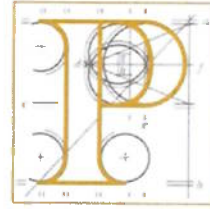


Our Case Number: ABP-319580-24



**An
Bord
Pleanála**

Eco Advocacy
C/o Kieran Cummins
Trammon
Rathmolyon
Enfield
Co. Meath
A83 PW32

Date: 13 June 2024

Re: Application for permission under Section 37L in relation to further quarry development and continuation of use of the ancillary works and structures under substitute consent application ABP-319397-24 and for the life of the quarry, restoration and rehabilitation of whole quarry site. An EIAR and NIS accompanies this application.
Tromman Quarry, Tromman, Rathmolyon, Co. Meath, A83 DA36.

Dear Sir / Madam,

An Bord Pleanála has received your submission in relation to the above-mentioned application and will take it into consideration.

Yours faithfully,

Daniel Moore
Administrative Assistant
Direct Line:

SC40

Teil
Glaao Áitiúil
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Ríomhphost

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64 Sráid Maoilbhríde
Baile Átha Cliath 1
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64 Marlborough Street
Dublin 1
D01 V902

James Sweeney

From: Appeals2
Sent: Monday 10 June 2024 14:29
To: Karen Hickey
Subject: FW: SUBMISSION re Application ref. QD17.319580 (Section 37L)
Attachments: 2024-06-01-EA to ABP-Keegan-OBSERV-37L-QD17.319580-Resized copy 2.pdf

-----Original Message-----

From: Eco Advocacy <info@ecoadvocacy.ie>
Sent: Monday, June 10, 2024 8:53 AM
To: Appeals2 <appeals@pleanala.ie>; Bord <bord@pleanala.ie>
Subject: SUBMISSION re Application ref. QD17.319580 (Section 37L)

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.

Dear Sir/ Madam

Please find attached submission re Application ref. QD17.319580 Section 37L Kindly confirm receipt hereof
Sincerely, Eco Advocacy



Contact reference: Our Ref. 01_8588100, 1890_275175,
Email to: bord@pleanala.ie and or appeals@pleanala.ie

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1

2nd June 2024

SUBMISSION re Application ref. QD17.319580

Section 37L

Reference: ABP: **QD17.319580**
URL: <https://www.pleanala.ie/en-ie/case/319580>
Application Lodged: 16th April 2024 (Tuesday)
Appeal Deadline: 10th June 2024 (Monday), (8 Weeks)
Dev. Address: Tromman Quarry, Tromman, Rathmolyon, Co. Meath
Applicant: Keegan Quarries Limited
Description: Application for permission under Section 37L in relation to further quarry developing and continuation of use of the ancillary works and structures under substitute consent application ABP-319397-24 and for the life of the quarry.
Submission Fee: N/A

Dear Sirs

Please find attached observation in respect of a recent application submitted to *An Bord Pleanála* Application for permission under Section 37L. There are **35 pages** in this submission inclusive of cover page.

Public participation: We take this opportunity to remind the planning authority of its obligations regarding public participation, which is provided for in **European Communities (Public Participation) Regulations 2010 (S.I. No. 352 of 2010)** and in **Directive 2003/35/EC** of the European Parliament. Moreover, public participation is also enshrined in the **UN Aarhus Convention**, which was ratified by Ireland on the 20th June 2012. Ireland have thus far relied upon Section 34 of the planning & Development Act 2000 to satisfy its obligations to involve the public. It is arguable that Irelands obligations go much further than section 34 and which predate the above directives and convention. Accordingly it is imperative that the planning authority carefully considers all aspects of submissions made to it, in connection with the current planning proposals and to meaningfully engage with and involve the public.

Yours sincerely,

Kieran Cummins,
Director, Eco Advocacy CLG

OBSERVATION (QD17.319580) – 37L

DEVELOPMENT DESCRIPTION

1. *"The proposed further development of the 21.64Ha quarry site includes the extraction of limestone from an area of 14.3Ha using conventional drilling and blasting techniques and mineral reduction using mobile crushing and screening to a depth of 13mAOD and the continuation of use of the ancillary works and structures referenced under substitute consent application reference SU17.319397 for the life of the quarry, and the restoration and rehabilitation of the whole quarry site."*
2. It is helpful to break this down into its component parts: -
 - *"The proposed further development of the 21.64Ha quarry site includes*
 - *the extraction of limestone from an area of 14.3Ha using conventional drilling and blasting techniques and mineral reduction using mobile crushing and screening*
 - *to a depth of 13mAOD and the*
 - *continuation of use of the ancillary works and structures referenced under substitute consent application reference SU17.319397 for the life of the quarry, and*
 - *the restoration and rehabilitation of the whole quarry site."*
3. It should be noted that this application is parallel to a substitute consent application ref. **SU17.319397**.

ONGOING DEVELOPMENT OF SITE

4. This site continues to develop despite the lack of prospective consent. Thus, the maps associated with the Substitute Consent application of a particular date [20th March 2024] are clearly wrong, if development is claimed to a point not reached at that date. Substitute Consent does not cover development after the date of submission of the Substitute Consent application and it follows that one cannot apply for Substitute Consent for development that one intends to do! Conversely a S37L is entirely prospective and cannot deal with development post the Substitute Consent application and up to the point of (potential) grant of future development under S37L.
5. Thus, as operations are ongoing and continuing on site (including a blasting campaign), the S37L must surely be invalid, as the site needs retention since the date of submission of the Substitute Consent application. While this development may, of itself, not require EIA and just retention, it requires NIA by its own admission by virtue of submitting NIS with the S37L application. Thus, this is a *prima facie* new and deliberate NIA offence post the original offence and nullifies the S37L application. Given the admission of EIA offence for development post expiry of planning permissions, it is considered that the continued use of the site is a determined increase in the EIA offence.
6. Additionally neither EIA or NIA can or are supposed to be done on a moving target (ongoing development in the absence of a current authorisation for the ongoing development); the site should have stopped at Substitute Consent application stage, but seemingly never had any such intentions of doing so. This must therefore surely be a deliberate unpardonable affront to both NIA and EIA legislation!

NEWSPAPER ADVERTISEMENT – PUBLIC PARTICIPATION

7. We note that the applicants/ its agents; have furnished a newspaper advertisement from the Daily Star dated **16th April 2024**. We note that there is no reference to the notice having being published in the **Meath Chronicle**. Given that the quarry is local to this area, it would have been good practice that the planning notice be published in the local paper. The *Irish Star* does not have a wide readership. We believe therefore that the applicants are actively attempting to conceal the publication of this application, by publishing it in a newspaper with very low circulation locally and do so only as a box ticking exercise. This is sadly a common occurrence and despite rising it in previous submissions, this keeps happening. This is an affront to meaningful public participation.

TIME – FRAME

8. We are most concerned that the time frame for this application is not stated in the site notice. There is no reference whatever to the number of years. We ask the board to consider whether this information should have been stated in the planning notice and if so whether this is a valid application?

NON-TECHNICAL SUMMARY [NTS]

9. We have had a cursory look at the Non-Technical Summary document submitted with this application. We note the following: -

Page 1: -

"The Application being submitted to the Board is for the continuation of quarrying activities over an area of 14.3ha within the existing quarry site, which sits within the wider 21.64ha wider Tromman Quarry Site. The development also proposes the continued use of structures referenced under application PL17.305049 and the restoration of the whole quarry site with delivery of the maximum reserve within the site providing a resource life of 35 years."

We note that a 35-year time frame is mentioned here. Why wasn't this highlighted on the site notices? Notwithstanding, a 35 years time frame is unacceptable and is considered a way of avoiding reinstatement. Further in this submission, evidence will be provided to demonstrate the level of non-compliance with previous planning consents together with the operation of numerous unauthorised developments across counties Kildare, Meath and Westmeath. It follows that no planning consents whatever should be forthcoming to this operator.

Page 4: -

"The proposed phasing of the quarry design incorporates this continued consumption rate, with the relocation of the overburden landform and operating to depths previously considered acceptable will provide a reserve life in the order of 35 years."

We take issue with 'previously considered acceptable'. This is not the case and point out the following: -

2003 APPLICATION & a.O.D.

10. Having regard to the application of 2003, which was largely concerned with retention; ref. TA/30334 [PL 17.206702], this grant is problematic. Condition 4 of the parent grant of planning for this quarry ref. 97/1868 provided that *"Extraction shall not take place below the level of 62.00m O.D. as defined on the extraction plan drawing (Drawing No.2) J486-D02 submitted on the 31/08/98. Reason: In the interest of development control and protection of local water supplies."* An engineers report on the planning file by Paul Donlon to David Keyes states that *"The survey has confirmed that the level of 62.00 OD has been exceeded by approximately 4m."* The implication that the level was **58m OD**.
11. Having examined the subsequent application, we were unable to find any element of the application seeking to quarry beneath this level. Yet condition 18 of the grant by Meath County Council specifies *"There shall be no excavation below the level of 7.0 meters A.O.D. Malin head."* This was repeated in condition 2 of the subsequent grant from *An Bord Pleanála*. On the face of it, this planning permission is deficient in that the depth of 7.0m A.O.D does not appear to have been applied for. Notwithstanding, it follows that no assessment was conducted by the planning authority. It appears therefore that the subsequent planning permission is erroneous. Therefore reliance on this baseline for future planning consents is also highly questionable having specific regard to EIA requirements.

12. Re. Decommissioning – Remediation – Restoration, it is stated at page 8: -

"In the first instance, dealing with the manufacturing area, the structures can be decommissioned, with the buildings and structures being of a steel frame specification with cladding being fixed to or into a concrete base. The structures and plant and machinery can be dismantled, and the remediation completed by the removal of the concrete yard, this would involve rock breaking the yard and removal from site.

It is proposed that the overburden materials will have been moved into their final resting places over Phase 3 and 4, as described above and that the proposed restoration concept allowing for bench and margin treatment and planting, with placement of some overburden resources around the quarry and then for the quarry void to be allowed to flood but still comfortably within the quarry void, with a concept that has been so design to drive in increased biodiversity. See figure overleaf for concept."

Reference to biodiversity in this context is considered to be nothing more than green washing and avoids reinstating the site to agricultural use. This is unacceptable.

Page 9: -

We note that it is proposed to flood the site and leave a large lake behind. On its own this is unacceptable. This is further exacerbated by the proposal to leave lakes behind at the adjoining Kilsaran quarry site. [We have included the Kilsaran proposals in the enclosures appended hereto]

13. Re The Manufacturing Area of the Site, it is stated at Page 10: -

"It is intended that all the manufacturing activities will continue at the site and operations levels will remain within existing tolerances."

