

13 October 2020

**To:** Planning Department, Meath County Council  
(planning@meathcoco.ie)

**Re:** Meath County Council reference No. LB201254

**Applicant:** Irish Cement Limited

**Proposed Development:** A 20 year permission for development of a 13.5 hectare extension to its existing Overburden Management Facility (OBMF) on an overall site of 43.5 hectares, which includes the existing OBMF. The proposed extension will be limited to a height of 86m above ordnance datum, which is consistent with the height of the existing OBMF. The application includes for a new at-grade crossing of the existing Local Road L5612, and for the closing of the existing at-grade crossing together with associated site development, drainage, fencing, landscaping and other ancillary works. The application is accompanied by an Environmental Impact Assessment (EIAR). The application relates to a development which requires an Industrial Emissions Directive (IED) Licence and the facility operates pursuant to an existing IED Licence (EPA Ref No. P0030-05)

**Development address:** Platin and Cruicerath, Drogheda Co. Meath

**Date of application:** 10 September 2020

**Name of Observer:** Protect East Meath Limited

**Address of Observer** 7 Riverside Cottages, Julianstown, Co Meath

**Name of Agent** FP Logue Solicitors

**Address of Agent** 8/10 Coke Lane, Smithfield, Dublin 7 D07 EN2Y

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Dear Sir or Madam

## **Introduction**

On behalf of Protect East Meath Limited, 7 Riverside Cottages, Julianstown, Co Meath, I have been instructed to make the following observation on the above planning application.

This observation is filed by email ([planning@meathcoco.ie](mailto:planning@meathcoco.ie)).

**Please phone** **to collect payment of the fee by credit card.**

## **Relevant Policy and Legislation**

EIA Directive (Directive 2011/92/EU as amended)

Article 6(5) of the EIA Directive states:

*The detailed arrangements for informing the public, for example by bill posting within a certain radius or publication in local newspapers, and for consulting the public concerned, for example by written submissions or by way of a public inquiry, shall be determined by the Member States. Member States shall take the necessary measures to ensure that the relevant information is electronically accessible to the public, through at least a central portal or easily accessible points of access, at the appropriate administrative level.*

PLANNING AND DEVELOPMENT ACT 2000 (SECTION 38) REGULATIONS 2020 (SI No 180 of 2020)

These regulations were introduced in response to the COVID crisis to facilitate public participation by making it mandatory for planning authorities to publish planning applications and all documentation accompanying the application on the web. The documents must be generally published within five working days of receipt or exceptionally as soon as practicable thereafter. Similar provisions apply to documents received after the application date. What constitutes exceptional circumstances is defined in the Regulations. It is clear bearing in mind the purpose of the Regulations that the documents should always be published in good time, within the period during which the public can make observations.

Planning and Development Act 2000

Section 38(3)(b) is a mandatory requirement that planning applications accompanied by an Environmental Impact Assessment Report must be published on the planning authority's website as soon as may be after receipt:

*( b ) Where a planning application is accompanied by an environmental impact assessment report —*

*(i) a document referred to in subsection (1)(a) which is received or obtained by a planning authority shall be placed on its website for inspection and be made available for inspection and purchase by members of the public during office hours of the authority from as soon as may be after receipt of the document and may also be made available for inspection by the authority in other electronic form,*

## Observations

### Inadequate notice

Although located in Julianstown, the observer only found out about this proposal by accident on 8<sup>th</sup> of October when looking for a different planning file on Meath County Council's website. Even though the application is for a 20-year permission for a major development at one of the largest industrial installations in the region, no notices were posted in Julianstown or elsewhere in East.

Upon inspection on Sunday 11 October 2020 it appears that site notices have only been posted in the immediate vicinity of the site, i.e. on the R152 and L5613. Neither of these routes are used regularly by residents of East Meath, since they are not on the main routes connecting the East of the County with Drogheda, Navan, Ashbourne or Dublin.

The site notices are posted at locations that are inaccessible on foot or by bicycle and there is no safe place to park to view the notices. It appears that notice was not given in any local newspaper, the only newspaper notice seems to be one carried in the Irish Independent on 9 September 2020.

It is submitted that compliance with the requirement to give notice to the public under the EIA Directive must at least identify the public concerned and consider how best to give notice. It is clear that the two examples – bill posting within a certain radius and publication in local newspapers – has not been considered. Overall, the developer has not given adequate public notice to the standard required by the EIA Directive.

### Planning application not available on the planning authority's website

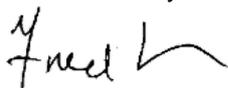
The observer consulted the planning authority's website<sup>1</sup> on 8 October and 13 October 2020 seeking to download a copy of the EIAR and the other documents on the planning file. While there was a document marked "EIAR" this was simply the email confirmation that notice of the application had been uploaded to the EIAR Portal.

