

Faolán Bashford

(ABP-319218-24)
LDG-071546-24

From: Marston Planning <mplanconsult@gmail.com>
Sent: Wednesday 24 April 2024 08:39
To: board@pleanala.ie; Appeals2
Subject: QD09.319218
Attachments: RE Query.msg; 32056-3 Submission to AnBP S37L.pdf; Submission on QD09.319218.pdf

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

To whom it may concern

Please find attached a submission on behalf of the Save Kildare Uplands Action Group in relation to this application for new quarry works at Athgarrett, Philipstown and Redbog, Co. Kildare. A report by TMS Environment accompanies this submission and is submitted as a separate attachment.

As this is a concurrent quarry application to a substitute consent application no fee is associated with the making of a submission, and this submission is therefore made via email as per attached correspondence with the Board confirming that this could be done.

I would be grateful if the Board could confirm receipt of the attached and that all is in order. Many thanks in advance.

--

Regards

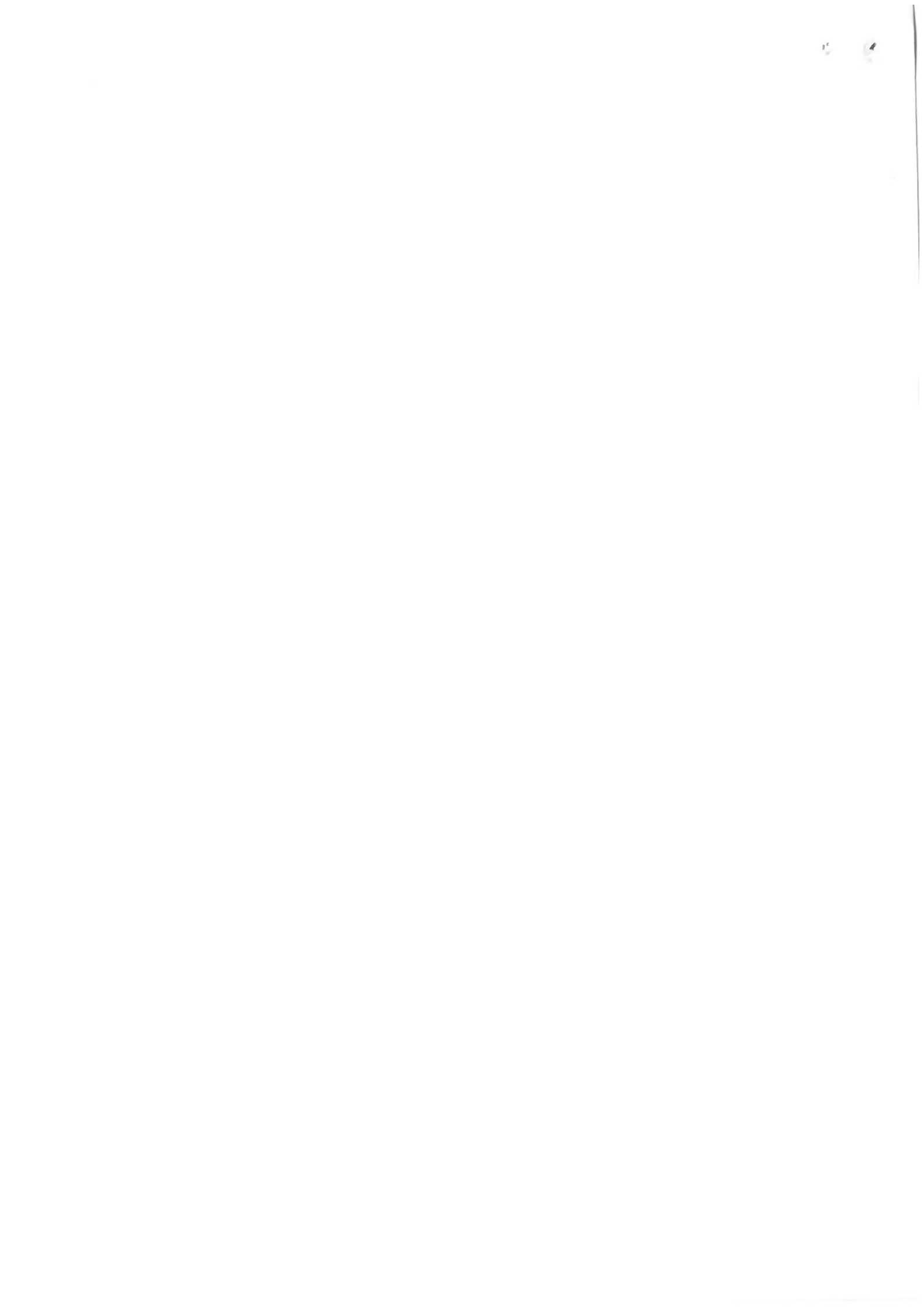
Anthony Marston

Marston Planning Consultancy

m:086-3837100

www.marstonplanning.ie

Information in this message is confidential and may be legally privileged. It is intended solely for the person to whom it is addressed. If you are not the intended recipient you should not disseminate, distribute or copy this email. Please notify the sender if you have received this e-mail in error and delete the message from your system immediately.



MARSTON

PLANNING CONSULTANCY

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

18th April 2024
Our Ref: 24032

Re: Planning and Development Act, 2000 (as amended) and the Statutory Regulations thereunder. Third party submission by local residents in relation to Application under Section 37L of the Planning and Development Act 2000, as amended for quarrying and aggregate extraction on lands located at Redbog and Philipstown, Co. Kildare.

An Bord Pleanála Ref. no. QD09.319218

Date of lodgement of application: 29th February 2024

Last day for making submission: on or before 24th April 2024

Dear Sir/Madam,

We, Marston Planning Consultancy, 23 Grange Park, Foxrock, Dublin 18, D18 T3Y4 are instructed by the Save Kildare Uplands Action Group, Harrington & Co Solicitors, Newtown, Bantry, Co. Cork, P75 EA03; to make a submission in regard to the above section 37L application lodged on behalf of Hudson Brothers Ltd. for quarrying and aggregate extraction on lands located at Redbog and Philipstown, Co. Kildare. As this is an application under section 37L of the Planning and Development Act, being made to An Bord Pleanála, no fee accompanies this submission. The members of the Group are listed to the rear of this submission in Appendix A.

This submission is accompanied by a submission by TMS Environment Ltd. that has reviewed the hydrological and hydrogeological elements of this and concurrent application (see accompanying and separate document). This concludes that there are several aspects of the two applications that must be questioned relating to hydrological connection as well as whether works have extended below the water table. This must lead the Board to severely question the conclusions relating to dust and hydrological impact on the area, including the Red Bog SAC.

We have also included as part of this submission the High Court Order Settlement between local residents and the applicants in this instance the Hudson Brothers Ltd. (see Appendix B). This was taken by local residents following a failure of the applicant to comply with their original permission, as well as a failure of Kildare County Council to enforce them to uphold the permission granted under Planning Ref. 07/267. This High Court Order ties the applicant into upholding the terms and conditions of the decision made under Planning Ref. 07/267. A copy of this High Court Order accompanies this submission.

This application is made concurrently with an application for substitute consent made by the same applicant under An Bord Pleanála Ref. QD09.319217. We respectfully submit that this current application for new works must be considered as being premature pending the decision on the substitute consent application. In simplistic terms, if the Board deem it appropriate, which we are of the considered opinion that it should refuse permission for the substitute consent application, then it is also duty bound to refuse permission for the new works application as it would be resulting in the intensification of an unauthorised development.

Our client, which represents the residents of the immediate local community that will be affected by the proposal, are opposed to the proposed development on a number of fundamental and strong planning grounds.

The application is ill-considered and poorly conceived in terms of:

- its negative impact on this sensitive environment and the Red Bog SAC;
- negative impact on the visual and residential amenity to local residents; and
- is in clear contravention of Kildare county Council planning policies as set out under the Kildare County Development Plan 2023-2029.

The proposal is therefore contrary to the proper planning and sustainable development of the area, and we accordingly request for the permission to be refused by An Bord Pleanála. Prior to outlining the grounds of the submission it is imperative to set out for the clarity of the Board the context of this application in terms of the sensitive nature of the site in proximity to the Red Bog SAC and the potential impact on its conservation objectives; local residents as well as it being in contravention of local planning policy.

We respectfully submit that the grounds for refusing this application are clear and unambiguous. It clearly will materially compromise the conservation objectives of the SAC and runs contrary to a number of key Development Plan policies and objectives. In addition the impact on local amenity, when all elements are combined (noise, visual impact, dust etc.), which have failed to be adequately cumulatively assessed by the applicant, must lead the Board to conclude that permission be refused.

Prior to setting out our client's grounds for appeal their submission it is useful to set out the context of the application for the clarity of the Board.

2. Description of the subject site and vicinity

The application site extends to around 64 hectares and is located to the north of Blessington. It comprises lands in the townlands of Athgarrett, Philipstown and Redbog in County Kildare. It is one of three large quarry operations that operate from the same general location to the west of the N81 as it approaches Blessington from the the north. The existing vehicular access to the quarries is primarily from two access points on the N81 in Co. Wicklow to the east of the quarriwes.



Aerial view of application site (outlined in red) with boundary of substitute application (outlined in yellow) and 2007 application site outlined in white (Note, a small area is excluded to the north that is not part of the current application)

The application site has no public road frontage but is within close proximity to a number of houses that are owned and lived in by members of the client group to the west, east, north and north-east that will be negatively impacted by the continuation and expansion of the quarry. Whilst the application is located within Co. Kildare, a significant part of the wider quarry sites is within Co. Wicklow. The application boundary extends to being within c. 250m of the R410 to the west; adjoining Red Lane to the north, and adjacent to the public roads that extend from the N81 to the east.

The existing quarry has been operational since the 1950s and has caused considerable scarring of the landscape. There are no obvious signs of site restoration for those quarry areas which have been exhausted, and we note that the restoration plan submitted with the application, fails to indicate how the proposed restoration of the application site will integrate with planned restoration of other lands within the applicants control; other adjacent quarries; as well as the local and wider landscape.

The quarry that is the subject of this application came under planning control through the Section 261 registration process and subsequently with the benefit of planning permission under Planning Ref: 07/267 which was granted on the 26th April 2010 for a period of 10 years. The application site is substantively enclosed within the red line of the current This permission has therefore expired.

Planning Ref. 07/267, which was accompanied by an Environmental Impact Statement and was described as follows:

"Continuation of aggregate extraction and processing at Philipstown and Redbog, by mechanical means, blasting, aggregate processing, washing, screening, crushing, power house, control rooms, office building, portacabin/ canteen, water recycling plant, lagoons, landscaping berms and all associated works. The application site area is ca. 57.9ha. in size, and is the subject of Section 261 Registration Reference No. QR42".

The permission was subject to 57 no. conditions. Condition 5 of the permission was:

"5. This permission is for a period of 10 years from the date of this permission unless at the end of this period a further permission has been granted for its continuation on site".

We note that the planner's report in respect of Planning Ref. 19/1230 (which was for a truck and plant maintenance shed and other ancillary elements within the quarry as opposed to quarrying activities themselves), noted that the permission granted under Planning Ref. 07/267 expired on the 3rd June 2020. However, this was in our considered opinion a miscalculation based on the normal 5 year length of permission. In this case the permission was for ten years and therefore an additional 45 days beyond the 3rd June 2020 needs to be added to calculate the date on which the permission expired. The permission therefore expired on the 17th July 2020. We submit that the application is entirely incorrect therefore to claim under section 2.3.1 of the EIAR that the site is operating under Planning Ref. 07/267, which has long since expired.

This expiration date of the permission takes into account the (9 days per year for Christmas) as provided for under Section 251 of the Act, and clarified in the judgement of the High Court in Browne v. Kerry County Council (2009) IEHC 552.

We respectfully submit that as no substantive permission has been granted following this date, it is unequivocal that the existing quarrying works have operated in an unauthorised manner for the last four years. This has resulted in our clients having to endure the negative impact of unauthorised works for a substantive period that as a result of excessive noise levels, dust and other environmental impacts has negatively impacted their residential amenity.

The concurrent substitute consent application seeks to address and legalise these unauthorised works under ABP Ref. QD09.319217. This substitute consent application includes substantial parts of the current application for new works. Their overlap is shown on the plan on the following page; with the site of the now expired 2007 permission outlined in white. Sand and gravel and rock is proposed to be extracted to the west of the existing quarry and sand and gravel in the northern extension.

The current application includes two areas that have never been subject to an application, or permission previously. These areas are shaded in red in the aerial photograph on the previous page.

We refer the Board to the silt pond that is full of debris arising from gravel washing and other quarry activity at the eastern end of the existing quarry. In addition we note that this silt pond and quarry works are located in close proximity to the Red Bog Special Area for Conservation (SAC) (site code: 000397) that is also identified as a pNHA. It is unclear as to whether the quarry, and works within it are hydrologically connected to the SAC or to the pond that is located within this application boundary. We refer the Board to the attached environmental report by TMS Environmental Ltd. that raises significant question marks over the connectivity

between the quarry and the SAC. The small pond to the immediate west of the silt pond is of ornithological interest and supports species connected to Poulaphuca Reservoir SPA (Site code 004063) to the south-east.

We request the Board to question whether the applicant has sufficient legal interest to undertake the proposed works under both this and the application for new works. There is also a need for the Board to consider the impact and planning status of quarrying of the area to the north-east of the existing quarry (Folio Ref. 9317) relative to the other areas to be quarried, and whether these have been adequately considered in terms of the cumulative impact within the EIAR.



Silted pond within the substitute consent application boundary

We respectfully submit that it is unequivocal that the effect of the quarrying has been that it has created a landscape that is severely scarred and which severely detracts from the surrounding rural landscape. The quarry is located within an area designated in the Kildare County Development Plan as forming part of the landscape designated as the "Eastern Uplands" which is stated as having a 'high sensitivity' under Table 13.1 of the Kildare County Development Plan 2023-2029. The description of this landscape is summarised in Table 13.2 of the County Development Plan as:

"Areas with reduced capacity to accommodate uses without significant adverse effects on the appearance or character of the landscape having regard to prevalent sensitivity factors."

The following is an excerpt from Map Ref. V1-13.2 from the County Development Plan that indicates the sensitivity of the local environment. It indicates the pNHA of the Red Bog outlined in purple and the SAC boundary indicated within that; and with the scenic route identified by way of the dashed blue line; and the protected view identified by way of the green flower like symbol (see below). The application site sits to the immediate south-west of these and we have indicated it by way of a white star for clarity purposes below.



Excerpt Map Ref. V1-13.2 from Kildare County Development Plan

Table 13.3 of the Plan indicates that sand and gravel extraction has a medium compatibility with this identified landscape character. We note the Policy LR P1 of the Development Plan seeks to:

“Protect and enhance the county's landscape, by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the existing local landscape.”

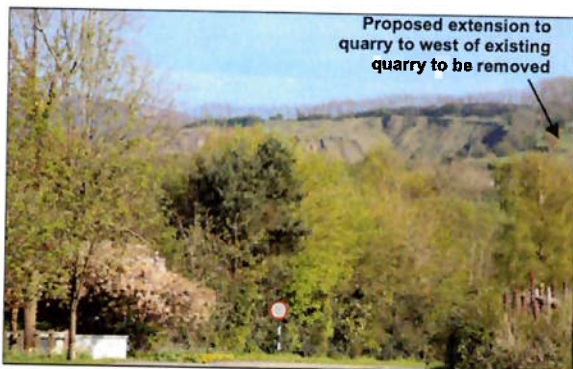
The Plan having regard to high sensitive landscapes states that landscape sensitivity will be an important factor in determining development (Objective LR O1). There is also a need for all quarrying activities to comply with all relevant planning and environmental legislation and the Guidelines for the Protection of Biodiversity within the Extractive Industry document 'Wildlife, Habitats and the Extractive Industry' (Objective LR O8)

Section 13.4.12 define the Eastern Uplands as follows:

“The Eastern Uplands are located in the east of the county and are part of the Wicklow Mountain complex. The topography rises from the lowland plains, through undulating terrain to the highest point of 379m above sea level (O. D.) at Cupidstownhill, east of Killeel. The elevated nature of this area provides a defined skyline with scenic views over the central plains of Kildare and the neighbouring Wicklow Mountain which further define the skyline and the extent of visibility. The East Kildare Uplands are rural in character with a number of scenic views from elevated vantage points. The general land use on the uplands is pasture, with some tillage, quarrying and forestry.

Along a number of roads, which cross the upper and lower slopes of the uplands, there are long-distance views towards the Kildare lowlands and the Chair of Kildare. 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. Slope also provides an increased potential for development to penetrate primary and secondary ridgelines when viewed from lower areas. In the Eastern Kildare Uplands, nearly all ridgelines are secondary when viewed from the lowland areas, as the Wicklow Mountains to the east define the skyline (i.e. form primary ridgelines). Gently undulating topography and shelter vegetation provided by conifer and woodland plantation can provide a shielding of built form. Views of the River Liffey Valley as well as of the Poulaphouca Reservoir are available from the hilltops and high points on some of the local roads”.

The proposed unauthorised and new extensions to the existing quarry have and will further exacerbate the profound negative visual impact of the quarry within this identified highly sensitive landscape (see view from Eadestown church below) that clearly shows the quarry is visible in distance views, and indicates the western extent of the existing quarry that will be extended under this application.



View from Eadestown church

Council policy is to strictly regulate development within 300m of hill ridgelines. These ridgelines are within an area which the landscape character assessment has identified as highly sensitive to change or intervention. The application site is within 300m of an identified ridgeline in an area of “High Sensitivity” and extending the existing quarry northwards will bring the landscape closer to the ridgeline. Therefore granting permission in this instance would contravene the County Development Plan objectives in this regard.

3. Description of the proposed development

The nature of this proposal is critical to the determination of this application. The planning application is for the proposed extension that will involve the extraction of sand, gravel and rock. The proposed westerly extension is for the extraction of sand and gravel and rock. The northerly extension is for the extraction of sand and gravel only. The application documents state that therefore blasting will only occur to the west.

The application area includes a proposed northern extension (approximately 21.2 ha in total with an internal extraction area of approximately 17.7ha) and a proposed western extension (approximately 10.2 ha in total with an internal extraction area of approximately 9.4 ha). The proposed extraction is to be undertaken in three phases although no timeline is provided for the phasing we note that the application indicates within the planning report and chapter 2 of the EIAR (section 2.3.2) that the permission is being sought for the extraction over 15 years with a further 3 years for the implementation of the restoration proposal. The failure to indicate this key aspect within the statutory notices must lead to the Board questioning the validity of the application as lodged.

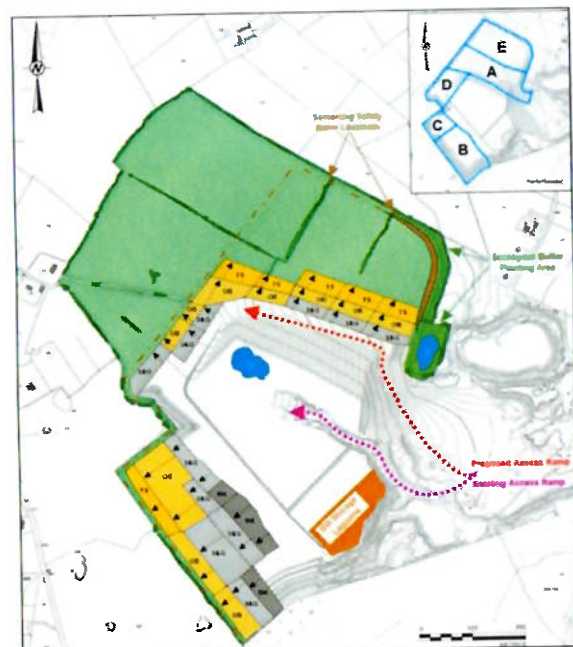
The applicant argues that the timeline of the application will allow time for stripping and storage of topsoil and overburden and the blending of material types depending on the extent of variation in the quality of the materials within the deposits at any given time. Given that the applicant has both failed to uphold conditions and even work within any permission in recent years, we would request the Board to question this. The application documents indicate that the phasing proposed is generic and governed by the rate and ease of extraction, value of the extracted material and market circumstances etc. Given the seemingly unknown extraction rates, we would question the ability reach conclusions in relation to the environmental impacts on the surrounding environment and amenity of the members of our client.

The extraction of sand and gravel will be undertaken to the north and west, and the application indicates that this will be done through the use of excavators, and that the washing and screening of sand and gravel will be done at the existing processing plant.

The extraction of rock will be undertaken to the west of the existing quarry and will involve excavation of rock by drilling, blasting, digging and rock breaking. Mobile crushing and screening of rock into stockpiles of specific fragments sizes will occur on the quarry floor. All extraction will require the loading of material onto trucks and it is stated that all trucks will pass through a wheelwash before entering the public road.



Phase 1 Operational plan



Phase 2 Operational plan



Phase 3 Operational plan



Restoration plan

We note that the applicant claims that the proposed finished floor level for each phase of extraction will not take place below a level of 1m above the highest seasonal water table on site as permitted under Planning Ref. 07/267. As this permission has now ceased to be operational, we would severely question whether this remains a correct approach in this instance. The applicant state that the finished floor levels are therefore dependent on groundwater levels and how the ground water may fluctuate both seasonally and due to changes over the lifetime of the quarry.

We note that the application is accompanied by a single drawing that indicates it as forming the restoration plan for the quarry. Very little additional information is provided beyond it being restored to a mixture of grassland, hedgerows, woodland and a waterbody. We submit that the restoration plan is at such a high level that it will hard to assess whether it has been implemented or not, irrespective of the other environmental impact concerns of our clients. The application states that all plant, equipment and temporary structures shall be decommissioned and removed from the Site.

4. Grounds of submission

The full grounds of our submission to the Board is based on a number of factors that relate to planning matters and the content and lack of comprehensiveness of the Environmental Impact Assessment Report (EIR); inadequacy of the Appropriate Assessment Screening Report (AA) as well as being contrary to a number of policies and objectives of the County Development Plan.

Refusal warranted on applicants past failures to comply

We respectfully submit that it is not in question that the quarry has been operating in an unauthorised manner for the last almost four years. Aside from the unauthorised quarrying the facilities within the quarry have also been operating in an unauthorised manner. During this time the local residents have had to complain to Members and the Executive of Kildare County Council and An Garda Síochána about a variety of breaches of non-compliance with planning permission, traffic violations, uncovered loads, blasting issues etc. These complaints have been made over a number of years and are still having to be made as the applicant continues to operate the quarry in an unauthorised manner without due regard to the amenity of local residents and the environment of the area. We note that the applicant was supposed to submit two bonds to Kildare County Council under the permission granted under Rf. 07/267 and failed to do so. There would appear to be no reason therefore why the applicant would now make any such bond payments, given past failures to provide, or any reason why the restoration plan would be adhered to.

The continued unauthorised works is reflected in the High Court Order Action that was taken by local residents against the applicants Hudson Brothers Ltd. following their failure to comply with their original permission, as well as a failure of Kildare County Council to enforce them to uphold the permission granted under Planning Ref. 07/267. This High Court Order ties the applicant into upholding the terms and conditions of the decision made under Planning Ref. 07/267. A copy of this High Court Order accompanies this submission at the rear of this planning submission (Appendix B).

The local residents have had to endure some 17 years of negative environmental impacts relating to a range of factors. We submit that it is completely unreasonable for a quarry operator, who is the applicant in this instance, to receive a grant of permission for this application, when they have shown a blatant disregard to the conditions of the 2007 permission and other regulatory requirements, and have been operating in an unauthorised manner for the last four years.

We respectfully submit that when all these factors are taken into consideration, the only reasonable conclusion that can be made is that the Board should refuse permission having regard to the applicants past failures to comply with the terms and conditions of the previous 2007 permission, as is provided for under Section 35 of the Planning and Development Act 2000 (as amended)

Piecemeal and incremental degradation of the rural landscape

We respectfully submit that the rural landscape of this part of the Eastern Uplands of Co. Kildare and west Co. Wicklow has been the subject of piecemeal and incremental degradation through the uncoordinated development of quarrying. The application that has been made to the Board seeks The proposed development proposes a significant extension of the degradation of the rural landscape surrounding the existing quarry that is located within Co. Kildare so that it extends in a south, west and northerly direction.

We refer the Board to the fact that despite the quarry restoration plan submitted by Golder Associates and approved under Planning Ref. 07/267, and its clearly inadequate nature that indicated a lack of planting and consideration of the environment in which it is located. This formed condition no. 6 of the grant of permission and was highly detailed in nature. The details requested under that condition have not been provided under this application.

