

D Kelly

LDG-071511-24



Planning Appeal Online Observation

Online Reference
NPA-OBS-003404

Online Observation Details

Contact Name Emma McLoughlin	Lodgement Date 23/04/2024 17:33:44	Case Number / Description 319218
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Payment Details

Payment Method Online Payment	Cardholder Name Emma McLoughlin	Payment Amount €50.00
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Processing Section

S.131 Consideration Required

Yes — See attached 131 Form N/A — Invalid

Signed

Date

Daniel O'Connor

25/4/24

EO

SC40 amended to observer ✓ DW. 26/04/24.

Fee Refund Requisition

Please Arrange a Refund of Fee of

Lodgement No

€ 50

LDG-071511-24

Reason for Refund

Observations on this case are free of charge

Documents Returned to Observer

Request Emailed to Senior Executive Officer for Approval

Yes No

Yes No

Signed

Date

Daniel O'Connor

25/4/24

EO

Finance Section

Payment Reference

Checked Against Fee Income Online

ch_3P8mHsB1CW0EN5FC0yHRjGCK

EO/AA (Accounts Section)

Amount

Refund Date

€

Authorised By (1)

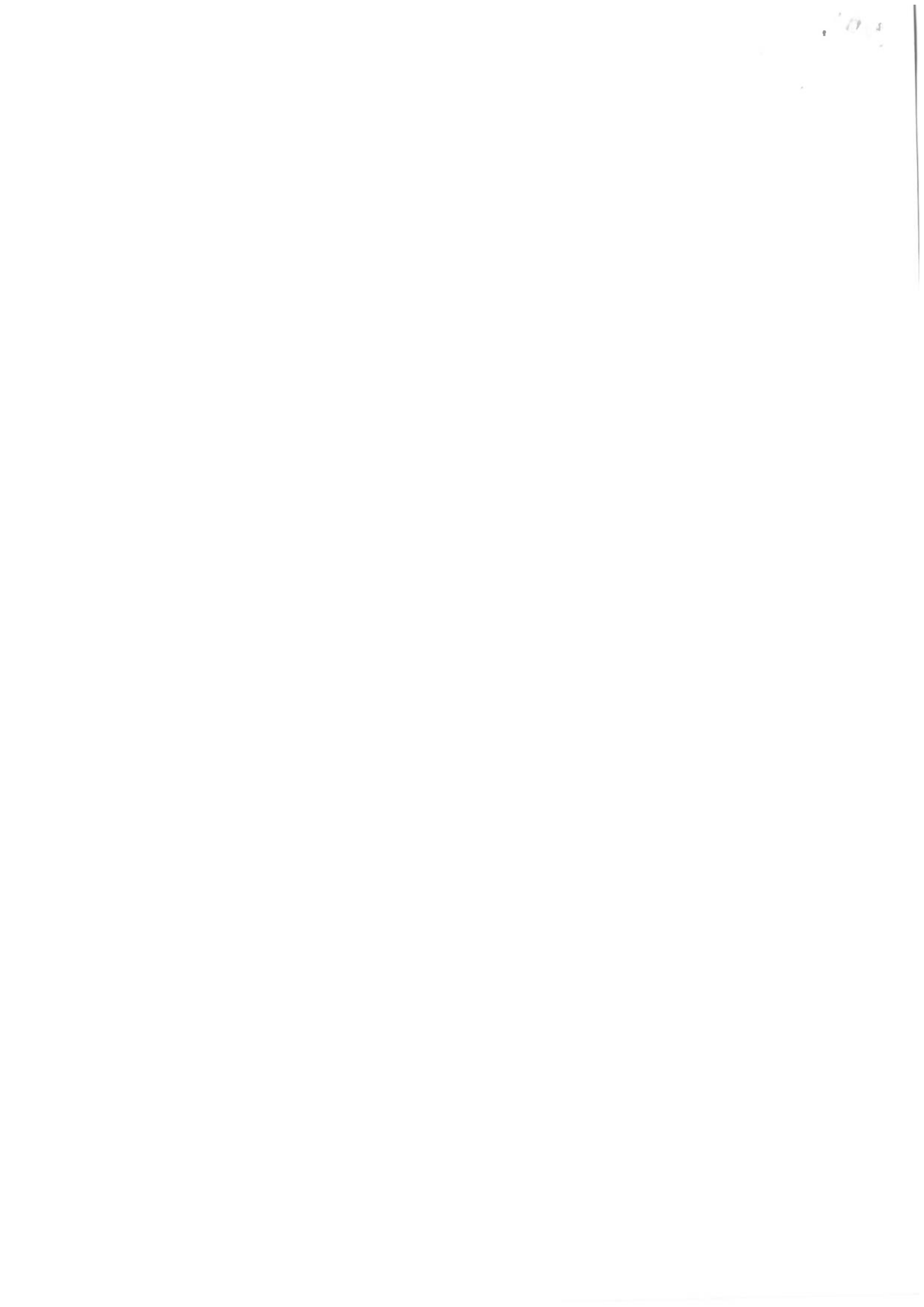
Authorised By (2)

