

Due 21/10
Refusal

**KILDARE COUNTY COUNCIL
PLANNING DEPARTMENT**

PLANNING REPORT

File Ref. No.	02/1475
Name of Applicant	Goode Concrete Ltd
Address of Development	Ballinderry, Carbury
Application Type	Permission
Development	Sand & Gravel Extraction on site of 13.9ha – detailed below
Objections/submissions	Number of objections/submissions received to date – detailed below
Date of Report	17 th October 2003
Due Date	21 st October 2003

Description of Proposed Development

The proposed development will consist of the extraction of sand and gravel over an area of 7.8ha, associated washing and screening plant, new access and access road, shipping office, site office, weighbridge, wheelwash, surface water settlement lagoon, staff facilities and all associated development and landscaping works on an overall site of approximately 13.9ha (34.4 acres). The application is accompanied by an Environmental Impact Statement. Please note that in response to FI that it is also proposed to realignment of the county road bounding the north of the site to form a new junction with the county road bounding the east of the site and a new site access to the realigned county road. Based on the details submitted the estimated reserves are calculated at 2.2 million tonnes and it is proposed to extract in the region of 200,000 per annum. It is proposed to proceed with the extraction in 5 phases. Initially to a level of 1m. above the watertable and thereafter beneath the watertable. It is anticipated that the pit if permitted would commence in 2004 and be exhausted by 2009. The proposed operating hours are 07.00 hrs – 19.00hrs Mon – Fri and 07.00hrs – 13.00hrs. on Saturdays, with no operations on Sundays or public holidays.

Subject Site – Description & Location

The subject site is situated in the townland of Ballinderry, which is approximately 5km to the north of Carbury Village and approximately 3.5km to the south of Broadford and the N4 Junction. The site will be approximately 3.25Km to the south of the proposed M4. The subject site is currently in agricultural use (pasture) and comprises of 2 fields, which are separated by a mature hedgerow aligned north to south through the centre of the site.

The eastern and most of the northern boundary is bound by county roads, a tributary of the River Glash runs (south – north) between the subject site and the county road to the east of the site. The adjoining lands to the south are in agricultural use. There is an existing extractive operation on the adjoining lands to the west, operated by Roadstone, which was permitted under 99/1200.

A high voltage electricity transmission line (220kv) traverses the site from west-south-west to east-north-east and there is 1 pylon situated on the site, which was permitted under 80/1639 .

There are a number of dwellings within the immediate area, including 4 dwellings to the north-western corner of the site and 2 dwellings directly south of the site. Killardick House and farm is situated on the opposite side of the northern county road to the site. This dwelling is identified as a protected structure in the Environmental Impact Statement submitted, page 9. There are also a number of period dwellings within the general area, including Ballinderry House and farm which is approximately 0.5km to the south of the site, and is a protected structure as identified in the County Development Plan, 1999 Ref. B03-05. The proposed development will impact on these properties, e.g. due to the proximity of the workings, views into the site, traffic, noise, etc.

Relevant Planning History:

There is no planning history relating to the subject site. There is a planning history relating to dwellings in the area. In relation to the extractive industry the following is of significant relevance.

There is a history of sand and gravel extraction in the area with a smaller sand pit approximately 2km to the west, of the current application site, in Balrinnet, no planning permission traced to that site, however UD 2580 relates to that site, file is not at hand.

The subject applicant operates a sand & gravel pit to the south-west of the subject site, refer to site location map subject submitted on 06/08/02. There is no planning permission for this development and the planning status of this pit has yet to be established. It would appear from the planning report associated with 95/1236 that planning permission is required. There is an existing UD file on this pit Ref. UD2806 where it is indicated the developer is operating the pit 24 hours per day, 7 day per week. Enforcement action is pending. Under 95/1236 the applicant (Goode Concrete Ltd.) was granted planning permission for a concrete block making plant & readymix plant within that pit, subject to conditions. Based on the details submitted with the current planning application 600,000 tonnes of materials are extracted annual from the existing pit and the remaining reserves are estimated at 2 million tonnes. It is my understanding that section 261 (control of quarries) section of the Planning &

Development Act 2000 will be enacted in early 2004, thus the applicants existing quarry will come within the scope of that section of the Act.