Furthermore, no attempt has been made by the applicant, to incorporate within their new proposed restoration plan, a phased restoration plan of elements of the quarry that are either already redundant or will become redundant if permission were granted in this instance. This is despite the applicant committing to reinstate sections of quarries once they have been worked out to agricultural use, to plant native trees on side slopes of extracted areas and the creation of natural features and habitats from water bodies. We note that at the time of making this submission none of these commitments have been met.



Restoration plan proposed under Planning Ref. 07/267

The continued unauthorised works is reflected in the High Court Order Action that was taken by local residents against the applicants Hudson Brothers Ltd. following their failure to comply with their original permission, as well as a failure of Kildare County Council to enforce them to uphold the permission granted under Planning Ref. 07/267. This High Court Order ties the applicant into upholding the terms and conditions

of the decision made under Planning Ref. 07/267. A copy of this High Court Order accompanies this submission at the rear of this planning submission.

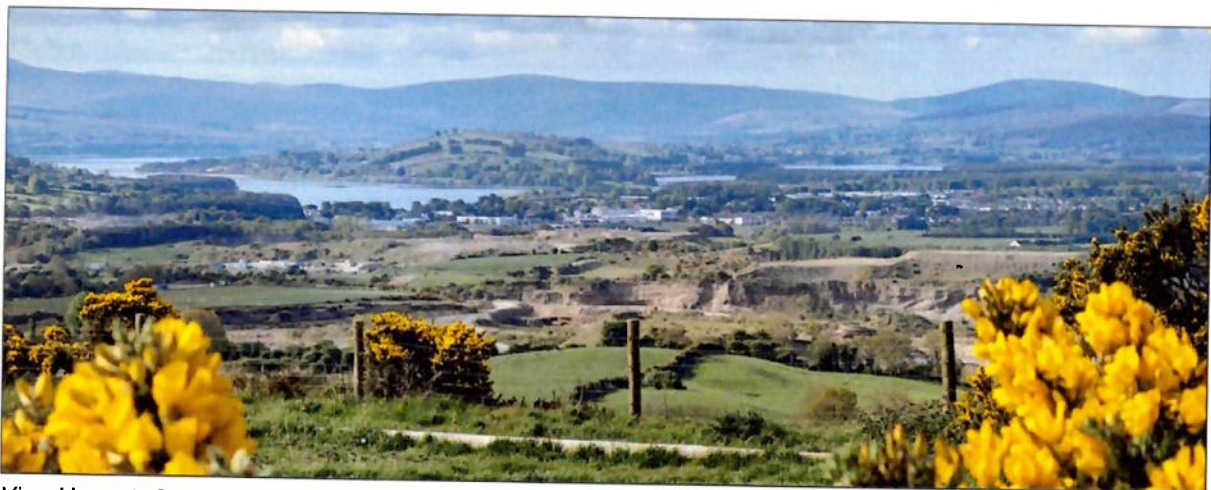
The failure of other quarries in the local area to have not implemented restoration plans, both in Co. Kildare and Co. Wicklow leaves a large stretch of this highly sensitive landscape to the immediate north of Blessington scarred and void of vegetation.

We respectfully submit that when the cumulative impact on the environment and landscape is considered in terms of this application, and other adjacent quarries, it is unequivocal that this high amenity landscape of high sensitivity has been irrevocably damaged. We respectfully submit that it is incumbent on the Board to consider the cumulative impact of these quarries and that both Kildare County Council and Wicklow County Council prepare a joint quarrying strategy for future quarry development that seeks to protect the most sensitive landscapes and reinstate the existing landscape damaged by past quarrying operations, including the wider aspects of this site.

The previous serious concerns of the County Council in relation to the above matter are well established; and under the 2007 application raised concerns relating to the cumulative impacts of all existing and future quarry operations on the natural and residential amenity of the area. Despite these previous serious concerns, the degree of assessment of the cumulative effect of the proposed development, even with the concurrent substitute consent application, which should be considered as the project to be assessed, is significantly deficient.

The conclusions made in relation to the inadequacy of assessment of the cumulative effect of the proposed development remain, and we submit that the EIAR submitted is significantly deficient in detail regarding the overall impact of the quarrying operations in the area, which include the proposed operations on site. We note that a review of the 2007 application indicates that the clarification of further information recommended, which included a comprehensive cumulative assessment, did not issue. The cumulative impacts of quarrying in the area (visual amenity, impacts on residential amenity etc) was never addressed, and remains not adequately addressed under the current application.

We respectfully submit that the cumulative visual impacts of quarrying operations in the area are clearly visible when considered from the surrounding landscape in views from the local and wider area (see below). The hinterland of Blessington has been systematically scarred from quarrying operations since the 1950's with no attempt to repair the damage caused through proper site management and landscape restoration. The applicant should not be granted a further permission to allow it to extend quarry operations and continue with the scarring of the landscape to the severe detriment of the visual amenity of the area, including from protected view-points such as from the viewpoint to the immediate north-east of the site (see below).



Visual impact of quarrying from Caureen, a protected Hill Top view-point

The remaining argument of the applicant is that the quarrying and its impact on the visual amenity and landscape is long established. No attempt to comprehensively assess in a cumulative manner the new and substitute consent application, or indeed other quarrying activities, has been made (see section 11.10 of the submitted EIAR).

Lack of previous and proposed quarry restoration and failure to comply with condition no. 6 of permission granted under Planning Ref. 07/267

The Board are requested to note that the Landscape and Restoration Plan permitted under planning application Ref: 07/267 provided for primarily restoration of the quarried area to agricultural pasture (see plan on page 6 of this submission). As previously noted condition no. 6 of the permission required a far more comprehensive restoration scheme to be designed, agreed and implemented on a phased basis. There is no evidence on file of this condition having been complied with in respect of a detailed restoration plan being prepared for agreement. The failure to provide this information within three months of the permission being granted, must lead the Board to conclude that irrespective of any other issues, the development is not in compliance with the 2007 permission. The argument made in the EIAR that this is because it was not viable between 2007 and 2023 is an irrelevance having regard to the requirements of condition no. 6 of the 2007 permission.

The quarry restoration plan under the current application, submitted on behalf of the applicant by Cunnane Stratton Reynolds (Drawing no. 23386-2) indicates a restoration proposal for when works will cease. It includes no proposal to commence phased restoration works of areas of the quarry once works have ceased in that area, and also proposes no visual mitigation around the perimeter of the site.

We note that the current application, rather than putting forward a phased restoration plan across parts of the quarry that are no longer proposed to be quarried, seeks to only implement the restoration works following the cessation of quarrying. We respectfully submit that restoration is required to be undertaken on an ongoing and phased basis, and not simply following the cessation of all quarrying works. This amounts to an ill-considered and incorrect approach to remedial works and restoration. There is a need for a much more detailed and phased approach to restoration, and we submit that the current proposal for restoration are inadequate, and by pushing all restoration to the end of the quarry life, will increase the potential for the failure to implement the scale of restoration of this high sensitive landscape that is required contrary to objective RDO50 of the County Development Plan.

Negative visual impact on the High Sensitive landscape

The quarry and its proposed expansion is located within the East Kildare Uplands that are designated as an "Area of High Amenity" under section 13.4 of the Kildare County Development Plan 2023-2029. They are classified as Areas of high Amenity because of their outstanding natural beauty and/or unique interest value and are generally sensitive to the impacts of development. The East Kildare Uplands form part of the Wicklow Mountain Complex. The Wicklow Mountain Uplands, 5km to the east, is a designated Area of Outstanding Natural Beauty.

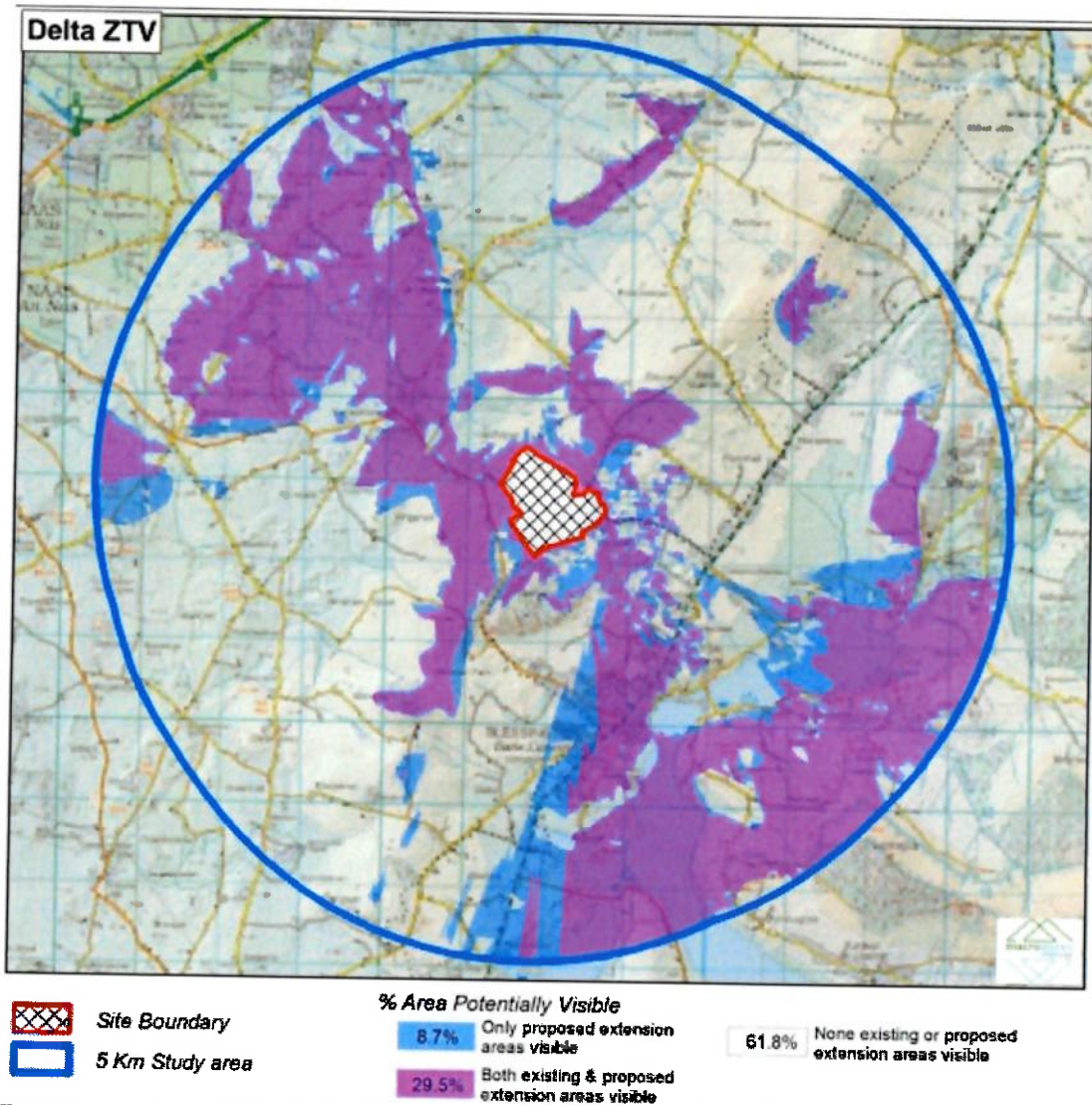
The East Kildare Uplands are rural in character with a number of scenic views from elevated vantage points. The general land use on the uplands is pasture, with some tillage, quarrying and forestry. In addition to more localised views of the application site and its surrounds within the East Kildare Uplands, which include views from localised public amenities/ facilities, there are a number of long-distance protected views and tourist routes within the East Kildare Uplands and elsewhere in the Wicklow Mountain Complex from which the site and surroundings are highly visible.

In support of the application the applicant has submitted a Landscape and Visual Impact Assessment (LVIA) that forms section 11.5 of the EIAR. We respectfully submit that the approach to this LVIA is fundamentally flawed in that it considers the impact from a baseline of the existing landscape and existing quarrying operations, as opposed to the original landscape. Furthermore, no regard has been had to the failure of the applicant or other quarry operators to reinstate worked out quarry areas as they go. We submit that if the correct approach had been taken in the EIAR then the assessment of visual impacts and effects would have been significantly greater than is presented.

Table 11.9 in the applicant's LVIA within the EIAR highlights the sensitivity of the view, the magnitude of change as well as the significance of the visibility of the existing and proposed quarry. The assessment is undertaken from 13 locations, some in close proximity, with others further afield that are indicated in Figure 11-18 of the EIAR. In making this submission, we have not had an opportunity to validate the view locations. However, what is indeed clearly notable, and which is vindicated in the applicants own assessment, is that the existing quarry and new works will be highly visible and from a wide range of locations. It is notable that no assessment of the impact on the designated protected view from Caureen to the immediate north-east of the site has been undertaken. This must lead the Board to question the robustness of the assessment in this instance.

The EIAR indicates that the applicants' consultants have undertaken a Zone of Theoretical Visibility that is indicated in Figure 11-20 of the EIAR. The assessment indicates that the existing quarry and extension (not including other quarry operations) will be visible from 38.2% of the 5km study area.

This model (duplicated on the following page) also identifies by way of blue shading where the new works in terms of the further extension of the quarry will only be visible; with the purple shading indicating where both the existing and proposed extension to the quarry will be visible in a bare ground scenario.



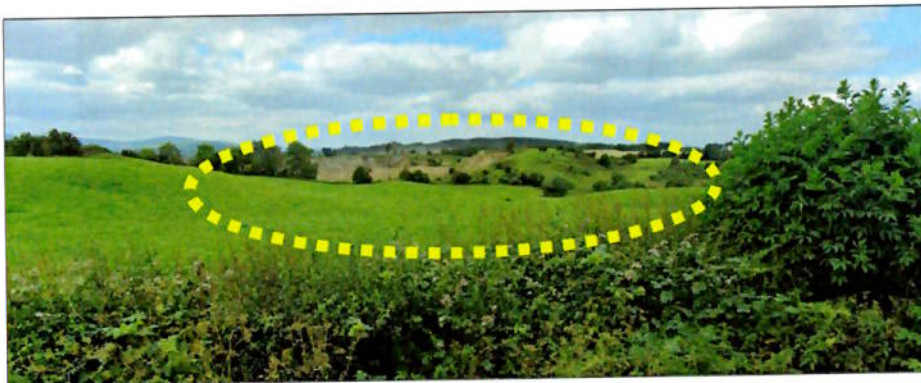
Excerpt from Figure 11-20 of the EIAR indicating comparative ZTV entailing the site application area, including the existing pit and proposed pit extension (Source EIAR submitted with application)

A review of the area indicates that the existing quarry and its future extension will be much more visible than indicated from the 13 views assessed. The rationale and justification of these view-points must be questioned by the Board. We note that for example, quarrying activity is visible from the Blessington ring road (see below)

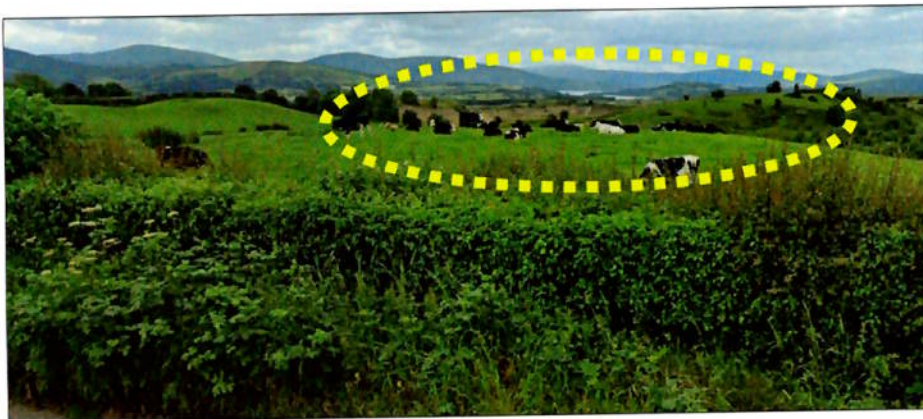


Blessington ring road where quarrying existing and proposed is visible.

We also note that the quarry is clearly visible from locations adjacent to Viewpoint 11 along the local road to the north of the site that is identified as a designated Scenic Route and close to a designated Hilltop View Point as identified in the County Development Plan.



Views from the designated scenic route and below a designated hilltop view point close to LVIA VP11 with quarrying clearly visible



Views from the designated scenic route and below a designated hilltop view point close to LVIA VP11 with quarrying clearly visible

We respectfully submit that the existing quarry is and will become further visible from this designated Scenic Route No. 12 and Hilltop View (Caureen) looking south and south west towards the application site. The rationale and justification for not including such a view is unclear, and it is incumbent on the Board to question therefore the robustness of the LVIA in this instance. It is also clear that the quarry in extending to the nearest field boundary along the R410 will remove existing ridge lines



Views from the designated scenic route and below a designated hilltop view point close to LVIA VP11 with quarrying clearly visible



Existing ridgeline to the east of the R410 to the west of the quarry that will be removed by the new western extension of the quarry

The proposed development will increase the visible scarring of the landscape from the R410 and these designated scenic locations in material contravention of the policies and objectives as well as section 13.5 of the County Development Plan that seek to protect designated Scenic Routes and Hilltop Views.

We respectfully submit that the LVIA does not accurately represent the potential visual impact of the existing and proposed development and fails to properly evaluate the visual impact from Designated View Points and Scenic Routes.

The proposed development is, therefore, in contravention of Development Plan Policy LR P3- which seeks to protect, sustain and enhance the established appearance and character of all important views and prospects. We submit that the development will have a disproportionate visual impact and will significantly interfere with, or detract from, scenic upland vistas when viewed from areas nearby, scenic routes, viewpoints and settlements. We submit that when all of these matters are considered it is incumbent on the Board to refuse permission having regard to the negative impact on this high sensitivity landscape that is identified as a high amenity area.

Negative impact on ecology and protected sites

As outlined earlier in this submission, the Red Bog Special Area of Conservation (SAC) is located only 240m north-east of the quarry. It is in line of the prevailing wind and will be impacted by dust that will be generated from the expansion of the quarry, as well as the internal quarry roads. The Poulaphuca Special Protection Area (SPA) is located 2.2km to the south and south-east. Both of these Natura 2000 sites are also pNHA.

The Natura Impact Statement submitted with the application appears not to pay particular attention to dust migration from the site and the potential impact on the conservation status of the SAC and SPA. Red Bog, Kildare is a site of particular conservation significance, supporting a good example of transition mire, a habitat that is listed on Annex I of the E.U. Habitats Directive. The Red Bog SAC comprises a wetland complex of lake, fen and bog situated in a hollow between ridges of glacially-deposited material and underlain by rocks of Ordovician age. The SAC is of ornithological, ecological and botanical interest and

value. Breeding birds recorded from the site include Mute Swan, Mallard, Tufted Duck, Coot, Moorhen, Snipe and Black-headed Gull (estimated < 20 pairs).

The original designation of the bog was informed by a 1972 survey by Roger Goodwillie for Aras an Forbatha, which remains as informing the status of the SAC. This found the following:

“Evaluation - This is a most interesting eutrophic lake, rich in invertebrate and plant food. The vegetation cover is unusual and the peat development that has occurred makes the area of great ecological value. It might be described as a dry valley - bog but has more definite associations with raised bog, here at its extreme limits of climatic tolerance. The lake is important for breeding aquatic birds.

Vulnerability - Drainage would be most damaging to the present vegetation, but increased pollution might also upset the lake ecology.¹ The breeding bird population would be susceptible to disturbance.

Recommendations - A lowering of the water table in this area should be prevented. In view of the surrounding land being well-drained it is unlikely that this will be suggested. If disturbance is found to be an adverse influence, steps should be taken to lessen it. This lake would be most suitably protected by a Conservation Order under Section 46, Local Government (Planning and Development) Act 1963. Ecologically, it is the most valuable lake in Co. Kildare².

We note that the NIS identifies that there is potential groundwater connectivity between the SAC and the proposed development site. The NIS also identifies that there is potential dust connectivity between the proposed development and this SAC. Please refer to the TMS Environmental Ltd. report for greater clarity. This concludes in summary as follows:

- (i) *The project boundary used for the study arbitrarily chooses a boundary of 500m with no justification for the selection; this distance excludes several local users likely to be affected by the proposed development;*
- (ii) *Local wells within 150m of the site were considered for inclusion in the assessment but this does not include all of the well users potentially affected by the proposed development and no rationale was provided for this selection;*
- (iii) *The site water usage estimate is unreliable and underestimates the significance of the water usage and fails to acknowledge the use of groundwater at the site.*
- (iv) *Although an enormously significant extension is proposed, and with very limited existing groundwater monitoring wells at the site, including three damaged wells which could not be utilised, there are only two new boreholes reported and neither adequately assesses the potential impacts of the proposed development; the paucity of information likely explains the flawed understanding of hydrogeology at the site which could easily have been improved with further study;*
- (v) *The hydrogeological model is flawed and incorrectly interprets data from investigations. An alternative conceptual model has determined that it is probable that the quarry is working below the water table, and probably has been for many years.*
- (vi) *There was no consideration afforded to groundwater contributions to the Redbog SAC and no evidence justifying the omissions.*
- (vii) *Water resources of local residents are at risk from the development and the subject has not been competently and fully assessed in the rEIAR. (EIAR under this new works application)*

We respectfully submit that our clients are significantly concerned in relation to the impact the proposed development will have on the SAC and its conservation status. Finally on this issue, while it is accepted there is unlikely to be any direct impacts from the proposed quarrying on the Poulaphuca Reservoir to the south and west of the site, dust migration must be impacting on the wildlife pond immediately to the west of large silt pond at the western end of the quarry. This pond is of ornithological value and supports species connected to Poulaphuca (SPA and pNHA) to the south. We submit that therefore permission is refused until certainty of the impact of the proposed development both individually, and cumulatively with other quarrying activities is assessed. The use of entirely arbitrary 500m distance for cumulative effects is inadequate and must lead to a refusal of permission on the basis of the precautionary principle, in that the Board have an inadequate level of information to assess the impact on the Natura 2000 sites.

¹ My emphasis

² A Preliminary Report on Areas of Scientific Interest In County Kildare; Roger Goodwillie, Research Assistant for An Foras Forbatha, 1972 (Appendix 3)

Potential lack of facilities to serve the proposed development

We note that retention permission was granted under Planning Ref. 19/1230 on the 4th June 2020, for retaining the truck and plant maintenance shed with staff welfare facilities and associated proprietary wastewater treatment system serving the quarry.

Condition no. 3 of this permission will only permit the shed to be used for the maintenance of HGV's and plant associated with the operation of the quarry permitted under Planning Ref: 07/267. This permission has expired. The wording of this condition would suggest that the use of the sheds to be used for the maintenance of HGV's and plant associated with the operation of the extended quarry will therefore not be permitted.

This situation reinforces the point that the truck and plant maintenance shed with staff welfare facilities and associated proprietary wastewater treatment system should have formed part of the current application.

Negative impact on local residential amenity

The various member of the local group that we represent are impacted to a different degree dependent on their location to the west, or to the north-east of the overall site in relation to traffic, noise, vibration and dust. Any individual submission will highlight the nature and degree of impacts each household suffers from quarry operations and will continue to suffer if further permission is granted.

Roads and traffic

The unsurfaced nature of the internal quarry roads means there is a continual problem of dust circulating in the atmosphere and migrating to nearby residential properties, other properties and lands. We respectfully submit that it is not in question that our client's particularly to the north-east suffer from a significant degree of dust being generated by the quarry, due to their position downwind of the prevailing wind. Dust is a major environmental problem arising from the applicant's quarry and neighbouring quarries which is not regulated or controlled. We refer the Board to the fact that the Red Bog SAC is located in this area, and is likely to be impacted by dust generation from the site including internal quarry roads.

The main official access road into and out of the quarries onto the N81 is narrow, dangerous and, again, dust is a major and ongoing nuisance. There is no pedestrian facilities along this main access road, and there is insufficient space for pedestrians/ workers when two vehicles pass along this road, resulting a traffic hazard. The road also suffers from dust, fumes and noise disturbance on local amenity. Dust plumes around vehicles along the entire length of the road and out onto the public road is a continuous problem.



Main quarry access off N81; and entrance to access road from the N81

At the junction of the main access with the N81 the road is continually coated with a film of dust in dry weather. This is a traffic hazard and detracts from the amenity of the area.

Inadequacy of local road network

Kilbride Road is a single-carriage road, mainly without footpaths, serving around 12 houses. It is located 400m to the north-east of the official quarry entrance and is used on a regular basis by lorries from all three existing quarry operations. The use of the road by quarry traffic is a major traffic hazard. Due to the narrow width of the carriageway over most of its length, residents have to reverse back to the limited number of wider sections of the road or house entrances to give way to quarry lorries and regularly lorries have to give way to oncoming lorries, thereby, blocking the road for residents. It is most uncommon for residents to be seen walking or cycling on the road as there are no safe havens for them from passing quarry traffic.



