

CUNNANE STRATTON REYNOLDS

An Bord Pleanála
64 Marlborough Street
Dublin 1

BY HAND
Our Ref. 21420

09 June 2021

RE. APPLICATION FOR PERMISSION UNDER S. 37L

further development of a quarry over an area of 26.87 ha. that largely coincides with an existing operational quarry void at Windmillhill, Rathcoole, Co. Dublin within the administrative area of South Dublin County Council.

Dear An Bord Pleanála,

This cover letter accompanies a planning application under S.37L of the Planning and Development Act, 2000 as amended [P&D Act] on behalf of Mr. Laurence Behan of Behan, Behan Quarry, Windmillhill, Rathcoole, Co. Dublin for the above development. A full description of the development for which permission is sought is at Appendix 1.

This is an application for permission for further development of a quarry as a quarry that is accompanied by an Environmental Impact Assessment Report (EIAR).

This application is made concurrent with an application for substitute consent for the quarry under S261A of the P&D Act that is accompanied by a remedial EIAR (rEIAR).

This cover letter has been provided at the request of Golder Associates Ireland who are the lead consultants for the applicant and agents for the application. The purpose of the letter is to provide a context for, and record of, the enclosed application.

By means of reference to the enclosed application documentation, this letter seeks to illustrate how the application has been prepared having regard to statutory provisions and the planning history and context of the application site.

The letter seeks to highlight information to address S37N of the P&D Act and emphasise that the proposed development, in largely coinciding with an extant quarry void and consisting of further extraction of that void will not have a significant negative effect on the environment as is the finding of the EIAR, and respects the development objectives for the lands and use set out in the South Dublin Development Plan 2016 -2022.

DUBLIN OFFICE
3 MOLESWORTH PLACE, DUBLIN 2
TEL: 01 661 0419
EMAIL: info@csrlandplan.ie

OFFICES ALSO AT:
COPLY HALL, COTTERS STREET, CORK
TEL: 021 496 9224
EMAIL: corkinfo@csrlandplan.ie

DIRECTORS
ARDA CONG, BALLYTRASNA, TUAM
CO GALWAY
TEL: 01 661 0419
EMAIL: galwayinfo@csrlandplan.ie
WWW.CSRLANDPLAN.IE

Joe Cunnane BA (Hons) Dip TP MRTPI MIPI: Eamonn Prenter BA (Hons) Dip TP MSc MRTPI MIPI:
Declan O'Leary BAg Sc (Land-Hort) Dip LA MILI MLI: Jim Kelly BAg Sc (Landscape-Hort) Dip LA MILI CMLI:
Keith Mitchell MA (Hons) LA Dip EIA Dip Arb MILI CMLI:

The format of the letter is as follows:

- 1.0 Content of enclosed planning application
- 2.0 S37L impact on appearance and type of development proposed
 - 2.1 Concurrent application for substitute consent
- 3.0 Current S37L application
- 4.0 Conclusion

1.0 Content of enclosed planning application

1. A completed Planning Application Form that includes supplementary and additional information in a document appended to that form recording:
 - 1.1 A schedule of the set of drawings.
 - 1.2 A copy of the Site Notice erected in 4 no. locations indicated on submitted drawings.
 - 1.3 A copy of the newspaper notice, a full page from The Daily Mail.
 - 1.4 The planning application fee calculation of €20,517.05. A cheque in this amount is separately provided.

These documents have been prepared having regard to the requirements of the P&D Act and associated Planning and Development Regulations 2001 – 2021 [P&D Regulations].

2. A remedial Environmental Impact Assessment Report (rEiAR) with Non-Technical Summary.
 - 2.1 A copy of the EIA portal certificate, which is appended to the application form.
3. A Screening Report to inform remedial Appropriate Assessment (AA).

These reports to aid environmental assessments have been prepared having regard to enabling Directives, relevant statutory guidance and best practice across the realms of Planning and Development; Environment; Birds and Habitats that are scheduled at the outset of each document.

10 no. hard copies of the application documents are provided and an electronic copy.

2.0 S37L impact on appearance and type of development proposed

As noted, a full description of development is provided at Appendix 1.1, it is submitted that the planning application being made here is under S37L of the P&D Act that sets a particular circumstance under which this type of permission may be sought and limits the type of development for which planning permission may be sought.

A S37L application may only be sought where there is a substitute consent application in being. In this instance a time extension grant under PL06S.308313 related to the concurrent substitute consent application requires that both the substitute consent application and S37L application be made at the same time.

S37L further provides that proposed development may only be for further development of a quarry as a quarry. This prescription has primarily informed the extent and appearance of the proposal now made under S37L.

