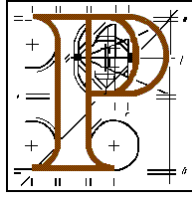


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS, 2000 TO 2002

Kildare County

Planning Register Reference Number: 02/1475

An Bord Pleanála Reference Number: PL 09.205039

APPEAL by Goode Concrete Limited care of Declan Brassil and Company Limited of Malt House Square, Smithfield Village, Bow Street, Dublin against the decision made on the 21st day of October, 2003 by Kildare County Council to refuse permission in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Extraction of sand and gravel over an area of 7.8 hectares, 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 13.9 hectares as amended by the revised public notice received by the planning authority on the 9th day of May, 2004 comprising the re-alignment of the county road bounding the north of the site (L5004) to form a new junction with the county road bounding the east of the site (L1002) and a new site access to the re-aligned county road at Ballinderry, Carbury, County Kildare.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the resource based nature of the proposed development, the proximity of the site to the national road network and the provisions of the current Kildare County Development Plan in relation to extractive industry, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding to grant planning permission although the planning authority had decided to refuse permission on the grounds that inter alia the development materially contravened an objective of the Development Plan, the Board had particular regard to the provisions of section 37(2)(i) of the Planning and Development Act, 2000 and considered that the proposed development was of strategic or national importance.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted the Inspector's positive position in relation to the planning authority's reasons for refusal and considered that the inclusion of a condition restricting the quarry operations to a level one metre above the highest water table level would overcome the Inspector's concerns with regard to the impact of the quarry on wells in the vicinity of the site.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, including the Environmental Impact Statement, as amended by the documentation received by the planning authority on the 24th day of April, 2003 and the 27th day of August, 2003, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Subject to compliance with condition 12 of this order, relating to restoration of the site, this permission shall be valid until the 30th day of September, 2012, by which date all development on site shall otherwise be complete.

Reason: In the interest of orderly development.

3. The road realignment, shown in the documentation lodged with the planning authority on the 24th day of April, 2003, shall be completed prior to commencement of the transportation of materials off site.

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

4. No extraction or excavation shall take place below one metre above the highest water table recorded at the point of extraction/excavation.

Reason: To minimise the impact of the development on the underlying groundwater, in the interest of public health.

5. The development shall incorporate all mitigation measures recommended in the Environmental Impact Statement accompanying the planning application, designed to minimise adverse effects on the environment, reduce the visual impact of the proposed development and preserve archaeological material, if any, except as may be required in order to comply with any of the requirements of the following conditions.

Reason: To safeguard the amenities of the area.

6. On-site operational hours, including operational hours associated with quarry machinery and transportation vehicles shall be carried out between 0800 hours and 1900 hours, Monday to Friday inclusive and between 0800 hours and 1400 hours on Saturdays. No operations shall be carried out on Sundays or public holidays. Truck loading activities may be undertaken between 0700 hours to 0800 hours, Monday to Saturday.

Reason: To protect the amenities of property in the vicinity.

7. During the operation of the proposed development, the noise level from within the site, measured at noise sensitive locations in the vicinity, shall not exceed 55 dB(A) LaeqT during the operational hours. When measuring the specific noise, the time (T) shall be any 15 minute period during which sound emissions from the sand and gravel pit is at its maximum level.

Reason: To protect the amenities of properties in the vicinity of the site.

8. The total dust emissions arising from all the on-site operations associated with the proposed development shall not exceed 130 milligrams per metre squared per day, averaged over a continuous period of 30 days, when measured as deposition of insoluble particulate matter at any position along the boundary of the site.

Reason: To safeguard the amenities of the area.

9. The developer shall monitor the matters set out in conditions numbers 7 and 8 above and shall provide and install monitoring equipment. Details of monitoring arrangements, including locations and frequency of monitoring, shall be submitted to and agreed with the planning authority prior to commencement of development. All data obtained from the monitoring shall be made available to the planning authority on a monthly basis and shall be made available for inspection at the site by members of the public. The planning authority shall be afforded the opportunity at all times during working hours to inspect and check on all apparatus and equipment used to carry out monitoring and recording operations.

Reason: To ensure effective monitoring in the interest of the amenities of the area.

10. Groundwater monitoring shall take place at a minimum of six sampling locations within the site. These locations shall be agreed in writing with the planning authority prior to commencement of development. Monitoring shall take place at three-monthly intervals, evenly spaced throughout the year, for the duration of the operation of the site. Analysis shall be carried out by an accredited laboratory and the results forwarded to the planning authority within one month of sampling.

Reason: In the interest of public health.

11. No more than 35 truck movements per full working day (21 movements on Saturday) in each direction (to and from the site) shall be generated by the proposed development. A daily record of all traffic movements entering and exiting the site for the previous six months shall be maintained on-site to the satisfaction of the planning authority. The record shall be available for inspection by the planning authority and the public on-site during working hours. A truck traffic counter shall be erected at the entrance to the development in a position where its read-out shall be clearly legible to passing members of the public. This counter shall be reset (zeroed) daily.