Kilbride Road close to N81 junction



Quarry traffic using inadequate lane

The condition of the road is extremely poor in terms of surface condition due to wear and pollution from quarry dust and muck and the road edge is worn in places making it dangerous. Speed bumps have been incorporated over its length but these are ineffective in slowing quarry traffic. The speed bumps in fact introduce an additional noise nuisance for local residents when empty quarry lorries drive over them at speed.

While Kilbride Road may be a historic route used by quarry traffic, a condition could be attached to this permission, irrespective of other issues raised that prohibit any quarry traffic associated with the proposed development in using the lane.



One quarry HGV exiting Kilbride Road, another about to enter the quarry – note dust generation

Existing quarry traffic existing at either of the two entrance points referred to above either turn left towards Dublin or right into Blessington. While the road towards Dublin is wide, there is no public footpath along most of its length. This road currently operates beyond its capacity and is expected to operate at further overcapacity if permission is granted.

There are a series of bus stops along this stretch of road. Those wishing to avail of the bus service and wait at bus stops along the route must share the same carriageway as regular and quarry traffic and where there are no pedestrian facilities. With slow moving traffic exiting the quarry entrance roads, overtaking on the nearside carriageway occurs and this is evident from the worn carriageway edges where pedestrians are required to walk to reach bus stops.

There is conflict between quarry traffic and pedestrians and cyclists along this stretch of road which is extremely dangerous due to the presence and volume of quarry traffic.



N81 bus stops

Quarry traffic exiting the quarry entrance to the right travels to Blessington passing a mix of commercial, public (including schools) and residential developments within the town's built up area. Right turning quarry traffic onto the R410 can avoid the town centre before re-entering the N81 southwards or continue on the R410 north westwards towards Naas and the M7. The majority of traffic exiting the quarry southbound continues along the R410. This traffic passes the homes of many of the members of the Group living to the west and north-west of the proposed development.

The traffic studies and EIAR do not adequately consider the impact of the continuation and expansion of quarry operations on the road network beyond the N81 in the vicinity of the site entrance (350m in either direction from the main entrance). There is also no apparent regard to the significant volumes of quarry traffic generated by the other quarries in the area which use this route. Therefore, there is no cumulative effect

The R410 to the south west, west and north west of the quarry is narrow, poorly aligned in places and worn at the edges over much of its length due primarily to the quarry traffic using the road in both directions. There are numerous residential entrances onto this stretch of road. The residents residing along the R410 that are represented in the Group object to the proposed development on traffic grounds due to the traffic hazard quarry lorries have at their entrances and along its length. The proposed development will result in an unacceptable continuation for a prolonged period of this traffic.

Residents do not walk or cycle this road mainly due to the danger caused by the width, alignment and condition of the road and the presence of quarry vehicles. Cyclists and pedestrians less familiar with the road and those with no option other than to walk or cycle on the road are at risk from traffic on the road, in particular quarry traffic. Cyclists are also at risk where the road carriageway edge is worn and lorry wheels have compacted the margin creating dangerous trenches.

Dust

Dust issues arise from the quarrying operations, the processing of quarried material and the transportation of quarried material off site. The local residents living to the east and north-east of the existing quarry have most significantly been impacted by dust arising from quarrying operations and processing.

It is noted in the section of the EIAR dealing with dust, that the two sampling locations (D1K and D2K) closest to the properties to the east (Red Bog) were discounted due to the locations being deemed to be poor locations. These were relocated to the west of the site. The findings of a third sampling location (DK4), also towards the east of the quarry, was not included in some 2019 returns as the sampling jar went missing.

We submit that the samples have shown that the dust levels arising from quarry operations and processing on site are excessive and causing significant health and safety issues for residents in the vicinity of the site. This must be partly due to the applicant's failure to restore areas that have already been quarried out, as required by the terms and conditions of previous permission. With no apparent plans for immediate restoration of areas already quarried and further quarrying operations proposed to the west and north, it can be expected all residents surrounding the quarry will have to endure the dust health and safety and amenity issues that residents living in the Red Bog area have had to endure for the last number of years.

While dust from the movement of HGVs within the site is identified by the applicant as a major contributor to dust levels, dust levels arising from the transportation of quarried material is only assessed within 350m of the existing main entrance road onto the N81.

No evaluation of dust nuisance has been undertaken beyond 350m from main entrance onto the N81. This appears to reflect the expectation that all vehicles existing the quarry undergo wheel washing and that loads in quarry are covered.

It is not the experience of members of the Group that all loads are covered. They regularly witness significant levels of dust being blown from laden quarry truck wagons travelling along the public roads in the area.

There have been a number of complaints lodged with Kildare County Council concerning laden quarry trucks travelling along the public roads with uncovered loads, yet the practice continues.

Amongst the proposed mitigation measures outlined in the current application is for loads to continue to be covered. However, as covering all loads leaving the quarry was a requirement of Planning Ref: 07/267 which was continually breached, there is no reason to believe practices will change if permission is granted on this occasion.

Noise and vibration

Noise nuisance primarily arises from blasting, quarrying (drilling, digging, rock breaking etc and extraction) and processing (screening and crushing etc). Blasting and some methods of extraction create the additional nuisance of vibration. Due to the local topography, to date most of the noise nuisance has been experienced by members of the Group living in the Red Bog area.

Conditions 14 and 33 of Planning Ref: 07/267 deal with limitations on hours of operation and noise levels respectively. In terms of noise levels, it is apparent no noise monitoring was undertaken at noise sensitive locations during the lifetime of quarrying under this planning permission to demonstrate whether or not limits were being adhered to or breached. In support of the current application a series of modelling scenarios have been set up and tested to establish quarrying practices which can demonstrate compliance with the limits at the nearest noise sensitive locations. The existing quarry is an operational quarry undertaking quarrying operations and processing on a daily basis and also blasting on a regular basis. It is clear from a review of all the detailed noise monitoring results that the day time limit in terms of noise was exceeded at each location on a regular basis (see Appendix 9B of the EIAR)

A list of noise mitigation measures is proposed for the quarry "extension areas". This includes the creation of 6m high berms along the boundary. No consideration of the impact of these berms, how they will be treated or planted is provided within the application.

Furthermore, we submit that given the lack of noise control over the last 17 years, and last four of which has been undertaken in an unauthorised manner, our clients do not have any confidence that any noise mitigation will be adhered to. Noise and vibration nuisance from regular blasting has been a source of complaint to Kildare County Council throughout the life of the quarry since 2007, including complaints of property damage to homes. The extension of the quarry will bring rock blasting even closer to the 15 identified noise and vibration sensitive residences to the west of the quarry where rock is to be quarried. No further rock quarrying on the site should be permitted. There is, irrespective of the concerns raised in this submission, a need for the applicant to undertake a structural survey of the 15 most noise and vibration sensitive properties, prior to the commencement of development under this permission.

Given previous blasting from the quarry has caused damage to property in the vicinity of where monitoring was undertaken between 2018 and 2020, it is inevitable that damage from blasting up to 250m closer will cause further and greater damage.

Potential impact on the Dublin to Cork gas transmission pipeline

The Dublin to Cork gas transmission pipeline bisects the proposed northern extension of the quarry where sand and gravel quarrying is proposed and is within 200m of the proposed western extension of the quarry where blasting is proposed.

Gas Network Ireland prohibits any blasting within 400m of the pipeline without GNI consultation and without the carrying out of a prior assessment of the vibration levels at the pipeline. We note that quarrying requiring blasting is proposed around 150m from the pipeline.

Blasting and quarrying in such close proximity to a major gas transmission pipeline and housing is a major concern for residents of these houses and the proposals in this regard are causing considerable anxiety and stress to the point of potentially being a significant health issue. Indeed we note that the EIAR states that an improperly managed blast has the potential to damage the gas transmission line (section 9.5.2.3). We submit that given the grave concerns in relation to the potential impact on the gas pipeline, we request the Board to refuse permission in this instance.

Inadequacy of Assessments

We respectfully would severely question the correctness and robustness of the Appropriate Assessment given the sites proximity to protected Natura 2000 sites. There is clearly a hydrological and dust link between the quarry and its extension and the Red Bog SAC. This link may also apply to other aspects of the proposed development. This is further clarified within the TMS Environment Ltd. report that forms a separate report that accompanies this submission.

We respectfully would therefore also severely question the correctness and adequacy of the Environmental Impact Assessment Report in this instance. The proposed development has failed to have adequate regard to EIA Directives (2011/92/EU and 2014/52/EU), European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (the bulk of which came into operation in September 2018), the European Communities (Environmental Impact Assessment) Regulations 1989-2006, Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001-2023. The cumulative impact of the proposal has not, in our considered opinion, been adequately assessed.

5. Conclusions

We respectfully submit that the grounds for refusing this application are clear and unambiguous. We respectfully submit that the applicant has failed to accurately or adequately assess the impact of the proposal, on the conservation objectives and status of the Red Bog SAC and the Council's policies set out under the Kildare County Development Plan 2023-2029 in relation to development within High Amenity Areas.

It is incumbent upon the applicant to prove no link or potential negative impact on these conservation objectives. Irrespective of all the other arguments made under this submission it is this and the applicant's failure to prove this, that is critical and requires this application to be refused in this instance.

This application is made concurrently with an application for substitute consent made by the same applicant under An Bord Pleanála Ref. QD09.319217. We respectfully submit that this current application for new works must be considered as being premature pending the decision on the substitute consent application. In simplistic terms, if the Board deem it appropriate to refuse permission for the substitute consent application, which we are of the considered opinion that it should, then it is also duty bound to refuse permission for the new works application as it would be resulting in the intensification of an unauthorised development.

We submit that the application is ill-considered and poorly conceived in terms of its negative impact on this sensitive environment and the Red Bog SAC; negative impact on the visual and residential amenity to local residents; and is in clear contravention of the Council planning policies as set out under the Kildare County Development Plan 2023-2029.

We therefore request the Board to refuse permission in the context of good planning practice, and the proper planning and sustainable development of the area including the preservation and improvement of amenities thereof.

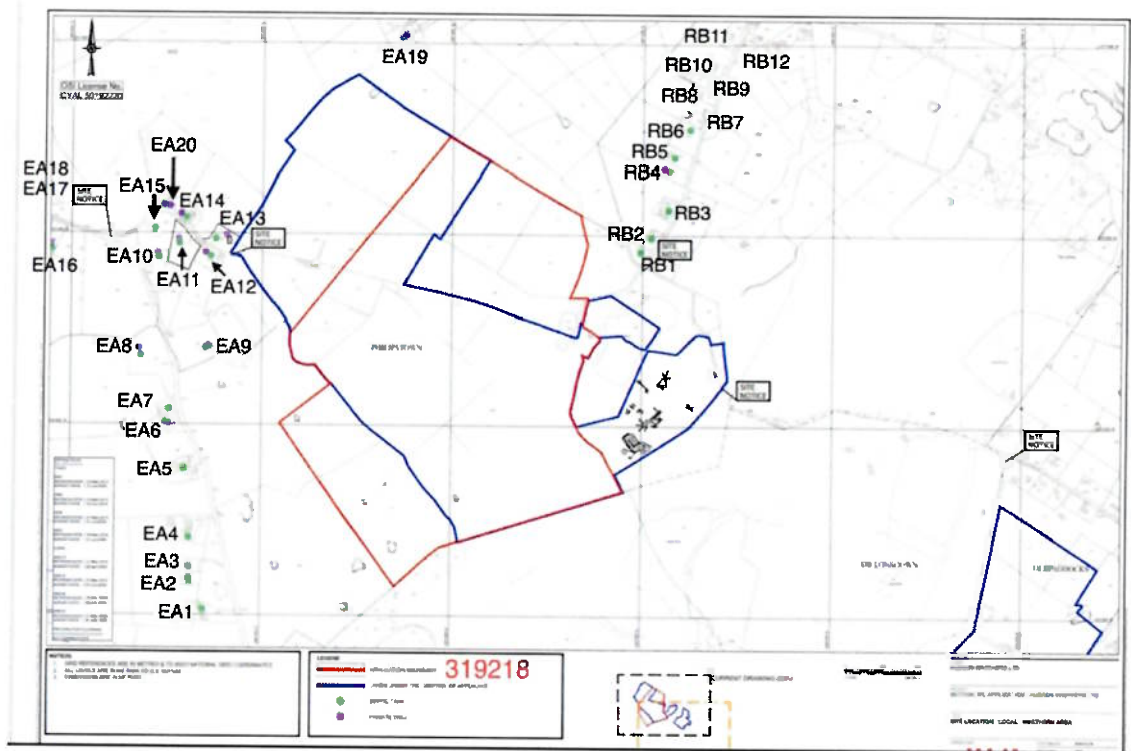
We trust that the Board will give due consideration to the grounds set out in this submission and will notify us of its decision in due course.

Yours faithfully,

A handwritten signature in cursive script that reads "Anthony Marston".

Anthony Marston (MIPI, MRTPI)
Marston Planning Consultancy

Appendix A




Refers to map entitled Hudson's application number 319218 Site location northern area

House no.	Name	eircode	Address				
EA1	Creag Aran Special School	W91 X795	Glen House	Athgarrett	Eadestown	Naas	Co. Kildare
EA2	Adrian Curran	W91 YP9A		Athgarrett	Eadestown	Naas	Co. Kildare
EA3	Lorraine and Pat McNamara	W91 E8CC	Glenfort House	Athgarrett	Eadestown	Naas	Co. Kildare
EA4	Ann McNamara	W91 Y367		Athgarrett	Eadestown	Naas	Co. Kildare
EA5	Tommy Shannon	W91 P281		Athgarrett	Eadestown	Naas	Co. Kildare
EA6	Declan and Sara Goode	W91 KC9E		Athgarrett	Eadestown	Naas	Co. Kildare
EA7	Patricia O'Connor	W91 FX39		Athgarrett	Eadestown	Naas	Co. Kildare
EA8	Paul and Phil Dowling	W91 C56C		Athgarrett	Eadestown	Naas	Co. Kildare
EA9	Shaymus Kennedy	W91 Y8XK	Wolfestown House	Wolfestown	Eadestown	Naas	Co. Kildare
EA10	Linda and David Magee	W91 ACW9	Epona Lodge	Wolfestown	Eadestown	Naas	Co. Kildare
EA11	Paul Magee	W91 V0YD		Wolfestown	Eadestown	Naas	Co. Kildare
EA12	Paul Woods	W91 EH48		Wolfestown	Eadestown	Naas	Co. Kildare
EA13	Maura Morrin	W91 WGR3		Wolfestown	Eadestown	Naas	Co. Kildare
EA14	Rita Morrin	W91 XT91		Wolfestown	Eadestown	Naas	Co. Kildare
EA15	John Dunne Jr	W91 W3VH		Wolfestown	Eadestown	Naas	Co. Kildare
EA16	William Hayden	W91 HW42		Poppyhill	Eadestown	Naas	Co. Kildare
EA17	Downys	W91 YTD4			Eadestown	Naas	Co. Kildare
EA18	Susan and John Dunne	W91 KNR2			Eadestown	Naas	Co. Kildare
EA19	Slattery's	W91 PD81		Wolfestown	Rathmore	Naas	Co. Kildare
EA20	Agricultural shed						
RB1	Michael Vines	W91 YHP7		Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB2	Larry Kelly	W91 E7D4		Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB3	Caroline Kelly	W91 FP5H		Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB4	Gavin O'Donohoe	W91 KWY2	Hilgate	Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB5	Fran Cummins	W91 KD83		Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB6	Emma Sargent McLoughlin	W91 DW6D		Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB7	Derelict house						
RB8	Mary Sargent	W91 XF34		Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB9	Liz Lawlor	W91 XND3		Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB10	Paddy Sargent	W91 WFC4		Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB11	Mrs. Gillis	W91 Y97X	Sunset Lodge	Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	
RB12	John and Tina Kelly			Redbog	Blessington	Co. Kildare (but postal address is Co. Wicklow)	

Note: house numbers are only for reference to the attached map. They have no other significance.
 Note: Name and address details may be wrong.

Appendix B – High Court Judgement

Present when the Common Seal of
Hudson Brothers Limited was affixed hereto


Director

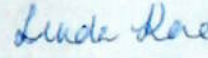

Director/Secretary



Director

Signed by Linda Kane

In the presence of

Sign here ---



LINDA KANE


WOLFESTOWN
MARS
CO KILMAREE

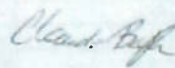
Signed by Francis Cummins

In the presence of

Sign here ---


FRANCIS CUMMINS

CLAUSIA BOYLE,
16 DUNMORE PLACE
LUSK
CO DUBLIN
ACCOUNTS ASSISTANT
OFFICE MANAGER.



THE HIGH COURT
RECORD NO. 2021/78 MCA
IN THE MATTER OF S.160 OF THE PLANNING AND DEVELOPMENT ACT 2000
(AS AMENDED) AND IN THE MATTER OF AN APPLICATION

BETWEEN

LINDA KANE AND FRANCIS CUMMINS

Applicants

AND

HUDSON BROTHERS LIMITED

Respondent

HEADS OF AGREEMENT

- A. The above-entitled proceedings shall be adjourned generally with liberty to re-enter with the intention that the proceedings be re-entered on completion of the substitute consent process and any consequential application for planning permission or prior to the completion of such process if required for enforcement of the following terms.
- B. The Parties shall consent to an Order that the Respondent comply with the following measures/conditions pending the final determination of the proceedings:

DEFINITIONS;

"2010 Permission" shall mean the reference the planning permission with register reference 07/267, County Kildare;

"Quarry Site" shall mean the lands contained within the boundary of the planning permission with register reference 07/267, County Kildare;

"Quarry Operations" shall mean the operations of the Respondent at the Quarry Site;

"The Parties" shall mean the Applicants and the Respondent;

"Substitute Consent Process" shall mean the current application for leave to seek substituted consent, any application for substituted consent or any similar subsequent applications

1. Any further extraction of material within the Quarry Site within the duration of this Agreement shall be limited to the levels of the 2010 permission and shall be contained within the area edged green on Plan 1 attached hereto and shall not be extracted by means of blasting; whether by explosives, gas pressure blasting pyrotechnics or any other form of blasting. There shall be no extraction of material carried out below a level one metre above the existing water table.
2. Within two months, a digital survey of the agreed extraction area shall be carried out by the Respondent's land surveyor and the survey furnished to the Applicants and the Applicant's solicitor after which the Applicants can have it assessed by their own independent and qualified land surveyor to demonstrate all levels and current quarry faces and gradients. The cost of the survey will be borne by the Respondent.
3. Blasting, whether by explosives, gas pressure blasting pyrotechnics or any other form of blasting, will not be carried out under any circumstances.
4. Operational access to and from the quarry site by the Respondent shall only be from the existing main quarry access road off the N81. No quarry access shall be permitted along the cul de sac 380 meters to the northeast of the main quarry road entrance save for the personal usage by members of the Hudson family.
5. The operation of the quarry shall be restricted to the Respondent and no quarrying activities shall be leased, sub-let or contracted out to any other business or company of the Applicants, save for such contracts or agreements in place as of the 3rd of May, 2022. This is strictly on the proviso that commercial relations continue with the sub-contractors in place as of the 3rd May 2022 ("the Existing Sub-Contractors"). If for any reasons commercial relations with the Existing Sub-Contractors break down, the Respondent shall be entitled to appoint a new sub-contractor in place of the Existing Sub-contractors in order to continue with its commercial activity. The Respondent shall notify the Applicants of any changes to the Existing Sub-Contractors. The Respondent acknowledges and accepts that the purpose of this clause is to ensure that there is no intensification of use during the currency of this Agreement.
6. Hours of operation at the quarry shall be restricted on the basis indicated at Condition 14 of the grant of planning permission (planning ref. no. 07/267).
7.
 - (a) No extraction of material shall be carried out below a level one metre above the existing water table.
 - (b) Within 1 month hereof, full details of a groundwater monitoring programme shall be presented to the Applicants. The programme shall ensure that the existing groundwater sources serving residents and farms in the vicinity of the site are unaffected by the quarrying operations, and the Respondent shall comply with the provisions thereof.

- (c) The ground watering programme will include for monitoring of surface water and groundwater in the vicinity of the site and include information on groundwater levels AOD, water quality, monitoring locations, sampling procedures, frequency of sampling, and a suite of water quality parameters to be tested.
- (d) Monitoring shall commence immediately.
- (e) Where any water source within the affected area is compromised by the quarry operations, the Respondent shall take whatever measures are necessary to rectify or replace the compromised water supply within 1 week.
- (f) The Respondent shall provide the consultant retained by the Applicants with the results of the monitoring (quality and levels) of all wells and boreholes within a 500m radius of the Quarry Site on a quarterly basis starting from the date of the groundwater monitoring Agreement.
- (g) The Respondent will be responsible for all costs associated with compliance hereof.
8. All loads of excavated and processed material transported to and from the Quarry Site by the Respondent's vehicles shall be covered to prevent dust pollution, and every vehicle carrying fine material shall be covered in accordance with the EIS submitted as part of the 2010 permission application.
9. (a) Within 2 months hereof, the Respondent shall furnish the Applicants with a report from the Respondent's environmental consultants assessing dust emissions from all quarrying activities, and including a dust monitoring programme with agreed dust monitoring stations to include along the boundaries of the site, the nearest dwelling houses and the Red Bog SAC. Dust deposition shall not exceed a limit of 350mg/m²-day, as averaged over 28 days, when measured using Bergerhoff dust deposition gauges in accordance with VDI Method 2119.
- (b) Dust monitoring reports based on sampling shall be submitted quarterly to the Applicants.
- (c) If dust emissions from the Quarry Operations exceed the limits, the Respondent shall put in place such measures as required to remedy such exceedance.
- (d) The Respondent shall be responsible for all costs associated with the foregoing.
10. (a) Within 2 months hereof, the Respondent shall furnish the consultant retained by the Applicants with a report from the Respondent's environmental consultants assessing noise emissions from the Quarry Operations. The report will include a noise monitoring programme specifying the location of the noise monitoring points to include points

within the vicinity of the nearest dwellinghouses to the site and any other noise-sensitive location.

(b) The report will provide that noise levels attributable to all on-site operations associated with the proposed development shall not exceed 55 dB(A) (Leq) over a continuous one hour period while the quarry is operational during the permitted hours of operation as set out in Clause 6 of this Agreement, when measured outside any of the noise-sensitive monitoring points.

(c) A noise monitoring report based on survey findings will be submitted to the Applicants within two weeks of the date hereof, and thereafter such noise monitoring reports shall be furnished to the Applicants on a two monthly basis (i.e. once every two months).

(d) If noise levels are found to exceed 55 dB(A) (Leq), the Respondent shall put in place such measures as required to prevent such exceedance.

(e) The Respondent shall be responsible for all costs associated herewith.

11. Within 1 month hereof, the Respondent will provide the Applicants with an inventory of all existing plant, machinery and buildings required for the operation of The Quarry at the date of the signing of this agreement and a map showing the location of each. Save for replacement plant, machinery and equipment, no further plant, machinery and equipment shall be brought into the quarry site and no further buildings will be erected to ensure there is no intensification. For reference, the latest inventory of existing plant, machinery and buildings within the processing area of the quarry, as listed in the current application for Leave for Substitute Consent ref: ABP LS09. 311622, is as follows:

- Canteen and welfare facilities;
- Power House
- Control Rooms (2 no)
- Maintenance shed (with storage for oils) and welfare facilities;
- Aggregate processing plant (with recycling facilities);
- Water recycling plant; and
- Fuel Tanks.

12. The Respondent shall ensure that a stock and trespass resistant fence is in place around the full perimeter of the quarry Site within 3 months hereof with appropriate interim safety and security measures put in place by the Respondent to prevent unauthorised access to the quarry.

13. The Respondent shall bear the reasonable costs of the Applicants towards their employing competent environmental consultants as provided for at conditions 7, 9 & 10 hereof to include the initial inspection of the site and

the review of the monitoring data by that consultant. The consultant shall further be entitled to inspect on notification to the Respondent.

14. The Respondent shall comply with the terms of the following conditions of planning permission 07/267 with immediate effect:

Condition 7 (wheel cleaning);
Condition 8 (disused plant, machinery and scrap)
Condition 13 (light spillage and pollution outside the site).
Condition 17 (maintaining roads in the vicinity of the site)
Condition 18 (safe site access arrangements from the public road)
Condition 19 (prohibition on landfill)
Condition 24 (management of contaminated surface water)
Condition 29 (surface water interceptors)
Condition 30 (oil, grease etc interceptors)
Condition 31 (bundling)
Condition 34 (Waste management)
Condition 40 (record of traffic movements)
Condition 44 (surface water)
Condition 46 (haul routes)

- C. The Respondent hereby contracts with the Applicants to secure the performance of the matters set out at B above until the proposed Order is discharged and to bind its successors and assigns to that contract.
- D. The Respondent shall discharge the costs of the Applicants in the above entitled proceedings to date measured in the amount of €100,000.00 plus VAT within two weeks hereof.
- E. The Respondent confirms that the provisions of the Environmental (Miscellaneous Provisions) Act 2011 applies to these proceedings.