In summary, the proposed development consists of extraction works. Sought is a minor northern lateral extension of the extant quarry void by 4.1 ha. and a deepening of the extant void and that lateral extension over a total area of 26.87 ha. The deepening sought is from the current average working depth of 173 mAOD to 150 mAOD which is above groundwater. The application site relates to the quarry only and is further quarrying as is prescribed under S37L.

The resulting application site area is irregular in shape and does not include the administration and plant processing area at the centre of the current operation as no further quarry development is proposed over this area which is part of the substitute consent application area. However, in deference to the requirements of Environmental Impact Assessment (EIA), quarry planning guidance and best practice the proposed development includes for a restoration proposal of the application site and the associated lands of the administration and plant processing area within the ownership and control of the applicant and thus capable of being proposed and enforceable by condition for this restoration under S34(4).

2.1 Concurrent application for substitute consent

This S37L application is contingent on the making and, to a great extent the outcome of, an application for substitute consent which is concurrently made. That application is accompanied by an rEIAR and cover letter that provides a full rendition of the key statutory provisions in relation to planning permission for existing quarries and the quarry's recent planning history and reason for substitute consent application arising.

That substitute consent application is by High Court Order and is accompanied by rEIAR as was determined to be the requirement at after An Bord Pleanála review (ref. PL06S.QV0090) of S261A of the site (ref. SQD05A/04) by South Dublin County Council.

The requirement for the concurrent substitute consent is submitted to originate from the development's status as a quarry originally permitted in 1968, provided revised conditions as a result of S261 registration, and arises, in effect, from its review under Section 261A of the P&D Act. This S37L application is only possible as a concurrent substitute consent application under S261A of the P&D Act is in being.

3.0 Current S37L application

The history of the site set out in the accompanying substitute consent application ends with a record of previous substitute consent application and concurrent S37L application decision quashed by High Court Order in 2020.

The previous S37L application was made in November 2015 and was accompanied by an EIS Environmental Impact Statement (EIS now called EIAR) under ref. PL06S.QD0003 which was refused on the 21st of September 2018.

Judicial review of this decision and that for the then concurrent substitute consent application granted reliefs by High Court Order [2018 No. 929 JR] perfected in August 2020 that included;

"...that a fresh application to the Respondent for continued development in relation to the site at Windmill Hill Rathcoole County Dublin pursuant to the notice dated 11 August 2015 issued by the Respondent in respect of section 37L of the Planning and Development Act 2000 as amended shall be deemed to have been made within the time limits prescribed therein where the application is made not later than twelve weeks of the date of perfection of this Order or such further period as the Board may allow..."

The opportunity therefore for the making of this S37L application originates on foot of a notice from An Bord Pleanála

in November 2015, during the currency of the consideration of the quashed previous substitute consent application, informing the then (and now) applicant of the amendment that gave rise to S37L and the opportunity to submit an application under the provisions of that section.

Without prejudice to the P&D Act and Regulations, Appendix 2 is an extract of section 1.1 the submitted EIAR that describes in greater detail the history of this application. It includes a rendition of the definition of a quarry from the P&D Act.

Immediately upon the High Court Order the applicant set about retaining technical experts to prepare his substitute consent and concurrent further development of the quarry applications. Golder Associates, Ireland were retained by the applicant who in turn, for the design of the developments the subject of the applications and the preparation of portions of the rEIAR and EIAR, retained further specialist subconsultants, including the services of Cunnane Stratton Reynolds (CSR) for planning consultancy and landscape impact assessment purposes.

Golder Associates and CSR have been provided full access to the site for the purposes of survey and monitoring. An Bord Pleanála facilitated pre-planning communication in respect of the proposed structure and content of the substitute consent application that informs this S37L application under ref. PL06S.308315 and allowed time extension for the submission of the application under PL06S.308313. Though the site has remained open supplying to necessary and emergency works, the time extension was primarily requested to ensure all specialist technical subconsultants could travel to the site during periods of Level 5 lockdown due on foot of Covid-19 public health guidance.

The application for further development of the quarry that this letter accompanies has had regard to the full planning and development history of the site and the designations for the site under the current South Dublin County Development Plan 2016 -2022 and the requirements for substitute consent applications in the Planning and Development Regulations 2001 – 2021.

Having regard to the High Court Order and the reliefs granted therein, this application preparation has had regard to the concurrent preparation of an application for substitute consent under S261A of the P&D Act.

In this regard too, the requirements of the environmental assessment directives, their transposition into Irish law and guidance for the preparation of applicant reports to support EIA and AA have informed the EIAR submitted with this application, the rEIAR with the concurrent application for substitute consent and the AA screening reports with both applications. The extent of the quarry area for this S37L application automatically gives rise to EIA and thus the requirement for EIAR.

