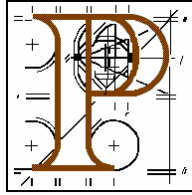


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2007

Kildare County

Planning Register Reference Number: 07/723

An Bord Pleanála Reference Number: PL 09.226857

APPEAL by KTK Sand and Gravel Limited care of John Barnett and Associates of CSA House, 7 Dundrum Business Park, Windy Arbour, Dublin and by Kevin J. Doody care of Peter Sweetman and Associates of 14 Postnet, 184 Lower Rathmines Road, Dublin against the decision made on the 16th day of November, 2007 by Kildare County Council to grant subject to conditions a permission to the said KTK Sand and Gravel Limited in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: (A) Continuance of use of the existing sand and gravel pit and ancillary activities on lands (26.6 hectares) that have been used for this purpose since before 1st day of October 1964 on a site registered under section 261 of the Planning and Development Act 2000 (Quarry Reference QR24) and (B) extension of the sand and gravel pit beyond the section 261 area boundary (15.1 hectares), at the townlands of Portersize and Timolin, Ballitore, County Kildare. The overall application area is 41.7 hectares with a total extraction area of 29.3 hectares. The development will include continuation of existing aggregate screening, crushing and washing operations; and phased restoration of the pit to agricultural afteruse.

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.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the existing use of the land as a quarry, the registration of the existing quarry by Kildare County Council under section 261 of the Planning and Development Act 2000, the Environment Impact Statement prepared for the application and subsequent assessment carried out, the character and nature of the application site, the policies of Kildare County Council in respect of the extractive industry, landscape character and heritage, the Regional Planning Guidelines Greater Dublin Area 2004-2016 regarding the ensuring of adequate supplies of aggregates, and having regard to the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 22nd day of October, 2007 and by An Bord Pleanála on the 20th day of November, 2008, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The use of the quarry for extraction and ancillary activities shall cease on or before the 31st day of December, 2017, unless before that date, planning permission shall have been granted for the continuation of the use for a further period.

Reason: To limit the impact of the development on the amenity of the areas whilst facilitating the level of extraction proposed, as limited by other conditions hereunder.

3. (a) This permission is for the extraction of sand and gravel only.
(b) The depth of excavation shall not exceed that shown on drawing number ABP 1B "Cross Section" received by An Bord Pleanála on the 20th day of November, 2008 (line denoting pit floor one metre above winter water table level) and in any case excavation shall not extend any deeper than one metre above the water table on site.
(c) There shall be no blasting and no excavation of bedrock on site.

Reason: In the interest of orderly development, to protect the groundwater resources of the area from pollution and to minimise impacts on the amenities of the area.

4. With reference to drawing number ABP 1A “Site Layout Plan – Phased Workings” received by An Bord Pleanála on the 20th day of November, 2008, no quarrying or related activity shall take place in the following areas:
- (a) in the western area of proposed phase 3. This will exclude quarrying in the area demarcated as ‘scrubs’ in the application drawings, and adjoining fields to the south and west of the scrubs area. Phase 3 extraction shall be restricted to a rectangular area which extends no further west than the existing field boundary running approximately north south to the east of the scrubs area (that is adjacent to “BH-2”).
 - (b) in the proposed ‘Phase 4’ extraction area.

Within one month from the date of this order, the developer shall submit a revised site layout and phasing plan corresponding with these changes to the planning authority for written agreement.

Reason: To limit the visual impacts of the proposed development and to protect the ecology of areas of high biodiversity in the interest of proper planning and sustainable development and local amenity.

5. All mitigation measures set out in the Environmental Impact Statement received by the planning authority on the 4th day of April, 2007 shall be implemented in full.

Reason: In the interest of environmental protection.

