

046/95
Tel: (0187) 51104

Kilcandrick House,
Moyvalley,
Co. Kildare.

11/3/2004.

Dear Sir / Madam.

Further to my
telephone conversation with
Mary Holohan + on checking
your environmental impact
statement I am re-submitting
own observations regarding same
+ copies of our objections to
Kildare Co. Council.

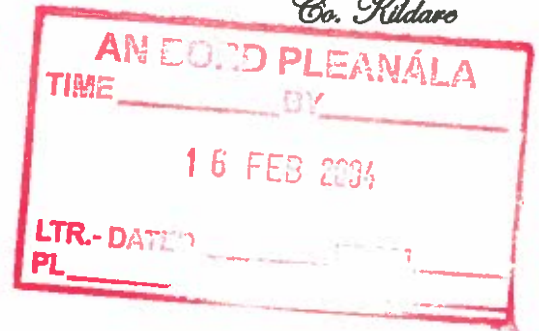
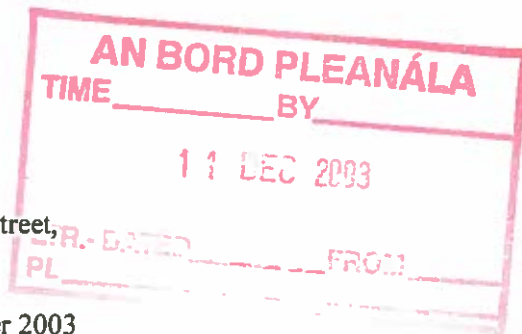
Please find enclosed
draft of €50 in respect of
the requested fee for this
appeal.

Yours faithfully,
David + Margaret Miller

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AN EXCESSIVE
12 MAR 2004
PLS. DATE
FROM

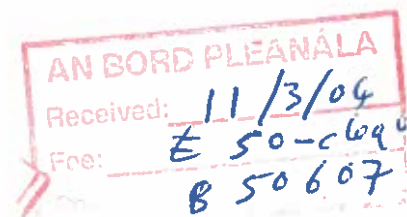
Kilcandrick House
Moyvalley
Co. Kildare



An Bord Pleanála
64 Marlborough Street,
Dublin 1

Date: 4th December 2003

Re: Appeal by Goode Concrete Limited against Decision to Refuse Permission for Extraction of Sand and Gravel, Processing and Washing Plant, Access Road and Associated Development Works at Ballinderry, Carbury, Co. Kildare
Planning Ref: PL 09.205039
Appeal Ref: P.A. Reg. Ref. 02/1475



Dear Sirs,

We note that Goode Concrete Limited have appealed to An Bord Pleanála against the Decision to Refuse the above planning permission.

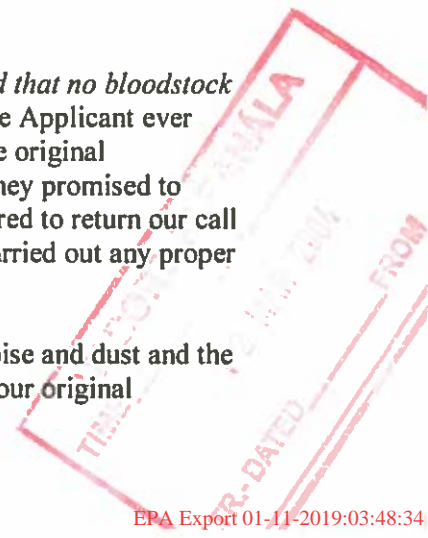
We are the owners of Kilcandrick House, which is situated on lands immediately adjoining the site of this proposed development. We have already made objections to Kildare County Council in respect of the original application for planning permission. We enclose herewith further copies of these written objections.

As already stated in our original objection, we purchased Kilcandrick House approximately 20 years ago, because of its location in this high amenity area and because of its suitability for the rearing and training of horses and ponies. We have used this land and property exclusively for the rearing and training of horses and ponies, many of which have competed at the highest level of competition and many have been sold to international buyers.