AA preliminary consideration and screenings by An Bord Pleanála in their review of S261A notice ref. SQD05A/04 (ref. PL06S.QV0090) in 2013 and previous substitute consent (ref. PL06S.SU0068) and further development S37L (ref. PL06S.DQ0003) applications in 2018, have not required progression to Stage 2 AA. In view of the requirement for AA consideration as part of the application consideration, the passage of time since prior AA, and being unable to determine if either a Natura Impact Statement (NIS) or AA Screening report were submitted as part of the previous S37L application, a Screening Report to inform Appropriate Assessment (AA) has been prepared and is submitted as part of this application.

As set out in the EIAR, in view of this EIAR and the rEIAR being concurrently prepared for much of the same operational lands, it is submitted that a single EIA project boundary for the purposes of assessment by experts of works past and proposed is consistent and will facilitate EIA of each development proposal within the same EIA project envelope.

The EIA project boundary envelopes an area of 46.14 ha. that encloses previous recent quarry application areas, current workings and intended future workings.

The EIA project boundary is therefore larger than the associated planning application units in order to capture:

- the currently proposed substitute consent and S.37L application boundaries and associated infrastructure; and
- the workable area registered under S.261 for which conditions were imposed.

To a lesser extent, the EIA project boundary was chosen to capture previous applications on the lands as they may include information useful to construct the history and baseline of the current development proposals. In this regard, it was assumed that the most relevant information would derive from the rEIS and EIS submitted for the previous substitute consent and S.37L applications (refs. PL06S.SU0068 and

PL06S.DQ0003), therefore the current EIA project boundary largely coincides with those EIA project boundaries.

It is recognised and accepted that the previous S37L application and substitute consent decisions have been quashed by High Court Order. Without undermining that order it is submitted that the previous application for substitute consent and concurrent S37L applications were considered and determined by An Bord Pleanála. The Inspector's reports, Bord Directions and Orders associated with those applications have been reviewed as they represent the most recent review of the lands by a planning authority and a competent authority.

Notwithstanding and in addition, the matters raised in the judicial review case have been noted and inform this application; principally that the S37L application sought permission for development that is not within the definition of a quarry. The description of development for re. PL06S.QD003 was; "(A) to continue the development of a quarry having a total site area of 40.875 Hectares, (B) Reinstatement of worked out quarry to agricultural use by means of the importation of inert sub soil and top soil amounting to a total of 11,151,570 cubic metres."

The landholding of the applicant at approximately 73 ha. Has remained unchanged since his coming into possession of the lands in the 1960s. Here are the main differentiating features of the current application for substitute consent as compared to that previously submitted.

- The S37L planning application unit at 26.87 ha. within the above 46.14 ha. EIA project unit, is significantly smaller than that for which substitute consent was previously sought. The previous application was over 40.875 ha. that also constituted the EIA unit. The reason for this difference is that the current planning application unit seeks quarry development of extraction. It is estimated that the proposed quarry development will access a remaining reserve of approximately 5M tonnes and is expected to be extracted over 10 to 15 years, depending on market demand. The proposed extraction rate is anticipated at an average of 500,000 tonnes per year accords with observed historic extraction rates and does not represent intensification of development.
- No further deepening of the quarry is proposed in this application where it was to be in the previous S37L consent application. The proposed final working floor depth is 150mAOD, which parts of the void have already reached. This level allows for proposed quarrying to be undertaken above watertable and thus avoids interference with the watertable and potential negative effects thereon.
- In addition, the current application does propose the extraction of lands to the south of the current quarry site, within the S261 registered quarry area and the EIA project unit. These lands appeared included and proposed for extraction in the previous S37L application. The extraction of these lands has been excluded in the proposal in order to observe Development Plan designations and pending further archaeological assessment of these elevated lands that contain the remains of a stone mill, the stone for which likely came from the current quarry. These features give rise to the townland name: Windmillhill and hold to conservation objectives in the current Development Plan recorded at Section 3.3.5 of the submitted EIAR.
- As noted at the outset, the application includes a restoration proposal that includes all quarried and proposed for quarrying lands within the entire of the EIA project unit. Restoration is anticipated to occur subsequent to extraction and will take 2 to 5 years to reflect the potential for slippage in that programme by reason of demolition and removal issues or planting failures.

4.0 Conclusion

It is submitted that the EIAR does not identify significant negative effects from the proposed development that are not adequately mitigated.