6. (a) The field boundary hedgerow and trees, running from north-northwest to south-southeast from the area identified as “scrubs” at the southeast side of the application site (drawing number D03 “Existing Site Layout” received by the planning authority on the 12th day of April, 2007) to the residential property to the south, shall be retained in full and no excavations shall take place within two metres of that line of hedgerow.
- (b) Within the first planting season following this decision, the developer shall plant a line of native hedgerow species and trees, details of which shall be submitted to and agreed in writing with the planning authority, along the full length of the application site boundary (as outlined in red) within the western-most field of the proposed ‘extension area’ (as identified on drawing number D03 “Existing Site Layout (Feb 2007)”, received by the planning authority on the 12th day of April, 2007).

Reason: In order to protect the visual amenity of the area and of existing residential property by providing suitable screen vegetation.

7. Details, in terms of height, width, location, landscaping, planting and ongoing maintenance of all proposed berms shall be submitted to and agreed in writing with the planning authority prior to the commencement of any development within the proposed 'extension area' (as identified on drawing number D03 "Existing Site Layout (Feb 2007)" received by the planning authority on the 12th day of April, 2007).

Reason: To ensure that the berms are of sufficient size to mitigate the impact of noise and the visual impact of the development on surrounding residential properties.

8. The raised spoil heap/raised access road to the north of the site between the river bank and steep north slope of the site shall be removed within two months of the date of this order and the area shall be restored and seeded/planted to the satisfaction of the planning authority.

Reason: In the interest of visual amenity and in order to protect the ecology of the northern section of the site.

9. The external facing sides of the two number existing spoil heaps to the west of the site offices and the sides of the raised settlement lagoon (silt settlement pond) to the west of the site shall be covered with a layer of topsoil and seeded/planted with ground cover vegetation within two months of the date of this order, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

10. Within three months of the date of this order, the developer shall have ceased completely drawing water from surface waters, shall have removed any structures used for the purpose of, or used to facilitate the, drawing off of surface waters and shall have secured or provided a permanent private supply of water sufficient to supply the entire water requirements for the development

Reason: In the interest of protecting surface waters in the vicinity.

11. No diversion of water courses shall be carried out.

Reason: In the interest of environmental protection.

12. (a) A groundwater monitoring programme shall be implemented for the protection of groundwater. Groundwater monitoring wells shall be installed around the boundary to the landholding under the control the developer, as outlined in blue in the drawings and plans submitted with the application, the number and location of which shall be submitted to and agreed in writing with the planning authority within two months of the date of order. Monitoring shall include adjoining wells within 200 metres of the application site, as outlined in red on the submitted drawings and plans, where the consent of the landowner is obtained. The water levels and water quality in all these wells shall be recorded every month and a log of the results shall be submitted to and agreed in writing with the planning authority on a quarterly basis.
- (b) The developer shall make provision, as is necessary, for the immediate mitigation or alleviation or off-setting of adverse impacts to water supply sources which are adversely affected by the development during the operational period and/or closure period. In the event of water supply disruption being caused by operations on site, such operations shall immediately cease and shall not recommence until water supplies are restored or replaced, as required by the planning authority.

Reason: In the interest of protecting local amenity and water supply.

13. All overground tanks containing liquids other than water shall be contained in a waterproof bunded area, which shall be of sufficient volume to hold 110 per cent of the volume of the tanks within the bund. All water contaminated with hydrocarbons, including storm water, shall be discharged via a grit traps and three-way oil interceptor. The sump shall be provided with an inspection chamber and shall be installed and operated in accordance with the requirements of the planning authority.

Reason: In the interest of protecting ground and surface waters in the interest of proper planning and sustainable development.

14. (a) Within two months of the date of the order, the developer shall have submitted full details and drawings of all attenuation ponds/settlement lagoons, hydrocarbon interceptor, filter-bed and associated structures, the design of which shall be informed by an appropriately qualified geotechnical engineer and by Appendix D of the Environmental Management Guidelines – Environmental Management in the Extractive Industry (Non-Scheduled Minerals), Environmental Protection Agency 2006 and shall be submitted for the written agreement of the planning authority.
- (b) All surface waters contaminated with suspended solids shall discharge to the attenuation pond/settlement lagoon.