In this appeal, Goode Concrete Limited (the Appellant) has deliberately sought to confuse the issue in relation to the registration of stud farms. At page 15 of the document of appeal, the Appellant seeks to deny that we are engaged in such bloodstock activities, on the grounds that our property is not listed in the Irish Field Directory 2002. This Directory is published by The Irish Field, a very reputable newspaper, but it does not have any legal standing. It is a most useful Directory within the confines for which it is intended. It lists stud farms at which stallions, registered with the Irish Horse Board, stand. However, the bloodstock industry is not confined to such stud farms. Very many breeders do not keep stallions. They send their mares to such stud farms to be covered by a stallion of their choice. Thereafter the mares are returned to the breeders where foals are born and reared. The Irish Field Directory does not list such breeders as that is not the purpose of this Directory.

The Applicant goes on to state at page 15 of the document of appeal: "It was noted that no bloodstock activity was observed during visits to the area." However, no representative of the Applicant ever visited our land. We contacted the offices of Good Concrete Limited soon after the original application for planning permission was made and sought to discuss the matter. They promised to revert to us. However, to date no person on behalf of the Applicant has ever bothered to return our call or contact us. It is therefore untrue to state that they ever visited our property or carried out any proper investigation of this issue.

All of our concerns regarding the intensification of use, the pollution caused by noise and dust and the risk to the ground water still remain. All of these have been dealt with in detail in our original



submissions. The Applicant continues to seek to justify such pollution on the same basis as in his original application and makes no offer to reduce or eliminate such pollution. One example of this is the level of noise pollution. In this appeal the Applicant still refers back to the Noise Study carried out for the original application. However, as stated in our original objection, this Report disclosed potential noise levels of 55-57db as 80 metres distance. Kilcandrick House is a mere 40 metres from the edge of the proposed development. It is therefore reasonable to assume that even higher noise levels may be encountered. Despite our detailed objection, the Applicant has failed to address this in his appeal.

The Applicant has the benefit of expert advisors and had ample time to address our concerns and to meet with us to discuss such matters prior to the lodging of this appeal. However, he has chosen to ignore our legitimate concerns and has decided to simply proceed with this appeal on the basis of his original reports. We are private individuals who do not have the resources to employ experts to prepare reports and to rebut the submissions made.

If this proposed development is permitted to proceed it will destroy our livelihood and have detrimental affects on our property and our quality of life. We must take every possible step to protect out legitimate interests and Constitutional rights to quiet use and enjoyment of our property. This proposed development will destroy our quality of life and will severely diminish the value of our property.

We should also say that the past record of the Applicant in relation to the existing quarry in this area is not good. The entrance and the adjoining road are extensively polluted with dust, as is all of the vegetation along the adjoining road. There have been very many complaints of failure to adhere to approved standards in the operation of this quarry. This must give rise to grave concern that, if permission is granted, the operation of this new quarry will be subject to similar lapses of proper standards.

For all of the foregoing reasons and for the reasons contained in our original objections enclosed herewith, we request that you refuse this appeal and confirm the decision of Kildare County Council in this matter.

Please find enclosed our cheque in respect of the fee on this appeal.

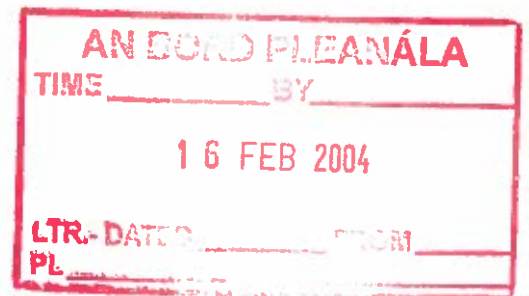
Yours faithfully,



David Miller



Margaret Miller



Kilcandrick House
Moyvalley
Co. Kildare

Kildare
Planning Department,
Meath County Council,
St. Mary's,
Naas,
Co. Kildare.