The site's long and continued existence is submitted to be in the interests of the proper planning and development of the area as it does not compromise development objectives for the lands and will maintain the employment and aggregate product resource at this location into the immediate future which is submitted to be particularly in the socio economic interests of the employed and supplied populations associated with this quarry.

On behalf of the applicant, we look forward to a positive outcome for this application. We understand the An Bord Pleanála may seek any information it feels is necessary to support their proper consideration of the application and environmental assessment. An Bord Pleanála is welcome to seek any information it may deem necessary at any time.

Yours faithfully,

Cliona Ryan

Associate Director

Appendix 1 Full description of development

The development consists of further development of a quarry over an area of 26.87 ha. that largely coincides with an existing operational quarry void currently at an average working depth of approximately 173 mAOD and final floor of approximately 150 mAOD. It is proposed to laterally extend the existing quarry void to the north by approximately 4.1 ha. over a total of 5.16 ha. to accommodate screening berms and to also further extract the existing quarry void to a final average depth of 150 mAOD, east and west of a centrally located existing administration and processing plant area. A restoration plan to return the application site and existing administration and processing plant area to agricultural and amenity use upon completion of proposed extraction has been prepared and is proposed to be implemented upon cessation of extraction. The proposal duration is 20 years to reflect anticipated extraction of remaining reserve within 10 – 15 years depending on market conditions, and a further 2 - 5 years for restoration.

The existing quarry is accessed at a single location from the N7. The reserve consists of sandstone (greywacke) and is currently extracted by blasting and mechanical means. The excavated material is crushed at the working face by mobile plant and transported to a central plant area for washing, grading and processing. The further development of the quarry relates to further extraction only and is to utilise the extant existing administration and processing plant area and quarry access that are included in a concurrent application for substitute consent.

The application site is contained within a quarry area registered in 2005 under S.261 and assessed in 2012 under S.261A (ref. no. SDQU05A/04) by the local planning authority. The S.261A notice was reviewed under An Bord Pleanála ref. 06S.QV.0090 resulting in a requirement for application for substitute consent accompanied by remedial Environmental Impact Assessment Report (rEIAR). That application (ref. no. PL06S.SU0068) was made in 2013 and an application to further develop that quarry (ref. no. PL06S.QD0003) was made in 2015. Those applications have been superseded By High Court Order (2018 No. 929 JR) that inter alia ordered the making of this application. This application is made concurrent with an application for substitute consent for quarrying at this location, also part of that Order.

The application is accompanied by an Environmental Impact Assessment Report (EIAR). The EIAR is for an EIA project unit over 46.14 ha. that encompasses the area of the further development of the quarry application under S.37L, the concurrent substitute consent application and the quarry as registered under S.261.

Appendix 2 Extract of section 1.1 of EIAR

Requirement for EIAR

Certain proposed developments, due to their typology, or scale automatically attract the requirement for EIA by a competent authority as part of that authority's formal assessment of a development proposal seeking permission, consent or licensing. As set out in the next section, a hierarchical suite of European and national legislation and guidance govern EIA and direct EIAR content.

The further development of a quarry proposal is over a site area of 26.87 ha. that automatically attracts the requirement for EIA. The applicant seeking this development permission is therefore bound to provide an EIAR for the purposes of EIA.

The permission for development sought in this instance is under S.37L of the Planning and Development Act, 2000. This type of planning permission may only be sought where an application for substitute consent is in being.

In this instance the concurrent substitute application with rEIAR and this EIAR to accompany the application for further development of the quarry is by Order of the High Court [2018 No. 929 JR] of August 2020 that set aside a previous substitute consent (ref. PL06.SU0068) and a S.37L (PL06S.QD0003) ref. application decisions and granted relief including:

“...that a fresh application to the Respondent for continued development in relation to the site at Windmill Hill Rathcoole County Dublin pursuant to the notice dated 11 August 2015 issued by the Respondent in respect of section 37L of the Planning and Development Act 2000 as amended shall be deemed to have been made within the time limits prescribed therein where the application is made not later than twelve weeks of the date of perfection of this Order or such further period as the Board may allow...”

A copy of this Order is at Appendix 1.1.

A copy of the notice of 11 August 2015 is at Appendix 1.2. This notice consisted for a letter from An Bord Pleanála to the applicant for substitute consent under PL06.SU0068, stating that new legislative provisions had been made that allowed for concurrent application for permission for further quarrying to be made concurrent to substitute consent applications. Ref. PL06.SU0068 was an application for substitute consent before the Bord at the time of the notice. The provision referred to is S.37L of the Planning and Development Act, 2000 as amended.