Under **99/1200** - 09. 118 274. planning permission was granted to extract sand and gravel to a maximum depth of 13m. approx. on a site of 23.2 hectares on the adjoining site to the west of the subject site, applicant was Roadstone Ltd. Note this site appears to be within an area identified as Class B Soils as indicated on The Soil Suitability Map of Co. Kildare, whereas the subject site is situated within **Class A Soils** and the applicant has been advised by Emer Doyle, Executive Planner of same at the pre-planning meeting of 09/07/02.

Previous Planning Report

This application has been the subject of previous planning reports of 14th September 2002 and 24th October 2002, which should be read in conjunction with this report. This application has been detailed in the said reports and the relevant sections of the County Development Plan, 1999. It was my recommendation in the said reports that planning permission be refused for the 5 reasons contained therein. However the Planning Authority sought FI.

In response to the applicants FI submission the application has been the subject of a 3rd planning report of 25th June 2003, which should also be read in conjunction with this report. It was my recommendation in the said report that planning permission be refused for the 5 reasons contained therein. However the Planning Authority sought the following **Clarification of FI**.

1 As per the Roads Report of 30/05/03

Applicants Response: the applicant is prepared to construct the subject road and same will undertaken concurrently with the commencement of development on site. Exportation of sand and gravel will not commence until the road has been completed. The applicant argues that having regard to the significant costs involved that it is envisaged that the cost of the road will be off-set against contributions and contributions on potential future applications with the administrative area of Kildare County Council.

Note the Roads Department Report of 13/10/03, which expresses no objection to the proposed road, however it states that the costs cannot be off-set against contributions on potential future applications within the administrative area of Kildare County Council, please refer to same.

Note also the report received from the NRD, Mauldins which expresses no objection to the proposed development subject to 2 conditions.

2 Notwithstanding your further information submission you are advised that the National Heritage Council is not satisfied that you have addressed their concerns in relation to the proposed development. You are requested to contact them directly and submit to the Planning Authority in writing the outcome of this consultation.

Applicants Response: Applicant has advised that he has contacted the Heritage Council and the DoE and his response is based on same. No report has been received to date from the Heritage Council.

- 3 Notwithstanding your further information submission you are advised that the Eastern Regional Fisheries Board is not satisfied that you have addressed their concerns in relation to the proposed development. You are requested to contact them directly and submit to the Planning Authority in writing the outcome of this consultation.

Applicants Response: Applicant advises that he has contacted the Eastern Regional Fisheries Board and based his submission on same. No report has been received to date from the Eastern Regional Fisheries Board.

- 4 Notwithstanding your further information submission you are advised that Duchas is not satisfied that you have addressed their concerns in relation to the proposed development. You are requested to contact them directly and submit to the Planning Authority in writing the outcome of this consultation.

Applicants Response: Applicant advises that he has contacted the DoE and based his submission on same. Note the report from Duchas of 19th September 2003, expressing no objection to the proposed development subject to 3 conditions.

Reports Received

The current status of reports on this application are as set out below:

Environmental Section – no report received on the FI or CFI submitted. Pre the FI request a report was received on 29/08/02 and no objection was expressed to the proposed development subject to 14 conditions.

Duchas (Wildlife) – report received on 29/10/02 expressing no objection to the proposed development subject to conditions

Duchas (Monuments) – report received 19/09/03 no objection expressed to the proposed development subject to 3 conditions.

National Heritage Council – detailed report received on 12/05/03, recommending that planning permission be refused, refer to same. No report received on the CFI submitted.

