

CUNNANE STRATTON REYNOLDS

Our Ref: EMP/21420C

ABP Ref: ABP-310466-21

Mary Tucker
An Bord Pleanála,
64 Marlborough Street,
Dublin 1
D01 V902

16th March 2023

Dear Mary,

Further Development of a Quarry**Application under Section 37L of the Planning and Development Act 2000, as amended.****Laurence Behan, Windmill Hill, Rathcoole, Co. Dublin**

I refer to the above and to your letter of 24th February 2023 requesting a response, where the applicant is so minded, under Section 131 of the Planning and Development Act 2000, as amended, to a number of observations received from third parties.

Your letter of 24th indicates that a response should be received by no later than 16th March 2023.

We act on behalf of the applicant, Laurence Behan, in this instance and set out below our response to the observations on the above application for future quarry development at above address. Those observations have been responded to, in the order in which they are received below:

- (1) The Department of Defence;
- (2) South Dublin County Council; and finally,
- (3) Transport Infrastructure Ireland.

At the outset we would point out that the time given to us under Section 131 and as per the Board's letter has been wholly inadequate for the purposes of us enabling to provide the response that we would like to have provided in support of our client's case. Nowhere is that more evident than in our response to item (1) above where it has simply not been possible to provide the aviation impact assessment requested due to difficulty finding such an aviation expert and having one that could provide what the Department has requested within the timetable imposed by An Bord Pleanála.

The following consultant firms have assisted in the preparation of this response to the observations circulated by the Board to the applicant.

DUBLIN OFFICE
3 MOLESWORTH PLACE, DUBLIN 2
TEL: 01 661 0419 FAX: 01 661 0431
EMAIL: info@csrlandplan.ie

OFFICES ALSO AT:
COPLEY HALL, COTTERS STREET, CORK
TEL: 021 496 9224 FAX: 021 496 9012
EMAIL: corkinfo@csrlandplan.ie

DIRECTORS

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

ARDA CONG, BALLYTRASNA, TUAM
CO GALWAY
TEL / FAX: 093 60854
EMAIL: galwayinfo@csrlandplan.ie
WWW.CSRLANDPLAN.IE

AN BORD PLEANÁLA	
LDG-	_____
ABP-	_____
16 MAR 2023	
Fee: €	_____ Type: _____
Time: 16:09	By: <i>hurd</i>

BY HAND

- **Cunnane Stratton Reynolds Ltd** – town planning, landscape design and visual assessment and agent for the applicant in this instance;
- **WSP Ireland Consulting Ltd** – design, drawing preparations and engineering and environmental consulting services.

We would like to point out that since this application was lodged in June 2021 the quarry has continued operation and it is a working quarry and in doing so the circumstances have changed within the site in terms of works, most noticeably with the relocation of some features, which do not affect the merits of our case and the assessment of impact undertaken when the application was lodged nearly two years ago. Where more recent work requires planning permission, if they do, our client will lodge any application as necessary but as the Board will be aware the starting point for further applications is the grant of substitute consent which is being considered by the Board under your ref. ABP-310461-21. A similar invitation has been received by the Board under that ref. no for the substitute consent and that response under separate cover should be considered along with this.

Before addressing the individual points raised by each of the other parties we would point out that each of the three submissions received accept the principle of development in this instance and

1. Department of Defence

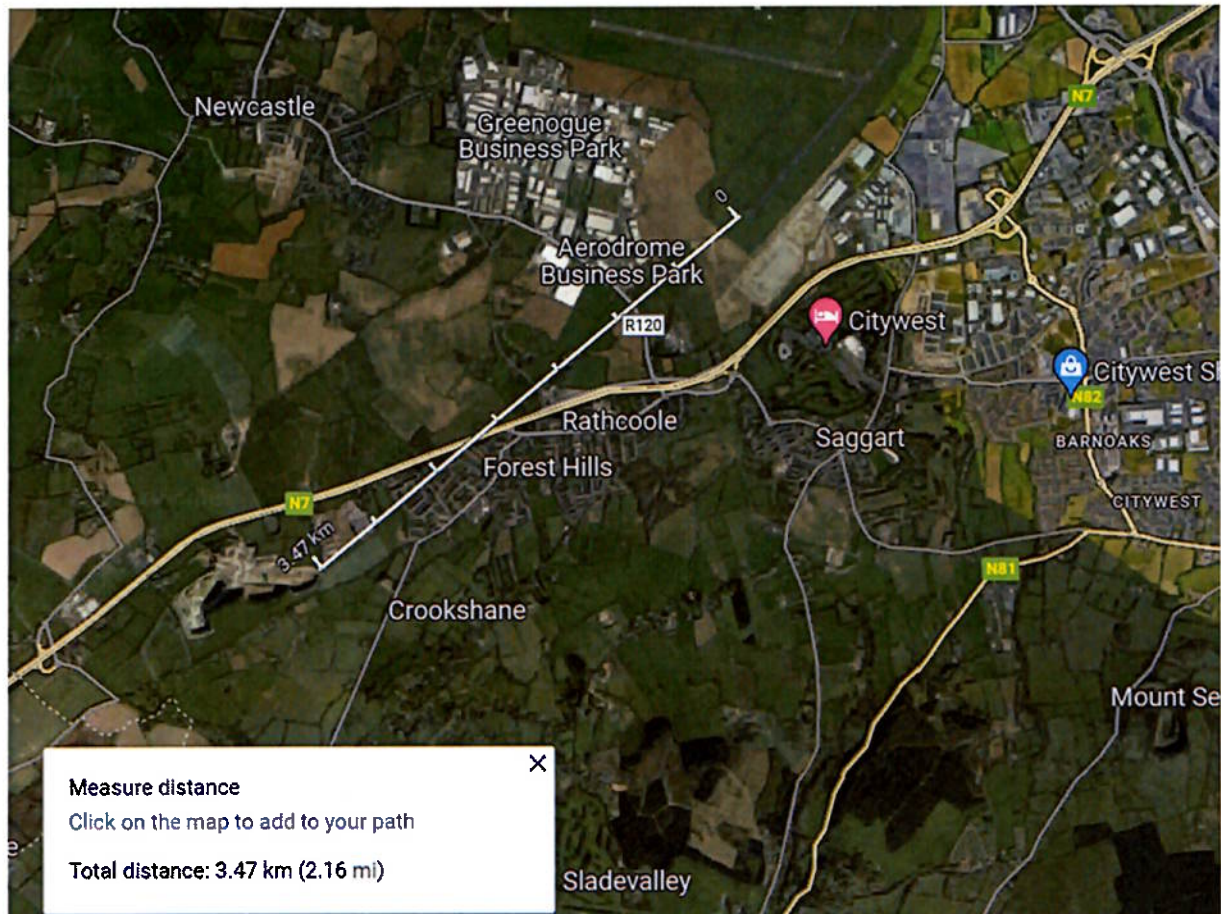
By letter dated 30th July 2021 the Department of Defence, following consultation with the Air Corps at Casement Aerodrome, lodged the following observation.

