

File With
[]

SECTION 131 FORM

Appeal No
ABP— 319198-24

Defer Re O/H

Having considered the contents of the submission dated/received 26/3/24
from Seamus Brennan I recommend that section 131 of the Planning
and Development Act, 2000 be/not be invoked at this stage for the following reason(s):

No new material planning issues. Board to consider same

Section 131 not to be invoked at this stage.

Section 131 to be invoked — allow 2/4 weeks for reply.

Signed
Daniel & Connor
EO

Date
9/4/24

Signed
[]
SEO/SAO

Date
[]

M

Please prepare BP — Section 131 notice enclosing a copy of the attached submission.

To
[]

Task No
[]

Allow 2/3/4 weeks
BP

Signed
[]
EO

Date
[]

Signed
[]
AA

Date
[]



Planning Appeal Online Observation

Online Reference
NPA-OBS-003287

Online Observation Details

Contact Name Seamus Brennan	Lodgement Date 26/03/2024 10:24:19	Case Number / Description 319198
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Payment Details

Payment Method Online Payment	Cardholder Name Seamus Brennan	Payment Amount €50.00
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Processing Section

S.131 Consideration Required

Yes — See attached 131 Form

N/A — Invalid

Signed

Daniel O'Connor

EO

Date

26/3/24

Fee Refund Requisition

Please Arrange a Refund of Fee of

€

Lodgement No

LDG— 070916-24

Reason for Refund

Documents Returned to Observer

Yes No

Request Emailed to Senior Executive Officer for Approval

Yes No

Signed

EO

Date

Finance Section

Payment Reference

ch_3OyXB1B1CW0EN5FC1QLKQgwi

Checked Against Fee Income Online

EO/AA (Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board Member

Date

Date

Validation Checklist

Lodgement Number : **LDG-070916-24**
Case Number: **ABP-319198-24**
Customer: **Seamus Brennan**
Lodgement Date: **26/03/2024 10:24:00**
Validation Officer: **Daniel O'Connor**
PA Name: **Carlow County Council**
PA Reg Ref: **2360042**
Case Type: **Normal Planning Appeal PDA2000**
Lodgement Type: **Observation / Submission**



An
Bord
Pleanála

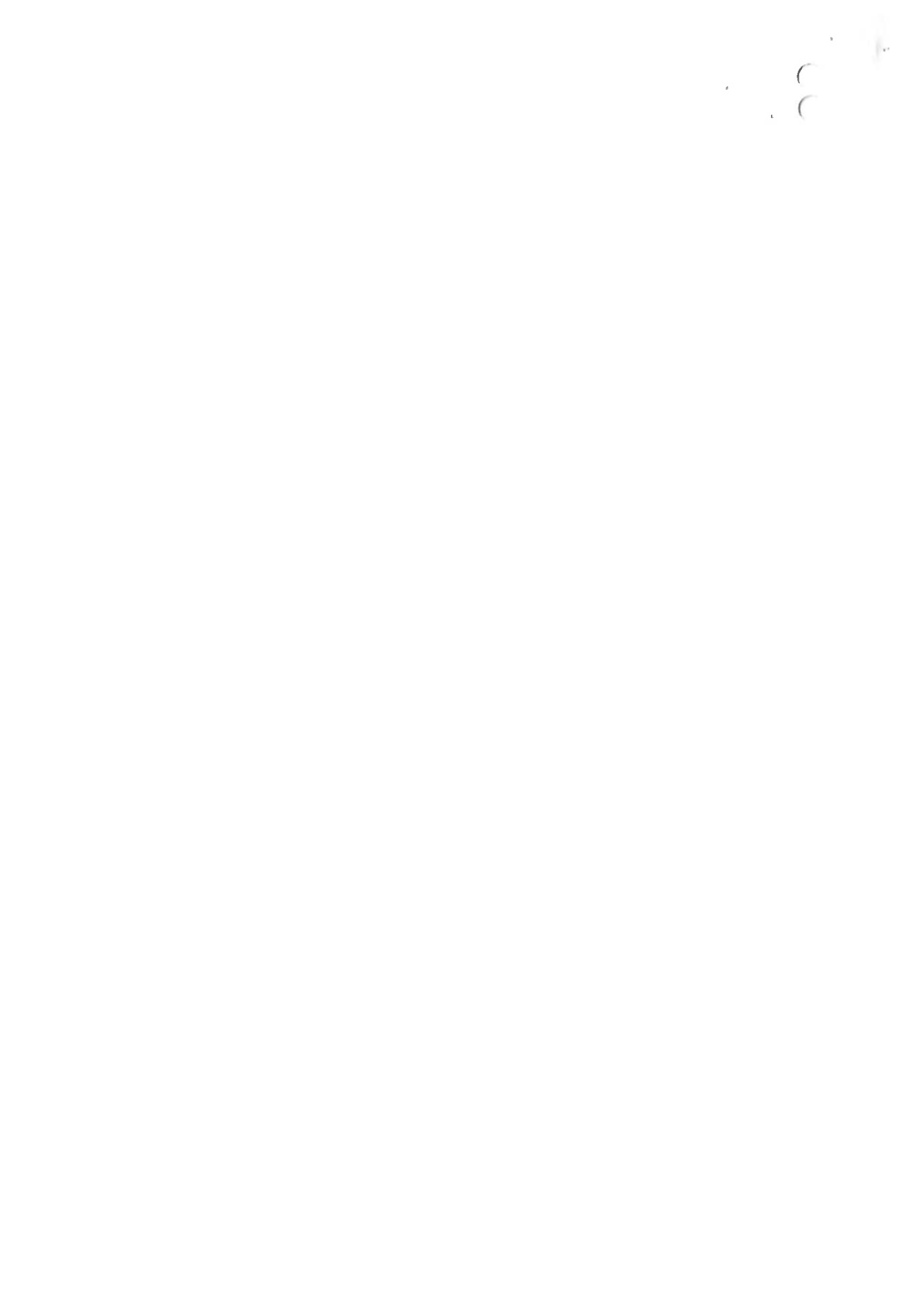
Validation Checklist	Value
Confirm Classification	Confirmed - Correct
Confirm ABP Case Link	Confirmed-Correct
Fee/Payment	Valid – Correct
Name and Address available	Yes
Agent Name and Address available (if engaged)	Yes
Subject Matter available	Yes
Grounds	Yes
Sufficient Fee Received	Yes
Received On time	Yes
Eligible to make lodgement	Yes
Completeness Check of Documentation	Yes