This is extremely problematic in that the vast majority of structures at this site were erected without any planning consent or EIA or AA assessments. Neither were they subject to planning assessment or public participation. Please note that the manufacturing activities at this site have been extremely problematic and a cause of great nuisance to local residents. The intermittent murmur of a heavy vibrating machine has been a particular cause of annoyance and nuisance to local residents and typically starts at c.7am.

14. Re Vehicle Movements, it is stated on Page 11: -

"It is proposed that the site will continue to operate with vehicle movements at a level below the 55 two-way trips per day evaluated during successive applications, which equates to a maximum annual mineral extraction in the region of 250,000 tonnes. With transport being made up of a combination of articulated vehicles, both flatbed lorries, tippers, standard eight-wheel rigid lorries and concrete mixer trucks."

The R156 is grossly over trafficked as it is. This may be partly attributed to piecemeal development from the applicant site together with the neighboring Kilsaran operation and operations in Longwood.

15. Re EIA assessment it is stated at page 12: -

"Given the extant planning status of the quarry, it is considered that the baseline may evolve such that 2 scenarios are likely to occur in the future. The first is that mineral extraction will cease, all associated buildings and structures will be removed, and the quarry will be restored. The second scenario is quarrying operations and associated manufacturing will continue at the site, as proposed via this s.37L planning application. The proposed development is assessed against both scenarios within the EIA."

If EU law is properly applied, the first option will be required; i.e. 'The first is that mineral extraction will cease, all associated buildings and structures will be removed, and the quarry will be restored...'

16. Re the assessment of 'ALTERNATIVES', it is stated on page 12 thus: -

"Legislation requires that the author of the EIAR provides a description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development. The aspect of relevance is particularly pertinent when preparing an application that is legislatively linked to the recommencement of a specific site as this arguably makes the ability to considered alternative redundant. Furthermore, given that the proposed development is for further quarrying of a site that has already been assessed under the Impact Assessment Directive, it is not surprising that the previous designs that have been adhered to historically have mitigated out potential significant impacts. Nevertheless, alternatives designs have been considered to facilitate the relocation of the overburden and to provide an improved vehicle management system. These are considered in detail within EIAR."

This is nonsense. Assessment of alternatives is an integral part of the EIA process. A significant amount of the development on site is unauthorised and therefore it is not reasonable to state that they have 'already been assessed under the Impact Assessment Directive'. This is factually incorrect. It is also incorrect and ludicrous to state that 'previous designs that have been adhered to'. Please see the history of non-compliance as outlined further down in this document. It is stated in the NTS that this issue is discussed further in the main EIAR. We had a look. Page 22 of the EIAR purports to deal with this issue. It states: "*The uniqueness of the SC and s.37L application process provides no leeway for alternative developments sites to be considered. However, this is not to say that alternative design and development considerations, for example, on how best to deliver further quarrying at the Quarry site, to maximise the high-quality resource and mitigate significant impacts are not applicable.*" It then goes on to discuss 'Alternative Design' which should be distinguished from 'Alternative Sites'. We were unable to find any evaluation of 'alternative sites'. Is this not a fundamental flaw in the EIAR?

17. Re PLANNING POLICY FRAMEWORK, it is stated on page 13 thus: -

"... The EIAR considers the development in the context of the following contemporary planning policy sources:

- *Meath County Development Plan (2021-2027);*
- *Sustainable Development- A Strategy for Ireland (1997);*
- *National Planning Framework (2018); and*
- *Regional Spatial and Economic Strategy (2019).*

The level of compliance with the policies and objectives outlined in these documents indicates the suitability of the development from a planning and sustainable development perspective."

The level of non-compliance with EIA, NIA and Planning law generally speaks volumes for compliance with policies and objectives! The above statement is therefore nothing more that virtue signaling.

18. It is stated further on page 13 thus: -

"The planning policy section of the EIAR details how the proposed development will allow for the continuation of the significant economic and social benefits generated by the site in terms of employment, investment and prosperity to be sustained without posing an unacceptable impact upon the environment. The proposed development would complement the role of local towns, supporting Trim as an urban strengthening opportunity."

There are little or no benefits to the local community. Conversely, enormous hardship and nuisance inflicted on the local community. Nuisance issues are dealt with in more detail further down. It would be much farer to say that the proposed development (as with all commercial proposals) is about self-enrichment.

It is further stated: -

"The proposed development will maximise the potential of the finite natural resource found at the site without posing an unacceptable impact upon the environment and as such, the proposed development is considered to accord with the three dimensions of sustainable development and therefore is in accordance with the proper planning and sustainable development of the area."

Furthermore, to suggest that such a development is sustainable is absurd.

19. WATER ENVIRONMENT is addressed at page 15 and it is stated thus: -

"An assessment was undertaken to establish the potential impacts upon the water environment, both hydrogeological and hydrological, of the development, with a baseline start date of post 2013."

Why is a baseline taken in 2013? Surely baseline data should be taken at 1997 prior to the commencement of any developments?

It is further stated: -

"The best estimate of the predicted radius of influence at the proposed maximum development is likely to be in the region of 550m, which is about 150 m greater than that observed in the current quarry setting. Mitigation measures have been proposed to address any potential impacts at local receptor wells."

These figures are likely very conservative. For the record, we have been monitoring well levels of our private well since 2013 and can affirm that the water level was constantly dropping. This private well is c.500 meters from the quarry. The above appears to state that a maximum development will be greater than current levels. Therefore the cone of influence will be much greater than stated. Moreover the river to the rear of the quarries has already been adversely affected.

We have repeatedly stated that issues such as hydrology should be independently assessed. It is most unsatisfactory to accept hydrological reports at face value when prepared under the direction of a developer whose goal is to obtain planning consent. Many of the statements seem to be self-serving in nature.

For our part, we usually have planning proposals assessed by an independent Hydrogeologist. This wasn't possible on this occasion by reason of the fact that An Bord Pleanála only posted the planning documents on line with less than of the 8 weeks remaining to comment. This is most unsatisfactory and unacceptable and certainly not in compliance with the requirement of either the Aarhus convention or with EU law. We therefore ask the board to engage an independent Hydrogeologist to assess these figures. Notwithstanding this issue, it is likely that this application will not succeed for many other reasons; most specifically the large amount of unauthorized developments on site.

It is stated that: -

"Precautionary procedures have been implemented for the protection of groundwater quality; by minimising the likelihood of occurrence in the first instance, and specification of reactive measures for the management of accidental spillage and / or long-term leakage of fuel, lubricating or hydraulic oils should this occur."

It fails to say what Precautionary procedures?

20. Re the issue of NOISE, VIBRATION AND BLASTING, it is stated on page 17 thus: -

"On 7th February 2019, a site noise survey was undertaken with source specific noise level readings taken in close proximity to the main noise sources existing at Tromman Quarry site. This allowed for the generation of accurate sound power levels for all main existing noise sources on the site."

If a noise assessment was conducted on one single day, this is most unsatisfactory. Noise at this site is hugely variable. Some days it is extremely noisy and irritating to local residents and occasionally depending on wind conditions, noise levels aren't as discernable.

21. Re LANDSCAPE AND VISUAL; it is stated at page 20: -

"On a localised level the Landscape sensitivity is considered to be Medium-Low. The Assessment concludes that the overall landscape impact/effects which have will occur are collectively considered Negligible. In terms of visual impact, Visual sensitivity is considered to range from Medium to Low. Predicted visual effects arising from the proposals at the selected visual receptors are considered to be negligible."

This statement seems to be self-serving and does not stand up to scrutiny. The visual effects of this quarry have been very significant. It also fails to account for the loss of so many mature trees, which were felled to facilitate the quarry and later the extension to the quarry in the 2009 application where an extensive grove of mature trees were felled. Regarding the 2009 extension application, An Bord Pleanála accepted that there would be unacceptable impacts and stated thus: -

'In relation to visual amenity, the Board agreed with the Inspector that, as proposed, the quarry extension would have an unacceptable impact. However, the Board considered that the development would be acceptable, if reduced in extent to allow for a 60 metre wide buffer zone along the frontage with the regional road. Such buffer zone would also enhance public safety and aid dust suppression.'

This restriction was not adhered to and a campaign of blasting and extraction occurred much closer to the road.

It is further stated: -

"The proposed landscape restoration scheme offers a positive opportunity to restore the ecological diversity of this site through habitat creation on final slopes around the periphery of the proposed site. The Restoration Scheme will provide opportunities for the development of species rich grasses and native woodland."

This is considered to be another example of green washing. Such statements are unacceptable and inexcusable and is considered a way of avoiding proper reinstatement. Open lakes are an unnatural feature of this landscape and also pose permanent health and safety hazards. Moreover open lakes are pathways to contamination of the groundwater table and are therefore most unsatisfactory.

22. The issue of AIR QUALITY is dealt with at page 21 which states thus: -

"The impacts have been assessed and do not give rise to any significant environmental impact ... Overall, the proposed extraction area is considered to have the potential to cause a 'Slight Adverse Effect' at the residential receptors in the surrounding area and, the overall effect of the proposed development below existing extraction levels is considered to be 'not significant' and will result in a 'Negligible Effect' at the nearest residential properties."

Many local residents would strongly refute these claims, which it is submitted are entirely self-serving. The reality is that vegetation is covered with films of dust for a considerable distance around. We submit a photograph with the enclosures appended to this document showing fugitive dust blowing from the quarry. The reality is that it's very difficult for local residents to maintain vehicles in a clean and tidy condition; the margins of the road are constantly coated in with lime dust. As for the state of the roadside boundaries outside homes on the road; anyone driving past can see the impact of the local quarries on the verge and hedges. Shores and gullies regularly require to be blowing out with a power jet truck given the levels of muck emanating from the quarries.

23. Re TRAFFIC, it is stated at page 23 thus: -

"Given that the quarry has operated at levels previously assessed, it follows that any vehicle movement activity at levels less than those assessed with 250,000tpa, some 55 two way movements (110 trips), will cause less of an impact and no form of intensification / additional impact than that previously deemed acceptable for the local road network. As such, it is considered that the proposed development would not result in any significant effects upon the environment in terms of highways impacts."

This is factually incorrect. The concrete batching plant was erected without any assessment! The Calcium Carbonate plant was erected without any assessment! The large concrete manufacturing facility (constructed in c.2016) was likewise erected without any assessment! The R156 road is very heavily trafficked. Walking the road during quarry operational hours is particularly hazardous.