SEO (Finance)

Chief Officer/Director of Corporate Affairs/SAO/Board Member

Date

Date



An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902.

23rd April 2024

RE: Further development under Section 37L of the Planning and Development Act 2000, as amended, for development at New Paddocks, Blessington, Co Wicklow W91 CH68 within the townlands of Athgarrett, Philipstown and Redbog, Co Kildare.

An Bord Pleanála Ref. 319218

Dear Sir/Madam,

We, Emma and Paul McLoughlin of Red Bog, Blessington, Co. Kildare, W91 DW6D and Mary Sargent of Red, Bog, Blessington, Co. Kildare W91 XF34 wish to comment on an application made under Section 37L of the Planning and Development Act 2000, as amended, (hereafter, 'the Act') by Hudson Brothers Limited (hereafter, 'the Applicant') for a further extension to the existing quarry (ABP Ref. 319218).

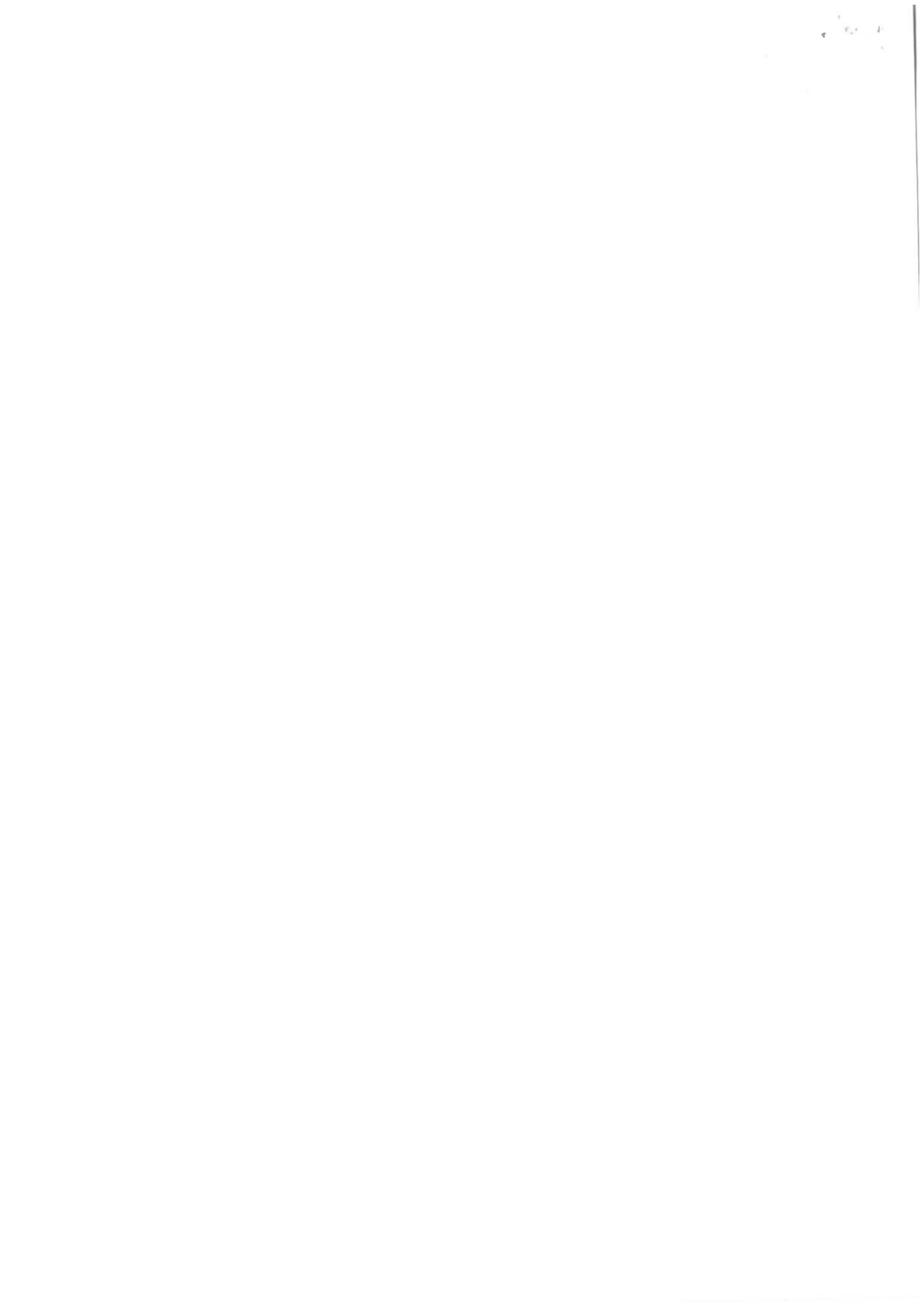
We welcome the opportunity to comment and wish to formally object to the proposed extension of the existing quarry based on a significant number of planning concerns including our residential amenity, significant effects on the natural landscape, ecological effects and safety concerns based on the existing site conditions.