BP40 to observer

Jan Kelly
27/03/24

Run at: 26/03/2024 12:56

Run by: Daniel O'Connor



An Bord Pleanála
64, Marlborough Street
Dublin 1
D01V902

Bangagaole
Old Leighlin
County Carlow
R93XK10

ReF :PL01.319198. (Carlow CC Ref: 2360042)

25th March 2024.

Dear Sir / Madam,

We refer to the above case submitted to your office on 5/3/2024 . Our household is situated 45M to the north east of this application site and as such we are very concerned about the effects a further quarrying development will have on our property and our health and well being. My wife and I have lived at this location now for 42 years and raised 4 children here. We have made previous submissions to Carlow County Council in relation to this application (Ref: 2360042) and are pleased that our local planners refused the application.

At this point we want to re-emphasize our concerns for a further quarry which if planning is granted will be adjacent to the existing quarry and that the consequences are fully noted by An Bord Pleanála. The existing quarry (Kilkenny Limestone) is operating approx. 100M to the north west of our property. In summary our concerns are based upon the following :

1. It has **NOT** been proven by the Applicants why Two Quarries independently run and working side by side in our region are needed now or into the future. (See Item 1 from Carlow CC re FI requirement .) Current information tells us that the market for limestone is static, which will mean that a further quarry competing in the same market will only lead to job losses. Kilkenny Limestone are a long established quarry in the area (60 years +) and currently supply dimensional limestone for the home and export markets . Unusable stone is crushed on site and currently Milford Quarries (the applicant) has access to all of this aggregate and has had for a long number of years.
2. The applicant suggests that there has been no incidents of issues re Dust / Noise / Water Quality / Traffic Roads etc., with the existing quarry. This is totally incorrect !! our local community are constantly at odds with the existing quarry on these issues and have referred matters to our local council / councillors and Carlow CC on many occasions . We also have dealt directly with the existing quarry management and while matters may get resolved partially, they are of a reoccurring nature. I suggest most of the incidents are not recorded.
3. Water – Potable and Wastewater is of major concern. Our household and all others in the neighbourhood depend on our own private wells for drinking water supplies. On occasions in the past our water has been contaminated and our well has run dry. Currently we are thankful for a good uncontaminated supply. We fear should anything happen this supply. Where do we turn to if the worst were to happen ??

