.
6. The negative impact for the co-appellants of any permission granted on foot of this application will cause them personal and material loss and damage. This will be caused by the health and safety risk of concentrated heavily loaded noisy and dirty HGV traffic passing by the front of their house at 4-minute intervals from 08:00 hours to 18:00 hours, Monday to Friday, and on Saturday morning to 14:00 hours from 08:00 hours. Any such permission, if granted, should exclude any such traffic on Saturdays or public holidays. The co-appellants' local amenity will be restricted as it will no longer be safe to walk, cycle or ride horses along the local roads. Exiting gateways to the road by car or on foot will henceforth prove life-endangering. Many of the co-appellants are now in their mid-60s age group. The proposed change of business and use of the quarry or any reactivation of that business, which has been ceased and abandoned by the Applicant for the past five years, will spoil the co-appellants' retirement years. It will cause a significant drop in the market value of their house and land. It will remove their right to the peaceful and quiet enjoyment of their property.
7. This application should be refused by MCC and the Board for the reasons already highlighted by it and the Board in previous decisions. The reasons for refusing the application are:
 - a) In the interest of environmental protection.
 - b) The application has been misdescribed and insufficiently detailed.
 - c) In order to protect the residential amenities of property in the vicinity and of local residents.
 - d) In the interest of public safety and residential amenity in compliance with the Regulator's decision that the Applicant shall on cessation of quarrying restore over 2 years the quarried hole by the creation of a lake according to a plan agreed with MCC or in default with the Board.

In the final sentence of our version of this letter of 09/03/2017 to MCC we stated that Mr and Mrs Grehan were happy to meet with MCC to discuss the matter further and to provide further information as requested, if required. MCC sought no further information from anyone. A request for further information is expected in this complex controversial application to MCC. It issued the permission within the minimum statutory time period

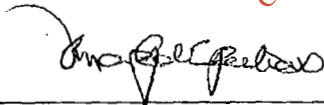
Duncan Grehan & Partners To An Bord Pleanála Date 26.04.17
Continuation Sheet No. 27

although in receipt of multiple objections from a wide range of local interested parties whose amenities will be adversely affected.

MCC failed to have any adequate consideration for the destruction of the local amenities, public roadways, the high health and safety risks to humans and livestock using the roads and the disruption and delays caused by the resulting 14-year traffic chaos along these unmarked, unlit and narrow roads. Since 1999, when MCC's Chief Engineer in charge of roads provided on its behalf evidence to the High Court of the destruction caused by the heavy HGV quarry trucks and the vast number of complaints from local residents, MCC has done nothing to improve the roads in any manner to remedy its 1999 sworn evidence. MCC has disregarded the Planning Regulator's condition that the excavation of this quarry is conditional on its restoration by the creation of a lake over a 2-year period from the cessation of quarrying. It has not put in place adequate financial security arrangements to provide for completion and restoration in the event of default. It has not called in the existing security arrangements because of the Applicant's current history of non-compliance.

The conditions which MCC has attached to its current permission are weak and so widely worded as to render them uncertain, unclear to the public and permit variation of the conditions by agreement to which the public have no access nor right to object. For the many reasons that have been submitted in this letter, in our covering letter and in the covering letters of the co-appellants attached to our letters today, we appeal to you to refuse the permission, the subject of the application for which on 05/04/2017 MCC has wrongly given.

Yours faithfully,



DUNCAN GREHAN & PARTNERS

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Colm & Kerrie Ryan
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C15 H773

An Board Pleanála
64 Marlborough Street
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Date: April 23rd, 2017

RE: Planning Application RA170127

We hereby appeal the decision of Meath County Council (MCC) dated 05/04/17 ref RA/170127 to grant the applicant, Kilsaran, conditional permission for a quarry in-fill business for 14 years. To date both you and MCC in all previous permissions for this Kilsaran quarry have always required the quarried hole to be made into lake over 2 years after quarrying stops. There has been no quarrying since January 2012.

Our grounds for this appeal are those set out in our solicitors' letter of objection to MCC dated 09/03/17 which Duncan Grehan & Partners have now re-addressed to you herewith and those hereunder. MCC have given no reason for its decision to permit Kilsaran's proposal despite the numerous local community objections largely on health and safety grounds and loss of amenity. Both MCC and its roads engineer's report ignore this and the sworn evidence to the High Court about this (44 MCA 1999) by its then Executive Engineer Michael English that local roads from the quarry "have been the subject of extraordinary damage as a result of traffic emanating from the quarry and the very serious interference with the amenity of the area which causes great disruption to Local Residents, and resulting in considerable damage to the road network" (Affidavit sworn 12/05/99) .

It disregards the evidence to the High Court of Des Foley Administrative Officer of its Planning Dept of the "vast number of complaints from residents" which are exhibited in his Affidavit sworn also 12/05/99.

The further grounds for this appeal as already notified to MCC are:

1. Kilsaran have not applied for a 'Change of Use' from quarry to infill/landfill in this application. Quarry activities ceased more than five years ago, and therefore the original restoration process is now overdue.
The original restoration plan is supposed to be a two year process involving the creation of a lake (condition of An Bord Pleanala to its permission of 21/11/01 which expired 21/11/11 and of its subsequent new permission of 23/12/11 when it specifically referred to Kilsaran creating a lake once quarrying ceased).
2. There is no traffic plan detailed in the EIS Traffic Report with regard to all Local roads between the R154 and R147. It only alludes to the fact that that 90% of traffic will travel via Dunsany.

2/...

3. With regard to the L2206, that this site is on:

Kilmessan and Dunsany are synonymous with each other. They exist within the one parish and are not considered to be two separate communities. For example, children from Kilmessan play football in Dunsany, and children from Dunsany play hurling/camogie in Kilmessan. This road is the link between the two villages. Older children and teenagers travel on foot or bike during the summer months and weekends, and most motorists can appreciate the importance of this road and drive with due care and attention.

In addition, since the quarry has ceased activities several years ago, the dynamics of this road have undergone a dramatic change. Kilmessan and Dunsany are very popular with long distance cyclists and on any given day of the week, all year round, hundreds of cyclists will pass along this road. We believe these cyclists who largely come from outside the community are now an important part of the local economy.

At around the same time the quarry ceased activities, this road became part of the signed 'Boyne Valley Drive', which in turn is an integral part of the more recently formed 'Ireland's Ancient East'. Tourism is a vital part of the local economy.

It is our opinion that the proposed infill and associated dramatic increase in traffic are not compatible with the current primary purposes of this road which are, 1) Linking the community, 2) Tourism and 3) Cycling.

Our home is on this road, and we consider the road relatively safe at current traffic levels where no operations occur at the Kilsaran site. However, if Kilsaran receive permission to restore, as per their own traffic projections, there will be on average one truck every 4 minutes passing some point on this road. Most likely however, traffic will occur in surges, and hence making this road extremely dangerous at these times.

4. The traffic count concluded the following about the Athronan Junction on the L2206. (September 29, 2016 – Site 3):

- a. 42 HGV vehicles (Page 8), specified twice.
- b. As specified on page 26, Movements 2 and 8 for site 3 represent the through traffic from Kilmessan to Dunsany and vice versa.
- c. 18 OGV vehicles or buses travelled on Movement 2 on this day. (Page 39 through 46)
- d. 24 OGV vehicles or buses travelled on Movement 8 on this day. (Page 39 through 46)
- e. This equates to 42 vehicles, none of which were classified as HGV or OGV2.

On November 9th at Dunsany Cross (Site 2), a similar traffic count was carried out. Although results were constructed differently here:

- f. Travelling to Kilmessan (Movements 4,8,12), a total of 23 OGV1, OGV2 and Buses travelled this direction. Only one of these vehicles was classified as OGV2.
- g. Travelling from Kilmessan, (Movements 1,2,3), a total of 14 OGV1, OGV2 and Buses passed along this route.

It is misleading to refer to vehicles as HGV after already classifying them as OGV 1 or OGV 2, where a classification also exists for HGV and/or Artic/Rigid.

However, if we are to consider all OGV and HGV vehicles simply as HGV, then by their own numbers at sites 2 and 3, HGV traffic on the L2206 will increase by between 360% and 397%.

Overall it is regrettable that Kilsaran have only attempted to summarise what the effect of traffic will be versus quarrying, but have made no effort to summarise it to the current situation which has been in place for several years now. Therefore, it is only possible to do this by closely examining the numbers.

5. Given the likelihood that most drivers/companies delivering to this site will not be from Kilsaran, there is no mention in the planning application how drivers/companies who have behaved recklessly in the past will be prevented from returning to the site in the future.
6. Notwithstanding the fact that this application should be for a 'Change of Use', there is informed opinion in the community that the figures do not add up, and that to fully 'restore' this site will take much more than 5.6 million tonnes and 14 years. In consideration of this, the council should have:
 - Determined the exact quantity of over burden on site to be used as part of restoration
 - Determined the exact quantity of material required to be imported to complete the restoration process. This is to be called X Tonnes.
 - Determined the number of years it would take to complete the restoration. This to be called Y years.
 - If X is not 5.6 million tonnes and Y is not 14 years, then Kilsaran should have been required to submit a planning application that truly reflects the amount of material and length of time it will take to complete the restoration, which should then have been judged on its own merits.

Note: In an original letter circulated to some residents, they stated 350,000 tonnes for 12 years. This equates to 4.2 million tonnes. This planning application states that this will be 5.6 million tonnes, so we do fear that the exact quantity or number of years being requested is either unknown or not being disclosed.

7. In addition, it is probably likely in our opinion, if only inert material arrives at this site, that soil contaminated with Japanese Knotweed is also likely to arrive. Our observations have determined that there is no Japanese Knotweed in the community at present.
8. There is no clear mechanism mentioned in the planning application by which members of the public can engage the authorities quickly and proactively if there is a suspicion of pollution.
9. The planning application does not set out a mechanism to test, on a regular basis, private or public wells within the area. Pollution and the protection of the water supply should be to the forefront of this application, however the general attitude throughout the application is that the material will be inert and therefore there is nothing to worry about. This is a dangerous attitude.

10. With regard to the proposed community park:

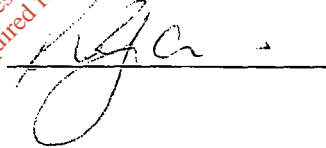
This is a rural area, with plenty of parks (Dalgan and Hill of Tara nearby for example), as well as many country roads, including the road that this site is on, so we are not sure of this proposed site offers any value to the community. The scale of the proposed park in our opinion is best suited to an urban center and not rural area. In addition, on this point, precedent elsewhere sets out that Community Gain fund would be far more beneficial to the community.

If you have any questions, please do not hesitate to contact us.

Colm Ryan



Kerrie Ryan



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An Board Pleanala.

Arlonstown Lodge.
Dunsany,
Co Meath.
23/04/2017.

Re: Planning Application RA170127.

We hereby appeal the decision of Meath Co Council dated the 5th of April 2017 ref RA/ 170127 to grant the applicant, Kilsaran, conditional permission for a quarry in-fill business for 14 years.

To date both Meath Co Council and An Board Pleanala in all other previous permissions have required that the quarried hole on completion of its grant of permission be restored to a lake. There has been no quarrying since January 2012. Our grounds for this appeal are those set out in our solicitors letter of objection to MCC dated the 9th of March 2017 which Duncan Grehan and Partners have now re-addressed to you herewith and those hereunder.

MCC have given no reason for its decision to permit Kilsaran's proposal despite numerous local objections on the grounds of health and safety, the devaluation of surrounding property and land, and amenity.

Both MCC and its road engineers report ignore this and the sworn evidence to the High Court about this (44MCA 1999) by its then executive engineer Michael English that local roads from the quarry " have been the subject of extraordinary damage as a result of traffic emanating from the quarry and the very serious interference with the amenity of the local area which causes great disruption to local residents and resulting in considerable damage to the road network" (Affidavit sworn 12/5/99)

It totally disregards the evidence to the High Court of Des Foley Administrative Officer of its Planning Dept of the " Vast number of complaints from residents" which are exhibited in his Affidavit sworn also 12/5/99.

The further grounds for this appeal as already notified to MCC are as follows.

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permission for the proposed infill at Tullykane Quarry by the Kilsaran group of companies. We say group of companies as they are referred to in various different names in reports they have requested supporting their application.

Objections.

The road structure in the entire Kilmessan and Dunsany area is totally unsuitable for the proposed substantial increase of HGVs going to and from the Quarry. A conservative estimate is a lorry load of in earth material passing twenty homes on our road. Kilmessan /Dunsany every four minutes.

1.The safety of other road users, ie cars, pedestrians and cyclists will be greatly affected. As parents we could not contemplate or allow any of our children walk or cycle the road if such permission was granted. If permission was granted, a completely independent traffic plan should be put in place.

MCC road engineer's report in relation to this grant of planning is totally inadequate. His report is simply a cut and paste exercise of what has gone before, with no thought put into ramifications to the local road network for this extraordinary change of commercial activity if granted.

2.It is imperative that a completely independent assessment is done in regard to exactly how many tonnes of in earth material the Quarry will take to fill it. And further on from that how many tonnes a year is to be allowed dumped, and over how many years.

If a grant of planning is to be given in this application a restoration date has to be written in stone. A failure or refusal to comply with that date (NO MATTER WHAT THE CIRCUMSTANCES) should result in serious fines and penalties for the company.

It should be noted that the Quarry has been closed since 2012. There has been no attempt by the Kilsaran Group to restore the Quarry to a lake as was requested in a previous grant of planning. That is a breach of the Planning Laws.

3. There will be a serious increase in regard to air, dust and noise pollution if such permission was granted. All homes and hedgerows on all roads in the vicinity the quarry will be shrouded in a sheet of dust.

Kilsaran as a company has made a substantial profit over the years by the gouging of a huge hole at their Quarry in Tullykane.

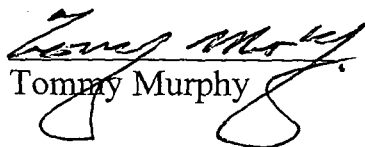
They have contributed nothing as a company to our local communities i.e Dunsany or Kilmessan. The devaluation of land and property in the surrounding locality will be substantial if permission for this in-fill is granted.

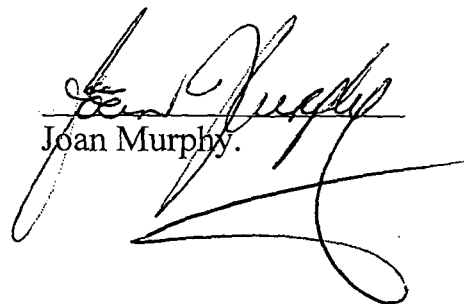
We find the offer of a football pitch and amenity park as derisory and contemptible, with little thought or money put into its creation or upkeep. There is little or no local appetite for this token of appeasement in our community.

If permission for this application were to be granted we believe the following should form part of that grant.

4. A rate per tonne of material entering the site should be determined and these monies should be deposited with a local community committee with oversight of Meath Co. Council. All monies deposited should then be dispersed as agreed by this committee to various capital projects and other local needs as they arise in our community.

Yours Faithfully,


Tommy Murphy


Joan Murphy.