'Due to the proximity to Casement Aerodrome and to low level routes, Military Air Traffic Services requests an Aviation Impact Assessment on all potential effects on Irish Air Corps flight operations.'

Our response is as follows.

The aerodrome in question is located some 3.47km from the end of the runway nearest the quarry in question to the nearest point of the quarry. This is considered a relatively substantial distance away. Figure 1 below shows the respective locations and the measures distance as the crow or plane flies from one to the other.

Figure 1: Location and distance between the nearest part of the subject quarry and the end of the nearest runway at Casement Aerodrome



It should also be clear from Figure 1 above that the quarry the subject of this S37L application is not located on the direct flight path of either of the only 2 no. runways at the aerodrome. We would therefore contest the expressed view of the Department that the subject quarry is in any way proximate to the aerodrome or either of its runways, even the nearest one to the quarry the subject of our client's application to the Board.

There is one significant fact that we would like to draw to the Board's attention and that is that in this like all instances involving quarries most of the work involves excavation and extraction into and below the ground level with occasional and relatively low level structures involve and in the case of this Laurence Behan Quarry there are no structures on site in excess of the equivalent of a three storey structure. This compares with predominantly two storeys structures in the locality including at the intervening what one would term a three storey.

As can be seen from Figure 1 above, more directly aligned with the direction of the run way is the village of Rathcoole and the intervening housing estate at Forest Hills.

In responding further to this observation from the Air Corp via the Department of Defence we would direct the Board to Figure 2 which is taken from deep inside the subject quarry site towards the direction of the nearest runway at the Aerodrome. It should be noted that at the highest point within the site for all construction and all equipment and any necessary structures, either permanent or temporary, are well below existing and retained topographical features on the site and this is clear from Figure 2 below.

Figure 2: Image showing the highest point of the application site in the context of excavation and quarrying below.



Finally on this item raised by the Department we state again that the period permitted the applicant in this instance has not been sufficient for any aviation expert to undertake the necessary work to respond to this item as our client would have wished. However, we believe that the above discussion of the facts and associated images indicates no impact on the safe and efficient operation of Casement Aerodrome. In other words, for all airborne vehicles to clear the hill they will have to clear the operational elements and structures of the subject quarry.

The location of the subject quarry (encircled in red) in the context of flight paths is shown in Figure 3 below.

Figure 3: *Flightpaths for Casement Aerodrome in relation to the subject quarry*

2. South Dublin County Council

The submission from South Dublin County Council (SDCC) comprises several components. Firstly, there is no recommendation to the Board from the Chief Executive for refusal of planning permission in this instance. The zoning of the site is identified as RU with an objective '*to protect and improve rural amenity and to provide for the development of agriculture.*' SDCC also acknowledge that an extractive operation or concrete asphalt plant in or adjacent to a quarry is considered as permitted in principle. Windmill Hill is recognised as Preserved or Protected Prospect no. 3. The proposal is considered in Section 4 of the SDCC submission as being compliant with Section 4.6.0 (Rural Economy) where development which has a social or economic connection to the local area is permitted. The proposal is also permitted under ET9 Objective 1 which supports rural enterprises at suitable locations within the county.

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Consideration of mineral extraction is dealt with under Economic and Tourism (ET) Policy 10 Mineral Extraction. ET10 Objective 1 facilitates mineral extraction in suitable locations subject to protection of environmental quality. The proposal also is considered consistent by both the first and second parties in respect of ET10 Objective 2 which limits the operation of extractive industry and ancillary uses at environmentally sensitive locations whereby extraction would result in significant adverse effects and /or prejudice the protection of the County's natural and built heritage. It is also acknowledged that the preservation of Windmill Hill as per Policy HCL3 SL03. The landscape character of the area is identified as of high overall landscape value.

No Previous Convictions and Current Enforcement Considerations.

SDCC also state that no previous convictions are registered against the applicant with South Dublin County Council. Reference is made to 2 no. enforcement files, SDCC planning register references S7457 and S8076.

Planning Register Reference file S7457 relates to an Enforcement Notice dated 26th November 2015 in respect of alleged: *"No Planning permission and within the curtilage of a protected structure"*. This matter was before the District Court on foot of a summons issued under s.154 of the PDA 2000 as amended. The case was dismissed. In defending the case it was proved that permission was granted for the site, which was demonstrated by producing the relevant map from SDCC website to the court.

Planning Register Reference S8076 relates to a warning letter dated 5th October 2018 which was issued by SDCC planning authority while judicial review proceedings were in train. Our client's then planning consultant Ger Fahy contacted SDCC alerting them to the fact that leave to apply for judicial review had been granted by the High Court. The following email dated 27th November 2018 was received from SDCC planning enforcement department in respect of the matter, which states.

"I wish to advise that your submission/observation will be taken into consideration by the Planning Authority when deciding whether or not to issue an Enforcement Notice under Section 154 of the Planning & Development Act 2000 (as amended) in relation to alleged unauthorised development at the above location.:"

SDCC did not issue an Enforcement Notice. Furthermore, our clients succeeded in the judicial review (see judgment of Barrett J. (*L Behan v An Bord Pleanála [2020] IEHC 133*) in which the Court made orders permitting a fresh application for substitute consent pursuant to s.261(A) PDA 2000 as amended and an application for further development at the site under s.37L PDA 2000 amended. Please find copy of the judgment attached.