Context and description of previous application for further quarry development

Section 37L of the Planning and Development Act 2000, as amended is entitled 'Further matters in relation to control of quarries' and allows for the making of an application for planning permission for the further development of a quarry site for quarrying only. Furthermore, this section of the Act restricts the circumstances timing of the making of the application to within 6 weeks of the submission of a subsite consent application on the same site.

As noted in the last section the current S.37L application is made on foot of the quashing of an order in respect of an earlier S.37L application that itself was allowed to be sought as a then concurrent application for substitute consent for a quarry was in being. That substitute consent application arose as a result of the review of the quarry under S.261A of the Planning and Development Act as amended (South Dublin County Council ref. SDQU5/04 & An Bord Pleanála Quarries Review ref. PL06S.QV0090).

The S.261A review of the quarry arose following registration in 2005 under S.261 by Mr. Laurence Behan of a quarry being operated by L Behan & Sons Ltd. with an estimated 'site boundary' of 73 ha. and a

'workable area' of 39.27 ha. This registration further recorded that the quarry was pre '63 and later revised to recognise the securing of a planning permission in 1968. The S.261 registration as assigned ref. SDQU05/04 by South Dublin County Council. The registration map submitted is repeated at **Figure 1.1**.

A description of the superseded substitute consent and S.37L applications is below:

An application for substitute consent for 'a quarry' over 40.875 ha. on behalf of Laurence Behan was made 24 October 2013 and assigned ref. PL06S.SU0068. A copy of the site location map part of this application is at **Figure 1.2**

An application was made, also on behalf of Laurence Behan for further development of the quarry under S.37L on 25 November 2015 and assigned ref. PL06S.DQ0003. The development was stated to consist of: '(A) to continue the development of a quarry having a total site area of 40.875 Hectares, (B) Reinstatement of worked out quarry to agricultural use by means of the importation of inert sub soil and top soil amounting to a total of 11,151,570 cubic metres.' A copy of the site location map part of this application is at **Figure 1.3**.

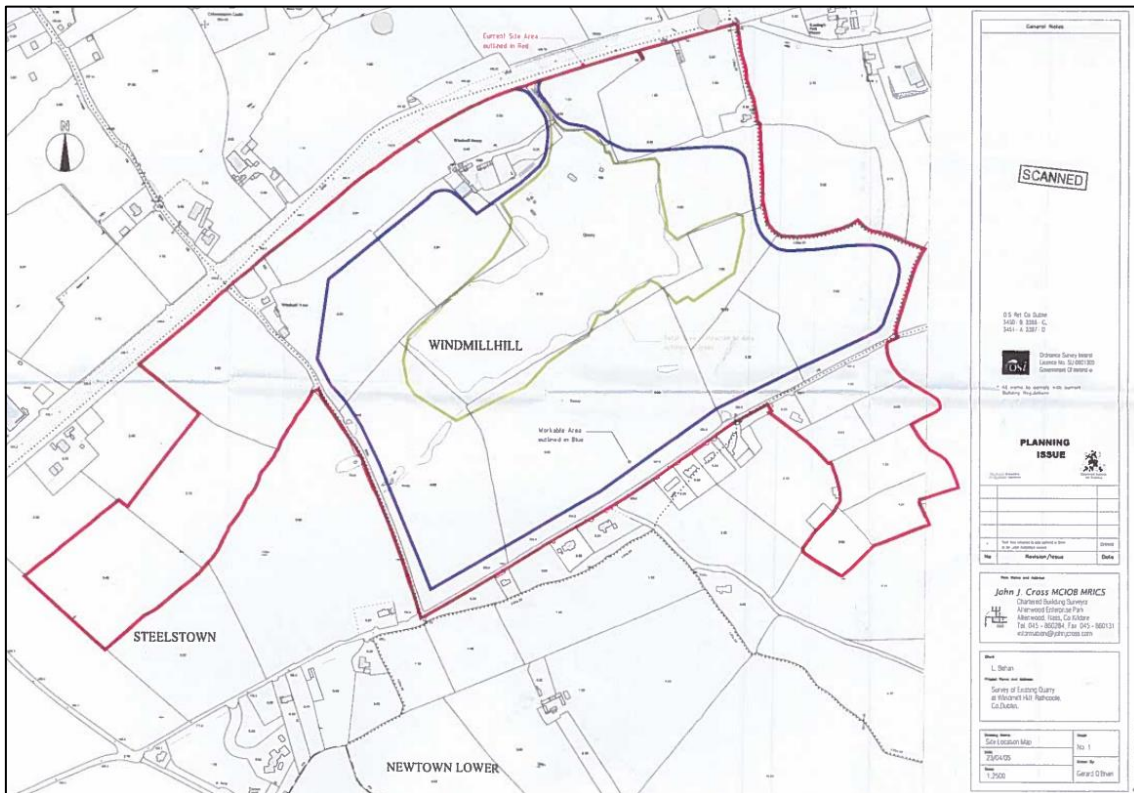


Figure 1.1: Copy of S.261 registration map submitted 10 October 2005, in response to request for further information for S.261 registration ref. no. SDQU05/4 'revised map indicating (a) site boundary in red, (b) extractable area in blue.