ARCHAEOLOGY

24. Re. CULTURAL HERITAGE, it is stated on page 24 thus: -

"An archaeological evaluation of the application site was most recently prepared by Arch- Tech Limited for the 2009 Environmental Impact Statement, covering the southern half of the quarry development. Archaeology, like geology in this instance does not alter in the timeframe considered, as provided for within this EIAR and accordingly there it is considered unnecessary to revisit and update the previously accepted report. It is concluded that there is no potential for there to be any impacts upon cultural heritage during further operations until the point at which former ground levels below the existing overburden landform, during phases 3 to 4. Whilst it is unclear whether any archaeological remains have the potential to exist, it is considered appropriate to employ an appropriate mitigation measure at the point at which the interface is reached in order to establish the same."

25. We raise significant concerns about the attitude of the Keegan Group to the issue of archaeology. In this regard, it is necessary to have regard to the events which occurred on a major archaeological site found to exist in the 'thistle field' situate at Trammon, Rathmolyon, County Meath: -

26. A major archaeological find was unearthed on the southern side of the R156 in 2007 at a site owned by Keegan Quarries (when the applicant had applied to tunnel under the road from an existing quarry to a Greenfield site). Two large early medieval burial grounds were discovered and some 33 sets of skeletal remains were touched on near the surface of the ground. When the National Monuments Service [NMS] placed a protection order over the burial grounds (as published in *Iris Oifigiúil* in January 2011), the applicant challenged this in the High Court; **KEEGAN QUARRIES LIMITED -V- MINISTER FOR THE ENVIRONMENT HERITAGE AND LOCAL GOVERNMENT [2011/353 JR]**. We understand that the department consented to an order of *certiorari* on the 16th October 2012. We further understand that part of the order mandated that the burial sites be re-assessed with a view to reinstating the protections. We are informed that this was never done.

Both burial grounds were subsequently ploughed up and tillage farming (by the applicant) has been practiced over the burial grounds every since.

27. Moreover, the applicant stripped lands in preparation for a quarry extension (adjacent to the main quarry site) during the severe blizzard conditions of November 2011 when approximately half a meter of snow fell (the big freeze). The roads were impassible and it was difficult to even get from Rathmolyon to Trim. These lands were very close to the earlier archaeological discoveries; circa 100 meters. The actual extension didn't happen for well over a year after. Questions arise as to why it was considered necessary to have this work done in blizzard conditions? Of concern is that a photograph contained in an earlier EIA revealed that there were markings in the field which should have been properly investigated during in normal weather conditions. Sadly we will now never know what may have been there.

REQUIREMENT TO REMAIN 60M FROM R156 - PL.17.235960

28. **Condition 2** of the order specifically stated: -

"The area of the quarry extension shall be reduced so that the edge of the extraction area is not less than 60 metres from the boundary of the site with the R156 regional road. Revised drawings in this regard, including in respect of landscaping and site restoration, shall be submitted to the planning authority for written agreement before development commences.

Reason: In the interest of visual amenity, public safety and dust suppression."

29. By way of warning letter dated 22nd March 2018, Meath County Council advised the site operator: - *"It has come to the attention of the Planning Authority that unauthorised development may have been or is being carried out on lands at Trammon, Rathmolyon, Co Meath namely: - Breach of condition 2 as per Planning Permission TA900976 / PL.17.235960."* [ref. **17/004**] Notwithstanding this notice, a campaign of extraction continued to occur within 60 meters of the road over the following years.

30. The 60-meter limit was clearly provided for in the order form *An Bord Pleanála* after an EIA assessment. This planning application had been subject to a full EIA assessment. It follows that an EIA infringement has occurred with a prolonged campaign of blasting over several years where the operator clearly knew he should not be working. The developer therefore knew that an EIA offence was occurring but continued to dig/ extract. The operator must admit culpability for this offence; there is absolutely no excuse for it. They had been specifically precluded from quarrying there and issued with a warning letter in 2018, but continued to extract from this area in the years that followed.



The Road [R156] to the left of the quarry. Note the proximity of the quarry to the road. They were required not to quarry within 60m of the road. This was ignored.



The road [R156] is immediately behind the quarry in this frame. Blasting occurred much closer to the road than permitted.

31. Offences committed after the 3rd July 2008 are significant. That was the date on which **C215/06 [Commission v. Ireland]** was handed down by the European Court of Justice. That decision is significant in that it provided that Regularisation after the event not permissible under EU law where E.I.A. and A.A. should have been prepared prior to development. In that case it was held that with regard to their effects in accordance with Articles 5 to 10 of Directive 85/337/EEC, Ireland has failed to comply with the obligations that it has under Articles 2, 4 and 5 to 10 of the said Directive 85/337/EEC.
32. There were several blasts in this area of the quarry right up to and including 2024. This can't be accidental. A warning letter had even issued in 2018. It is submitted therefore that *An Bord Pleanála* are obliged to find that the operators should not responsibly not have know that what they were doing was not unauthorised. They were specifically precluded from going into a particular area and knowingly did it. This is not a once off event; there was an entire comparing of blasting to remove that amount of stone. This was contrary to the permission following EIA and was therefore contrary to the EIA directive. This conduct specifically offended the outcome of the past EIA by non-compliance with the conditions. There is no basis to permit this quarry / operator to access the substitute consent process. It follows that the section 177E application should be rejected on that basis.
33. **Condition 3** of the order specifically stated: -
*"There shall be no excavation below a level of 50 metres OD.
Reason: In the interest of clarity and protection of ground water resources."*

The quarry also appears to be well below 50 a.O.D. The board should ascertain the status of the floor levels within the quarry.

34. Planning consent expired in August 2018 for that which had been permitted. Notwithstanding it has continued in operation ever since and continued to expand regardless of a previous Judicial Review and regardless of a pending section 160 on the matter.

35. Having regard to the Large Concrete Products Factory constructed in c.2017, this never had planning consent. This is a massive factory and a very substantial operation. This is in turn being supported from a quarry that does not have planning permission and much of it from an area where they were specifically precluded from working (please see above). This operator is a major regional player operating without planning permission.



Concrete Products Factory; there is no planning consent for the long building to the fore of the screen



The majority of the structures in this frame were constructed without planning consent.



Construction of plant in 2016 without planning consent



Construction of plant in 2016 without planning consent

36. Planning Regs Schedule 5 sets out classes of development which come under the EIA Directive. Part B deals with Member State Thresholds. Class 10 Infrastructure Projects (a) Industrial estate development projects where the area would exceed **15 hectares**. It follows that all activities which do not fall within the definition of quarrying may well have created a separate EIA offence. It follows that industrial activities in excess of 15 HA require a separate EIA. This should be examined by the board.

CONCRETE BATCHING PLANT

37. **May 2013**, a large Concrete Batching Plant was removed from a site situate at *Keegan Quarries Plant, Aghar*. This plant had previously been the subject of *Meath County Council* consent TA/20055, (which was a retention permission) and which was for 5 years from 2000. This in itself had been grossly exceeded as the time permitted 5-year time frame had long since elapsed. It was re-erected at the quarry in Trammon without any planning consent whatever. It cannot reasonably be claimed therefore that it could in any way have been exempted from planning consent. UD ref: **14/134**.



Concrete Batching Plant which was previously subject to a retention planning consent on the former Keegan site at Aghar a few miles away. This was moved to the Trammon site in May 2013. [ref.0395] ©

NATURA IMPACT ASSESSMENT [N.I.A.]

38. Having examined the NIA, we comment as follows: -

1.4 Main Sources of Information: The list of guidance's stops at 2009 and does not include the most recent guidance's at national and EU level; this suggests the r.N.I.S. is not to current best practice.

1.5 The very long gap from 2009 to 2023 in which the EMS was not updated is noted given the immense amount of unauthorised development at the site during that time.

1.6 Site Visits: The 2018/19 site visits could not establish a 'baseline' due to the presence of so much unauthorised development the subject of this application at that time. It is entirely disingenuous to use it as such, and therefore, the baseline is flawed and it follows that the r.N.I.S. is accordingly flawed.

1.6 It is submitted that the static bat detectors were not deployed in time in 2023 and do not constitute a proper bat survey as they are effectively out of season.

2.2 Description of the Quarry Site: This does not give the accurate history of the unauthorised development, especially the concrete manufacturing which has been in operation for a very large period of time including deliberate offences post 3rd July 2008 (C-215/06); the applicants state: -

'In 2004, approval was provided for the bulk of what is currently the operational quarry (c. 13.94 ha).'

This is a very misleading statement. Firstly a significant amount of the 2004 planning application was to seek retrospective consent for a significant amount of unauthorised developments. Secondly, it cannot reasonably be said that the 2004 consent provided approval for the 'bulk' of what's currently on site. The existing quarry ignored the 2009 grant of planning and despite being specifically required not to quarry within 60 meters of the R156 public road, this was blatantly disregarded. Furthermore a large amount of unauthorised developments of a very significant nature were constructed on site. These included a Calcium Carbonate plant, a very large concrete products factory, a ESB substation, a very large mountainous pile of overburden, etc.

3.1 Screening Assessment of European Sites: Same comment as before about an out of date EMS (2009); i.e. The very long gap from 2009 to 2023 in which the EMS was not updated is noted given the immense amount of unauthorised development at the site during that time. This didn't/couldn't keep pace with every additional piece of unauthorised development.

4.1 European Sites Identified within the Screening for Appropriate Assessment: Table 4 and elsewhere when taking about the closure phase/restoration phase ignores that when a quarry floods and the drawdown cone is removed, then the pollution gathered on the quarry floor; mainly hydrocarbons. In this case cement waste with high concentrations of chemicals deleterious to water quality including chromium, pass freely into the ground water and on to the wider groundwater body, and then to surface water bodies. This is a real concern; particularly for neighboring properties depending on wells for their potable water supply.

4.3.1 River Boyne and River Blackwater SAC: it is submitted that the airborne transmission of cement and other pollutants to water bodies is not properly set out for assessment.

4.3.1 River Boyne and River Blackwater SAC: 'Proposal 1' states the settlement lagoons are of relatively recent construction. There is no real effort to look at the risk prior to their construction. Is it the case that prior to their instillation unsettled cementitious water abounded for years?

4.3.1 River Boyne and River Blackwater SAC: 2019 data showed discharges 'largely complied' with discharge license limits – that isn't good enough; why is there only 2019 data to be relied on in 2024? There should be data from 2013 right through to the current date. Is this data not being released or does it exist?

REMEDIAL NATURA IMPACT ASSESSMENT: DESCRIPTION OF EUROPEAN SITES AND QUALIFYING INTERESTS / SPECIAL CONSERVATION INTERESTS POTENTIALLY AFFECTED

Chapter 4: generally appears to rely on mitigations in a voluntary and often outdated EMS and which are not reproduced in the r.N.I.S. as having been complied with. That is not a standard satisfying the Kelly [[2014] IEHC 400] threshold and contains many lacunae. Lacunae must be absent. The details are vague and indeterminate. This r.N.I.S. is deeply flawed and cannot be said to meet the requisite standard.