Clearly no issues arise in respect of the enforcement case files referred to at 4.4.1 of the Report submitted by SDCC in respect of the application for further development pursuant to s.37L.

Our client's willingness to rectify any outstanding planning matters through further planning applications

In reference to SDCC para 4.5.2 and alleged commercial activities taking place to the north and west of the subject application we would point out that Area A is a mechanics yard unrelated to quarrying. There is no quarrying related activity undertaken from this location and any vehicles or machinery in this location is a separate activity to quarrying. This is a matter that our client will gladly engage with the local authority on at some stage in the future and most likely after determination of the S37L and S261A applications, so that any concerns by the local authority can be dealt with, by way of future planning applications.

The property located within Area B, also shown within Figure 4.1 of the SDCC observation, is currently used for commercial storage, unrelated we emphasise to any quarrying activity, and and is not used by the applicant. We confirm that our client will lodge a planning application for retention at the earliest opportunity. We emphasise that the current activities there are unrelated to either application before the Board currently and/or to our client's quarrying business. Neither application is part of the Substitute Consent application.

Area A and Area B is a matter that our client will gladly engage with the local authority on at some stage in the future and most likely after determination of the s37L and s261A applications, so that any concerns by the local authority can be dealt with, on the planning status of these works.

We emphasise that the current activities there are unrelated to either application before the Board currently or to our client's quarrying business. Neither development at Area A or Area B is part of the Substitute Consent application nor this s37L application. We turn now to the substantive comments of SDCC to the s261A application which are identified in Sections 9.1 and 9.2 of their submission.

We turn now to the substantive comments of SDCC to the s37L application which are identified in Sections 5.1 and 5.2 of their submission. In respect of Figure 5.1 we seek to provide the detail requested in the timeframe given. Please see our response also to Item 5.2 below.

The above stated willingness to rectify outstanding planning matters with any necessary future planning applications is also made regarding points arising from SDCC comments on the S261A Substitute Consent application currently before the Board.

Concerns raised by SDCC

The concerns set out by the County Council are the result of an extensive and detailed assessment of the application. As indicated above there is no recommendation for refusal but a series of detailed concerns with an associated request for further information, which our client is pleased to provide. Many of those concerns are capable of being resolved by way of planning condition.

Our response to the further information requested is as follows in the format that queries from SDCC are identified in bold below with our response following directly in normal type face.

Item 5.2.1: The Planning Authority has serious concerns that the site as outlined in red does not indicate how access to the site will be provided to carry out the extension of quarrying works. The red line should be extended to indicate full access from the public road to the site.

The Roads Department also raise issues regarding the red line boundary and stated that 'the applicant shall submit a revised plan showing the red line boundary extended to include the area around the site access junction at the N7 and include the lands necessary to implement the layout revisions as prescribed in the current TII guidelines in relation to nose, auxiliary lanes and tapers in the vicinity of the site entrance junction.

The applicant should also be requested to submit a revised site entrance layout onto the N7 conforming to the current TII guidelines on accesses onto National Roads. In particular, the revised layout should demonstrate conformity with the following key parameters:

- Nose length of 75m with a ratio of 1:25 to be provided for the merge, and a nose length of 70m with a ratio of 1:15 to be provided for the diverge;**
- Auxiliary lane to be extended 160m for merge, 150m for diverge; and**

- Auxiliary lane taper to be extended to 75m for the merge and 70m for the diverge. SDCC roads department note the applicants blue line ownership extends approximately 350m east of the site entrance. The roads department do not understand why the necessary nose, auxiliary lanes and tapers cannot be delivered.

The necessary land to the west of the site entrance is also in the ownership of the applicant. The access layouts for the merging and diverging lanes connecting to the N7 should be upgraded and improved in accordance with the current TII design requirements.

The s37L application is for permission for further development of a quarry as a quarry, and has been appropriately made concurrent with an application for Substitute Consent for the quarry under s261A. Both applications are accompanied by an EIAR and rEIAR, respectively.

To confirm, the s37L application red-line boundary does not include the processing plant area and access to the public road, which has been included in the concurrent substitute consent application under s261A.

Please refer to the original application cover letter (9th June 2021), and 'Full description of the development' (provided in Appendix 1 of the same s37L cover letter). This application made is under s37L of the Planning and Development Act 2000, as amended, that sets a particular circumstance under which this type of permission may be sought and limits the type of development for which planning permission may be sought.

In summary, on this item it is not considered that the red line the subject of this query from SDCC needs to change.

The Roads Department also requires the applicant to submit a report showing capacity checks to ascertain whether any additional storm discharges from the north western portion of the proposed site can be accommodated by the culvert located on the northern portion of the Site adjacent to the N7/M7. The Roads Department also raises concerns regarding the need to submit analysis on whether additional on-site wheel washes or other additional measures are required to prevent dirt and stone material being deposited on the adjacent public road network, including junctions, where spillage has been and continues to be an issue.

Clarification of discharge to northern culvert:

A pump has been installed in the western pond area (SW1) as a supply of water for site processes in the plant area and for use in dust suppression. The pump infrastructure is installed at a bench level to the eastern side of SW1 on a bench which is raised above the water level. A layout of the water management flows has been provided in Chapter 6 – Water of the EIAR, and is displayed in Figures 6.2 and 6.3. It should be clarified that the discharges to the culvert are only pumped during periods of prolonged rainfall and to prevent water levels reaching the pump's infrastructure on the benched area on the downstream slope of the pond; and, is not as a result of any deficit in attenuation capacity of the site. Our client noted that the discharge is infrequently utilised, and water has not been pumped to the culvert since approximately Q1 2022.

Three wheel washing facilities are present on site, this includes one main wheel wash and spray unit which all trucks are routed through prior to the site weighbridge and site exit. The applicant will continue to monitor and modify arrangements and practices as required in order to comply with proposed Conditions no. 15 and 16.

