

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

<b>AN BORD PLEANÁLA</b>	
LDG- _____	
ABP- _____	
14 MAY 2024	
Fee: € _____	Type: _____
Time: <u>9:26</u>	By: <u>exp post</u>

6th<sup>h</sup> May 2024

**SUBMISSION re Application ref. SU17.319397**

Reference: ABP: SU17.319397  
URL: <https://www.pleanala.ie/en-ie/case/319397>  
Application Lodged: 20<sup>th</sup> March 2024 (Wednesday)  
Appeal Deadline: 15<sup>th</sup> May 2024 (Tuesday), (8 Weeks)  
Dev. Address: Tromman Quarry, Tromman, Rathmolyon, Co. Meath  
Applicant: Keegan Quarries Limited  
Description: **Substitute Consent** for quarry and ancillary precast concrete manufacturing yard  
Submission Fee: N/A

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Dear Sirs

**DEVELOPMENT DESCRIPTION**

1. *"The development at the quarry and the ancillary precast concrete manufacturing yard, totalling some 21.64Ha in extent, consists of the unauthorised construction of an electrical substation, a concrete batching plant with technical lab and associated lagoon system; additional settlement facilities; a Limestone Powder plant, comprising feed hopper, crushing and screening plant, dispatch points, drying plant, storage sheds and gas tank fuel storage and the unauthorised construction of a precast concrete manufacturing industrial unit. In addition, the unauthorised continuation of extraction and associated mineral processing activities and the continued use and or operation of previously authorised structures; to include a block yard, office, canteen, weighbridge and wheelwash (00/2075), a precast manufacturing facility, associated batching plant and fuel storage (TA20408); an administrative office, septic tank, workshop, weighbridge, wheelwash, fuel store, pump house, steam cleaner and ancillary development (TA130400 & TA130581) beyond the expiry of extraction consents on the 5 August 2018 to which the ancillary consents for buildings plant and structures were co-terminus."*
2. It is helpful to break this down into its component parts: -
  - a. *"The development at the quarry and the ancillary precast concrete manufacturing yard, totalling some 21.64Ha in extent,*

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- b. *consists of the unauthorised construction of an electrical substation,*
- c. *a concrete batching plant with technical lab and*
- d. *associated lagoon system;*
- e. *additional settlement facilities;*
- f. *a Limestone Powder plant, comprising feed hopper, crushing and screening plant, dispatch points, drying plant, storage sheds and gas tank fuel storage and*
- g. *the unauthorised construction of a precast concrete manufacturing industrial unit.*
- h. *In addition, the unauthorised continuation of extraction and associated mineral processing activities and*
- i. *the continued use and or operation of previously authorised structures; to include*
  - i. *a block yard,*
  - ii. *office,*
  - iii. *canteen,*
  - iv. *weighbridge and*
  - v. *wheelwash (00/2075),*
  - vi. *a precast manufacturing facility,*
  - vii. *associated batching plant and fuel storage (TA20408);*
  - viii. *an administrative office,*
  - ix. *septic tank,*
  - x. *workshop,*
  - xi. *weighbridge,*
  - xii. *wheelwash,*
  - xiii. *fuel store,*
  - xiv. *pump house,*
  - xv. *steam cleaner and*
  - xvi. *ancillary development (TA130400 & TA130581) beyond the expiry of extraction consents on the 5 August 2018 to which the ancillary consents for buildings, plant and structures were co-terminus."*

The above is a list of unauthorised construction and quarrying over the last few years, it beggars belief that such a large list is now looking for planning approval or it has got to this stage at all, these structures and quarry activities are not small in nature but huge buildings with thousands if not millions of tons of stone and limestone products that have been extracted beyond the end life of the quarry.

All these buildings should be removed and land re - instated and a full inspection of the quarry should happen immediately. the planning laws should be followed by everyone , large developers or quarries should not be exempt.

Just now there is a case in county meath, where a private resident will have to demolish his unauthorised home as shown in the local papers. This should be the case also here if fair is fair and justice is for all.

The unauthorised quarry should have ceased in 2018, how is it still operating? how is it getting explosives authorised by the garda to quarry and blast if it has no planning permission??

Is this operator just steamrolling ahead , sure it will be alright i will get it sorted when there is nothing left to quarry?

I and many people did not object to this quarry when it first opened, but now have a very different opinion today. I want to make an objection to extending this quarry's life and all its unauthorised developments. Many of my neighbours say we're wasting our time as he can do as he likes as seen over the last few years.