5 CONSIDERATION OF 'IN-COMBINATION' IMPACTS

Chapter 5: Given the proximity of the Kilsaran quarry, there is no real attempt to address cumulative impacts.

Chapter 5: One cannot rely on a 2004 discharge licence, whose parameters are only judged against 2019 data (and is even only substantially compliant in that regard as stated for 2019), bearing in mind that there was no or no serious attempt at AA in the granting of that licence. This licence is way out of date with thresholds which are not suitable for a modern quarry. It follows that assessment against those parameters is not proof of no risk.

39. 6 MITIGATION

Chapter 6: The mitigations now set out appear to reflect a 2019 wish list and does not deal with development and use prior to then. No evidence is given that the settlement lagoons underwent a design process. The water quality data does not discuss pH; a key issue where cementitious material is present.

Chapter 6: states *"On the basis that the mitigation measures outlined in the EMS were in place"* but doesn't confirm that they were – this reduces this document to a paper exercise with no credible value. Moreover, we have in the past observed water leaving the quarry and entering the stream. This water was clearly not as it should have been as demonstrated in the photo hereunder. Furthermore, the base of the receiving stream is very white in color, which suggests a buildup of a lot of lime.



Discolored Waste Water entering the stream at the rear of the quarry in 2004



The stream at the rear of the quarry





The stream at the rear of the quarry joins another river.
Even when water is not flowing, the base of this stream remains very white in colour.

7 CONCLUSIONS

Chapter 7: the first line and final paragraph suggests each of the 'proposals' individually and does not suggest a cumulative assessment of the site's own proposals – this is ridiculous;

Chapter 7: it is submitted that the conclusion do not meet the *Kelly v An Bord Pleanala* [2014] IEHC 400, 2013 802 JR, threshold of certainty.

PEREGRINE FALCON

40. We were unable to find any reference to or assessment of the Peregrine Falcon. The possible presence of a nesting Peregrine Falcon has already been flagged in the EIAR [2020] of the neighboring quarry operated by Kilsaran. We can confirm that the Peregrine Falcon is indeed present in the area having been heard and identified by the undersigned as recent as May 2024 in the area of the two quarries. The Peregrine Falcon is extremely rare and we are most fortunate to have a nesting pair in this area. The fact that they appear not to have been identified or recognised calls into question the adequacy of the NIA assessment, which has been submitted with this application.

DEVELOPER'S HISTORY OF FLOUTING PLANNING LAW (UNAUTHORISED /ILLEGAL DEVELOPMENTS)

41. This developer has a long history of flouting of planning law not just at this quarry, but across three counties; namely Counties **Meath, Westmeath** and **Kildare**. We have assembled a list of these hereunder: **Enforcement Notices/ Warning Letters** (that we know about).

COUNTY MEATH

42. **Enforcement Notices/ Warning Letters:** There have been hugely problematic compliance issues relating to *Keegan Quarries Limited* for many decades now and we outline hereunder a list of enforcement notices (that we are aware of) hereunder.
43. **Trammon, Rathmolyon, County Meath;** Unauthorised development ref. **03/192**. Exceedance of permitted boundaries, (the initial grant of planning permission in 1998 was massively exceeded and abused to such an extent both vertical and horizontally that a very significant application for retention was necessitated in 2003). Enforcement notice issued on the **7th July 2003**.
44. **Trammon, Rathmolyon, County Meath;** Unauthorised development ref. **14/162**. Non-compliance with condition 4 of 00/2075 Re a financial condition to protect water supplies in the area. Warning letter issued on **3rd November 2014**.
45. **Trammon, Rathmolyon, County Meath; (As above) May 2013**, a large Concrete Batching Plant was removed from a site situate at *Keegan Quarries Plant, Aghar*. This plant had previously been the subject of *Meath County Council* consent TA/20055, (which was a retention permission) and which was for 5 years from 2000. This in itself had been grossly exceeded as the time permitted 5-year time frame had long since elapsed. It was re-erected at the quarry in Trammon without any planning consent whatever. It cannot reasonably be claimed therefore that it could in any way have been exempted from planning consent. UD ref: **14/134**.
46. **Trammon, Rathmolyon, County Meath;** Unauthorised development ref. **15/284**. Unauthorised construction of electrical sub station and the erection of pre cast concrete units at the rear of the quarry area. Enforcement notice issued on **25th November 2015**.
47. **Trammon, Rathmolyon, County Meath;** Unauthorised development ref. **15/284**. The unauthorised construction of an electrical sub station and the erection of a batching plant and hopper including concrete silos, storage bays/units at the rear of the quarry area without the benefit of planning permission. Enforcement notice issued on **18th November 2016**.
48. **Trammon, Rathmolyon, County Meath;** Unauthorised development ref. **15/284**. The unauthorised newly constructed blockwork electrical sub station, construction or precast concrete units i.e. silos/storage bays, 2 number concrete batching plants and associated plant and a large industrial building. Enforcement notice issued on **30th January 2017**.
49. **Trammon, Rathmolyon, County Meath;** Unauthorised development ref. **15/284**. The unauthorised construction of an electrical sub station and the erection of 2 no. batching plants and hopper including concrete silos, storage bays and the construction of an industrial unit at the rear of the quarry area without the benefit of planning permission. Enforcement notice issued on **31st March 2017**.
50. **Trammon, Rathmolyon, County Meath;** Unauthorised development ref. **17/004**. By way of warning letter dated 22nd March 2018, Meath County Council advised the site operator: - *"It has come to the attention of the Planning Authority that unauthorised development may have been or is being carried out on lands at Trammon, Rathmolyon, Co Meath namely:- Breach of condition 2 as per Planning Permission TA900976 / PL.17.235960."* Notwithstanding this notice, a campaign of extraction continued to occur within 60 meters of the road over the following years.

51. **Bullring, Clondoogan, Summerhill, County Meath:** Unauthorised development ref. **12/192**. Unauthorised quarrying of sand and gravel. Warning letter issued on **24th June 2013**. Despite this, works continued.
52. **Bullring, Clondoogan, Summerhill, County Meath:** Unauthorised development ref. **13/140**. Unauthorised quarrying of sand and gravel. Warning letter issued on **3rd July 2013**.
53. **Duleek, County Meath;** Unauthorised development ref. **14/213**; non-compliance with Condition No. 18 which provided for a cash deposit of €30,000. It is noted that a warning letter was issued in 2015. In short the letter referred to: - *'non-compliance with Condition No. 18 of Planning Permission Ref. 01/4203.'* Condition 18 of a planning consent re providing a cash deposit of €30,000; ref. 14/213. Warning letter issued on **3rd November 2014**.
54. **Rahinston, County Meath;** on the **15th May 2013**, *Meath County Council* issued an enforcement notice ref. **13/092** relating to 'outside of working hours'. Out of hours operation has been a major issue relating to all the Keegan operations for many years and the local residents have had to endure enormous disruption, which has and continues to have an impact on their quality of life.
55. **Bellewstown, County Meath;** Unauthorised development ref. 11/243. Unauthorised storage of material and quarry operations. Warning letter issued **3rd November 2011**. The enforcement letter served on Keegan Quarries stated: - *'It has come to the attention of the Planning Authority that unauthorised development may have been or is being carried out on lands at Bellewstown, Co Meath namely: - 'unauthorised use of lands for the deposit / storage of material from quarry operations'.* On the 12th October 2012, planning permission was granted to reinstate under SA110858. Given the current state of the site; it has not been reinstated and the 3 years (as per condition 2).
56. **Newcastle, Enfield, County Meath:** Unauthorised development ref. **15/077**; unauthorised quarrying of sand and gravel on a very large scale much of it from beneath the water-table, Enforcement Notice issued; **29th April 2015**. This matter appeared before *Trim Circuit Court* on the **5th February 2019**; ref. **18/00123**.
57. **Newcastle, Enfield, County Meath:** As above; In 2010, *Keegan Quarries* were rapidly removing sand and gravel from this site and encroached very close to the banks of the Royal Canal. Waterways Ireland became very concerned and their solicitors wrote to *Keegan Quarries* about this matter by way of letter dated the **11th October 2010**. The following are excerpts from a solicitor's letter that issued from Waterways Ireland: *'That the excavation carried out by you has made Waterways Ireland property unstable, and the boundary line is susceptible to erosion.'* *'That the excavation has rendered Waterways Ireland open property unsafe, as the public can access the vertical face at the boundary, from the towpath over its property.'*

COUNTY WESTMEATH

58. **Annascannon, Killucan, Co Westmeath:** Unauthorised development ref. **1909**. Unauthorised quarrying of sand and gravel; Warning letters dated **10th June 2019** and also **23rd March 2020** issued to *Mr. John Keegan, Keegan Quarries*, etc dated. *Keegan Quarries* appear to have now vacated this site leaving behind a large lake of water where it had removed an enormous amount of material from beneath the water table.

COUNTY DUBLIN (FINGAL)

59. **Fingal County Council: Long Acre, Thormanby Road, Howth:** Unauthorised development ref. **Enf. No.22/149B**. Non Compliance with Condition 4 (a), (b) and (c) and Condition 5 of approved Planning Permission by An Bord Pleanála ABP-311186-21. This site was purchased in the name of **Leinster Land Developments Limited**, which is another company in the directorship of Mr. John Keegan.

COURT ORDERS – UNAUTHORISED DEVELOPMENTS

COUNTY KILDARE

60. **Ballyownan, Clonard, County Kildare:** This has been the main source of sand and gravel to the Keegan group since circa 2016. Unauthorised development ref. **UD7387**. There has been wholesale excavation of material from below the water-table. After many years in operation, *Kildare County Council* eventually pursued the matter through the Circuit Court [ref **2021/App19**]. Note that the case was listed for mention only on numerous occasions between 2019 and 2023, but it was frequently adjourned for periods of up to 6 months; the quarry continued to operate during this period.
61. Eventually the matter was heard **July 2023** and the court issued orders (to amongst other items) require the unauthorised quarry to cease extractions below the water table.
62. Notwithstanding, the court order, a long-reach machine has been observed to continue to extract material from beneath the water table as recent as April 2024.