D. H.
November
Dated this day of ~~September~~, 2022.



environment ltd

*Specialists in laboratory analysis,
monitoring and
environmental consultancy*

TMS Environment Ltd
53 Broomhill Drive
Tallaght
Dublin 24

Phone: +353-1-4626710
Fax: +353-1-4626714
Web: www.tmsenv.ie

**THIRD PARTY SUBMISSION BY LOCAL RESIDENTS IN RELATION TO
APPLICATIONS BY HUDSON BROTHERS LTD FOR QUARRYING AND
AGGREGATE EXTRACTION AT REDBOG AND PHILIPSTOWN CO KILDARE**

AN BORD PLEANALA REF QD09.319217

APPLICATION FOR SUBSTITUTE CONSENT 29/02/2024

AN BORD PLEANALA REF QD09.319218

APPLICATION FOR SIGNIFICANT EXPANSION TO 64 HECTARES 29/02/2024

Report Ref. 32056-3

Issued: 23rd April 2024

Approved By:

Imelda Shanahan

Dr Imelda Shanahan

Technical Manager

Table of Contents

1.0	INTRODUCTION AND SCOPE	3
2.0	THE PROPOSED DEVELOPMENT	3
3.0	RESIDENT GROUP EXPERIENCES OF EXISTING DEVELOPMENTS	4
4.0	DEFICIENCIES IN THE ENVIRONMENTAL AND ECOLOGICAL ASSESSMENTS FOR THE SUBSTITUTE CONSENT APPLICATION	8
4.1	Hydrology and hydrogeology assessments	8
4.1.1	<i>Period of review for assessing impacts</i>	8
4.1.2	<i>Boundary for assessing impacts</i>	8
4.1.3	<i>Site water requirements and management</i>	9
4.1.4	<i>Water levels at Redbog SAC</i>	11
4.1.5	<i>Groundwater elevations investigations</i>	12
4.1.6	<i>Summary deficiencies in water assessments for Substitute Consent Application</i> 14	
4.2	Appropriate Assessment Screening	15
5.0	DEFICIENCIES IN THE ENVIRONMENTAL AND ECOLOGICAL ASSESSMENTS FOR THE SECTION 37L APPLICATION	18
5.1	Hydrology and hydrogeology assessments	18
5.1.1	<i>Boundary for assessing impacts</i>	18
5.1.2	<i>Site water requirements and management</i>	18
5.1.4	<i>Groundwater elevations investigations</i>	20
5.1.5	<i>Summary deficiencies in water assessments for Substitute Consent Application</i> 23	
5.2	AA Screening and Natura Impact Statement	23
5.3	Impact of proposed development on residential amenity	26
5.3.1	Residents concerns and lack of confidence in Hudson Brothers Ltd.....	26
5.3.2	<i>Deficiencies in and concerns about the Air Quality assessment</i>	27
5.3.3	<i>Deficiencies in and concerns about the Noise and Vibration impact assessment</i> 28	

Appendix I Request to Hudson Brothers Ltd for Information

Appendix II Report on Hudson Brothers Ltd response to Request for Information

Appendix III Private well monitoring locations

1.0 INTRODUCTION AND SCOPE

This report presents an assessment of environmental aspects of the applications submitted for significant works at Redbog and Philipstown Co Kildare behalf of Hudson Brothers Ltd. The report was prepared on behalf of a group representing the local residents that will be affected by the proposals. The report was prepared by Imelda Shanahan (Bsc, PhD, FICI, CChem, FRSC), Craig O'Connor (PGeo) and Nick Owen (BSc PhD).

Hudson Brothers Ltd have submitted an application for substitute consent for an existing quarry located in the townlands of Redbog and Philipstown, Co Kildare (An Bord Pleanala Ref QD09.319217) and a parallel application for extensive further development at the site (An Bord Pleanala Ref QD09.312918). The applications were accompanied by a Remedial Environmental Impact Assessment Report (rEIAR) and an Environmental Impact Assessment Report (EIAR). The Substitute Consent Application was accompanied by an Appropriate Assessment Screening Report (AA Screening) and the extension application was accompanied by a Natura Impact Statement (NIS).

The purpose of this report is to set out the serious flaws and deficiencies in the application documents and to outline the reasons for the opposition of the residents to the proposed developments. The applications are poorly conceived and are especially deficient in their consideration of the impact on residential amenity, the impact on the Redbog SAC and the impact on the water environment, and this report will set out the details of those deficiencies.

2.0 THE PROPOSED DEVELOPMENT

There are two separate applications lodged concurrently for substitute consent for an existing quarry that has operated without planning permission for the last four years and for extensive new works over a wide area. The Planning Permission that had previously applied (07/267) expired in 2020. Figure 2.1 shows the area of the substitute consent application (yellow outline), the proposed new extension (red outline) and the expired 07/267 planning permission (white outline). These are very extensive developments in very close proximity to a large number of residences and farms and in close proximity to the Redbog SAC. The Substitute Consent application does not envisage any future extraction since it only applies to the unauthorised development that has already taken place. The proposed new development envisages a significant extension to the quarry area.



Aerial view of application site (outlined in red) with boundary of substitute application (outlined in yellow) and 2007 application site outlined in white (Note, a small area is excluded to the north that is not part of the current application)

Figure 2.1 Boundaries of Proposed Application Sites (Reproduced from Marston Planning Consultancy Submission for the Residents Group)

3.0 RESIDENT GROUP EXPERIENCES OF EXISTING DEVELOPMENTS

The resident group for whom this report has been prepared live in close proximity to the Hudson Brothers quarries and have first-hand knowledge and experience of the ongoing failure of the quarries to comply with Planning Permissions, the lack of respect for the local residents, and lack of respect of the planning, judiciary and legal systems. Specifically the residents have complained of unauthorised development, operating outside permitted working hours, operating at unreasonable hours, traffic nuisance and dangers, nuisances from dust and noise and vibration, interference with water supplies and the effects of the development on the Redbog SAC. There have been complaints of constant and extensive non-compliance with the requirements of the Planning System as well as considerable adverse impacts on the amenity of the residents.

The residents have had to battle with the constant disruption and disturbance from the activities of Hudson Brothers Ltd to their lives and livelihoods and in desperation, sought the protection of the High Court when the Planning System failed to afford them protection.

Under the Terms of a High Court order dated 17 November 2022 and perfected on 10 January 2023, Hudson Brothers Ltd were instructed to carry out certain investigations, surveys, monitoring and works in consultation with experts acting for representatives of the Residents. Under the terms of the agreement TMS Environment Ltd were assigned responsibility in particular for environmental matters relating to Clause 7 (water), Clause 9 (dust and emissions) and Clause 10 (noise and vibration) of the Schedule attached to the High Court Order. These Clauses are set out in Table 3.1 and an outline summary of the requirements is as follows:

- Agreement to be reached following consultation with TMS Environment Ltd on dust monitoring locations, noise monitoring locations and water monitoring locations;
- Agreement to be reached following consultation with TMS Environment Ltd on dust deposition, noise and water monitoring programmes;
- Reports to be submitted at specified intervals to TMS Environment Ltd.

In addition, there were specific restrictions imposed in terms of working hours and activities. The engagement of Hudson Brothers Ltd and their consultants was very limited and compliance with the requirements of the High Court order was never demonstrated or achieved. A report on the interactions was prepared and given to the Residents Group and arising from that report, a request was issued on 19 December 2023 to the consultants acting for Hudson Brothers Ltd for further information and to correct problems with their approach. The request is attached as Appendix I of this report and a summary of the deficiencies in the Hudson Brothers Ltd approach is as follows:

- Failure to follow the High Court Order in respect of consultation with the residents consultants;
- Failure to comply with either the High Court Order on dust monitoring methods or the requirements of Standard Methods;
- Failure to comply with the High Court Order on noise monitoring locations;
- Failure to comply with the High Court order on water monitoring locations, frequency or methods;
- Failure to provide any meaningful water level monitoring data;

A response to the request was received on 02 February 2024 from WSP Consultants acting for Hudson Brothers Ltd. The response was unsatisfactory in all respects and a report

outlining the deficiencies in the technical responses as well as the persistence of Hudson Brothers Ltd and their consultants in ignoring the High Court Order was prepared for the residents and is attached at Appendix II. In summary, the Hudson Brothers Ltd response persisted in applying flawed monitoring methodologies which do not conform to the requirements of Standard Methods, ignoring the specific instructions from the High Court and ignoring the wishes of the local residents in trying to manage the significant adverse impact of the quarry operations on their lives, residential amenity and livelihoods.

In view of the complete lack of respect shown by Hudsons Brothers Ltd and their consultants for the High Court order, the requirements of the Planning System and the request by the local residents for compliance, the residents have no confidence in the willingness or ability of Hudson Brothers Ltd to abide by any requirements of the Planning System or the Judiciary. The quarries have operated without permission and in a manner which has shown total disregard for the amenity of the local community in their persistent operation at unreasonable and unauthorised hours, their failure to monitor environmental impacts and their failure to operate within the restrictions imposed by the High Court to afford protection to the residents who were not protected by the planning system. In the experience of the Residents, Hudson Brothers Ltd have not behaved responsibly and cannot be considered '*Fit and Proper persons*' in respect of ongoing operation of the quarries or further extensions to their activities. On behalf of the residents, it is respectfully submitted that permission for the developments should be refused for the reasons set out in this report.

Table 3.1 Clauses 7, 9 and 10 of High Court Agreement Schedule

7.(a) *No extraction of material shall be carried out below a level one metre above the existing water table.*

(b) *Within 1 month hereof, full details of a groundwater monitoring programme shall be presented to the Applicants. The programme shall ensure that the existing groundwater sources serving residents and farms in the vicinity of the site are unaffected by the quarrying operations, and the Respondent shall comply with the provisions thereof.*

(c) *The ground watering programme will include for monitoring of surface water and groundwater in the vicinity of the site and include information on groundwater levels AOD, water quality, monitoring locations, sampling procedures, frequency of sampling, and a suite of water quality parameters to be tested.*

(d) *Monitoring shall commence immediately.*

(e) *Where any water source within the affected area is compromised by the quarry operations, the Respondent shall take whatever measures are necessary to rectify or replace the compromised water supply within 1 week.*

(f) *The Respondent shall provide the consultant retained by the Applicants with the results of the monitoring (quality and levels) of all wells and boreholes within a 500m radius of the Quarry Site on a quarterly basis starting from the date of the groundwater monitoring Agreement.*

(g) *The Respondent will be responsible for all costs associated with compliance hereof.*

9. (a) *Within 2 months hereof, the Respondent shall furnish the Applicants with a report from the Respondent's environmental consultants assessing dust emissions from all quarrying activities, and including a dust monitoring programme with agreed dust monitoring stations to include along the boundaries of the site, the nearest dwelling houses and the Red Bog SAC. Dust deposition shall not exceed a limit of 350mg/m²-day, as averaged over 28 days, when measured using Bergerhoff dust deposition gauges in accordance with VDI Method 2119.*

(b) *Dust monitoring reports based on sampling shall be submitted quarterly to the Applicants.*

(c) *If dust emissions from the Quarry Operations exceed the limits, the Respondent shall put in place such measures as required to remedy such exceedance.*

(d) *The Respondent shall be responsible for all costs associated with the foregoing.*

10. (a) *Within 2 months hereof, the Respondent shall furnish the consultant retained by the Applicants with a report from the Respondent's environmental consultants assessing noise emissions from the Quarry Operations. The report will include a noise monitoring programme specifying the location of the noise monitoring points to include points within the vicinity of the nearest dwellinghouses to the site and any other noise-sensitive location.*

(b) *The report will provide that noise levels attributable to all on-site operations associated with the proposed development shall not exceed 55 dB(A) (Leq) over a continuous one hour period while the quarry is operational during the permitted hours of operation as set out in Clause 6 of this Agreement, when measured outside any of the noise-sensitive monitoring points.*

(c) *A noise monitoring report based on survey findings will be submitted to the Applicants within two weeks of the date hereof, and thereafter such noise monitoring reports shall be furnished to the Applicants on a two monthly basis (i.e. once every two months).*

(d) *If noise levels are found to exceed 55 dB(A) (Leq), the Respondent shall the put in place such measures as required to prevent such exceedance.*

(e) *The Respondent shall be responsible for all costs associated herewith.*

4.0 DEFICIENCIES IN THE ENVIRONMENTAL AND ECOLOGICAL ASSESSMENTS FOR THE SUBSTITUTE CONSENT APPLICATION

4.1 Hydrology and hydrogeology assessments

4.1.1 Period of review for assessing impacts

A remedial EIAR (rEIAR) was prepared and submitted with the Substitute Consent application for the Hudson Brothers Ltd quarry at Redbog and Phillipstown. The application was submitted to seek permission for an activity which continued to operate and to intensify the activity after the previous planning permission expired. Chapter 6 of the rEIAR provides an assessment of the hydrological (surface water) and hydrogeological (groundwater) aspects of the Hudson Brothers Ltd Kildare quarry. This Chapter is stated by the authors to consider and assesses any potential impacts on the surface and groundwater resulting from quarrying related activities that have been carried out at the Site. The Chapter focuses only on the period after expiration of the 07/267 Planning Permission and fails to consider any impacts of prior unauthorised works at the site. This is a flawed approach and it means that a competent assessment of impacts on the Redbog SAC in particular and on water supply and quality for local residents has not been completed. The rEIAR established an artificial baseline in September 2020 after extensive unauthorised works had already taken place and therefore the baseline does not truly and reliably describe the correct baseline against which impacts should be assessed. Section 6.3.2 of the rEIAR notes the importance of the baseline for the assessment as follows:

“The potential for an impact to have occurred at a receptor has been determined using the understanding of the baseline environment and its properties and consideration of whether there is a feasible linkage between a source of impact and each receptor (i.e. a conceptual site model).”

It is clear that if the baseline is incorrectly formulated and assessed, then the assessment of potential impact cannot be relied on and any conclusions drawn which suggest that no impact has occurred should be discounted as unreliable and unproven.

4.1.2 Boundary for assessing impacts

The rEIAR considers exactly the same project boundary as the boundary for the proposed extension in activities which is the subject of the Section 37L application, and notes that the

study area is extended where required to assess downstream impacts on water features or users that may have been affected by site activities. This approach means that the rEIAR has made no attempt to differentiate between the impacts of the activity for which Substitute Consent is sought and the impacts of the proposed extension area and therefore does not identify the impacts uniquely associated with the activity for which Substitute Consent is sought.

4.1.3 Site water requirements and management

Section 6.4.4 of the rEIAR sets out the details of site water requirements and management for the site and notes that water is abstracted from Pond K2 for the processing activity on site. The rEIAR states that up to 1500L/min water is the pumping capacity of the pumps and that the site water usage is estimated at 276m³/day to include welfare, dust suppression and processing activity. This figure appears anomalous based on similar quarries and processing plant and we are concerned that the estimate is unreliable. There is more than one washing plant at the site which TMS Environment Ltd were advised during an inspection in September 2023 do operate and do require water. A washing plant needs approximately 15m³/hour to operate so each plant will use 165m³ over an 11 hour day and two plants would require 330m³/day with welfare and dust suppression requirements additional to this estimate. This volume of water could not be satisfied by rainfall and surface water runoff alone and the estimate of site water usage is considered unreliable. In our opinion, the quarry is operating below the water table and groundwater is providing water for use at the site which has not been acknowledged in the rEIAR.

Section 6.4.7.2 of the rEIAR presents aerial photos of site water features and in particular presents an image from October 2023 (Figure 6.8) and an assertion that exceptional rainfall in September – October 2023 led to a significant accumulation of surface water across the site and accounted for changes in the surface water profile across the site. However much of this water was already evident at the site on 13 September 2023 when TMS Environment Ltd personnel inspected the site and in drone footage captured by the residents group in April and May 2023 (Figure 4.1). Rainfall at Casement was not high in April 2023 (67.3mm) and May 2023 (24.3mm) and the site water profile suggests that changes had been occurring a lot earlier than the rEIAR suggests for September – October 2023. This casts significant doubt on the baseline data and does not give any confidence in the reliability of the assessments

presented in the rEIAR. The assertion at Section 6.7.4.2 that this somehow supports the hypothesis advanced in the rEIAR that groundwater has not been intercepted is without foundation and is simply a statement presented with no evidence:

“HBL have confirmed that pumping was not required to remove ponded water and allow deeper extraction of the rock material. This confirms that the confined aquifer within the greywacke has not been intercepted, with dry quarrying continuing to take place.”

Similarly the assertion at section 6.4.7.5 that the groundwater table has not been intercepted is without supporting evidence or foundation and as shown below, the absence of dewatering is not proof that the water table has not been intercepted.

“The groundwater table within the greywacke and shale bedrock has not been encountered with quarrying activities, as no dewatering has taken place to date.”

In the opinion of TMS Environment Ltd, the water table in fact exists towards the base of the gravels and there is no confined aquifer deeper down in bedrock. Therefore it is probable that the quarry is working below the water table, and probably has been for many years. There would not be any big groundwater inflows at the top of rock inside the quarry due to very low permeabilities, and deeper down in the rock is essentially dry, so the quarry floor appears dry except for rainwater. The assertion in the rEIAR that the aquifer has not been intercepted is unsupported by any evidence and in our opinion is a misinterpretation and misrepresentation of the hydrogeology in the area.



Figure 4.1 Drone Footage April 2023 (LHS) and May 2023 (RHS)

4.1.4 Water levels at Redbog SAC

The Redbog SAC is located northeast of the site at approximately 240m from the site boundary. The rEIAR states that the Redbog SAC is largely recharged by rainwater percolating through topsoil and sand. Section 6.4.7.3 of the rEIAR presents information from June 2019 on water levels at the edge of Redbog SAC contrary to all other data that has been presented and assessed from September 2020. Clearly monitoring data was available and the reasoning for selective inclusion of some data while excluding all other baseline data is unclear; at the very least the omission is misleading and as noted above, the failure to consider the impact of past activities on the true baseline for the site is a cause for concern. This section of the rEIAR considers only rainfall as the primary recharge mechanism for the feature without considering or assessing the potential contributions from groundwater inflows. This appears to be the only section in Chapter 6 considering impacts on the Redbog SAC which in our opinion is deficient and fails to assess the impact of past activities on the SAC.

The remedial AA Screening Report submitted with the Substitute Consent Application does acknowledge that the Redbog SAC is within the same Groundwater Body as the SAC and that the GSI consider that Redbog SAC is a Groundwater Dependent Terrestrial Ecosystem (GWTE) at Table 4-1:

Table 4-1 - European Sites within the EZol of the Existing Development

Site Name and Code	Distance to Existing Development	Connectivity
Red Bog SAC (000397)	SAC boundary ⁹ is adjacent to Substitute Consent Boundary, but separated by a local (L) road. 150 m north-east (from nearest active area – haul road)	Per Geological Survey Ireland (GSI) Spatial Resources ¹⁰ , the Site and this SAC are situated within the same groundwater body (European Code: IE_EA_G_085). According to GSI, Red Bog SAC is a Groundwater-Dependent Terrestrial Ecosystem (GWDTE) within this groundwater body. More detail about the specific groundwater conditions surrounding the Site are presented later in the report. At this stage, it is concluded that there is potential groundwater connectivity. The SAC boundary is more than 100 m from the nearest source of dust emissions, which according to IAQM (2016) is outside the range in which significant impacts are likely to occur. The haul road in question is separated from the SAC by an earthen berm. Further detail on the likely impacts of dust emissions from the Site on this SAC are discussed later in the report. At this stage it is concluded that there is potential connectivity for dust emissions

Similarly Chapter 4 of the rEIAR Ecology and Biodiversity also acknowledges the dependence of the SAC on groundwater (Table 4-4), and reference Chapter 7 *sic, assumed to mean Chapter 6) of the rEIAR which considers that the water is perched. It is astonishing that Chapter 6 Water of the rEIAR does not include this specific information from the GSI and makes no attempt to discuss the GSI classification as a groundwater dependent ecosystem. This is a significant omission which means that a competent assessment of the groundwater contributions to the Redbog SAC and the significance of groundwater for the SAC has not been undertaken and presented in the rEIAR.

4.1.5 Groundwater elevations investigations

Section 6.4.9 of the rEIAR considers groundwater elevation and advances a theory that groundwater has not been intercepted in the workings of the quarry. In the rEIAR, WSP suggest a deeper extensive confined aquifer occurs within bedrock which has not been intercepted by the quarry to date – this is based on the interpretation of deeper water strikes within bedrock as representing a confined aquifer. In our opinion this is a misinterpretation of the water strike data and a confined aquifer **does not exist** deeper in the bedrock. TMS propose that the water table exists at the base of the sands/gravels, in hydraulic continuity with the weathered top of bedrock, and deeper down in the bedrock there is little or no groundwater flow, explaining the dry working of the quarry floor. If this is the case, then the quarry is **working below the water table** and there is the potential for negative impact on the private wells. This has not been assessed in the rEIAR and it is respectfully submitted that the assessment is flawed and that the impact of the unauthorized works has not been correctly assessed.

It is the responsibility of the consultants acting for Hudson Brothers to characterise the hydrogeology and assess potential for impact, which can readily be achieved by installing separate shallow / deep monitoring wells, hydraulic testing (to test connectivity), continuous groundwater level monitoring (to assess recharge), and other routine investigation techniques. These studies have not been reported in the rEIAR and the assessments are deficient in their absence. In fact there is no objective evidence presented in the rEIAR that supports an assertion that groundwater has not been intercepted.

The residents group for whom this report was prepared include a number of residents in close proximity to the quarry boundary who have private wells for water supply to their homes and

farms. Level monitoring was carried out at 6 private wells as shown in Appendix III by TMS Environment Ltd during March and April 2024 to acquire data for the review of the rEIAR and to address the failure of Hudson Brothers Ltd and their consultants to adequately and competently assess the impact of their activities on local water users and the local environment. The data, and the data presented in the rEIAR, was reviewed by TMS Environment Ltd and the following conclusions were drawn from the assessment.

- a) The private lands considered are located to the west of the Hudson Brothers quarry where the private wells are located.
- b) These lands are underlain by sands/gravels, part of the same gravel body classified as locally important aquifers to the northwest ('West Blessington Gravels') and southeast ('Blessington Gravels') – the intervening area where the lands are located is not classified as an aquifer due probably to limited saturated thickness in the gravels.
- c) Bedrock is composed of greywackes (Glen Ding Formation), classified as a Poor Aquifer, tested locally by WYG as having very low permeability. Top few meters likely weathered/permeable, limited deeper groundwater circulation along isolated fractures only.
- d) This area is subject to high recharge, with limited runoff – some surface water ponding noted. Springs also noted.
- e) A Conceptual Model for the site was prepared considering the available data:
 - With a highly permeability overburden (sands/gravels) overlying a low permeability bedrock with a weathered zone at the top, you would expect a water table to occur near the top of bedrock, with the overburden and bedrock in hydraulic continuity – the water table might rise and fall across the interface depending on recharge.
 - Perched groundwater would also be expected in local areas, above the water table, where clays within the gravels intercept percolating recharge - evidenced by springs and higher groundwater levels in private wells.
 - Topographic ridge to the south would be expected to act as a groundwater divide, with groundwater flowing laterally in gravels and/or weathered top of bedrock to the northwest following the topographic gradient. Little or no deeper groundwater flow in bedrock.
- f) The well monitoring data was reviewed and interpreted as follows:

- 6 (No.) private wells exist along the public road (R410) west of the quarry which were included in the level monitoring programme;
- Using groundwater levels measured in these private wells and available geological information, a geological cross-section orientated northwest-southeast parallel to the road and running hydraulically downgradient would suggest that a continuous saturated zone c. 7-10m thick exists at the base of the sand/gravels. Therefore, the water table occurs at the base of the sand/gravel overburden in this area.
- Perched groundwater may be in evidence at W6 where shallow groundwater levels were measured (or levels may be influenced by the nearby pond).

The TMS review concluded that the conceptual hydrogeology Model presented above is contrary to the interpretation presented in the rEIAR, which was presented without the benefit of any monitoring in the local residents wells, and without considering the data from monitoring events and locations prior to September 2020. It is clear that the rEIAR made no attempt to consider the impact of the quarry on the water supplies of the local residents and the assessment that was presented in the rEIAR is both flawed and incomplete. Section 6.4.13 Local Water Users of the rEIAR noted the presence of some of the wells north of the site and excluded others (Figure 6.19). The wells shown are within 150m of the site with no reasoning provided for selecting this distance.