4th September 2002

Re: Planning Application by Goode Concrete Limited for Extraction of Sand and Gravel, Processing and Washing Plant, Access Road and Associated Development Works at Ballinderry, Carbury, Co. Kildare

Dear Sirs,

We are the occupants of Kilcandrick House, which immediately adjoins the lands for which the above planning permission is sought. We wish to object to this proposed development and we request that this application be refused.

The grounds of our objection are set out in the accompanying document.

We also request that we be kept informed of the outcome of this application. We also request that if the Applicant furnishes any revised planning application, or any new planning application for the same site, that we should be informed of such application.

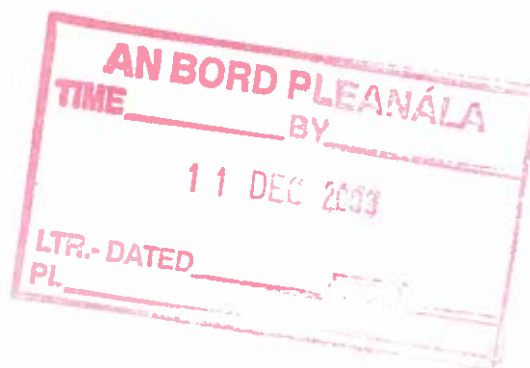
Yours faithfully,



David Miller



Margaret Miller



NOTICE OF OBJECTION TO PLANNING APPLICATION

Re: Application by Goode Concrete Limited for Planning Permission for the Extraction of Sand and Gravel, Processing and Washing Plant, Access Road and Associated Development works at Ballinderry, Carbury, County Kildare.

Re: Application by Goode Concrete Limited for Planning Permission for the Extraction of Sand and Gravel, Processing and Washing Plant, Access Road and Associated Development works at Ballinderry, Carbury, County Kildare.

Objectors: David Miller and Margaret Miller, Kilcandrick House, Moyvalley, Co. Kildare.

Basis of Objection

Kilcandrick House is situated to the north east of the proposed development. This house is the closest house to the proposed development and is separated from the proposed development by a narrow, third class, country road.

Kilcandrick House is a two storey farm house which was built in the 1830's. It was purchased by David and Margaret Miller approximately 20 years ago. Since then they have carried out extensive repairs and renovations to the house. The land of Kilcandrick House comprise approximately 40 acres(Please see attached photographs). The lands are laid out in a number of stud railed paddocks. The property also includes outhouses and stables. The property is used as a small farm for the breeding and rearing of show ponies and working hunter ponies and horses.

Margaret Miller is a senior judge with the Irish Pony Society and has an international reputation as a judge and breeder of ponies.

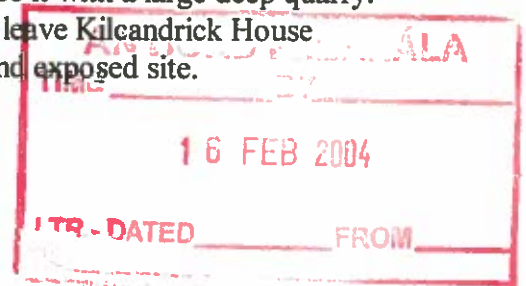
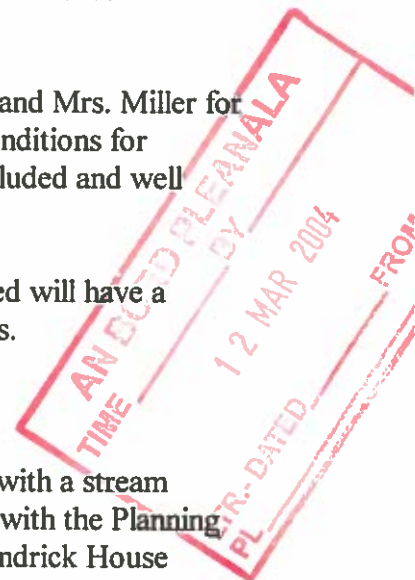
The house and farm are located in a rural area. This site was chosen by Mr. and Mrs. Miller for its quiet pastoral setting and its light well drained soil which offered ideal conditions for breeding and rearing ponies and horses. The area was also sheltered and secluded and well away from noise and traffic which could upset young horses and foals.

