

COUNTY COUNCIL OF THE COUNTY OF SOUTH DUBLIN
PLANNING AND DEVELOPMENT ACT, 2000 (AS AMENDED)

**IN THE MATTER OF Section 261A of the Planning and Development Act, 2000
as inserted by section 75 of the Planning and Development (Amendment) Act 2010,
and amended by Regulation 16 of the European Union (Environmental Impact Assessment and
Habitats) Regulations 2011, and by Regulations 3(a), 3(b) and 3(c) of the European Union
(Environmental Impact Assessment and Habitats) Regulations 2012.**

**NOTICE PURSUANT TO SECTION 261A(3) OF
THE PLANNING AND DEVELOPMENT ACT, 2000 (as amended)**

Register Reference: SDQU05A/6

Kilsaran Concrete (Ballinascorney) Limited,
Piercetown,
Dunboyne,
Co. Meath.

TAKE NOTICE that for the purpose of the exercise of its functions under the Planning and Development Acts, 2000-2011 (as amended), South Dublin County Council as the Planning Authority for the area hereby gives notice of the Council's decisions / determinations made under subsection 261A(2)(a) and subsection 261A(3)(a) of the Planning and Development Act 2000 (as amended) and the reasons therefor as set out in the attached schedule, in respect of unauthorised quarrying on lands situate in the Townlands of Mountseskin and Ballinascorney Upper, Brittas, in the County of South Dublin, and registered as a quarry in accordance with Section 261 of the Planning and Development Act 2000 under Register Reference Number SDQU05A/6:-

Determinations made under subsection 261A(2)(a)

- (i) Development was carried out after 1 February 1990 which development would have required, having regard to the EIA Directives, an environmental impact assessment or a determination as to whether an environmental impact assessment was required, but that such an assessment or determination was not carried out or made.
- (ii) Development was carried out after 26 February 1997, which development would have required, having regard to the Habitats Directive, an appropriate assessment, but that such an assessment was not carried out.

Decisions made under subsection 261A(3)(a)

- (i) Permission was granted in respect of the quarry under Part IV of the Act of 1963.
- (ii) The requirements in relation to registration under section 261 were fulfilled.

FURTHER TAKE NOTICE that you as the registered owner/operator are directed to apply to An Bord Pleanála for substitute consent in respect of the quarry, under section 177E of the Planning and Development Act 2000 (as amended), with a remedial environmental impact statement and a remedial Natura impact statement in accordance with the determination of the Planning Authority under subsection (2)(a), not later than 12 weeks after the date of this notice, or such further period as An Bord Pleanála may allow.

Following the decision of the Planning Authority, under Section 261A(3), it should be noted that the registered owner/operator, may apply to An Bord Pleanála, not later than 21 days after the date of this notice, for a review of the determination of the Planning Authority under subsection 261A(2)(a) or the decision of the Planning Authority under subsection 261A(3)(a), and that no fee in relation to either application for a review shall be payable.

It should be noted that the referral of this notice to An Bord Pleanála for review within the time permitted, by the person to whom it was issued, or by any other person entitled to be given a copy of the notice, will have the effect of suspending the operation of the notice until the review is disposed of by An Bord Pleanála.

Dated the 13 day of August 2012

Signed: _____

N. Byrne
Senior Planner,
Land Use, Economic & Transport Planning.
South Dublin County Council
County Hall
Town Centre
Tallaght
Dublin 24.

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SCHEDULE

Decisions / determinations and reasons therefor:

Following an examination of all available information relevant for the purpose of this review of the quarry at Aghfarrell and Ballinascorney Upper, Brittas, County Dublin, operated by Kilsaran Concrete it is recommended that the Planning Authority make the following decisions / determinations, as required in accordance with the relevant provisions of the Planning and Development Act 2000 as amended by the Planning and Development (Amendment) Act 2010 and the Environment (Miscellaneous Provisions) Act 2011, and having regard to the Section 261A of the Planning and Development Act, 2010 and related provisions - Guidelines for Planning Authorities (Jan. 2012)and the Supplementary Guidelines for Planning Authorities issued in July 2012.

Section 261A(2)(a)(i): Determination in relation to Environmental Impact Assessment
Whether development was carried out after 1 February 1990 which development would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment or a determination as to whether an environmental impact assessment was required, but that such an assessment or determination was not carried out or made.

Determination

Following an examination of the available information, it is considered reasonable to conclude that the unauthorised extension of the authorised quarry at Aghfarrell and Ballinascorney Upper operated by Kilsaran Concrete, carried out after 1 May 1999, constitutes development which would have required a determination as to whether an environmental impact assessment was required, and that no such determination was made in that regard. This conclusion is based on having regard to the Environmental Impact Assessment Directives, and to the selection criteria set out in Schedule 7 to the Planning & Development Regulations 2001 (S.I. No. 600), and to the relevant provisions of the South Dublin County Development Plan 2004-2010.

Section 261A(2)(a)(ii) Determination in relation to Appropriate Assessment

Whether development was carried out after 26 February 1997 which development would have required, having regard to the Habitats Directive, an appropriate assessment, but that such an assessment was not carried out.

Determination:

Following an examination of the available information, it is considered reasonable to conclude, having regard to the Habitats Directive, that the unauthorised extension carried out after 26 February 1997 to the quarry at Aghfarrell and Ballinascorney Upper operated by Kilsaran Concrete would have required appropriate assessment or a determination as to whether an appropriate assessment was required, and that no such assessment or determination was carried out or made in that regard.

Section 261A(3)(a)(i): A decision regarding whether the quarry commenced operation prior to 1 October 1964 or whether planning permission was granted in respect of the quarry.

Decision

Following an examination of the information available it is considered reasonable to conclude that quarry development on the relevant lands at Aghfarrell and Ballinascorney Upper, comprising a total area of 25.2 hectares, is authorised on the basis of planning permissions granted for a 1.6 ha. quarry in 1971 (no file ref. available), and extensions to the quarry comprising 9.9 ha. (granted on 20/7/1977 under Reg. Ref. K 3021) and 13.7 ha. (granted on 17/09/1993 under Reg. Ref. 93A/0346).

Section 261A(3)(a)(ii): Whether the quarry fulfilled the requirements in relation to registration under section 261 (if required to do so).

Decision:

Following an examination of the available information, it is considered reasonable to conclude that the requirements in relation to registration under Section 261 of the Planning and Development Act 2000, have been fulfilled in respect of the quarry operated by Kilsaran Concrete at Aghfarrell and Ballinascorney Upper, Brittas, County Dublin.

