The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1, D01 V902

AN BORD PLEANÁLA
LDG- 057923-22
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Fee: € 3000 Type: cheque
Time: 12.11 By: hand
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J Sheils Planning & Environmental Ltd
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Mobile: John Sheils +353 87 2730087
Email: johnsheils@jspe.ie

Date: 6th October 2022
Our Ref: JSPE 280_L14
P. Reg. No. 21/700

DELIVERED BY HAND

Re: The continued use and operation of the existing quarry including deepening of the quarry. Extraction will be confined to the existing permitted quarry area (P.A. Ref. 10/383) comprising an extraction area of c. 14.5 ha within the full landholding of c. 19.6 ha. The development will include provision of new site infrastructure, including portacabin site office / canteen, toilets, concrete batching plant and truck washdown facility, hydrocarbon interceptors, mobile crushing and screening plant, upgrading of the water management system, provision of holding tank for wastewater, and other ancillaries. The proposed development will utilise/upgrade the existing in-situ quarry infrastructure, including site access, internal roads, storeroom, wheel wash, weighbridge, aggregate storage bays, refuelling hard stand, water settlement pond system, and other ancillaries. The planning application will be accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS). At Knockbaun, Spink, Co. Laois.

Name of Appellant:	**Lagan Materials Ltd.**
Address of Appellant:	**Rosemount Business Park, Ballycoolin Road, Dublin 11, D11 K2TP**
Location of Proposed Development:	**Knockbaun, Spink, Co. Laois**
Planning Ref. No.	**21/700**

Dear Sir/Madam,

This first party appeal is made by J Sheils Planning & Environmental Ltd. (address as per above letterhead), as agents on behalf of the appellant, Lagan Materials Ltd., Rosemount Business Park, Ballycoolin Road, Dublin 11, D11 K2TP.

All correspondence relating to this appeal should be directed to the agent, J Sheils Planning & Environmental Ltd., at the above address.

The appellant accepts all of the attached conditions of the Notification of Decision to Grant Permission issued by Laois County Council (P. Reg. No. 21/700) on 9th September 2022, with the exception of the first sentence of Condition No. 5(a), which relates to a restriction on excavation to at least 1 metre above the highest seasonal water table level on site. Therefore, our client wishes to appeal the decision with the objective of revising Condition

No. 5(a). The appellant has no issue with the requirement to monitor local wells and the requirement to not lower water levels in surrounding wells, which is the remainder of the paragraph that forms Condition 5(a). The only issue is the first sentence of 5(a), which specifies an unwarranted and unsubstantiated restriction in depth. The applicant (appellant) supported competent hydrogeologists, hydrologists and ecologists in their robust assessment of the water environment and an informed excavation plan was presented, which included comprehensive detail on the legal and defensible safe feasibility of dewatering. The quarry design included excavation to depths in which no impact on the water levels in local wells was envisaged. Laois County Council appeared to have documented the technical detail in the Planner's Report and for no documented reason, all technical assessments appear to have been completely disregarded. There is no basis in planning or environmental Regulations for their decision, with respect to the first sentence of Condition 5(a). Essentially, they granted permission for the quarry but in one sentence of a particular Condition they removed that permission. The Council Notification of Decision to Grant Permission (P. Reg. No. 21/700) dated 9th September 2022, is enclosed as Attachment A.

Condition No. 5(a) is reproduced here for ease of reference.

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

We enclose a cheque in the amount of €3,000, as the prescribed fee in respect of a first party appeal relating to commercial development (without retention elements) with an EIAR or NIS. This amount is based on the Bord's Schedule of First Party Appeal Fees. Specifically, Section A4 states:

"You want to appeal the decision of a planning authority on an application you lodged with it. The appeal does not include retention; the appeal does relate to commercial development; and the appeal or application does include an EIAR or NIS. Fee: €3,000."

Further technical detail, explaining further, the grounds for appeal of part of Condition 5(a) are attached to this appeal as Attachment B.

Yours Sincerely,

Agent Acting on behalf of Lagan Materials Ltd.

John Sheils

John Sheils MSCSI MRICS

J Sheils Planning & Environmental Ltd.

A. Notification of Decision to Grant Permission

Planning Reg. No. 21/700

FILE

LAOIS COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 AS AMENDED

NOTIFICATION OF DECISION

REGISTERED POST

TO: Lagan Materials Ltd
c/o John Shiels
31 Athlumney Castle
Navan
Co. Meath, C15 HX29

Planning Register Number:	21/700
Valid Application Received:	12/10/2021
Further Information Received Date:	19/07/2022
Date of Decision:	09/09/2022

In pursuance of the powers conferred upon them by the above-mentioned Acts, Laois County Council has by Chief Executive's Order dated 09/09/2022 decided to GRANT PERMISSION to the above named for development of land, namely:- develop as follows: the continued use and operation of the existing quarry including deepening of the quarry. Extraction will be confined to the existing permitted quarry area (P.A. Ref. 10/383) comprising an extraction area of c. 14.5 ha within an overall application area of c. 19.6 ha. The development will include provision of new site infrastructure, including portacabin site office / canteen, toilets, concrete batching plant and truck washdown facility, hydrocarbon interceptors, mobile crushing and screening plant, upgrading of the water management system, provision of holding tank for wastewater, and other ancillaries. The proposed development will utilise/upgrade the existing in-situ quarry infrastructure, including site access, internal roads, store room, wheel wash, weighbridge, aggregate storage bays, refuelling hard stand, water settlement pond system, and other ancillaries. The planning application will be accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS). at Knockbaun, Spink, Co. Laois in accordance with the documents submitted to the Council, subject to the **31 conditions** set out in the attached schedule. The Planning Authority have had regard to any submissions, objections or representations made on this file.

Signed on behalf of Laois County Council

ADMINISTRATIVE OFFICER, PLANNING

DATE: 09/09/2022

Please arrange to remove the site notice forthwith.

THIS NOTICE IS NOT A GRANT OF PERMISSION AND WORK SHOULD NOT COMMENCE UNTIL FINAL GRANT OF PLANNING PERMISSION IS ISSUED.

YOU ARE ADVISED TO CHECK WITH LAOIS COUNTY COUNCIL AND OTHER STATUTORY BODIES SUCH AS E.S.B., EIRCOM, ETC., IN RELATION TO THE LOCATION OF ANY UNDERGROUND SERVICES BEFORE DEVELOPMENT COMMENCES.