The proposed development of the adjoining lands by Goode Concrete Limited will have a devastating impact on the use and enjoyment of Kilcandrick House and lands.

Physical Effects of Proposed Development

At present the site of the proposed development is used as agricultural land with a stream flowing along its eastern boundary. As can be seen from the maps furnished with the Planning Application, this land is a rolling hill which slopes down to the stream. Kilcandrick House enjoys a pleasant secluded view of this pasture land. These lands also offer a shelter from the prevailing south westerly wind so that Kilcandrick House enjoys a sheltered micro climate, which is ideal for rearing and breeding ponies and horses.

The proposed development will remove the existing hill and replace it with a large deep quarry. Even if the lands are reinstated as proposed in the EIS, it will still leave Kilcandrick House standing at the edge of this ravine, on what will then be a raised and exposed site.



During the carrying out of this development, Kilcandrick House and lands will be exposed to noise, dust and interference from the development. This will make it impossible to continue to use the lands for rearing and breeding of ponies and horses. It will also severely detract from the amenity value of the property. Mr. and Mrs. Miller will be subjected to a severe interference with their use and enjoyment of their property.

The Environmental Impact Statement (EIS) which accompanies this Application acknowledges that Kilcandrick House will be affected by this development in several ways. There is nothing in the Application or the EIS to show how the Applicant intends to prevent such interference. Some of the particular areas of interference are as follows.

Effect on Wind

The EIS records that the prevailing wind in this area is from the south west. The rolling hills offer resistance to the winds at surface level, thus creating sheltered areas in the lea of such hills. The proposed development lands comprise a gently sloping hill to the south west of Kilcandrick House that offers shelter and creates a micro climate, ideal for breeding ponies and horses. The removal of this hill and its replacement with a gorge or valley will have adverse effects on the area. This is illustrated in the drawing accompanying this Objection.

Ground Water

Kilcandrick House does not have mains water. All domestic water is obtained from a well on the property. Water for the farm is obtained either from the well or from the adjoining stream. As is stated in the EIS, the ground water flow is from the south east. This means that all water available to Kilcandrick House and farm will come from the area of the proposed quarry.

It is clear that very substantial interference will take place, both to the water table and to the water itself during the course of this proposed development. It is admitted in the EIS that water will be extracted for use in the washing of gravel. The Planning Application makes reference to attempts to operate a closed system with such washing water being recycled. However, no guarantee is given, nor could any such guarantee be given that pollution of the ground water cannot occur. Any spillage of Diesel Oil or other chemicals or pollutants within the quarry will contaminate the ground water. There is nothing in the Planning Application which indicates that there is any plan in place to prevent such contamination from entering the ground water below the site and thus polluting such water and the wells in the area.

In the course of the development it is proposed to extract sand and gravel from below the water table by dredging. This in itself will increase the risk of contamination of the ground water. Any pollutants getting into the water are, therefore very likely to contaminate nearby wells. Kilcandrick House is the nearest property. The natural flow of the ground water is from the development site towards Kilcandrick House. This house is most likely to suffer the detrimental effects of any such pollution. There is reference in the EIS to proposals to monitor the quality of water in wells near the site. However, it is submitted that this will be of no value if any pollution occurs. By the time such contamination of the wells is discovered, it will be too late to remedy the problem. Should such pollution occur, Mr. and Mrs. Miller will be left with no domestic water and no water for their livestock. Based on the scale and extent of the proposed development, it appears that such pollution of the ground water is probable and without some failsafe method of retaining ground water within the development site, the occupants of Kilcandrick House will be exposed to a continuing danger from pollution throughout the entire life of this development.