4.1.6 Summary deficiencies in water assessments for Substitute Consent Application

We respectfully submit that the water assessments presented in the rEIAR are flawed and do not reliably assess the impact of the quarry on the Redbog SAC or water users in the area. As noted below this is uniquely significant in the assessment of impacts on the SAC since the rAA Screening and Ecological Impact Assessments rely on the findings and information presented in the water assessment to inform those assessments. In summary the following deficiencies have been identified:

- (i) the limited review period of three years from September 2020 to November 2023 means that an incomplete and unreliable assessment of impacts on the Redbog SAC and water users in the area has been completed;

- (ii) The baseline conditions have been incorrectly stated to include unauthorised works and their impacts which should not have been included as baseline conditions so a true baseline was not established and considered in the assessment;
- (iii) The same project boundary was used for the study as that for the much more extensive Section 37L application which means that the applicant has failed to consider impacts uniquely associated with the unauthorised works and the quarry activity to date;
- (iv) The site water usage estimate is unreliable and underestimates the significance of the water usage and fails to acknowledge the use of groundwater at the site.
- (v) The groundwater dependent classification of the Redbog SAC by the GSI was ignored in the assessments;
- (vi) The hydrogeological model is flawed and incorrectly interprets data from investigations. An alternative conceptual Model has been advanced which explains the hydrogeology of the area and which has determined that it is probable that the quarry is working below the water table, and that this is likely to have been occurring for many years.
- (vii) There was no consideration afforded to groundwater contributions to the Redbog SAC and no evidence justifying the omissions.
- (viii) Water resources of local residents are at risk from the development and the subject has not been competently and fully assessed in the rEIAR.

4.2 Appropriate Assessment Screening

A remedial Appropriate Assessment Screening report was presented with the rEIAR to determine whether the existing development may have had likely significant effects on European Sites which include the Redbog SAC. The primary purpose of the rAA Screening is to determine whether there are Likely Significant Effects and to determine whether an NIS is required.

The remedial AA Screening report relies on the data presented in Chapter 6 Water of the rEIAR. In view of the deficiencies identified in that report, in our opinion the remedial AA Screening report has not competently assessed the water environment or the impacts on the Redbog SAC. Section 4.1.4 of the rAAS specifically notes that

The potential for groundwater connectivity is assessed initially based on whether the QIs associated with a European site are groundwater-dependent.

It is our opinion that the groundwater connectivity has not been probed and no objective evidence was presented to support such an assessment so no conclusions can be reliably drawn as regards to groundwater connectivity and the dependence of the SAC on groundwater.

Connectivity and impacts of dust emissions was assessed based on a note from the IAQM Guidance:

“As a point of reference, the IAQM (2016) Guidance on the Assessment of Mineral Dust Impacts for Planning indicates that significant dust impacts are typically restricted to 100 m of quarrying activities. “

This assertion based on “typical distances” cannot be relied on when considering the impacts on SACs which requires that impacts must be excluded beyond scientific doubt; a reliance on a statement of ‘typical’ impacts distances does not meet the required burden of proof and it is our opinion that this is a significant flaw in the approach adopted for this assessment. Table 4-1 of the rAA Screening report considers connectivity for dust emissions and groundwater, and concludes that there is potential connectivity for dust and groundwater connectivity. The rAAS also correctly notes that Redbog SAC is a Groundwater Dependent Terrestrial Ecosystem within the same groundwater body as the quarry.

The rAAS considers the impact of dust emissions from the site in section 5.2.6 to 5.2.10 and relies simply on the distance from the site for the assessment. In fact, the IAQM Guidance does not include data for certain distances and the rAAS incorrectly interprets this as meaning that there is no impact. This is a flawed approach and it is not consistent with Standard methods or best practice. The EPA Guidance on the assessment of pollutant impacts requires that deposition of pollutants must be considered and especially notes that bog habitats are particularly sensitive to pollutant deposition. The pH of the dust emissions from quarrying is low and there should have been an assessment of the impact of acid deposition and sulfur and nitrogen deposition from the site emissions on the SAC as well as a competent assessment of the impacts of total dust deposition. There was no acknowledgement presented in the rAAS that this assessment was required and no such assessment was completed. The rAAS is

therefore deficient in not having competently considered all of the potential impacts of dust emissions and in particular failed to consider pollutant deposition impacts.

The rAAS has based the assessment and conclusions of potential groundwater effects on a fundamentally flawed water assessment report which has set out a flawed and incorrect conceptual hydrogeological model for the site and which failed to consider the GSI classification of the Redbog SAC as a Groundwater Dependent Terrestrial Ecosystem. The rAAS states that the SAC is a perched water feature without presenting a single item of evidence to support this statement and in direct contradiction of the GSI and NPWS assessments of the site which consider the feature a Groundwater Dependent Terrestrial Ecosystem.

The rAAS reached a conclusion that there was no potential for the unauthorised activities at the site to have resulted in significant effects to Redbog SAC. This conclusion was not supported by scientific evidence, it was based in part on an incorrect understanding of the hydrogeology of the site and in part on an incorrect application of an IAQM guidance to the assessment of dust emissions, it ignored the opinions of the GSI and the NPWS and it failed to even consider the impact of pollutant deposition on the SAC. The rAAS did not support conclusions with scientific evidence and did not reach the burden of proof beyond scientific doubt that there was no potential for adverse effects. In our opinion the rAAS is flawed and the application should be refused since it was not proven beyond reasonable doubt that the unauthorised activity has not already exerted significant effects on the SAC. In our opinion, the screening assessment was flawed and a competent and complete assessment would have concluded that a remedial NIS was required.

5.0 DEFICIENCIES IN THE ENVIRONMENTAL AND ECOLOGICAL ASSESSMENTS FOR THE SECTION 37L APPLICATION

5.1 Hydrology and hydrogeology assessments

5.1.1 Boundary for assessing impacts

An EIAR was submitted in support of the Section 37L application for a significant extension to the existing quarry. Chapter 6 Water of the EIAR considers the water environment and has been reviewed for the purpose of this submission. Chapter 6 notes that the Study Area extends to a nominal 500m from the site boundary without explaining why this nominal distance was chosen. In our opinion, water impacts can be experienced at considerably further distances and in our opinion the boundary of the assessment should have extended further and should have considered all local water users within several kilometers of the site. Most of the information presented in the EIAR for the Section 37L application is the same as that presented in the rEIAR and in our opinion, the arguments are flawed and do not reliably assess the impact of the quarry on the Redbog SAC or water users in the area. As noted in Section 4 above this is uniquely significant in the assessment of impacts on the SAC since the AA Screening and Ecological Impact Assessments rely on the findings and information presented in the water assessment to inform those assessments.

5.1.2 Site water requirements and management

Section 6.4.4 of the EIAR sets out the details of site water requirements and management for the site and notes that water is abstracted from Pond K2 for the processing activity on site. The information presented is the same as the details presented in the rEIAR and as noted in section 4.1.3, the stated volume of water usage could not be satisfied by rainfall and surface water runoff alone and the estimate of site water usage is considered unreliable. In our opinion, the quarry is operating below the water table and groundwater is providing water for use at the site which has not been acknowledged in the EIAR. This situation will continue if the proposed development is permitted and the impacts have not been reliably assessed.

Section 6.4.7.2 of the EIAR presents aerial photos of site water features and the same assertion about rainfall impacts on site water features as was contained in the rEIAR. As noted 4.1.3 above, the unreliable information presented does not give any confidence in the reliability of the assessments presented in the EIAR. The assertion at Section 6.7.4.2 that this

somehow supports the hypothesis advanced in both the rEIAR and the EIAR that groundwater has not been intercepted is without foundation and is simply a statement presented with no evidence. This has already been refuted in Section 4.1.3 and this is repeated here.

In the opinion of TMS Environment Ltd, the water table in fact exists towards the base of the gravels and there is no confined aquifer deeper down in bedrock. Therefore it is probable that the quarry is working below the water table, and probably has been for many years. There would not be any big groundwater inflows at the top of rock inside the quarry due to very low permeabilities, and deeper down in the rock is essentially dry, so the quarry floor appears dry except for rainwater. The assertion in the EIAR that the aquifer has not been intercepted is unsupported by any evidence and in our opinion is a misinterpretation and misrepresentation of the hydrogeology in the area.

5.1.3 Water levels at Redbog SAC

The Redbog SAC is located northeast of the site at approximately 240m from the site boundary. The EIAR states that the Redbog SAC is largely recharged by rainwater percolating through topsoil and sand. Section 6.4.7.3 of the EIAR presents information from June 2019 on water levels at the edge of Redbog SAC and is the same information as was presented in the rEIAR. This section of the EIAR considers only rainfall as the primary recharge mechanism for the feature without considering or assessing the potential contributions from groundwater inflows. This appears to be the only section in Chapter 6 considering impacts on the Redbog SAC which in our opinion is deficient and therefore fails to adequately describe the information required for a competent assessment of impacts on the SAC.

The Natura Impact Statement submitted with the Section 37L Application does acknowledge that the Redbog SAC is within the same Groundwater Body as the SAC and that the GSI consider that Redbog SAC is a Groundwater Dependent Terrestrial Ecosystem (GWTE) at Table 4-1 similar to what was stated in the rAA Screening for the Substitute Consent Application. The text is slightly different from what is presented in the rEIAR but the same classifications and references to the GSI are included.

Table 4-1 - European Sites within the EZol

Site Name and Code	Distance to Existing Development	Connectivity
Red Bog, Kildare SAC (000397)	The SAC boundary ⁶ is adjacent to the Site. The SAC and the Site are separated by a local (L) road.	<p>Per Geological Survey Ireland (GSI) Spatial Resources (2023), the Site and this SAC are situated within the same groundwater body (European Code: IE_EA_G_085).</p> <p>According to GSI, Red Bog SAC is a Groundwater-Dependent Terrestrial Ecosystem (GWDTE) within this groundwater body (Geological Survey Ireland, 2023). More detail about the specific groundwater conditions surrounding the Site are presented later in the report. At this stage, it is concluded that there is potential groundwater connectivity between this SAC and the Site.</p> <p>The SAC boundary is more than 100 m from the nearest source of dust emissions, which is outside the typical range in which significant impacts are likely to occur (IAQM, 2016). Further detail on the likely impacts of dust emissions from the Site on this SAC are discussed later in the report. At this stage it is concluded that there is potential connectivity for dust emissions between this SAC and the Site.</p>

Similarly Chapter 4 of the EIAR Ecology and Biodiversity also acknowledges the dependence of the SAC on groundwater (Table 4-4) of the EIAR which considers that the water is perched. Similar to the approach taken in the rEIAR, Chapter 6 Water of the EIAR does not include this specific information from the GSI and makes no attempt to discuss the GSI classification as a groundwater dependent ecosystem. This is a significant omission which means that a competent assessment of the groundwater contributions to the Redbog SAC and the significance of groundwater for the SAC has not been undertaken and presented in the EIAR.

5.1.4 Groundwater elevations investigations

Section 6.4.9 of the EIAR considers groundwater elevation and advances a theory that groundwater has not been intercepted in the workings of the quarry. In the EIAR, WSP suggest a deeper extensive confined aquifer occurs within bedrock which has not been intercepted by the quarry to date – this is based on the interpretation of deeper water strikes within bedrock as representing a confined aquifer. In our opinion this is a misinterpretation of the water strike data and a confined aquifer **does not exist** deeper in the bedrock. TMS propose that the water table exists at the base of the sands/gravels, in hydraulic continuity with the weathered top of bedrock, and deeper down in the bedrock there is little or no groundwater flow, explaining the dry working of the quarry floor. If this is the case, then the quarry is **working below the water table** and there is the potential for negative impact on the private wells. This has not been assessed in the EIAR and it is respectfully submitted that the

assessment is flawed and that the impact of the unauthorized works has not been correctly assessed.

It is the responsibility of the consultants acting for Hudson Brothers to characterise the hydrogeology and assess potential for impact, which can readily be achieved by installing separate shallow / deep monitoring wells, hydraulic testing (to test connectivity), continuous groundwater level monitoring (to assess recharge), and other routine investigation techniques. These studies have not been reported in the EIAR and the assessments are deficient in their absence. In fact there is no objective evidence presented in the EIAR that supports an assertion that groundwater has not been intercepted.

The residents group for whom this report was prepared include a number of residents in close proximity to the quarry boundary who have private wells for water supply to their homes and farms. Level monitoring was carried out at 6 private wells as shown in Appendix III by TMS Environment Ltd during March and April 2024 to acquire data for the review of the EIAR and to address the failure of Hudson Brothers Ltd and their consultants to adequately and competently assess the impact of their activities on local water users and the local environment. The data, and the data presented in the EIAR, was reviewed by TMS Environment Ltd and the following conclusions were drawn from the assessment.

- g) The private lands considered are located to the west of the Hudson Brothers quarry where the private wells are located.
- h) These lands are underlain by sands/gravels, part of the same gravel body classified as locally important aquifers to the northwest ('West Blessington Gravels') and southeast ('Blessington Gravels') – the intervening area where the lands are located is not classified as an aquifer due probably to limited saturated thickness in the gravels.
- i) Bedrock is composed of greywackes (Glen Ding Formation), classified as a Poor Aquifer, tested locally by WYG as having very low permeability. Top few meters likely weathered/permeable, limited deeper groundwater circulation along isolated fractures only.
- j) This area is subject to high recharge, with limited runoff – some surface water ponding noted. Springs also noted.
- k) A Conceptual Model for the site was prepared considering the available data:

- With a highly permeability overburden (sands/gravels) overlying a low permeability bedrock with a weathered zone at the top, you would expect a water table to occur near the top of bedrock, with the overburden and bedrock in hydraulic continuity – the water table might rise and fall across the interface depending on recharge.
- Perched groundwater would also be expected in local areas, above the water table, where clays within the gravels intercept percolating recharge - evidenced by springs and higher groundwater levels in private wells.
- Topographic ridge to the south would be expected to act as a groundwater divide, with groundwater flowing laterally in gravels and/or weathered top of bedrock to the northwest following the topographic gradient. Little or no deeper groundwater flow in bedrock.

l) The well monitoring data was reviewed and interpreted as follows:

- 6 (No.) private wells exist along the public road (R410) west of the quarry which were included in the level monitoring programme;
- Using groundwater levels measured in these private wells and available geological information, a geological cross-section orientated northwest-southeast parallel to the road and running hydraulically downgradient would suggest that a continuous saturated zone c. 7-10m thick exists at the base of the sand/gravels. Therefore, the water table occurs at the base of the sand/gravel overburden in this area.
- Perched groundwater may be in evidence at W6 where shallow groundwater levels were measured (or levels may be influenced by the nearby pond).

The TMS review concluded that the conceptual hydrogeology Model presented above is contrary to the interpretation presented in the EIAR, which was presented without the benefit of any monitoring in the local residents wells, and without considering the data from monitoring events and locations prior to September 2020. It is clear that the EIAR made no attempt to consider the impact of the quarry on the water supplies of the local residents and the assessment that was presented in the EIAR is both flawed and incomplete. Section 6.4.13 Local Water Users of the EIAR noted the presence of some of the wells north of the site and

excluded others (Figure 6.19). The wells shown are within 150m of the site with no reasoning provided for selecting this distance.

5.1.5 Summary deficiencies in water assessments for Substitute Consent Application

In summary the following deficiencies have been identified:

- (i) The project boundary used for the study arbitrarily chooses a boundary of 500m with no justification for the selection; this distance excludes several local users likely to be affected by the proposed development;
- (ii) Local wells within 150m of the site were considered for inclusion in the assessment but this does not include all of the well users potentially affected by the proposed development and no rationale was provided for this selection;
- (iii) The site water usage estimate is unreliable and underestimates the significance of the water usage and fails to acknowledge the use of groundwater at the site.
- (iv) Although an enormously significant extension is proposed, and with very limited existing groundwater monitoring wells at the site, including three damaged wells which could not be utilised, there are only two new boreholes reported and neither adequately assesses the potential impacts of the proposed development; the paucity of information likely explains the flawed understanding of hydrogeology at the site which could easily have been improved with further study;
- (v) The hydrogeological model is flawed and incorrectly interprets data from investigations. An alternative conceptual Model has been advanced in Section 4.1 which explains the hydrogeology of the area and which has determined that it is probable that the quarry is working below the water table, and probably has been for many years.
- (vi) There was no consideration afforded to groundwater contributions to the Redbog SAC and no evidence justifying the omissions.
- (vii) Water resources of local residents are at risk from the development and the subject has not been competently and fully assessed in the rEIAR.

5.2 AA Screening and Natura Impact Statement

A Natura Impact Statement (NIS) was submitted with the Section 37L application. The consultants noted that they had prepared a combined AA Screening report and NIS without

giving any reasons for this decision. The report states that the expected lifetime of the proposed development is 13 to 15 years, and the proposed extension is to the west and north of the existing site as shown in Figure 2.1.

At Section 2.1.10 the NIS notes that “*There will be no direct discharge to surface or groundwater from the quarry operations.*”. This is an incorrect assumption given the storage of water in the various reservoirs and the clear connectivity between those deep ponds and groundwater at the site. The report also notes that “*The proposed finished floor level will not take place below a level of at least 1m above the highest seasonal water table on site.*” As noted in Section 4.1 and in Section 5.1, this is an incorrect assumption and no objective reliable evidence has been presented to prove this claim.

The AA Screening (Section 4) concluded that there is hydrogeological connectivity and connectivity for dust emissions between the site and the Redbog SAC as had been concluded in the rAAS. The report found no likely significant effects for Redbog SAC and the requirement for the NIS was triggered by a loss of foraging habitat for the Greylag geese qualifying interests for the Poulaphouca reservoir. Redbog SAC is of ornithological significance and breeding birds recorded from the site include Mute Swan, Mallard, Tufted Duck, Coot, Moorhen, Snipe and Black-headed Gull. In view of the ornithological interest, it is surprising that loss of foraging habitat at the site is not deemed sufficient to trigger a requirement for NIS for Redbog SAC. In our opinion this is a flawed finding.

The NIS then considered only the potential impact on greylag geese and the Poulaphouca Reservoir and did not consider Redbog SAC.

The AA Screening report in the NIS relies on the data presented in Chapter 6 Water of the EIAR. In view of the deficiencies identified in that report, in our opinion the AA Screening report has not competently assessed the water environment or the impacts on the Redbog SAC. Section 4.1.4 of the NIS specifically notes that

The potential for groundwater connectivity is assessed initially based on whether the QIs associated with a European site are groundwater-dependent.

It is our opinion that the groundwater connectivity has not been probed and no objective evidence was presented to support such an assessment so no conclusions can be reliably

drawn as regards to groundwater connectivity and the dependence of the SAC on groundwater.

Connectivity and impacts of dust emissions was assessed based on a note from the IAQM Guidance:

“As a point of reference, the IAQM (2016) Guidance on the Assessment of Mineral Dust Impacts for Planning indicates that significant dust impacts are typically restricted to 100 m of quarrying activities. “

This assertion based on “typical distances” cannot be relied on when considering the impacts on SACs which requires that impacts must be excluded beyond scientific doubt; a reliance on a statement of ‘typical’ impacts distances does not meet the required burden of proof and it is our opinion that this is a significant flaw in the approach adopted for this assessment. Table 4-1 of the AA Screening report considers connectivity for dust emissions and groundwater, and concludes that there is potential connectivity for dust and groundwater connectivity. The AAS also correctly notes that Redbog SAC is a Groundwater Dependent Terrestrial Ecosystem within the same groundwater body as the quarry.

The AAS considers the impact of dust emissions from the site in section 5.2.6 to 5.2.9 and relies simply on the distance from the site for the assessment. In fact, the IAQM Guidance does not include data for certain distances and the AAS incorrectly interprets this as meaning that there is no impact. This is a flawed approach and it is not consistent with Standard methods or best practice. The EPA Guidance on the assessment of pollutant impacts requires that deposition of pollutants must be considered and especially notes that bog habitats are particularly sensitive to pollutant deposition. The pH of the dust emissions from quarrying is low and there should have been an assessment of the impact of acid deposition and sulfur and nitrogen deposition from the site emissions on the SAC as well as a competent assessment of the impacts of total dust deposition. There was no acknowledgement presented in the AAS that this assessment was required and no such assessment was completed. The AAS is therefore deficient in not having competently considered all of the potential impacts of dust emissions and in particular failed to consider pollutant deposition impacts.

The AAS has based the assessment and conclusions of potential groundwater effects on a fundamentally flawed water assessment report which has set out a flawed and incorrect conceptual hydrogeological model for the site and which failed to consider the GSI

classification of the Redbog SAC as a Groundwater Dependent Terrestrial Ecosystem. The AAS states that the SAC is a perched water feature without presenting a single item of evidence to support this statement and in direct contradiction of the GSI and NPWS assessments of the site which consider the feature a Groundwater Dependent Terrestrial Ecosystem.

The AAS reached a conclusion that there was no potential for the proposed developments at the site to have significant effects on Redbog SAC. This conclusion was not supported by scientific evidence, it was based in part on an incorrect understanding of the hydrogeology of the site and in part on an incorrect application of an IAQM guidance to the assessment of dust emissions, it ignored the opinions of the GSI and the NPWS and it failed to even consider the impact of pollutant deposition on the SAC. The AAS did not support conclusions with scientific evidence and did not reach the burden of proof beyond scientific doubt that there was no potential for adverse effects. In our opinion the AAS is flawed and the application should be refused since it was not proven beyond reasonable doubt that the proposed development will not exert significant effects on the SAC. In our opinion, the screening assessment was flawed and a competent and complete assessment would have concluded that the NIS should have considered the potential impacts on Redbog SAC which was not done. The NIS only considered the impacts of the proposed development on greylag geese and did not consider the impacts of the proposed development on Redbog SAC.

5.3 Impact of proposed development on residential amenity

5.3.1 Residents concerns and lack of confidence in Hudson Brothers Ltd

The proposed development will move the activities closer to some of the local residents for whom this report has been prepared. This will inevitably lead to higher levels of noise and dust and intrusion than the residents have been exposed to to date and which have caused extensive nuisance and disruption. Added to this is the proposal to use blasting techniques to recover materials at a frequency of blasting which is not clear from the EIAR This will present an intolerable intrusion for the residents who are already exposed to unauthorised rock breaking works at 06:00 to 07:00. Hudson Brothers Ltd have not to date demonstrated any interest in or ability to comply with the requirements of their Planning permissions or indeed the binding Orders of the High Court and the residents have no confidence that this

will be any different in future. The information presented in the EIAR states that the residents will be exposed to unreasonable noise levels of 70dB(A) during what is termed a construction period which has not been temporally defined, and levels far above the existing baseline during what is termed normal operational activity. The residents have made a number of complaints about the existing activity and have complained about the monitoring methodologies whereby measurements were taken at times when the work had stopped for the day and therefore were not capturing the effects of the quarrying activity. The residents are extremely concerned that their past experiences will continue if this new even more extensive and intrusive development is permitted and that their amenity will be destroyed.

5.3.2 Deficiencies in and concerns about the Air Quality assessment

Some of the measurements reported in Section 7.5.4 of the EIAR shows non compliances with the limit that has been imposed in previous planning applications and which is the recommended method by the Irish EPA for studies of this type. Table 7-10 summarises results and shows that there were breaches of the limit value at almost all of the monitoring locations during the period 2019 – 2023. The EIAR claims that the exceedances are due to organic matter and appear to incorrectly believe that (a) this is correct and (b) acceptable. In fact it is not correct to state that the dust measurements are due to organic contamination and even if it were organic, this is still relevant because some of the worked areas including topsoil removal and excavations does lead to airborne organic matter and therefore that measurement would be representative of site activities. The detailed monitoring reports were reviewed as shown in Section 3 and Appendix II, and it is clear that the consultants acting for Hudson Brothers Ltd misinterpreted the data and further applied non standard methodologies to the measurements. The EPA have been very clear in recommending specific methodologies for measurements and there is no justification for ignoring those standard methods. The considerable number of exceedances at the monitoring locations is indicative of the nuisance caused by the extensive quarrying activities to date and shows the level of disturbance and nuisance that the residents have been exposed to while the quarry was operating.

It is unreasonable of the consultants in the EIAR to use an average dust level across five years of monitoring in an attempt to distract attention from the elevated results and extensive nuisance caused by the quarry while operating. The standard methods require that no

individual reading exceeds the 350mg/m²-day limit and the data presented in the EIAR shows that nearly half of the monitoring results exceed this Limit. It is an intolerable position and the residents will be exposed to even greater levels of nuisance when the quarrying activities move closer to their homes and farms.