The applicant is also requested to submit the current Site-Specific mitigation measures to control dust at the proposed site which have been employed since 1990. The applicant

is requested to revisit these existing procedures in relation to the proposed revision of the quarry extent and void depth and update these procedures as appropriate. These procedures are required to be agreed in writing with the planning authority.

A Dust Assessment has been undertaken and is provided in Chapter 7 'Air Quality', Appendix 7.1 of the EIAR. This includes in Section 5.0, the site-specific mitigation measures employed at the site. The applicant will continue to monitor and modify arrangements and practices as required in order to comply with proposed/recommended Conditions no. 15 and 16, as well as other conditions specific to the control of dust. These measures would be agreed with SDCC.

In respect of Item 5.2.2 the following is stated:

Item 5.2.2: Section 2.1 'Proposed Development Description' of EIAR states: The extracted area extends to 28.8 hectares. This differs from the description of development as stated in Appendix 1 Full description of development in the Cover Letter from Cunnane Stratton Reynolds dated 9th June 2021, which states 26.87 ha. ABP should clarify the full extent of lands proposed to be extracted. Potential missing 1.93ha.

To clarify, the reference identified in the above information request is contained within the Non-Technical Summary of the EIAR.

Chapter 2 (Project Description) of the EIAR itself, and in particular Section 2.2 ('Context and Landscape Character of Subject Lands'), clarifies the relevant project areas. The 28.8 hectares identifies the already extracted quarry area and that it is subject of the s261A planning application. Section 2.2 further identifies that it is proposed to further develop this quarry by deepening the eastern and western sides of the current void and laterally extending that void to the north over a total application site area of 26.87 ha.

Further clarification of the differences in the s261A and s37L planning application areas:

It should be noted that an application under s37L can only seek permission for further development of a quarry as a quarry. The total application area of the s37L application includes for the extension areas for further development of the quarry but excludes the plant area (which would've been included and regularised in the s261A (total s261A application area: 28.8 ha). Please refer to the planning application drawings for the s261A and s37L applications, in particular the s261A Existing Site Layout (Overall) drawing (Drawing No. 4A) and the s37L Proposed Site Layout drawing (Drawing No. 4).

In respect of Item 5.2.3 the following is stated:

Item 5.2.3: The Planning Authority understands that it is proposed to extend the current void laterally by 4.1 ha and that the remaining 1.06 ha will be provided for the provision of screening berms. The Planning Authority seeks clarification on this phrase to confirm that 4.1 ha only will form the lateral extension.

The s37L application proposes to extend the quarry void (the area where extraction would occur) by ca. 4.1 ha. To facilitate the extension of the void a slightly larger area must be applied for in order to accommodate perimeter access tracks and screening berms, (please refer to s37L Proposed Site Layout drawing (Drawing No. 4) where these features are identified). As such, the total land take for the extension area will be ca. 5.16 ha. The figures presented previously are therefore not inconsistent.

Furthermore, it is proposed to develop the quarry by extending the existing quarry void by a further 4.1 hectares. Section 4 'Potential Effects' of EIAR states that the land take (permanent loss) will be 5.19ha. Section 10 'Landscape and Visual of the EIAR states that the quarry will be expanded 'laterally northwards across three small fields, over an additional 5.19 ha of which 4.1ha will be extracted. Section 11.0 Traffic explains that "the quarry void over approximately 4.1 ha, (requiring a total additional land take of 5.19 ha. for landscaping berms). The Planning Authority seeks clarification on whether or not it is proposed that the entire 5.19 ha will be permanently lost. It is the Planning Authority's opinion that the 1.0 ha for screening berms should be retained and should not be permanently lost. Clarification to be sought.

To clarify, the total land take for the extension area will be ca. 5.16 ha, and not ca. 5.19 ha.

The description of lands being permanently lost refers to irreversible effects of the proposed development on the extension area, i.e., a total area land currently occupied by agricultural fields, which is proposed to be developed to the excavated quarry void, **and** with associated perimeter access tracks and screening berms. It should be noted that the application seeks to extend the extracted quarry void by ca. 4.1 ha and not excavate into the total ca. 5.16 ha overall area.

In respect of Item 5.2.4 the following is stated by SDCC.

Item 5.2.4: This application relates to the continued extraction of reserves over a lateral extension of approximately 4.1 hectares and to a final average working depth of 150 mAOD (metres above Ordnance Datum). The Planning Authority notes that the current average working depth of the quarry is stated to be 173 mAOD (Section 2.1 of EIAR). The Planning Authority understands and reads that the proposed works, working to a depth of 150 mAOD, will take place outside of the existing quarry footprint. However, clarity should be sought on this matter and the applicant should state and demonstrate clearly the full extent of the proposed works in drawing and cross-sections which are unequivocal in nature, and which can be easily assessed over time.

Clarification of working depths:

Due to the extent of the site and the variation in working depth that can exist across benches and working areas, the development description provided 'a current average working depth of approximately 173 mAOD'. It was identified from topological survey data that extraction was by two benches, to an average depth of 173 mAOD, across the two benches.

An unequivocal final floor level has also been provided in the development description. The final floor level was identified as 'approximately 150 mAOD', (it should be noted that the use of 'approximately' or 'circa' is routine language in identifying quarry finished/final floor levels given coarse blasting/mobile plant extraction methods).

Clarification of location of extension and quarry footprint:

The s37L application seeks for further development of the quarry as a quarry. The further extension of the extraction area by ca. 4.1 ha and the full extent of the proposed layout has been identified on the planning drawings provided in the s37L planning application pack.

In respect of Item 5.3.1 of their observation SDCC state that:

Item 5.3: Other Issues of Concern:

Item 5.3.1: The applicant does not propose 'to extend the current quarry void in a southerly direction at this time as was previously proposed under the quashed 37L application'. The Planning Authority welcomes this deviation. However, the Planning Authority remains extremely concerned by the applicant's use of the phrase 'at this time' (Section 1.2.1 of EIAR). The protection of the recorded monument and hinterland and archaeological potential at this location should be paramount. Both the National Monuments Department (in a verbal report 18th August 2021 given to the report author) and the Heritage Officer (also given in a verbal report 18th August 2021 to the report author) raised seriously concerns about the likely loss of archaeology from existing quarried lands and the lack of archaeological investigations particularly given the discovery of several archaeological features south of the site (in vicinity of Windmill site) this all suggests an archaeological rich landscape in this area.