Julian Jameson
Swainstown Hill
Kilmessan
Co. Meath

An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

4/22/2017

Dear Sirs,

Appeal from Decision of Meath County Council dated 05/04/2017 – Ref. RA/170127

I hereby appeal the decision of Meath County Council ("MCC") dated 05/04/17, ref. RA/170127, to grant the applicant Kilsaran, conditional permission for a quarry in-fill business for 14 years.

To date both you and MCC in all previous permissions for this Kilsaran quarry have always required the quarried hole to be made into a lake over 2 years after quarrying stops. There has been no quarrying since January 2012. My grounds for this appeal are those set out in my solicitors' letter of objection to MCC dated 09/03/17 which Duncan Grehan & Partners have now re-addressed to you herewith and those hereunder. MCC has given no reason for its decision to permit Kilsaran's proposal despite the numerous local community objections largely on health and safety grounds and loss of amenity. Both MCC and its roads engineer's report ignore this and the sworn evidence to the High Court about this (44 MCA 1999) by its then Executive Engineer Michael English that local roads from the quarry "*have been the subject of extraordinary damage as a result of traffic emanating from the quarry, and the very serious interference with the amenity of the area which causes great disruption to Local Residents, and resulting in considerable damage to the road network*" (Affidavit sworn 12/05/99). It disregards the evidence to the High Court of Des Foley, Administrative Officer of its Planning Department, of the "*vast number of complaints from residents*" which are exhibited in his Affidavit sworn also 12/05/99.

The further grounds for this appeal as already notified to MCC are:

2/..

An Bord Pleanála

- 2 -

23/04/17
10:46

My house and land are across the road from the quarry and my entrance is at a sharp bend on the local road about 100 yards from the main quarry entrance. I am fast approaching 90 and have 24/07 care and many visitors. My home is my principal asset. I have been objecting to the Kilsaran's high risk and dangerous quarry activity since the mid-1990s. I have relied on the public statutory planning regulator (MCC and An Bord Pleanála) to regulate, control and monitor the operations in and connected with the quarry and to enforce the law and the conditions to any permissions issued. At every stage over the past 20 years the Regulator has always made any permission to carry on any activity at the quarry subject to it being restored on the expiry of the permission and/or the cessation of quarrying by the creation of a lake. The applicant, Kilsaran Concrete, was directed by the Board to have agreed a restoration plan in writing with MCC within 6 months of 23/12/11 when its latest permit issued. The permit directed the creation of a lake. The Board reserved to itself the right to secure the restoration in default of such an agreement.

The applicant now seeks to escape its liability to restore the quarry hole by creating a lake. It has made an intentional error of dressing up its current application as a 14 year restoration plan rather than seeking permission for a change of the use from a quarry to a business of selling Infill or back fill space to 3rd parties who need to dump unwanted soil, stone and inert material.

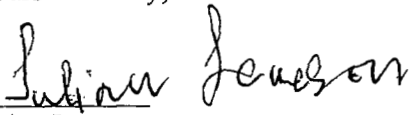
It seeks to avoid paying the price set by the Regulator for its permission of having to create a lake over two year.

It proposes instead to have heavy loaded HGVs pass by my front gate every 4 minutes 8 am to 6 pm Mondays to Fridays and from 8 pm to 2 pm Saturdays for a minimum of the next 14 years.

If permitted such traffic will be high risk to the lives of me, my successors and invitees. It will adversely affect my amenity and property value. It will be dirty, noisy and destructive of my trees shrubs and flowers.

For these reasons and those stated in detail in the letter from Duncan Grehan & Partners Solicitors, I strongly object to the application and plea that it be refused in full.

Yours faithfully,


Julian Jameson

An Bord Pleanála
64 Marlborough St,
Dublin 1.

Tullykane,
Dunsany,
Co,meath.

23/04/17.

To whom it may concern ,

We hereby appeal the decision of Meath Co Co (MCC) dated 05/04/17 ref RA/170127 to grant the applicant, Kilsarn, conditional permission for a quarry in-fill business for 14 years .

To date both you and MCC in all previous permissions for this Kilsarn quarry have always required the quarried hole to be made into lake over 2 years after quarrying stops. There has been no quarrying since jan 2012 . Our grounds for this appeal are those set out in our solicitors letter of objection to MCC dated 09/03/17 which Duncan Grehan and Partners have now readdressed to you herewith and those hereunder.

MCC have given no reason for its decision to permit Kilian's proposal despite the numerous local community objections largely on health and safety grounds and loss of amenity. Both MCC and its roads engineer's report ignore this and the sworn evidence to the High Court about this (44 MCA 1999) by its then Executive Engineer Michael English that local roads from the quarry "have been the subject of extraordinary damage as a result of traffic emanating from the quarry and the very serious interference with the amenity of the area which causes great disruption to local residents and resulting in considerable damage to the road network "[Affidavit sworn 12/05/99].

2/..

It disregards the evidence to the High Court of Des Foley Administrative Officer of its Planning Dept of the "vast number of complaints from residents " which are exhibited in his Affidavit sworn also 12/05/99.

The further grounds for this appeal as already notified to MCC are Being the closest residence to the quarry we are very concerned about noise and dust levels , particularly the Oder that the product being dumped will produce , water pollution is another concern of ours due to having our own wells and of course the traffic on the road with the lorries .

Also we are concerned about the health implications this dump will have on our two children , our boarder is less than 150 yards away from Kilsarns and also my daughter has a horse , we don't know what health implications could occur there .

The permission has been granted for public amenity after the dump is finished , our concern is who will monitor this , security etc. .

Yours Sincerely

Christina Keating



Joseph Loughran



An Board Pleanala
64 Marlborough Street
Dublin 1
C01 V902

22/04/2017

Dominic & Joseph Loughran
Tullykane
Dunsany.

We, Dominic and Joseph Loughran hereby strongly appeal the decision of Meath Co Co dated 05/04/2017 Ref RA/170127 to grant the applicant, Kilsaran, conditional permission for a quarry inert landfill business of 14 years.

To date both you and Meath Co Co in all previous permissions for this Kilsaran quarry have always required the quarried hole to be made into a lake over 2 years after quarrying stops. There has been no quarrying since January 2012 .
Our grounds for this appeal are those set out in our solicitors letter of objection to MCC dated 09/03/17 which Duncan Grehan & Partners have now re-addressed to you herewith and those hereunder.

Meath Co Co have given us no reason for its decision to permit Kilsarans proposal despite the numerous local objections all on health and safety grounds and a loss of amenity. Both MCC and its road engineers report ignore this and the sworn evidence to the high court about this (44MCA 1990) by its then Executive Engineer Michael English that the local roads from the Quarry " have been subject of extraordinary damage as a result of traffic emanating from the quarry and the very serious interference with the amenity of the area which causes great disruption to Local Residents and resulting in considerable damage to the road network" (Affidavit sworn 12/05/99)

It disregards the evidence to the High Court of Des Foley Administrative Officer of it's Planning Dept of the " vast number of complaints from residents " which are exhibited in his Affidavit sworn also in 12/05/99

The further grounds for this appeal as already notified to MCC are attached and also a copy of the Registered letter received from the MCC granting permission.

Regards

Dominic and Joseph Loughran

Joseph & Dominic Loughran
Tullykane,
Dunsany
Co Meath

Meath County Planning Department
Buvinda House,
Dublin Road,
Athlumney,
Navan,
Co Meath

14th of March 2017

Your Planning Application File Ref: RA/170127

Attached: Planning Submission and Observations

Dear Sir's

Further to the abovementioned Planning Application File please find our submissions and observations attached. We strongly oppose the proposed development and do so pursuant to Section 33 (2) (c) of the Planning and Development Act 2000.

We have set out objections in our submission and ask that you would consult with us before reaching your decision or if you require any further information in respect of our submission or any issues raised thereof.

We attach the appropriate fee and note that pursuant to data protection legislation the Planning Applicant has no right to disclosure of qualified information other than the objections raised in our submission.

Thanking you in anticipation of your acknowledgement.

Joseph & Dominic Loughran

Planning Submissions and Observations

Planning Authority: Meath Count Council. (Herein after referred to as the Authority)

Date of Planning Application: 10th of February 2017

Re: Meath Planning Application File No: RA/170127

Proposed Development Site: Quarry at Swainstown, Tullykane, Kilmessan, Co. Meath.

Applicants: Kilsaran Concrete [NON ENTITY]

Respondents: Joseph and Dominic Loughran of Tullykane, Dunsany in the County of Meath

Please note that these submissions and observations are delivered on behalf of the Respondents in light of their expert advice, local knowledge and the historic development and use of the proposed site.

Preliminary Legal Issue.

1. The development application herein was made pursuant to **section 34 of the *Planning and Development Act 2000*** (herein after referred to as the 2000 act)
2. This application is supported by an **Environmental Impact Statement (EIS)** [Which we will discuss further down] and by an indication that the Applicants 'intent' to make an application to the Environmental Protection Agency (EPA) for a **Waste Licence**. This being obligatory pursuant to the respective ***Waste Management Act(s)***.

Waste Licence

3. It is respectfully submitted that the Authority should be mindful when considering this application that the requisite Waste Licence for this activity has not and may not be issued to this Applicant because of previous environmental complaints at the proposed development site which are attributed to the Applicant and or their associates.
4. The Respondents respectfully suggest that the Applicant is manipulating the planning process by putting the cart before the horse and that there is a legal requirement that the

public at large should know what types of waste the Applicants intends to haul and eventually dispose of in this proposed development site. This is 'a best public interest' requirement.

5. Because of the Applicants approach to this process, this submission can only deal exclusively with the planning issues that arise and not the numerous environmental issues that will arise when the Respondents are properly advised as to the implications of the proposed waste licence application.
6. For the avoidance of doubt the Respondents maintain that the Applicant should have acquired a Waste Licence for their desired activities prior to asking the Planning Authority to making a planning application. Pursuant to *section 34 (2) (c) of the 2000 act* an Authority, where a waste licence is required, shall take into consideration the control of emissions arising from that activity.
7. This shall require further submissions on the Waste Licence Application after being appropriate advised if an Integrated Pollution Control Licence and Waste Licence is required for the proposed development.
8. We are advised that the Authority is obliged to take into consideration the control of emissions and escapes arising from the proposed development, this include but are not limited to: odours, noise, smoke, radiation, dust and gases. This should be done in concert with the Environmental Protection Agency.
9. The Respondents respectfully repeats that it is impossible for Local Residents and indeed the Authority to properly evaluate this application for planning where a Waste Licence does not exist.
10. It is not possible to evaluate emission and pollutant controls where the Applicant has not outlined precisely the type of waste they will be seeking permission to transport and dump on the site under their Waste Licence and permits.
11. There is no memorandum of any pre-application consultation between the Applicant and the Authority as to the proposed development and / or if the question of a Waste Licence was discussed.

12. There is no indication, what so ever, as to where the proposed infill would be sourced, whether it would to be sourced entirely within the County of Meath, with proof of the requisite planning and waste licences for the donor sites or planning approval for the removal of existing structures.
13. Structural waste would compound the question of escapes and emissions from the proposed development with the risk of escape of gases, contaminated plastic and led waste, asbestos etc. There is no mention of an intention to line the site before back filling to prevent liquids and gases from escaping.
14. All of the foregoing have implications as to the sourcing of the proposed infill and its effect on other adjoining local authority(s). If this material is sourced in the surrounding counties has Meath County Council consulted with them, this is a requirement pursuant to *Section 34(2) (b) of the 2000 act*. The Authority cannot make a decision that may affect neighbouring counties without consulting with them first. The Applicant has failed to outline the extent of its proposed collection operations in order to enable the Authority herein to properly consult with all interested parties.
15. Furthermore, there was no wild life habitat statement provided with the planning application.
16. There was no separate pressure and ground water survey provided with the application.

The Applicant is Estopped from obtaining Planning as an Unqualified Entity

17. There is no legal requirement to own land that on which the applicant seeks to obtain planning permission. However, given the nature of this application, should the Applicant, in the future, be found to be in default of a condition of their planning including their current planning at the proposed site, the public needs to know who the tortfeasors is.
18. The Applicant is listed in the planning application as Kilsaran Concrete. Whilst an application for planning can be made and approved in the name of any person or legal

entity planning cannot, for very good reasons, be granted to a non-entity whether non-corporate or a deceased person.

19. Pursuant to the *Companies Act 1963* and legal precedent a company is a fictitious legal entity which enjoys the benefit of a human person along with some extra benefits such as perpetual succession and a separate legal entity to that of its shareholders. A company is capable of entering into contracts and making obligations.
20. For planning purposes, a company's obligations would be to maintain all of the conditions imposed by an authority when granting planning. A company must trade under the title Ltd or Plc. A company shall at all time have a registered office where the Secretary of that company can be contacted and where all legal correspondence such as a complaint concerning a breach of a condition or a court summons can be delivered.
21. It is respectfully submitted that in order for the Authority herein and the public at large to consider this planning application they are entitled in law to know the legal name of the Applicant. Kilsaran Concrete *per se* does not exist as a company in the Company Registration Office. [CRO] (Kilsaran Concrete Ltd or Plc may well exist) However, the applicant is named as Kilsaran Concrete.
22. Furthermore, in the current application the proposed developer / applicant failed to name the Company Secretary and the address of their registered office, as listed with the CRO.

Without prejudice to the foregoing reservations the Respondents make the following observations and submissions which are in no way frivolous, malicious or vexatious:

Error in Quantum

23. The Applicant has erred when preparing its application for development as to the size of the site. It is calculated by the Applicant that the site comprises of 26 hectares and using this calculation the Applicant maintains that it will take 7.5million tonnes of imported inert natural materials (soil and stone) to fill the site and that this will take 14 years to complete.

24. The Respondents calculation is that the site comprises of 28.7 hectares and that it would take over 20 years to infill the site with this material which is 18 meter deep.
25. It is respectful submitted that the Applicant developer calculations are wrong and that an independent survey should be produced with full consultation with the Respondents before even considering this application with the costs of such survey to be advanced by the Applicant.

Locus Standi

26. Although there is no legal requirement in planning law for a Respondents to show *locus standi*, the Authority should note that the Respondents holds some properties (Two family homes and lands) on and adjacent to the proposed development site. Some of this property is held in trust by the Respondents for the benefit of their elderly widowed mother.
27. It is respectful submitted that the Respondents constitutional right to the peaceful enjoyment of their property and family home far exceeds the right of the proposed developer.
28. The Respondents maintain, and are professionally advised by a local auctioneer, that the value of their mother's property shall decrease by as much as 40% if the proposed development is granted planning permission.
29. The said family home is situated less than 100 meters from face of proposed land fill site and if this development is granted planning permission it will cause a nuisance and affect the peaceful enjoyment of this property into the future. In such circumstances and given the effect truck movements, dust, noise and emissions are not an irrational fear.
30. The Quarry operator on this site has wrongly claimed previously that they recorded no complaints at any time when they were quarrying on this site since they started work. For the record, the Respondents have been forced to make numerous complaints to Mr Dermott McKeown in his role as a servant and agent (CEO of Kilsaran). The aforementioned person neglected and or failed to reply to any of the Respondents family concerns and complaints going back to 2007-2009.