Proposed Development

The proposed development is to consist of further development of a quarry over an area of 64.0ha. It is proposed to:

"continue extraction activities in the existing quarry void above the watertable, and to laterally extend the existing quarry void to the north by approximately 17.7ha over a total area of 21.2ha to accommodate screening berms, and also to the west by approximately 9.4 ha over a total area of 10.2ha to accommodate screening berms. The proposed duration of excavation is 15 years to reflect anticipated extraction of remaining reserves and depending on market conditions and a further 3 years for restoration.

The existing quarrying is accessed from a single location on the N81. The reserve consists of sandstone (greywackle) and is currently extracted by mechanical means. The excavated



material will comprise sand and gravel which will be extracted by mechanical means and sand, gravel and rock which will be extracted by both mechanical means and blasting. Extracted rock material will be crushed at the working face by mobile plant, and extracted sand and gravel material will be transported to a central plant area for washing, grading and processing. The further development of the quarry relates to further extraction only and utilises the existing plant area and quarry access that are included in a concurrent application for substitute consent.

Development Plan

The local planning policy document pertaining to the subject site is the Kildare County Development Plan 2023-2029 (hereafter, 'Development Plan'). The subject site is located on unzoned lands.

Regarding Mineral Resources & Extractive Industry the Development Plan states that:

"The industry can have damaging environmental effects and permission will only be granted where the council is satisfied that residential and natural amenities will be protected, pollution will be prevented, and aquifers and ground water safeguarded."

Taking the above into consideration and as outlined below, it is considered that the proposed development is not in compliance with the above and does not accord with the Development Plan. The applicant has not successfully demonstrated that the proposed development will not have a significant impact on the residential and natural amenities of the surrounding area.

Residential Amenity

As stated on the statutory notices, the proposal includes for an extension of the existing quarry (although currently unauthorised) to the north by c. 17.7ha over a total area of 21.2ha to accommodate screening berms, and also, to the west by c. 9.4 ha over a total area of 10.2ha.

The proposal will be located c. 330m from my existing dwelling, as such significant concerns are raised regarding our residential amenity. However, the proposal will not just impact our residential amenity but due to the extension will affect a significant number of homes in the surrounding area to the north-east, west, and south-west.

It is considered, given the proximity, effects due to dust and noise are likely to occur.

Dust is a substantial impact from quarrying activity and can cause significant health and safety issues for residents. Currently, dust is a significant problem for us due to the lack of restoration of the existing site (and unlikely in the near future), this is likely to worsen given the magnitude of quarrying to take place, should the proposal be granted.

Effects on the Natural Landscape

As evident and clearly visible, this type of land use leaves a significant scar on the natural landscape as viewed in Figure 1. As stated in the Development Plan, the proposed development is located in a Landscape area 'Class 3 – High Sensitivity' which is defined as an area with reduced capacity to accommodate uses without significant adverse effects on the appearance of character of the landscape.