Photograph from adjoining lands April 2024

COUNTY MEATH

63. This quarry is adjacent to the *Royal Canal* at the intersection of the *River Blackwater*. By way of enforcement notice dated the 29th April 2015, *Meath County Council* informed *Keegan Quarries Limited* that: -

'The unauthorised development consists of: The unauthorised extraction of sands and gravels.'
'Cease all quarrying activity on site on lands outside those lands highlighted in Blue on attached Enforcement Map UD 15/077' by 1st May 2015 at 17.00 hours
'Carry out restoration works on excavated areas outside those lands highlighted in Blue on attached enforcement map UD15/077' within 1 Month from date of Notice
64. *Keegan Quarries Ltd.* refuted the enforcement notice and continued to quarry and create an enormous lake. Ultimately the matter came before *Judge Mary O'Malley of Trim Circuit Court* on Tuesday 5th February 2019. [Circuit Court ref. 2018/00123]

COUNTY MEATH

THE AGHAR SITE; aka Lands at Clegarrow, Rathmolyon, County Meath

65. **Briefly:** *Keegan Quarries Limited* were to remain 1.4 meters above the water table. This condition was ignored and left 2 very large lakes together with other smaller ones were created. They later removed their plant; much of it to the Trammon site and abandoned the Aghar site and have thus far failed to carry out any reinstatement.
66. **Statutory Enforcement Authorities:** *Meath County Council* failed to take any enforcement action on this site. The owners of the site; the Fowlers' (Lady Jennifer Fowler) ended up having to pursue Keegan Quarries in the High Court by way of a section 160 Planning enforcement action. Mr. Justice Michael White was very critical of *Meath County Council's* failure to take enforcement action against the site operators; Keegan Quarries Limited. High Court determination of ***Fowler v Keegan Quarries Limited*** 2016 IEHE 602/ High Court Record Number: 2012463 MCA. Initial judgment was delivered 28th October 2016. Of note is page 35 re Judges comments on the lack of enforcement by the Planning Authority.

UNAUTHORISED FELLING OF TREES

[THE AGHAR SITE; aka Lands at Clegarrow, Rathmolyon, County Meath]

67. We understand that *Keegan Quarries* illegally felled 69 mature trees at a site in Clegarrow/ Aghar, County Meath. File ref. AIF 19/08. The matter was investigated by their inspector Mr. Kevin Collins who confirmed that 69 trees had been illegally felled. We understand that the trees were removed on dates between 1st April and 2nd May 2008. The case was listed for mention at Trim district court on 23rd April 2009. The case was heard at Trim District Court in December 2009. Mr. Keegan pleaded guilty.
68. We understand that ***Mr. Keegan/ Keegan Quarries Ltd*** was fined **€2,500 + costs**. We further understand that this was appealed and the fine was reduced to **€1,750 + Costs**. Mr. Keegan undertook to replant at lands, which he had recently acquired at Trammon; not at Clegarrow or Rahinston.
69. It would appear that this was on Trammon land known as the Thistle Field; a field which Mr. Keegan has twice tried to develop as a quarry or processing plant. The only planting that was observed to have been conducted in this field was in fact a shelterbelt/ screening boundary.

HILLTOWN LITTLE, BELLEWSTOWN, CO. MEATH

70. Briefly local residents [*Pierson & Ors -v- Keegan Quarries Ltd*] in the Bellewstown of Co. Meath (near Duleek) suffered significant nuisance from an unauthorised quarry, which was operated by *Keegan Quarries*. In the absence of enforcement proceedings by *Meath County Council*, local residents pursued Keegan Quarries themselves. On Friday, October 8, 2010 the Irish Times reported that: -

"Ms Justice Mary Irvine ruled yesterday that the use by Keegan Quarries Ltd of lands at Hilltown, Bellewstown, Co Meath as a rock and stone quarry amounted to unauthorised development materially different from any use to which the lands were previously put. Ms Justice Irvine ruled in favour of the residents. The judge said the present operation of the quarry was "highly mechanised" and generated substantial noise and dust with large volumes of trucks going to and from the premises."

[<http://www.irishtimes.com/newspaper/ireland/2010/1008/1224280636497.html>]

The case references are: -

Pierson & Ors -v- Keegan Quarries Ltd
High Court Record Number: 2008 20 MCA
Neutral Citation: [2009] IEHC 550
Irvine J. delivered her decision on the 12th August 2009

Pierson & Ors -v- Keegan Quarries Ltd
High Court Record Number: 2008 20 MCA
Neutral Citation: [2010] IEHC 404
Date of Delivery: 10/07/2010

71. In a subsequent order of the court dated the **21st December 2010** the respondents '*KEEGAN QUARRIES LIMITED*' were ordered to restore the lands. Part 2 of the said order provided that: -

'Pursuant to s.160(1)(b) of the Planning and Development Act 2000 that the Respondent restore the lands the subject matter of these proceedings to the condition they were in as of February 2007, or as close as is practicable thereto, the said works to be carried out so as to obliterate all evidence of the present quarry and leave the lands landscaped in the manner outlined in Option 1 of the letter of Malone and Martin Solicitors dated the 19th November 2010 save as may otherwise be required by the Planning Authority; the Respondent to make whatever applications in that behalf may be necessary within 16 weeks of the date of this Order.'

72. Keegan Quarries applied to *Meath County Council* on **15th September 2011** to (ref. **SA110858**): -

*'restoration of c.3.8 hectares of unauthorised quarry workings using inert overburden and soils, of which c. 40,000 cubic metres will be imported soils and stones. The development consists of retention of a site office, workmen's canteen, toilet facilities, existing septic tank system, wheelwash, weightbridge, pump house and other ancillaries on an additional 0.4 hectares of lands for a period of up to **3 years to complete the works**. The application relates to development activity requiring a waste management facility permit. Significant further information/revised plans submitted on this application'*

[Emphasis added]

73. On the 12th October 2012, planning permission was granted to reinstate under **SA110858**. In a further application ref. **AA150917**, this was extended by another 3 years by way of order dated 19th October 2015. It follows that planning lapsed on the **19th October 2018**.
74. Given the current state of the site; it has not been reinstated and the 3 years (as per condition 2) for doing so has long since passed. Moreover it would appear that the High Court order of the **21st December 2010** has likewise not been complied with.

MISLEADING PLANNING APPLICATION – PROTOTYPE SILO

75. It should also be noted that a very serious issue arose in **2017**. The applicant '**Keegan Precast Limited**' (one of the Keegan Group) applied for retention for a 'prototype silo' (which we understand had cost many millions of Euro to construct) and which was under construction for the best part of a year (all without any planning permission).
76. It later transpired that there is a Calcium Carbonate plant. We were subsequently unable to find any reference to a Calcium Carbonate Plant in the planning application documents let alone on the public notices; ref PL 17.248115 (TA/161419). This is contrary to EU law as well as Irish law. Either the description as a 'prototype silo' had the effect of concealing the real purpose of the structure or else there was never an application for the Calcium Carbonate plant.
77. It is also a concern that a 'silo' attracted little or no financial contributions whereas a Calcium carbonate plant would likely have attracted significant contributions. We note that a single financial contribution of **€360** was imposed in respect of public infrastructure facilities.
78. We don't know anything about the potential toxicity of the waste or emissions, as none were provided in the application for a prototype silo. Neither were we informed about treatment of waste and how it is being treated or disposed of? Because the applicant chose to hide its true purpose, there was also no Environmental Impact Assessment [EIA] or Appropriate Assessment [AA] on its operation.
79. When it was discovered that the purpose was entirely different to that which was applied for and granted, a section 5 referral was prepared and submitted to *Meath County Council*. It is believed that this plant should at the very least, have been subject to a screening of some kind, but most likely would have required an EIA [Environmental Impact Assessment]/ AA [Appropriate Assessment under the EU Habitats Directive]. By order dated the 29th November 2017, *Meath County Council* confirmed that this would need specific planning consent. This is a most serious abuse of the planning process.
80. Notwithstanding the above, in 2016, a planning consent attaching to PL 17.248115 (TA/161419) was granted by An Bord Pleanála on the **3rd October 2017**. This application was for a period of three years and therefore would have expired on **3rd October 2020**. Despite that, the plant continues to operate. This planning application was originally made by **Keegan Precast Limited** and specified that it was for a 'Temporary three-year retention of a concrete silo structure with a footprint of 99 square metres and measuring approximately 28.6 metres in height, associated with, and ancillary to, the existing permitted precast concrete facility permitted under Preference TA/20408...'
81. Some of the discourse from **Mr. Paul Caprani, Senior Planning Inspector**, is extremely concerning. He makes the following remarks re non-compliance with previous planning consents.

10.1. Issues of Enforcement and Non-Compliance with Previous Permissions

The planning history associated with the site and the contention that significant issues in respect of unauthorised development and non-compliance with conditions is a major theme of both third party appeals. It is clear that there have been enforcement issues in respect of works undertaken on the site in question. Meath County Council have acknowledged that there have been on-going enforcement issues associated with the site. However, it is clear that the Council do not consider these enforcement issues to be so significant as to warrant a refusal of planning permission for the current application before the Council. I consider that any issues in relation to unauthorised developments and enforcement proceedings are on-going and are a matter between the Planning Authority as the enforcement authority, and the applicant. It appears that the applicant in applying for retention of planning permission for the current development before the Board, is engaging in efforts to regularise any unauthorised activity on site. I consider the application before the Board should be adjudicated on its merits and I do not consider it appropriate to refuse planning permission for the retention of the proposed silo for a temporary three-year period should be refused specifically on grounds relating to failure to comply with the planning code in respect of other works carried out on site. The current application before the Board should be

evaluated on its merits and in accordance with the proper planning and sustainable development of the area.

[Emphasis added]

82. On the issue of Visual Impact, Mr. Caprani states the following: -

10.3 Visual Impact

Finally, in relation to the issue of visual amenity the structure in question is located within an existing precast concrete facility which has the benefit of planning permission and surrounded by a quarry. In my view the character of the area therefore has been significantly altered from a greenfield site in a rural area and this makes the building for which retention is sought more acceptable in my view. In addition, the Board will note that the permission sought under the current application relates to a three-year period only. This suggests that the structure will not be a permanent structure in the landscape over the long term.

This is a substantial structure and it took over 6 months to construct. It is difficult to see how Mr. Caprani could conclude that it was in any way temporary in nature. Moreover, it should be noted that years after the stated three year consent; this structure remains in full operation despite the original planning consent having long since expired!

83. On the issue of Financial conditions Mr. Caprani states the following: -

10.5. Nature of Financial Conditions Attached

Section 10 of the local authority planner's report notes that the structure has a site area of 99 square metres which will be charged at an industrial/manufacturing rate of €11 per square metre. However, as the structure relates to a temporary permission only the development will be charged at a rate of 33% of the normal rate. I have assessed the Development Contribution Scheme and I consider that the contribution has been levied in accordance with the above scheme. I specifically note Section 7.1.1 which relates to temporary permissions and it states that temporary permissions shall be levied at a rate equivalent to 33% of the development contribution normally attributed to a permanent development of that class and scale. I am therefore satisfied that the development contribution has been levied appropriately.