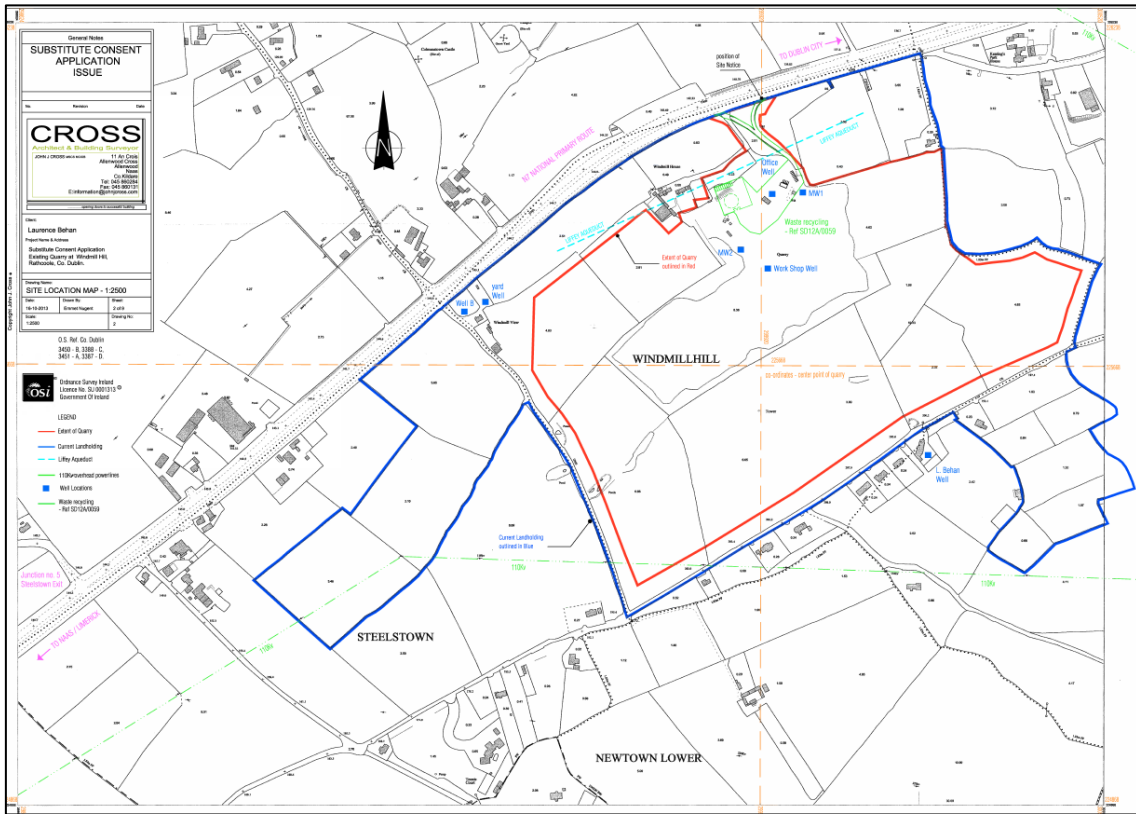


Figure 1.2: Copy of substitute consent application ref. PL06S.SU0068, site location map. Application made 2013, refused 2018, decision quashed by High Court Order 2020.