31. The Respondents awaits an investigative report of a recent complaint concerning an unauthorised development on this site. This concerned the dumping by the operator of contaminated waste on the proposed development site. This complaint was made pursuant to *Section 151 and 152 (1) (a) of the 2000 act*. The aforesaid illegal development *inter alia* concerns the use of the said land to dump and / or store contaminated material contrary to law.
32. A representative of Meath County Council Environmental Section (Ms. Ciara Coughlin) investigated this complaint and examined this unauthorised development on the 7th of February 2017. The Respondents will further rely on her report and conclusions when they are published. The amount of waste material involved the aforesaid unauthorised development was not trivial or minor in nature. However, this is indicative of the mindset of the sites operators.

Ground Water

33. The Respondents maintain that previous development on the proposed site has seriously interfered with the water table, to the extent that all of the wells in the area have gone dry.
34. The loss of the family wells has caused considerable annoyance and discomfort for the Respondents families.
35. As previously stated, there was no separate pressure and ground water survey provided with the planning application herein.
36. There is also a rational fear that infilling the proposed site with cause imported foreign materials to further contaminate all water sources in the area.
37. There are numerous natural springs appearing on the proposed site. Currently this water is directed into the River Skane which is adjacent to the site. From the River Skane this water flows into the River Boyne and on to the sea. If planning is granted to dump on this site all of the run off from this extraneous material will end up in the River Boyne and threaten water quality and fish life including salmon spawning grounds.

Traffic Management

38. The Respondents maintain that up to 150 tipper trucks will pass their properties per day and that in the winter this will cause the narrow country roads in the area to be covered with muck which in the summer months will be carried in the wind onto their properties. There is a history of this type of wind-blown pollution at similar sites, such as the Tara Mines Landfill Site and at Punchestown Naas county Kildare.
39. The Respondents respectfully submit that the roads between Ross Cross and Dunsany Cross narrows to 4.7 meters and that an 8 -wheeler truck carrying the average of 20 ton would have to stop and pull into the ditch when they meet oncoming traffic and in the likely event of meeting another truck or agricultural vehicles this would cause traffic backups.
40. Furthermore, the road between Batterjohn Cross and Dunsany narrows to 4.8 meters and the road between Dunsany and proposed Landfill narrows to 5 meters. These roads are not equipped to carry HGV's on a continuous basis.

Proposed Opening Hours and Overloading

41. It is proposed that the development would commence landfill at 8am and operate to 5pm each day causing persistent disturbance to the locals in the comfort and enjoyment of their property, with up to 72 trucks a day at 20 tons proposed for a five-and-a-half-day week Even at this rate it would put pressure on the Applicant to fulfil its proposed annual quota with the possibilities of extending the daily use into the weekends and after hours.
42. The Road Safety Authority and National Roads Authority should be asked to assist Meath Planning Authority as to the current problem of truck overloading by unscrupulous operators. This is especially difficult to police with a very high percentage of operators in earthmoving overloading their trucks. The Applicant has not given an assurance that only their own fleet of trucks would be used in this operation.

43. When the Respondents sought information about this of the EPA and NRA they said it was a Garda issue and the Garda maintain that they don't have enough man power to deal with this issue and to Contact the Health and Safety Authority.

44. Furthermore, the operator has not given any assurances that they will not apply for a municipal waste licence to back fill this quarry.

The Applicants Environmental Impact Statement (EIS)

45. With respect to the Environmental Engineers that surveyed and prepared the Applicants EIS, the Respondents seek the following clarifications:

(a) **Re: Par 2.3 Construction:** When did, the Environmental Engineers examine the site and how did they measure it and how did they determine its quantum in hectars.

Further Clarification Required

(b) **Re: Par 3.6.4.1. Mitigation:** How can an Environmental Engineer state the intention of its Applicant. An EIS should only be based on pre-existing evidential facts. **At page 54 the EIS *inter alia* proclaims** "...Given also the fact that the proposed development intends to reduce the permitted number of trucks..." This is hearsay evidence from a bias perspective and defiantly requires supporting evidence. **Further Clarification Required**

(c) **At the bottom of page 54 the draft wrongly states** "...Dust monitoring to date has shown that the site activity at the existing facility are within exceptional thresholds for this type of development..." The Respondents have grave concerns concerning this statement in an Environmental Impact Statement. It is not substantiated with any supporting evidence because from the Respondents experiences it is disputed and untrue. **Further Clarification Required**

(d) **Re: 3.10.3.2. Settlement -Residential Development.** The EIS *inter alia* proclaims at page 68 "...Adequate fencing, signage and other barriers have been erected around the site for the safety of the general public and to prevent livestock straying into the development area...." This is a further point at issue and at the time of publication it is disputed by the Respondents. **Further Clarification Required**

(e) **Re 3.11.3.2. Junction Capacity.** The EIS at page 77 *inter alia* declares “... Clearly there are unlikely to be any capacity issues arising at this juncture as a direct result of the proposed development since the proposed benefits to the local road network through a reduction in the annual average daily traffic and operations for a shorter period of time of up to 8 years...”. This is a further point at issue and at the time of publication it is disputed by the Respondents. **Further Clarification Required**

Conclusion

46. The Respondents hereby object in the strongest possible manner to the proposed development. The said land adjoins / abuts and is adjacent to the Respondents mother’s property and one of their family homes. Given the gigantic nature of the proposed development and the time it would take to undertake this would cause a continuing annoyance to all in the area with no assurances and no benefit to the Respondents family or to the local residents.

Lake Proposal and Breach of Conditions

47. The Respondents propose that if the Applicant desires to build a public amenity on the site that the land be allowed to flood into a fresh water reservoirs /lake with aesthetic features and a fishing area as is the case with Shay Murtagh’s old disused quarry at Raharney in County Westmeath. This would enhance the local area with no local fear of traffic pollution, dust or noise. We are advised that the original plan to restore the site was to take two year involving the creation of a lake (Please refer to the condition imposed by of An Bord Pleanala on the 21st of November 2001). This condition was unfilled at its expiry date on 21st of November 2011. A subsequent permission was issued on the 23rd of December 2011 which specifically stated that once quarrying ceased a lake was to be created by the operator/developer.

48. This is indicative of the operator/proposed developers historic approach to their planning conditions. There appears to be no record of the operator /proposed developer’s obligation to agree a lake restoration plan with Meath County Council as they were obliged to do within six months from the 23rd of December 2011.

Change of Use from Quarry/Mining to a Dump

49. The meaning/definition of a quarry is set forth in section 3 of the Mines and Quarries Act 1965:

3.—(1) In this Act “mine” means an excavation or system of excavations made for the purpose of, or in connection with, the getting, wholly or substantially by means involving the employment of persons below ground, of minerals (whether in their natural state or in solution or suspension) or products of minerals.

(2) In this Act “quarry” means an excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or bore-hole or a well and bore-hole combined.

(3) “Mine” and “quarry” include, respectively, any place on the surface surrounding or adjacent to the shafts of the mine or to the quarry occupied together with the mine or quarry for the storage or removal of the minerals or for the purposes of a process ancillary to the getting of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals but, subject thereto, does not include any place at which any manufacturing process is carried on.

(4) For the purposes of this Act, any place occupied by the owner of a mine or quarry and used for depositing refuse from it shall form part of the mine or quarry, but any place so used in connection with two or more mines or quarries, and occupied by the owner of one of them, or by the owners of any two or more in common, shall be deemed to form part of such one of those mines or quarries as the Minister may direct.

(5) For the purposes of this Act any line or siding (not being part of a railway) serving a mine or quarry shall form part of the mine or quarry, but, if serving two or more of them, shall be deemed to form part of such one of them as the Minister may direct.

(6) For the purposes of this Act a conveyor or aerial ropeway provided for the removal from a

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mine or quarry of minerals or refuse shall form part of the mine or quarry.

It is clear from section 3 of the Mines and Quarries Act 1965 that quarrying activity is limited to excavation and does not include the dumping of any imported material including soil or stone.

Material change of use

50. Please considering the material change of use under the following headings:

First, the Authority should consider whether or not the character of the existing site will be substantially altered by the proposed change. We say that it will.

Second, the Authority should consider the type of material that will be used in the proposed change and how it will impact on the site and the surrounding area.

Third, the Authority should consider the impact on the road infrastructure and the local community during the development period. (the external effect of the development)

Fourth, the Authority should consider if the site operator is in breach of a previous planning condition to build a lake. We say that they are and that this obligation made by AN Board Pleanala in 2001 and again as a condition in 2011 remains enforceable)

51. We are advised, that unlike an unauthorised development, which has a 7-year enforcement statutory limitation period for a Local Planning Authority to take enforcement proceedings against the developer. There is no statutory limitation period for Meath County Council to bring enforcement procedures against this site operator for breach of their condition to build a lake.

52. We say that the proposed developer has not applied for a change of use and has failed to outline precisely the material they intend to dump on the site and what licences they will be obtaining to transport this material, or where they will source this material from, furthermore, the proposed change of use is not a short term or a transient event, indeed it will be a long term intense event. This in turn given the nature of the proposed development implies a distinction between the works and the use once this intensified operation has commenced.

53. It cannot be said the proposed activity is part of the continuing development on the land.

We strongly oppose the proposed development for the foregoing reasons and do so pursuant to Section 33 (2) (c) of the Planning and Development Act 2000.

54. Thank you for reading our submission

Date: the 14th of March 2017

Joseph & Dominic Loughran

Tullykane,

Dunsany

Co Meath

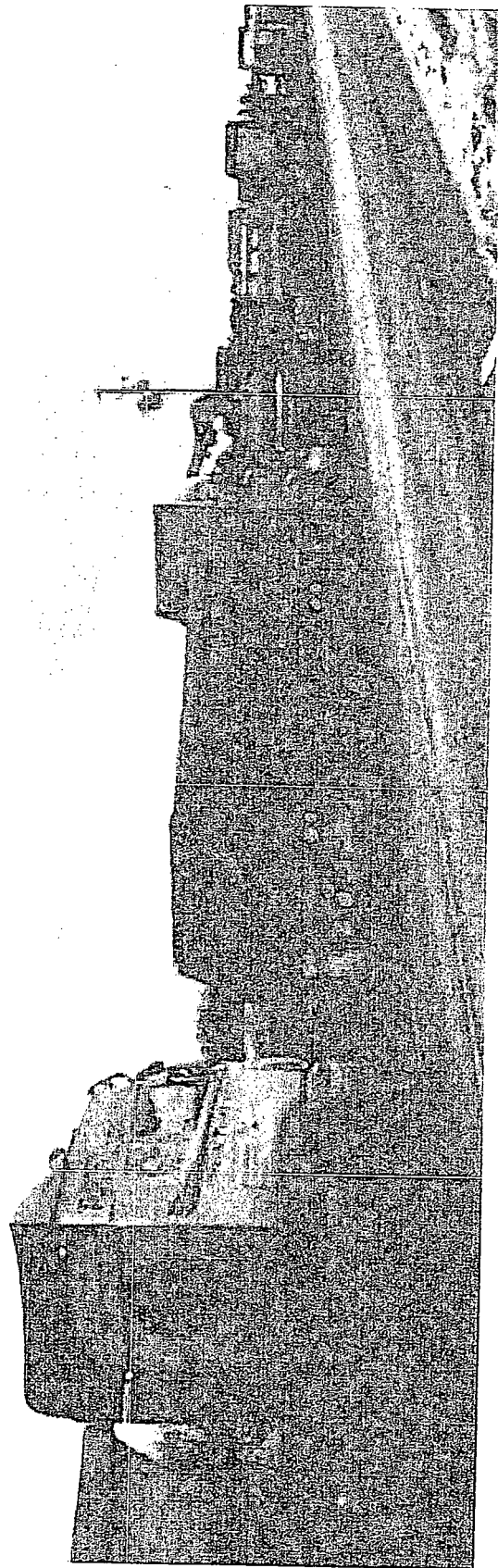
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MUCK BEING RELOADED ONTO ROAD FROM 2 TRUCKS MEETING AND
DIVING ON VERGE

50% 16/17



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DB

EARLY MORNING QUEUING OUTSIDE
PUNCHESTOWN LANDFILL AWAITING OPENING

WEIGHT TICKET GIVEN TO ME BY A TRUCK DRIVER
(ANONYMOUS)

The Hammond Lane Metal Co. Ltd. Pigeon House Road,
Ringsend, Dublin 4.
Ferrous & Non Ferrous Metals
DUBLIN

Tel: 01-667 5335
Fax: 01-667 5345

WEP-DC-0013-01

Re-entered 1st Weight

Vehicle Reg. No.

Consec. No.

Date

Time

1st Weight

Vehicle Reg. No.

Consec. No.

Date

Time

2nd Weight

Description of Goods

NET Weight

Drivers Signature

Weighbridge Operator's Signature

CORK

Ringaskiddy
Co. Cork

Tel: 021-378014
Fax: 021-378195

ATHLONE

Garrycastle
Athlone

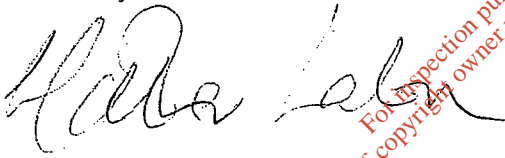
Tel: 0902-92965
Fax: 0902-92373

6 AXLE ARTICULATED VEHICLE IS OVER-LOADED BY 5.84 TONS
OF HEAVY MATERIALS THIS IS A REGULAR OCCURRENCE ACCORDING TO THE DRIVER.

feet of my front door, by **articulated lorries filled with building waste**. I reside in a rural area of international historical significance, an **area that will suffer catastrophically** if this type of traffic were to be permitted unchecked. I mention this with particular reference to the cultural importance of the **Hill of Tara**, situated 3 km from the quarry. Historically the applicant Kilsaran (in relation to their exploitation of the site at Swainstown and the effects of same on the local residents and surrounding environs) have proved themselves **time and time again to be entirely irresponsible and disregarding of the law**. As repeat offenders they should not be granted permission.

I remain,

Sincerely Yours,



Matthew Tristan Lalor.

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Patrick & Kathleen McEniff,
The Glebe
Dunsany
Co Meath

An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

25/04/17

Dear Sirs,

Appeal from Decision of Meath County Council dated 05/04/2017 – Ref. RA/170127

I hereby appeal the decision of Meath County Council ("MCC") dated 05/04/17, ref. RA/170127, to grant the applicant, Kilsaran, conditional permission for a quarry in-fill business for 14 years.

To date both you and MCC in all previous permissions for this Kilsaran quarry have always required the quarried hole to be made into a lake over 2 years after quarrying stops. There has been no quarrying since January 2012. My grounds for this appeal are those set out in my solicitors' letter of objection to MCC dated 09/03/17 which Duncan Grehan & Partners have now re-addressed to you herewith and those hereunder. MCC has given no reason for its decision to permit Kilsaran's proposal despite the numerous local community objections largely on health and safety grounds and loss of amenity. Both MCC and its roads engineer's report ignore this and the sworn evidence to the High Court about this (44 MCA 1999) by its then Executive Engineer Michael English that local roads from the quarry *"have been the subject of extraordinary damage as a result of traffic emanating from the quarry and the very serious interference with the amenity of the area which causes great disruption to Local Residents and resulting in considerable damage to the road network"* (Affidavit sworn 12/05/99). It disregards the evidence to the High Court of Des Foley, Administrative Officer of its Planning Department, of the *"vast number of complaints from residents"* which are exhibited in his Affidavit sworn also 12/05/99.