Figure 1: Existing Site Conditions (Source: Google Earth).

The proposal's location in the Kildare East Uplands, a unique and important area within Kildare given the relative flat topography of the county, provides an important amenity for residents and visitors.

As stated in the Development Plan, the sloping land provides this area with its distinctive character and intensifies the visual prominence and potential adverse impact of any feature over greater distances. It is considered that further development of this quarry will leave a mark that will not be reversal on this natural landscape. As set out in the Development Plan it is a requirement to:

- **LR P2:** *Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.*

Furthermore, the Development Plan states, regarding the Extractive Industry that:

"While siting is based on resource locations, the Council will protect high amenity / special / unique sensitivity areas and limit new and / or extending existing extractive industries in these areas."

As submitted under Chapter 11 Landscape and Visual of the Environmental Impact Assessment Report, the proposal will be visible from the R410, a key route to Glending and Blessington. Furthermore, we note that the Visual Impact Assessment has not taken account of the Hilltop views of the Caurcen Hill. The Caurcen Hill is a scenic route and one of the few upland hill top areas in Kildare. The area offers a significant amenity to residents and visitors, providing views of the nearby areas of Kildare and Blessington Lakes. The view from this hilltop is already impacted from the existing quarry and the current proposal will only increase the prominent scarring of the landscape from this area. We would question why a significant viewpoint was not included within the visual impact.

Due to the absence of this viewpoint from the Visual Impact Assessment, the Board cannot make a decision as to whether the proposal will have an impact on one of the limited number of Hilltop views contained in Kildare, as such, permission should be refused.

It is considered that the proposed development would seriously injure the landscape and the scenic amenities of the area in a manner that would be contrary to policy LP P2 of the Development Plan and to the proper planning and sustainable development of the area.

It is considered that the granting of the quarry extension of this scale will significantly impact a unique and important area within County Kildare and contravene the Development Plan.

Ecological Effects

As stated in the Environmental Impact Assessment (hereafter, 'EIAR'), which we also note has not fully complied with the Environmental guidelines which now requires 'impacts' to be assessed as 'effects', under Chapter 4 Ecology and Biodiversity it states:

"The lagoons within the quarry pit were found to be completely devoid of vegetation – an indication of the magnitude of disturbance associated with the activities in this area."

The above is an indication to the significant habitat loss that has occurred and will occur should the proposal be granted. Additionally, the EIAR is lacking site-specific data on breeding bird assemblages, and the proposal will include the removal of suitable nesting habitat. As stated in the EIAR, the applicant is aware of the potential presence of nesting peregrine falcons, however, due to surveys being conducted outside the breeding season, none were sited.

Peregrine Falcons and their nests are protected under the Wildlife Acts 1976-2021. The Applicant states:

"WSP proposes to carry out a suite of breeding bird surveys at the appropriate time of year and submit a report as further information, which will contain results and recommendations."

It is considered that the Applicant has not submitted a complete EIAR with the necessary survey's absence, as such the Board cannot make a decision on this application and same should be refused.

Red Bog Special Area of Conservation (SAC)

Furthermore, the Red Bog Special Area of Conservation (SAC) is located within close proximity to the proposed works. We refer the Board to Appendix I, which includes a letter dated 7th June 2022 Letter from the Department of Housing, Local Government and Heritage regarding the proposal to extend Red Bog, Kildare Special Area of Conservation 000397. The extended SAC area would result in proposed quarry works being c.165m away.

Furthermore, given its significant importance and protection status no further quarrying development should take place. The lake is known to nest significant amounts of birds and has been visited by wild swans, any potential distribution and effect to same such as dust and noise pollution, should be avoided.



Existing Site Conditions

It is considered that a refusal is warranted given the applicant's blatant disregard to the terms of their previous planning permission, which we note has now expired with unauthorised development currently taking place. A concurrent application under Ref. 319217 has been lodged requesting to continue extraction activities at the existing quarry. However, it is considered that the proposed development constitutes an extension to an unauthorised development which does not have the benefit of planning permission. The Board is, therefore, precluded from granting planning permission for the proposed extension to the quarry.