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

**177J.**— Specifically provides that: -

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

## **CASE LAW & EXCEPTIONAL CIRCUMSTANCES**

3. **3<sup>rd</sup> July 2020:** the Irish Supreme Court in *AN TAISCE, PETER SWEETMAN & Others v. AN BORD PLEANÁLA and Others* [9/19, 42/19 and 43/19], Mr. Justice William M. McKechnie stated that the public should have an input at the earlier s.177 (c) stage and specifically cited the Aarhus Convention. They also stated that where substitute consent is applied for that the exceptionality test must be applied.
4. **C-215/06: Commission v. Ireland:** Failure of a Member State to fulfill obligations – No assessment of the environmental effects of projects within the scope of Directive 85/337/EEC – Regularisation after the event is not permissible under EU law where E.I.A. and A.A. (Habitats) should have been prepared prior to any development.

5. Given the long history of unauthorised/ illegal development by this operator across counties **Meath, Westmeath** and **Kildare** together with a large number of enforcement letters, notice and court orders, it is ridiculous to allege that one 'genuinely believed' that the operations were exempted. It cannot reasonably be argued that there are exceptional circumstances pertaining to this quarry.
6. In light of the EU cases of **C-215/06** and **261/18** together with the welcome clarity by the Irish Supreme Court in *AN TAISCE, PETER SWEETMAN & Others v. AN BORD PLEANÁLA and Others* [9/19, 42/19 and 43/19], it is therefore not legally permissible for the Irish Authorities to facilitate any further retention applications to this applicant in light of the planning history.
7. Given the history of recorded unauthorised developments pertaining to the Keegan Quarry at Trammon together with its history across a number of other quarries, it is virtually impossible for it to satisfy the 'exceptionality test'. The amount of documentary evidence now available demonstrated conclusively that the operators had conducted numerous unauthorised developments in a flagrant abuse of planning and environmental requirements both of domestic law (Irish) and also of European law.

## COMPLIANCE HISTORY DEMONSTRATES NO EXCEPTIONAL CIRCUMSTANCES

This operator has a long history of exceeding permitted boundaries.

8. In 2009 the applicants applied to extend the quarry under ref. TA/900976 [PL 17.235960]. This was granted [subject to conditions] on the **3<sup>rd</sup> August 2010**. The Order further stated in a paragraph before the planning conditions were listed: -  
*"In relation to visual amenity, the Board agreed with the Inspector that, as proposed, the quarry extension would have an unacceptable impact. However, the Board considered that the development would be acceptable, if reduced in extent to allow for a 60 metre wide buffer zone along the frontage with the regional road. Such buffer zone would also enhance public safety and aid dust suppression. Reason: In the interest of visual amenity, public safety and dust suppression"*
9. **Condition 2** of the order specifically stated: -  
*"The area of the quarry extension shall be reduced so that the edge of the extraction area is not less than 60 meters from the boundary..."*
10. By way of warning letter dated 22<sup>nd</sup> March 2018, *Meath County Council* advised the site operator: - *"It has come to the attention of the Planning Authority that unauthorised development may have been or is being carried out on lands at Trammon, Rathmolyon, Co Meath namely: - Breach of condition 2 as per Planning Permission TA900976 / PL.17.235960."* [ref. **17/004**] Notwithstanding this notice, a campaign of extraction continued to occur within 60 meters of the road over the following years.
11. The 60-meter limit was clearly provided for in the order form *An Bord Pleanála* after an EIA assessment. This planning application had been subject to a full EIA assessment. It follows that an EIA infringement has occurred with a prolonged campaign of blasting over several years where the operator clearly knew he should not be working. The developer therefore knew that an EIA offence was occurring but continued to dig/ extract. The operator must admit culpability for this offence; there is absolutely no excuse for it. He had been specifically precluded from quarrying there and issued with a warning letter in 2018, but continued to extract from this area in the years that followed. There were several blasts in this area of the quarry right up to and including 2024. This can't be accidental.
12. **Condition 3** of the order TA/900976 [PL 17.235960]. specifically stated: -  
*"There shall be no excavation below a level of 50 metres OD..."*

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

13. Having regard to the Large Concrete Products Factory constructed in c.2017, this never had planning consent. This is a massive factory and a very substantial operation. Is this in turn being supported from a quarry that does not have planning permission and much of it from an area where they were specifically precluded from working (**please see above**). This operator is a major regional player operating without planning permission.
14. **May 2013**, a large Concrete Batching Plant was removed from a site situated at *Keegan Quarries Plant, Aghar*. This plant had previously been the subject of *Meath County Council* consent TA/20055, (which was a retention permission) and which was for 5 years from 2000. Was it re-erected at the quarry in Trammon without any planning consent whatsoever? It cannot reasonably be claimed therefore that it could in any way have been exempted from planning consent. UD ref: **14/134**.