This is very concerning in that the structure is still in operating; years after the three years specified in the original planning documentation. Furthermore; and as previously stated; the structure was for a purpose which had not been stated in the planning documentation at all.

84. Given all of the above, this particular application is considered deceptive if not mendacious. We have again been put to unnecessary loss of time and expense dealing with these applications, which is very unfair and unreasonable. The public participated in good faith with the public participation aspect of the planning application only to then discover that this was essentially a sham in order to cover for something very different. The need to have to constantly spell out why Keegan Quarries and related companies should not be granted planning permission for retention applications reflects very badly on the competence of Meath County Council staff and its agents.
85. Just after An Bord Pleanála granted permission to retain this large tower type structure, it was discovered that the retention application to An Bord Pleanála (alluded to in previous point) related to a **prototype silo** PL 17.248115 (TA/161419).
86. Is this "prototype silo", which is reputed to have cost in the region of some €4 million to construct, not in fact a Calcium Carbonate Plant?
87. If so, this hid the real purpose of the structure from the public and from the statutory authorities. Moreover, this had the effect of attracting miniscule planning application fees; a mere €360.

88. It turned out that a separate company has been established; namely that of *Keegan Calcium Carbonate Limited* which now had a separate website of its own to advertising the new product.

2016/ 2017 – LARGE NEW FACTORY

89. **2016/ 2017:** While the above referenced application for retention to both *Meath County Council* and later *An Bord Pleanála* was being considered, *John Keegan/ Keegan Quarries Limited* engaged in the construction of further unauthorised and very large factory type structures.

This was while at the very same time they were also engaged in seeking retention permission for the above referenced tower. It follows that planning inspectors would have had sight of the latest unauthorised developments, but chose still to ignore this and grant planning permission for the earlier unauthorised development which we now know had concealed the true purpose.

90. When *Meath County Council* eventually took action against the site operator, we understand that all sorts of spurious claims were made by the operators to the effect that the developments were exempt and that there was no evidence to prove they were unauthorised. We now know that *Keegan Quarries Limited* also engaged in no less than 3 separate Section 5 referrals over a period of time. We believe that this was nothing more than obfuscation and time delaying tactics so as to buy time to facilitate the completion of the unauthorised development. This is totally unacceptable.

INSPECTORS REPORTS – MEATH COUNTY COUNCIL ENFORCEMENT

91. **Inspectors Reports:** There has been a long list of inspector's reports on this and other quarry sites owned and operated by John Keegan and or Keegan Quarries Limited. This demonstrates the inordinate amount of time consumed by the statutory authorities in pursuing this development. These reports are in marked contrast to the current position adopted by this same local authority (*Meath County Council*), which is now actively supporting retention for this development. Inspectors reports outline the planning history together with an outline of the unauthorised developments and typically makes statements such as the following: -

"Evaluation:

It is my opinion that the works done and the present use of the land is development in accordance with Section 3 of the Planning and Development Acts 2000 - 2014. It is not exempted development and the development has proceeded without the benefit of planning 'permission as required under Section 32 of the Acts. Therefore it is my opinion that the development is unauthorised development.

Recommendation

I recommend Issuing a warning letter to for the construction of an electrical sub station and the construction and erection of pre cast concrete units to the rear of the quarry area at Trammon, Rathmolyon without the benefit of planning permission."

[UD Reference: 15/284 – 2015-10-05]

"Having reviewed the ongoing unauthorised development at the rear of the quarry works being operated by Keegan Quarries Ltd , including the developers application for exempted development under Section 5 of the Planning and Development Act 2000- 2015 and finally the planners decision with regard to the exemption application under Section 5 of the Planning and Development Act 2000- 2015. I recommend issuing an enforcement notice to the developer..."

[UD Reference: 15/284 – 2016-11-03]

"Evaluation

It is my opinion that the works done and the present use of the land is development in accordance with Section 3 of the Planning and Development Acts 2000 - 2014. It is not exempted development and the development has proceeded without the benefit of planning permission as required under Section 32 of the Acts. Therefore it is my opinion that the development is unauthorised development and the scale of

the development in relation to the existing size of the development requires immediate action. The scale of the development could give rise to increased traffic movements and requires immediate action

Recommendation

Having reviewed the ongoing unauthorised development at the rear of the quarry works, including the developers application for exempted development under Section 5 of the Planning and Development Act 2000-2015 and finally the planners decision making with regard to the exemption application under Section 5 of the Planning and Development Act 2000-2015, it is my opinion that Enforcement action should be taken as a matter of urgency as the works on site continue and are such a scale that this course of action is deemed necessary. Therefore I recommend issuing an Enforcement Notice under Section 155 of the Planning And Development Acts 2000 to 2016 to John Keegan c/o Keegan Quarries, Longwood Road, Trim, Co Meath, John Keegan, Longwood Road, Trim, Co.Meath, John Keegan, C/O Malone & Martin Solicitors, Market Street, Trim Co. Meath and Keegan Precast Ltd TRAMMON, RATHMOYLAN, CO. MEATH with an attached schedule of works to be carried out"

[UD Reference: 15/284 – 2017-03-30]

"With regard to the non compliance with items 2, 4, and 7 of the Enforcement Notice and schedule on the 31/03/2017 issued to Keegan Quarries Ltd, I now recommend sending this report to our Law Agents to take legal action to remove the unauthorised industrial units, electrical sub station, 2 No batching plants including silo/storage bays, storage hopper and concrete bases including associated plant and machinery required to operate the same on the lands at Trammon, Rathmolyon, Co Meath."

[UD Reference: 15/284 – 2017-07-04]

92. Enforcement Notices: Below is a list of Inspectors Reports relating to the Trammon, Rathmolyon, County Meath

- a. 2003-05-07-Engineers report – David Keyes – 62m OD exceeded by 4 meters
- b. 2015-11-25-Inspectors Report – Bizarrely redacted by Meath County Council
- c. 2016-11-06-Inspectors Report – Bizarrely redacted by Meath County Council
- d. 2017-01-25-Inspectors Report – Bizarrely redacted by Meath County Council
- e. 2017-01-26-Inspectors Report – Bizarrely redacted by Meath County Council
- f. 2017-03-30-Inspectors Report
- g. 2017-04-04-Inspectors Report – Bizarrely redacted by Meath County Council
- h. 2017-07-04-Inspectors Report
- i. 2018-01-31-Inspectors Report
- j. 2018-03-22-Inspectors Report

93. Enforcement Notices: Below is a list of Inspectors Reports relating to the Newcastle Site, Enfield, County Meath

- a. 2015-04-07-Inspectors-Enfield-
- b. 2015-05-05-Inspectors-Enfield
- c. 2015-05-14-Inspectors-Enfield
- d. 2015-07-29-Inspectors-Enfield
- e. 2017-06-20-Inspectors-Enfield

94. Enforcement Notices: there has been a string of enforcement notices for this and other sites operated by this same operation.

- a. 2003-07-07: Trammon site; exceedance of permitted boundaries,
- b. 2013-05-15: Rahinston site; out of hours operation,
- c. 2013-06-24: Bullring site; unauthorised quarrying of sand and gravel,
- d. 2013-07-03: Bullring site; continued unauthorised quarrying of sand and gravel on a very large scale,
- e. 2015-04-21: Newtown, Duleek; failed to comply with condition 18 of a planning consent re providing a cash deposit of €30,000.

- f. 2015-04-29: Newcastle site; unauthorised quarrying of sand and gravel on a very large scale,
- g. 2015-11-25: Trammon site; unauthorised development/s (warning letter),
- h. 2016-11-18: Trammon site; unauthorised development/s,
- i. 2017-01-30: Trammon site; unauthorised development/s,
- j. 2017-03-31: Trammon site; unauthorised development/s,
- k. 2019-06-10: Warning letter to John Keegan re site at Annascannon, Killucan, Co Westmeath.

SECTION 5 – 2017

95. **Ref: AVS51753:** When it was discovered that the tower type structure was in reality for a very different purpose; i.e. that of a calcium carbonate facility, rather than a mere 'silo', it was decided to seek a declaration of whether these were exempted developments for the purposes of the planning acts. This was duly prepared and submitted to *Meath County Council* together with a fee of €80.
96. Moreover there was at this time a growing list of other enforcement issues at the Trammon and other sites operated by *John Keegan/ Keegan Quarries Limited*. By order dated the 29th November 2017, it was confirmed that the following did indeed require specific planning consent: -
- Distance of the quarry from the road
 - Compliance of the quarry extraction area
 - Batching plant
 - Importation of sand and Gravel
 - Large factory on site
 - Prototype silo
 - Height of overburden mound
 - Overburden storage at Trommon, Rathmolyon, Co. Meath
97. **Trammon, Rathmolyon, County Meath:** Planning consents ran out on this quarry on the 5th August 2018, yet the operator continues to carry on blasting and extracting without the benefit of any planning permission. There had also been long history of unauthorised developments at the Trammon site long before planning consents expired. Unauthorised structures/ activities may be synopsised as: -
- a. Construction of electrical sub station,
 - b. The erection of 2 no. batching plants and hopper
 - c. Construction of concrete silos,
 - d. Construction of storage bays,
 - e. Construction of an industrial unit at the rear of the quarry area,
 - f. Importation of sand and gravel (confirmed by way of section 5 (November 2017),
 - g. Construction of calcium carbonate plant (confirmed by way of section 5 (November 2017),
 - h. Height of overburden, (confirmed by way of section 5 (November 2017),
 - i. Non-compliance with existing planning consents (confirmed by way of section 5 (November 2017),

98. Leaving aside the above referenced unauthorised developments, the quarry itself ran out of planning permission on the 5th August 2018 and has been operating without any EIA or NIA ever since.

99. Note that extension of duration applications were made to *Meath County Council* in 2013. This was done without any regard to EIA or public consultation and was lodged under section 42 of the planning act for 'extension of duration'. This matter was referred to the ACCC (Aarhus Convention Compliance Committee) in 2013. After 6 years, the ACCC ultimately found that this had infringed Article 6 (10) of the Aarhus convention. That case is ref. ACCC/C/2013/107 (Ireland).

FINANCIALS

OUTSTANDING FINANCIAL OBLIGATIONS

100. Having conducted appropriate inquiries with the planning authority; Meath County Council as to compliance with previous grants of planning consent, we can confirm that there has been significant non-compliance with financial conditions. Based on the information supplied to us, we calculate outstanding financial obligations to be in the region of circa. €470,000 up to 2018.
101. Given that the operation has had no consent at all since 2018, it follows that it's operating without any regulation. We therefore reiterate the need to invoke section 177J of the planning and development act in that a cessation order would be appropriate in the circumstances.
102. The construction sector and the construction service sector is at full employment and I say that all Keegan Group employees would secure alternative local employment with quarry organisations that operate within the confines of the law.