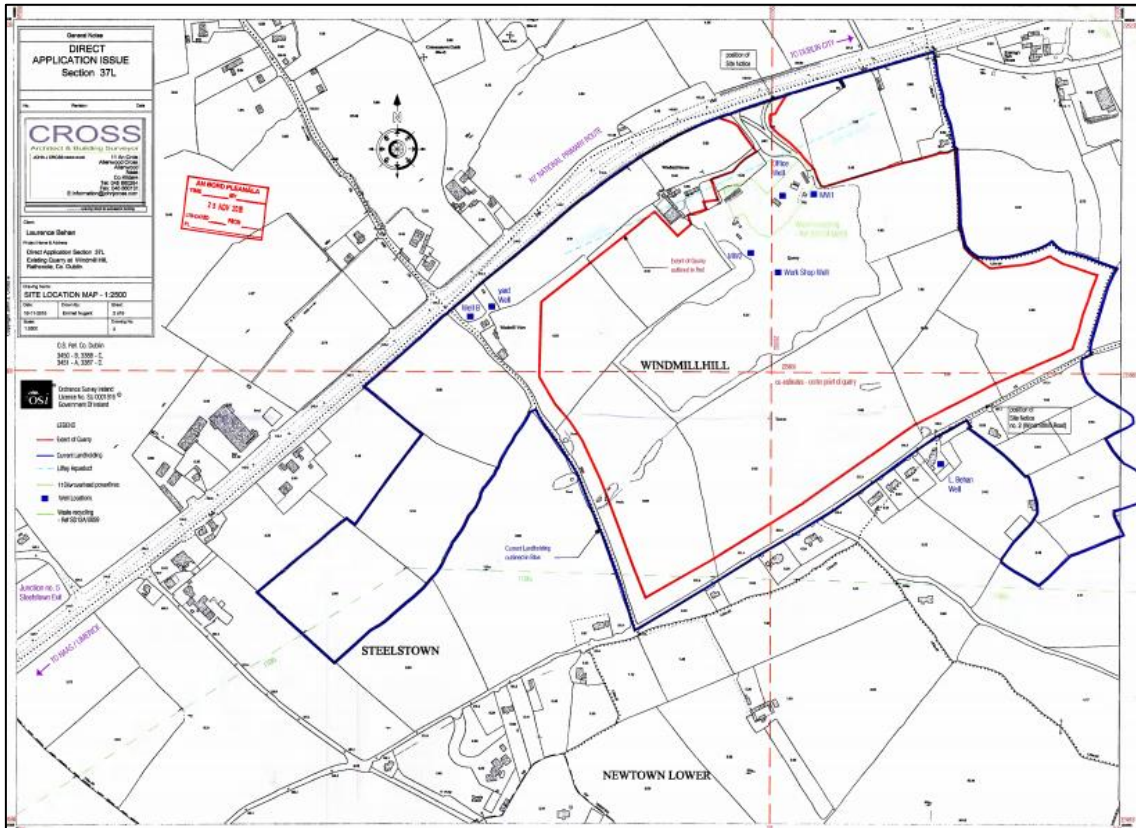


Figure 1.3: Copy of S.37L application ref. PL06S.DQ0003, site location map. Application made 2015, refused 2018, decision quashed by High Court Order 2020.

S.37L application and EIA project boundary

The application for substitute consent, made 24 October 2013, assigned ref. PL06S.SU0068 was refused 21 September 2018. The application for further development of the quarry under S.37L, made on 25 November 2015, assigned ref. PL06S.DQ0003 was also refused 21 September 2018. These application decisions were quashed by High Court Order [2018 No. 929 JR].

Therefore, having regard to section 1.1. above and the Order of the High Court [2018 No. 929 JR] of August 2020: the quashing of the decision under ref. L06A.0003 has given rise to this 'fresh' application further quarrying under S.37L, that is accompanied by this EIAR.

The S.37L planning application unit extends to 26.87 ha. and reflects the extracted area of the quarry and a northern extension to that void area of 4.1 ha. requiring a total additional land take of 5.19 ha. for landscaping berms, all contained within the S.261 workable area registration boundary at **Figure 1.1**. This additional extraction area is the only new development currently proposed for the quarry.

The S.37L planning application boundary unit (26.87 ha.) that this EIAR accompanies is significantly smaller than that for which permission was previously sought (40.875 ha.) under PL06S.DQ0003 as it excludes the extraction of lands in the south of the originally registered S.261 quarry area. In addition, the S.37L application previously submitted sought development permission for infilling of the void. This infilling is not further quarry development and no such proposal is now included. A restoration proposal for the site is included as mitigation in this EIAR and presented at Chapter 11 and in submitted application drawing. The restoration proposed principally consists of the regrading of the current void and use of stored top and subsoils on site for restoration purposes. The restoration proposal includes the restoration of the extant plant processing area at the centre of the site within the Applicant's ownership area and the subject of concurrent substitute consent application.

As noted at the outset, the application under S.37L that this EIAR accompanies is to be made concurrent with an application for substitute consent for the over an area of 28.8 ha. That application is accompanied by an rEIAR.

In view of this rEIAR and the EIAR being concurrently prepared for much of the same operational lands it is submitted that a single EIA project boundary for the purposes of assessment by experts of works past and proposed is consistent and will facilitate EIA of each development within the same EIA project envelope.

The EIA project boundary envelopes an area of 46.14 ha. that encloses previous recent quarry application areas, current workings and intended future workings.

The EIA project boundary is therefore larger than the associated planning application units in order to capture:

- the currently proposed substitute consent and S.37L application boundaries and associated infrastructure; and
- the workable area registered under S.261 for which conditions were imposed.