Roads Section - report received 12/10/03, expressing no objection to the proposed road, no conditions recommend.

Regional Fisheries Board - report received 12/05/03 recommending that planning permission be refused and advises that the applicant has not addressed their concerns. No report received on the CFO submitted.

NRA – no report received on the FI submission. Pre the FI request a report was received on 24/09/02 and recommends that the application be referred to the Roads Design Office at Maudlins, Naas.

NRD, Mauldins – report received 01/10/03 which expresses no objection to the proposed development subject to 2 conditions.

EHO – no report received on the FI or CFI submission. Pre the FI request a report was received on 30/09/02, no objection expressed to proposed development, subject to conditions.

Area Engineer – no report received to date. ✓

An Taisce – no report received to date ✓

An Comhairle Ealaoin - no report received to date. ✓

Bord Failte - no report received to date. ✓

EPA - no report received to date. ✓

County Development Plan, 1999

The subject area while quite picturesque is not designated for landscape protection, area of high amenity, protected views etc. in the County Development Plan, 1999. The relevant sections of the Kildare County Development Plan, 1999 are set out below. Note I have highlighted the 3rd paragraph under Section 2.29.1, which is of particular significance in this instance. Having examined the Plan I consider that the proposed development materially contravenes the provisions of the Plan, section 2.29.1, 3rd paragraph.

2.29 EXTRACTIVE INDUSTRIES

2.29.1 Sand and Gravel and Rock Quarrying

It is recognised that the gravel resources are important to the general economy and that the sand and gravel extraction industry is a valuable source of employment in some areas of the county. However, the industry can have seriously detrimental effects on the landscape, on the operation of bloodstock, and on residential amenities. The impact on the county road network has been substantial.

It is the policy of the Council that a survey and examination of both existing pit areas and potential sand and gravel deposits in the county be undertaken and to assess the interactions between the development of these resources and future land uses. To assist in the survey, it is intended that an aerial survey of all sand and gravel workings in the county will be made. This will establish the current extent of existing workings and will pinpoint areas where rehabilitation is needed. The survey results could be used as evidence against any future unauthorised sand and gravel developments. It is intended that this survey would be continually updated.

No sand and gravel extraction will be permitted under Class A soils, in areas of high amenity (as defined in this Plan) and their environs, or where conflict with the bloodstock industry might arise. Apart from these exclusions, sand and gravel extraction will be considered on its merits elsewhere within the county, having regard to the policies of this Plan. Within the East Kildare Uplands

Area, sand and gravel extraction will be permitted only in areas zoned for that purpose.

It is the policy of the Council to ensure that all existing workings shall be rehabilitated to suitable land uses and that all future extraction activities will allow for the rehabilitation of pits and proper land use management. The use of landfilling with waste, of whatever category, is not considered to be an acceptable method of rehabilitation of pits.

It is the policy of the Council to ensure that the full cost of road improvements which are necessitated for this industry, shall be borne by the industry itself.

It is Council policy to ensure that rock quarry workings should not detract from the visual quality of the landscape. It is Council policy that all such workings should be subjected to landscaping requirements, similar to those for sand and gravel workings, and that worked out quarries should be rehabilitated.

Detailed objectives and standards for the development and regulation of sand and gravel extraction are set out in Part 4, Section 4.22.

2.29.2 Minerals

In the event of major mineral finds being made in County Kildare, it is the policy of the Council to encourage their development where compatible with the protection of the landscape, the continued operation of agriculture and the bloodstock industry, and the preservation of amenities generally. In any such cases, it will be necessary to demonstrate that the rehabilitation of these areas to proper land uses can take place. In areas of high amenity, as defined in this Plan, the preservation of the relevant amenity, which constitutes an ecological, landscape or heritage resource, will take precedence over the need to extract the mineral resource.