Notwithstanding the above, in accordance with Section 35 of the planning act, permission should be refused based on the applicant's history of non-compliance with their previous permissions. Under KCC Reg. Ref. 07/267 a Warning Letter was issued by the Local Authority for non-compliance with Conditions nos. 1, 2, 4, 5, 6, 11, 15, 16, 21, 22, 25, 26, 28(b), 32 (b), 33(a) & b, 35, 36, 37, 48 & 56.

Of particular importance to us is Condition No. 20 which requires:

"A stock and trespass proof fence shall be erected around the full perimeter of the site."

Although not highlighted within the Local Authority's Warning Letter, it can be confirmed that the applicant is not in compliance with same. We refer the Board to Figures 2 & 3 which presents inadequate fencing of the site perimeter.



Figure 2: Lack of adequate fencing as required under Condition No. 20 of Reg. Ref. 07/267.



Figure 3: Lack of adequate fencing as required under Condition No. 20 of Reg. Ref. 07/267.

Silt Pond

We refer the Board to Figure 4, as contained in the Chapter 4 Ecology and Biodiversity, which shows the magnitude of the silt pond, located to the north of the subject site, in recent years (applicant refers to same as Lagoon). The silt pond has been a long-standing issue between the applicant and residents, presenting a significant danger to the public and wildlife. As the applicant created this danger, it is their responsibility to ensure the public's safety which they have had complete disregard for.

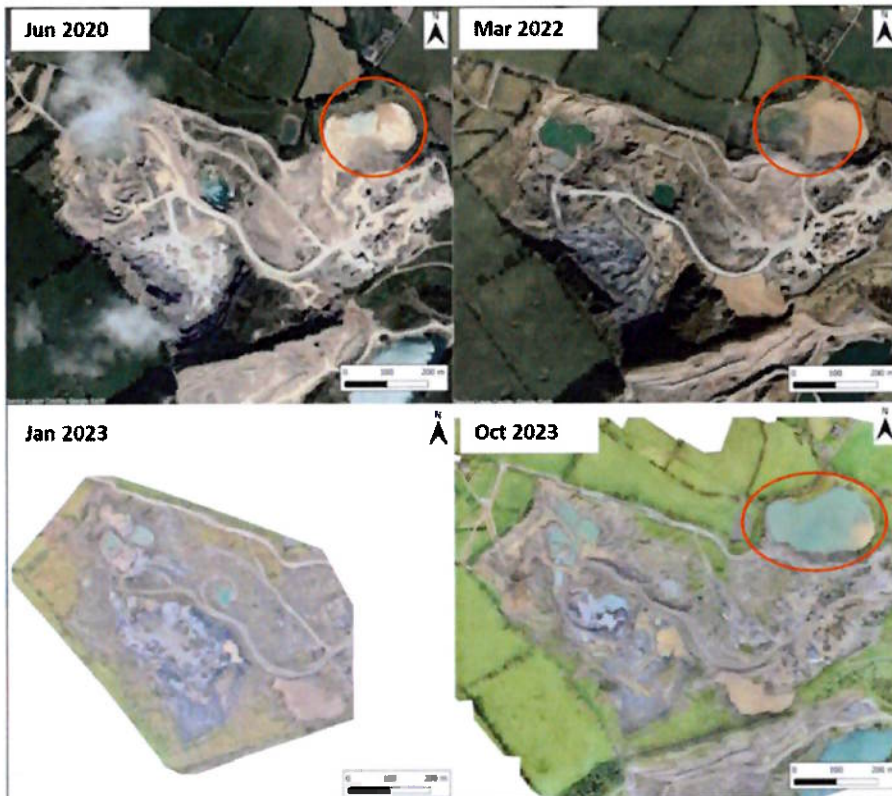


Figure 4: Subject Site Aerials in June 2020, March 2022, January 2023 and October 2023 (Source: Chapter 4 Ecology and Biodiversity, pg. 30)

We refer the Board to Figure 5 which presents the inadequate fencing around the silt pond. We consider this neglect a significant absence of duty from the applicant and as such, permission should not be granted (given the applicant's history) we fear something similar will occur.



Figure 5: Inadequate fencing around the silt pond.

Lack of Previous Quarry Restoration

As evident under Figure 4, there has been no attempt by the applicant to restore the existing quarry, which was a requirement under KCC Reg. Ref. 07/267, instead, the applicant has made the site further inhabitable for wildlife and future agricultural purposes i.e. silt pond. Instead, it is likely that the silt pond will continue to expand and further destroy the surrounding area due to the clear carelessness and lack of regard from the applicant. Should permission be granted by the Board, these lands will be further damaged and neglected by the applicant.