The phrase 'at this time' was provided in the application documents in order to compare the differences in the current proposed s37L extension with that of larger development extents which had previously been proposed by the applicant. This phrase was not intended as a preface for incorporation of additional extensions within the currency of the current s37L and s261A applications but rather a statement from the applicant that extensions may be proposed at a later time by the applicant. We would reiterate that any such extensions would be the subject of future planning applications.

The cover letter provided as part of the s37L application includes, in Section 3.0, a summary of differentiating features of the current application for Substitute Consent as compared to that previously submitted for the site. One item describes that the extraction of lands to the south of the site has been excluded in the proposal in order to observe the SDCC Development Plan designations. It is further noted that these elevated lands contain the remains of a stone mill, the stone for which likely came from the current quarry. These features give rise to the townland name: Windmill hill and hold to conservation objectives in the current Development Plan recorded at Section 3.3.5 of the submitted EIAR.

A full and thorough Archaeological Impact Assessment should be carried out prior to any decision being made for potential disturbance of archaeological remains on lands affected by this application (this should also include lands located to the south outlined in blue at Windmill Hill). The applicant will be required to apply for a licence to carry out the work (method statement), for written agreement of the Planning Authority.

To note, the term 'cultural heritage' is used in the rEIAR and EIAR submitted with the concurrent s261A and s37L applications, as a collective term to refer to all assets of archaeological, architectural and historical or cultural value.

Chapter 9 (Cultural Heritage) of the rEIAR (submitted as part of the concurrent s261A application) provides a retrospective assessment of the potential effects that may have occurred, and may continue to occur, on cultural heritage as a result of activities at the existing quarry site. Similarly, Chapter 9 of the EIAR (submitted as part of this s37L application) comprises a baseline study, effects analysis and impact assessment for the proposed further development of the quarry as a quarry.

The EIAR acknowledges whilst no known designated or non-designated cultural heritage assets exist either within the site or the study area, neither set of assets are predicted to be

directly affected by the proposed quarrying activity, the potential for undiscovered archaeological remains to exist at the site is acknowledged by the applicant. As such, there is potential for a profound adverse effect without mitigation. A phased mitigation strategy to address this direct impact on undiscovered archaeological remains is proposed by the applicant, with geophysical survey of the two additional extraction areas comprising the first phase. This will inform the development of the mitigation strategy, in particular the scope and scale of any intrusive archaeological works that may be required. As such, our client would welcome the inclusion of a requirement to further archaeological work to clarify potential effects of the proposed extraction area as part of recommended Condition 31 by SDCC requiring an Archaeological Impact Assessment (considered further below).

SDCC state the following at Item 5.3.2 in their observation on the subject S37L application.

Item 5.3.2: The cover letter further states 'The EIA project boundary envelopes an area of 46.14 ha. That encloses previous recent quarry application areas, current workings and intended future workings'. The planning authority raise concerns about the wording 'intended future workings' and would ask ABP to seek clarification. It is the Planning Authority's opinion that all works should be kept away from national monument (and any that may yet to be found).

There is indeed reference to future workings in this application. However, that is a statement of future intent and will, if those intentions ever materialise, after planning is regularised across the quarry, result in a new planning application or new applications being lodged in due course. The applicant confirms that they will not extend quarrying or related activity beyond the extent shown in the revised red line drawing submitted and referenced above unless the necessary planning permissions are in place.

For clarification, the term 'intended future workings' was made in reference to the proposed S37L further development extension areas.

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

- the currently proposed substitute consent and s37L application boundaries and associated infrastructure; and
- the workable area registered under s261 for which conditions were imposed

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

SDCC state the following in relation to their Item 5.3.3.

Item 5.3.3: The cover letter states '...in deference to the requirements of environmental impact assessment (EIA), quarry planning guidance and best practice the proposed development includes for a restoration proposal of the application site and the associated lands of the administration and plant processing area within the ownership and control of the applicant and thus capable of being proposed and reinforceable by condition for this restoration under S34(4).'

The Planning Authority notes that the development description includes 'restoration of the site to include reinstatement of worked out quarry to agricultural use by means of the importation of inert sub soil and topsoil amounting to a total of 11,151,570 cubic metres'. The Planning Authority has serious concerns regarding this aspect of the proposed development. The application is seriously deficient in information. A verbal report from the Senior Executive Engineer in the Waste Management Section, 18 August 2021, raised the following concerns and the deficiency in information provided:

The 11,151,570 cubic metres referred in supporting material to this application under s37L is made in passing reference to the 2015 planning application and does not form any part of this planning application. Nor does that importation of inert subsoil and topsoil need to be transported onto the site. If it does not, as is the case, then there is no need to assess the impact of that importation on the environment by way of additional traffic movements, enhanced access, noise, dust etc.

In the context of the roads impact from importation of inert sub soil or topsoil it should be pointed out that this s37L application relates only to quarrying activity and not restoration. The cubic metres referred to are irrelevant to the s37L application before the Board.

Please see our response above to Item 5.2.1 which reaffirms that the subject s37L application does not seek to import materials and the reference to 11,151,570 cubic metres was made in passing reference to a 2015 planning application by the applicant.

- i. It is unclear under what licencing arrangements the importation of inert waste is being used. Clarification on which licence the proposed development would pertain to i.e. issued by the EPA or the Local Authority.***
- ii. The hours of importation***
- iii. Management plans***
- iv. The potential for increased traffic levels at an otherwise access/egress that requires a significant upgrading. (Refer to Section 5.2.1 of SDCC report)***
- v. Noise, dust and noise management***
- vi. Comments from Irish Water regarding importation of waste and placing above watermain (this is ongoing issue).***

No importation of waste is proposed in the s37L application. See our response to 5.3.3. The s37L application is limited to further use of the quarry as a quarry.

