

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

**In the matter of an application by William Donnelly
to apply for judicial review**

And in the matter of a decision of the Department of the Environment

(Planning Service) made on 27 July 2015

AFFIDAVIT

I, **WILLIAM DONNELLY**, proprietor of the Laurels Bed and Breakfast Lodge, of 18b Laurel Road, Omagh, in the County of Tyrone, aged eighteen years and upwards, **HEREBY MAKE OATH** and say as follows:

1. I am the applicant in the above-entitled proceedings.
2. I make this further affidavit in support of my present application for judicial review of the decision of the Department of the Environment (Planning Service) ('the Department') made on or about 27 July 2015 to grant approval for application K/2012/0373/F.
3. This is the second affidavit I have made in the course of these proceedings. I now refer to a bundle of documentation in support of the following averments, attached hereto and marked **(WD2)** at the time of swearing hereof.
4. On the 27th July 2015, the Department stamped the word "Granted", on drawing no 02, which is described as "site location plan illustrating existing contours and conditions" dated June 2012 **[WD2, tab 01]**. It shows the application boundary of the site encompassing an area of approximately 81 hectares, not 60 as stated on the P1 form, throughout the environmental statement and in the final

development management report. These extra 21 hectares were not assessed for environmental impacts as can be seen from the 60 hectare flora and fauna diagrams in the environmental statement [WD2, tab 02]. A diagram of the 60 hectare site applied for can be found on page 70 of the environmental statement, but on page 212 however a diagram of the enlarged 81 hectare site is shown [WD2, tab 03]. I made the Department aware of this inaccuracy in my planning objection of 18 Nov 2014, [WD2, tab 04]. The Department also stamped the word “Granted”, on drawing no 19 described as “Mitigation and Restoration Master Plan” dated 27 July 2015, which also shows the application boundary encompassing an area of approximately 81 hectares, not 60 as applied for and assessed [WD2, tab 05].

5. Tailings paste cell 7, about the size of two football fields, which has been present on site since 2012, understandably cannot be seen as drawing 02 is in actual fact an aerial photo taken in 2009, however it can be clearly seen in the enclosed aerial photo which was actually taken in 2012 [WD2, tab 06]. I made the Department aware of this inaccuracy in my planning objection of 30 Mar 2015 [WD2, tab 07]. The Environmental Statement however on page 103, informs us that Paste Cell 7 is still to be built, within years 1-6 to be exact [WD2, tab 08].
6. In January 2016, five months after approval, the applicant announced on a London Stock Exchange web page, that a newly discovered mineralised vein, (The Kestrel Vein), lay within the company’s “area permitted for mining”, [WD2, tab 09]. The Kestrel vein actually lies beneath the extra unassessed 21 hectares stamped “granted” on the inaccurate approved drawings 02 and 19.
7. On 7 December 2015, four months after planning consent had been granted, and after I had already initiated legal proceedings, a final version of the Cavanacaw Monitoring Plan for Environmental Waters was posted on the public planning portal [WD2, tab 10]. An additional paragraph had been inserted under section 4.2 “Monitoring of deep ground water”, and for the first time, there was a requirement for acid generation testing of the rock every 25 vertical meters. This key paragraph was not part of the original version included in the

environmental statement addendum of November 2013 used for appropriate assessment. [WD2, tab 11].

Save as where appears otherwise, I depose to the foregoing of my own knowledge, information and belief.

Sworn at

This 14th day of March 2016

Before me, a Solicitor empowered to administer oaths

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