Gas Line

The Dublin to Cork gas transmission line is located to the north-west of the subject site. Given the applicant's carelessness regarding the existing conditions of the site, as highlighted above, we have a significant concern regarding damage to the gas line.

Given the nature of quarrying activities i.e. blasting, excavation, there is a high likelihood of damage to same. It is considered that no such activity should take place within such close proximity. We

respectfully request that ABP have cognisance to the site's existing conditions and the safety concerns associated with same, potential damage to the gas line could be devastating to the surrounding area.

Conclusion

In light of the above, it is considered that the proposal will result in a significant negative impact on the residential amenity, landscape and ecology. Additionally, we would request the Board to take into consideration the applicant's previous disregard for the planning system and non-compliance with their previous permission.

Furthermore, the application, specifically the EIAR, is lacking in site specific detail. The Board must ensure that the application does not have gaps and must contain complete, precise, and definitive findings. In the case same is not met, permission must be refused.

We trust that the points raised in this submission will be considered by An Bord Pleanála in the assessment of this application. Should you have any queries on the above, please do not hesitate to contact us.

Yours faithfully,

Emma McLoughlin

Paul McLoughlin
Emma & Paul McLoughlin,

Mary Sargent
Mary Sargent,
Red Bog Residents.

**Appendix I – Letter from Department of Housing, Local Government and Heritage
Proposal to extend Red Bog, Kildare Special Area of Conservation 000397.**

An Roinn Ithoictra,
Rialtais Áitiúil agus Oidhreachta
Department of Housing,
Local Government and Heritage



07 June 2022

Our Ref: Red Bog, Kildare (000397)
(please quote in all related correspondence)

Mary Sargent
Redbog
Blessington
County Wicklow

Proposal to extend Red Bog, Kildare Special Area of Conservation 000397

A chara,

The European Union Habitats Directive (92/43/EEC) requires Member States to protect habitats and wildlife areas of European interest. The Department of Housing, Local Government and Heritage plays its part in protecting Europe's endangered habitats and species and, to fulfil Ireland's obligations under the Directive, the Minister for Housing, Local Government and Heritage makes proposals to designate sites as Special Areas of Conservation (SACs).

Proposed Designation of an extension to the existing SAC

I wish to advise you that the Minister proposes to extend the existing Special Area of Conservation (SAC) Red Bog, Kildare (Site Code 000397) in County Kildare.

This site was originally proposed and advertised in 2003 and landowners within the area were notified at that time. According to the Department's records, you own land in the proposed extension to the SAC. All those identified as owning land in the proposed new area are being notified of the inclusion of their land in the SAC, are being provided with relevant information on the site and are being given the opportunity to object to the inclusion of their land in the proposed extension to the SAC.

It is proposed to designate this extension to the existing SAC in order to protect transition mires and quaking bog, a habitat listed on Annex I of the E.U. Habitats Directive. The additional area is now afforded legal protection under the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011). A copy of these Regulations is available at <http://www.irishstatutebook.ie/eli/2011/si/477/made/en/pdf>.

This notification acts as a formal notice of intention to designate the proposed extension to the site as a SAC. It provides important information regarding the site, including:

- details as to why the site is of ecological importance;

An tAonad Ainmníúcháin, NPWS, 90 Sráid an Rí Thuaidh, Baile Átha Cliath 7 D07 N7CV
Designations Unit, NPWS, 90 King Street North, Dublin 7 D07 N7CV
T +353 1 800 405 250 | natureconservation@housing.gov.ie
www.gov.ie/housing





- information on how to object, if intended, to the proposed designation,
- information about a Direction made by the Minister that lists potentially harmful activities that should not now be undertaken on the site without obtaining the prior consent of the Minister (Activities Requiring Consent (ARCs)), and
- relevant maps, with red hatching indicating the proposed area of the extension to the SAC.

Rationale for the extension to the site

Red Bog is a small wetland system complex comprising a lake, freshwater marsh and bog fringed by fen vegetation. Red Bog SAC 397 has been selected for the conservation of transition mires and quaking bog, a habitat listed on Annex I of the E.U. Habitats Directive.