Section 7.5.2 of the EIAR considers the impact of dust on sensitive ecosystems. The assessment relies on a typical value of 1000mg/m²-day from the DMRB (which considers roads not mineral workings) as an indicator of impact on sensitive species. This is a flawed approach not least because it is based on guidance for roads projects where the dust types are different from those associated with mineral workings, Furthermore, this is not the recommend approach which requires that deposition modelling is considered for pollutants as well as acids, nitrogen and sulfur and no such assessment is presented. It is not sufficient in the assessment of impact on the Redbog SAC to consider a typical limit and non specific information about dusts, nor is it sufficient to consider a five year average rather than all of the individual events when breaches of the relevant limits occurred. Dust Location D3K is close to Redbog SAC and levels up to 4384mg/m²-day were recorded during the monitoring period reviewed with exceedances of the 350mg/m²-dy limit every single year. While this section of the EIAR states that it is unlikely that dust emissions from the site will have an adverse impact on the SAC; however the assessment was flawed and did not consider the nature of the dust, the pollutants deposited or the many exceedances of the guidance limit during the five year period. In short the EIAR did not prove beyond scientific doubt that there will be no adverse impact on the SAC and we respectfully submit that the application should be refused.

5.3.3 Deficiencies in and concerns about the Noise and Vibration impact assessment

Chapter 9 of the EIAR assesses noise and vibration impacts of the proposed development. The two most significant concerns about this assessment are the deficient monitoring methodologies that were employed and which informed the baseline statement, and the assessment of the impact of blasting on the residents. Baseline conditions are described in Section 9.4 of the EIAR and data for noise monitoring is presented which was acquired during monitoring surveys. The measurements show exceedances in noise limits with no attempt to use objective techniques to differentiate between the noise from quarrying activities and the noise from other sources such as traffic on the roads and other quarrying

activity. Again there is an attempt to conceal the scale of the breaches of the noise limits by taking an average of readings across the five year period. This approach most certainly does not conform to standard methodologies, and it is an unreasonable attempt to hide the magnitude of the noise levels to which the residents have been exposed. The residents regularly encountered noise monitoring personnel doing measurements and observations at times when work had stopped at the quarry and therefore not doing measurements aimed at assessing the impact of the quarry. The residents never met any monitoring personnel doing noise measurements at 06:00 to 07:00 when unauthorised out of hours rock breaking was taking place even though noise from the activity was clearly audible and causing nuisance at their homes. The survey results would show a bleaker picture of what the residents have had to tolerate had the survey been carried out at that time when traffic impacts would be minimal and the noise from the quarry would have been clearly differentiated from other sources. Aside from the fact that the activity itself was unauthorised, and work before 07:00 was unauthorised, the noise levels were in excess of the night time limit of 55dB(A) which would apply for work at these times. The prospect of this level of intrusion and nuisance continuing is a source of great concern for the residents.

Of even greater concern is the prospect of blasting being permitted at the quarry. The previous experiences of the residents have been of nuisance and disruption from this activity and they are concerned about future impacts.

6.0 CONCLUSIONS

The residents for whom this report has been prepared are irreconcilably opposed to the development based on their experiences to date and their lack of confidence in the willingness or capacity of Hudson Brothers Ltd to comply with Planning conditions or even Court Orders. This report has set out several grounds on which the residents base their objections which in outline are summarised as follows.

- (i) The residents have first-hand knowledge and experience of the ongoing failure of the quarries to comply with Planning Permissions, the lack of respect for the local residents, and lack of respect of the planning, judiciary and legal systems. Specifically the residents have complained of unauthorised development, operating outside permitted working hours, operating at unreasonable hours, traffic nuisance and dangers, nuisances from dust and noise and vibration, interference with water supplies and the effects of the development on the Redbog SAC. There have been complaints of constant and extensive non-compliance with the requirements of the Planning System as well as considerable adverse impacts on the amenity of the residents. As a result the residents have no confidence in the capacity of Hudson Brothers Ltd to operate within the terms of any future permissions.
- (i) The consultants acting for Hudson Brothers Ltd have failed to assess the impact of the quarry on water users in the area and have specifically failed to reliably assess the hydrogeology of the site to inform such an impact assessment. As shown in this report, the consultants have misinterpreted the hydrogeological regime and consequently have failed to identify the significant adverse impacts that are likely to arise as a result of the operation of the quarry below the water table.
- (ii) The EIAR and rEIAR have failed to consider the groundwater dependent status of the Redbog SAC and have not excluded beyond scientific doubt adverse impacts on the Redbog SAC.
- (iii) The EIAR and rEIAR failed to assess the impact of dust deposition and pollutant deposition on the Redbog SAC have not excluded beyond scientific doubt adverse impacts on the Redbog SAC.

(iv)The EIAR and rEIAR relies on flawed and non standard methodologies for baseline assessments which do not reliably measure the impacts of the quarry on the environment.

It is respectfully submitted on behalf of the residents group that permission for ongoing and future development of this quarry should be refused to protect the residents, water users in the area and the Redbog SAC.

Appendix I

Request to Hudson Brothers Ltd for Information

Ms Emma Gilmartin
WSP
Town Centre House
Naas
Co Kildare

19 December 2023

Dear Emma

Under the Terms of a High Court order dated 17 November 2022, Hudson Brothers Ltd are required to carry out certain investigations, surveys, monitoring and works in consultation with experts acting for Linda Kane & Francis Cummins. Under the terms of the agreement TMS Environment Ltd are responsible in particular for matters relating to Clause 7, Clause 9 and Clause 10 of the Schedule attached to the High Court Order. In this regard, I have been asked to review the monitoring proposals that WSP forwarded on behalf of Hudson Brothers as well as the monitoring reports and to advise on my findings from that review.

I have reviewed the dust, noise and water monitoring proposals which we received as well as the first reports on implementation of your monitoring programme and have advised my clients of the findings. There is a considerable amount of information missing from the various documents I received from you and without that information, it is impossible for me to advise them fully. I am therefore setting out a request for further information which I believe should have been submitted earlier and which is covered by the terms of the High Court Agreement. I am also requesting a further site inspection after receipt of the requested information.

1. Dust monitoring proposals

These proposals do not conform to the requirements of the High Court Agreement in the following respects:

- (i) Clause 9 of the High Court Agreement requires that measurements will be averaged over 28 days, not 30 days as set out in the WSP proposal;

- (ii) Clause 9 of the High Court Agreement requires that measurements shall be carried out at stations to include the boundaries of the site, the nearest dwelling houses and the Red Bog SAC. The proposals do not satisfy these requirements because the monitoring stations do not capture all required locations, and specifically the monitoring does not include the nearest dwelling houses.
- (iii) The dust limit is proposed to be applied at the site boundaries whereas the High Court Agreement requires that the Limit shall be applied at all monitoring stations.
- (iv) There is no map or drawing provided to clearly show the site boundaries to assist with verification of the monitoring stations.

We request that you reissue the WSP proposed monitoring programme report to address the above and issue all outstanding dust monitoring reports.

2. Noise monitoring proposals

These proposals do not conform to the requirements of the High Court Agreement in the following respects:

- (i) Clause 10 of the High Court Agreement requires that measurements shall be carried out within the vicinity of the nearest dwelling houses and any other noise sensitive location. The proposals do not satisfy these requirements because the monitoring stations do not capture all required locations.
- (ii) There is no map or drawing provided to clearly show the site boundaries to assist with verification of the monitoring stations.
- (iii) Reports have not been submitted to TMS Environment Ltd at 2 month intervals as stipulated in the High Court order.

We request that you reissue the WSP proposed monitoring programme report to address the above and issue all outstanding noise monitoring reports.

3. Water monitoring proposals

These proposals do not conform to the requirements of the High Court Agreement in the following respects:

- (i) Clause 7(a) of the High Court Agreement requires that no extraction of material shall be carried out below a level one metre above the existing water table. No information has been provided to allow assessment or verification.
- (ii) Clause 7(b) of the High Court Agreement requires in particular that the water monitoring programme shall ensure that the existing groundwater sources serving

residents and farms in the vicinity of the site are unaffected by the quarrying operations. The programme does not make any provision for this requirement. A list of 7 houses in the vicinity of the site was provided in a letter from Harrington Solicitors dated 26 January 2023 but details have not been included in the monitoring programme.

- (iii) The proposed suite of tests does not include all parameters required to ensure that a reliable statement of water quality is presented and to ensure that the full impact of quarry operations is captured in the monitoring.
- (iv) Water quality and level data for all wells and boreholes within a 500m radius of the Quarry Site were to be provided on a quarterly basis to comply with Clause 7(f). No map showing all the wells and boreholes within this radius has been provided and no data has been provided.
- (v) There is no map or drawing provided to clearly show the site boundaries to assist with verification of the monitoring stations.
- (vi) BH10 was proposed to be installed in the most southernmost location on the site; however the indicated location for BH10 is outside the site boundary and outside the lands in the control of Hudson Brothers Ltd. This severely limits the value of data acquired from such a well for the purpose of the assessment.
- (vii) BH3 is unreliable and a replacement well should have been installed to monitor ground water levels in this area and in the immediate quarry area.

We request that you reissue the WSP proposed monitoring programme report to address the above and issue all outstanding water monitoring reports.

We are especially concerned that no meaningful ground water level data has been provided, yet we are confident that this data should exist especially in the light of the upcoming Substitute Consent application. It is not possible to advise on the impact of the Hudsons activity on groundwater without meaningful data in terms of the locations where it is acquired, the duration of the measurements and other features pertinent to such an assessment. We request that the data specified in the High Court Agreement should be forwarded immediately and ideally that the significant body of information which should surely have been acquired for the Substitute Consent application should be forwarded for consideration. We are especially interested in receiving information on groundwater levels within the site boundary and especially at locations and wells in or close to the extraction area so that an assessment can be made regarding compliance with Clause 7(a) in relation to ensuring that extraction is not carried out

at levels below one metre above the existing water table. This should also include level data for all locations including well locations and the active extraction area.

There is no information presented for the water levels or quality in residents wells. As advised at the site inspection, one of the residents reported that when you attended their property to carry out well monitoring that they were advised that if any damage occurred to their property that they would be responsible for the damage and repairs. This is clearly not an acceptable position to place any resident in and as discussed at the site inspection, a suitable guarantee should be provided to any residents that their property will not be damaged during any monitoring and that any damages will be promptly and fully corrected without cost to the resident.

In conclusion, there are significant gaps in the information presented which prevents us from advising the residents on compliance with the High Court Agreement or on the potential impacts of the Hudsons activity on their properties and well being. We have been instructed to issue a request for the information we need, and which we believe should have been provided without the need for this request as it was stipulated in the High Court order. Following receipt of and review of the information we wish to return for a further site inspection having been furnished with the information we need to make a competent inspection and assessment.

I look forward to hearing from you



Dr Imelda Shanahan

Appendix II

Report on Hudson Brothers Ltd response to Request for Information

**REVIEW OF RESPONSE FROM WSP AND HUDSON BROTHERS TO THE HIGH
COURT ORDER AND TMS ENVIRONMENT LTD REVIEW**

Report Ref. 32056-2

Issued: 29 February 2024

Approved By:

Imelda Shanahan

Dr Imelda Shanahan
Technical Manager

Contents

1.0	INTRODUCTION	3
2.0	REVIEW RESPONSE TO TMS ENVIRONMENT LTD REQUESTS	3
2.1	Introduction	3
2.2	Dust monitoring proposals	4
2.3	Noise monitoring proposals	7
2.4	Water monitoring proposals	11
3.0	REVIEW RESPONSE TO HIGH COURT ORDER	18
3.1	Clause 1	18
3.2	Clause 2	20
3.3	Clause 3	20
3.4	Clause 4	20
3.5	Clause 5	21
3.6	Clause 6	21
3.7	Clause 8	22
3.8	Clause 11	23
3.9	Clause 12	23
3.10	Clause 13	24
3.11	Clause 14	24
	APPENDIX I PP 07/267 CONDITIONS	30

1.0 INTRODUCTION

17 Reports were received from WSP, Consultants for Hudson Brothers Ltd (HBL) at 18:30 Friday 02 February 2024 as follows:

- A report providing response to the High Court Order items and the items identified in TMS letter (dated 19 Dec 2023);
- The revised Water Monitoring Programme;
- Four (4 no.) 2023 Quarterly Water Monitoring Reports;
- The revised Noise Monitoring Programme;
- Five (5 no.) 2023 Noise Monitoring Reports;
- The revised Dust Monitoring Programme; and
- Four (4 no.) 2023 Quarterly Dust Monitoring Reports.

This report is a preliminary review of the following documents:

- A report providing response to the High Court Order items and the items identified in TMS letter (dated 19 Dec 2023);
- The revised Water Monitoring Programme;
- The revised Noise Monitoring Programme;
- The revised Dust Monitoring Programme.

The 13 monitoring reports will be reviewed separately. Preliminary indications are that the reports follow similar formats to the first reports received in April 2023 and that they essentially ignore most of the TMS requests for additional information and modifications.

2.0 REVIEW RESPONSE TO TMS ENVIRONMENT LTD REQUESTS

2.1 Introduction

This element of the review presents the request from TMS Environment Ltd first and then reviews the WSP / HBL response after each of the requests. The review focuses on the monitoring proposals mainly and those sections of the Response to the High Court (HC) Order which address Conditions 7, 9 and 10 of the High Court Order. There is some reference to the monitoring reports for completeness in the assessment of the responses.

2.2 Dust monitoring proposals

TMS Environment Ltd Requests are set out first as items (i) to (v) after which each response from WSP / HBL is presented and reviewed.

- (i) Clause 9 of the High Court Agreement requires that measurements will be averaged over 28 days, not 30 days as set out in the WSP proposal;

Observations on WSP / Hudsons Response

WSP submitted a revised monitoring programme proposal which insists on monitoring over 30 +/- 2 days in accordance with the German VDI Standard. The HC Agreement was specific about 28 days. Net effect is one less monitoring event per year and ignoring the HC Order.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.1.1 that they have adhered to the VDI2119 method and 30+/- 2 days despite (a) the specific HC Order instruction that it should be 28 days (which confirms to the requirements of Standard Methods), and (b) the reliance on a different standard VDI 4320 in the Monitoring Programme proposal. The response is disjointed and confusing and the proposals do not conform to the specific terms of the HC Order.

- (ii) Clause 9 of the High Court Agreement requires that measurements shall be carried out at stations to include the boundaries of the site, the nearest dwelling houses and the Red Bog SAC. The proposals do not satisfy these requirements because the monitoring stations do not capture all required locations, and specifically the monitoring does not include the nearest dwelling houses.

Observations on WSP / Hudsons Response

WSP still do not include measurements at the closest dwellings. Their proposed monitoring locations map includes some 'discontinued' monitoring locations which were not previously notified to TMS, new monitoring locations and an extended site boundary. One location is significantly removed from even the proposed extended boundary (closer to McNamara's).

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.1.2 that the boundary monitoring locations “*provide coverage at a number of key areas of the Site, including near the haul route, and at the closest point to the nearest receptors as well as near to the Red Bog SAC*”. The report also states that a worst case measurement approach is achieved by locating the monitoring gauges at the site boundaries. This is a fundamentally flawed approach in multiple respects including (a) ignoring the topographical and landscape features which affect dispersion of and deposition of dust, (b) failing to consider the proximity of the monitoring locations to all of the nearest residences, (c) failure to consider prevailing wind direction relative to the proposed monitoring locations, the site activities and the closest residences. Notwithstanding the reasons stated for why the approach is flawed, the terms of the HC order are clear and WSP/HBL have failed to comply with those terms. The final statements in this section of the report refer to a Planning Permission 07/267 regarding boundary measurements which is irrelevant for the purpose of assessing compliance with the terms of the HC Order. The last sentence invites input from TMS Environment in relation to specific monitoring stations; this is surprising since input has already been clearly provided and ignored.

- (iii) The dust limit is proposed to be applied at the site boundaries whereas the High Court Agreement requires that the Limit shall be applied at all monitoring stations.

Observations on WSP / Hudsons Response

Some of the outstanding reports have now been submitted and discussed separately. The proposed monitoring programme does not mention frequency of monitoring even though the HC order is very specific in requiring monitoring every two months. Five reports were submitted for 04 April 2023, 31 May – 01 June 2023, 04 August 2023, 10 Oct 2023 and 29 Nov 2023. No report was submitted for the earlier times in 2023 and none for Jan 2024.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.2.3 that “*WSP were awaiting feedback on from the Applicants’ environmental consultant on the preferred reporting structure.*” The terms of the HC Order were clear in terms of

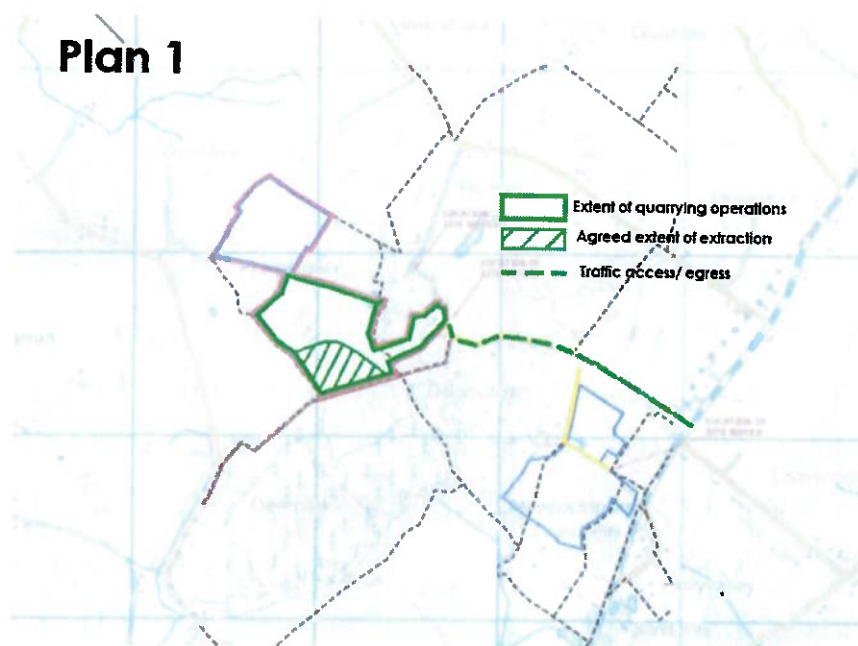
Assessment of WSP / Hudson Brothers Response to HC Order and TMS Review

frequency of submission of reports to TMS Environment Ltd and WSP/HBL ignored the HC Order which did not include a provision to delay reporting pending review. A competent review requires all of the available information rather than just some of it and the correct approach would have been to consult with TMS Environment Ltd in 2022 and early 2023 before ever monitoring commenced. But WSP / HBL instead chose to delay the process and present the reports as a *fait accompli* to TMS Environment Ltd rather than engage in meaningful consultation and then chose to ignore the HC Order. The content of the reports is reviewed separately.

- (iv) There is no map or drawing provided to clearly show the site boundaries to assist with verification of the monitoring stations.

Observations on WSP / Hudsons Response

A site boundary map is included showing that the boundary has been extended into a newly excavated area in Eagers field and extends well beyond the area agreed as covering the Extent of existing Quarrying Operations for the purpose of the HC Order. It does not cover the entire extra field but it does eat into an area not previously inside the boundary and not previously excavated. Plan 1 shows the areas agreed for the purpose of the HC Agreement.



was revised to show site boundaries. As noted above the site boundary has been extended beyond what had been agreed for the purpose of the HC Agreement.

- (v) We request that you reissue the WSP proposed monitoring programme report to address the above and issue all outstanding dust monitoring reports.

Observations on WSP / Hudsons Response

Some of the outstanding reports were issued but they failed to address all of the requests and persist in ignoring and directly contravening terms of the HC Order. The content of the reports is reviewed separately. No further detail is provided in the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024.

2.3 Noise monitoring proposals

TMS Environment Ltd Requests are set out first as items (i) to (iv) after which each response from WSP / HBL is presented and reviewed.

- (i) Clause 10 of the High Court Agreement requires that measurements shall be carried out within the vicinity of the nearest dwelling houses and any other noise sensitive location. The proposals do not satisfy these requirements because the monitoring stations do not capture all required locations.

Observations on WSP / Hudsons Response

There has been no change to the proposed monitoring locations. The programme specifically excludes measurements at the closest dwelling houses and therefore ignores the terms of the HC order. Also to note: they state that they will do daytime noise monitoring only “*as night time works are not conducted at the site*”. In all guidances night time would include works carried out before 07:00am and although unauthorized works are carried out before 07:00 WSP will not be monitoring at those times; but no night time work is authorised.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.2.1 states that

“It is not considered necessary to measure noise levels at each and every dwelling

house in the vicinity of the Site in order to adequately capture the noise levels likely to be impacting an individual dwelling. The monitoring locations have also been selected with a view to being readily accessible for survey purposes and not, for example, requiring permission from land or home owners prior to gaining access.” This is a fundamentally flawed approach in multiple respects including (a) ignoring the topographical and landscape features which affect propagation of noise, (b) failing to consider the proximity of the monitoring locations to all of the nearest residences, (c) failure to consider prevailing wind direction relative to the proposed monitoring locations, the site activities and the closest residences. Notwithstanding the reasons stated for why the approach is flawed, the terms of the HC order are clear and WSP/HBL have failed to comply with those terms. The approach adopted does not capture noise impacts at all residences and also fails to comply with the very clear terms of the HC order.

The last sentence invites input from TMS Environment in relation to specific monitoring stations; this is surprising since input has already been clearly provided and ignored.

- (ii) Clause 10 of the High Court Agreement requires that measurements shall be carried out within the vicinity of the nearest dwelling houses and any other noise sensitive location. The proposals do not satisfy these requirements because the monitoring stations do not capture all required locations.

Observations on WSP / Hudsons Response

There has been no change to the proposed monitoring locations. The programme specifically excludes measurements at the closest dwelling houses and therefore ignores the terms of the HC order. Also to note: they state that they will do daytime noise monitoring only “*as night time works are not conducted at the site*”. In all guidances night time would include works carried out before 07:00am and although unauthorized works are carried out before 07:00 WSP will not be monitoring at those times; but no night time work is authorised.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.2.1 states that

“It is not considered necessary to measure noise levels at each and every dwelling

Assessment of WSP / Hudson Brothers Response to HC Order and TMS Review

house in the vicinity of the Site in order to adequately capture the noise levels likely to be impacting an individual dwelling. The monitoring locations have also been selected with a view to being readily accessible for survey purposes and not, for example, requiring permission from land or home owners prior to gaining access.” This is a fundamentally flawed approach in multiple respects including (a) ignoring the topographical and landscape features which affect propagation of noise, (b) failing to consider the proximity of the monitoring locations to all of the nearest residences, (c) failure to consider prevailing wind direction relative to the proposed monitoring locations, the site activities and the closest residences. Notwithstanding the reasons stated for why the approach is flawed, the terms of the HC order are clear and WSP/HBL have failed to comply with those terms. The approach adopted does not capture noise impacts at all residences and also fails to comply with the very clear terms of the HC order.

The last sentence invites input from TMS Environment in relation to specific monitoring stations; this is surprising since input has already been clearly provided and ignored.

- (iii) There is no map or drawing provided to clearly show the site boundaries to assist with verification of the monitoring stations.

Observations on WSP / Hudsons Response

A site boundary map is included showing that the boundary has been extended into a newly excavated area in Eagers field and extends well beyond the area agreed as covering the Extent of existing Quarrying Operations for the purpose of the HC Order. It does not cover the entire extra field but it does eat into an area not previously inside the boundary and not previously excavated.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.2.2 that the map was revised to show site boundaries. As noted above the site boundary has been extended beyond what had been agreed for the purpose of the HC Agreement.

- (iv) Reports have not been submitted to TMS Environment Ltd at 2 month intervals as stipulated in the High Court order.

Observations on WSP / Hudsons Response

Some of the outstanding reports have now been submitted and discussed separately. The proposed monitoring programme does not mention frequency of monitoring even though the HC order is very specific in requiring monitoring every two months. Five reports were submitted for 04 April 2023, 31 May – 01 June 2023, 04 August 2023, 10 Oct 2023 and 29 Nov 2023. No report was submitted for the earlier times in 2023 and none for Jan 2024.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.2.3 that “*WSP were awaiting feedback on from the Applicants’ environmental consultant on the preferred reporting structure.*” The terms of the HC Order were clear in terms of frequency of submission of reports to TMS Environment Ltd and WSP/HBL ignored the HC Order which did not include a provision to delay reporting pending review. A competent review requires all of the available information rather than just some of it and the correct approach would have been to consult with TMS Environment Ltd in 2022 and early 2023 before ever monitoring commenced. But WSP / HBL instead chose to delay the process and present the reports as a *fait accompli* to TMS Environment Ltd rather than engage in meaningful consultation and then chose to ignore the HC Order. The content of the reports is reviewed separately.

- (v) We request that you reissue the WSP proposed monitoring programme report to address the above and issue all outstanding noise monitoring reports.