There appears to be some confusion on SDCC's part regarding the requirement to reinstate as part of the s261A Substitute Consent application.

SDCC state in their Item 5.3.4 the following.

Item 5.3.4: The significant loss of Green Infrastructure, which links the site southwards towards the Dublin Mountains is generally not acceptable and if granted would be contrary to County Development Plan policy (Chapter 8). Significant mitigation measures are required to demonstrate that uninterrupted linkages of hedgerows/trees etc are provided for. Bat activity is prevalent within this part of the County and should be mitigated for.

Chapter 8 of the County Development Plan that the County Council refer to has been superseded as the application has been with the Board some 21 months and in that intervening time the 2016-2022 County Plan has been replaced by the 2022-2028 County Plan which has made it difficult for the applicant in this case to foresee what statutory plan would be in place at the time of determination.

Regarding Chapter 8 of the 2016-2022 County Plan, which is referred to in the SDCC observation, we have the following comments.

The term Green Infrastructure refers, as it does in Chapter 8, to an interconnected network of waterways, wetlands, woodlands, wildlife habitats, green ways, parks and conservation lands, forests and other open spaces. In this instance the site is located in a rural area (see Figure 8.1 entitled 'South Dublin County Strategic Green Infrastructure network'). That interconnectedness will not be affected as what happens beyond the application site is beyond the control of the applicant. However, as the area in question is shown in Figure 8.1 as rural it is expected that rural activities will continue or predominate. There has been a quarry on this site since the 1700s and more recently planning permission was granted in 1968 for the same purpose. A quarry is an acceptable land use on rurally zoned land and the landscape and environmental based mitigation proposed will ensure the restoration of the site into the green infrastructure network.

The response to 5.3.8 below indicates clearly that there is fundamentally no visual interruption of the rural landscape when viewed from main roads surrounding the site and therefore there is ostensibly no interruption that is clearly visible to the Green Infrastructure network.

The Board will be aware that a landscape planting plan has already been submitted which will further reduce the visual impact and which along with environmental and ecological based mitigation and restoration will ensure that the site fulfils a more than adequate function within the County Green Infrastructure network in all aspects. Planning conditions envisaged and referred to below show the restoration and planting of hedgerows for example to ensure that there will in the future, and over time, be the restoration of uninterrupted linkages of hedgerows through and from the site.

Section 8.1.0 of the 2016-2022 County Plan does apply in this instance. The proposal is consistent with 'GREEN INFRASTRUCTURE (G) Policy 2 Green Infrastructure Network' where *'It is the policy of the Council to promote and develop a coherent, integrated and evolving Green Infrastructure network in South Dublin County that can connect to the regional network, secure and enhance biodiversity, provide readily accessible parks, open spaces and recreational facilities'* insofar as it is possible for a quarry, as an acceptable rural activity, to do so. The proposal complies with the following, when mitigation proposed is taken into account:

G2 Objective 1: To reduce fragmentation of the Green Infrastructure network and strengthen ecological links between urban areas, Natura 2000 sites, proposed Natural Heritage Areas, parks and open spaces and the wider regional Green Infrastructure network.

G2 Objective 2: To protect and enhance the biodiversity value and ecological function of the Green Infrastructure network.

G2 Objective 3: To restrict development that would fragment or prejudice the Green Infrastructure network.

G2 Objective 4: To repair habitat fragmentation and provide for regeneration of flora and fauna where weaknesses are identified in the network.

G2 Objective 5: To integrate Green Infrastructure as an essential component of all new developments.

G2 Objective 6: To protect and enhance the County's hedgerow network, in particular hedgerows that form townland, parish and barony boundaries, and increase hedgerow coverage using locally native species.

G2 Objective 7: To incorporate items of historical or heritage importance in situ within the Green Infrastructure network as amenity features.

G2 Objective 9: To preserve, protect and augment trees, groups of trees, woodlands and hedgerows within the County by increasing tree canopy coverage using locally native species and by incorporating them within design proposals and supporting their integration into the Green Infrastructure network.

The proposal cannot be said to be contrary to any of these Green Infrastructure Objectives as they relate to quarries.

Section 8.2.0 does not apply in this instance as it relates to the watercourses network. Section 8.3.0 does not apply in this instance as there is no public open space involved. Section 8.4.0 does not apply as it relates to Sustainable Urban Drainage Systems (SUDS) which is not appropriate in this instance. Section 8.5.0 does not apply as it relates to Green Infrastructure within Urban Areas and the site is not located in an urban area.

In respect of the 2022-2028 County Plan the broad thrust of the above is continued. The proposed development is consistent with the Green Infrastructure Vision which is to *'Promote the development of an integrated GI network for South Dublin County working with and enhancing existing biodiversity and natural heritage, improving our resilience to climate change and enabling the role of GI in delivering sustainable communities to provide environmental, economic and social benefits.'* The proposal is also consistent with Policy GI1: (Overarching) which seeks to *'Protect, enhance and further develop a multifunctional GI network, using an ecosystem services approach, protecting, enhancing and further developing the identified interconnected network of parks, open spaces, natural features, protected areas, and rivers and streams that provide a shared space for amenity and recreation, biodiversity protection, water quality, flood management and adaptation to climate change.'* The proposal meets this requirement as much as a quarry can.

Of the four strategic aims listed in the 2022 Plan only two apply in this instance, namely (1) biodiversity and (5) landscape, natural, cultural and built heritage.

The proposal is consistent with the following:

Policy GI2: (Biodiversity) which seeks to strengthen the existing Green Infrastructure (GI) network and ensure all new developments contribute towards GI, in order to protect and enhance biodiversity across the County as part of South Dublin County Council's commitment to the National Biodiversity Action Plan 2021-2025 and the South Dublin County Council Biodiversity Action Plan, 2020-2026, the National Planning Framework (NPF) and the Eastern and Midlands Region Spatial and Economic Strategy (RSES).

GI2 Objective 1: To reduce fragmentation and enhance South Dublin County's GI network by strengthening ecological links between urban areas, Natura 2000 sites, proposed Natural Heritage Areas, parks and open spaces and the wider regional network by connecting all new developments into the wider GI Network.