Stamp: **PLANNING APPLICATION**
Stamp: **RECEIVED**
Stamp: **2 MAR 2004**
Stamp: **ALA**
Stamp: **TIME**
Stamp: **16 FEB 2004**
Stamp: **DATED** FROM

The stream which runs along the eastern boundary of the proposed developments continues north past the lands of Kilcandrick House. If this stream is polluted, it will affect the water available for livestock on the farm. With such an extensive development, the likelihood of such pollution is very great. It is, therefore, almost inevitable that livestock on this farm will suffer from exposure to such pollution.

This stream is a tributary of the Boyne River. It is believed that salmon use the lower reaches of this stream to spawn. Any pollution of this stream could have detrimental effects on the salmon stocks in the Boyne. The Application gives no undertaking to prevent such pollution.

It is noted that the EIS states that the ground water vulnerability in the area is high rising possibly to extreme. It goes on to state, in relation to private wells in the area *"The proximity of these wells and the high vulnerability rating for both the aquifers makes these wells possible targets for ground water pollution"*

Air

The EIS acknowledges that this development will be a source of dust. It proposes certain dust suppression methods. However, none of these offer any guarantee that dust will not pollute the air and environment of Kilcandrick House. Since the prevailing winds are from the south west, any such dust will be blown directly towards this house. The use of native trees as a shelter will offer no protection in winter and spring when there are no leaves on the trees. This is the time when foals are born and are at their most vulnerable.

Such airborne dust will cause grave inconvenience to Mr. and Mrs. Miller. It will affect such normal domestic matters as cleaning windows and hanging out washing to dry. It will have adverse effects on the quality of the air and could lead to breathing difficulties and related adverse effects on the health of the occupants of the house.

Noise

Kilcandrick House lies immediately beside the proposed development. Heavy machinery will be used in preparing the site and in the extraction of the material from the quarry. Large lorries will be used in the transport of the materials both within the site and from the site.

Due to the proximity of Kilcandrick House to the site, it is inevitable that its occupants will suffer more than anyone else from the noise emanating from the site. They are left with the prospect of such interminable noise for the entire duration of this proposed development.

The noise from this development is also likely to have an adverse effect on the livestock on the farm. Highly strung animals have been known to take fright and bolt, even attempting to jump fences and ditches and often suffering severe injuries as a result. Consequently, the presence of such machinery and the resultant noise are likely to have adverse effects on the livestock on the farm.

The EIS study shows noise levels, as monitored close to the site, and these are tabulated in Table 8.1. At the north east corner of the site, adjacent to Kilcandrick House it is noted that noise levels of 55 to 57dB were recorded at 80 metres distance. Kilcandrick House is within 40 metres of the proposed site. It must therefore follow that when the additional noise from machinery in the site is introduced, these noise levels will increase substantially. Table 8.2 shows the additional noise which is likely to emanate from such machinery in the quarry. Table 8.3 goes on to show the predicted level of noise resulting from the operation of machinery in

the quarry. This appears to show a predicted level of 48dB near Kilcandrick House. It is not clear how the figures shown in Table 8.3 can arise. The addition of existing noise levels and the additional noise of machinery on the site must inevitably increase the predicted noise, not reduce it. The only certain way to ascertain the noise level near Kilcandrick House would be to place machinery on the site and monitor the resultant noise level. The conclusion drawn that there is no potential noise impact from this development is at variance with the facts and is clearly inaccurate or incorrect.

Roads and Access

The roads in this area are mainly third class country roads which have tarmacadam laid on the existing subsoil. These roads do not have substantial foundations or concrete reinforcement. Since much of the subsoil in the area comprises sand and gravel there is a real risk of damage from heavy lorries and heavy machinery.