It seems that the mandatory requirements to publish the planning application on the planning authority's website have not been complied with and only selections of the planning application are available. Worse still it appears that between 8 October and 13 October 2020 some additional documents were uploaded but even at that late stage the full file was not available even though there was less than two full days left to make observations.

## Conclusion

The failure by the developer to give adequate notice to people living outside the immediate vicinity of the development site and the failure by the planning authority to comply with mandatory obligations to publish the planning application online are fatal to this application which must be refused as being invalid under Irish and EU law.

Yours sincerely



**Fred Logue**

**On behalf of Protect East Meath Limited**

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<sup>1</sup> Please see screenshots in Annex 1

## Annex 1 – Screenshots of MCC Website

8 October 2020

*Note: Maps and Drawings remain copyright of the originator.*

### Planning Application: LB201254

| Type                                | Subject                     | # | Files Size | JPEG View                                 |
|-------------------------------------|-----------------------------|---|------------|---|
| Acknowledgement / Validation Letter | Correspondence to Applicant | 1 | 63 Kb      | <a href="#">JPEG</a> <a href="#">View</a> |
| Application - Cover Letter          | Application                 | 1 | 223 Kb     | <a href="#">JPEG</a> <a href="#">View</a> |
| Application - Cover Letter          | Application                 | 1 | 173 Kb     | <a href="#">JPEG</a> <a href="#">View</a> |
| Application Form - Part A           | Application                 | 1 | 2693 Kb    | <a href="#">JPEG</a> <a href="#">View</a> |
| Drawings-General                    | Application                 | 1 | 19 Kb      | <a href="#">JPEG</a> <a href="#">View</a> |
| EIAR                                | Application                 | 1 | 257 Kb     | <a href="#">JPEG</a> <a href="#">View</a> |
| Land owner consent                  | Application                 | 1 | 60 Kb      | <a href="#">JPEG</a> <a href="#">View</a> |
| Landscape Plans                     | Application                 | 1 | 4125 Kb    | <a href="#">JPEG</a> <a href="#">View</a> |
| Newspaper Notice                    | Application                 | 1 | 163 Kb     | <a href="#">JPEG</a> <a href="#">View</a> |
| Sections                            | Application                 | 1 | 1236 Kb    | <a href="#">JPEG</a> <a href="#">View</a> |
| Site Notice                         | Application                 | 1 | 159 Kb     | <a href="#">JPEG</a> <a href="#">View</a> |
| Submission                          | Submission                  | 1 | 189 Kb     | <a href="#">JPEG</a> <a href="#">View</a> |

Files may be in either DjVu or PDF formats.

The View option will choose the appropriate viewer to display the file.

If the file is in DjVu format then clicking the JPEG option will translate and display the file in jpeg format.

If the file is in PDF format, then clicking JPEG will cause the PDF viewer to load and display the file.

A PDF viewer is required to view PDF files.

The DjVu files are best viewed using the DjVu Browser Plug-in

Click on the icon below if you require the DjVu viewer.



**(Please Note:** This will require you to use Internet Explorer 5.x or higher)

13 October 2020

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| Application - Cover Letter          | Application                 | 1  | 223 Kb     | <a href="#">JPEG View</a> |
| Application - Cover Letter          | Application                 | 1  | 173 Kb     | <a href="#">JPEG View</a> |
| Application Form - Part A           | Application                 | 1  | 2693 Kb    | <a href="#">JPEG View</a> |
| Drawings-General                    | Application                 | 1  | 19 Kb      | <a href="#">JPEG View</a> |
| Drawings-General                    | Application                 | 1  | 18 Kb      | <a href="#">JPEG View</a> |
| Drawings-General                    | Application                 | 1  | 989 Kb     | <a href="#">JPEG View</a> |
| Drawings-General                    | Application                 | 2  | 2970 Kb    | <a href="#">JPEG View</a> |
| Drawings-General                    | Application                 | 7  | 16684 Kb   | <a href="#">JPEG View</a> |
| EIAR                                | Application                 | 1  | 257 Kb     | <a href="#">JPEG View</a> |
| Land owner consent                  | Application                 | 1  | 60 Kb      | <a href="#">JPEG View</a> |
| Landscape Plans                     | Application                 | 1  | 4125 Kb    | <a href="#">JPEG View</a> |
| Landscape Plans                     | Application                 | 8  | 15788 Kb   | <a href="#">JPEG View</a> |
| Newspaper Notice                    | Application                 | 1  | 163 Kb     | <a href="#">JPEG View</a> |
| Sections                            | Application                 | 1  | 1236 Kb    | <a href="#">JPEG View</a> |
| Site Layout                         | Application                 | 10 | 25952 Kb   | <a href="#">JPEG View</a> |
| Site location map                   | Application                 | 2  | 13991 Kb   | <a href="#">JPEG View</a> |
| Site Notice                         | Application                 | 1  | 159 Kb     | <a href="#">JPEG View</a> |
| Submission                          | Submission                  | 1  | 189 Kb     | <a href="#">JPEG View</a> |

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