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

15. Has this developer/quarry company have a long history of flouting of planning law not just at this quarry, but across three counties; namely Counties **Meath, Westmeath** and **Kildare**. **Enforcement Notices/ Warning Letters** should be checked by An Bord Pleanála when making a decision on this case.
16. **Enforcement Notices/ Warning Letters**: There have been hugely problematic compliance issues relating to *Keegan Quarries Limited* for many decades now.

### **MR. KEEGAN'S OWN ADMISSIONS**

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

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

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

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

18. **Keegan Quarries Ltd submissions to An Bord Pleanála in respect of Readymix Ireland's application of 1998 & dated 11<sup>th</sup> may 1999:**

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

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

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

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

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

#### LEGITIMATE EXPECTATION

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

#### PROBLAMATIC DEVELOPMENT

21. **Height of Overburden:** There is a large mountainous mound at the center of the said quarry, which consists of quarry spoil and overburden. This has now reached alarming heights and can be seen from all over the area including as far away as Tara hill a long way away 20/30 km. This is visually obtrusive. It will be noted that according to the many grants of planning permission, that all: -

*‘overburden stockpiles awaiting use in landscaping shall be covered with topsoil and seeded’.*

This condition has not been complied with. Today given the size of the overburden pile, it is considered that this would now be logistically challenging and dangerous. It follows that the height of the pile obviously poses significant health and safety issues. Given that the pile has now existed for so long, it cannot be considered a temporary structure. One would have thought that Keegan Quarries (with so many extraction areas) would have sites where this could have been moved to on a regular basis in an effort to keep the stockpile at a manageable level and even reinstate other quarry locations.

The overburden reached such a ridiculous height in recent years that a section 5 confirmed in November 2017 that this was not an exempted development.

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

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

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

It is entirely reasonable and appropriate therefore that the quarry should immediately be restored as per the earlier planning consents. However, given the *modus operandii* of Keegan Quarries, the local residents hold little hope of this ever happening.

23. **Record on Previous Reinstatement:** It is submitted that the application should not be considered until full reinstatement has been implemented at all sites operated by companies under the control of the applicant [Mr. John Keegan esq.] and specifically Keegan Quarries Limited, of which Mr. John Keegan is a director.

## **NUISANCE**

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

- a. **Blasting:** blasting is particularly disruptive to the lives of local residences and landowners. Pets and animals become upset and some are very spooked with blasts. For local residents, blasting is particularly disruptive. Constant blasting is also a concern for the integrity of their properties with older properties being extremely vulnerable.
- b. **Dewatering:** lowering of the water table is very concerning for people who depend on private wells for their water supply. Another issue is that dewatering removes finer particles from the soil leading to a lowering of the land topography in the area. This in turn is known to be responsible for structural damage. Furthermore, the quarry is being de-watered on a 24/7 basis. A large generator and pump is running on a 24/7 basis causing annoyance and loss of amenity to local residents. Some quarry operations can abstract in excess of 30 million liters of water every day – enough to fill 12 Olympic size swimming pools. It would be interesting to know the abstraction rate of Keegan Quarries at Trammon.
- c. **Tonal Bleeping:** This is also a major issue for neighbours. These are beepers which are fitted to machinery for health and safety issues. There are alternatives though and we are aware of a different type of tonal device, which can be fitted and which is only audible around the machine. We believe that these have been fitted to machines in Dublin Airport.
- d. **Loading Operations:** The sounds of loading operations has also been a significant issue. Loading operations relate not only to loading of trucks but also to loading of grading and crushing machinery which is used to process blasted rock.
- e. **Passing traffic movements:** This is one of the principal nuisance issues, which we encounter. Un-laden trucks can be particularly noisy, while with fully laden trucks, engine labouring under high revs is a cause of great annoyance as they pass up and down the road.
- f. **Dust:** Fugitive dust also continues to be a major issue and drenches the countryside with a frequent film of dust on our vehicles and also the vegetation. Muddy roads are a regular issue each winter and keeping vehicles clean is well nigh impossible. Our experience is that limestone quarries do not have a good record in respect of dust suppression. Picking blackberries in this area is now a thing of the past given the level of fugitive dust encountered in the surrounding environment. Silica is also a major constituent of construction materials such as bricks, tiles, concrete and mortar. Dust is generated from activities such as cutting, drilling, grinding and polishing. It is commonly called silica or silica dust. Silica dust particles can become trapped in the lung tissue causing inflammation and scarring.
- g. **Air Quality: SILICA DUST ; this is a huge concern for my family.Has there been a environmental study done on two quarries working side by side {keegan's quarry and kilsaran ,both trammon} and a lime factory producing lime dust that's unauthoriszed ?????????? {clouds of dust traveling over my land,i have noticed**