The EIS states that lorry movements to and from the site will rise from 70 per day to 210 movements per day by 2006. Each lorry will carry a maximum load of 26 tonnes. Assuming that the quarry is operated 8 hours per day, then there will be 26 lorry movements per hour, or approximately one lorry entering or leaving the site every 2 minutes. The roads will be subject to pressure or loading of over 5,000 tonnes per day from the movements of these lorries. Such intensive traffic of heavy lorries clearly is clearly likely to cause damage to the existing roads. Furthermore, it is likely that the presence of such lorries and the resultant damage to adjoining roads will constitute a nuisance and hazard to other road users on such country roads. Mr. and Mrs. Miller are likely to suffer such a detriment as access to their property necessitates to use of such roads.

Reinstatement

The proposed reinstatement as set out in Figure 9.8 in the EIS shows a body of water at the base of the quarry, which is euphemistically referred to as a "lake". This will constitute a danger and hazard to children and persons in the area.

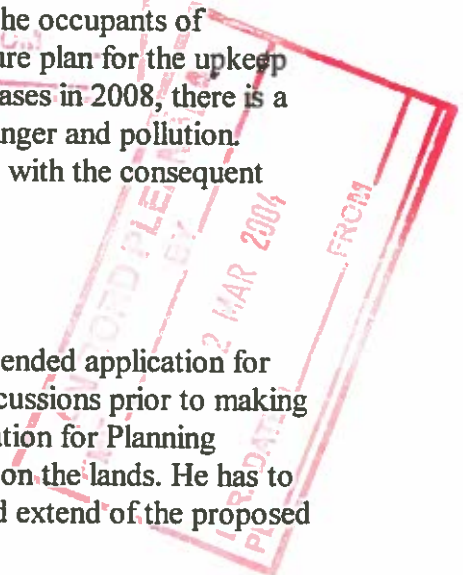
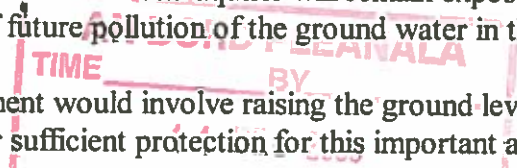
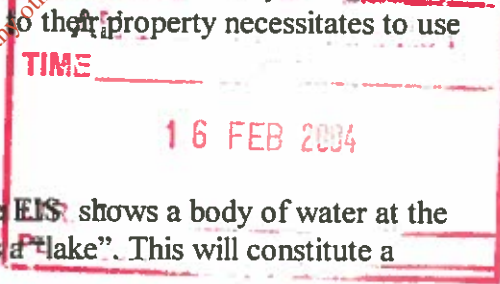
Since this represents an area where the ground water and aquifer will remain exposed, it constitutes a continuing hazard and risk of future pollution of the ground water in this area.

It is submitted that the only safe reinstatement would involve raising the ground level to a level above the ground water which would offer sufficient protection for this important aquifer.

The reinstatement proposed will pose a real and continuing danger to the occupants of Kilcandrick House which will remain indefinitely. Since there is no future plan for the upkeep and maintenance of the development site, after production of gravel ceases in 2008, there is a very real danger that it will become derelict and become a source of danger and pollution. There is a high risk that illegal dumping could take place on such a site with the consequent danger of pollution of the ground water in the area.

Notification by Good Concrete Limited

Goode Concrete Limited did not notify Mr. and Mrs. Miller of their intended application for Planning Permission nor did they seek to engage in any preliminary discussions prior to making this application. Mr. and Mrs. Miller first became aware of this Application for Planning Permission when Mr. Miller accidentally came upon the notice erected on the lands. He has to make enquiries from Kildare County Council to discover the nature and extend of the proposed



development. He then had to contract Goode Concrete to seek further details of the proposed development.

The EIS states “*No sensitive groups or communities that may be affected by the development have been identified*”. Since the existence of Kilcandrick House is clearly identified on all maps relating to this Application, the Applicant should have had no difficulty in identifying the occupants of the property and of making enquiries as to how they might be affected by the development. If the Applicant has failed to identify such persons, it must raise doubts as to the nature and extent of the investigations carried out in the preparation of this Planning Application and the accompanying EIS.