Because of the gradient to the west of our home and that of the existing and proposed quarry, huge quantities of rain / surface water runs into the land drains / culverts close to us . All of this water runs to the River Barrow (SAC region). We reported (with photos) of an incident recently whereby our neighbours home was flooded in October 2023 following heavy rainfall . the flood waters came from the proposed new quarry site and onto our local road L3036.

4. **Blasting** – The applicant states there will be minimal impacts from blasting on the area with a max of 4 blasts per year . Our experience is that the number of blasts is inconsequential . What actually impacts the area is the Size / Velocity of any one blast . Applicant confirms that the proposal will breach water tables / ground structures etc., such activities have the **REAL RISK** of interfering with water supplies both in terms of volume and contamination ..
5. **Mitigation / Management;**
A lot of data has been submitted by the applicant on Stats / Tests / Control measures etc., etc., From our experience we put forward to you that all of this is derisory to the real day to day workings of such an operation in that there is no actual measurement taking place on a day to day or week to week basis by any independent body .. As such no control measures are being monitored in any systematic way.
6. **Consultation** : Carlow CC requested the applicant to engage with us and our local community with regard to concerns we have with this application . We would like to confirm that no such engagement took place . Hence the disdain that these applicants have for our community.

In its Summary Report re Refusal to Grant Permission Carlow County Council correctly sighted deficiencies in reports by the applicant on the foregoing in its EIAR and in particular the cumulative impacts that existing and proposed businesses would have on our environment and consequently on all species of life and our livelihoods in the area.

In addition Carlow CC specified that there was a major concern for our SAC regions as detailed in their Startegic Plan 2022-2028 around such an operation within 2Kms of this area, where measures proposed by the applicant were exposed as unsatisfactory in protecting these regions. As people living in the area we are visibly and acutely aware of how such projects can adversely impact these regions .

We have added an addendum to this letter compiled by an independent expert in the quarrying field which comments (highlighted in yellow) on the FI responses from the Applicant as requested by Carlow County Coucil. Again there are numerous areas where inadequate or incorrect information was provided .

Thank you for reading our Submission.

Yours Sincerely,

Seamus & Catherine Brennan.

ITEM 1

1. You are advised that it is the policy of the Council to facilitate adequate supplies of aggregate and mineral resources to meet the future growth needs of the county and wider region where there is a proven need for a certain aggregate / mineral while addressing key environmental, traffic and social impacts and details of rehabilitation (Ref: EIP1). On the basis of the information submitted the planning authority is not satisfied that the resource is intended to meet a local or regional need and therefore does not accord with the provisions of the Carlow County Development Plan 2022-2028. You are afforded an opportunity to address the foregoing and in particular establish a proven need for limestone at a local / regional level having regard to the foregoing policy.

It is clear that the applicant has made no attempt to calculate the material to be used for dimension stone and the unusable material to be used for aggregate material. I will now calculate based on the information provided by the applicant what the volumes of each might be.

The project as submitted is over two benches of 10m each (section 2.4 EIAR). The usable dimensional limestone is at a typical depth of c.10m. A layer of unusable stone of approximately 6m in depth will require extraction prior to reaching the quality dimensional stone (section 2.3 2) of the EIAR. Section 1.1 of the FI report says, "the quarrying output from dimension stone results in up to 80% of the extracted limestone by volume being unusable".

Therefore, the following calculations for bench 1 apply:

(Note density derived from section 2.3 of EIAR where applicant states that $30,000 \text{ m}^3 = 84,000$ tonnes)

$2.44 \text{ hectares} = 24,400\text{m}^2 \times 6\text{m depth unusable} \times 2.8 \text{ density} = 409,920 \text{ tonnes unusable}$

$24,400\text{m}^2 \times 4\text{m depth usable} \times 2.8 \text{ density} = 273,280 \text{ tonnes,}$

However, of these 273,280 tonnes usable only 20% is dimension stone. $273,280 \times 0.2 = 54,656$ tonnes.

Therefore, for bench 1 tonnage of dimension stone = 54,656 tonnes

Tonnage of unusable stone for crushing = $273,280 - 54,656 = 218,624$ tonnes

Calculations for bench 2 not allowing for any standoff between bench 1 and 2 as the cross sections imply are as follows:

$24,400\text{m}^2 \times 10\text{m depth} \times 2.8 \text{ density} = 683,200 \text{ tonnes usable stone.}$

20% of this total is usable as dimension stone.