4.22 SAND AND GRAVEL EXTRACTION

In assessing planning applications for permission for sand or gravel deposits, the following will be the development control considerations:-

1. Duration of Permissions

The Council will require that all such permissions be for a temporary period, so that the impact of the development may be assessed over time, and so as to ensure that rehabilitation takes place in an orderly and phased manner. This period will generally be of five year's duration, but may be for a shorter or longer duration. No permission will be given for a period in excess of ten years.

2. Rehabilitation

The Council will require that all extractive sites shall be rehabilitated and landscaped, in phase with the extraction. The after-use following rehabilitation, shall be stated, and the rehabilitation materials and layout shall be such as to permit of such after-use.

The Council will not generally permit the after-use of the site for the processing of materials which have to be imported to the site.

3. Bonding

The Council will generally require that operators of extractive sites submit bonds, in an appropriate form acceptable to the Council, to secure the proper rehabilitation of the sites. In assessing the amount of the bond, the past record of an operator will be taken into account.

4. Submission Details

Applications for permission for sand or gravel extraction should provide the following details:-

a) Site Layout

1. Full details of the type of sand and/or gravel to be extracted.
2. full details of the location and layout of the plant, including plans, elevations and sections.
3. Full details of forecourt planning, including entrances and exits.
4. Full details for provision on site for parking of cars and trucks
5. Accurate boundaries of the proposed area of extraction.

b) Work Programme

A comprehensive programme for work will have to be presented by operators covering:-

1. the intended phasing of the operation of the pit in terms of excavation and rehabilitation. An operational plan with maps should be submitted.
2. The water supply available on site and details of minimum flow.
3. if there is to be washing of aggregates on site, proportions of silt present, and proposals to deal with silt (e.g. location and size of silt beds), and protection of adjoining watercourses.
4. arrangements for the washing of trucks before leaving the site.

c) Landscape

1. details of existing landscape features such as contours, trees, hedgerows, boundary walls, buildings and other items, existing on site, and within 0.5 kilometres of the outer boundaries of the site.
2. details of all items of archaeological, historical and scientific interest present on the site or which would be affected by the proposed development.
3. details of overground and underground services existing on the site.
4. details of the proposed screening of the site during extraction and prior to rehabilitation.

d) Working of the Site

1. the estimated maximum final excavation depth and its relationship to the water table on the site.
2. details of the produce to be processed on site.
3. details of the daily and hourly throughput of the plant.

e) Transport

If materials are to be transported by road, the following details will be required:-

1. the roads to be used for the transport of materials from the plant and for trucks returning light. A map showing such routes should be submitted.
2. details of the daily average number of trucks.

3. details of the types of trucks to be used in the final rehabilitation and a specification detailing how the work is to be carried out.

If materials are to be transported by other methods, details of such will be required.

f) Rehabilitation

1. details of the proposed storage of top soil, subsoil and overburden.
2. details of proposals for rehabilitation and details of land use suitability after rehabilitation.
details should include:-
 - (i) report on the existing and finished landform, both of each phase and the overall excavation.
 - (ii) detailed report on quality and condition of topsoil, subsoil and the overburden
 - (iii) plans and section through the workings showing proposed finished gradients and their landscape treatment.
 - (iv) plans showing all plants and materials to be used in the final rehabilitation and a specification detailing how the work is to be carried out.

Objections & Submissions Received

A number of objections and submissions have been received in respect of the proposed development, which I have duly noted. There was considerable overlapping of points raised in the various letters of objections and submissions received and the main points/issues raised are summarised below:-

Below are the objections & submissions received previous to the FI request:

1. Problems in area with existing Goods Concrete Pit in this area at Kilglass, e.g. noise, dust, traffic, etc.
2. Continuous problems with lorries drawing 24 hours per day from developers existing pit.
3. Developer ignoring residents' requests in relation to existing pit.
4. Proposed development would result in greater problems in area from the developer.
5. Negative impact on Ballinderry House, a protected structure under extensive restoration and in receipt of funding for same from Kildare County Council.
6. Environmental Impact Statement does not have due regard to Ballinderry House.
7. Negative impact on the Bloodstock Industry in the area.
8. Environmental Impact Statement does not adequately assess the bloodstock industry in the area and its assessment is false.
9. No reference to the cattle grazing in the fields adjoining the subject site.
10. The research for the application appears to be non-existent.
11. Spurious information in the Environmental Impact Statement
12. Proposed development would have a devastating impact on the use and enjoyment of Kilcandrick House and lands
13. Proposed development will create a micro climate in this area and thereby have an adverse impact on the bloodstock industry in the area, and that associated with Kilcandrick House.
14. Proposed development will have a negative impact on the ground water, air & noise in the area.

15. Proposed development will result in traffic hazard and result in damage to existing roads in the area.
16. Reinstatement proposals will pose a real and continuing danger to the area, which will remain indefinitely.
17. No consultation with the residents of the area, or those involved in the bloodstock industry.
18. Risk of groundwater pollution.

Below are the objections & submissions received since the FI was received:

- 19 Ballinderry House is a protected building and therefore no development is allowed to damage its curtilage or its heritage value.
- 20 Development will impose on the views to Ballinderry House.
- 21 Development has the potential to damage the heritage value of Ballinderry House.
- 22 No assessment as to how noise or dust may damage the house.
- 23 Research methods to ascertain bloodstock in the area are inadequate.
- 24 Proposed development will prevent the continued use of the Miller's Lands for pony breeding.
- 25 Development will result in serious breach of one's constitutional rights to the quite enjoyment of their property.
- 26 New road will have serious effect on the Miller Household.
- 27 Development will seriously damage property and livelihoods in the area.
- 28 Local community has had serious problems with the subject developer in relation to his existing site in this area.
- 29 Local residents were forced to take legal action against developer re his existing site in this area.
- 30 Subject site is 3 times the size of the current site.
- 31 Proposed development is for financial gain only.
- 32 Serious concerns in relation to the existing pit.
- 33 The figures quoted in relation to the existing site are understated.

- Please refer to the submissions received for further details.
- In addition to the above a number of photographs have been submitted, supporting some of the concerns raised in the submissions, relating to the operating hours of the existing pit.

Section 35 of Planning & Development Act 2000

There is provision within this Section of the Act for a Planning Authority to apply to the High Court to refuse planning permission to a developer based on his previous record of carrying out development, based on the submissions received above there may be such a case in this instance, however the Planning Authority would need to carry out a full examination of the matter to ascertain same.

Pre Planning in Relation to the Proposed Development

I have been advised that the developer's agent has had the benefit of a pre planning meeting with the Planning Authority, (Emer Doyle, Executive Planner) in relation to the subject site. He was advised that the proposed development was a material contravention of the County Development Plan, 1999 as the site is within an area that is identified as Class A Soils and thereby contrary to the provisions of the said plan. The meeting was held on 9th July, 2002. Ref 87/02. This professional advice is totally

contrary to the applicants in-accurate statement in the cover letter (page 3, 3rd last paragraph) submitted with the planning application, where he states that "it has not been possible to establish if the soils are of a Class A type as described in the 1999 County Development Plan

The same cover letter states that "No bloodstock interests have been identified in the vicinity of the subject site" cover letter submitted, page 3, 2nd last paragraph. This is obviously contrary to the evidence submitted in the objections/submissions received.

Assessment & Conclusion

Notwithstanding the applicants response to the FI & CFI request I remain of the opinion that this is not a suitable development at this location and that planning permission should be refused as set out below.