GI2 Objective 2: To protect and enhance the biodiversity and ecological value of the existing GI network by protecting where feasible (and mitigating where removal is unavoidable) existing ecological features including tree stands, woodlands, hedgerows and watercourses in all new developments as an essential part of the design and construction process, such proactive approach to include provision to inspect development sites post construction to ensure hedgerow coverage has been protected as per the plan.

GI2 Objective 3: To retrospectively repair habitat fragmentation and provide for regeneration of flora and fauna where weaknesses are identified in the network through the implementation of new GI interventions.

GI2 Objective 4: To integrate GI, and include areas to be managed for biodiversity, as an essential component of all new developments in accordance with the requirements set out in Chapter 12: Implementation and Monitoring and the policies and objectives of this chapter.

GI2 Objective 5: To protect and enhance the County's hedgerow network, in particular hedgerows that form townland, parish and barony boundaries recognising their historic and cultural importance in addition to their ecological importance and increase hedgerow coverage using locally native species including a commitment for no net loss of hedgerows on any development site and to take a proactive approach to protection and enforcement.

GI2 Objective 6: To continue to support and expand the County Pollinator Plan through the management and monitoring of the County's pollinator protection sites as part of the Council's commitment to the provisions of the National Pollinator Plan 2021-2025.

GI2 Objective 9: To examine where appropriate the full potential of landfill sites and quarries as well as existing underutilised perimeter and border park spaces through the augmentation of wild grasses and other naturally occurring vegetation that enhance local area biodiversity and habitats in support of the National Pollinator Plan and to consider wildflower meadows where beneficial to biodiversity.

The proposal is consistent with GI2 Objective 9 through landscape planting proposals already submitted. As indicated above the proposal will not fragment the GI network in this location especially not in the longer terms and with restoration consistent with Objective 1 above. The proposal will meet Objective 2 and Objective 3 through enhanced biodiversity over time and will facilitate recolonisation and increase in biodiversity as identified in the SDCC submission and its advocacy for mitigation and appropriate conditions. The proposal is also consistent with Objective 4 through mitigation proposed and reinforced by SDCC. Conditions requiring making good and restoring hedgerows is consistent with Objective 5. Objective 6 will likely be accommodated through replanting and restoration.

In respect of GI Theme 5 (Landscape, Natural, Cultural and Built Heritage) of the 2022-2028 County Plan the proposal is consistent with the following:

Policy GI7: (Landscape, Natural, Cultural and Built Heritage Protect) which seeks to 'Conserve and enhance landscape, natural, cultural and built heritage features, and support the objectives and actions of the County Heritage Plan.'

GI7 Objective 1: To protect, conserve and enhance natural, built and cultural heritage features and restrict development that would have a negative impact on these assets in accordance with the provisions of Chapter 3: Natural, Cultural and Built Heritage of this Development Plan.

GI7 Objective 2: To protect and enhance the landscape character of the County by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the landscape, in accordance with the provisions of South Dublin's Landscape Character Assessment and the provisions of Chapter 3: Natural, Cultural and Built Heritage of this Development Plan.

GI7 Objective 3: To work in collaboration with the owners of lands along the perimeter of Rathcoole Woodlands for its protection and that of the wildlife using it and the ecological services it provides.

The proposal falls outside Objective GI7 SLO 1 which states that the current green wildlife corridor between Saggart and Rathcoole be maintained and the need to preserve this wildlife corridor be incorporated into the design and development plans for Rathcoole Park.

The Public Realm Section states serious concerns regarding the potential significant negative environmental impacts of this proposed development on the existing landscape and on local biodiversity and ecology. The submitted EIAR recommends a number of landscape mitigation and remediation measures including the implementation of the landscape planting along the boundary edges and internally however no landscape proposals have been submitted detailing how these mitigation measures will be implemented. This is not acceptable for an application of this size and significance.

To clarify, a Proposed Landscape Mitigation Plan has been provided in Chapter 10 'Landscape and Visual', Appendix 10.1 of the submitted EIAR. The landscape proposals include mitigation, compensation and enhancement measures as identified in Chapter 4 'Ecology and Biodiversity' Section 4.9 of the EIAR. Landscape proposals include the supplementing of existing woodland, new woodland framework for screening and habitat enhancement, areas for natural colonisation, and bat, bird and invertebrate boxes distributed along the perimeter of the site.

In addition to the submission of detailed landscape proposals prepared by a suitably qualified landscape architect, the applicant/developer should be required to implement the following Landscape Mitigation and Remediation Measures contained with Section 10.5 of the submitted EIAR prepared by Golder Associates Ireland Limited. These measures should be implemented prior to the excavation of the proposed site and during its operation and should include:

- ***Management/Improvement of the retained site boundary hedgerows and trees: Generic improvements and spot fixes to be made where required to optimise the health of the hedgerows, their biodiversity value and visual screening function;***
- ***Reprofiling of the existing mounds on the southeastern and southwestern boundaries of the Site, where required, in order to help reduce the prevalence of these structures on views within the locality;***
- ***Woodland planting added to existing and new earth mounds (within the Proposed Development). These will be planted with a woodland species mix (including tree and shrub species), to form a substantial belt of woodland along the hillside. This will soften the form of the constructed mound, add to the height of the mound as a visual screen, and contribute to vegetation/habitat in the landscape generally; and***
- ***Annual review/management of the new boundary planting to ensure that it becomes established and provides adequate visual screening, with generic improvements and spot fixes (including supplementary planting or thinning) to be implemented where required.***

As SDCC point out the above landscape mitigation and remediation measures are proposed by the applicant and are indeed set out in Section 10.5 of the EIAR submitted with this s37L application. It goes without saying that our client will accept these mitigation measures that are actually proposed by them. Our client will make general improvements and spot fix hedgerows, enhance their biodiversity value, and improve their visual screening function. Our client will reprofile the existing mounds on the southern and south eastern boundaries of this application site. Woodland planting will also be undertaken on existing and new earth mounds will be undertaken with an appropriate woodland species mix. There will also be an annual review /management of new boundary planting to ensure that it becomes established and provides adequate visual screening.