Provided there is no appeal against this DECISION a Final Grant of planning permission will issue following the expiration of four weeks.

See next page for details of appeal procedures.

SCHEDULE 1

Having regard to the provisions of the Laois County Development Plan 2021 – 2027, it is considered that, subject to compliance with the conditions set out in the Second Schedule, the proposed development would not seriously injure the amenities of the area, would not be prejudicial to public health, would be acceptable in terms of traffic safety and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with documentation and particulars received by the Planning Authority on 12/10/2021 and the further information received on 24/05/2022 and 19/07/2022 except where altered or amended by conditions in this permission.

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

2.

(a) This permission authorises the continued use and operation of the existing quarry including deepening of the quarry. Extraction will be confined to the existing permitted quarry area (P.A. Ref. 10/383) comprising an extraction area of c. 14.5 ha within an overall application area of c. 19.6 ha. The development will include provision of new site infrastructure, including portacabin site office / canteen, toilets, concrete batching plant and truck washdown facility, hydrocarbon interceptors, mobile crushing and screening plant, upgrading of the water management system, provision of holding tank for wastewater, and other ancillaries. The proposed development will utilise/upgrade the existing in-situ quarry infrastructure, including site access, internal roads, store room, wheel wash, weighbridge, aggregate storage bays, refuelling hard stand, water settlement pond system, and other ancillaries as described in the public notices.

(b) This permission authorises the extraction of 200,000 tonnes per annum.

Reason: In the interest of clarity and in the interest of the proper planning and sustainable development of the area.

3.

(a) The development shall be carried out, completed and maintained in accordance with undertakings for measures to mitigate its impacts as outlined in the Environmental Impact Assessment Report received by the Planning Authority on 12/10/2021 and the updated Environmental Impact Assessment Report received by the Planning Authority on 24/05/2022, except where altered or amended by conditions in this permission.

(b) The development shall be carried out, completed and maintained in accordance with undertakings for measures to mitigate its impacts as outlined in the Natura Impact Statement received by the Planning Authority on 12/10/2021 and the updated Natura Impact Statement received by the Planning Authority on 24/05/2022, except where altered or amended by conditions in this permission.

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

CONDITIONS

4.

(a) All quarry operations and associated activity on the site shall cease 29 years from the date of the grant of planning permission, after which the quarry shall be restored to natural habitat in accordance with the restoration scheme outlined in the Environmental Impact Assessment Report received by the Planning Authority on 12/10/2021 and the updated Environmental Impact Assessment Report received by the Planning Authority on 24/05/2022 except where altered or amended by conditions in this permission. All restoration works shall be completed within 2 years from the date of the grant of planning permission.

(b) The developer shall confirm in writing with the Planning Authority within 6 months of the cessation of operations, the details of, and programme for, implementation of the restoration scheme upon permanent cessation of quarrying activity at the site

Reason: To time limit the impact of the development on the residential amenities of the area and to ensure restoration of the site to a natural habitat within a reasonable period of time in the interest of the proper planning and sustainable development of the area.

5.

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

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

CONDITIONS

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

Reason: To prevent interference with existing groundwater sources, in the interest of public health, to avoid pollution and in the interest of the proper planning and sustainable development of the area.

6. The hours of operation on site shall be 07.00 hours and 18.00 hours, Monday to Friday and between 07.00 hours and 14.00 hours on Saturdays.

No activities or maintenance shall be permitted outside of the above stated hours or on Sundays, Bank or Public Holidays.

Reason: To limit the impact of the development on the residential and rural amenities of this rural area and in the interest of the proper planning and sustainable development of the area.

7.
(a) Existing land and road-side drainage shall not be impaired. No surface water runoff from the site shall be discharged onto the public road.

(b) Only clean, uncontaminated surface water shall be discharge to adequately sized soakpits(s) or surface water system. Contaminated surface water arising on site shall be contained on site and shall not be allowed discharge to any open drain or watercourse.

(c) Refuelling of vehicles and machinery shall be carried out in a manner which prevents pollution of surface and ground waters.

(d) The developer shall be responsible for the proper design, construction and maintenance of all surface water drains installed as part of the proposed development including soakways.

(e) All surface water from the carpark areas, vehicle re-fuelling, loading and set-down areas shall pass through adequately sized and sited petrol/oil interceptor(s) before being discharged to the surface water system. The interceptors shall be located, installed, operated and maintained in accordance with the recommendations of the manufacturer and to the satisfaction of the Planning Authority. The interceptors shall be regularly cleaned, serviced and maintained.

CONDITIONS

Reason: To prevent interference with existing roadside drainage in the interest of public health, to avoid pollution and in the interest of the proper planning and sustainable development of the area.

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

Reason: In the interest of public health, to avoid pollution and in the interest of the proper planning and sustainable development of the area.

9. All overground oil, chemical storage tank(s) shall be adequately bunded to protect against spillage. Bunding shall be impermeable and capable of retaining a volume equal or greater than 110% of the capacity of the largest tank within the bunding area or 25% of the total volume of the substance which could be stored within the area, whichever is greater. Filling and off-take points shall be located within the bunded area(s).

Reason: In the interest of public health and the use of best practice guidelines in order to avoid pollution.

10.

(a) The total dust emission arising from the on-site operations associated with the proposed development shall not exceed 350 milligrams per square meter per day, averaged over a continuous period of 30 days, when measured as deposition of soluble and insoluble particulate matter at any position along the boundary of the site. No stripping of topsoil or overburden shall be carried out in periods of dry weather.

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

(c) All vehicles associated with the haulage of aggregates and other materials to the site shall be enclosed or securely sheeted to prevent dust emissions.

Reason: To prevent pollution and in the interest of public health.

CONDITIONS

11.
(a)The noise level attributable to all on-site operations associated with the proposed development shall be in accordance with those specified in the EIA received on 12/10/21 and 24/05/22 between 0700 hours and 1900 hours Monday to Friday inclusive (excluding bank holidays), and between 0700 hours and 1400 hours on Saturdays, when measured outside any noise sensitive location house in the vicinity of the site. Sound levels shall not exceed 45 dB(A) (Leq) at any other time.