A hydrological study has found that the SAC site is located within an isolated topographical hollow, perched above the regional groundwater table, with no inflowing streams or watercourses. The transition mire habitat, that this SAC site has been selected for, is reliant on rainwater and shallow groundwater from the surrounding surface water (topographic) catchment. Following on from this hydrological study and to ensure the protection of the Annex I habitat within the site it is proposed that the boundary of Red Bog SAC is extended to include the surface water catchment as shown on the attached map.

Opportunity to object to the extension to the site

Objections to the proposed extension to the SAC may be submitted within three months of the date of this notification (by 7th September 2022).

An objection must be accompanied by a declaration made by you stating that you are entitled to an interest in or over the land proposed for inclusion in the SAC and the nature of the interest. Objections must be made by email to objections@housing.gov.ie, or by writing to the Department at the address below:


Designations Unit - Objections
National Parks & Wildlife Service
Department of Housing, Local Government and Heritage
90 King Street North
Smithfield
Dublin 7
D07 N7CV

Direction of the Minister regarding Activities Requiring Consent (ARCs)

The list of activities that require the consent of the Minister for Housing, Local Government and Heritage are the subject of a Direction of the Minister made under Regulation 28 of the above-mentioned Regulations. This Direction applies to the proposed extension to the SAC.

Where an activity has been granted a consent, licence or permission from another public authority, separate consent will usually not be required from the Minister for Housing, Local