To a lesser extent, the EIA project boundary was chosen to capture previous applications on the lands as they may include information useful to construct the history and baseline of the current development proposals. In this regard, it was assumed that the most relevant information would derive from the rEIS and EIS submitted for the previous substitute consent and S.37L applications (refs. PL06S.SU0068 and PL06S.DQ0003), therefore the current EIA project boundary largely coincides with those EIA project boundaries.

Definition of a quarry

The substitute consent application being made in respect of this site is for a quarry and arises on foot of S.261A review. The S.37L application that this EIAR accompanies is for further quarrying only. As such, a definition of a quarry is here repeated in order the application made accords with the legislative provision for these applications.

The proposed S.37L further quarrying proposal excludes areas that are not proposed for quarrying i.e. it excludes the centre of the current operational site that holds the ancillary plant and welfare facilities for the site that are mainly included in the substitute consent application area as those lands are not proposed to be extracted and therefore outside of the provision of S.37L. It is intended that the material extracted under the further quarrying proposal will be processed in the extant central plant area of approximately 5 ha. and will continue to utilise the main site entrance to the north which is onto the N/M7. The site location and layout maps submitted with the S.37L application indicate this arrangement.

It is noted that at S.261(13) of the Planning and Development Act 2000, as amended are definitions for that Section. This includes 'quarry'; *"has the meaning assigned to it by section 3 of the Mines and Quarries Act, 1965."* This definition is set out here, Section 3, Mines and Quarries Act, 1965

"In this Act "mine" means an excavation or system of excavations made for the purpose of, or in connection with, the getting, wholly or substantially by means involving the employment of persons below ground, of minerals (whether in their natural state or in solution or suspension) or products of minerals.

(2) In this Act "quarry" means an excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or bore-hole or a well and bore-hole combined.

(3) "Mine" and "quarry" include, respectively, any place on the surface surrounding or adjacent to the shafts of the mine or to the quarry occupied together with the mine or quarry for the storage or removal of the minerals or for the purposes of a process ancillary to the getting of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals but, subject thereto, does not include any place at which any manufacturing process is carried on.

(4) For the purposes of this Act, any place occupied by the owner of a mine or quarry and used for depositing refuse from it shall form part of the mine or quarry, but any place so used in connection with two or more mines or quarries, and occupied by the owner of one of them, or by the owners of any two or more in common, shall be deemed to form part of such one of those mines or quarries as the Minister may direct.

(5) For the purposes of this Act any line or siding (not being part of a railway) serving a mine or quarry shall form part of the mine or quarry, but, if serving two or more of them, shall be deemed to form part of such one of them as the Minister may direct.

(6) For the purposes of this Act a conveyor or aerial ropeway provided for the removal from a mine or quarry of minerals or refuse shall form part of the mine or quarry."

European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011 (S.I. No. 584 of 2011) inserted a discreet 'quarry' definition into Section 2 'Interpretation' of the Planning and Development Act, 2000 as amended as follows:

"quarry" means an excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or

suspension) or products of minerals, being neither a mine nor merely a well or bore-hole or a well and bore-hole combined, and shall be deemed to include—

(i) any place on the surface surrounding or adjacent to the quarry occupied together with the quarry for the storage or removal of the minerals or for the purposes of a process ancillary to the getting of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals but, subject thereto, does not include any place at which any manufacturing process is carried on;

(ii) any place occupied by the owner of a quarry and used for depositing refuse from it but any place so used in connection with two or more quarries, and occupied by the owner of one of them, or by the owners of any two or more in common, shall be deemed to form part of such one of those quarries as the Minister may direct;

(iii) any line or siding (not being part of a railway) serving a quarry but, if serving two or more quarries shall be deemed to form part of such one of them as the Minister may direct;

(iv) a conveyor or aerial ropeway provided for the removal from a quarry of minerals or refuse.”

As noted above, the only new development of the quarry currently proposed i.e. development in excess of what exists that is the subject of concurrent substitute consent application, is further extraction over the existing void to include a 4.1 ha. northern extension to that void. The extant void that contains reserve and the lateral extension area total 28.8 ha. in extent and constitute the S.37L application boundary which accords with S.37L(3):

“(1) Where an application for substitute consent is or was required to be made by the owner or operator of a quarry pursuant to subsection (7), (10) or (12) of section 261A, the owner or operator may apply for permission to further develop that quarry in accordance with this section.

(2) An application for permission to further develop a quarry under subsection (1) shall be made to the Board.

(3) An application for permission under subsection (1) may only be made for further development of a quarry as a quarry.”