Can you grow on crops and grass since the lime factory has opened. What is this doing to my health and my children's health ??????????

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

of material on site, together with the current and future level of HGV vehicle movements associated with the quarry on the R156 road.

- p. **Loss of time:** Given the constant need to monitor and agitate for enforcement on the part of the statutory authorities, this has been a huge imposition on local people. A truly massive amount of irreplaceable time has been lost pursuing these issues.
- q. **Carbon dioxide ;** carbon dioxide to the environment must be extremely high with new unauthorised developments , has this lime factory been accessed or a survey done beforehand???? We cannot let unauthorized developments build as the like or our calculations for carbon emissions for the industry will give incorrect results . Is this against European climate directives ?? If we let unauthorized activities go unpunished we will always have incorrect data for carbon emissions.

## CONCLUSIONS

25. Planning consent expired in August 2018 for that which had been permitted. Notwithstanding, it has continued in operation.
26. We have identified a number of systemic issues relating to Keegan Quarries and other companies within the Keegan Group, all of which are managed by Mr. John Keegan. Principally among them is the fact that there have been so many unauthorized developments together with outstanding courts orders.
27. In summary, where is this operator getting all his sand and gravel?? Is it from other unauthorized quarries ?? If so, this operation has no future to continue.
28. It is high time that the Rule of Law be respected and that the authorities take appropriate enforcement actions to bring an end to unauthorised development.
29. Fair is fair, the system is and should be , we put plans in for approval and if we get approval we can build. it's not build what i like when i like and we will tell the community and planners later, when it's too late

Yours .....

Eamon Regan

Eamon Regan

Kill

Rathmolyon

Enfield

Co meath

A83CH98

# APPLICATION TO AN BORD PLEANÁLA FOR SUBSTITUTE CONSENT

## SITE NOTICE

Keegan Quarries Limited intend to apply for substitute consent for development at this site Tromman Quarry, Tromman, Rathmolyon, Co Meath, A83 DA36.

The development at the quarry and the ancillary precast concrete manufacturing yard, totalling some 21.64Ha in extent, consists of the unauthorised construction of an electrical substation, a concrete batching plant with technical lab and associated lagoon system; additional settlement facilities; a Limestone Powder plant, comprising feed hopper, crushing and screening plant, dispatch points, drying plant, storage sheds and gas tank fuel storage and the unauthorised construction of a precast concrete manufacturing industrial unit. In addition, the unauthorised continuation of extraction and associated mineral processing activities and the continued use and or operation of previously authorised structures; to include a block yard, office, canteen, weighbridge and wheelwash (00/2075), a precast manufacturing facility, associated batching plant and fuel storage (TA20408); an administrative office, septic tank, workshop, weighbridge, wheelwash, fuel store, pump house, steam cleaner and ancillary development (TA130400 & TA130581) beyond the expiry of extraction consents on the 5 August 2018 to which the ancillary consents for buildings plant and structures were co-terminus.

The application is accompanied by a remedial Environmental Impact Assessment Report and remedial Natura impact statement.

Submissions or observations may be made on the application, to An Bord Pleanála, 64 Marlborough Street, Dublin 1, D01 V902 without charge. Submissions or observations must be in writing and made within the period of 8 weeks beginning on the date of receipt of the application by An Bord Pleanála and such submissions and observations will be considered by An Bord Pleanála in making a decision on the application. An Bord Pleanála may grant the consent subject to or without conditions, or may refuse to grant it. The application for consent may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of An Bord Pleanála, or the relevant planning authority during its public opening hours (9.15am – 5.30pm Monday to Friday).

Signed:  .....

JOHN KEEGAN, MANAGING DIRECTOR, KEEGAN QUARRIES LTD

Date of erection of site notice: 20<sup>th</sup> March 2024