Reason: To protect the amenities of the area.

12. The extraction site, reduced in accordance with Conditions 1 and 4 above, shall be restored in accordance with a phased restoration programme, the final phase of which shall be completed within one year of the cessation of production of materials. A detailed restoration plan shall be submitted to the planning authority for written agreement. The restoration plan shall include the following: -

- (a) provision for the removal from the site of structures and plant associated with the extraction operations and of waste materials that are not required for restoration purposes,
- (b) details of the nature of any filling materials that may have to be imported on the site for restoration purposes and the method and timing of any filling operation arising from such importation,
- (c) provision for the suitable preparation and grading of the area to be restored by the use of imported materials, waste materials or overburden materials,
- (d) provision for spreading over the area to be restored, the sub-soil and top-soil or imported sub-soil and top-soil if required,
- (e) details of the final surface levels of the restored area, which levels shall be such as to allow satisfactory drainage of and outfall from the site and provision for the restoration of the natural surfaces and sub-soil drainage of the area to be restored,

- (f) details of the slopes to which the face of the pit shall be graded. The plans submitted shall be revised to ensure a more natural appearance rather than the engineered finish proposed in the application,
- (g) details of the after care measures, such as cultivation, seeding, planting and subsequent maintenance and management, which it is proposed to take in order to render such area of land restored and its condition suitable for use which shall be appropriate to the area, and
- (h) a detailed programme for the implementation of the restoration or operations required by this condition, including an indication of the dates relative to the progress of the sand and gravel extraction by which each phase of restoration shall be completed.

Reason: To secure satisfactory restoration of the site in the interest of orderly development and the visual amenities of the area.

13. The wheels of all vehicles transporting sand and gravel from the site onto the public road shall, prior to exit of such vehicles onto the public road, be washed in a wheel washing facility which shall be constructed and operated to the satisfaction of the planning authority.

Reason: To protect the amenities of property in the vicinity and in the interest of orderly development.

14. (1) There shall be no direct discharge of water from the surface water settlement lagoon, which shall be fully contained.
- (2) Contaminated surface water arising on-site shall be contained on-site and shall not be allowed to discharge to any open drain or watercourse. The method of final disposal of this contained contaminated surface water off-site shall be agreed in writing with the planning authority, prior to commencement of development.
- (3) All surface water run-off from roofs, entrances and parking areas shall be collected and disposed of in accordance with the requirements of the planning authority. In particular, no surface water run-off shall be allowed to flow onto the public roadway or adjoining properties.

Reason: To avoid pollution, in the interest of amenity and to meet public health requirements.

15. On-site toilet facilities shall discharge to a septic tank system which shall be in accordance with the standards set out in the document entitled S.R.6:1991 "Septic Tank Systems, Recommendations for Domestic Effluent Treatment and Disposal from a Single Dwelling House", published by Eolas in 1991, on behalf of the National Standards Authority of Ireland.

Details in compliance with this requirement shall be submitted for the written agreement of the planning authority and such agreement obtained prior to commencement of development.

Reason: In the interest of public health.

16. The location of the proposed well shall be agreed with the planning authority.

Reason: In the interest of public health.

17. Within three months of the date of this order, details, to a minimum scale of 1:50, of hardstanding areas for the parking of plant and machinery overnight, or when not in use, with appropriate oil interceptor traps and of the bunding arrangements for oil storage tanks, lubricant and hydraulic oil containers and waste oil receptacles, shall be submitted for the written agreement of the planning authority. Such written agreement shall be obtained, prior to commencement of development. No refuelling of plant or machinery shall take place on site, until such time as these facilities have been provided.

Reason: To minimise the risk of oil contamination of groundwater.

18. A fixed sprinkler system shall be installed at the exit gate to dampen down any load before it leaves the site to the satisfaction of the planning authority.

Reason: To avoid pollution and in the interest of amenity and to meet public health requirements.

19. An adequate hose capacity shall be maintained in the pit area to damp down stockpiles and equipment during periods of dry, windy weather to prevent the emission of fugitive dust.

Reason: To avoid pollution and in the interest of amenity and to meet public health requirements.

20. On-site lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of public safety.

21. Within three months of the date of this order, the developer shall agree in writing with the planning authority appropriate measures and timing for the closure/fencing off of the existing badger sett in the field hedgerow at the centre of the site.

Reason: In the interest of orderly development and the conservation of the area.

22. The developer shall facilitate the planning authority in preserving, recording or otherwise protecting archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide satisfactory arrangements for the recording and removal of any archaeological material which may be considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory rehabilitation of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the site. 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 determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

24. 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. 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2004.