(b) A Noise Assessment shall be carried out on the site by a competent Noise Consultant within 1 month of commencement of on-site operations and at 6 monthly intervals thereafter or at any other time specified by the Planning Authority and one months advance notice shall be given to the Planning Authority of the assessment date. The locations of the noise monitoring stations shall be agreed in writing with the Planning Authority. The Noise Assessment Report shall be submitted to the Planning Authority at 6 monthly intervals or as otherwise requested by the Planning Authority.

(c) Prior to commencement of development, the applicant shall submit written confirmation to the Planning Authority that the rock breaker will not exceed the noise levels generated by Crushing and Screening Plant.

Reason: To safeguard the residential amenities of the area and in the interest of the proper planning and sustainable development of the area.

12.
(a) The developer shall only carry out blasting between the hours of 09.00 and 18.00 hrs, Monday to Friday, except in emergencies or for health & safety reason beyond the control of the developer. The developer shall put in place a procedure for notifying local residents of the date(s) and times of blasting. This documented procedure shall be agreed with the Planning Authority prior to commencement of blasting operations on-site and be available onsite for inspection by the Planning Authority.

(b) No blast or combination of simultaneous blasts shall give rise to a groundborne vibration level at the nearest noise sensitive receptor which exceeds a peak particle velocity of 12 mm/ second, as measured in any of the three mutually orthogonal direction about a fixed point.

(c) No blast shall give rise to an air overpressure level at the nearest noise sensitive receptor that exceeds 125 dB (Lin) maximum peak. 95% of all air overpressure levels measured at the nearest noise receptor location shall conform to the specified limit value. No individual air overpressure value shall exceed the limit value by more than 5 dB(Lin).

CONDITIONS

(d) The developer shall carry out blast monitoring (ground-borne vibration and air overpressure) for each blast. The monitoring locations shall be agreed in advance with the Planning Authority and shall be established prior to commencement of development. Blast monitoring shall be carried out for each blast, unless otherwise agreed in writing with the Planning Authority.
The following information shall be recorded for each blast: date; time; location in the quarry; amount of explosive used; maximum instantaneous charge; vibration and air overpressure monitoring results. The results of the monitoring shall be submitted to the Planning Authority four weeks after the end of the quarter being reported on.

Reason: To safeguard the residential amenities of the area and in the interest of the proper planning and sustainable development of the area.

13.
(a) An Environmental Audit of the site operations shall be carried out annually (by the end of January) on behalf of the developer, by a competent Environmental Consultant. Details of the monitoring arrangements, including locations and frequency of monitoring shall be agreed in writing with the Planning Authority. The audit should be prepared with reference to and shall take into account the requirements of the 2006 EPA publication 'Environmental Management Guidelines in the Extractive Industry' and shall be submitted to the Planning Authority not later than the end of February on an annual basis.

The Environmental Audit shall

a. Contain a summary of all the environmental monitoring results of the year.

b. List a full record of any breaches over the previous year of noise, air and water quality.

c. contain a written record of all complaints and action taken on each complaint.

Reason: To enable the Planning Authority to monitor the proposed development, by reference to approved particulars and the mitigation and monitoring measures contained in the EIAR.

14. Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority a proposal for an Environmental Management System (EMS) prepared in accordance with Section C of the 2006 EPA publication 'Environmental Management Guidelines in the Extractive Industry'. The EMS should highlight clearly the following:

CONDITIONS

(a) Proposals for the suppression of on-site noise (in order to comply with conditions, set out in this permission).
(b) Proposals for the on-going monitoring of sound emissions at the noise sensitive locations at locations to be agreed with the Planning Authority.
(c) Proposals for the suppression of dust on site and on the access road; proposals to prevent dust escaping the boundaries of the site.
(d) Proposals for the bunding of fuel and lubrication storage areas; details of emergency action in the event of accidental spillage (where appropriate) and details of procedures to ensure refueling of vehicles and machinery is carried out in a manner that prevents contamination of the environment.
(e) Details of safety measures for the land above the quarry, to include warning signs and stock proof fencing (works to be carried out within one month of the written agreement of the Planning Authority to these details).
(f) Monitoring of ground and surface water quality, levels and any discharges
(g) Monitoring of groundwater and surface water volumes in relation to abstractions.
(h) Continuous monitoring of the discharge to the western water receptor. A continuous turbidity monitor shall be installed to provide live readings of water quality in this watercourse. This equipment should be fitted with an alarm should any increase or exceedance of an appropriate turbidity threshold be exceeded.
(i) The details of the Environmental Management System shall be in accordance with the conditions contained in this decision.

Reason: To enable the Planning Authority to monitor the proposed development, by reference to approved particulars and the mitigation and monitoring measures contained in the EIAR.

15. Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority a proposal for a Green House Gas monitoring programme on-site. Based on the Green House Gas monitoring results, the developer shall establish short, medium, and long-term objectives and targets for a Green House Gas reduction programme and energy management plan.

Reason: To enable the Planning Authority to monitor the proposed development, by reference to approved particulars and the mitigation and monitoring measures contained in the EIAR

16. Prior to commencement of on-site operations, the developer shall submit for the written agreement of the Planning Authority, an Extractive Waste Management Plan for the quarry in accordance with Regulation 5: Extractive Waste Management Plan of the Waste Management (Management of Waste from the Extractive Industries) Regulations 2009.

CONDITIONS

Reason: To prevent pollution and in the interest of the proper planning and sustainable development of the area.

17. The developer shall install a closed loop wheel wash system prior to the commencement of the development and ensure that no material deposits on the public roads in the area are caused as a result of traffic associated with the quarry. The wheel wash system shall be desludged on a regular basis by an authorised collector and the material removed to an authorised facility for recovery / disposal.

Reason: In the interest of traffic safety and residential amenity.

18.

(a) Adequate sight distances of 180m shall be created and maintained in both directions at the site entrance. The sight distances shall be measured from a point 2.4 metres in from the road edge and from a driver's eye height of 1.05 metres to an object height of 1.15 metres.

(b) All areas forward of the sight splays, excepting access way, shall be grassed up to the metalled edge of the road.

(c) Any damage caused to the adjoining public thoroughfare shall be made good at the developer's expense to the satisfaction of the Planning Authority.

Reason: To ensure the provision of an adequate entrance to the development in the interests of traffic safety.

19.