Conclusion

This proposed development by Good Concrete Limited will have a detrimental effect on the amenity value of the area. It poses a health hazard to the occupants of Kilcandrick House. There is an acknowledged risk of pollution of the ground water and the well supplying water to this house. Any interference with the ground water levels could cause the well to run dry. There are further hazards associated with noise and air pollution. The possible impact of the development on livestock on the farm, in particular foals, young horses and ponies. This could make it impossible for Mr. and Mrs. Miller to continue to use this property for the breeding and rearing of such animals with a consequent severe impact on their livelihoods.

If this development is permitted, Mr. and Mrs Miller may be forced to vacate this property. However, it may prove impossible to sell the property in such circumstances, due to the proximity to the development. As a result, they are likely to suffer severe financial damage in addition to the other loss and damage set out above.

For all of the foregoing reasons, it is submitted that this is not an appropriate development for this area and should be rejected.

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AN BORD PLEANÁLA	
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12 MAR 2004	
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16 FEB 2004	
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PHOTOGRAPHS OF KILCANDRICK HOUSE AND LANDS

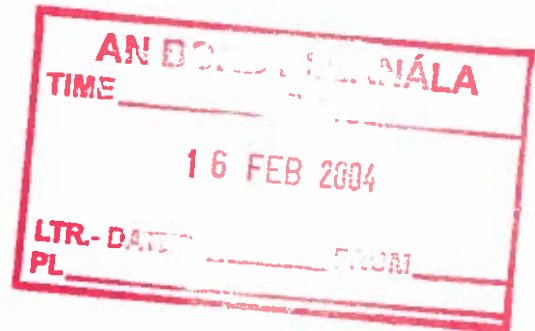
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AN BORD PLEANÁLA	
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AN BORD PLEANÁLA	
TIME	_____
17 MAR 2004	
LTR.-DATED	_____ FROM
PL	_____

*Kilcandrick House
Moyvalley
Co. Kildare*

The Planning Department,
Kildare County Council,
Naas,
Co. Kildare.



Date: 6th May 2003

Re: Application by Goode Concrete Limited for Planning Permission for the Extraction of Sand and Gravel, Processing and Washing Plant, Access Road and Associated Development works at Ballinderry, Carbury, County Kildare.

Dear Sirs,

We refer to the above matter and to your recent letter in which you informed us of amendments made by the Applicant to the above planning application. We have inspected the planning file and we wish to respond to the various matters appearing on that file.

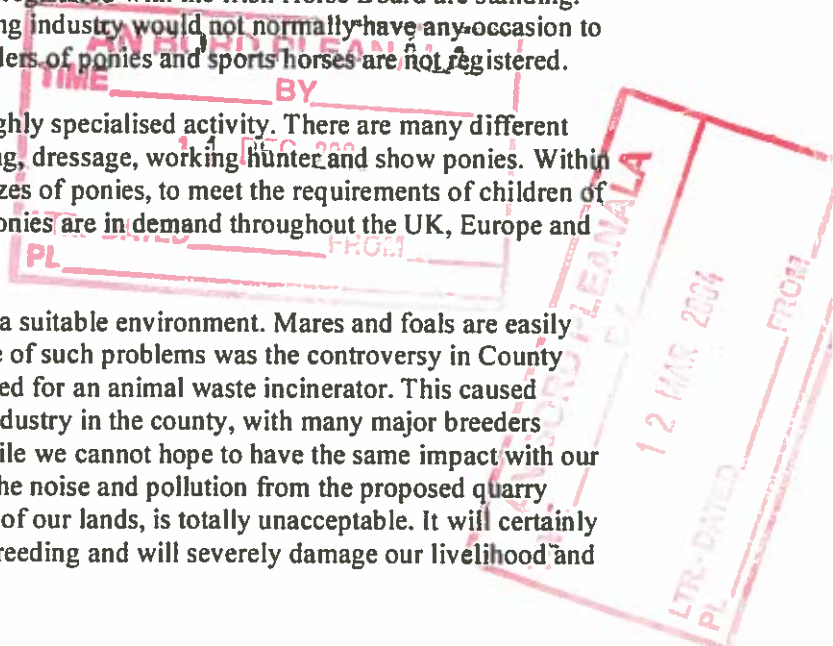
We repeat our objections to this proposed development in its entirety, including the proposed modifications thereto, for the reasons already set out in our original Notice of Objection, which is on your file.