Therefore, for bench 2, tonnage of dimension stone = $683,200 \times 0.2 = 136,640$ tonnes

Tonnage of unusable stone for crushing = $683,200 - 136,640 = 546,560$ tonnes.

In summary of the potential extraction of 1,366,400 tonnes:

$136,640 + 54,656 = 191,296$ tonnes of dimension stone

And

409,920 + 218,624 + 546,560 = 1,175,104 tonnes of unusable stone for crushing.

Less than 15 % of the total extraction from this project has the potential to be dimensional stone, while over one million tonnes will require crushing, screening and washing.

ITEM 2

2. The content of the submitted Environmental Impact Assessment Report (EIAR) has been considered and the following is noted therein:
- i) The EIAR fails to consider the cumulative impacts arising from all other existing projects and/or proposed projects, including the existing operational limestone quarry directly adjoining the subject site to the north particularly with regard to cumulative impacts arising from traffic, noise, air/dust, structural stability and visual amenity. As a result, the approach to a baseline scenario is inadequate and does not meet the requirements of the EIA Directive 2014/52/EU (the Directive).
 - ii) It is proposed to extract dimensional limestone from the application site and to then transport it elsewhere for processing. There will be a clear connection between the application site and the site(s) where the limestone will be processed. The EIAR fails to address the cumulative impacts arising from this inter-dependency.
 - iii) The description of alternatives examined in the EIAR is considered to be largely generic. No real consideration of reasonable alternatives has been provided contrary to the requirements of the Directive. Reasonable alternatives include location and may relate to matters such as project design, technology, size and scale. More appropriate consideration of alternatives having regard to the foregoing matters are required.
 - iv) The EIAR does not detail the impacts expected during the restoration and post restoration (decommissioning) phases of the proposed development.
 - v) There are inconsistencies in the identification of sensitive receptors in the EIAR which formed the basis for assessment relating to noise, dust, traffic, hydrology and hydrogeology. Contrary to the details set out in the EIAR there are three sensitive receptors within 100m of the application site, two of which are located 40 and 45m to the northeast of the application site respectively which do not appear to have been fully accounted for in the assessments submitted.

For the reasons listed above you are required to update and revise the EIAR along with any necessary revised supporting plans.

2 (i) to (v) we agree with the local authority that cumulative impacts have not been properly assessed in the original EIAR or subsequent EIAR addendum as presented. An example of this is

noise. No background noise survey has been completed for the site either to assess the current noise environment with the existing quarry or the potential impact of adding another quarry. The applicant suggest that the existing Kilkenny Limestone Quarry will be a customer of the quarry, however, the planning permission attached to this quarry does not allow for the importation of material from another non connected site. Therefore, cumulative impact must be assessed for the existing site if in fact both these projects are connected. There has been no assessment as to the impact of crushing 1,175,104 tonnes of rock. This rock is in block form and will require rockbreaking for every tonne prior to crushing.

ITEM 3

- 3. A report received by the Planning Authority from the Department of Housing, Local Government and Heritage on the 08/05/2023 questions the adequacy and competency of the expertise involved in the archaeological and cultural heritage assessment (Section 11 of the ELAR) which does not appear to be commensurate to the nature and extent of the development proposed and the impacts that may occur to cultural heritage and in particular archaeology from the proposed development. Accordingly, you are requested to address the requirements of the Department and to engage the services of a suitably qualified Archaeologist to carry out a full Archaeological Impact Assessment (AIA). The AIA shall be carried out in accordance with Items 1-10 on the attached report from the Department.**

The applicant has employed a suitably qualified archaeologist for this assessment. This then asks the question why other aspects of the FI were not given the same attention by the applicant.

ITEM 4

1. Having examined the plans and particulars submitted the Planning Authority consider that some of the aspects of the proposed development remain unclear and require further information to enable a full and comprehensive assessment of the proposed development. The applicant is therefore requested to clarify the following;

i) Confirm whether all 158,928 m³ of overburden will be retained on site for use in the proposed berms and retained in the soil storage area. The extent of overburden in each phase shall be clearly documented.

ii) Limited information has been provided on the proposed methods to be used in carrying out the stripping of overburden / unusable stone. The estimated quantity of unusable stone shall be outlined. The application refers to the proposed extraction via blasting and hydraulic breaking while other sections refer to breaking only. The applicant is requested to clarify how exactly material will be excavated, and if blasting will be involved, which shall be fully assessed in the EIAR.