(a) Save for that which needs to be removed in order to create the proposed entrance and sightlines, all remaining boundary screening shall be retained and not removed save with the prior written consent of the Planning Authority.

(b) Areas where hedgerow removal works are required to achieve sight distances shall be planted with trees/shrubs of species native to the area to form naturalised hedgerows similar to existing native hedgerows in the vicinity. Species shall include hawthorn, whitethorn, ash, oak, hazel, sycamore and holly; beech [fagus sylvatica] shall not be used.

(c) Planting shall be carried out in the first planting season following commencement of development.

(d) In the event of tree/hedge failures, these shall be replaced within the following planting season.

CONDITIONS

Reason: In the interests of visual and residential amenity.

20. Landscaping shall be carried out in accordance with the 'Restoration and Landscaping Plan' figure 3.2 as received by the Planning Authority on 12/10/2021.

Reason: In the interest of ecological improvement, visual amenity and in the interest of the proper planning and sustainable development of the area.

21. No blasting shall occur adjacent to nesting sites during the nesting season of the Peregrine Falcon adjacent to the nest site.

Reason: In the interest of ecological protection in the interest of the proper planning and sustainable development of the area.

22. Prior to the commencement of development, the developer shall submit to the Planning Authority for written approval, a detailed proposal for the strengthening of the R-430 for a distance of 100 m in either direction of the existing entrance to include line marking and ancillary works. These works shall be undertaken by the developer at the developer's expense. These works shall be carried out within 9 months of the commencement of development.

Reason: To ensure the provision of an adequate entrance to the development in the interests of traffic safety.

23. Prior to the commencement of development, a maintenance scheme in relation to the upkeep of road surfaces, line marking, road studs, drainage and road verges in the vicinity of the proposed development site, setting out any necessary repair/ improvement works required for the duration of the development shall be submitted to the Planning Authority for its written approval. This maintenance scheme shall be submitted for written approval every year thereafter until permanent cessation of operations on site.

Reason: In the interests of traffic safety.

24. Prior to the commencement of development, the developer shall submit a drawing showing new advance warning signs and line marking on the R-430 for the Quarry Entrance to the Planning Authority for written approval.

Reason: In the interests of traffic safety.

CONDITIONS

25. The maximum level of traffic generated by the development shall be in accordance with Table 14.10 'Summary of Proposed Quarry Site Generated Traffic (Vehicles)' submitted as part of the Environmental Impact Assessment Report received by the Planning Authority on 12/10/2021 and the updated Environmental Impact Assessment Report received by the Planning Authority on 24/05/2022.

Reason: In the interests of traffic safety.

26. The developer shall install a weighbridge to the access road. Daily records including HGV vehicle type and associated tonnages shall be recorded and maintained in the site office on site and shall be open to inspection by the Planning Authority.

Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

27. The developer shall be responsible for maintaining the adjoining public roadway and any warning signage in a clean state, free from mud and other debris. In the interest of clarity, and for the avoidance of doubt, site management shall provide for the routine removal of any such mud and debris (including loose material in verges) in the public roadway on a daily basis towards the close of business each day.

Reason: In the interests of traffic safety.

28. The haulage routes for material going to and from the Quarry shall be kept to the regional and national secondary road network as described in EIAR report. Short cuts using the local road network shall be prohibited. The Local road network shall only be used if there is not an alternative route via a regional road or national secondary.

Reason: In the interests of traffic safety.

29. Prior to the commencement of development, a contribution shall be payable to Laois County Council, in accordance with the Council's Development Contribution Scheme, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority, and that is provided or that it is intended will be provided by, or on behalf of, the Council.

The contribution payable will be based on the contribution rate applicable at the time of payment and not the rate in existence when permission is granted. The amount of the development contribution is set out below and is subject to annual revision with reference to the Wholesale Price Index (Building and Construction), and penalty interest for late payment, in accordance with the terms of the Council's Development Contribution Scheme:-

CONDITIONS

Extractive Industry	€0.25 per cubic metre of material based on extraction volumes subject to a minimum charge of €15,000 per hectare	Amount of Contribution
	€15,000 x 14.5 hectares	€217,500

Reason: It is considered reasonable that the developer should contribute towards the expenditure incurred or proposed to be incurred by Laois County Council in respect of the provision/improvement of public services/infrastructure benefiting development in the area of the Planning Authority.

30. Prior to the commencement of development, a contribution shall be payable to Laois County Council, in accordance with the Council's Development Contribution Scheme 2017-2023, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority, and that is provided or that it is intended will be provided by, or on behalf of, the Council.

The contribution payable will be based on the contribution rate applicable at the time of payment and not the rate in existence when permission is granted. The amount of the development contribution is set out below and is subject to annual revision with reference to the Wholesale Price Index (Building and Construction), and penalty interest for late payment, in accordance with the terms of the Council's Development Contribution Scheme:-

Commercial		Floor Area	Total per Contribution
Roads	€22.67	67m²	€1,518.89
Amenity	€11.33	67m²	€759.11
Total Development Contributions	€34	67m²	€2,278.00

Reason: It is considered reasonable that the developer should contribute towards the expenditure incurred or proposed to be incurred by Laois County Council in respect of the provision/improvement of public services/infrastructure benefiting development in the area of the Planning Authority.

CONDITIONS

31. Prior to commencement of development, the operator shall lodge with the Planning Authority a cash deposit of €100,000 or a bond of an insurance company of same value, in relation to the restoration and making safe of the site as required in connection with the development, and provision of road access coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion and the continued ongoing maintenance of the development.

B. Grounds for Appeal

Grounds for Appeal

Background

This appeal relates to the Notification of Decision to Grant planning permission under P. Reg No. 21/700 by Laois County Council on 9th September 2022. *"Planning application for the continued use and operation of the existing quarry including deepening of the quarry. Extraction will be confined to the existing permitted quarry area (P.A. Ref. 10/383) comprising an extraction area of c. 14.5 ha within an overall application area of c. 19.6 ha. The development will include provision of new site infrastructure, including portacabin site office, canteen, toilets, concrete batching plant and truck washdown facility, hydrocarbon interceptors, mobile crushing and screening plant, upgrading of the water management system, provision of holding tank for wastewater, and other ancillaries. The proposed development will utilise/upgrade the existing in-situ quarry infrastructure, including site access, internal roads, storeroom, wheel wash, weighbridge, aggregate storage bays, refuelling hard stand, water settlement pond system, and other ancillaries. The planning application will be accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS) at Knockbaun, Spink, Co. Laois".*

The appellant accepts all of the conditions attached to the Permission issued by Laois County Council (P. Reg. No. 21/700), with the exception of Condition No. 5(a), which relates to a restriction on excavation with respect to the seasonal water table. Therefore, our client wishes to appeal the decision with the objective of revising Condition No. 5(a). The Council Notification of Decision to Grant Permission (P. Reg. No. 21/700) dated 9th September 2022, is enclosed as Attachment A.