Yours faithfully
Kathleen McEniff

To: The Planning Department

Meath County Council

Buvinda House,

Dublin Road

NAVAN

10/3/2017

Reference: RA170084, Kilsaran, Kilmessan quarry refill application.

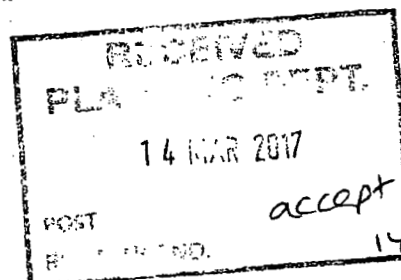
Dear Sir, Madam,

I wish to make a submission in relation to the above planning application. My name is Ms. Marianne Wieringa, 6 Swainstown, Kilmessan, C15HW82, and I am owner/ occupier of one of the 8 semi detached houses directly adjacent to the quarry, and will therefore be considerably impacted by Kilsarans planning application should it go ahead. Please find enclosed a cheque for €20 submission fee.

I want to object to the above planning application on the following grounds:

1. The Amenity/ Community Park: Kilsaran has admitted (eventually) that the design was added to their plans as a way to appease the local community and to avoid becoming eligible for any moneys the Council may ask them to contribute to the Community Gain Fund, (€ per tonnage) specifically for voluntary organisations in the locality, to give something back for the considerable negative impact of Kilsarans plans to all those living near their Kilmessan quarry. The Community Gain Fund would be a much more constructive way for the local community to be compensated, over the whole period of 14 years Kilsaran is proposing to be active, for the considerable aggravation and diminished quality of life Kilsarans plans will have on them, especially on those who live nearby, and living on routes of trucks going to and from the quarry.

However even if such a fund would be limited the Amenity Park will in my view be of no real use to anybody local and have many negative potentialities. It will definitely be an intrusion to people living nearby, additionally it would be a risk in as open to be abused by people late at night, as no properly resourced voluntary organisation has been found to provide safety as well as maintenance and management. As such management would not be funded by Kilsaran it seems unlikely that, between now and any decision date (re the application above), a concrete management plan for the amenity park will be included, leaving it very open to neglect and abuse. Additionally also: Due to traffic dangers to get there, (see below), it would be a hazardous location to journey to by foot, by bicycle or by car from Kilmessan or Dunsany, or from anywhere else for that matter, and will have very little new or different to offer to what already exists in the locality in the way of nature walks and greenery. After all, we live in a beautiful part of Meath.



2. Traffic management problems, and serious risk to life and limb: Kilsarans proposal would mean between 10 and 20 lorries arriving every hour. The road where the quarry is based, connecting Kilmessan and Dunsany, is narrow (the width of 2 lorries passing each other would leave 1 foot(!) space between them), has a hill as well as few big bends in it, with limited visibility in at least 3 places as it is, has a speed limit of 80km/hr on it, has no road markings of any kind, and is quite dangerous to travel on as it is, especially in the winter. I drive on this road most days, I know! Additionally the traffic on it has increased considerably in the last few years, due to an expanding population, increased commuter traffic, a new bus route, as well as due to an increase in tourism, as the road is part of the Boyne Valley route, and Irelands Ancient East promotions. People walking, riding horses and cycling is now common enough. Conditions could be put in place to manage traffic, however for these to provide genuine safe usage of the road would be costly and time consuming, specifically in as broadening of the road in places. However Kilsaran has already made it clear it does not see traffic consequences as its responsibility, therefore this would fall on the Council, which may stretch resources (money and manpower) beyond capacity, even if Kilsaran is made to make a contribution to road safety development on the routes the lorries will frequently use, as part of the planning permission should it be granted. To me, as someone living on that road, it is simply far too dangerous to have such intense heavy goods traffic on this very unsuitable little back road.
3. Environmental impact and risk: As it is the level up to which Kilsaran has quarried is already very close to the water level, water which supports not just local wells, but also the communal well in Kilmessan village that provides the mains water supply to many houses including my own. If things go wrong re spillages or inappropriate, and unlicensed substances arriving in the quarried hole, there could be disastrous consequences to the local water supply. The EPA can do its best to monitor as it will be authorised and required to do, but they have a serious shortage of inspectors and limited capacity to actually enforce standards at all times. Even if a Monitoring Group was formed, with some local people in it as well as some people from the council and Kilsaran, it would be too late if anything would go wrong. After all, Kilsaran's Kilmessan quarry is stone based, any such spillages will not be absorbed by soil (unless after many years of refilling).

Sofar my formal objections.

However I would like to add an observation in addition to my objections, that I wish the Council to take note of if possible, in relation to the ethical integrity of Kilsaran as a Company in relation to this Planning Application. Kilsarans states it engaged local residents quite fully in a consultation process. They did no such thing. They organised a 'meeting' through leaving a flyer at the counter of the local Centra store, myself and the other residents who live so close to the quarry were not specifically invited, even though all that was required to do so was to leave the same flyer in our letter boxes, which did not happen. If others had not alerted me to the flyer I would not have known about the meeting.

In that 'meeting' the only focus was on the Amenity Park, as a sort of PR exercise to try and get local people to warm to this idea, there was no attempt to inform the local people attending about the impact of the main planning proposal, i.e. the refilling of the quarry. The meeting was not an open forum, there were a lot of Kilsaran staff talking on an individual basis to those attending. In other words: there was no opportunity created to have dialogue and to hear other local people's views and questions, or for other local people to hear from people the most affected. The 'meeting' was a clear case in my view of an attempt to rule and divide, and to avoid producing full information of what Kilsaran was looking to request planning permission for, and its consequences.

At that meeting, questions from the Swainstown residents were fobbed off with that they would meet with us afterwards as a group. This did happen, but at a very late hour, after all the other locals had gone home, ensuring that what we had to ask was not heard by other locals. It is at a very late mini meeting, (with some of the Kilsaran people standing up and obviously wanting to keep it brief) that questions were asked about Kilsaran's motivation to be so generous in their offering of a park, which was the first time their probable obligation to give some money to the Council to compensate locals was mentioned. Some adjustments to the Amenity Park plan were proposed and Kilsaran did make those adjustments to it, however, at this meeting they also made it clear to us that if there were too many objections to their plans they would go back quarrying under the existing licence. In other words: put up or shut up. Legally probably a correct position but ethically quite flawed in my opinion!

Re the existing Licence: I would not like to see Kilsaran go back quarrying under that licence, for the reasons mentioned under 2 and 3 and much more besides. I was tempted to not formally object to this planning application out of fear Kilsaran would go back quarrying, but have decided to object rather than simply ask for amendments and /or conditions to Kilsaran's application as I do not want to collude with Kilsaran's strategy re local people, which I consider to be cynical, without any genuine interest in or sense of responsibility for how the community is severely negatively impacted by their proposed considerable financial gain. In both the above planning proposal and the existing licence.

Instead I would like the Council to consider that the existing licence could possibly be void at this stage as it has not been used for 7 years, the area has been free from quarrying for all this time, and anyway many of the above issues should probably have been considered at the time. I know legally this is difficult, however ethically maybe there is a place for looking at this, also in light of the possibly considerable development potential of the tourist industry in this beautiful area, so close to the Heritage Site of the Hill of Tara, for which Kilsaran's activity, either way, could be seen as a conflict of commercial interest.

As an optimist I live in hope..... Yours Sincerely,


Ms Marianne Wieringa

6 Swainstown, Kilmessan C15HW82 Email: i

Ph: i
Reacted

Submission to Meath County Council Planning Department in respect of Planning Application by
Kilsaran Concrete in respect of Quarry at Swainstown, Kilmessan Co Meath

Application Ref: RA170127

Submitted by:

Dominic & Colette Lumsden, 7 Swainstown, Kilmessan, Co Meath. C15TF10

Dear Sirs,

We wish to make the following objection in respect of the above planning application.

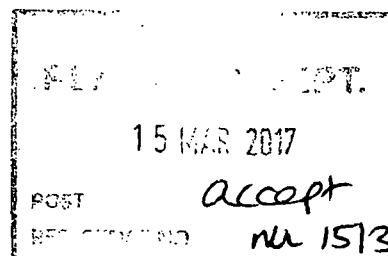
1. Engagement with residents.

The application would lead a reader to believe that the engagement by Kilsaran Concrete was full & frank – it was not. Most of the briefings they allude to in their submission were focussed on the provision of the amenity park with scant details presented on the significant impacts to the community resulting from the proposals. It was only in late December meetings when pushed by residents that the volumes of material, truck traffic and access arrangements were disclosed. The tone of the communications from Kilsaran have always stressed that if this application was refused they would recommence quarrying activities with significant detrimental impacts to the community. To say they have behaved like bullies would be an understatement.

2. Amenity park

The offer to develop an amenity park for the community is disingenuous and is a clear bribe to smooth local objections to the application. The park is not something that the community sees as a benefit rather it raises significant issues such as:

- Access gates opening onto a blind bend on a narrow road.
- Encouraging children and families to walk an unpaved, narrow road that will have increased truck traffic to and from the quarry.
- Security concerns for the immediate residents by inviting public access to a development that is within metres of their gardens and houses.
- No provision for maintenance & security monitoring of the park. No indication of gate access being restricted to certain hours.
- No clear ownership for the management of the proposed park
- The village has a growing problem of vandalism along the Skane river linear park.



3. Traffic

The argument put forward by Kilsaran is that the number of truck movements per day will be less under this proposal than that permitted by their current permission and therefore will have a reduced impact on the community. This is a fallacious argument for the following reasons:

- There has been no truck movement into/out of the quarry for the last 6 years so any increase in usage of the quarry must be to the detriment of the community both from a traffic volume and safety point of view.
- The community has developed significantly during the last 6 years in terms of numbers of residents, children attending school, a new bus service, tourist industry development such as Ireland's Ancient East. With the pick-up after the recession, the number of tourists driving on the roads and staying in the immediate locality has increased. It is proposed by this application that they will now share the road infrastructure with quarry truck traffic.
- The immediate road infrastructure around Kilmessan has not kept pace with the above increased usage – an example being the very much welcomed bus service (that passes the quarry entrance) has difficulty on portions of the roads when met by approaching car traffic. The state of the road verges bear testimony to this. There is no room on these roads for truck & bus traffic irrespective of the volumes.
- The permission currently granted to Kilsaran needs to be reviewed considering these local developments.

4. Noise

Like the points above on traffic, the attitude of Kilsaran has been that if this permission is not granted then the noise & dust and discomfort caused by extraction will be worse. The section in the EPA dealing with Noise seems to read that this is also the yardstick used when assessing Noise levels i.e. the EPA states that "the study focusses primarily on the noise impact generated from the facility during previous operations which were paused in 2014". This is not an acceptable measure as the area and community have been living undisturbed by noise pollution for at least last 6 years.

5. Waste disposal

With recent highlighting in the media of illegal dumping of toxic waste, the provisions in the application for assuring residents that this activity will be monitored closely do not go far enough to allay local fears.

6. Summary

It is our belief that the permission requested should not be granted. The premise that the application is based on in all its key areas is that the impacts of this application are all more beneficial than those of the already granted extraction permission.

This is a flawed argument and the application must be viewed only on the impacts it would have on the reality of the "real-life" situation i.e. a community that has lived with absolutely zero activity taking place in the quarry for the last 6 years and yet in that timeframe it has:

- a growing population of children; a regular "high-placer" in the Tidy Towns competition; a new bus service; significant investment in tourism development; increased numbers of visitors to the area; an improved quality of life for all its residents.

If the threat to resume extraction activities is carried out then we would expect the appropriate authorities to a) police the activities to ensure they meet the permission conditions and b) where appropriate, amend the conditions to meet the changed circumstances that the community and local environment finds itself in today.

It is totally unacceptable that Kilsaran have chosen the tactics of threat & bullying to achieve this permission

John Lumsden

Signed

Dominic & Colette Lumsden

7 Swainstown

Kilmessan

Meath

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*Please issue a report in due course
by the
DL*

THE HIGH COURT
FILED
14 MAY 1999
CENTRAL OFFICE

THE HIGH COURT

Record No. 44 MCA 1999

IN THE MATTER OF SECTION 27 OF THE LOCAL GOVERNMENT (PLANNING & DEVELOPMENT) ACT 1976 AS SUBSTITUTED BY SECTION 19 OF THE LOCAL GOVERNMENT (PLANNING & DEVELOPMENT) ACT 1992 AND IN THE MATTER OF AN APPLICATION BY THE COUNTY COUNCIL OF THE COUNTY OF MEATH

BETWEEN/

THE COUNTY COUNCIL OF THE COUNTY OF MEATH

Applicant

-and-

KILSARAN CONCRETE LIMITED

Respondent

AFFIDAVIT OF MICHAEL ENGLISH

I Michael English of Meath County Council Dunshaughlin Area Office, Dunshaughlin in the County of Meath aged eighteen years and upwards make Oath and say as follows:-

1. I am an Executive Engineer employed in the Dunshaughlin Area Office of Meath County Council as its Engineer for the Dunshaughlin Area and I make this Affidavit on its behalf and do so from facts within my own knowledge and from

records, reports and documents in the possession and under the control of Meath County Council. The facts herein deposed to which are within my own knowledge are true and where not within my own knowledge I believe same to be true.

2. I say that I have been familiar with the lands at Tullykane, Kilmessan the subject of these proceedings and the adjoining lands at Arlonstown, Dunsany owned by Kilsaran Concrete Limited the Respondents herein since I was appointed Area Engineer in 1990.
3. I beg to refer to copies of the Ordnance Survey Maps of the Tullykane area dated the 1911 and 1985 upon which pinned together and marked with the letter "A" I have endorsed my name prior to the swearing hereof. I say that the 1911 map shows a quarry of approximately 0.8 acres in the corner of a 10 acre field. I say that the 1985 Map shows that this quarry had extended to an area of approximately 1.5 acres
4. I say that in 1992 I as Area Engineer became aware of major development works at the quarry. I beg to refer to a map prepared by me in October of 1992 showing the extent of the quarry at that time upon which marked with the letter "B" I have endorsed my name prior to the swearing hereof. I say that the map prepared in 1992 shows the quarry having encompassed a large part of the original 10 acre field and extending into the field to the rear. I estimate that the total area being quarried in 1992 was approximately 10 acres. In addition topsoil from adjoining lands extending to

approximately 5 acres had been stripped back in readiness for further quarrying. On my drawing of October 1992 I identified this area as shaded green.

5. I say that in December of 1996 Kilsaran Concrete Limited the Respondents engaged in correspondence with Meath County Council the Applicants herein on the issue of whether Planning Permission was required for their development. I beg to refer to a letter dated the 18th December 1996 from John Barnett & Associates Limited, Chartered Mineral Surveyors on behalf of the respondents to Meath County Council and the "Quarry Layout Plan" referred to therein upon which pinned together and marked with the letter "C" I have endorsed my name prior to the swearing hereof. I say that this Plan showed shaded yellow what the Respondents identified as the Quarry Extraction Area. This area encompassed not only the actual area quarried at the time but also additional lands which the Respondents contended formed part of the quarry which had yet to be excavated. The actual area quarried as at December 1996 has been identified by me on this Plan by outlining same in red. The area quarried at that time extended to approximately 15 acres.