iii) The details provided on the proposed restoration of the site are limited despite these works forming part of the development description set out in the public notices. In addition, the indicative restoration plan submitted is not annotated to include predicted ground levels. Full detailed proposals are required for the restoration and post restoration (decommissioning) of the site, together with

confirmation as to whether imported materials will/ will not be required to facilitate restoration. The EIAR and NIS will require updating to account for this proposed development.

iv) Topographical drawings, sectional drawings and drawings indicating the proposed phases submitted with the application are not sufficiently clear given the scale used. In accordance with Article 23 of the Planning and Development Regulations 2001 (as amended), the applicant is requested to submit revised drawings at 1:200 scale or such other appropriate scale to be agreed with the Planning Authority to include existing and proposed ground levels.

v) The application has not provided any detail on external lighting/floodlighting. Where external lighting is proposed to serve the proposed development, then you are requested to submit a lighting layout for the proposed development, designed (and signed) by a competent Lighting Design Engineer, in accordance with BS 5489:2013 and EN 13201:2003 or the latest approved versions, shall be submitted to the Planning Authority. Lanterns where unless otherwise approved are to be LEDs. Note - when considering placement of lighting there shall be no potential or adverse glare to residential properties or to increase potential accident risk to those using the public road.

4(i) As stated in our original submission, we believe that the volume of soil and subsoil onsite has been greatly understated. The soil from the processing area of 1.2 hectares has not been included in the calculations and the applicant states that excess soil will be placed in the void. Geotechnical

assessment by a suitably qualified geotechnical engineer must be a pre-planning requirement when such large volumes of topsoil will be placed on already elevated ground.

4(ii) Blasting has now been introduced; therefore, the original project description is misleading and inadequate. If blasting will form part of this project, then that is a material inclusion from the original project description. The local authority F.I. clearly states "*The estimated quantity of unusable stone shall be outlined*". The applicant has blatantly ignored this request. However, I have provided estimated tonnages in item 1 above.

4(iv) The drawings have not shown the location or extent of the crushing, screening, and washing plant, for over 1 million tonnes. Note this "processing area" is elevated and should be assessed accordingly for noise and visual impact. At no stage in the visual impact assessment has there been allowance for conveyors or larger pieces of equipment. The photomontages also show no stockpiles at the location.

ITEM 5

5. It is considered by the Planning Authority that the Natura Impact Statement submitted has not addressed the potential for cumulative and in-combination impacts on the River Barrow and River Nore SAC (Site Code: 002162) of the proposed development and the existing limestone quarry adjoining the subject site to the north. Therefore, it cannot be objectively concluded that the proposed development on its own and in combination with other plans and projects will not adversely affect the integrity of the River Barrow and River Nore SAC.

Accordingly, the applicant is requested to submit a revised NIS to address this issue which examines the in-combination impacts of the existing limestone quarry with the proposed quarry on the Natura Site.

5. The cumulative impact has not been assessed for assimilative capacity or the impact on the qualifying interests of the River Barrow and River Nore SAC. While the existing Kilkenny Limestone dimension stone quarry through proper management and mitigation may not be having an effect, the discharge from the existing quarry in combination with this proposal may. Therefore, the cumulative impact must be assessed. Section 5.6.2.1 of the original EIAR submitted with this application states, "*the proposed development has the potential to adversely impact the qualifying interests of the River Barrow and River Nore SAC*". The applicants response to item 5 of the F.I. as requested by the local authority falls well short of the standard to prove beyond any reasonable scientific doubt that this additional quarry will not impact the river barrow and River Nore SAC. This quarry will have a direct pathway to the River Barrow through the Baunleath stream.

If every application for discharge to a SAC implied no impact based on the neighboring site not having an impact and being compliant, then there would be no need for assimilation and cumulative assessments. The argument put forward by the applicant simply makes no sense.

F.I. item number 5 has not been adequately answered by the applicant.

ITEM 6

6. (a) Please confirm whether it is intended to provide silt traps as part of the surface water management of the site. There is the potential for the generation of suspended sediment in surface water runoff during the construction and operational phases of the proposed development. Surface water management shall be appropriately designed to facilitate removal of fine clay material and sediment.
- (b) The applicant is requested to submit a detailed drawing (1:200) for the proposed water management system including details of all proposed pipework, drains, water recycling, washings, silt traps, bowsers, interceptors etc.
- (c) Please clarify construction details of the settlement ponds to ensure no adverse impacts arise on the integrity and composition of the bedrock / water table.