Condition No. 5(a) of the notification of decision to grant permission (P.A. Ref. 21/700) is presented below with the corresponding response to the content of the condition, which we feel has merit and is reasonable and represents proper grounds for this First Party Appeal.

Condition No. 5(a).

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

Response to Condition No. 5(a)

The response to Condition No. 5(a) and water related issues has been prepared by Dr. Pamela Bartley of Hydro-G. The Water Chapter of the EIAR, which accompanied the planning application, was completed collaboratively between Dr. Bartley and Dr. Colin O'Reilly of Envirologic. Dr. Bartley and Dr. O'Reilly were also responsible for the preparation of responses to all water related questions as part of the response to further information for the proposed development.

Dr. Pamela Bartley is a water focussed civil engineer with 24 year's field-based practice in groundwater, surface water and wastewater. Upon completion of a Diploma in Water and Wastewater Technology at Sligo RTC, Pamela completed her primary degree in Civil Engineering at Queen's University, Belfast, followed by postgraduate education at the School of Civil Engineering at Trinity College, Dublin. While a postgraduate at TCD, she completed a MSc. in Environmental Engineering at the School of Civil Engineering, with geotechnical, hydrogeological, legislation and water specialities, and later a hydrogeologically focussed Ph.D.

As a result of her work in evaluating planning appeals, Pamela has become a specialist in quarry and discharge evaluations in the context of enacted Irish Regulation and EU Directives concerning the environment, such as the Groundwater Regulations (2010, 2011, 2012, 2016), Surface Water Regulations (2009, 2012, 2015), EU (Birds and Natural Habitats) Regulations (2011), and Water Framework and Habitats' Directives.

She has completed hydrologically focussed impact assessments for many regionally important quarries in SAC settings, including catchments with habitats for the designated species pearl mussel and vertigo. Dr. Bartley's significant quarry assessments of note include Bennettsbridge Limestone, Co. Kilkenny, McGrath's Limestone of Cong, Cos. Galway and Mayo, Cassidy's of Buncrana, Co. Donegal, Harrington's of Turlough, Co. Mayo, Ardgaineen, Co. Galway and Mortimer's of Belclare, Co. Galway. Each of these quarries operate within SAC catchments and have successfully managed their discharge, under licence, for many years. Many of these quarry developments are significantly below the water table and remain compliant with all Statutory Law. Dr Bartley has experience of monitoring a number of these excavations over a long period of time and universally observed a lack of impacts, as predicted in the information of the EIARs presented with those successful applications for consent.

Dr. Bartley's key work areas include the development of large-scale public supply water boreholes, surface water and groundwater assessments with a discharge focus, soil systems, soil hydrology and hydrogeological evaluations for quarries with a specific regulatory focus on water and ecological constraints. She is qualified and IOSH certified to act as Project Supervisor Design Phase (PSDP) and Project Supervisor Construction Stage (PSCS) as defined in the Construction Regulations. The company, Hydro-G, is a registered Irish Water Supplier (no. 1855), Dr. Bartley is HSQE approved within Irish Water and is one of their Hydrogeologist service providers. She is a professional member of Engineers Ireland and International Hydrogeologists (Irish Group).

Response of Dr. Bartley of the Water Team

Dr. Bartley considers the only objectionable, and unreasonable, issue concerns the first sentence of Condition No. 5(a): **"Excavation shall not take place below a level of at least 1 metre above the highest seasonal water table level on site"**. This sentence makes no sense, is impracticable and has no scientific or legal justification.

This condition is considered unreasonable given that this is an existing quarry that has already been developed at depth below the 'water table', including groundwater dewatering and discharge to surface waters subject to a licence to discharge to surface water as required under Section 4 of the Local Government (Water Pollution) Act, 1977.

The planning application was accompanied by a comprehensive Water Chapter submitted as part of the EIAR for the site, and the extensive replies submitted as part of the Further Information process. The information submitted within the EIAR clearly stated that this was an existing quarry, and that dewatering was part of the proposal. This was also acknowledged within the Laois Co. Council Planner's Report relating to the proposed development.

A significant body of information was provided within the Water Chapter of the EIAR including the following:

(a) One hundred pages of information relating to the baseline environment and evaluation of possible impacts were presented. The works completed at the site included surveys of soils and bedrock by four experienced, competent soil scientists and hydrogeologists, core drilling of rock and subsequent water well drilling and testing of different geological formations across the site. In addition, a comprehensive geophysical survey was completed. All works produced evidence that the quarry could be further excavated at depth with no potential for impact by the proposed quarry dewatering. Local area topographic surveying and discussions with local well owners identified all receptors at risk and enabled a final conclusion of no potential for impact due to quarry dewatering.

(b) Fifty pages (of the one hundred pages) of the Water Chapter were dedicated to detailing all site investigations and the necessary mathematical analyses. The results of drilling, geophysics and pump testing were used to document the industry best practice mathematical analysis in order to deduce a volume of water that would arise from the aquifer and calculate impact. A heavily safety factored dewatering amount of 1,453 m^3/d was evaluated. It was clearly presented that the amount of water that would be encountered, would be in the order of 700m^3/d. However, for safety, the hydrogeological team completed impact on a dewatering amount of 1,453 m^3/d. Still no impact was envisaged on either local well users or the receiving environment.