6. I beg to refer to a further map prepared by me in September 1998 showing the extent of the quarry at that time upon which marked with the letter "D" I have endorsed my name prior to the swearing hereof. I say that this map shows the extent of the quarry face in red and the newly constructed

embankments coloured blue. I say that the quarry had then extended to encompass an area of approximately 21 acres.

7. I say that the dwellinghouse known as Tullykane House, shown shaded green on the drawing being Exhibit "D" referred to above, was demolished by the Respondents in the late Summer of 1998 and the grounds on which it stood have been quarried. I say that Tullykane House was a habitable house and the demolition of same required Planning Permission. I further say that Planning Permission was not sought or obtained by the Respondents for its demolition.
8. I say that in September of 1998 it came to the Council's attention that in addition to the demolition of Tullykane House that an embankment had been constructed along the public road and the avenue leading down to Tullykane House which embankment is shown shaded blue on the drawing being Exhibit "D" referred to above. A fence has been erected on top of this embankment and hedging planted. I say that the construction of this embankment is a development which required Planning Permission under Local Government (Planning & Development) Acts 1963 to 1993. I say that no Planning Permission was sought or obtained for this development.
9. I beg to refer to a Map prepared by the Respondents Kilsaran Concrete dated April 1999 and titled "Site Survey Plan March 1999" furnished by the Respondents to me upon which marked with the letter "E" I have endorsed my name prior to swearing hereof. I am satisfied that this Map

correctly shows the current extent of quarrying at Tullykane. The area quarried has extended to approximately 26 acres.

10. I say and believe that up until 1990 approximately the Respondents operated the quarry at Tullykane on foot of a Licence from the then Land Owner Francis Loughran. I have not had sight of this Licence but believe that the extent of the area licensed did not exceed the area of the original 10 acre field. I further say and believe that it was only following the Respondents purchase in 1992 of approximately 133 acres of land in Tullykane that the extensive enlargement of the quarry took place.

I say that the available maps and drawings show the following progression of the area quarried namely:-

1911	-	0.8 acres
1985	-	1.5 acres
1992	-	10 acres
1996	-	15 acres
1998	-	21 acres
1999	-	26 acres

11. I say that the intense quarrying activity at Tullykane has resulted in a very substantial increase in the numbers of large lorries traversing the road network in the vicinity of the quarry. This vast increase in traffic has resulted in damage to the roads as well as a significant interference with the amenity of the area. I say that on the 15th October 1998 I

caused traffic surveys to be carried out on the approach roads to the quarry. I beg to refer to the results of these surveys upon which pinned together and marked with the letter "F" I have endorsed my name prior to the swearing hereof.

12. The traffic survey effected on the 15th October 1998 was over a seven hour period from 9 a.m. to 5 p.m. I beg to refer to the location of the said survey shown by me on the Map forming part of Exhibit "F" referred to above. I say that this survey disclosed the following:-

(a) **Point A on the map being the junction of the County Road 475 and 474 known locally as Dunsany Cross.**

There were a total of 436 vehicular movements of which 148 were heavy goods vehicles. I say all the heavy goods vehicles were lorries either travelling empty to the quarry or returning full from the quarry. I say that the Dunsany Crossroads would be the normal route for vehicles coming from or going to the Dublin area from the quarry.

(b) **Point B being junction of County Road 369 and County Road 474 known locally as Kilmessan Crossroads.**

I say that the survey at this junction again over the same seven hour period on the 15th day of October disclosed a total of 402 vehicular movements of which 121 were heavy goods trucks all emanating from quarry activities. I say that vehicles servicing the Navan, Trim and other locations outside the greater Dublin region use the Kilmessan junction as a means of access to the quarry.

I say that the normal level of heavy goods vehicle traffic which one would expect on a County Road in a similar geographical location to County Roads 475 and 474 would be 5 to 10% of the total traffic. The survey effected on the 15th October 1998 disclosed a heavy goods vehicle content of 34% at Point A and 30% at Point B which is considerably above the norm for such a road.

13. I say that the roads leading from the quarry being County Roads numbers 474 and 475 have been the subject of extraordinary damage as a result of the traffic emanating from the quarry. I say that the Council's expenditure on the maintenance and upkeep of these roads far exceeds the normal for such roads. I say that in 1997 a sum of £35,665 was spent on the section of County Road No. CR474 from Kilmessan to the quarry shown coloured red on the map being Exhibit "F" above. In 1998 a sum of £36,654 was spent on the section of road No. CR474 from Dunsany Cross to the Quarry shown shaded blue on the Map being Exhibit "F". I say that in 1998 emergency funding of £80,000 was

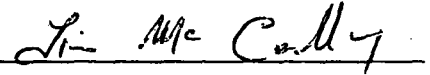
allocated and expended on the County Road 475 between Batterjohn Cross and 1km North of Dunsany Crossroads shown shaded blue on the map being Exhibit "F". It is my professional opinion that this expenditure was necessitated primarily as a result of damage caused by quarry traffic.

14. I say the Councils 1999 Road Programme provides for expenditure of £56,000 on the section of the County Road 475 to a point 1 km north of Dunsany Crossroads to Ross Cross shown shaded green on the Map being Exhibit "F". This work is also necessitated primarily as a result of damage caused by Quarry Traffic. There will also be further sections of road in the general vicinity of the Quarry which will require attention because of the damage caused by Quarry traffic.
15. I beg to refer to aerial photographs of the quarry at Tullykane taken in November 1998 upon which pinned together and marked with the letter "G" I have endorsed my name prior to the swearing hereof. These photographs show the extent of quarrying activity at that time and the location of the nearest dwellings to the quarry.
16. I say that the activities of the Respondents at the Quarry at Tullykane results in very serious interference with the amenity of the area and causes great disruption to Local Residents. I further say that the Respondents activities are resulting in considerable damage to the Road network and I Pray this Honourable Court for the relief sought in the Notice of Motion herein.

SWORN by the said Michael
English this 12 day of MAY
1999 at Trim in the County of
Meath before me a Commissioner
for Oaths and I know the
Deponent.



MICHAEL ENGLISH



COMMISSIONER FOR OATHS

Filed the _____ day of _____ 1999 by
M.A. Regan, McEntee & Partners, High Street, Trim, County
Meath, Solicitors for the Applicant.

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THE HIGH COURT

Record No. MCA 1999

**IN THE MATTER OF SECTION 27
OF THE LOCAL GOVERNMENT
(PLANNING & DEVELOPMENT)
ACT 1976 AS SUBSTITUTED BY
SECTION 19 OF THE LOCAL
GOVERNMENT (PLANNING &
DEVELOPMENT) ACT, 1992 AND
IN THE MATTER OF AN
APPLICATION BY THE COUNTY
COUNCIL OF THE COUNTY OF
MEATH**

**BETWEEN/
THE COUNTY COUNCIL OF
THE COUNTY OF MEATH
Applicant**

-and-

**KILSARAN CONCRETE
LIMITED
Respondent**

**AFFIDAVIT OF MICHAEL
ENGLISH**

**M.A. Regan, McEntee & Partners,
Solicitors,
High Street,
Trim,
County Meath
REF: m2045**

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THE HIGH COURT

Record No. 44 MCA 1999

IN THE MATTER OF SECTION 27 OF THE LOCAL GOVERNMENT (PLANNING & DEVELOPMENT) ACT 1976 AS SUBSTITUTED BY SECTION 19 OF THE LOCAL GOVERNMENT (PLANNING & DEVELOPMENT) ACT 1992 AND IN THE MATTER OF AN APPLICATION BY THE COUNTY COUNCIL OF THE COUNTY OF MEATH

BETWEEN/

THE COUNTY COUNCIL OF THE COUNTY OF MEATH

Applicant

-and-

KILSARAN CONCRETE LIMITED

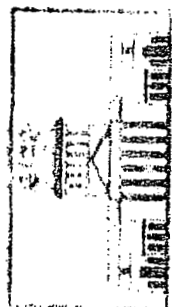
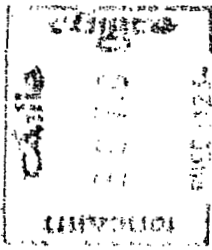
Respondent

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AFFIDAVIT OF DES FOLEY

I Des Foley of County Hall, Navan in the County of Meath aged eighteen years and upwards declare as follows:-

1. I am Administrative Officer in the Planning Department of Meath County Council, the Applicants in the above entitled proceedings. I make this Affidavit on behalf of the Applicants and do so from facts within my own knowledge and from



records, reports and documents in the possession of the Applicants. The facts herein deposed to which are within my own knowledge are true and where not within my own knowledge I believe same to be true.

2. I say that these Proceedings relate to the quarrying activities of the Respondents, Kilsaran Concrete Limited, on lands at Tullykane, Kilmessan. I beg to refer to the Affidavit of Michael English sworn herein on behalf of the Applicants in which he avers to the expansion of the quarrying activities in recent years. I say that no Planning Permission has issued in respect of these quarrying activities and no Planning Application was ever received by Meath County Council, the Planning Authority for the area, in respect of same.
3. I say that the quarry while located in the Townland of Tullykane is known locally as Swainstown Quarry. Swainstown is the adjoining Townland. I say that on the 13th day of June 1996 my predecessor as Administrative Officer in the Planning Department wrote to Kilsaran Concrete in the following terms:-

“It has come to the attention of the Planning Authority that your quarrying operations at Swainstown, Kilmessan has intensified over recent years and also the quarry has extended outside of its natural boundaries as at the 1st October 1964. It is considered therefore that this constitutes a material change in the use of the land and that Planning Permission is

required. Your proposals to regularise your position are requested within 14 days of this letter”.

4. I say that following the letter of the 13th day of June 1996 there followed an exchange of correspondence between the Applicants, Meath County Council, and John Barnett & Associates, Chartered Mineral Surveyors on behalf of Kilsaran Concrete. I beg to refer to a book of correspondence passing between the Applicants and the Respondents upon which pinned together and marked with the letter “A” I have endorsed my name prior to the swearing hereof. I say that in addition to the correspondence there were a number of meetings between Council personnel and representatives of Kilsaran Concrete. While initially the Respondents indicated a willingness to make a Planning Application for retention of the quarrying activities they subsequently notified the Council of their intention to make a referral to An Bord Pleanala pursuant to Section 5 of the Local Government (Planning & Development) Act 1963 for the purpose of determining whether the then operation of the quarry constituted development for which Planning Permission was required. I say that the said Section 5 referral was made to the Bord on the 25th day of August 1997 and detailed submissions were made by the Respondents Kilsaran Concrete Limited, by the Applicants herein and by a number of residents from the locality. I beg to refer to bound books of all the submissions made to An Bord Pleanala when produced.

5. I say that An Bord Pleanála issued its decision on foot of the Section 5 referral on the 24th day of February 1998. I beg to refer to a copy of the said Decision upon which marked with the letter "B" I have endorsed my name prior to the swearing hereof. I say that the Bord concluded as follows:-

- a. The Use of part of the lands for the quarrying of rock commenced prior to the appointed day (namely, the 1st day of October 1964).
- b. It has not been established that there was a clear intention of abandoning the use of the lands for quarrying at any stage since the appointed day.
- c. The size of the worked area of the quarry increased from approximately 1 acre in 1964 to 1.5 acres in the mid-1980's and to 25 acres at present.
- d. The use of the land during the period from the appointed day to the mid-1980's was on a limited scale and was intermittent in nature.
- e. The use of the land since the mid-1980's for the quarrying of rock involved intensification of use to a degree which resulted in the making of a material change in the use of the land relative to the use on or before the appointed day having regard to the proper planning and development of the area, and

f. The material change in the use of the lands since the mid-1980's comes within the scope of the meaning of "development" in section 3(1) of the 1963 Act.

6. I say that in arriving at its Decision An Bord Pleanala had regard to a Report prepared by its Inspector Mary Cunneen dated the 18th day of February 1998 and I beg to refer to a copy of the said Report upon which marked with the letter "C" I have endorsed my name prior to the swearing hereof.
7. I say that following the Decision of An Bord Pleanala pursuant to the referral under Section 5 of the 1963 Planning Act the Applicants Meath County Council verbally requested Kilsaran Concrete the Respondents to lodge a Planning Application to retain the current use of the lands as a quarry. The Respondents declined and indicated that because intensification had taken place over five years ago the Council were prohibited by virtue of the provisions of Section 19 of the Local Government (Planning & Development) Act 1992 from taking enforcement proceedings. The Applicants did not, and do not, accept this contention and by letter dated the 30th day of July 1998 to the Respondent's Solicitor, Patrick M. Keane & Co., formally called on the Respondents to lodge a Planning Application failing which the Council indicated that Proceedings pursuant to Section 27 of the 1976 Planning Act as amended would be instituted. I say that there followed correspondence between

the Applicants and the Respondent's Solicitors Patrick M. Keane & Co. I say that in January of 1999 the Respondents sought a meeting with Council Representatives to discuss the quarry at Tullykane. I say that at this meeting a commitment was given on behalf of the Respondents to make a Planning Application in respect of the quarry. This commitment was subsequently confirmed by letter dated the 13th January 1999 from the Respondents Solicitors Patrick M. Keane & Co. I say that there followed correspondence between the Applicants Meath County Council and Patrick M. Keane & Co., seeking clarification as to when the Application would be lodged and on the 18th February 1999 the Applicants received a letter from the Respondents Solicitors indicating that the Respondents would expect to be in a position to finalize the Application within two months. I say that to date no Planning Application has been received by the Applicants. I beg to refer to copies of the aforementioned letters contained in the book of correspondence being Exhibit "A" referred to above.

8. I say that Meath County Council the Applicants herein have been in receipt of a vast number of complaints from residents in the locality of the quarry. I say that these complaints relate to intensification of quarrying activities and its effects on their local road network and local environment. I say that the complaints received from local residents also included detailed traffic surveys carried out by them in respect of the quarrying activities. I beg to refer to a book of said complaints received


to date upon which marked with the letter "D" I have endorsed my name prior to the swearing hereof.

9. I say that the intensification of quarrying activities by the Respondents at Tullykane, Dunsany, County Meath is a source of grave concern to Meath County Council as the Planning Authority for the area. I further say that the area being quarried is being extended at a rapid rate and that commitments given by the Respondents to regularize the position vis-a-vis the Planning Acts have not been met. I accordingly Pray this Honourable Court for the relief sought in the Notice of Motion herein.

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SWORN by the said Des Foley
this 12 day of MAY
1999 at Trim in the County of
Meath before me a Commissioner
for Oaths and I know the Deponent.


DES FOLEY


COMMISSIONER FOR OATHS

Filed the _____ day of _____ 1999 by
M.A. Regan, McEntee & Partners, High Street, Trim, County Meath,
Solicitors for the Applicant.