Observations on WSP / Hudsons Response

Some of the outstanding reports were issued but they failed to address all of the requests and persist in ignoring and directly contravening terms of the HC Order. The content of the reports is reviewed separately. No further detail is provided in the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024.

2.4 Water monitoring proposals

TMS Environment Ltd Requests are set out first as items (i) to (viii) after which each response from WSP / HBL is presented and reviewed.

- (i) Clause 7(a) of the High Court Agreement requires that no extraction of material shall be carried out below a level one metre above the existing water table. No information has been provided to allow assessment or verification.

Observations on WSP / Hudsons Response

There is no information presented to allow this to be assessed. The question is not commented on or addressed in the revised monitoring programme proposal.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, at Section 2.3.1 the report provides information about a single borehole BH9K and shows interpolated information for BH4K. There is so little information, selectively presented and much of it in the form of interpolations that a comprehensive review is simply not possible. What is clear from the data is that there is still inadequate and incomplete information presented which does not demonstrate that excavation has not taken place below the water table. On the contrary, the data presented here and in the monitoring reports indicates that excavation has taken place below the water table in direct contravention of the HC order.

The data on water level presented in the monitoring reports contradicts the information presented in this Item Response and shows that the water table is above the base of the quarry and that excavation has taken place below the water table. The response does not address the query and in fact raises more questions and concerns.

- (ii) Clause 7(b) of the High Court Agreement requires in particular that the water monitoring programme shall ensure that the existing groundwater sources serving residents and farms in the vicinity of the site are unaffected by the quarrying operations. The programme does not make any provision for this requirement. A list of 7 houses in the vicinity of the site was provided in a letter from Harrington Solicitors dated 26 January 2023 but details have not been included in the monitoring programme.

Observations on WSP / Hudsons Response

The revised monitoring programme ignores this request. WSP state that they drilled two new wells in September 2023 (BH9K and BH10K) and state that *"The additional wells*

Assessment of WSP / Hudson Brothers Response to HC Order and TMS Review

were also installed to inform regarding likely impacts to adjacent private wells in the vicinity of the Site.” Their proposals do not conform to the HC Order in that (a) they have not included the private wells in the programme, (b) the wells they say were installed to inform on this issue do not address all wells in the vicinity of the site, and (c) the inadequate proposals do nothing to ensure that all the existing groundwater sources serving residents and farms in the vicinity of the site are unaffected by the quarrying operations. The response is woefully inadequate.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.3.2 that “*A monitoring programme alone cannot ensure that the residents are unaffected by quarrying operations. It will however flag any changes in water quality / quantity and whether or not they are due to activities at the Site....*”. The report then goes on to state that “*It is recommended that the current monitoring network at the Site is sufficient in detecting any potential contamination or drawdown occurring as a result of site activities to the residences identified.*” This response again completely disregards the terms of the HC Order.

Reference is made in this section of the report to an email in April 2023 requesting a list of owners and locations but this list had already been provided in January 2023 and in fact WSP had attempted to carry out monitoring at some of those wells. But in the course of that monitoring they told an owner that damage could be caused doing the monitoring and that the homeowner would be responsible for the costs of any repairs. This was clearly unreasonable And the owners rightly refused to accept such responsibility for costs and refused access. This matter was raised again during the site inspection, and it was clearly explained that under no circumstances could it be considered reasonable to impose such costs on the residences. At the Site Inspection it was indicated that HBL would cover such costs but there was no follow up commitment despite a request for same.

This section of the WSP report concludes saying that once the required information is received that they will carry out the required monitoring. The information has already been provided in January 2023 and the requirement for an undertaking to repair damages caused during monitoring was discussed, with a preliminary indication of agreement, during the site inspection in September 2023. So there is no reason for the

delay and no reason why this critical monitoring was not completed to date. It was pointed out during the Inspection that this is an area of considerable concern to local residents and the ongoing disregard for the HC Order and the concerns of the local residents is worrying.

- (iii) The proposed suite of tests does not include all parameters required to ensure that a reliable statement of water quality is presented and to ensure that the full impact of quarry operations is captured in the monitoring.

Observations on WSP / Hudsons Response

The revised programme ignores this request and presents the same partial list of analytes which are to be analysed as was originally proposed. The revised programme states that the assessment will rely on comparing the water quality results with the groundwater threshold values (GTVs) in accordance with the Groundwater Regulations (SI No 9 of 2010 as updated by SI N0 366 of 2016) and the Drinking Water Regulations (SI No 122 of 2014). The list provided in the programme specifically excludes consideration of several analysis parameters directly relevant to the use of well water for drinking water purposes. A reliable statement of water quality and a reliable assessment of the impact of the proposed development on the wells of residents within the vicinity of the site is not possible with the current proposal.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.3.3 “*The Applicants Consultant is to advise on which contaminants not included in current analysis are of concern and perceived to arise from activities on Site.*” In the first instance, it is not for the Applicants Consultant to advise on what contaminants could arise from Site activities and even if it was something the Consultant could engage in, the Consultant has no information to assist in such a process because WSP / HBL have not provided any of the relevant information. For example, and this is not a complete list, no list of substances in use at the site and copies of the relevant Data Sheets has ever been provided, no details of the groundwater regime across the site and the lands in the ownership of HBL has ever been provided and no Conceptual Model for the Site has been presented. Furthermore, the drawdown impact has not been demonstrated to have been considered and presented in relation to the local well owners and indeed has

not been presented in the Response report. Potential impacts on surrounding well owners as a result of quarrying are not restricted to contaminants arising from site activities. Potential impacts could also arise as a result of disturbances and effects of quarrying which have additional consequences not directly related to substances in use at the Site. As noted above, parameters of concern in relation to drinking water have not been considered and this is an area of concern to residents. Consultants for HBL are well aware that there is a requirement to consider all potential impacts and they have failed to demonstrate that this was done in the information and responses submitted to date.

- (iv) Water quality and level data for all wells and boreholes within a 500m radius of the Quarry Site were to be provided on a quarterly basis to comply with Clause 7(f). No map showing all the wells and boreholes within this radius has been provided and no data has been provided.

Observations on WSP / Hudsons Response

The report fails to respond or comment on this requirement. This directly contravenes the terms of the HC order. The failure to address this specifically means that there is no effort being made to ensure that the quarrying activity does not affect the wells in the vicinity of the site which is a direct contravention of the HC order.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report at Section 2.3.4 refers to the previous response addressed above in relation to why the terms of the HC order have not been complied with. Failure to comply with the HC direction not only disrespects the Court, but shows no regard for a very significant concern of the local residents.

The Response Report also references distance from the 07/267 planning boundary in determining which of the wells in the area fall within the 500m distance. This is not directly relevant to the current process which relates to the HC Agreement and HC Order.

- (v) There is no map or drawing provided to clearly show the site boundaries to assist with verification of the monitoring stations.

Observations on WSP / Hudsons Response

A site boundary map is included showing that the boundary has been extended into a newly excavated area in Eagers field and extends well beyond the area agreed as covering the Extent of existing Quarrying Operations for the purpose of the HC Order. It does not cover the entire extra field but it does eat into an area not previously inside the boundary and not previously excavated.

- (vi) BH10 was proposed to be installed in the most southernmost location on the site; however the indicated location for BH10 is outside the site boundary and outside the lands in the control of Hudson Brothers Ltd. This severely limits the value of data acquired from such a well for the purpose of the assessment.

Observations on WSP / Hudsons Response

This has not been responded to and BH10 is outside the site boundary contrary to the prior commitment. This location limits the value of information acquired from the well.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.3.6 that the well is located up-hydraulic gradient from the site. But there is no response to the query which is why is the well located in a different area from what had been previously proposed.

- (vii) BH3 is unreliable and a replacement well should have been installed to monitor ground water levels in this area and in the immediate quarry area.

Observations on WSP / Hudsons Response

This issue has not been mentioned or addressed in the revised groundwater monitoring proposal.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.3.7, there is a statement that a recommendation is made to replace the well in the 2024 mitigation schedule. But no plans have yet been made. This is astonishing given the importance of the well and the information that could be derived from it.

- (viii) We request that you reissue the WSP proposed monitoring programme report to address the above and issue all outstanding water monitoring reports.

Observations on WSP / Hudsons Response

The outstanding reports have been issued and are discussed separately. However, there is little or no difference between the original proposal and the revised proposal. The deficiencies remain and the programme does not conform to the specific requirements of the HC order.

- (ix) We are especially concerned that no meaningful ground water level data has been provided, yet we are confident that this data should exist especially in the light of the upcoming Substitute Consent application. It is not possible to advise on the impact of the Hudsons activity on groundwater without meaningful data in terms of the locations where it is acquired, the duration of the measurements and other features pertinent to such an assessment. We request that the data specified in the High Court Agreement should be forwarded immediately and ideally that the significant body of information which should surely have been acquired for the Substitute Consent application should be forwarded for consideration. We are especially interested in receiving information on groundwater levels within the site boundary and especially at locations and wells in or close to the extraction area so that an assessment can be made regarding compliance with Clause 7(a) in relation to ensuring that extraction is not carried out at levels below one metre above the existing water table. This should also include level data for all locations including well locations and the active extraction area.

There is no information presented for the water levels or quality in residents wells. As advised at the site inspection, one of the residents reported that when you attended their property to carry out well monitoring that they were advised that if any damage occurred to their property that they would be responsible for the damage and repairs. This is clearly not an acceptable position to place any resident in and as discussed at the site inspection, a suitable guarantee should be provided to any residents that their property will not be damaged during any monitoring and that any damages will be promptly and fully corrected without cost to the resident.

Observations on WSP / Hudsons Response

There has been no attempt to respond to the neighbouring residents' concerns in the revised monitoring proposal. This is a fundamental requirement of the HC order and there should have been no need to point this out to Hudsons or their consultants. Failure to address this is in direct contravention of the HC order, Further, the failure demonstrates the total disregard being displayed by the Quarry owners and their consultants for the concerns of their neighbours. It was specifically pointed out at the site inspection in September 2023 that water is a very significant concern of the residents and that it was both offensive and unreasonable to suggest that they should be held liable for the costs of repairing damaged infrastructure during monitoring.

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024, the report states at Section 2.4.1 a commitment has been given to correct promptly and fully any damages caused during monitoring. Although not stated it is assumed that the cost of such corrections would be borne by HBL.

The report at Section 2.4.3 commits to providing water level data and hydrographs in future reports but this information has not all been provided to date. Most of the information that should have been provided at 2 month and quarterly intervals is more than a year late in being provided in the response documents received in February 2024.

3.0 REVIEW RESPONSE TO HIGH COURT ORDER

This element of the review presents a response to elements of the WSP / HBL response to the High Court Order; responses relating to Clauses 7, 9 and 10 were addressed in Section 2.

3.1 Clause 1

1. Any further extraction of material within the Quarry Site within the duration of this Agreement shall be limited to the levels of the 2010 permission and shall be contained within the area edged green on Plan 1 attached hereto and shall not be extracted by means of blasting; whether by explosives, gas pressure blasting pyrotechnics or any other form of blasting. There shall be no extraction of material carried out below a level one metre above the existing water table.

Observations on WSP / HBL response

In the report WSP report 41000087.R01.B0 HBL High Court Order and Environmental Review Response Summary 02 Feb 2024 (referred to as the WSP Response Report, the report states at Section 1.1 that *‘the main aquifer has not been intercepted’* and that there has been no requirement for dewatering. This is not consistent with the groundwater level data provided in the monitoring reports and the limited information provided at Section 2.3.1 of the Response report. The report states that review of borehole logs assists in the understanding of the water regime at the site but the information has not been provided in any of the documents provided for review. Based on the limited information that has been provided, it appears that the existing water table does lie above the extraction level and that therefore the quarry is not compliant with the terms of the High Court Order.

This section of the report states that *“Extraction of sand and gravel, and rock material has remained within the area edged green on Plan 1”*. Plan 1 reproduced below shows the areas agreed for the purpose of the HC Agreement. This is not correct based on evidence provided by the Residents which shows, by way of drone footage, that a new unauthorized access road has been constructed and that excavation in a new area significantly beyond the area of extraction agreed under terms of the HC Order has taken place (Figure 2). The footage shows that in November 2023, a new access road outside the agreed and permitted quarry boundary was constructed and that excavation has taken place in a new area. This is in direct contravention of Clause 1 of the HC Order.



Figure 2 Drone footage taken by the residents on 21 November 2023



3.2 Clause 2

2. Within two months, a digital survey of the agreed extraction area shall be carried out by the Respondent's land surveyor and the survey furnished to the Applicants and the Applicant's solicitor after which the Applicants can have it assessed by their own independent and qualified land surveyor to demonstrate all levels and current quarry faces and gradients. The cost of the survey will be borne by the Respondent.

Observations on WSP / HBL response

At section 1.2 of the WSP Response Report it is noted that a topographical survey of the site was completed in January 2023 and submitted to the residents in April 2023. This survey needs to be updated to show developments since January 2023 and specifically the unauthorized developments including those in November 2023. In addition the Residents need to have a survey completed on their own behalf to verify the findings.

3.3 Clause 3

3. Blasting, whether by explosives, gas pressure blasting pyrotechnics or any other form of blasting, will not be carried out under any circumstances.

Observations on WSP / HBL response

The WSP response Report at Section 1.3 states that no blasting has occurred since August 2020. This was also stated at the Site Inspection in September 2023.

3.4 Clause 4

4. Operational access to and from the quarry site by the Respondent shall only be from the existing main quarry access road off the N81. No quarry access shall be permitted along the cul de sac 380 meters to the northeast of the main quarry road entrance save for the personal usage by members of the Hudson family.

Observations on WSP / HBL response

The WSP report states at section 1.4 that this *cul de sac* is not used for access. Residents have advised that unauthorised use of this cul-de-sac has occurred and provided photographic evidence of this unauthorized access.

3.5 Clause 5

5. The operation of the quarry shall be restricted to the Respondent and no quarrying activities shall be leased, sub-let or contracted out to any other business or company of the Applicants, save for such contracts or agreements in place as of the 3rd of May, 2022. This is strictly on the proviso that commercial relations continue with the sub-contractors in place as of the 3rd May 2022 ("the Existing Sub-Contractors"). If for any reasons commercial relations with the Existing Sub-Contractors break down, the Respondent shall be entitled to appoint a new sub-contractor in place of the Existing Sub-contractors in order to continue with its commercial activity. The Respondent shall notify the Applicants of any changes to the Existing Sub-Contractors. The Respondent acknowledges and accepts that the purpose of this clause is to ensure that there is no intensification of use during the currency of this Agreement.

Observations on WSP / HBL response

The WSP Response Report states at section 1.5 that quarrying activities are restricted to their own operation of the Site. This does not directly address the critical issues of sub contractors. At the Site Inspection in September 2023, TMS noted that lorries other than Hudson lorries were entering the Site and operating on the site. TMS were informed that material was sold to Carnegie and Roadstone, and other operators and that there were other operators entering and exiting the quarry. It is unclear whether or not there are other sub contractors operating at the site.

3.6 Clause 6

6. Hours of operation at the quarry shall be restricted on the basis indicated at Condition 14 of the grant of planning permission (planning ref. no. 07/267).

Condition 14 of PP 07/267

14. Excavation and processing of material shall be carried out between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1300 hours on Saturdays. However, loading and transporting of processed material may be carried out between 0700 hours and 1800 hours, Monday to Friday and between 0700 hours and 1300 hours on Saturdays. No activities shall be permitted on Sundays or public holidays.

Reason: To regulate the development in the interests of controlling the hours of operation of the quarry in the interest of the amenity and proper planning and sustainable development of the area.

Observations on WSP / HBL response

The WSP Response Report states at section 1.6 that their operations are currently in compliance with the terms of this condition, and acknowledges a discussion during the Site Inspection in September 2023 which highlighted a significant breach in the terms of this Clause of the HC order. The Response report states that HBL noted that this was due to a misunderstanding as to which specific activities were permitted between 07:00 and 08:00, and that the timing of these practices was rectified after the Site Inspection. This is not consistent with TMS Environment Ltd records of the conversation where Peter Hudson stated that they know its outside Planning but that “*they need to earn a Living*”. The Residents have confirmed that rock breaking commences as early as 06:00 and that this is a very disruptive activity which causes considerable nuisance. The residents report that this unauthorized activity continued for a period of time after the September inspection.

3.7 Clause 8

8. All loads of excavated and processed material transported to and from the Quarry Site by the Respondent’s vehicles shall be covered to prevent dust pollution, and every vehicle carrying fine material shall be covered in accordance with the EIS submitted as part of the 2010 permission application.

Observations on WSP / HBL response

The WSP Response Report states at section 1.8 that trucks are covered. The Residents have reported countless breaches of this requirement and have provided photographic evidence of the breaches.

3.8 Clause 11

11. Within 1 month hereof, the Respondent will provide the Applicants with an inventory of all existing plant, machinery and buildings required for the operation of The Quarry at the date of the signing of this agreement and a map showing the location of each. Save for replacement plant, machinery and equipment, no further plant, machinery and equipment shall be brought into the quarry site and no further buildings will be erected to ensure there is no intensification. For reference, the latest inventory of existing plant, machinery and buildings within the processing area of the quarry, as listed in the current application for Leave for Substitute Consent ref: ABP LS09. 311622, is as follows:

- Canteen and welfare facilities;
- Power House
- Control Rooms (2 no)
- Maintenance shed (with storage for oils) and welfare facilities;
- Aggregate processing plant (with recycling facilities);
- Water recycling plant; and
- Fuel Tanks.

Observations on WSP / HBL response

The WSP Response Report states at section 1.11 that a schedule was supplied to Mr Peter Thompson in December 2022.

3.9 Clause 12

12. The Respondent shall ensure that a stock and trespass resistant fence is in place around the full perimeter of the quarry Site within 3 months hereof with appropriate interim safety and security measures put in place by the Respondent to prevent unauthorised access to the quarry.

Observations on WSP / HBL response

The WSP Response Report states at section 1.12 that fencing was completed in 2023. Some fencing was observed during the Site Inspection in September 2023. Residents expressed concern that the fencing is not secure and is not stock proof.

3.10 Clause 13

13. The Respondent shall bear the reasonable costs of the Applicants towards their employing competent environmental consultants as provided for at conditions 7, 9 & 10 hereof to include the initial inspection of the site and

the review of the monitoring data by that consultant. The consultant shall further be entitled to inspect on notification to the Respondent.

Observations on WSP / HBL response

The WSP Response Report states at section 1.13 that this item has been complied with. Inspection was permitted (after lengthy delays and numerous efforts trying to arrange an inspection). Costs have not been discharged because an invoice was not yet submitted but an invoice is now being submitted for works completed to date. A further inspection is to be arranged, initially just an inspection to view extent of extraction, but measurements and investigations will be required.

3.11 Clause 14

14. The Respondent shall comply with the terms of the following conditions of planning permission 07/267 with immediate effect:

Condition 7 (wheel cleaning);
Condition 8 (disused plant, machinery and scrap)
Condition 13 (light spillage and pollution outside the site).
Condition 17 (maintaining roads in the vicinity of the site)
Condition 18 (safe site access arrangements from the public road)
Condition 19 (prohibition on landfill)
Condition 24 (management of contaminated surface water)
Condition 29 (surface water interceptors)
Condition 30 (oil, grease etc interceptors)
Condition 31 (bundling)
Condition 34 (Waste management)
Condition 40 (record of traffic movements)
Condition 44 (surface water)
Condition 46 (haul routes)

These conditions from Planning Permission 07/267 are attached in Appendix I.

Observations on WSP / HBL response

The WSP Response Report states at section 1.14 that “*HBL have identified their compliance with the terms of the conditions of planning permission 07/267, as set out in Item 14 of the High Court Order.*” However no information was provided in the response demonstrating how these matters were addressed.

Condition 7 (wheel cleaning)

7. The wheels and undersides of all vehicles transporting aggregate from the site onto public roads shall, prior to the exit of such vehicles onto the public road, be washed in a wheel washing facility which shall be operated in accordance with the requirements of the planning authority.

Reason: In the interest of the amenities of the area and of traffic safety and convenience.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 8 (disused plant, machinery and scrap)

8. Any disused plant, machinery and scrap material shall be removed from the site within 3 months, or such other time period as agreed with the Planning Authority, of its use being discontinued. Scrap material shall be deemed to include all scrapped vehicles and other machinery parts, empty oil barrels, broken or otherwise unusable vehicle and digger parts, worn out conveyor belts/chains, batteries, tyres, etc.

Reason: To regulate the development, to control emissions from the site and to prevent environmental pollution.

Observations on Planning & Enforcement File

During the Site inspection in September 2023, there was a significant amount of disused machinery and scrap that does not appear to have been disposed of in a timely manner. The Planning & Enforcement File will be reviewed to determine whether permission for retention of such materials on site was agreed with the Planning Authority.

Condition 13 (light spillage and pollution outside the site)

13. Any on-site lighting shall be cowled and directed away from the public road and adjoining dwellings and be shielded horizontally and vertically to prevent glare, light spillage and light pollution outside the site. All external lighting shall be of the sodium type. No mercury vapour lamps are to be used on the site.

Reason: To regulate the development and to control emissions from the site to prevent light pollution and in the interests of traffic safety and adjoining residential amenity.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 17 (maintaining roads in the vicinity of the site)

17. The quarry operator shall ensure that all public roadways in the vicinity of the site are swept clear of all loose material daily, and that all loose material is removed from the road verges.

Reason: To regulate the development in the interests of road safety and the amenity of the area.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 18 (safe site access arrangements from the public road)

18. The quarry operator shall ensure that access arrangements prevent vehicles from reversing onto the public road or from queuing on the public road before entering the site.

Reason: To regulate the development in the interests of traffic safety.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 19 (prohibition on landfill)

19. Nothing in this permission shall allow the operator to use the site for the purposes of landfilling.

Reason: It is considered that landfilling is not an ancillary use to the use of the site as a quarry and consequently any use of the site as a landfill requires a separate planning permission under the Planning and Development Act, 2000, (as amended).

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 24 (management of contaminated surface water)

24. All contaminated surface water arising on site shall pass through adequately sized and sited petrol/oil interceptors and settlement lagoons before being discharged to the surface water system. Contaminated surface water arising on site shall be contained on site and shall not be allowed discharge to any open drain or watercourse. Only clean uncontaminated surface water shall discharge to the surface water system.

Reason: In the interest of public health and to protect the quality of surface and ground water.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 29 (surface water interceptors)

29. INTERCEPTORS

All surface water from the carpark areas shall pass through adequately sized and sited petrol/oil interceptor(s) before being discharged to the surface water system

Reason: In the interest of proper planning and development.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 30 (oil, grease etc interceptors)

30. GREASE TRAPS

Adequately sized fats, oils, greases interceptors shall be installed on all kitchen waste and canteen waste drainage lines

Reason: In the interest of proper planning and development.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 31 (bundling)

31. BUNDING

All overground oil, chemical storage tank(s) shall be adequately bunded to protect against spillage. Bunding shall be impermeable and capable of retaining a volume equal or greater than 100% of the capacity of the largest tank within the bunding area or 25% of the total volume of the substance which could be stored within the area, whichever is greater. Filling and offtake points shall be located within the bunded areas

Reason: In the interest of proper planning and development.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 34 (Waste management)

34. WASTE

Programs shall be implemented for the minimisation, reuse, recovery and recycling of waste, in accordance with the Waste Management Act 1996 - 2008 and Regulations made thereunder. No burning of waste shall occur on site.

Reason: In the interest of proper planning and development.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 40 (record of traffic movements)

40. The applicant shall keep a record of traffic movements into and out of the site. This record shall contain details of all traffic movements (including origin and destination of vehicles registration and type of vehicle) and should be available on site for inspection during working hours.

Reason: To assess the impact of the development on the existing road network and to ensure that levels of generated traffic are in accordance with applicant's submission.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

Condition 44 (surface water)

44. No surface water runoff from the site shall discharge onto the public road.

Reason: In the interest of traffic safety.

Condition 46 (haul routes)

46. Haul routes to and from the proposed site shall follow the routes shown on drawing no.29.1 A submitted on 12th October 2007.

Reason: In the interest of traffic safety.

Observations on Planning & Enforcement File

There was no information on file to demonstrate compliance.

APPENDIX I PP 07/267 CONDITIONS

Date: 11/11/2009
PI. Ref.: 07/267

REGISTERED POST

Hudson Brothers Ltd
Golder Ass Ireland
Town Centre House
Naas
Co.Kildare

Notification of a decision under Section 34 of the Planning & Development Act 2000-2007

Planning Register Number: 07/267
Application Received Date: 16/02/2007
Further Information Received Date: 17/09/2009

In pursuance of the powers conferred upon them by the above-mentioned Acts, Kildare County Council have by Order dated 11/11/2009 decided to **GRANT PERMISSION** to the above named for the development of land in accordance with the documents submitted namely:-continuation of aggregate extraction and processing at Philipstown and redbog, by mechanical means, blasting, aggregate processing, washing, screening, crushing, power house, control rooms, office building etc at Philipstown & Redbog Co. Kildare subject to 59 **conditions** set out in the schedule attached.