Recommendation:

I recommend that permission be refused for the following reasons:

- 1 The proposed development, which relates to extraction of aggregates on a site that is within an area identified in The Soil Suitability Map of Co. Kildare as consisting of Class A Soils, would contravene materially the provisions of the County Development Plan, 1999 as set out in Section 2.29.1 of the said Plan.
- 2 The proposed development, which relates to extraction of aggregates in close proximity to existing bloodstock industry is considered to constitute a conflicting land-use and would accordingly contravene materially the provisions of the County Development Plan, 1999 as set out in Section 2.29.1 of the said Plan.
- 3 The proposed development would constitute an incongruous and artificial interference with the landscape, views, setting and character of the area, and particularly to the unique setting and character and visual amenities of Clonuff Bridge, which is of significant merit the development would, therefore, be contrary to the proper planning and sustainable development of the area
- 4 It is considered that the proposed development located on a County Road servicing existing and permitted sand and gravel facilities would lead to an unacceptable intensification of sand and gravel extraction in this immediate area, would set an undesirable precedent for further such developments and could lead to the proliferation of similar type developments generating additional traffic movements resulting in a reduction in the capacity of the road and thereby interfere with the safety and free flowing nature of traffic on the road.
- 5 A number of permitted individual residential developments are located in the vicinity of the site of the proposed development. It is considered that these permitted and sensitive residential uses require careful protection from the encroachment of inappropriate development in the area. It is considered that the proposed development, would, by reason of the nature of the proposed land use, and the duration over which it is proposed to be in operation, be likely to materially and adversely impact on the residential amenity of the

properties in question (and of other existing residences within the influence of the proposed development) and their residents by reason of the possible emission of dust, and the generation of noise. It is considered that the proposed development would be incompatible with the established and permitted use of these properties, to be likely to materially depreciate the value of these properties, and to therefore be contrary to the proper planning and sustainable development of the area.

If the Planning Authority does not agree with the above recommendation and considers that a grant of planning permission is appropriate then it will be necessary to commence the material contravention process for as detailed above the proposed development would materially contravene section 2.29.1 (3rd paragraph) of the County Development Plan, 1999 as set out below:

No sand and gravel extraction will be permitted under Class A soils, in areas of high amenity (as defined in this Plan) and their environs, or where conflict with the bloodstock industry might arise. Apart from these exclusions, sand and gravel extraction will be considered on its merits elsewhere within the county, having regard to the policies of this Plan. Within the East Kildare Uplands Area, sand and gravel extraction will be permitted only in areas zoned for that purpose.

Martin Dowling 17/10/03
Martin Dowling, Executive Planner

17th October 2003

Agreed

Patricia Allagher JP

20/10/03

MOJ

Sheehan

Dunak m of Soranus
21. 10. 03

KILDARE COUNTY COUNCIL

REFERENCE NUMBER: 02/1475

PREVIOUS REF NOS:

DATE: 09/09/2003

TO: NRDO

APPLICATION DATE: 06/08/2002

APPLICANT: Goode Concrete Ltd

LOCATION: Ballinderry Carbury Co. Kildare

APPLICATION FOR: For the extraction of sand and gravel over an area of 7.8 hectares, associated washing and screening plant, and all associated development and works on an overall site of approx 13.9 hectares. The FI submitted provides for the re-alignment of the etc

ADDITIONAL INFORMATION

R S

REPORT REQUIRED BY: 30/09/2003

SIGNED:

K. Kelly

Senior Executive Officer Planning & Public Safety

SITE NOTICE INSPECTED ON:

IF CONDITIONS ARE BEING SUGGESTED, REASONS SHOULD BE STATED:

Please note that any contributions or special contributions required for this development shall be clearly signalled.

KCC NRDO

1) No objections. Road issues being dealt with by KCC Road Design

2) Applicant to be ~~conditioned~~ ^{conditioned} to ~~contribute~~ ^{contribute} the ~~the~~ upgrading of the junction with the current N4. Details to be agreed with KCC NRDO.

Kildare County Council				
National Roads Design Office				
ACTION	INTW	REPLY	FILE	DATE
				SEP 2003
FILE REF.	15006			
COPY TO				

*D. Bowles
1/10/03.*