(c) The ground at the site was drilled using a site investigation rig, which was then followed up with Water Well boreholes specifically drilled to enable actual pump testing. The breadth of testing completed at Spink quarry is a rarity in EIARs. Significant and comprehensive ground investigations were completed, and robust mathematical assessment enabled a conclusion in EIAR Section 7.5.8.1, as follows:

"The potential radius of influence upon completion of works is illustrated in Figure 7.12. There are no active groundwater receptors that may be at risk of impact from groundwater drawdown within that 350 m of the centre of the sump. The radius of influence comes close to the borehole at Property No. 2. Based on the information obtained during the well search, the borehole at Property No. 2 must be abstracting groundwater from a deeper bedrock formation because it was drilled deep and the pump is set deep. Information supplied to the project is that it is drilled to approximately 100–120 m below surface, equivalent to 123–143 mOD, and is not deemed to be at risk of impact due to the proposed dewatering elevation of 199 mOD, which is at least 40 m above the borehole water strike at Property No. 2. The fact that groundwater flow has been demonstrated to be controlled by the boundary contact layers between

differing formations, confirms that the potential for impact is very low for this difference in elevation and the dip angles of the geological bedding planes found at the site."

Furthermore, in order not to rely only on a simplified Radius of Influence Concept, the hydrogeologists applied the same principles as are applied in Zone of Contribution mapping by the GSI and concluded as follows:

"One could argue that radial approach may not be entirely appropriate to the uniqueness of Irish hydrogeological features and that it can overestimate inflows from lands downgradient of the site in terms of groundwater flow and underestimate inflows from lands hydraulically upgradient. Therefore, Envirologic applied an alternative approach which is typically used to delineate zones of contribution (ZOCs) to public water supply wells. This approach estimates the rate or volume of water to be removed from the quarry by assuming it will be equivalent to the rate of groundwater flow through the site that will be intercepted by excavation below static groundwater level.

The well survey shows that the groundwater flow direction is south-southwest, in line with the dip angle of the contact between the Clay Gall Sandstones and Moyadd Coal Formation. Hence, most groundwater inflow to the quarry is likely to arise from recharge to the Lm aquifer in the area north of the site. This 'zone of contribution' is presented in Figure 7.12".

The significance of this statement is that the upgradient users will have abstracted their water supply in advance of waters arriving at the quarry. This means that the quarry must dewater the volume of water remaining after these local users abstract their own water. Downgradient groundwater users will be adequately supplied by the catchments around their own wells. The evidence and calculations were also detailed in the hydrogeologist's response to queries raised by local well users in the RFI for the application.

(d) All required information and analysis were provided in order to demonstrate that the receiving surface waters could accommodate the envisaged discharge of waters arising at the site. A maximum amount of dewatering volume was inputted to the DoEHLG Guidance formulae, for the lowest flow condition i.e., 95%tile, and the resultant concentrations were deemed compliant with the Surface Water Regulations and Birds & Habitats Regulations. Although Inland Fisheries (IF) initially queried the mathematical approach, and this query was issued as an Item requesting Further Information, the EPA subsequently confirmed to IF directly that the approach applied in the EIAR was correct.

As outlined above, the planning application was accompanied by a comprehensive Water Chapter submitted as part of the EIAR for the site, and the extensive replies submitted as part of the Further Information process, which provided quantification of the amount of rainfall runoff that would arise on the site and the additional amount that would arise from the excavation of rock. Water management systems, including the floor sump and settlement lagoons were designed and specified for the stated volume of water that would arise at the site, from rainfall, runoff and groundwater inflow, and the requisite assimilation capacity calculations were presented. The proposals for the site always discussed groundwater and the calculations and analyses demonstrated that the receiving water had the hydraulic and

assimilative capacities. All Regulation could be adhered to with the quarry's water management plan, as presented.

The Laois Co. Council Planner's Report relating to the proposed development is 72 pages long and the evaluation of the Water Chapter commenced on page 26. With respect to the detail presented in the Planner's Report, specific points of note included the following:

(i) On page 27 of the Planner's Report, the EIAR's information on water volumes are correctly reproduced under the heading "Dewatering". This is taken to mean that the planner understood that 'dewatering' was part of the proposal, part of the quarry design, formed the basis for the water management infrastructure and was the primer for the subsequent 'Assimilation Capacity' simulations.

(ii) (ii) Pages 27 and 28 of the Planner's Report correctly presents the EIAR's Water Chapter information on the volumes of rainwater and groundwater that might arise under different extraction scenarios. The planner understood that the amount of rainwater runoff from the site is 296 m^3/d. Detail at the end of page 27 of the Planner's Report is reproduced as follows:

The amount of rainfall-runoff-recharge direct to the site is 296 m^3/d (refer to Table 7. 7). It has been assumed that all of this will require management.

(iii) Relevant statements in the closing paragraph at the top of page 28 of the Planner's section on "Dewatering" is reproduced here as follows:

It is understood that this means that the amount of water requiring management should be c 761 m^3/day. Irrespective of this, the surface water management design and the assessment of hydrology and hydrogeology impacts is based on a maximum 1,453 m^3 /day potential discharge rate.

The above statements show that the Planner understood that dewatering is proposed and that the amounts are greater than rainfall runoff. The planner goes on to include specific sections in the report which evaluates the EIAR's Water Chapter in detail with respect to the **'Stream Hydraulic Capacity'**, the site's '**Water management Plan**', '**Settlement Pond Design**' and '**Assimilative Capacity of Receiving Water & Discharge Limits**' of the 'receiving water' (i.e., the river system that would receive the discharge). The planner reviews the applicant's response to Further Information and concludes that the proposal is justified.

However, on page 59 of the Planner's Report, a summary for Water under a section entitled "***Reasoned Conclusion of Significant Effects***" is at complete odds with the Planner's own review and statements. The summary for Water of the Planner's report is reproduced as follows:

Water impacts; All quarry activity will be above groundwater table, no discharge from site to surface watercourses and therefore no direct impacts on surface water quality or quantity. Potential impacts on groundwater relate to accidental spillages of fuel, release of suspended solids from soil and subsoil stripping and the accidental importation of non-inert material to the site. Mitigation measures proposed include managed surface water runoff, restrictions on refuelling I machinery maintenance, use of spill kits and drip trays. Upgrade of existing

wastewater treatment system will improve the quality of wastewater treatment on site and the quality of the discharge from same.

The summary is not relatable to the corresponding pages of the Planner's Report (i.e., pages 26 to 34) and neither is it a summary of the information presented in the EIAR's Water Chapter nor in the Further Information Received (FIR Report). For example, "**no discharge to surface watercourse**" is something that can only occur in a gravel quarry. The rain that falls on a hard rock quarry has to be discharged somewhere.