MR. KEEGANS OWN ADMISSIONS

103. **Keegan Quarries Ltd submissions to the Meath County Council in respect of Readymix Ireland's application of 1998 & dated 29th January 1999: (copy enclosed).**

Mr. Keegan was concerned about the level of blasting that would ensue if planning permission were to be granted to an additional quarry. He further stated in that letter that he believed that there was; ***"an adequate number of quarries to meet the demand"***.

Finally Mr. Keegan states that he was ***"very worried about the unnecessary upset that would be caused to the local people by a second quarry"***.

He subsequently constructed factory after factory (mostly without any planning consent) and a very large concrete batching plant.

104. **Keegan Quarries Ltd submissions to Án Bord Pleanála in respect of Readymix Ireland's application of 1998 & dated 11th may 1999: (copy enclosed).**

In this letter, Mr. Keegan was worried about the noise levels that would result from a second quarry and states that: -

"that the people in the locality would have a lot to complain about". The current proposal by Keegan Quarries Ltd would add enormously to the then cumulative effect of two quarries.

Mr. Keegan was also very concerned about the dust levels that would result from a second quarry and states and admitted that dust is hard to control;

"Dust is very hard to control, especially in a Limestone quarry"; he further states that he could

"see a lot of problems with two quarries working side by side". He further states that the traffic ensuing from the 2 quarries combined would ***"have a huge impact on the residences of the area"***.

LEGITIMATE EXPECTATION

105. **Legitimate Expectation:** The initial grant of planning permission in 1998 was for a period of 15 years. That permission envisaged that the quarry and area would have been reinstated by 2013. Sadly, this hasn't happened. Indeed reinstatement is going to be very challenging now, given the amount of unauthorised development that has since occurred. In 2013, the activities at the quarry were in fact granted an additional 5 years (without any public consultation). The community has endured more than their fair share of disruption and nuisance for the benefit of a 3rd party. The community has a legitimate expectation that lands will now be reinstated.

PROBLEMATIC DEVELOPMENT

106. **Height of Overburden:** There is a large mountainous mound at the centre of the said quarry, which is comprised of quarry spoil and overburden. This has now reached alarming heights and can be seen from all over the area including as far away as Tara hill (22km away by car). This is visually obtrusive. It will be noted that according to the many grants of planning permission, that all: -

'overburden stockpiles awaiting use in landscaping shall be covered with topsoil and seeded'.

This condition has not been complied with. Today given the size of the overburden pile, it is considered that this would now be logistically challenging and dangerous. Given that the pile has now existed for so long, it cannot be considered a temporary structure.

107. **Progressive Restoration:** We note Condition 14 of consent 98/1868 states:

'The Progressive and final reclamation of the quarry shall be in accordance with the details in section 6 of the E.I.S. This work shall be completed within 2 years of the closure of the quarry as defined under condition 2 above whether or not the quarry has been worked to the extent envisaged in the plans submitted. Reason: In the interest of development control and visual amenity.'

We further note the 2003 application TA/30334, which states PROPOSED DEVELOPMENT: *'The continuance and extension of quarrying of limestone, progressive restoration of the eastern bench to the adjoining property boundary, and associated development and works, and the retention of extension at quarrying over an area of 4.88 hectares.'*

It is entirely reasonable and appropriate therefore that the quarry should immediately be restored as per the earlier planning consents.

CASE LAW & EXCEPTIONAL CIRCUMSTANCES

108. It is worth repeating the issues re exceptional circumstances as previously outlined in the Substitute consent submissions.
109. **3rd July 2020:** the Irish Supreme Court in *AN TAISCE, PETER SWEETMAN & Others v. AN BORD PLEANÁLA and Others* [9/19, 42/19 and 43/19], Mr. Justice William M. McKechnie stated that the public should have an input at the earlier s.177 (c) stage and specifically cited the Aarhus Convention. They also stated that where substitute consent is applied for that the exceptionality test must be applied.
110. Moreover given **C-215/06:** *Commission v. Ireland: Failure of a Member State to fulfill obligations* – No assessment of the environmental effects of projects within the scope of Directive 85/337/EEC – Regularisation after the event is not permissible under EU law where E.I.A. and A.A. (Habitats) should have been prepared prior to any development. Case **C-215/06** related to the construction of a wind-farm development together with associated works at Derrybrien, County Galway. In that case, it was held that by failing to adopt all measures necessary to ensure that the development consents given were preceded by an assessment with regard to their effects in accordance with Articles 5 to 10 of Directive 85/337/EEC, Ireland has failed to comply with the obligations that it has under Articles 2, 4 and 5 to 10 of the said Directive 85/337/EEC. This same case came up a second time under ref. **Case C-261/18** which was an application for an order to pay a penalty payment and a lump sum). In 2022, the Derrybrien, County Galway ceased to operate in order to comply with the ruling of the European Court of Justice.
111. In light of the EU cases of **C-215/06 and 261/18** together with the welcome clarity by the Irish Supreme Court in *AN TAISCE, PETER SWEETMAN & Others v. AN BORD PLEANÁLA and Others* [9/19, 42/19 and 43/19], it is therefore not legally permissible for the Irish Authorities to facilitate any further retention applications to this applicant in light of the planning history.

112. Given the history of recorded unauthorised developments pertaining to the Keegan Quarry at Trammon together with its history across a number of other quarries, it is virtually impossible for it to satisfy the 'exceptionality test'. The amount of documentary evidence now available demonstrates conclusively that the operators had conducted numerous unauthorised developments in a flagrant abuse of planning and environmental requirements both of domestic law (Irish) and also of European law. It is considered that the Irish Authorities would find it impossible to facilitate any further retention applications to this applicant in light of the planning history and having regard to EU and Irish law as confirmed in **C-215/06 and 261/18** (European Court of Justice) together with *AN TAISCE, PETER SWEETMAN & Others v. AN BORD PLEANÁLA and Others* [9/19, 42/19 and 43/19], Irish Supreme Court.

COMPLIANCE HISTORY DEMONSTRATES NO EXCEPTIONAL CIRCUMSTANCES

113. This quarry has had a long history of exceeding permitted boundaries. This first occurred in 2003 when **Meath County Council** issued an enforcement notice ref. **03/192**. A retention application was subsequently submitted under ref. TA/30334 [PL 17.206702]. This included a large element of retention: *"...the retention of extension at quarrying over an area of 4.88 hectares, storage of overburden material, settlement lagoon and stilling pond, office and workshop area, septic tank and percolation area..."*
114. In 2009 the applicants applied to extend the quarry under ref. TA/900976 [PL 17.235960]. This was granted [subject to conditions] on the **3rd August 2010**. That development was described as follows: - *"PROPOSED DEVELOPMENT: Extension of approximately 2.85 hectares to the existing permitted extraction area, ... and associated accommodation works to include landscaping and boundary treatments, restoration proposals including construction of berms ... on a total site area of 4.274 hectares at Tromman, Rathmolyon, County Meath."*
115. The Order further stated in a paragraph before the planning conditions were listed: - *"In relation to visual amenity, the Board agreed with the Inspector that, as proposed, the quarry extension would have an unacceptable impact. However, the Board considered that the development would be acceptable, if reduced in extent to allow for a 60 metre wide buffer zone along the frontage with the regional road. Such buffer zone would also enhance public safety and aid dust suppression.*
Reason: In the interest of visual amenity, public safety and dust suppression"

[Emphasis added]

PREVIOUS SUBSTITUTE CONSENT

Newcastle, Enfield, County Meath Meath County Council, Planning Enforcement

116. The site is bounded on one side by the river Blackwater which flows in a northwest direction into the River Boyne and River Blackwater Special Area of Conservation ('the SAC'). It is common case that otters, a qualifying interest species of the SAC, travel up the river to the subject site. The site had been used for [unauthorised] quarrying of sand and gravel. On or about **23rd October 2014**, *An Bord Pleanála* granted substitute consent (i.e. retrospective planning permission and EIA) for unauthorised quarrying at this site.
117. In its decision to grant substitute consent in 2014, *An Bord Pleanála* its decision conditioned the restoration of the quarry within 24 months of the agreement of a restoration plan with the planning authority. Any remedial Environmental Impact Assessment ('EIA') conducted by the Board could only have considered the unauthorised extraction up to the date of its decision.
118. The restoration condition in the 2014 decision of the Board was not complied with. Neither did the quarry close. Unauthorised extraction continued at the quarry after the grant of substitute consent (retrospective consent for part of the historic extraction) and was the subject of subsequent enforcement action by **Meath County Council** who by way of enforcement notice ref **15/077** and dated 29th April 2015 stated that *'The unauthorised development consists of: The unauthorised extraction of sands and gravels.'* It further ordered that *'Cease all quarrying activity on site on lands outside those lands highlighted in Blue on attached Enforcement Map UD 15/077'* by 1 May 2015 at 17.00 hours.

119. Notwithstanding the enforcement notice, I believe that extraction continued and that the matter came before *Judge Mary O'Malley of Trim Circuit Court* on Tuesday 5th February 2019, wherein the Judge ordered the cessation of unauthorised quarry development and to "*remove all material that isn't waste material*" from the site within a period of 3 months and that the site be restored to 'conservation status' within a period of 6 months. **Trim Circuit Court ref. 18/00123.**
120. The above demonstrates that substitute consent was previously disregarded and unauthorised quarrying continued. This is demonstrative of an apparent pattern of the way quarries have been operated by this developer.

Newcastle, Enfield, County Meath
Waterways Ireland

121. In 2010, *Keegan Quarries* were rapidly removing sand and gravel from this site and encroached very close to the banks of the Royal Canal together with a plot of ground owned by Waterways Ireland. Waterways Ireland became very concerned and their solicitors wrote to *Keegan Quarries* about this matter by way of letter dated the **11th October 2010**. The following are excerpts from a solicitor's letter that issued from Waterways Ireland: '*That the excavation carried out by you has made Waterways Ireland property unstable, and the boundary line is susceptible to erosion.*' '*That the excavation has rendered Waterways Ireland open property unsafe, as the public can access the vertical face at the boundary, from the towpath over its property.*'

CESSATION ORDER IS REQUIRED

122. It is noted that when a section 177(c) matter appeared before **MR JUSTICE SIMONS** in a Judicial Review ref. 2019 No. 441 JR of an earlier decision by *An Bord Pleanála* ref. ABP-303334-19 to grant consent, Mr. Simons J questioned why *An Bord Pleanála* had not invoked section 177J of the Planning and Development Act which provides it with the power to order the person/ entity seeking an application for substitute consent to order it to cease operations for a defined period of time while the matter is being considered. This has operated since 2018 without planning consent; it is therefore imperative that it be ordered to cease while this application is being determined.
123. In order to assess the application and the quarry the subject of the application, *An Bord Pleanála* MUST issue a cessation notice. It is not possible to assess an application made in Feb/March, etc based upon reports and surveys prepared in 2023, if that development continues while the application is pending. *An Bord Pleanála* must decide this application and the status quo without the quarry expanding.