**LIMISTÉAR FAOI
CHAOMHNU SPEISIALTA MOLTA
CANDIDATE
SPECIAL AREA OF CONSERVATION**

 Limistéar faoi Chaomhnu Speisialta Molta
Candidate Special Area of Conservation

RED BOG, KILDARE SAC
000397
Achar / Area 25.94 ha



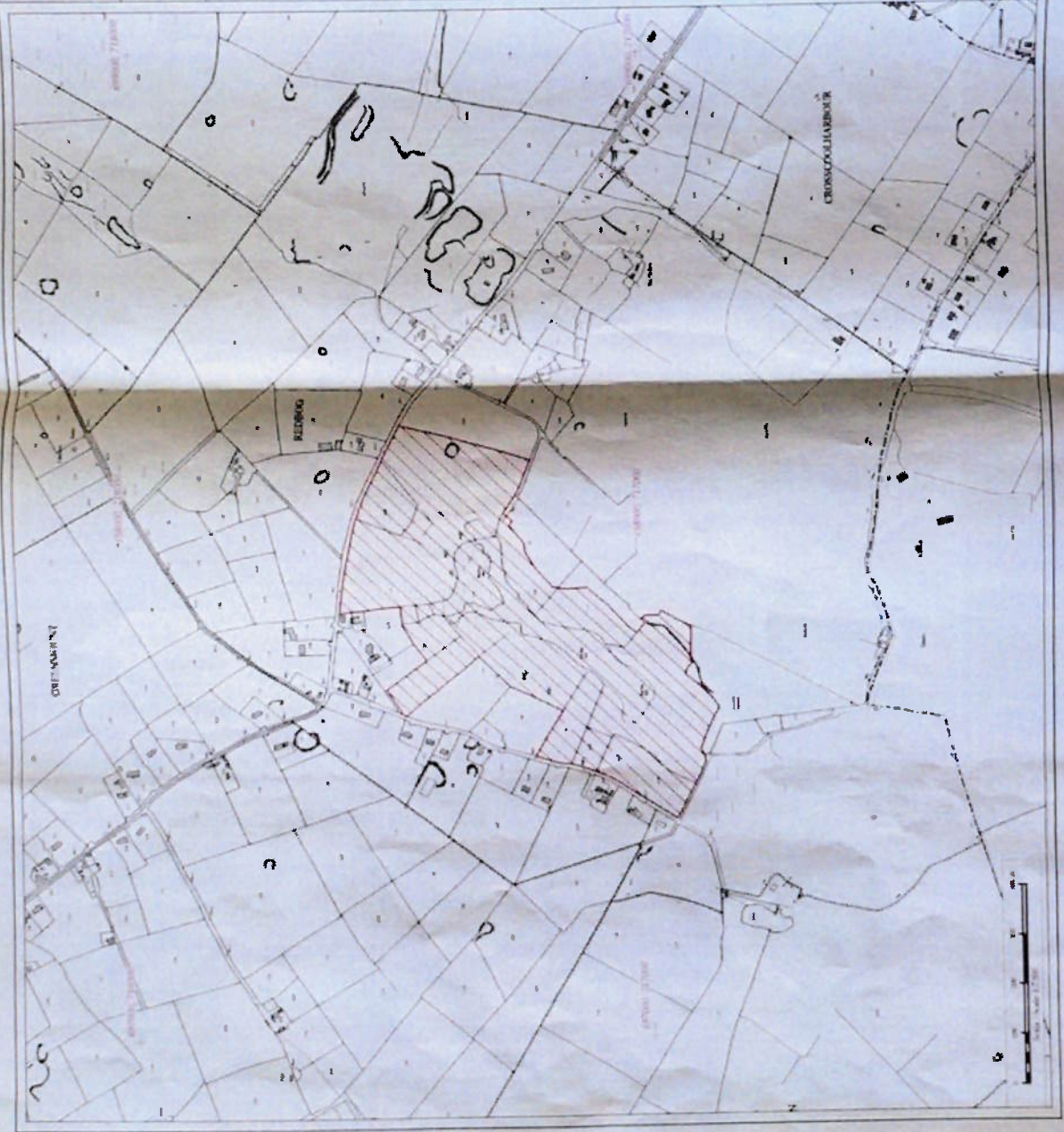
CO. CHILL DARA / CO. KILDARE



NAIUA 2000
An Rann Eiliméara, Rannas Molta agus Dálleoraíla
Programme of Special Areas and Heritage
Units

Samplaíocht Chomharthaíocht agus Ainmneachas na hÉireann 2000 (Natura 2000) - Rannas Molta agus Dálleoraíla
Cárta Ainmneachas agus Ainmneachas na hÉireann 2000 (Natura 2000) - Rannas Molta agus Dálleoraíla
Programme of Special Areas and Heritage Units

Crann / Version 3.02 Áraíocht an / Parked on: 20/04/2022





Tá leagan Gaeilge de na caipéisí ar fáil ach iad a iarradh.

Yours sincerely

Linda Bradley

Linda Bradley
Assistant Principal Officer
National Parks & Wildlife Service
Department of Housing, Local Government and Heritage
90 King Street North
Dublin 7
D07 N7CV
Encls.



Red Bog, Kildare SAC 397

1. Qualifying Interests

7140 Transition mires and quaking bogs

2. Activities Requiring Consent

ARC-01 Reclamation, including infilling.

ARC-03 Blasting, drilling, dredging or otherwise removing or disturbing fossils, rock, minerals, mud, sand, gravel or other sediment.

ARC-05 Cutting, uprooting or otherwise removing plants. [Consent is not required for harvesting of cultivated crops, or for grazing or mowing.]

ARC-06 Introduction, or re-introduction, of plants or animals not found in the area. [Consent is not required for the planting of crops on established reseeded grassland or cultivated land.]

ARC-09 Construction or alteration of tracks, paths, roads, bridges, culverts or access routes.

ARC-11 Digging, ploughing, harrowing or otherwise disturbing soil or substrate. [Consent is not required for these activities on established reseeded grassland or cultivated land provided it is greater than 50m from a river, stream, floodplain, wetland, lake, turlough or pond.]

ARC-12 Applying inorganic or organic fertiliser, including slurry and farmyard manure. [Consent is not required for these activities on established reseeded grassland or cultivated land provided it is greater than 20m from a river, stream or floodplain; or greater than 50m from a wetland, lake, turlough or pond.]

ARC-13 Applying lime. [Consent is not required for this activity on established reseeded grassland or cultivated land provided it is greater than 20m from a river, stream or floodplain; or greater than 50m from a wetland, lake, turlough or pond.]

ARC-14 Storage, burial, disposal or recovery of any materials. [Consent is not required for these activities on established reseeded grassland or cultivated land provided it is greater than 20m from a river, stream or floodplain; or greater than 50m from a wetland, lake, turlough or pond.]

ARC-15 Burning, topping, clearing scrub or rough vegetation or reseeded. [Consent is not required for these activities on established reseeded grassland or cultivated land provided it is greater than 20m from a river, stream or floodplain; or greater than 50m from a wetland, lake, turlough or pond.]