The issue here is whether the first line of Condition No. 5(a) was intended to be included for the proposed development or whether it has been included in error. This is the type of wording that is associated with a grant of permission for a sand / gravel pit and is not one applied to a hard rock quarry that is already below the water table level.

The Water Chapter, and the figures associated with that chapter, detailed many springs in the surrounding area, indicating that groundwater is close to the ground's surface. The information presented in the Water Chapter detailed the investigations, the hydraulic tests into the hard rock environment beneath the site and calculated the likely volume of groundwater that would arise for management and discharge from the site.

The impact assessment and mitigation measures presented adequately dealt with protecting the integrity of the hydrogeological resource (i.e., natural groundwater springs, etc.) and the sources (i.e., local domestic wells). The assimilative capacity presented the feasibility for discharge.

Condition No. 14 of the Notice to Grant concerns both monitoring of groundwater and surface water volumes and monitoring of quarry water discharge to the western water receptor. The relevant clauses of Condition No. 14 are given below:

"Condition No. 14. Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority a proposal for an Environmental Management System (EMS) prepared in accordance with Section C of the 2006 EPA publication 'Environmental Management Guidelines in the Extractive Industry'. The EMS should highlight clearly the following:

(f) Monitoring of ground and surface water quality, levels and any ***discharges****.*

(g) ***Monitoring of groundwater and surface water volumes*** *in relation to abstractions.*

(h) ***Continuous monitoring of the discharge to the western water receptor.*** *A continuous turbidity monitor shall be installed to provide live readings of water quality in this watercourse. This equipment should be fitted with an alarm should any increase or exceedance of an appropriate turbidity threshold be exceeded."*

It is clear from the above that the Planning Authority have given consideration to both groundwater dewatering and monitoring of quarry water discharge.

These discrepancies suggest that the first sentence of Condition No. 5(a) was not intended for this site. The EIAR presented a volume of rainfall and groundwater that the site could manage and discharge in a justified, defensible and Regulatory compliant fashion. The first sentence of Condition No. 5(a) does not make any sense in light of the information presented in the EIAR and associated documentation.

The applicant and their agents have no issue with Conditions requiring local area groundwater monitoring because this is good practice.

The Water Team engaged directly with the Environment Section of Laois Co. Council and submitted, in draft format for the purposes of consultation, a complete Assimilation Capacity Report detailing full compliance with all regulations and justification for issue of a Section 4 Discharge Licence for the full 1,453 m^3/d rainfall and maximum groundwater amount envisaged. The Water Team also engaged with the Inland Fisheries representative for the area to explain the DoEHLG Guidance on assimilation capacity simulations.

The first sentence of Condition 5(a) does not make any sense in light of the significant and comprehensive information presented in the EIAR and associated documentation.

Other Considerations

We consider the following points should also be taken into consideration by the Board, as these show the clear contradiction with respect to Condition No. 5(a) and the Notification of Decision to Grant Planning Permission by Laois County Council with respect to the quarry development.

Condition No. 2(a) states that: *"This permission authorises the continued use and operation of the existing quarry* ***including deepening of the quarry****. Extraction will be confined to the existing permitted quarry area (P.A. Ref. 10/383) comprising an extraction area of c. 14.5 ha within an overall application area of c. 19.6 ha. The development will include provision of new site infrastructure, including portacabin site office / canteen, toilets, concrete batching plant and truck washdown facility, hydrocarbon interceptors, mobile crushing and screening plant,* ***upgrading of the water management system****, provision of holding tank for wastewater, and other ancillaries. The proposed development will utilise/upgrade the existing in-situ quarry infrastructure, including site access, internal roads, store room, wheel wash, weighbridge, aggregate storage bays, refuelling hard stand,* ***water settlement pond system****, and other ancillaries as described in the public notices".*

It is clear from the above Condition No. 2(a) that Laois County Council's intent is to grant planning permission for "*deepening of the quarry*", which would require further development below the groundwater table and for the provision of the necessary *"upgrading of the water management system"*, including *"water settlement pond system"* to facilitate same.

Condition No. 4(a) states that "*All quarry operations and associated activity on the site shall* ***cease 29 years*** *from the date of the grant of planning permission, after which the quarry shall be restored to natural habitat in accordance with the restoration scheme outlined in the Environmental Impact Assessment Report received by the Planning Authority on 12/10/2021 and the updated Environmental Impact Assessment Report received by the Planning Authority on 24/05/2022 except where altered or amended by conditions in this permission. All restoration works shall be completed within 2 years from the date of the grant of planning permission."*

As stated in EIAR Section 3.2.2.4 (Duration of Permission), *"The proposed development is required for a duration of* ***c. 29 years*** *in order to extract the known resource".* As such, Laois

County Council have granted planning permission as per the proposed development outlined in the planning application and EIAR.

The following statements were made in EIAR Section 3.3.1.2 (Aggregate Reserve Assessment):

- The site will be worked from the existing quarry area in a westerly direction in a series of benches between 206 and 200 m AOD. The quarry design takes into account a requirement identified in the hydrogeological study of the EIAR (Refer to Section 7) to maintain at least a 5 metre buffer above the contact between the Clay Gall Sandstone Formation and Moyadd Coal Formation. This will reduce the amount of water to be managed and discharged off-site (Refer to EIAR Section 7.5.8.4). The western quarry area has already been developed to c. 225 m AOD. The material to be worked in this area comprises the high-quality Clay Gall sandstones;
- At the same time, the quarry will be pushed in an easterly direction with removal of the overlying Coolbaun Formation to expose the underlying Clay Gall sandstones. The eastern quarry area will be developed in a series of typically 10 m benches down to c. 190 m AOD (Refer to EIAR Figures 3.1 to 3.3); and
- The proposed design shows the progressive deepening of the existing quarry sump as quarrying progresses to 200 m AOD. The final sump for the quarry will extend to a depth of 190 m AOD in the eastern quarry area and is also shown on EIAR Figure 3.1 and 3.3.

It was on the basis of the above design considerations with respect to deepening the quarry further below the groundwater table (given the average annual output in the order of 200,000 tonnes) that the anticipated duration for the extraction of c. 29 years was determined.