We also wish to take issue with some of the responses made by the Applicant to our original objection.

The Applicant claims that we are not involved in the breeding of horses and ponies. This is incorrect and untrue. In support of this allegation the Applicant has furnished a list of registered studs in Ireland. However, this discloses a fundamental misunderstanding of the horse industry. Registered studs are generally stud farms at which stallions registered with the Irish Horse Board are standing. However, persons not involved in the horse racing industry would not normally have any occasion to register with the IHB. The vast majority of breeders of ponies and sports horses are not registered.

We are involved in breeding ponies. This is a highly specialised activity. There are many different pony activities, including show jumping, eventing, dressage, working hunter and show ponies. Within these categories there are different grades and sizes of ponies, to meet the requirements of children of different ages and abilities. High quality Irish ponies are in demand throughout the UK, Europe and the USA. They have a valuable export market.

The successful breeding of such ponies requires a suitable environment. Mares and foals are easily injured by noise and pollution. A recent example of such problems was the controversy in County Tipperary, where planning permission was granted for an animal waste incinerator. This caused substantial objections from the horse breeding industry in the county, with many major breeders threatening to move their operations abroad. While we cannot hope to have the same impact with our objection, nonetheless the same criteria apply. The noise and pollution from the proposed quarry development, which will come within 50 meters of our lands, is totally unacceptable. It will certainly prevent the continued use of our land for pony breeding and will severely damage our livelihood and



also our reputation within the industry.

We repeat that the effect of granting planning permission for this quarry will be to deprive us of our lawful use and enjoyment of our land. We will be subject to noise, pollution and continuing nuisance. This will be a serious breach of our Constitutional rights to quiet enjoyment of our property. We shall, therefore, be forced to take all means possible to vindicate our legitimate and Constitutional rights and will pursue this matter through the courts if necessary.

A further ground of objection arises from the revised proposal for a new public road through the proposed quarry. This new road would appear to bypass our property leaving us in a cul-de-sac. If this is the case, it will deprive us of the normal access and use of such road in both directions.

The creation of such a cul-de-sac will inevitably lead to its use as a halting site for caravans or for the dumping of rubbish. It will also leave our property more vulnerable to trespass and break-ins. It will certainly make it impossible for us to keep valuable ponies on the lands.


Our inspection of the planning file did not disclose the existence of an Environmental Impact Statement, which is required for such an extensive development. If any such EIS has been prepared without regard to the damage to our property, which is the nearest adjoining property, then such statement is seriously defective and we must insist that a proper EIS be prepared and considered in advance of any determination of this application.

In conclusion, this entire development, including the proposed modification now submitted by the Applicant, will severely damage our property and our livelihood. It will have a devastating impact on the local environment. We will suffer a severe loss of income and a diminution in the value of our property, while at the same time the Applicant will enjoy a substantial increase in the value of his lands. This is neither just nor equitable.

We call on the Planning Authority to address our particular concerns and objections, as contained in the original Notice of Objection and in this letter and to refuse planning permission for this proposed development.

Yours sincerely,


David Miller


Margaret Miller

AN BORD PLEANÁLA
TIME _____ BY _____
11 DEC 2003
LTR.- DATED _____ FROM _____
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AN BORD PLEANÁLA
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12 MAR 2004
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