

Comhairle Contae Chill Dara  
Kildare County Council



Date: 14/07/2021  
Pl. Ref.: 20/1329



**REGISTERED POST**

Noel Lawler Sand and Gravel Limited,  
c/o MKO,  
Mr. Sean McCarthy,  
Tuam Road,  
Galway,  
Co. Galway.

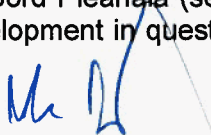
**Notification of a decision under Section 34 of the Planning & Development Act 2000 (as amended)**

**Planning Register Number:** 20/1329  
**Application Received Date:** 09/11/2020  
**Further Information Received Date:** 20/05/2021

In pursuance of the powers conferred upon them by the above-mentioned Acts, Kildare County Council have by Order dated 14/07/2021 decided to **GRANT PERMISSION** to the above named for the development of land in accordance with the documents submitted namely:- A twenty-year planning permission for the infilling of an existing and future quarry void (Ref: 07/723 and 17/1107) with inert soil and stone in order to return the land to a beneficial use (agriculture) over an area of approximately 18.95 ha in the townlands of Portersize and Timolin, Ballitore, Co. Kildare. The void will be infilled with approximately 1,299,791 m<sup>3</sup> of inert material. The proposed development also includes for the following: Infill, grading and restoration of two settlement ponds, totalling 1.065 ha (two settlement pond areas in NW of site approximately 0.788 and 0.277 ha). Restoration of three smaller ponds, totaling 0.44 ha, in order to provide an area of aquatic habitat (three ponds are approximately 0.321, 0.0835 and 0.0358 ha). Planting of a raised soil bund with native tree species, along northern site boundary (planting area approximately 0.48 ha). Grading of a pre-existing soil mound at the site entrance (approximately 1.11 ha). Development and management of an artificial sand martin nesting site, to replace the existing nesting location identified in the soil mound at site entrance. Construction of a soil quarantine shed (approximately 180m<sup>2</sup> in area, 15m height), inspection area and re-fuelling area (hardstanding) located north of the existing site office (approximately hardstanding area – 400m<sup>2</sup>). Associated minor works to include site access road improvements (resurfacing), upgrade of drainage infrastructure including new fuel/oil interceptor and surface drains on hardstanding, refurbishment/repair of existing site office and weighbridge. The proposed development also includes for all other site development works and services ancillary to the proposed development. A waste licence is required for the proposed development. The application is accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS). Development at **Portersize and Timolin Townlands, Ballitore, Co. Kildare** subject to **29** conditions set out in the schedule attached.

The reason for the imposition of the said conditions are also included. The Planning Authority have had regard to any submissions or representations made on this file. If there is no appeal against the said decision a **grant of permission** in accordance with the decision will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanala (see footnote). It should be noted that until a grant of permission has been issued the development in question is **NOT AUTHORISED** and work should not commence.

Date: 14/07/2021

  
Senior Executive Officer, Planning  
Kildare County Council

**PLEASE ARRANGE TO REMOVE SITE NOTICE**

Any appeal against the decision of a Planning Authority under Section 37 of the Planning & Development Act 2000 as amended) may be made to An Bord Pleanala, 64 Marlborough Street, Dublin 1. First and third

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party objections must be received by the Bord within 4 weeks beginning on the day of making the decision by the Planning Authority. The appeal must be fully complete from the start - you are not permitted to submit any part of it later, even within the time limit.

Any appeal made within the statutory appeal period to An Bord Pleanála will be invalid unless accompanied by

- 1 Confirmation of submission to Planning Authority
- 2 The correct statutory fee, (Fees payable to the Bord on or after 5<sup>th</sup> September, 2011)
  - i. Appeal by 1<sup>st</sup> party relating to commercial development where the application included the retention of development - €4,500 or €9,000 if an EIAR or NIS involved.
  - ii. Appeal by 1<sup>st</sup> party relating to commercial development (no retention element in application) - €1,500 or €3,000 if an EIAR or NIS involved.
  - iii. Appeal by 1<sup>st</sup> party non-commercial development where the application included the retention of development - €660
  - iv. Appeal by 1<sup>st</sup> Party solely against contribution condition(s) – (2000 Act and amendments Section 48 or 49) - €220
  - v. Appeal following grant of leave to appeal
  - vi. An Appeal other than referred to in (i) to (v) above - €220

This guide does not purport to be a legal interpretation of the fees payable to the Bord. Please contact the Bord for further information.