The following Table 3.2 is taken from the EIAR and shows that the reserves (c. 3.7 million tonnes) of the high quality Clay Gall Sandstone within the western and eastern quarry areas will be sterilised by imposition of the condition restricting development to 1 m above the highest seasonal water table level on site. The Overlying Coolbaun Formation (siltstones and mudstones with occasional sandstone) are not considered economically viable to work on their own without access to the underlying Clay Gall Sandstone.

The working scheme was premised on developing both the eastern and western quarry areas concurrently so as to allow for removal of the lower quality Coolbaun Formation (siltstones and mudstones with occasional sandstones) overlying the Clay Gall Sandstone Formation in the eastern area.

EIAR Table 3.2 Details of Quarry Reserves

Bench m OD	Formation	Western Quarry Area		Eastern Quarry Area		Total
		Cu.m	tonnes	Cu.m	tonnes	tonnes
258 to 230	Coolbaun			568,369	1,477,760	
230 to 220				250,228	650,592	2,128,352
	Clay Gall			95,778	249,022	
225 to 206		427,013	1,110,234			
206 to 200		71,770	186,602			
220 to 210				308,361	801,739	
210 to 200				279,084	725,619	
200 to 190				247,566	643,673	3,716,888
						5,845,240

It is noted under "Reasoned Conclusion on the Significant Effects" on page 60 of the Laois Co. Council Planner's Report that the Planner has considered that the main significant direct and indirect effects of the proposed development with respect to Landscape are as follows:

"Landscape; given the nature of the proposed development, the continuance of the use of the quarry within the existing quarry extraction void and ***deepening by 20m*** *to a level of* ***108m OD****, the only landscape effect will therefore be the lowering of the quarry floor. The proposal does not include or require the removal of any landscape elements such as trees or hedgerow."*

As with the Laois Co. Council Planner's summary of "*Water Impacts*", it is evident that this summary does not relate to the proposed development and is clearly an error, as it is proposed to deepen the quarry at Spink to a level of only c. **190 m AOD**. This further supports our contention that the "Reasoned Conclusion on the Significant Effects" with respect to "*Water Impacts*" in the Planner's Report have been incorrectly summarised by the Laois Co. Council Planner.

We would also draw the Board's attention to the fact that Laois County Council appointed MKO Planning & Environmental Consultants to review the Environmental Impact Assessment Report and their assessment largely informed the request for Further Information. In preparing the response to Further Information, a meeting was held with Laois County Council and their appointed consultants, MKO, to ensure that our response to the request for Further Information met their requirements. It is evident from the Planner's Report that MKO were also involved in the assessment of the response to Further Information and

prepared a review document (Refer to Pages 60 & 61 of the Planner's Report). Neither of these two MKO reports are included on the planning file and/or have been made available. It is not unreasonable to conclude that the body of the Planner's Report was informed by the MKO reports, which was understanding and accepting of the proposed development, including deepening of the quarry, quarry dewatering and discharge to surface water, but is disconnected from the "*Reasoned Conclusions on the Significant Effects*" prepared by the Laois Co. Council Planner.

Conclusions

Granting permission for the deepening of a quarry that has already intersected the water table in order to extract mineral reserves from depth, but without permitting extraction below the water table is contradictory, illogical and without scientific or regulatory foundation.

The first line of the development description provided in the planning application, EIAR, Laois Co. Council Planner's Report and Notification of Decision to Grant Planning Permission is as follows: "The continued use and operation of the existing quarry **including deepening of the quarry**". In Section 3.3.1.2 Aggregate Reserve Assessment, the EIAR states that "The eastern quarry area will be developed in a series of typically 10 m benches down to c. 190 m AOD (Refer to Figures 3.1 to 3.3)". In Section 7.5.6 Groundwater Levels, the EIAR provides existing groundwater levels of c. 223 m AOD for the production wells on site and the water level in the quarry sump. Furthermore, sections 7.5.10.2 and 7.5.10.3 of the EIAR are dedicated to hydraulic modelling of discharge of site waters to external watercourses.

The information contained within the Laois Co. Council Planner's Report for the site acknowledged that this was an existing quarry and acknowledged that dewatering was part of the proposal. The comprehensive baseline surveys and evaluation of possible impacts provided evidence that the site could be further excavated at depth with no potential for impact by the proposed quarry dewatering nor risk to the receiving environment, including local wells and groundwater sources.

At several points in the review of the FIR Report, the Laois Co. Council Planners Report states the proposed development will not result in significant effects on water quality and therefore any adverse effects on downstream aquatic receptors, including any of the QIs/SCIs of the relevant European Sites, and that the fundamental requirement of the WFD is not compromised by the proposed development. Indeed, in the review of the FIR Report under Chapter 7 Water, on page 34 of the Laois Co. Council Planner's Report, the Planner states that the responses given with respect to Water are considered to be acceptable in addressing the points raised in the FI request, including groundwater and surface water monitoring, discharge to surface water, and quarry sump capacity. Thus, the Planner clearly understood and accepted the merits of all of the technical arguments with respect to Chapter 7 Water (and FIR Report), including the proposed depth and size of the sump, the need for and volume of dewatering, and discharge to and assimilative capacity of surface watercourses.

Despite the above, under Reasoned Conclusion on the Significant Effects on page 59 of Planner's Report, the Planner inexplicably states that *"All quarry activity will be above groundwater table, no discharge from site to surface watercourses and therefore no direct impacts on surface water quality or quantity"*. We contend that there is a logical disconnect

between the Planner's review of the comprehensive analysis of the hydrology and hydrogeology of the site presented in the EIAR (and FIR Report) and the planner's recommendation with respect to Condition No. 5(a), which was ultimately adopted and attached to the Grant of planning permission. No argument or reason is provided for this disconnect and suggests that a clerical error has occurred, or confusion has arisen whereby aspects of different developments have become conflated.

Therefore, on behalf of Lagan Materials Ltd., we request that An Bord Pleanála revise condition No. 5(a) accordingly, by removing the first sentence of the condition which states that *"Excavation shall not take place below a level of at least 1 metre above the highest seasonal water table level on site"* and grant planning permission in accordance with documentation and particulars received by the Planning Authority on 12/10/2021 and the further information received on 24/05/2022 and 19/07/2022, except where altered or amended by conditions in this permission.

Yours Sincerely,

Agent Acting on behalf of Lagan Materials Ltd.

John Sheils MSCSI MRICS

J Sheils Planning & Environmental Ltd.

Principal senior hydrogeologist for the site

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