6(a) There is no detail of water flow to and from dust suppression. The water from dust suppression given that the roads are not paved will be laden with dust during summer months. No account is given for the settlement time required to remove this dust from the water which will eventually be discharged into a SAC. Combined with a hydrobrake and a unknown quantity of water ingress, without proper invasive drilling and pump testing, all water management as presented by the applicant is theoretical. Water is also required for dust suppression on the crushing, screening, and washing plants. Washing of aggregates by its nature produces large volumes of silt laden water. The lagoons on the quarry floor and at the Eastern side of the development do not account for this silt laden water.

6(b) The applicant's response at section 6.2.1 of the response to further information request report only refers to runoff water and minor groundwater inflow. There is no mention of treating the water used for dust suppression or the water required for washing dirty stone.

ITEM 7

7. Following on from Item No. 5 of the request for further information the applicant is requested to submit the following;
 - i. The applicant is requested to advise how and where the domestic wastewater collected in the wastewater holding tank will be disposed.
 - ii. The applicant is requested to confirm what systems are in place to warn if the wastewater holding tank is full and to prevent the tank from overflowing.

- iii. The applicant is requested to confirm that all the proposed soakaways are adequately designed to accommodate the surface water generated by the proposed development.
- iv. The applicant is requested to advise who will be responsible for conducting sampling, periodic timeframe for same and submission of same to competent authorities, as appropriate.
- v. The applicant is requested to advise how the soakaways will be protected from silt.
- vi. The applicant is requested to advise what water treatment will be applied to the water storage area prior to dispersing into the existing culvert.
- vii. The applicant is requested to advise how surface water from the site will be limited entering the existing culvert to comply with any discharge licence.
- viii. Submit design details for the proposed access road to include the provision of a sprinkler system along the length of the access road as having regard to the length of the proposed access road a wheel wash is not considered sufficient to suppress dust during dry weather conditions. Please also details of the type of surface proposed to prevent issues of dust arising.

Regarding items no (i) – (vii) verification shall be submitted by a suitably qualified and indemnified person.

7(vii) The applicant suggests using a hydrobrake and the need to flood the entire quarry "if required". This suggests the volume of water and storm water is yet unknown. If the quarry floods the operations will have to stop for a prolonged period while the water is pumped out through a hydrobrake at a specified flow rate per day. If the entire quarry is flooded, then how will the small settlement lagoon cope with such large volumes of water?

7(viii) this request for information is not adequately answered and merely states that a sprinkler system will be provided. How will the water be managed, where will it settle as it will be silt laden, etc.

ITEM 9

- 9. The scope of the information provided in terms of the potential structural impacts of the proposed quarry development in combination with the existing quarry is limited. The Planning Authority are concerned that further excavation at this location may impact on structural stability in the area and in particular on the adjoining local road given its close proximity to the quarry pit. Accordingly, the applicant is requested to submit further information to address this concern.

The request for information number 9 as requested by Carlow County Council requires input from a geological and or geotechnical expert. This F.I. as requested needs to be considered by a suitably qualified geotechnical expert. The assessment should include but not limited to soil removal, subsoil removal and placement, excavations and dig assessment, face height angle and stability and finally a full risk assessment of the placing and final angles of the spoil heap.

ITEM 13

13. Please be advised that a number of third-party submissions have been received which express serious concerns regarding the proposed development. The applicant is invited to assess the content of these submissions, and to comprehensively respond to the issues presented in same as part of the response to this further information request.

13. Item 13 of the local authorities' request for further information is very clear in that the applicant was invited to ***comprehensively*** respond to the issues presented in the submissions received. The applicant responded to Irish water, TII and the Department of Housing, Local Government and Heritage directly while grouping 30 public submissions under 26 headings. The applicant included our concerns under the following 5 headings, Visual Amenity, Water pollution, Biodiversity loss, Proximity to dwellings, and Traffic. The concerns raised in our submission were far more wide ranging than those included in the 5 headings above. Our submission raised concerns under heading such as, but not limited to, Proximity to quarry, Effect on Community, Water Supply, Water pollution, Air/Dust pollution, Blasting, Exportation of materials, Noise pollution, River Barrow River Nore SAC, Flooding, Landslides, Unsuitable stone, Public Participation, Existing Quarry and sustainability .. !!