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**Planning Permission is sought for a twenty-year planning permission for the infilling of an existing and future quarry void (Ref: 07/723 and 17/1107) with inert soil and stone in order to return the land to a beneficial use (agriculture) over an area of approximately 18.95 ha in the townlands of Portersize and Timolin, Ballitore, Co. Kildare. The void will be infilled with approximately 1,299,791 m<sup>3</sup> of inert material. The proposed development also includes for the following: Infill, grading and restoration of two settlement ponds, totalling 1.065 ha (two settlement pond areas in NW of site approximately 0.788 and 0.277 ha). Restoration of three smaller ponds, totaling 0.44 ha, in order to provide an area of aquatic habitat (three ponds are approximately 0.321, 0.0835 and 0.0358 ha). Planting of a raised soil bund with native tree species, along northern site boundary (planting area approximately 0.48 ha). Grading of a pre-existing soil mound at the site entrance (approximately 1.11 ha). Development and management of an artificial sand martin nesting site, to replace the existing nesting location identified in the soil mound at site entrance. Construction of a soil quarantine shed (approximately 180m<sup>2</sup> in area, 15m height), inspection area and re-fuelling area (hardstanding) located north of the existing site office (approximately hardstanding area – 400m<sup>2</sup>). Associated minor works to include site access road improvements (resurfacing), upgrade of drainage infrastructure including new fuel/oil interceptor and surface drains on hardstanding, refurbishment/repair of existing site office and weighbridge. The proposed development also includes for all other site development works and services ancillary to the proposed development. A waste licence is required for the proposed development. The application is accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS). Development at Portersize and Timolin Townlands, Ballitore, Co. Kildare – Noel Lawler Sand and Gravel Limited – 20/1329**

**Schedule 1 – Considerations and reasons on which this decision is based as required by Article 31 of the Planning and Development Regulations 2001, (as amended).**

Having regard to the nature of the development, to the provisions of the Kildare County Development Plan 2017-2023, to the Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) submitted by the Applicant and to the Environmental Impact Assessment (EIA) and Appropriate Assessment (AA) carried out by the Planning Authority, it is considered that, subject to compliance with the conditions attached, the development would not seriously injure the amenities of the area or of property in the vicinity, and would be in accordance with the proper planning and sustainable development of the area.

**Schedule 2 – Conditions to apply.**

1. The development shall be carried out and completed in accordance with the plans and particulars received by the Planning Authority on 9<sup>th</sup> November 2020 and the further information received on 20<sup>th</sup> May 2021, except as amended by conditions of this permission.

**Reason:** To ensure that the development shall be in accordance with the permission and that effective control be maintained.

2. (a) This permission shall apply for a period of 20 years from the date of commencement. Following the expiration of this period, the importation of material to the site and operations on site shall cease, unless prior to the end of the period, planning permission shall have been granted for a further period.

(b) The annual intake of inert soil and stone waste material to be imported into the site shall not exceed 100,000 tonnes.

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

3. All the environmental and construction mitigation and monitoring measures, set out in the Environmental Impact Assessment Report and Natura Impact Statement, shall be implemented in full in accordance with the timelines set out, except as may otherwise be required in any Waste Licence issued by the Environmental Protection Agency in respect of the proposed development or as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity and to mitigate the environmental effects of the proposed development.

4. The Developer shall apply for and obtain a Waste Licence from the Environmental Protection Agency prior to the proposed waste activities commencing on site.

**Reason:** In the interest of public health and environmental sustainability.

5. The Developer shall ensure that no waste or suspended solids shall enter Crookstown Stream. There shall be a buffer of 100 meters between the area that is being filled and the Crookstown Stream. Developer to confirm proposed layout of buffer-zone prior to commencement of works.

**Reason:** In the interest of public health and environmental sustainability.

6. The Developer shall ensure that runoff from the infilled pits shall be directed into newly constructed drains and swales situated along the perimeter of the infill areas.