THE HIGH COURT

Record No. MCA 1999

IN THE MATTER OF SECTION 27 OF
THE LOCAL GOVERNMENT
(PLANNING & DEVELOPMENT) ACT
1976 AS SUBSTITUTED BY SECTION
19 OF THE LOCAL GOVERNMENT
(PLANNING & DEVELOPMENT) ACT
1992 AND IN THE MATTER OF AN
APPLICATION BY THE COUNTY
COUNCIL OF THE COUNTY OF
MEATH

BETWEEN/

**THE COUNTY COUNCIL OF THE
COUNTY OF MEATH**

Applicant

-and-

KILSARAN CONCRETE LIMITED

Respondent

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AFFIDAVIT OF DES FOLEY

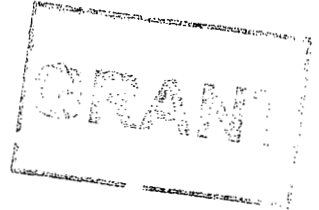
M.A. Regan, McEntee & Partners,
Solicitors,
High Street,
Trim,
County Meath
Ref: m2045

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Meath County Council
Planning Department
Buvinda House
Dublin Road
Navan
Co. Meath C15 Y291
REG: 00172770

Phone: 046 909 7000 Fax: 046 909 7001

Planning Reference Number: RA/170127



TO: Duncan & Barbara Grehan
c/o Duncan Grehan Partner Solicitors
Gainsboro House
24 Suffolk Street
Dublin 2

Date: 05.4.17

Planning and Development Act 2000 – 2016
Planning & Development Regulations 2001 to 2015
Notification of Decision on planning application in the name of Kilsaran Concrete

Dear Sir/Madam,

I wish to inform you that by order dated 05.4.17 Meath County Council has **CONDITIONAL PERMISSION** for the development will consist of the restoration of the existing excavated quarry (previously granted planning permission under Register Reference No. 99/1230 and TA/802731) to the original ground levels and use as agricultural land by importing 5,600,000 tonnes (i) of imported inert natural materials, soil and stones (ii) construct a community park and playing pitch with new entrance, fencing, landscaping and parking on existing ground (iii) reinstating existing overburden contained on site and all other associated site works for a period of 14 years. The planning application is accompanied by an Environmental Impact Statement (EIS). The application relates to a restoration development for the purpose of an activity requiring a Waste Licence to be issued by the Environmental Protection Agency at Tullykane, Kilmessan, Co. Meath, .

If you are aggrieved by this decision you may appeal it **WITHIN FOUR WEEKS** of the date of the decision by forwarding your grounds of appeal to An Bord Pleanala, 64 Marlborough Street, Dublin 1. The fee for an appeal against a decision of a Planning Authority is € 220. An appeal will be invalid unless accompanied by the appropriate fee together with evidence of payment of submission fee to Planning Authority. Where an appeal is made by another party you may make submissions or observations on the appeal as an observer. The time limit for this is four weeks from the receipt of the appeal by An Bord Pleanala and a fee of € 50 (at present) must be paid to An Bord Pleanala with any such submissions or observations.

Where an Environmental Impact Statement has been submitted the time limit is four weeks from the date on which An Bord Pleanala publishes notice of receipt of the appeal. Confirmation of whether an appeal has been made or not can be obtained by telephoning An Bord Pleanala (Telephone No. 01 8588100). A copy of any appeal made to An Bord Pleanala may be inspected at the Planning Office during office hours.

Yours Faithfully,


On behalf of Meath County Council

Schedule of Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 10/02/17. 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 duration of the permission shall be a maximum of 14 years from the date of commencement hereby permitted and shall be used for agricultural purposes only thereafter.

Reason: In the interest of clarity.

3. A maximum of 5,600,000 tonnes shall be accepted over the lifespan of the planning permission and a maximum of 400,000 tonnes of material per annum shall be accepted at the facility.

Reason: In the interest of development control and traffic safety.

4. Only clean, uncontaminated soil and stones shall be imported into the site. Construction and demolition waste shall not be imported into the site apart from the construction of haul roads.

Reason: In the interest of development control

5. Within two years of the date of grant of planning permission an agreement for the transfer and management of the proposed community facility between the applicant and a suitable community group shall be submitted to the Planning Authority for written agreement. Should agreement not be reached the applicant shall submit revised plans to the Planning Authority for written agreement showing the restoration of this area of the site consistent with the site as a whole.

Reason: In the Interest of development Control.

6. No topsoil shall be removed from the site, topsoil stripped from the site shall be stored in an appropriate manner and used in the site restoration.

Reason: In the interest of development control

7. The importation of soil and operation of associated machinery shall take place between the hours 0800 hours and 1800 Monday to Friday and 0800 and 1400 on Saturday. No works shall take place outside these hours or on Sundays or Bank Holidays.

Reason: To protect the residential amenities of the area.

8. Activities on-site shall not give rise to noise levels off-site, at noise sensitive locations, which exceed the following sound pressure limits (L_{Aeq} , 15 mins):

(i)	8am to 6pm Monday to Friday (inclusive):	55dB(A)
(ii)	8am to 2pm Saturday:	55dB(A)
(ii)	Any other time:	45dB(A)

In addition, there shall be no clearly audible tonal component or impulsive component in the noise emission from the site at any noise sensitive location.

Reason: In the interest of public health and proper planning and development.

9. The applicant shall comply with the proposed mitigation and monitoring measures as detailed in Section 3.7.5 of the EIS. The applicant shall review on an annual basis the viability of the existing berms and need to modify same for the continued as a noise barrier.

Reason: In the interest of public health and proper planning and development.

10. Dust emissions shall not exceed 350mg/sqm/day. The applicant shall employ the mitigation measures as detailed in section 3.6.6 of the EIS.

Reason: In the interest of dust management

11. The applicant shall measure carbon emissions from the proposed activity, including vehicles to and from the site and plant and machinery used in the deposition. The Applicant, contractor and sub-contractors shall endeavour to utilise low energy and low emissions vehicles and plant where possible.

Reason: In the interest of a reduction of green house gas emissions.

12. All refuelling shall take place in a designated refuelling area. All hydrocarbons, chemicals, oils, etc. shall be stored in a dedicated bunded area capable of storing 110% of the container/tank capacity. The applicant shall ensure adequate supply of spill kits and hydrocarbon absorbent pads are stocked on site.

Reason: In the interest of environmental protection

13. In relation to soils and geology, the Applicant shall comply with the mitigation and monitoring measures detailed in Section 3.3.7 of the EIS. The Applicant shall establish a waste quarantine area for unauthorised materials to be removed from the site.

Reason: In the interest of environmental protection

14. The applicant shall ensure that all operations undertaken at the facility be carried out in such a manner so as not to have adverse effect on the drainage of adjacent lands, watercourse, field drains or any other drainage system.

Reason: In the interest of environmental protection

15. No muck, dirt, debris or other material shall be deposited on the public road or verge by machinery or vehicles travelling to or from the site. The applicant shall arrange for vehicles leaving the site to be kept clean.

Reason: In the interest of orderly development.

16. All vehicles other than private cars and vans exiting the site shall pass through the wheel wash facility, which is to be in place prior to the commencement of development.

Reason: In the interest of proper planning and sustainable development.

17. All waste generated during the activity, including surplus material to be taken off site, shall be only recovered or disposed off at an authorised facility in accordance with the waste management Act 1996 as amended.

Reason: In the interest of development control

18. The Applicant shall prepare, update accordingly and communicate to all site personnel a Construction Environmental Monitoring Plan (CEMP). The CEMP shall include but not be limited to operational controls for dust, noise and vibration, waste management, protection of soils and groundwaters, protection of flora and fauna, site housekeeping, emergency response planning, site environmental policy, environmental regulatory requirements and project roles and responsibilities. The CEMP shall be treated as a live document.

Reason: In the interest of environmental protection

19. The Applicant shall maintain a Complaints Register to record any complaints regarding but not limited to noise, odour, dust, traffic or any other environmental nuisance. The Complaint Register shall include details of the complaint and measures taken to address the complaint and prevent repetition of the complaint.

Reason: In the interest of development control

20. The applicant must liaise with the Environment Section, Meath County Council prior to the importation of any material onto this site to ensure that the requisite authorisation is in place.

Reason: In the interest of proper planning.

21. The developer shall notify the Planning Authority in writing of progress of the development following the completion of each of the 3 phases, an update report including relevant drawings shall be prepared for each phase.

Reason: In the interest of orderly development.

22. Prior to commencement of development the developer shall lodge with the planning authority a cash deposit or bond in the amount of **€530,000.00** as a security for the satisfactory restoration of the site. The deposit/ bond amount and payment schedule can be altered subject to agreement with the Planning Authority prior to the commencement of development. In the event of the non-completion of the development the planning authority shall be empowered to apply the said funds or part thereof for the satisfactory restoration of the site.

Reason: To ensure that the development is carried out and completed to an acceptable construction standard.

23. The developer shall pay the sum of **€200,000** (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), to the planning authority as a special contribution towards expenditure that is proposed to be incurred by the planning authority in respect of restoration of the structural integrity of Local Road L2206, in accordance with the provisions of Section 48 (2) (c) of the Planning and Development Act 2000-2016, unless otherwise agreed in writing with the planning authority. Payment of this sum shall be made prior to commencement of development. This contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

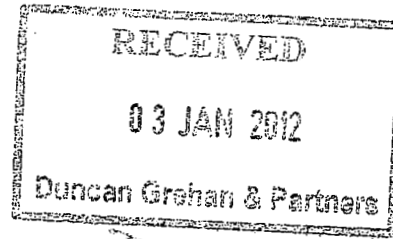
Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Advice Note

House Extensions and Single Residential Units (urban and rural). Forward by e mail to planning@meathcoco.ie and shall include a cover letter outlining relevant compliance issues together with appropriate drawings in PDF format.

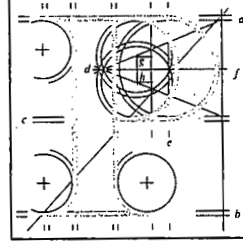
All other Planning Compliance. - Forward to Planning Compliance, Planning Department, Buvinda House, Dublin Road, Navan, C15 Y 291 and shall include a cover letter outlining relevant compliance issues together with a CD that includes all relevant maps and drawings in PDF format (high resolution).

Our Ref: PL 17.233813
P.A.Reg.Ref: TA/802731
Your Ref: D. and B. Grehan and Others



Duncan Grehan Partners Solicitors
Gainsboro House,
24 Suffolk Street,
Dublin 2.

An Bord Pleanála



29 DEC 2011


Appeal Re: Continuation of a quarry development previously granted under reg. ref. no 99/1230 and permission for concrete batching plant.
Tullykane Quarry, Tullykane, Kilmessan, Co. Meath

Dear Sir/Madam,

An order has been made by An Bord Pleanála determining the above-mentioned appeal under the Planning and Development Acts 2000 to 2011. A copy of the Order and the Board Direction is enclosed.

In accordance with section 146(3) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 working days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report and the Board Direction on the matter on its website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

Yours faithfully,


Colm Walsh
Executive Officer

Encl:

BP 100n.ltr

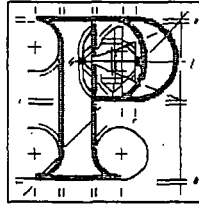


64 Sráid Maoilbhríde,
Baile Átha Cliath 1.

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email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

Meath County

Planning Register Reference Number: TA/802731

An Bord Pleanála Reference Number: PL 17.233813

APPEAL by Kilsaran Concrete of Dunboyne, County Meath against the decision made on the 29th day of April, 2009 by Meath County Council to refuse permission for development comprising the continuation of a quarry development (including associated plant and buildings) previously granted under planning authority register reference number 99/1230, including extraction by a further two benches within the previously approved extraction footprint area for a new permission term of 22 years (20 years extraction and two years to implement final restoration) on a 46 hectares site. The base of excavation will be at 37.1 metres above ordnance datum. Permission is also being sought for a new readymix concrete batching facility to be located on the existing quarry floor, comprising:- batching house (maximum height 15.38 metres); 10 overground aggregate storage bins (maximum height 14.0 metres); three cement silos (maximum height 15.47 metres); intake hopper and two conveyor belts; Electricity Supply Board sub-station; three ground storage aggregate bays; bunded storage building; prefabricated office building; six bay water recycling installation; new septic tank and proprietary effluent treatment system (Puraflo). In addition, it is proposed to upgrade an existing septic tank by the addition of a second proprietary effluent treatment system (Puraflo); all at Tullykane Quarry, Tullykane, Kilmessan, County Meath in accordance with the plans and particulars lodged with the said Council.

DECISION

GRANT permission for development comprising the continuation of a quarry development (including associated plant and buildings) previously granted under planning authority register reference number 99/1230, including extraction by a further two benches within the previously approved extraction footprint area for a new permission term of 22 years (20 years extraction and two years to implement final restoration) on a 46 hectares site. The base of excavation will be at 37.1 metres above ordnance datum and to upgrade an existing septic tank by the addition of a second proprietary effluent treatment system (Puraflo) in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

The Board completed an environmental impact assessment of the proposed scheme, which considered *inter alia*:

- (a) the Environmental Impact Statement (EIS) submitted with the application,
- (b) the further submissions made by the applicant in the course of the planning application and appeal,
- (c) the environmental aspects raised by the planning authority and observers,
- (d) the report, assessment and conclusions of the Inspector in relation to the environmental impacts of the scheme, and
- (e) the reports of the Board's specialist advisor (in relation to water resources),

in this respect, the Board considered that the environmental impacts of the scheme, including the continued quarrying below the water table, are acceptable and, subject to compliance with the mitigation measures set out in the EIS and further information submissions, and with conditions imposed by the Board, the scheme would not have unacceptable adverse effects on the environment.

Having regard to the submissions on file, including the assessment of water quality considerations, the Board was also satisfied that the proposed development would not adversely affect the ecology of any designated Natura 2000 sites.

It is therefore considered that, subject to compliance with the conditions set out below, the proposed development, including 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted that the decision of the planning authority to refuse permission referred (in reason number 1) to a material contravention of the development plan in relation to land-use of an industrial nature in a rural area. It is considered that this reason pertains to the concrete batching facility, also refused by An Bord Pleanála in this decision. In any case, the Board did not consider itself constrained in considering a grant of permission for the continued quarrying activity owing to the tied nature of the resource in this rural area, the provisions of the Ministerial Guidelines in relation to quarrying, and the strategic nature of the quarry operations at this location.



4. The use of the site as a quarry shall cease on or before the 31st December, 2031, and restoration shall be completed within a further two years, unless planning permission shall have been granted for a further period, prior to that date.

Reason: In the interests of orderly development having regard to the extent of rock reserves available as set out in the application documentation, and to enable the appropriateness of continued quarrying to be re-assessed having regard to the circumstances prevailing at that time.

5. The depth of extraction shall go not lower than 37.1 metres Ordnance Datum, with quarrying to this depth being carried out in two benches.

Reason: In the interest of orderly development and environmental protection.

6. The impact of quarrying dewatering on groundwater levels surrounding the site shall be monitored on a monthly basis by the applicant, and the results of the monitoring shall be made available to the planning authority. The mitigation measures in relation to the groundwater wells of neighbouring properties shall be carried out as submitted in section 5.4 of the 'Further Information Response' received by An Bord Pleanála on 18th May, 2011 (this involves the drilling and making operational of replacement wells on affected properties at the applicant's expense). Details in this regard, for each affected property, shall be submitted to the planning authority for written agreement prior to implementation.

Reason: In order to mitigate any adverse impact on neighbouring properties, in accordance with the advice of the Quarries and Ancillary Activities Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2004.

7. The applicant shall, following consultation with Meath County Council, implement a monitoring programme in relation to the Kilmessan public water supply scheme, including monitoring of water quality and quantity.