177J.— Specifically provides that: -

"(1) Where the Board has received an application for substitute consent made in accordance with section 177E and is considering that application, it may give a draft direction in writing to the person who made the application requiring the person to cease within the period specified in the draft direction, all or part of his or her activity or operations on or at the site of the development the subject of the application, where the Board forms the opinion that the continuation of all or part of the activity or operations is likely to cause significant adverse effects on the environment or adverse effects on the integrity of a European site."

SOCIETAL IMPACTS

ISSUES with UNAUTHORISED DEVELOPMENTS

124. **No Financial Conditions apply to an Unauthorised Developments:** Needless to say; where a development is unauthorised, it operates without any financial conditions. It also operates without any regulation including operating hours together with an appropriate monitoring regime re dust, particulates, air overpressure, water discharge, noise, aquifer, etc
125. **Unfair Competitive Advantage:** given that other permitted developments are subject to planning regulations together with liability in terms of subs for road maintenance, reinstatement, etc it follows that an unauthorised operator will have a manifestly unfair competitive advantage.

DETTERRANT

126. A practice of act first/ regulate later appears to have been adopted by *Keeegn Quarries*. This is a pattern whereby a developer engages in significant unauthorised developments and then occasionally follows up with retention applications to 'regularise' the earlier unauthorised development.

PENALTIES FOR UNAUTHORISED (ILLEGAL) DEVELOPMENT

127. There are very significant penalties for unauthorised (illegal) development. Enforcement letters typically carry warnings such like: -

Section 151 of the Planning and Development Acts 2000 (as amended) provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the planning and Development Acts 2000 (as amended) provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the Planning Authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

The possible penalties involved where there is an offence are as follows:

Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,

Or

Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

128. It is a shameful indictment on the statutory authorities that this was ever allowed to happen. By continuing to grant planning consents of any kind to a developer that has conducted themselves in such a manner is unethical, contrary to the public interest and not best practice. It also likely infringes EU law. Regularisation after the event, is contrary to EU law, sets a poor precedent.

NUISANCE

129. Living beside a large quarry / concrete products manufacturing operation. Below are some examples: -

- a. **Blasting:** blasting is particularly disruptive to the lives of local residences and landowners. Pets and animals become upset and some are very spooked with blasts. For local residents, blasting is particularly disruptive. Constant blasting is also a concern for the integrity of their properties with older properties being extremely vulnerable.
- b. **Dewatering:** lowering of the water table is very concerning for people who depend on private wells for their water supply. Another issue is that dewatering removes finer particles from the soil leading to a lowering of the land topography in the area. This in turn is known to be responsible for structural damage. Furthermore, the quarry is being de-watered on a 24/7 basis. A large generator and pump is running on a 24/7 basis causing annoyance and loss of amenity to local residents. Some quarry operations can abstract in excess of 30 million liters of water every day – enough to fill 12 Olympic size swimming pools. It would be interesting to know the abstraction rate of Keegan Quarries at Trammon.
- c. **Tonal Bleeping:** This has also a major issue for neighbors. These are beepers which are fitted to machinery for health and safety issues. There are alternatives though and we are aware of a different type of tonal device, which can be fitted and which is only audible around the machine. We believe that these have been fitted to machines in Dublin Airport.
- d. **Loading Operations:** The sounds of loading operations has also been a significant issue. Loading operations relate not only to loading of trucks but also to loading of grading and crushing machinery which is used to process blasted rock.
- e. **Passing traffic movements:** This is one of the principal nuisance issues, which we encounter. Unladen trucks can be particularly noisy, while with fully laden trucks, engine laboring under high revs is a cause of great annoyance as they pass up and down the road.
- f. **Dust:** Fugitive dust also continues to be a major issue and drenches the countryside with a frequent film of dust on our vehicles and also the vegetation. Muddy roads are a regular issue each winter and keeping vehicles clean is well nigh impossible. Our experience is that limestone quarries do not have a good record in respect of dust suppression. Picking blackberries in this area is now a thing of the past given the level of fugitive dust encountered in the surrounding environment. Silica is also a major constituent of construction materials such as bricks, tiles, concrete and mortar. Dust is generated activities such as cutting, drilling, grinding and polishing. It is commonly called silica or silica dust. Silica dust particles can become trapped in the lung tissue causing inflammation and scarring.
- g. **Air Quality:** Particulate Matter [P.M.]. Diesel particulate matter (DPM), sometimes also called diesel exhaust particles (DEP), is the particulate component of diesel exhaust, which includes diesel soot and aerosols such as ash particulates, metallic abrasion particles, sulfates, and silicates. When released into the atmosphere, DPM can take the form of individual particles or chain aggregates, with most in the invisible sub-micrometre range of 100 nanometers, also known as ultrafine particles (UFP) or PM0.1. Exposure to diesel exhaust and diesel particulate matter (DPM) is a known occupational hazard to truckers, railroad workers, and miners using diesel-powered equipment.
- h. **Spillages & Blocked shores:** Overloaded trucks has been a major issue with Keegan Quarries. A consequence of overloaded trucks are frequent spillages of aggregates and dust along the roadsides. There are three deep gullies (shores) outside our home and they frequently become blocked and we have to remove significant quantities of quarry related debris. Our drains regularly need to be blown out by a large drain cleaning truck.

- i. **Out of Hours operation/ activity:** Out of hour's movements of trucks has always been an issue. It is often the case that truck movements are common as early as 5am thereby severely disrupting our sleep. Likewise, late evening traffic has also been a problematic. Activity in the workshops / factories is also hugely problematic with hammering and banging often an issue at ungodly hours of the night early mornings.
- j. **Noise:** Noise is generally regarded as a nuisance if it is so loud, so repeated, of such pitch, or of such duration that it causes annoyance to people. It can be any one, or a combination of these to constitute a nuisance. Our experience at Trammon has been horrendous in that there are multiple sources of sound. Living in the countryside should be a peaceful experience.
- k. **Hydrology:** Rocket blasting of Karst limestone is very destructive of rare Karst and cave systems. Extraction to depths of 20m a.O.D. is extremely problematic in that significant dewatering is required to extract to these depths. It follows that significant interference with the ground water table is required. We all have wells to be concerned about; so too those of us with agricultural lands. The ground water aquifer is crucial to the health and wellbeing not only of neighbours, but of a much wider community.
- l. **Heavy Vibrations:** heavy vibrations from the activities of the manufacture of concrete products manufacturing facilities has also been hugely problematic. This is thought to be from the block making machinery.
- m. **Visual:** The visual impacts of living close to not one but two large quarry operations has also been significant. There is a very large unauthorised mountainous pile of overburden, which can be seen for miles around and as far away as Tara Hill and which is visually obtrusive. It is also a hazard to machine operators and or any person who may wander up on top thereof. We have observed landslides from this in the past.
- n. **Night-time Lighting:** We are also subjected to unacceptable levels of night-time lighting from this quarry. This issue has got much worse with the installation of new LED lighting, which has been erected, in both quarries since c.2020. Dark sky's in this rural area is not sadly a thing of the past. This has further denigrated our amenity and enjoyment of our property. It also impacts on biodiversity in that it severely disrupts the natural flow of wildlife together with predator / prey relationships and so on. I have concerns for biodiversity and the welfare of nocturnal mammals such as bats (former EIA's detail many different species of Bat (some of them very rare) which were recorded in the area. Modern LED lighting is particularly bright and problematic.
- o. **Biodiversity and loss of agricultural lands:** Given the significant area of lands which are now under quarrying at Trammon, it follows that the loss to pasture and agriculture has been significant. The consequent loss to biodiversity has also been significant. The quarries in the area are constantly expanding, one legally (Kilsaran) and one illegally (Keegan Quarries). Even where the quarries seek to expand by way of planning application, they seek to remove large numbers of trees and woodland habitat; the very same habitat that they once promised to hold onto when the quarries were first applied for on a Greenfield site. Moreover there has been a trend in recent years to avoid reinstatement at all and the excuse being proffered is that they wish to leave it for beneficial biodiverse habitat. This is unacceptable and may be described as a form of green washing.
- p. **Stockpiling of materials & HGV movements:** we are also raise our concerns re the stockpiling of material on site, together with the current and future level of HGV vehicle movements associated with the quarry on the R156 road.
- q. **Loss of time:** Given the constant need to monitor and agitate for enforcement on the part of the statutory authorities, this has been a huge imposition on local people. A truly massive amount of irreplaceable time has been lost pursuing these issues.

CONCLUSIONS

130. We have identified a number of systemic issues relating to Keegan Quarries and other companies within the Keegan Group. Principally among them is the fact that there has been so many unauthorised developments which are well documented by reference to enforcement letters/ notices and court orders.
131. Limestone aggregate (**CRUSHED ROCK**) (which is typically mixed with sand and gravel) is currently sourced from the **Keegan Quarry at Trammon, Rathmolyon, Co. Meath**. Rock is obtained by drilling and blasting which in itself is a major cause of nuisance to local residents. This quarry has not had any planning consent since the 5th August 2018.

Having regard to the foregoing, there is no basis for an extension to this quarry. We further reiterate that this quarry has had a long history of unauthorised development. It has operated without any consent whatever since 2018 and prior to that a very large amount of unauthorised developments took place. We reiterate the need to invoke section 177J of the planning and development act while the matter is being determined. It is therefore considered that in the interests of proper planning and sustainable development that the appropriate course of action is for *An Bord Pleanála* to decline permission for this development.

ENDS

ENCLOSURES

- 1. COPY – COURT ORDERS & JUDGEMENTS**
 - a. Pearson and Others
 - b. Fowler
 - c. Kildare County Council
 - d. Meath County Council
- 2. SCHEDULE – EXCERPTS from VARIOUS COURT JUDGEMENTS**
- 3. Kilsaran Reinstatement Documents ref. 2020-05-25-Kilsaran-Extension-TA200655 [ABP-309078.21]**
- 4. Photograph depicting fugitive dust escaping from the quarry.**
- 5. Copy Section 5 Determination of November 2017.**