- (c) The existing attenuation ponds/settlement lagoons, hydrocarbon interceptor, filter-bed and associated structures shall be amended and installed in accordance with a design agreed with the planning authority under point 14(a), above, within a timeframe to be agreed with the planning authority, which shall be not later than four months from the date of this order.
- (d) An appropriate maintenance programme shall be put in place to desludge the attenuation pond / settlement lagoon, to ensure it operates on at its optimum capacity.
- (e) No water shall discharge from the development to surface waters until the developer shall have first obtained a discharge licence under the Local Government (Water Pollution) Acts, 1977 to 2007.

Reason: To limit the impact of the development on the hydrology and hydrogeology of the area in the interest of proper planning and sustainable development.

- 15. (a) No surface water shall discharge from the site onto the public road or adjoining properties.
- (b) All surface water runoff from hardstanding areas shall pass through a petrol interceptor, installed and maintained in accordance with the manufacturer's instructions to the satisfaction of the planning authority.

Reason: In the interest of protecting local amenities and the amenities of properties in the surrounding area.

- 16. (a) Operating hours for the development shall be 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 Public/Bank Holidays.
- (b) Notwithstanding condition 16(a) above, extraction and processing of sand and gravel shall be carried out between 0800 hours and 1800 hours Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No extraction, processing or other operations shall take place on Sundays or Public/Bank Holidays.

Reason: In the interest of protecting local amenity.

- 17. (a) During the operational phase of the proposed development, the noise level emanating from within the premises, as measured from the facing external elevation of any dwellinghouse in the surrounding area shall not exceed 55dB(A) LA_{eq} (one hour) between 0800 hours and 1800 hours Monday to Friday and 0800 hours and 1400 hours on Saturday, and of 45dB(A) LA_{eq} (15 minutes) at any other time.

- (b) Notwithstanding condition 17(a) above, the noise levels attributable to temporary works required in the construction of screening mounds shall not exceed 70dB(A) LA_{eq} (one hour/15 minutes) between 0900 hours and 1730 hours, Monday to Friday. A timeframe for the completion of the said works (construction of screening mounds) shall be submitted for the written agreement of the planning authority within two months of the date of this order.
- (c) A quarterly noise monitoring survey and assessment programme shall be undertaken to assess the impact of noise emissions arising from the operation of the entire quarry complex. The scope and methodology of this survey and assessment programme shall be submitted to the planning authority for written agreement prior to the commencement of any works within the proposed 'extension area' (as identified on drawing number D03 "Existing Site Layout (Feb 2007)" received by the planning authority on the 12th day of April, 2007).

Reason: In the interest of protecting local amenities and the amenities of properties in the vicinity.

- 18.
- (a) All overburden material stockpiled at designated locations within the site shall be stored separately from all topsoil stockpiles.
 - (b) All soil removed to facilitate extraction of sand and gravel shall be stored on site and no soil shall be taken off-site.
 - (c) All topsoil and overburden stockpiled on-site shall be graded and stabilised and shall be sprayed with dust suppression sprays during periods of dry weather, in accordance with best practice.
 - (d) The reinstatement of soils on-site shall take place as part of the proposed restoration of the site in a phased manner and shall be carried out under the guidance of a qualified soil specialist.
 - (e) The removal, storage and reinstatement of all soils shall be carried out under the guidance of a qualified soil specialist.
 - (f) The details of the qualifications of the soil specialist shall be submitted to the planning authority for written agreement prior to the removal of any soil.

Reason: In order to protect existing soils on site so that the site can be reinstated to agricultural use on cessation of extraction operations, in accordance with the restoration proposals and in accordance with the stated policy of the planning authority.

- 19 (a) The total dust emission arising from development, as measured at any point along the site boundary, shall not exceed 350 milligrams per square metre per day averaged over a continuous 30 day period as a deposition of insoluble matter. The measurement shall be based on the German TA Luft Air Quality Standard (Bergeroff).
- (b) A monthly programme of monitoring of dust and particulate emissions shall be undertaken by the developer to provide for compliance with the said limits, the details of which shall be submitted for the written agreement of the planning authority prior to the commencement of any works within the proposed 'extension area' (as identified on drawing number D03 "Existing Site Layout (Feb 2007)" received by the planning authority on the 12th day of April, 2007).