The reason for the imposition of the said conditions are also included. The Planning Authority have had regard to any submissions or representations made on this file. If there is no appeal against the said decision a **grant of permission** in accordance with the decision will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanala (see footnote). It should be noted that until a grant of permission has been issued the development in question is **NOT AUTHORISED** and work should not commence.

Date: 11/11/2009

Senior Executive Officer, Planning
Kildare County Council

PLEASE ARRANGE TO REMOVE SITE NOTICE

Any appeal against the decision of a Planning Authority under Section 37 of the Planning and Development Act 2000 – 2007 may be made to An Bord Pleanala, 64 Marlborough Street, Dublin 1. First and third party objections must be received by the Bord within 4 weeks beginning on the day of making the decision by the Planning Authority. The appeal must be fully complete from the start - you are not permitted to submit any part of it later, even within the time limit.

Any appeal made to An Bord Pleanala will be invalid unless accompanied

- Confirmation of submission to Planning Authority
- The correct fee within the statutory appeal period, (Fees payable to the Board on or after 10th December 2007)
 1. Appeal by 1st party relating to commercial development where the application relates to unauthorised development €4,500 or €9,000 if EIS is involved.
 2. Appeal by 1st party relating to commercial development other than (1) above - €1,500 or €3,000 if EIS involved.
 3. Appeal by 1st party where the application relates to unauthorised development, other than (1) and (2) above - €660
 4. Appeal other than an appeal mentioned at (1), (2) and (3) above - €220

This guide does not purport to be a legal interpretation of the fees payable to the Board. Please contact the Board for further information.

Re: Planning Permission is sought for the continuation of aggregate extraction and processing at Philipstown and Redbog, Co. Kildare by mechanical means, blasting, aggregate processing, washing, screening, crushing, power-house, control rooms, office building, portacabin/canteen, water recycling plant, lagoons, landscaping berms and all associated works. The application site area is ca.57.9ha. in size and is the subject of Section 261 Registration Reference No. QR42. An Environmental Impact Statement will be submitted to the Planning Authority with the application. Hudson Brothers Limited – 07/267

Schedule 1: Considerations and Reasons on which this Decision is based as required by Article 31 of the Planning and Development Regulations 2001.

Having regard to the provisions of the current County Development Plan in relation to the extractive industry and to the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out in the Second Schedule, and the implementation of mitigation measures as outlined in the EIS and further information the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

Schedule 2: Conditions to apply.

1. The development shall be carried out and completed in accordance with drawings submitted to the Planning Authority on 18/07/2007, as altered by revised documentation and details submitted on 12/10/2007, 04/06/2008, 28/01/2009 & 17/09/2009, except where altered or amended by conditions in this permission.

Reason: To enable the Planning Authority to check the proposed development when completed, by reference to approved particulars.

2. The development shall be carried out, completed and maintained in accordance with undertakings for measures to mitigate its impacts as given in the Environmental Impact Statement lodged with the Planning Authority on 04/06/2008 and any additional measures undertaken subsequently, except where altered by the conditions of this permission.

Reason: To enable the Planning Authority to check the proposed development when completed, by reference to approve particulars and to restrict and minimise any adverse environmental impacts resulting from the development.

3. Activities at the facility shall be restricted to the excavation, processing, haulage and storage of rock, sand and gravel material and their transportation off the site.

Reason: In the interest of clarity.

4. The development shall be carried out, completed and maintained in accordance with undertakings for measures to mitigate its impacts as given in the Environmental Impact Statement lodged with the Planning Authority on the 04/06/2008 and any additional measures contained in revised documentation, except where altered by the conditions of this permission.

Reason: To enable the Planning Authority to check the proposed development when completed, by reference to approve particulars and to restrict and minimise any adverse environmental impacts resulting from the development.

5. This permission is for a period of **10 years** from the date of this permission unless at the end of this period a further permission has been granted for its continuance on site.

Reason: To regulate the development and to clarify the duration of the operation hereby permitted and to limit the life of the development, in the interests of amenity and proper planning and sustainable development and to allow the Planning Authority to assess the development at the end of the stated time period.

6. A detailed Restoration Scheme of the site according to the broad principles indicated in the Environmental Impact Statement and as amended by the details received by the planning authority on the 12th of October 2007 shall be carried out immediately following the cessation of excavation as referred to in Condition No. 5 above, unless, prior to the end of that period, planning permission shall have been granted for the continuance of use. Final details of the restoration, which shall be carried out on a phased basis shall be agreed in writing with the planning authority within three months of the date of this permission and shall be related to the agreed phasing programmed as specified in condition no.4 and shall include details relating to the following:

- a. finished gradients of the quarry cliff face
- b. Prescriptions and programme for initial aftercare and longer term management
- c. proposals for an aftercare programme (on site management and timescale)
- d. The purpose, aims and objectives for the after-use of the quarry complex
- e. Interim and proposed final site levels for excavation and restoration
- f. Details of the proposed final landform and phased progression of workings toward this form
- g. Landscaping proposals and a timescale for implementation of those proposals

- h. All existing trees and hedgerows on the site, specifying those proposed for retention, together with measures for their protection during the period in which the development is carried out
- i. A review of the nature conservation opportunities and constraints of the site
- j. Details of water (ground and surface water) management
- k. Details of soil movement and management, associated with restoration
- l. Description of target habitats and range of species appropriate to the site
- m. Details of habitat linkages and continuity of habitat within and outside the site
- n. Selection of appropriate strategies for maintaining or introducing target habitats and species
- o. Techniques and practices for establishing habitats and species
- p. Sources of soil forming materials, plant stock and other species introductions
- q. Method statement for ground forming, soil preparation and habitat and species establishment
- r. Timing of the restoration operations in relation to phased working of the Final Phase of the site
- s. Proposals for monitoring the success of all restoration works
- t. Disposal of wastes arising from the restoration
- u. Hours of operation of the restoration plan

The site shall be restored and landscaped in accordance with the agreed scheme.

b) A separate report shall be submitted to the Planning Authority for written agreement (or as otherwise agreed) detailing all material to be imported for restoration purposes from the adjoining pits. The location and quantum of material, haulage routes and estimated timeframe for completion shall be included.

c) The restoration and landscaping scheme shall also include an estimate of the total cost of the restoration plan along with an estimate of all individual phases. A suitably qualified and independent person acceptable to the Planning Authority shall prepare the estimate.

Reason: To regulate the development and to allow the Planning Authority assess the proposed restoration plan and to ensure that the site is restored in the interest of visual amenity, traffic safety and adjoining residential amenity and proper planning and sustainable development of the area.

7. The wheels and undersides of all vehicles transporting aggregate from the site onto public roads shall, prior to the exit of such vehicles onto the public road, be washed in a wheel washing facility which shall be operated in accordance with the requirements of the planning authority.

Reason: In the interest of the amenities of the area and of traffic safety and convenience.

8. Any disused plant, machinery and scrap material shall be removed from the site within 3 months, or such other time period as agreed with the Planning Authority, of its use being discontinued. Scrap material shall be deemed to include all scrapped vehicles and other machinery parts, empty oil barrels, broken or otherwise unusable vehicle and digger parts, worn out conveyor belts/chains, batteries, tyres, etc.

Reason: To regulate the development, to control emissions from the site and to prevent environmental pollution.

9. All entrances to the site shall be locked shut at all times when the facility is closed or unsupervised so as to prevent entry of unauthorised persons or vehicles to the site.

Reason: To regulate the development in the interests of public safety and to prevent and control unauthorised dumping on site.

10. Within 2 months of the completion of restoration of the site, an inspection shall be carried out by a suitably qualified person(s) in order to confirm that the site has been restored. A detailed report, which shall include survey plans, sections and a coloured photographic survey of the site showing the restored landform shall be submitted to the Planning Authority for agreement.

Reason: In the interest of the proper planning and sustainable development of the area and of adequate development management.

11. Within 6 months from the granting of this permission, the developer shall submit to the planning authority for written agreement with the Heritage Officer of Kildare County Council, a detailed report assessing the impact of the Quarry in relation to Red Bog (SAC) in accordance with the Habitats Directive. Prior to the preparation of this report the applicant shall liaise with the Heritage Officer to agree a framework for the study.

Reason: In order to assess the impact of the quarry and the restoration scheme on Red Bog, a Special Area of Conservation.

12. When the proposed development is completed the site shall be used for agricultural-related purposes only, and not for any commercial, industrial, or other non-agricultural use, without the benefit of a separate planning permission.

Reason: In the interest of visual amenity and the proper planning and sustainable development of the area.

13. Any on-site lighting shall be cowled and directed away from the public road and adjoining dwellings and be shielded horizontally and vertically to prevent glare, light spillage and light pollution outside the site. All external lighting shall be of the sodium type. No mercury vapour lamps are to be used on the site.

Reason: To regulate the development and to control emissions from the site to prevent light pollution and in the interests of traffic safety and adjoining residential amenity.

14. Excavation and processing of material shall be carried out between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1300 hours on Saturdays. However, loading and transporting of processed material may be carried out between 0700 hours and 1800 hours, Monday to Friday and between 0700 hours and 1300 hours on Saturdays. No activities shall be permitted on Sundays or public holidays.

Reason: To regulate the development in the interests of controlling the hours of operation of the quarry in the interest of the amenity and proper planning and sustainable development of the area.

15. Within 3 months of this permission, or such other time period as agreed with the Planning Authority, the applicant shall submit details of all existing and proposed signage located or to be located at the site entrance. These details shall also provide for a sign indicating the name of the quarry operator, contact telephone number of the quarry, the permitted working hours of the quarry, the name of the Planning Authority and the planning register number of the development.

Reason: To regulate the development in the interests of proper planning and sustainable development.

16. Within 2 months of the date of this permission, or such other time period as agreed with the Planning Authority, the quarry operator shall submit for the written consent of the Planning Authority details of warning signage to be erected at either side of the quarry entrance to warn road users of the quarry entrance.

Reason: To regulate the development and to alert road users of the location of the quarry entrance in the interests of traffic safety.

17. The quarry operator shall ensure that all public roadways in the vicinity of the site are swept clear of all loose material daily, and that all loose material is removed from the road verges.

Reason: To regulate the development in the interests of road safety and the amenity of the area.

18. The quarry operator shall ensure that access arrangements prevent vehicles from reversing onto the public road or from queuing on the public road before entering the site.

Reason: To regulate the development in the interests of traffic safety.

19. Nothing in this permission shall allow the operator to use the site for the purposes of landfilling.

Reason: It is considered that landfilling is not an ancillary use to the use of the site as a quarry and consequently any use of the site as a landfill requires a separate planning permission under the Planning and Development Act, 2000, (as amended).

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

Reason: To regulate the development in the interest of orderly development and public safety.

21. (a) Within 3 months of the date of this permission, or such other time period as agreed with the Planning Authority, the operator shall lodge with the Planning Authority a bond of an insurance company, a cash deposit, or other security as agreed to secure the provision and 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 reinstatement of the site including all necessary demolition and removal.

(b) The form and amount of the security shall be at least one quarter of the estimate mentioned in **Condition No.6 (c)** and agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

(c) All such security provided shall be increased from January 1st next and annually thereafter (unless previously discharged) in line with the Wholesale Price Index - Building and Construction (published by the Central Statistics Office). The bond shall remain in full force and effect until discharged by the Council.

Reason: To regulate the development and to ensure the satisfactory reinstatement of the site.

22. No muck, dirt, debris or other materials shall be deposited on the public road, footpath or verge by machinery or vehicles travelling to or from the development site during the construction phase. The applicant shall arrange for vehicles leaving the site to be kept clean. A bond of €5,000 shall be paid to the Planning Authority to ensure satisfactory compliance with this condition within 2 months following the date of this permission.

Reason: In the interest of traffic safety, amenity and orderly development.

23. Prior to the discharge of treated effluent (this includes water from settlement ponds and interceptors) or surface water from the development to waters, a Section 4 Effluent Discharge Licence under the Local Government (Water Pollution) Act 1977, as amended, shall be obtained from Kildare County Council.

Reason: To control emissions to surface water and groundwater in the interest of public health and to protect the quality of surface and ground water and prevent pollution.

24. All contaminated surface water arising on site shall pass through adequately sized and sited petrol/oil interceptors and settlement lagoons before being discharged to the surface water system. Contaminated surface water arising on site shall be contained on site and shall not be allowed discharge to any open drain or watercourse. Only clean uncontaminated surface water shall discharge to the surface water system.

Reason: In the interest of public health and to protect the quality of surface and ground water.

25. Within 6 months of the date of this decision, or such other time period as agreed with the Planning Authority, the quarry operator shall submit for the written approval of the Planning Authority an Environmental Management System for the site. The Environmental Management System shall provide for a review of the Environmental Management System Plan after 5 years and the proposed review shall be submitted to the Planning Authority for its written approval.

Reason: To regulate the development to ensure that the development is operated in accordance with "best practice", to control environmental, surface water, ground water or atmospheric emissions and to allow the Planning Authority monitor the operation of the development in the interests of proper planning and sustainable development.

26. The details of the Environmental Management System shall be in accordance with the conditions contained in this decision.

Reason: To regulate the development to ensure that the development is operated in accordance with "best practice", to control environmental, surface water, ground water or atmospheric emissions and to allow the Planning Authority monitor the operation of the development in the interests of proper planning and sustainable development.

27. SURFACE WATER & STORM WATER

Contaminated surface water arising on site shall be contained on site and shall not be allowed discharge to any open drain or watercourse. Only clean uncontaminated surface water shall discharge to the surface water system. Refuelling of vehicles and machinery shall be carried out in a manner which prevents pollution of surface and ground waters.

Reason: In the interest of proper planning and development.

28. GROUND WATER

(a) Excavation shall not take place below a level of at least 1 metre above the highest seasonal water table level on site. Water levels in the surrounding wells are not drawn down by the quarry activities and continuous monitoring of the water levels in the wells shall be carried out. Any abstractions from groundwater shall comply with the Local Government (Water Pollution) Act 1977, Register of Abstractions from Waters, Kildare County Council. The Planning Authority shall, if necessary, determine additional monitoring wells to be provided by the applicant.

(b) Within six months of the date of this decision, or such other time period as agreed with the Planning Authority, full details of the ground water monitoring programme shall be submitted for the written agreement of the Planning Authority and this programme shall ensure that the existing ground water sources serving local residents and farms in the vicinity of the site are unaffected by the development. The developer shall carry out monitoring of surface water and groundwater in the vicinity of the site to include information on groundwater levels AOD and water quality. The monitoring locations, sampling procedure, frequency and suite of water quality parameters to be tested for shall be agreed in advance with the Planning Authority and the monitoring shall begin prior to the commencement of the authorised activity.

(c) Where a water source within the affected area has been compromised by the development, the quarry operator shall take whatever measures necessary for the provision of an adequate supply to replace the affected supply. The quarry operator shall provide the Planning Authority with the results of the monitoring (quality and levels) of all wells and boreholes within a 500-metres radius of the site or as otherwise agreed with the Planning Authority. The test results shall be submitted to the Planning Authority on an agreed basis.

Reason: In the interest of proper planning and development.

29. INTERCEPTORS

All surface water from the carpark areas shall pass through adequately sized and sited petrol/oil interceptor(s) before being discharged to the surface water system

Reason: In the interest of proper planning and development.

30. GREASE TRAPS

Adequately sized fats, oils, greases interceptors shall be installed on all kitchen waste and canteen waste drainage lines

Reason: In the interest of proper planning and development.

31. BUNDING

All overground oil, chemical storage tank(s) shall be adequately bunded to protect against spillage. Bunding shall be impermeable and capable of retaining a volume equal or greater than 100% of the capacity of the largest tank within the bunding area or 25% of the total volume of the substance which could be stored within the area, whichever is greater. Filling and offtake points shall be located within the bunded areas

Reason: In the interest of proper planning and development.

32. DUST

(a) The total dust emission arising from the on-site operations associated with the proposed development shall not exceed 130 milligrams per square meter per day, averaged over a continuous period of 30 days, when measured as deposition of insoluble particulate matter at any position along the boundary of the site. No stripping of topsoil or overburden shall be carried out in periods of dry weather.

(b) A Dust Assessment shall be carried out on the site by a competent Environmental Consultant within 3 months of commencement of on-site operations and continuously thereafter. The locations of the dust monitoring stations shall be agreed with the Planning Authority. The Dust Assessment Reports shall be submitted to the Planning Authority on a quarterly basis.

Reason: In the interest of proper planning and development.

33. NOISE AND VIBRATION

(a) The noise level attributable to all on-site operations associated with the proposed development shall not exceed 55 dB(A) (Leq) over a continuous one hour period between 0800 hours and 1800 hours Monday to Friday inclusive (excluding bank holidays), and between 0800 hours and 1300 hours on Saturdays, when measured outside any noise sensitive location house in the vicinity of the site. Sound levels shall not exceed 45 dB(A) (Leq) at any other time.

(b) A Noise Assessment shall be carried out on the site by a competent Noise Consultant within 1 month of commencement of on-site operations and at 6 monthly intervals thereafter or at any other time specified by the Planning Authority and shall give advance notice as specified by the Planning Authority. The locations of the noise monitoring stations shall be agreed with the Planning

Authority. The Noise Assessment Report shall be submitted to the Planning Authority.

(c) Vibration due to blasting activities shall not exceed a peak particle velocity of 12mm/s when measured in any of the three mutually orthogonal directions (for vibration with a frequency at less than 40 Hz) at any vibration sensitive location in the vicinity of the site. Air overpressure shall not exceed 125 dB (linear maximum peak value) at any air overpressure sensitive location in the vicinity of the site.

Reason: In the interest of proper planning and development.

34. WASTE

Programs shall be implemented for the minimisation, reuse, recovery and recycling of waste, in accordance with the Waste Management Act 1996 - 2008 and Regulations made thereunder. No burning of waste shall occur on site.

Reason: In the interest of proper planning and development.

35. ANNUAL ENVIRONMENTAL AUDIT

(a) An Environmental Audit of the site operations shall be carried out annually (by the end of January) on behalf of the developer by a competent environmental consultant. Details of the monitoring arrangements, including locations and frequency of monitoring shall be submitted to the Planning Authority within three months of commencement of planning decision. The audit should be prepared with reference and should take into account the requirements of the 2006 EPA publication 'Environmental Management Guidelines in the Extractive Industry' and shall be submitted to the Planning Authority not later than the end of February on an annual basis.

(b) The Environmental Audit shall

- (i) be prepared with reference to, and should take into account, the requirements of the 2006 Environmental Protection Agency publication 'Environmental Management Guidelines in the Extractive Industry (Non-Scheduled Minerals)'.
- (ii) Contain a summary of all the environmental monitoring results of the year.
- (iii) List a full record of any breaches over the previous year of noise, dust and water quality.
- (iv) contain a written record of all complaints and action taken on each complaint.

Reason: In the interest of proper planning and development.

36. ENVIRONMENTAL MONITORING SYSTEM

Within 3 months from the granting of this permission, the developer shall submit to the planning authority for written agreement a proposal for an Environmental Management System (EMS) prepared to the guidelines of Section C of the 2006 EPA publication 'Environmental Management Guidelines in the Extractive Industry'. The EMS should highlight clearly 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 on-going monitoring of sound emissions at the site boundaries at locations to be agreed with the planning authority.
- (c) Proposals for the suppression of dust on site and on the access road; proposals to prevent dust escaping the boundaries of the site.
- (d) Proposals for the bunding of fuel and lubrication storage areas; details of emergency action in the event of accidental spillage (where appropriate) and details of procedures to ensure refueling of vehicles and machinery is carried out in a manner that prevents contamination of the environment.
- (e) Details of safety measures for the land above the quarry, to include warning signs and stock proof fencing (works to be carried out within one month of the written agreement of the planning authority to these details).
- (f) Management of all landscaping, with particular reference to enhancing the ecological value of the grassland on the boundary adjoining **the proposed NHA** and buffer areas on the perimeter of the site.
- (g) Monitoring of ground and surface water quality, levels and any discharges

The details of the Environmental Management System shall be in accordance with the conditions contained in this decision.

Reason: In the interest of proper planning and development.

37. Within six months of the grant of this permission, detailed design of the entrance shall be submitted to the Planning Authority for written approval.

Reason: In the interest of traffic safety.

38. Lines of sight at entrance to the site shall be provided *strictly* in accordance with the Design Manual for Roads and Bridges.

Reason: In the interest of traffic safety.

39. Access road from the site to the N81 shall be as shown on drawing no. 29.1 a submitted on the 29th October 2007.

Reason: In the interest of traffic safety.

40. The applicant shall keep a record of traffic movements into and out of the site. This record shall contain details of all traffic movements (including origin and destination of vehicles registration and type of vehicle) and should be available on site for inspection during working hours.

Reason: To assess the impact of the development on the existing road network and to ensure that levels of generated traffic are in accordance with applicant's submission.

41. The developer shall erect appropriate warning signage in the vicinity of the proposed entrance for the benefit of all those passing the entrance and those entering and exiting from the site.

Reason: In the interest of traffic and pedestrian safety.

42. Sufficient car and truck parking and turning space shall be provided within the curtilage of the site for all operations carried out in association with the permitted site activities. Car parking spaces shall be in accordance with the requirements of the Kildare County Development Plan.

Reason: In the interest of traffic safety.

43. Car parking shall be monitored and in the event of the Planning Authority deciding that a shortfall in car parking spaces exists, the developer shall provide such extra car parking as the Planning Authority may specify at an approved location adjacent to the site / or within the curtilage of the site.

Reason: In the interest of traffic safety (having regard to the public road adjacent), and to ensure that adequate car parking facilities are provided on site.

44. No surface water runoff from the site shall discharge onto the public road.

Reason: In the interest of traffic safety.

45. Lighting for all signs shall be erected in such a way so as not to distract or shine into the path of traffic.

Reason: In the interest of traffic safety.

46. Haul routes to and from the proposed site shall follow the routes shown on drawing no.29.1 A submitted on 12th October 2007.

Reason: In the interest of traffic safety.

47. The quarry operator shall pay to the Planning Authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of improving the road network in the vicinity of the access point for the development. The amount of the contribution shall be agreed between the Planning Authority and the quarry operator or, in default of

such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be agreed and paid within 4 months of the date of this decision or in such phased payments as the Planning Authority may facilitate and shall be 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.

Reason: It is considered reasonable that the quarry operator 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 development.

48. A wheel wash unit shall be maintained on the site and used by vehicles exiting the site. No mud or other debris shall be deposited on the roads outside the site. The applicant to ensure that all public roadways in the vicinity of the site are swept clear of all loose material on a regular basis, and that all loose material is removed from the road verges. Details to be agreed in writing with the Planning Authority within 6 months of the grant of permission.

Reason: In the interest of traffic safety.

49. Prior to commencement of restoration works (each phase) and ecological assessment of formed habitats shall be carried out by a qualified ecologist. This assessment shall influence the restoration plan. Every effort shall be made to retain habitats which have developed, to establish ecological links with surrounding countryside.

Reason: To mitigate against habitat removal during quarrying phase

50. Land drains and water courses (rivers, streams) should not be affected.

Reason: In the interest of proper planning and development.

51. Groundwater should be protected in accordance with current regulations.

Reason: In the interest of proper planning and development.

52. Surface water should be attenuated on site in accordance with suds, Greater Dublin Storm Water Management Policy and EEC water frame network directive 2000.

Reason: In the interest of proper planning and development.

53. The applicant is required to engage the services of a suitably qualified archaeologist (licensed under the National Monuments Act 1930-2004) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

54. The archaeologist is required to notify the Department of the Environment, Heritage and Local Government in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

55. The archaeologist shall carry out any relevant documentary research and may excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

56. Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the Department of the Environment, Heritage and Local Government for consideration.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

57. Where archaeological material is shown to be present, avoidance, preservation *in situ*, preservation by record (excavation) and/or monitoring may be required and the Department of the Environment, Heritage and Local Government will advise the Applicant/Developer with regard to these matters.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

58. No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with the Department of the Environment, Heritage and Local Government.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

59. Before development commences the applicant/developer shall pay to Kildare County Council the sum of **€1,171,569.50** being the appropriate contribution to be applied to this development in accordance with the Development Contributions Scheme adopted by Kildare County Council on 23rd February 2004 in accordance with Section 48 of the Planning and Development Act 2000. The amount payable under this condition shall be fully index-linked from the date of grant of permission.

Reason: It is considered reasonable that the developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

Kildare Coounty Council - Inspection Purposes Only

Appendix III

Private well monitoring locations