Reason: In order to monitor the groundwater resources of the area and confirm the findings of the hydrogeological investigations.

8. There shall be no external lighting of the site outside permitted operational hours.

Reason: In order to protect the rural amenities and landscape character of the area.

12. (a) Blasting operations shall take place only between 1100 hours and 1700 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays. Monitoring of the noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the planning authority.
- (b) Prior to the firing of any blast, the developer shall give notice of his intention to the occupiers of all dwellings within 500 metres of the site. An audible alarm for a minimum period of one minute shall be sounded. This alarm shall be of sufficient power to be heard at all such dwellings.

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

13. (a) Vibration levels from blasting shall not exceed a peak particle velocity of 12 mm/second, when measured in any three mutually orthogonal directions at any sensitive location. The peak particle velocity relates to low frequency vibration of less than 40 hertz where blasting occurs no more than once in seven continuous days. Where blasting operations are more frequent, the peak particle velocity limit is reduced to 8 millimetres per second. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin)_{max peak} with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more than 5 dB (Lin).
- (b) A monitoring programme, which shall include reviews to be undertaken at annual intervals, shall be developed to assess the impact of quarry blasts. Details of this programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.

Reason: To protect the residential amenity of property in the vicinity.

14. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:
- (a) Proposals for the suppression of on-site noise.



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.

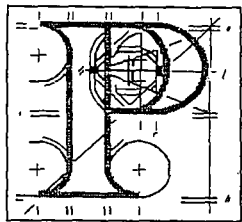
Reason: In the interest of public amenity and public safety.

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.

18. 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.



Board Direction

Ref: 17.233813

The submissions on this file – including the applicant's response to the Board's section 132 notice (received 18th May 2011), the submissions from observers and planning authority following circulation of same, and the reports of the Board's consultant Dr. Bartley - were considered at a further Board meeting held on 13th December 2011.

The Board decided to issue a Split Decision as follows:

- Refuse the proposed Readymix Concrete Batching Facility, and
- Grant the Quarry Continuation and the Upgraded Septic Tank

For the Reasons and Considerations (and in accordance with the conditions as set out below).

Reasons and Considerations (Refusal element)

1. Having regard to:
 - a. the location of the site in a landscape that is of exceptional value and high sensitivity (as identified in the current Meath County Development Plan),
 - b. the policies of said plan which seek to facilitate development proposals for industrial or business enterprises in the countryside only where the proposed use has locational requirements that can only be accommodated in a rural location,
 - c. the alternatives available in terms of siting of the proposed development, and
 - d. the planning history of the site,

it is considered that, notwithstanding the mitigation measures proposed in the application in terms of landscape protection, the subject site is not an appropriate location for an industrial development of the kind proposed, which it is considered would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the processes proposed under this scheme, the materials proposed to be stored and processed on site and the sensitivity of the ground water

materially contravene the policies of the Development Plan for the area. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

The Board noted that the decision of the planning authority to refuse permission referred (in reason number 1) to a material contravention of the development plan in relation to land-use of an industrial nature in a rural area. It is considered that this reason pertains to the concrete batching facility, also refused by An Bord Pleanála in this decision. In any case, the Board did not consider itself constrained in considering a grant of permission for the continued quarrying activity owing to the tied nature of the resource in this rural area, the provisions of the Ministerial Guidelines in relation to quarrying, and the strategic nature of the quarry operations at this location.

In deciding not to accept the Inspector's recommendation to refuse permission in relation to landscape considerations, it was noted that in general terms the proposed quarrying did not include any lateral expansion, or the introduction of any new visual elements into the landscape, or any substantive change in the visual appearance of the permitted activity; the Board considered that the deepening of the existing permitted quarry would not have a serious impact on the character, setting, amenity or archaeological heritage of the Hill of Tara. Similarly it was not considered that continued operation of the quarry at existing permitted output levels would have a detrimental impact on the traffic safety of the local road network. The Board considered that the Inspector's concerns in relation to hydrogeology (including the potential impact on a strategic water supply) had been addressed in a satisfactory manner by the applicant in responding to the Board's section 132 notice; as confirmed by the report of Dr. Bartley. It was considered that the impacts on landscape character associated with the formation of a lake (following closure of the site) were acceptable and would not seriously injure the amenities of the area of conflict with the policy of the development plan.

Conditions

1. Plan part application/EIS, FI to PA, Appeal doc, FI Response to ABP (18th May 2011).
2. Exclude the proposed Readymix Concrete batching facility and all ancillary development. (standardise) Reason: In the interest of clarity.
3. The development shall be carried out in accordance with the environmental mitigation measures set out in the EIS and in the submission to ABP on 18th May 2011. Reason: in the interest of environmental protection.
4. The use of the site as a quarry shall cease on 31st December 2031, and restoration shall be completed within a further two years, unless planning permission has been granted for a further period (*standardise wording*).
Reason: in the interests of orderly development having regard to the extent of rock reserves available as set out in the application documentation, and to enable the appropriateness of continued quarrying to be re-assessed having regard to the circumstances prevailing at that time.
5. The depth of extraction shall go no lower than 37.1m Ordnance Datum, with quarrying to this depth being carried out in two benches. Reason: in the interests of orderly development and environmental protection.
6. The impact of quarrying dewatering on groundwater levels surrounding the site shall be monitored on a monthly basis by the applicant, and the results of the monitoring shall be made available to the planning authority. The mitigation measures in relation to the groundwater wells of neighbouring

JUDICIAL REVIEW NOTICE

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act 2000 (as amended)

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

Modified 30/11/2011

PLANNING APPLICATION FORM

1. NAME OF RELEVANT PLANNING AUTHORITY:											
<i>meath county council</i>	<table border="1"> <tr> <td align="center" colspan="2">RECEIVED</td> </tr> <tr> <td align="center" colspan="2">PLANNING DEPT.</td> </tr> <tr> <td align="center" colspan="2">10TH Feb. 2017</td> </tr> <tr> <td>Counter</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Reference No.</td> <td><i>RA170127</i></td> </tr> </table>	RECEIVED		PLANNING DEPT.		10 TH Feb. 2017		Counter	<input type="checkbox"/>	Reference No.	<i>RA170127</i>
RECEIVED											
PLANNING DEPT.											
10 TH Feb. 2017											
Counter	<input type="checkbox"/>										
Reference No.	<i>RA170127</i>										

2. LOCATION OF DEVELOPMENT:	
<i>Postal Address or Townland or Location (as may best identify the land or structure in question)</i>	<i>Jullykane, Kilmessan, Co. meath</i>
<i>Ordnance Survey Map Ref. No. (and the Grid Reference where available)</i>	<i>OS. Meath Sheet No. 2713 ABCD</i>

3. TYPE OF PLANNING PERMISSION (PLEASE TICK APPROPRIATE BOX):
<input checked="" type="checkbox"/> Permission <input type="checkbox"/> Permission for retention <input type="checkbox"/> Outline Permission <input type="checkbox"/> Permission consequent on Grant of Outline Permission

4. WHERE PLANNING PERMISSION IS CONSEQUENT ON GRANT OF OUTLINE PERMISSION:
Outline Permission Register Reference Number: <i>N/A</i>
Date of grant of Outline Permission:/...../.....

5. APPLICANT:	
<i>Name(s)</i>	<i>Kilsadan Concrete</i>
<i>Contact details</i>	to be supplied at the end of this form. (Question: 24)

6. WHERE APPLICANT IS A COMPANY (REGISTERED UNDER THE COMPANIES ACTS):

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Name(s) of company director(s)	E.O. McKearn, T.D. McCartney, T.F. McCarthy, M.J. Curran, David P. McKearn, Derry P. McKearn, Roy McKearn, Tom Teulin
Registered Address (of company)	Pleasanton, Dunlough, Co. Meath
Company Registration Number	23924

7. PERSON/AGENT ACTING ON BEHALF OF THE APPLICANT (IF ANY):

Name	Sean Boyle, Architect
Address	to be supplied at the end of this form (Question 25)

8. PERSON RESPONSIBLE FOR PREPARATION OF DRAWINGS AND PLANS:

Name	Sean Boyle
Firm/Company	Sean Boyle, architect

9. DESCRIPTION OF PROPOSED DEVELOPMENT::

Brief description of nature and extent of development	See attached sheet.
-------------------------------------------------------	---------------------

10. LEGAL INTEREST OF APPLICANT IN THE LAND OR STRUCTURE:

Please tick appropriate box.
Where legal interest is 'Other', please expand further on your interest in the land or structure

	A. Owner	B. Occupier
	<input checked="" type="checkbox"/>	
	C. Other	

9. DESCRIPTION OF PROPOSED DEVELOPMENT:

The development will consist of the restoration of the existing excavated quarry (previously granted planning permission under Register Reference No. 99/1230 and TA/802731) to the original ground levels and use as agricultural land by importing 5,600,000 tonnes (i) of imported inert natural materials, soil and stones (ii) construct a community park and playing pitch with new entrance, fencing, landscaping and parking on existing ground (iii) re-instating existing overburden contained on site and all other associated site works for a period of 14 years.

The planning application is accompanied by an Environmental Impact Statement (EIS). The application relates to a restoration development for the purpose of an activity requiring a waste licence to be issued by the Environmental Protection Agency.

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<p><i>If you are not the legal owner, please state the name and address of the owner and supply a letter from the owner of consent to make the application as listed in the accompanying documentation</i></p>	<p>N/A</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------

11. SITE AREA:

Area of site to which the application relates in hectares 51.44 ha

12. WHERE THE APPLICATION RELATES TO A BUILDING OR BUILDINGS:

Gross floor space ⁵ of any existing building(s) in m2	
Gross floor space of proposed works in m2	514400m ²
Gross floor space of work to be retained in m2 (if appropriate)	-
Gross floor space of any demolition in m2 (if appropriate)	-

13. IN THE CASE OF MIXED DEVELOPMENT (E.G. RESIDENTIAL, COMMERCIAL, INDUSTRIAL, ETC), PLEASE PROVIDE BREAKDOWN OF THE DIFFERENT CLASSES OF DEVELOPMENT AND BREAKDOWN OF THE GROSS FLOOR AREA OF EACH CLASS OF DEVELOPMENT: N/A

Class of Development	Gross floor area in m2

14. IN THE CASE OF RESIDENTIAL DEVELOPMENT PLEASE PROVIDE BREAKDOWN OF RESIDENTIAL MIX: N/A

Number of	Studio	1 Bed	2 Bed	3 Bed	4 Bed	4+ Bed	Total
Houses							

<i>Apartments</i>							
<i>Number of car-parking spaces to be provided</i>	N/A						Total

15. WHERE THE APPLICATION REFERS TO A MATERIAL CHANGE OF USE OF ANY LAND OR STRUCTURE OR THE RETENTION OF SUCH A MATERIAL CHANGE OF USE:	
<i>Existing use⁶ (or previous use where retention permission is sought)</i>	N/A
<i>Proposed use (or use it is proposed to retain)</i>	N/A
<i>Nature and extent of any such proposed use (or use it is proposed to retain)</i>	N/A

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(Please tick appropriate box)

Yes

No

Is the application an application for permission for development to which Part V of the Planning and Development Act 2000 – 2015 applies?⁷

✓

If the answer to the above question is “yes” and the development is not exempt (see below), you must provide, as part of your application, details as to how you propose to comply with section 96 of Part V of the Act, including for example, (i) details of such parts or parts of the land which is subject to the application for permission or is or are specified by the Part V agreement, or houses situated on such aforementioned land or elsewhere in the planning authority’s functional area proposed to be transferred to the planning authority, or details of houses situated on such aforementioned land or elsewhere in the planning authority’s functional area proposed to be leased to the planning authority, or details of any combination of the foregoing, and (ii) details of the calculations and methodology for calculating values of land, site costs, normal construction and development costs and profit on those costs and other related costs such as an appropriate share of any common development works as required to comply with the provisions in Part V of the Act.

✓

If the answer to the above question is “yes” but you consider the development to be exempt by virtue of section 97 of the Planning and Development Act 2000- 2015⁸, a copy of the Certificate of Exemption under section 97 must be submitted (or, where an application for a certificate of exemption has been made but has not yet been decided, a copy of the application should be submitted).

✓

If the answer to the above question is “no” by virtue of section 96(13) of the Planning and Development Act 2000⁹, details indicating the basis on which section 96(13) is considered to apply to the development should be submitted.

✓

17. DEVELOPMENT DETAILS:		
Please tick appropriate box	Yes	No
<i>Does the proposed development consist of work to a protected structure and/or its curtilage or proposed protected structure and/or its curtilage?</i>		✓
<i>Does the proposed development consist of work to the exterior of a structure which is located within an architectural conservation area (ACA)?</i>		✓
<i>Does the application relate to development which affects or is close to a monument or place recorded under section 12 of the National Monuments (Amendment) Act, 1994¹⁰?</i>		✓
<i>Does the proposed development require the preparation of an Environmental Impact Statement¹¹?</i>	✓	
<i>Does the application relate to work within or close to a European Site (under S.I. No. 94 of 1997) or a Natural Heritage Area¹²?</i>		✓
<i>Does the application relate to a development which Comprises or is for the purposes of an activity requiring an integrated pollution prevention and control licence?</i>		✓
<i>Does the application relate to a development which comprises or is for the purposes of an activity requiring a waste licence?</i>	✓	
<i>Do the Major Accident Regulations apply to the proposed development?</i>		✓
<i>Does the application relate to a development in a Strategic Development Zone?</i>		✓
<i>Does the proposed development involve the demolition of any structure?</i>		✓

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18. SITE HISTORY

Details regarding site history (if known)

Has the site in question ever, to your knowledge, been flooded?

Yes [] No []

If yes, please give details e.g. year, extent:

Are you aware of previous uses of the site e.g. dumping or quarrying?

Yes [] No []

If yes, please give details.

*Application is for the restoration of an existing
Excavated Quarry*

Are you aware of any valid planning applications previously made in respect of this land/structure?

Yes [] No []

If yes, please state planning reference number(s) and the date(s) of receipt of the planning application(s) by the planning authority if known:

Reference No. *TA/200931* Date: *16-09-08*

If a valid planning application has been made in respect of this land or structure in the 6 months prior to the submission of this application, then the site notice must be on a yellow background in accordance with article 19(4) of the Planning and Development Regulations 2001 as amended.

Is the site of the proposal subject to a current appeal to An Bord Pleanála in respect of a similar development 13?

Yes [] No []

An Bord Pleanála Reference No:.....

19. PRE-APPLICATION CONSULTATION:

Has a pre-application consultation taken place in relation to the proposed development¹⁴?

Yes [] No []

If yes, please give details:

Reference No. (if any):

Date(s) of consultation: ./...../.....

Persons involved:

20. SERVICES:

Proposed Source of Water Supply

Existing connection [] New connection [] *N/A*

Public Mains [] Group Water Scheme [] Private Well []

Other (please specify):.....

Name of Group Water Scheme (where applicable).....

Proposed Wastewater Management/Treatment

Existing [] New [] *N/A*

Public Sewer [] Conventional septic tank system []

Other on-site treatment system [] Please specify.....