**Reason:** In the interest of public health and environmental sustainability.

7. The Developer shall ensure that only clean, uncontaminated surface water shall be discharged to adequately sized soakpit(s).

**Reason:** In the interest of public health and environmental sustainability.

8. The Developer shall ensure that all surface water which is contaminated or likely to be contaminated from the site including the bunded fuel storage area, quarantine area and the carpark area shall pass through the hydrocarbon interceptor prior to discharge to a soakaway/infiltration area.

**Reason:** In the interest of public health and environmental sustainability.

9. Noise emissions levels from the proposed site shall be in accordance with Waste Licence(s) Conditions.

**Reason:** In the interest of public health and environmental sustainability.

10. The total dust emission arising from all the on-site operations associated with the proposed development shall not exceed 350 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 and/or in accordance with conditions of the Waste Licence.

**Reason:** In the interest of public health and environmental sustainability.

11. The Developer shall use "Best Practicable Means" to prevent/minimise noise and dust emissions during the operational phase of the development, through the provision and proper maintenance, use and operation of all machinery all to the satisfaction of the Planning Authority.

**Reason:** In the interest of public health and environmental sustainability.

12. All overground oil, chemical storage tank(s) shall be adequately bunded to protect against spillage. Bunding shall be impermeable and capable of retaining a volume equal or greater than 100% of the capacity of the largest tank within the bunding area or 25% of the total volume of the substance which could be stored within the area, whichever is greater. Filling and offtake points shall be located within the bunded areas.

**Reason:** In the interest of public health and environmental sustainability.

13. The Developer shall provide a closed loop wheel wash system to the satisfaction of Kildare County Council. The wheel wash system shall be desludged on a regular basis and the material removed to an authorised facility for recovery/disposal.

**Reason:** In the interest of public health and environmental sustainability.

14. A suction sweeper shall be used where necessary to remove any material deposited by vehicles entering or leaving the facility.

**Reason:** In the interest of public health and environmental sustainability.

**15.** A waste quarantine area shall be provided at the site.

**Reason:** In the interest of public health and environmental sustainability.

**16. (a)** The Developer shall ensure that all wastewater from the site shall discharge to a sealed storage tank. Prior to commencement of development, the Developer shall submit, for the written consent of the Planning Authority, the design details on the sealed storage tank and include the structural integrity of the tank.

**(b)** The Developer shall submit to the Planning Authority on a bi-annual basis starting 6 months following the commencement of site development works, a structural integrity test by a Chartered Building Surveyor, Chartered Engineer, or RIAI Registered Architect on the sealed storage tank holding the wastewater.

**(c)** All waste water from the tank shall be removed by an authorised waste collected and brought to a licenced waste water treatment plant for disposal. Details of the disposal receipts to be held on file onsite at all times for inspection by Planning Authority staff.

**Reason:** In the interest of public health and environmental sustainability.

**17.** Five years after a grant of permission for the development, and then for 3 subsequent five-year intervals, up to 20 years; the Developer shall carry out a condition survey of the R747 from its junction with the R448 to the County Boundary with Wicklow.

For the above lengths of vehicular carriageway, the applicant is requested to carry out:

**(a)** a Falling Weight Deflectometer (FWD) Test;

**(b)** a condition survey of the existing pavement, linked to the FWD data analysis;

The Developer shall ensure that the road carriageway remains in good condition, following the use of the development by Heavy Goods Vehicles.

**Reason:** In the interest of Road Safety.

**18.** Prior to use of the development, the Developer shall carry out a Stage 3 Road Safety Assessment (RSA), by the independent accredited Road Safety Auditor. The Developer shall ensure that road safety improvement measures identified in the RSA process are fully implemented, prior to use of the development.

**Reason:** In the interest of Road Safety.

**19. (a)** The Developer shall ensure that the Road Safety Measures identified in the Further Information Response Document FIR F-2021.7.17-191115a, as received by the Planning Department on 20<sup>th</sup> May 2021, are fully implemented.



(b) In addition, at the internal gateway, the Developer shall also provide a turning circle, a minimum of 11 metres radius in accordance with Figure 2.2, of the Recommendation for Site Development Works, to avoid vehicles reversing along the laneway if the internal gateway is locked.