Reason: To provide for the future restoration of the site and to prevent the generation of excessive dust in the interest of protecting local amenity.

20. Within two months of the date of this order, the developer shall submit to the planning authority for written agreement a proposal for an Environmental Management System (EMS) for the facility which shall have regard to Appendix D of the Environmental Management Guidelines – Environmental Management in the Extractive Industry (Non-Scheduled Minerals), Environmental Protection Agency 2006. The Environmental Management System shall include the following:
- (a) Proposals for the suppression of on-site noise (in order to comply with conditions set out in this permission).
- (b) Proposals for the ongoing monitoring of sound emissions at dwellings shall be submitted to and agreed in writing with the planning authority.
- (c) Proposals for the suppression of dust on-site and on the access road.
- (d) Details of safety measures for the lands above the quarry, to include warning signs and stock proof fencing (works shall be carried out within one month of the written agreement of the planning authority to these details).
- (e) Management of all landscaping, with particular reference to enhancing the ecological value of the woodland/grassland on the berms and overburden storage areas.
- (f) Monitoring of ground water and surface water quality, levels and discharges.
- (g) Monitoring of dust at the application site boundaries.
- (h) A Waste Management Plan including measures to minimise and recycle waste.

- (i) Full details of site manager, contact numbers (including out of hours) and public information signs on the entrance to the facility.

Reason: In the interest of orderly development, public safety and to safeguard local amenities.

21. On an annual basis, for the lifetime of the facility (before the 1st day of March every year), the developer shall submit to the planning authority five copies of an environmental audit. Independent environmental auditors approved in writing by the planning authority shall carry out this audit. This audit shall be carried out at the expense of the developer and made available to the public for inspection at all reasonable hours at a location to be agreed with the planning authority. This report shall contain:
- (a) A written record, derived from the on-site weighbridge, of the quantity of material leaving the site. This quantity shall be specified in tonnes.
 - (b) An annual topographical survey carried out by an independent qualified surveyor approved by the planning authority. This survey shall show all areas excavated and restored. On the basis of this, a full materials balance shall be provided to the planning authority.
 - (c) A record of all movements of heavy vehicles outside the operating hours of the development as defined by condition attached to this permission.
 - (d) A record of groundwater levels measured at monthly intervals.
 - (e) A full record of all monitoring results over the previous year for noise, dust, and water quality monitoring.
 - (f) A written record of all complaints, including actions taken on each complaint.
 - (g) A review of the Environmental Management System performance and update of associated performance targets.

Notwithstanding this requirement, all incidents where levels of noise or dust exceed agreed levels shall be notified to the planning authority within two working days. Incidents of surface or groundwater pollution or incidents that may result in groundwater pollution, shall be notified to the planning authority without seven working days.

Reason: In the interest of environmental protection and of protecting residential amenities.

- 22 (a) The entire application site shall be progressively restored in phases generally as proposed in drawings received by the planning authority on the 22nd day of October, 2007, except where modified by any conditions attached to this permission, and all restoration works shall be completed before 31st day of December, 2019.
- (b) The details of the restoration plan shall be subject to review and agreement with the planning authority at three year intervals, the first of which shall be submitted to the planning authority for written agreement on 1st day of December, 2010.
- (c) The developer shall notify the planning authority in writing of its intention to commence site restoration at least eight weeks prior to commencement of restoration.
- (d) The developer shall notify the planning authority in writing within two weeks of the completion of site restoration works.

Reason: To limit the impact of the development on the amenities of the area and to ensure the appropriate restoration of the site.

23. Within two months of the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to the value of €100,000 (one hundred thousand euro), to secure the satisfactory completion and restoration of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or restoration of the site. The form 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 and restoration of the site.

24. The developer shall pay the sum of €200,000 (two hundred thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of overlaying the existing road serving the quarry (Regional Road R747) with a new surface and road markings in the vicinity of the access point for the development and as far as the National Primary Road N9. This contribution shall be paid within two months of the date of this order or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

Dated this day of 2009.