

**THE HIGH COURT
App No: 2015/383MCA**

**SECTION 160 OF THE PLANNING AND DEVELOPMENT ACTS, 2000 AS
AMENDED**

Between/

KILDARE COUNTY COUNCIL

Applicant

-and-

**LCP MANUFACTURING LIMITED TRADING AS LEINSTER
AGGREGATES AND GOODE CONCRETE LIMITED (IN RECEIVERSHIP)**

Respondents

ORDER

THIS MATTER coming on for hearing this the 21st day of November, 2016
WHEREUPON reading the Notice of Motion dated the 14th December 2015 and the
Affidavit of Colm Lynch, sworn on the 8th day of December, 2015 and hearing what
was urged by Ms. Deirdre Hughes B.L. Counsel for the Applicant and Matthew Jolley
BL, Counsel for the Respondent, the Court doth make the following Order with the
Consent of the parties;

THE COURT DOTH ORDER:-

1. The Respondents their successors and assigns to cease forthwith the unauthorised quarry development being carried out at the the property situate at Ballinderry, Carbury in the County of Kildare, part of which property is comprised in Folio no KE9702 and as depicted in aerial photograph, taken on the 30th September, 2015, and which appears at annex 1 herein (hereinafter referred to as the “property”) consisting of the following;
 - i) The unauthorised development and use of a quarry for the excavation and processing of quarry materials consisting of sand and gravel.
 - ii) Breaches of conditions 1, 2, 4 and 12 of Planning permission register reference 02/1475.
2. An Order directing the unauthorised use of the property, consisting of the excavation and processing of quarry material on the property, together with the importation of subsoil and inert material into the property to cease forthwith pending the Respondents their successors and assigns being in receipt of the appropriate

Article 27 permission, licence, permit, authorisation, permission, approval or consent, as required by the EPA.

3. The respondents their successors and assigns or one or other of them, shall within a period of 12 weeks from the date of service of the within court order on the respondents, send to the EPA all appropriate documentation in respect of the remediation and rehabilitation of the property together with a request that the Environmental protection agency consider and decide whether any article 27 permission, licence, permit ,authorisation, permission ,approval or consent is required for the restoration and rehabilitation of the property.
4. If the EPA decide that any Article 27 permission, licence, permit, authorization, permission, approval or consent is required to be carried out by suitably qualified personnel on behalf of the Respondents, their successors and assigns or one or other of them, the Respondents, their successors and assigns or one or other of them, shall submit to the EPA all necessary applications for such licences, permits, authorisations, permission, approvals or consent within six weeks from the date of such decision by the EPA.
5. In the event that an article twenty seven permission, Licence, permit, authorization, permission, approval or consent is required and that same is granted by the EPA in respect of the property, the Respondents, their successors and assigns or one or other of them, shall carry out the actions specified in such article 27 Permission License, permit, authorization, permission, approval or consent within the time limits so provided by the EPA .
6. The Respondents, their successors and assigns or one or other of them, shall make available the property, for access to the Applicant and the representatives and agents of any party for all purposes required for the implementation of the Order herein and to permit the monitoring by the Applicant and the EPA, and their representatives and agents.
7. An Order restraining the Respondents, their successors and assigns their servants, agents, licensees or any person acting in connection with them or on their instruction, and all persons having knowledge of the granting of any Order herein from continuing the said unauthorised development of the said property.
8. That the Respondents their successors and assigns do pay the Applicant's costs and expenses of the within proceedings in the sum of €6,427.38 within a period of six months from the date of the within Order.

9. Liberty to apply and re-enter.

10. That the Respondents their successors and assigns do the acts and things outlined in paragraphs 1 to 2 above within a period of one week following the personal service of the Order herein upon the Respondents their successors and assigns or in the alternative in the event that the Applicant is unable to successfully personally serve the Order herein upon the Respondents , their successors and assigns that the Respondent is directed by this Honourable Court to do the acts and things outlined in paragraphs 1 to 8 above within a period of one week following the Order herein being affixed to the property herein.

Dated this 21st day of November,, 2016

BY THE COURT

Counsel for the Plaintiff: Deirdre Hughes, B.L.
Solicitors for the Plaintiff: Regan McEntee & Partners
Counsel for the Respondents: Matthew Jolley, B.L
Solicitors for the Respondents: John Reidy & Associates

WARNING: If you your servants, or agents act in disobedience of this Order, you will be liable to committal to Prison by this Honourable Court and will also be liable to have your estate sequestered.

CHIEF REGISTRAR

For inspection purposes only.
Consent of copyright owner required for any other use.

For inspection purposes only.
Consent of copyright owner required for any other use.