**Reason:** In the interest of Traffic Safety.

**20.** Prior to commencement of development, the Developer shall submit a drawing, incorporating measures identified in the Road Safety Assessment Stage 2, for the written agreement of the Municipal District Engineer's Office. Prior to use of the facility, the Developer shall ensure that all measures are fully implemented.

**Reason:** In the interest of Road Safety.

**21.** The Developer shall provide a pavement overlay of Hot Rolled Asphalt, with pre-coated chipping, for the following:

(a) The full width of the R747 carriageway, immediately in front of the improved vehicular entrance and for 20 metres on either side.

(b) For the tie-in, widened entrance access to the site from the R747, to beyond the joining of the parallel access road. (Location as identified in RSA problem 3.4)

(c) The Developer shall obtain a Road Opening Licence for all works on the public road from the Municipal District Office.

(d) The Developer shall be liable for all costs associated with this work.

**Reason:** In the interest of Road Safety.

**22.** The Developer shall ensure that sight lines are maintained along the entrance to the works, for the duration of the development, to comply with the Transport Infrastructure Ireland Document (DN-GEO-03060) June 2017 standards.

**Reason:** In the interest of Road Safety.

**23.** The Developer shall ensure that no dust, mud, or debris is deposited on the roads outside the site. The Developer shall ensure that all roads in the vicinity of the site are swept clear and that all loose material is removed from the road verges.

Prior to commencement of development, the Developer shall provide details and obtain the written approval of the Planning Authority for the following measures:

(a) The wheel bath for vehicles leaving the site;

(b) Details of the water bowser to be used during dry periods;

(c) Measures to protect existing hedgerows and limit dust.

**Reason:** In the interest of Road Safety.

**24.** The Developer shall ensure that no surface water run-off from the site discharges onto the public road. The Developer shall ensure that surface water generated, within the development, is attenuated on site.

**Reason:** In the interest of traffic safety.

**25.** The Developer shall ensure that existing land drainage is not impaired. Changes at the entrance shall be designed and shaped to ensure an uninterrupted flow of roadside drainage.

**Reason:** To prevent interference with existing roadside drainage.

**26.** The Developer shall ensure that the operating hours for the development are restricted to between 0700 hours and 1800 hours Monday to Friday; and between 0800 hours and 1400 hours on Saturdays. No such operations shall take place on Sundays or Bank Holidays.

**Reason:** In the interest of protecting local amenity.

**27.** As some of the hours of operation may be at dusk or darkness in wintertime; prior to commencement of development, the Developer shall provide full design details and specifications of the lighting system, necessary to serve the development, and submit this for the written agreement of the Planning Authority and the Public Lighting Engineer's Office. The proposed lighting system shall comply with the requirements set out in Kildare County Council's Street Online Lighting Technical Specification.

At the new junction at main road, the Developer shall examine the public lighting for 100 metres on either side of the new entrance.

The Developer shall ensure that the approved lighting is fully commissioned prior to use of the facility.

**Reason:** In the interest of Road Safety.

**28.** The Developer shall comply with any future requirements of the Planning Authority in relation to: adjusting the floodlight aiming or fitting appropriate additional louvers, to deal with remaining glare issues that may arise for road users/ nearby residents/ rural habitat and may only become apparent when the installation is commissioned.

**Reason:** To protect the amenities of the area.

**29.** The Applicant/Developer to pay to Kildare County Council the sum of **€354,488.49** being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 5<sup>th</sup> November 2015 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in

accordance with Section 13 of Development Contribution Scheme adopted by Kildare County Council on 5<sup>th</sup> November 2015.

**Note:** Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Irish Water.

**Reason:** It is considered reasonable that the developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

**ADVICE NOTE TO APPLICANTS** All applicants are advised to make themselves aware of the requirements of the Building Control (Amendment) Regulations (S.I. No 9) 2014 which comes into effect on the 1/3/2014 and the Construction Products Regulations (CPR) (Regulation (EU) no. 305/2011) which came into effect on 1/7/2013. Information leaflets can be viewed or downloaded on the council's website <http://kildare.ie/CountyCouncil/Planning/BuildingControlDepartment/> or the Department of the Environment Community and Local Government website <http://www.environ.ie/en/>

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