Proposed Surface Water Disposal

Public Sewer/Drain [] Soakpit []

Watercourse [] Other [] Please specify

21. DETAILS OF PUBLIC NOTICE:

Approved newspaper ¹⁵ in which notice was published	<i>meath chronicle</i>
Date of publication	<i>04th February, 2014.</i>
Date on which site notice was erected	<i>06th February, 2014.</i>

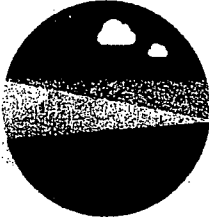
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22. APPLICATION FEE:	
Fee Payable	€23,984.00
Basis of Calculation	From Schedule

23. DECLARATION:	
I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct and accurate and fully compliant with the Planning and Development Act 2000, as amended, and the Regulations made thereunder.	
Signed (Applicant or Agent as appropriate)	Roisin Keane P. P. Sean Boyle Architect
Date	01st February, 2014

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SKANE VALLEY
community council

-serving the people of Kilmessan and Dunsany

**The Old Rectory
Kilmessan
Co Meath**

15th March 2017

**Re. Application by Kilsaran Concrete to Restore Quarry at Tullykane, Kilmessan
Planning Ref RA/170127**

Dear Sir/Madam,

I am Chairman of the Skane Valley Community Council, which represents the people living of Kilmessan and Dunsany and the surrounding area. I am writing to you to convey our concerns about the proposal by Kilsaran Concrete to infill their quarry at Tullykane/Swainstown which is located just off the road that connects our two villages.

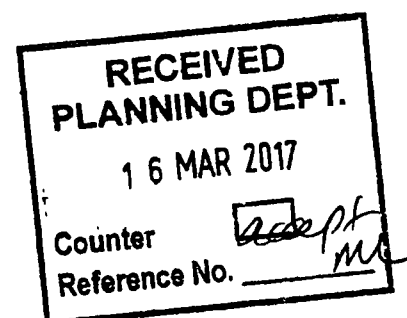
We are opposed to the proposal as it stands, essentially for two sets of reasons:

1. We reject as spurious the claim underpinning the quarry proposal that the traffic volumes it is forecast to generate are not an issue because they are lower than they would otherwise be.
2. We also reject the notion that the so-called amenity park that Kilsaran are offering represents an adequate or appropriate form of compensation to the local community for the significant reduction in quality of life that the proposed use of the quarry would entail.

Our reasoning is set out in the accompanying submission.

Yours sincerely,

Jim O'Leary
Chairman



Submission re Kilsaran Proposal (RA170127) to Restore Swainstown Quarry

1. The Alternative to the Proposal

Kilsaran are keen to emphasise that, if the application to 'restore' the quarry is not successful, they will resume the extraction of stone, an activity for which they claim to have a current permission valid until 2031. This threat is an important element of their application, because it allows them to claim that the negative consequences of filling in the quarry, not least for traffic volumes, would be much less severe than the consequences that would flow from the activities that they would otherwise carry out on the site.

There are two aspects to this threat that need to be interrogated closely.

First, there is reason to suspect that the continued extraction of stone from the quarry may not be a commercially viable activity. The fact that the quarry has been inactive for five years raises this suspicion. So also does the fact that Kilsaran are now seeking to infill the quarry in preference to continuing to work it. This at a time when construction activity has been recovering in the Greater Dublin Area and seems likely to strengthen further over the coming years.

For the company to expect to make more profit from accepting 5.6 million tonnes of inert building waste over the next 14 years than from selling 15 million tonnes of aggregate over a 20-year timeframe suggests, at the very least, that the quarrying operation is expected to be problematic either because the stone is of poor quality or because extraction costs are expected to be very high.

As regards the quality aspect, there are grounds for suspecting that the stone may contain pyrite. In this connection, we would like to draw your attention to the 2012 report of the Pyrite Panel, which contains a map (p19) that identifies the area where Swainstown quarry is located as one in which pyrite is a common constituent of the rock formation.

It is also worth noting that an appendix to the same report (A4.1) contains a list of geological formations in Ireland in which pyrite is known to be present. The fourth area listed is the Loughshinny Formation. Our understanding is that the Swainstown quarry is part of this formation.

Of course, there are characteristics other than pyrite-contamination that may render the Swainstown stone of an inferior quality to stone quarried elsewhere. It may be that the stone quality at Swainstown is such that extracting it only makes commercial sense if concrete can be manufactured on site. Recall that Kilsaran's 2009 application to continue quarrying at Swainstown was accompanied by an application to establish a batching plant there. The latter application was refused by MCC and also on appeal to An Bord Pleanála

(ABP).

In any event, it is far from obvious that Kilsaran's decision to cease quarrying at Swainstown in January 2012 was due to the downturn in the construction industry, which started five years earlier. Equally, it is far from obvious that the recovery in activity, which the construction sector has been enjoying for the past several years, means that quarrying at Swainstown has become profitable again.

A second reason to doubt that Kilsaran can readily recommence the extraction of stone at Swainstown if denied permission to infill the quarry, relates to the planning permission they were granted by ABP in December 2011. One of the conditions of that permission was that Kilsaran prepare a comprehensive plan for the restoration of the site following cessation of quarrying, within six months of the date of the ABP order.

To the best of our knowledge, no such plan was submitted by Kilsaran within the specified timeframe. If this is in fact the case, the planning permission of December 2011 has been breached and Kilsaran does not have a current valid planning permission to recommence quarrying.

2. Traffic

We submit that, in assessing the deleterious consequences for the local community of Kilsaran being permitted to infill the Swainstown quarry, the appropriate benchmark is the status quo and not a hypothetical alternative scenario in which quarrying would recommence. This is because the hypothesised alternative scenario may be neither commercially viable nor legally permissible.

It is also because, after five years of no activity at the Swainstown quarry, local residents and all others who derive amenity benefit from the area have become accustomed to the relative peace and quiet that has prevailed, and in particular have become accustomed to a local road network relatively free of HGV traffic. Indeed, quite a number of people have only moved into the area since 2012.

For these reasons, we would argue that the lengthy traffic analysis report that accompanies the Kilsaran application is for the most part a spurious exercise. The one set of figures in it that we accept as factually correct are the figures pertaining to the projected HGV traffic volumes that will arise from the activities that are proposed in the application: the transportation of 400,000 tonnes of material per annum to the quarry will generate an average of 72 HGV round trips, or 144 HGV movements, per day. Given the proposed hours of operation, that converts into 14 movements per hour, or a movement roughly every 4 minutes. These are averages: there will presumably be periods (depending on the time of the year, and depending on the time of the day) when the frequency of movements will be considerably higher than this.

Such a prospect raises two sets of issues for local residents and road users generally: one

relating to safety; one relating to amenity. The two sets of issues are separate but interconnected.

As regards safety, the roads in the vicinity of the quarry were not designed for HGV vehicles. They are narrow. The L2205 and L2206 are only marginally wider than two HGV lorries side by side. They are also full of twists and turns with many stretches where sightlines are very restricted. These roads are also used quite intensively by (i) children making their way, by bicycle or on foot, to and from local sports grounds; (ii) leisure cyclists generally; (iii) walkers, and (iv) people on horseback. Imposing heavy HGV traffic on a road network with this kind of usage pattern is a recipe for accidents, unless significant risk mitigation measures are put in place.

As regards amenity, the proposed volume of HGV traffic will generate noise, fumes, hazard and dust. There is also likely to be significant damage to road margins and surfaces, possibly also to nearby hedgerows and other vegetation. In other words, the proposed volume of HGV traffic is likely to greatly diminish the enjoyment that other road users derive from the network to the point where the more vulnerable of them (especially walkers and cyclists) may be displaced. In similar vein, the enjoyment currently derived from tourists visiting the area will be diminished, perhaps to the point where visitor numbers decline, with negative effects on the local economy.

It will be argued no doubt that the permission granted to Kilsaran by An Bord Pleanala in 2011 for an activity that would potentially generate twice as much HGV traffic as the current proposal indicates that the road network is adequate for what is now proposed. We disagree. In the first place we would argue that ABP was wrong to disregard the traffic issue in its 2011 decision. In any event, there have been several developments in the meantime that reinforce our traffic-related concerns:

The population of the area has risen strongly: between 2011 and 2016 the population of Kilmessan increased by 13%. Given economic trends since 2011, local traffic volumes have almost certainly increased by more than this.

- Local roads, including the L2206, which passes the quarry, and the L2207 from Dunsany to Ross Cross, have been incorporated into the Boyne Valley Drive. The tourism section of the County Council will know better than we do what impact this has had on tourist traffic through the area, and presumably will have an opinion on the wisdom or otherwise of allowing high frequency HGV movements to mix with such traffic.
- Local roads, in particular the L2206 because of its scenic qualities, have become part of the route of choice for leisure cyclists in ever increasing numbers.
- A commuter bus service, linking the villages of Bective, Kilmessan and Dunsany with Dublin, has been in operation since last November. It is relatively low frequency (a bus each way every two hours), but even so the prospect of Bus

Eireann vehicles and 32-ton 8-wheeler lorries navigating the same narrow winding roads at the same time is not reassuring

3. Other Environmental Issues

Our concerns about environmental issues are probably best elaborated in correspondence with the EPA if and when Kilsaran apply for an EPA licence. For now we just want to draw attention to our main concern which is that, if the infilling of the quarry goes ahead, the material used be composed exclusively of the material referred to by Kilsaran in their application, namely inert building waste. Our understanding is that the risk of negative environmental spillover effects in the form of ground water contamination, unpleasant or noxious odours, attraction of vermin etc is minimal in the case of this type of waste.

However, there will be financial temptations for hauliers or indeed for the quarry owners to facilitate the depositing of other forms of waste at the site, given the price structure in the waste disposal industry. It is absolutely imperative therefore, in our view, that a rigorous, independent system of monitoring the material deposited at the site is put in place and that this is backed up by a set of punitive sanctions in the event of violations.

4. The Proposed Amenity Park

On the face of it the proposal to gift a 10-acre amenity park (including a playing field) to the local community is a welcome, generous gesture by Kilsaran, even if it is conditional on permission being granted for the quarry 'restoration'.

On closer examination however, it is problematic, and the company's motivation may not be as benign as first appears.

Any local organisation prepared to accept ownership of the park would have to arrange for it to be supplied with electricity and water (it is not credible that the park could function properly without lighting and toilets). The playing field would in time probably need to be equipped with some form of changing rooms. The same organisation would also have to defray the recurring costs involved in insurance, maintenance, security and supervision etc. There is no local community group with the resources necessary to meet these bills. So, the park as proposed would be as much a liability as an asset.

From the point of view of the SVCC, it is not at all clear that, even if we had the financial resources required to assume all the responsibilities that would come with ownership of the park, we would be interested in acquiring it. Location is an issue: it is about 1km from Kilmessan village and more than 2km from Dunsany, the two main centres of population in our catchment area. Moreover, the proposed park could only be accessed from the L2206, the same road that will be burdened with the high-frequency flow of HGV traffic created by the proposed infilling of the quarry – at a rate of one movement every 4 minutes on average.

Indeed, we think that opening an amenity park at the location in question, given the type of traffic flows likely if Kilsaran's application is successful, would be quite irresponsible unless, as a minimum risk mitigant, continuous footpaths were built from Kilmessan and Dunsany villages to the site.

In discussions we had with Kilsaran, executives of the company provided a figure of €180,000 as an indicative cost to them of the amenity park 'gift'. The question is: if as a community council, we were gifted the €180,000 instead, would we choose to spend it on the creation of an amenity park and playing pitch beside the Swainstown quarry? The answer is almost certainly no. We can think of several more urgent and more beneficial uses for that sort of money.

5. Community Gain

In circumstances where a prospectively profitable private development is proposed which has significant negative spillover effects for the local community, a community gain fund is often created as a means of compensating for the latter while allowing the development to proceed. There are at least two precedents for this in County Meath in the waste disposal sector:

- The Knockharley landfill dump where €1.90 per tonne of household waste is levied and paid into a ring-fenced fund from which local projects are financed
- The Indaver incinerator at Duleek where a levy of €1.30 per tonne is paid into a similar fund.

We submit that the same type of arrangement should be put in place in respect of any activity that Kilsaran are permitted to carry out at the Swainstown quarry, whether it be the infill activity that is the subject of their current application or the resumption of quarrying which, in our view, would require a fresh permission since, as argued earlier, the permission granted in 2011 has been voided on account of a breach of its conditions.

The basic rationale for such a levy is simply put: what Kilsaran are proposing to do is injurious to the quality of life of the local community, principally because of the danger, the pollution and the reduction of amenity that will be created by the high volume of HGV traffic emanating from the infill operation. Some of the danger can be reduced if Kilsaran are compelled to pay for corresponding road improvements, but the pollution (noise, dust, fumes) and the reduction of amenity brought about by the changes in the ambience and character of the local road network cannot be ameliorated in this way.

As to the rate at which Kilsaran should be levied if their current proposal is accepted, we are not experts in this area. No doubt, the economics of household waste disposal and of inert building waste disposal are different. On the other hand, traffic nuisance is traffic nuisance no matter what kind of waste is being transported so, from the viewpoint of the

local community, a charge broadly comparable to that levied in the cases cited above would seem appropriate.

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Meath County Council, Road Design Office.

Date: 31st March 2017

To: Senior Executive Planner, Ratoath Area.
Planning Ref: RA/170127

Applicant Name: Kilsaran Concrete.

Description

This application includes the restoration of the existing excavated quarry (previously granted planning permission under Register Reference No. 99/1230 and TA/802731) to the original ground levels and use as agricultural land by importing 5,600,000 tonnes (i) of imported inert natural materials, soil and stones (ii) construct a community park and playing pitch with new entrance, fencing, landscaping and parking on existing ground (iii) reinstating existing overburden contained on site and all other associated site works for a period of 14 years. The planning application is accompanied by an Environmental Impact Statement (EIS). The application relates to a restoration development for the purpose of an activity requiring a Waste Licence to be issued by the Environmental Protection Agency.

Comments

The Applicant proposes to access the development via the existing quarry entrance onto local road L-2206. The sightlines from the entrance are considered acceptable.

The applicant has an existing Planning Permission (Ref TA 802731) to extract 750,000 tonnes of stone per annum from the quarry for a period of 20 years. This equates to 150 HGV vehicle trips to and from the quarry each day. The applicant intends to recommence quarry operations if the current application to fill the quarry is unsuccessful.

As an alternative proposal, the applicant, in this application, proposes to fill the existing quarry. The applicant intends to import 5,600,000 tonnes of material over a 14 year period. This equates to 72 HGV vehicle trips per day (in each direction) and represents a reduction of c.52% HGV movements when compared to the current planning permission.

The Traffic and Transport Assessment confirms that there is adequate capacity in the local road network, including the junctions. The importation of large quantities of fill material will have a detrimental effect on the structural integrity of Local Road, L2206, and will shorten its design life. In this regard, a levy should be applied to this development to cover the costs to restore the road following completion of the works. The levy to be applied shall be based on the proposed increase in HGV volumes compared to current AADT figures provided in the EIA, and take into consideration the 14 year operational period.

Recommendation

There is no objection to the granting of permission for the proposed development subject to the following:

1. The applicant shall not be permitted to extract any material granted permission in TA802731.

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2. The applicant shall pay to Meath Co Council a special levy of €200,000 to cover the restoration costs of the public roads as a result of the damage incurred by this development.

Report prepared by:

Joe Mc Garvey
Senior Executive Engineer,
Road Design Office.

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