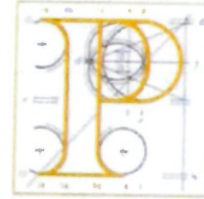


Our Case Number: ABP-319580-24



**An
Bord
Pleanála**

Kieran Cummins
Trammon
Rathmolyon
Enfield
Co. Meath

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

Tel
Glaao Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost

Tel (01) 858 8100
LoCall 1800 275 175
Fax (01) 872 2684
Website www.pleanala.ie
Email bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

James Sweeney

From: Appeals2
Sent: Monday 10 June 2024 14:32
To: Karen Hickey
Subject: FW: SUBMISSION re Application ref. QD17.319580 Section 37L
Attachments: 2024-06-04-KC to ABP-OBSERV-37L-QD17.319580.pdf

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

From: Kieran Cummins [REDACTED] com>
Sent: Monday, June 10, 2024 8:57 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, Kieran Cummins

Kieran Cummins,
Trammon,
Rathmolyon,
Enfield,
County Meath

Kieran Cummins
BSc Management & Law,
Dip. LS,
Dip. Horticulture,
Musician
Photographer

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

4th June 2023

SUBMISSION re Application ref. QD17.319580 (Section 37L)

Reference: ABP: SU17.319397
URL: <https://www.pleanala.ie/en-ie/case/319580>
Application Lodged: 16th April 2024 (Tuesday)
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 Sir/ Madam

Please find my submission re the above referenced application. There are **17 pages** in this submission.

Yours sincerely,



Kieran Cummins

OBSERVATION QD17.319580 (Section 37L)

ONGOING DEVELOPMENT OF SITE

1. 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.
2. 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.
3. 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

4. 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 been 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

5. 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]

6. 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.

7. 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.
8. 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.

9. 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]

10. 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.

11. 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.

12. 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...'

13. 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?

14. 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.

15. 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.

16. 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?

17. 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.

18. 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.

19. 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.

20. 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

21. 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."

22. 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: -

23. 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.

24. 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 impassable 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

25. 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."

26. 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.
27. 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.

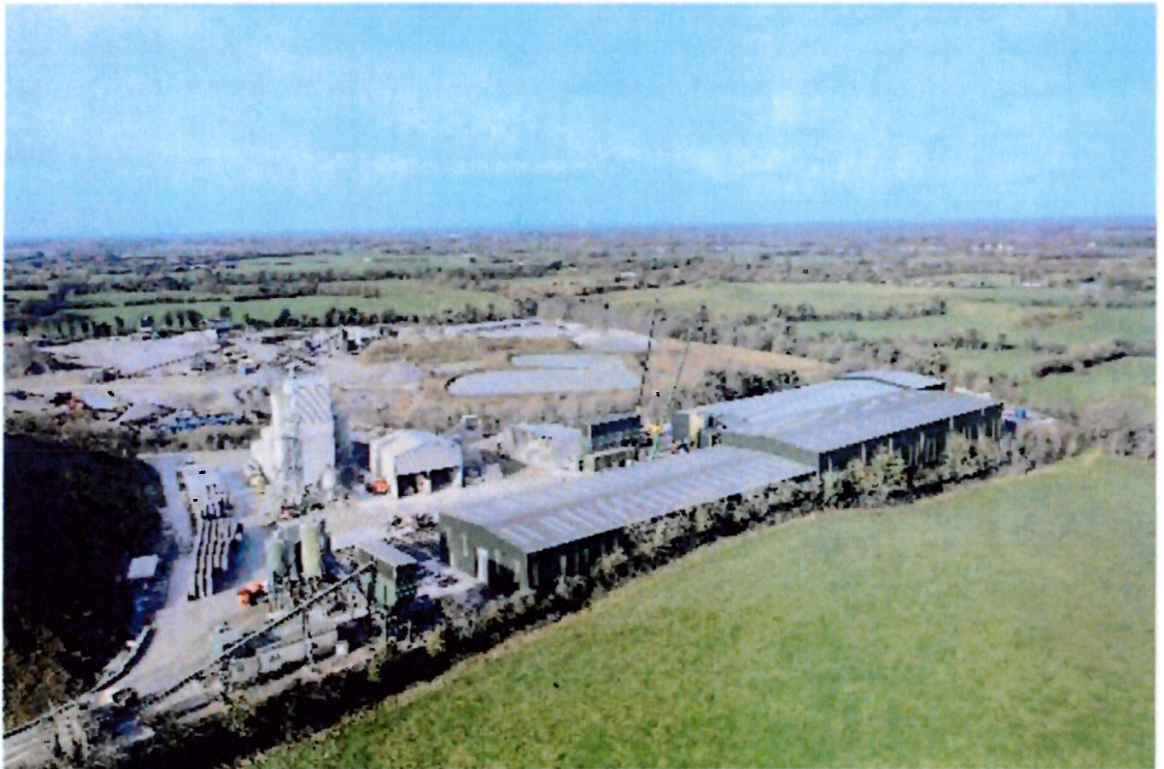
28. Offences committed after the 3rd July 2008 are significant. That was the date on which C215/06 [Commission v. Ireland] was handed down by the European Court of Justice. That decision is significant in that it provided that Regularisation after the event not permissible under EU law where E.I.A. and 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.
29. 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.
30. 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.
31. 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.

32. 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

33. 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

34. **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.]

35. 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.

36. 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 Pleanála* [2014] IEHC 400, 2013 802 JR, threshold of certainty.

PEREGRINE FALCON

37. 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.

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

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. 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