Measures to be implemented after the cessation of quarrying include:

- **Management/Improvement of site boundary hedgerows:** A final survey and appraisal of the site boundary hedgerows in terms of (a) species mix - for biodiversity and maximum screening (height, density of foliage), and (b) intactness/continuity. Generic improvements and spot fixes to be made where required to optimise the health of the hedgerows, their biodiversity value and visual screening function;
- **Management/Improvement of woodlands on the mounds:** A final survey of the woodland planted earth mounds, with generic improvements and spot fixes (including supplementary planting, or thinning) to be implemented where required;
- **Re-vegetation/colonisation of site outside of excavation:** In accordance with current best practice recommendations the areas between the excavation and the woodland-planted earth mounds around the perimeter of the site will be allowed to re-vegetate/colonise naturally. This results in greater biodiversity and habitats most appropriate to the site conditions;
- **Removal of built infrastructure:** All buildings and redundant infrastructure to be removed from site and the lands prepared for natural re-vegetation/colonisation;
- **Lake formation in quarry void to a level of 155mAOD:** Engineered shallow areas on the floor of the quarry will initially provide islands and will ultimately be covered by water as the quarry fills to its natural level (determined by the water table), forming a permanent lake. The shallow areas will provide suitable substrate for aquatic invertebrates, with gentle grading of shoreline and marginal planting added (to be determined at the time, with the advice of an ecologist);
- **Quarry benches:** At a number of locations (to be determined at the time, with the advice of an ecologist) a mixture of trees and shrub species will be planted in an engineered substrate to form patches of habitat. This will create a platform for a more diverse flora to develop naturally and provide habitat and food resources for birds, mammals, insects and other invertebrates.
- **Quarry faces:** Whilst recognising the geological heritage value of the exposed quarry faces, it is proposed that some native tree and shrub species be planted in/on fissures and ledges, to help break up the bare profile of the quarry face. Other plant species will be allowed to find and colonise the area by natural means and these will include various mosses, lichens, algae, ferns, flowering plants, etc. The gradually increasing plant diversity over time will in turn ensure that a corresponding diverse list of animal species (birds, mammals, butterflies and other insects, other invertebrates, etc.), can become established.
- **Safety measures:** An agricultural fence to be installed around the edge of the excavation, to act as a visual indicator of the edge and a physical barrier for people and animals. Signage as required around edges to notify of danger.

The above mitigation measures will be carried out after cessation of quarrying and are those proposed in the second half of Section 10.5 of the submitted EIAR by the applicant. These include final survey and appraisal in time of the site boundary hedgerows with general improvement and spot fixes to be undertaken. A final survey of the woodland planted earth mounds will be undertaken. The area between the excavation and the woodland planted earth mounds around the perimeter of the site will be allowed to revegetate or colonise naturally resulting in greater biodiversity and habitats most appropriate to the site conditions. All buildings and redundant infrastructure will be removed and the lands prepared for natural revegetation/colonisation. The landscape plan (Drawing 102) submitted shows lake formation as indicated above. Quarry benches will be formed at the appropriate time to create a platform for more diverse flora to develop naturally and to provide habitat and food resources for birds, mammals, insects and other invertebrates. Native tree and shrub species will be planted in/on fissures and ledges, to help break up the bare profile of the quarry face. As proposed in section 10.5 of the submitted EIAR an agricultural fence will be installed around the edge of the excavation, to act as a visual indicator of the edge and a physical barrier for people and animals. Signage will be installed as required around edges to notify of danger.

The Public Realm Department has provided conditions to be attached in the event of a favourable decision. Our client will accept such planning conditions.

On pages 39 to 41 inclusive of the SDCC Observation on the s37L application there are a number of suggested conditions which our client will accept.

These include the submission and agreement of a detailed landscape plan detailing the proposed location of trees and other landscape planting including (a) proposed species and settings, (b) all hard and soft landscaping, (c) all trees, shrubs and hedge plants whose preparation, planting and post planting maintenance shall be carried out in accordance with BS4428 (1989), (d) all new planting shall meet the requirements of BS5837:2005, and finally (e) all damaged, seriously diseased planting shall be within the next planting season – all under suggested landscape condition 1 as set out over pages 39 and 40 of the SDCC observation.

Our client will accept recommended landscape condition 2 from SDCC and set out on their page 40 of their observation on the s37L application.

Our client will also accept the requirement for a biodiversity plan as set out under suggested condition 3 which is available to read on page 40 of the SDCC observation on the s37L application. It should be noted that the purpose of this condition is to ensure compliance with the numerous policies and objectives of the County Development Plan 2016 to 2022.

Our client will accept and implement suggested landscape planning condition 4 which seeks to ensure that the mitigation, remediation and recommendations contained in the s37L submitted EIAR shall be implemented in full.

Our client will accept landscape based condition 5 available for inspection on page 41 of the SDCC observation document on the s37L. This seeks the provision of a Construction and Environmental Management Plan (CEMP)

In respect of their Item 5.3.5 SDCC state:

Item 5.3.5: The Water Services Department has raised a number of concerns regarding insufficient information submitted for a full assessment to be carried out.

This includes:

- 1) Surface water drainage plans for the proposed development, including attenuation and pollution mitigation devices up to and including the point of connection to the public surface water sewer.***
- 2) Information on how surface water is managed and attenuated on site to and how discharge is limited to greenfield run off rates.***
- 3) SUDS features and proposals***
- 4) Details how surface water run-off is cleansed of silt and other pollutants such as hydrocarbons on site prior to discharging to the public surface water network and/or watercourse. This also relates to proposed/existing wheel wash facilities. Only clean uncontaminated water shall be discharged to the public surface water network and/or watercourse.***
- 5) Locations of proposed and existing petrol / oil interceptors on site.***
- 6) No Item 6 is listed***
- 7) Details of all proposed water pollution mitigation measures detailed within chapter 6 of the submitted EIAR.***

Response to Item 1, 2 and 3:

The s37L application proposes further development of the quarry as a quarry. As such the provisions for surface water management remain consistent with that which would be regularised as part of the s261A substitute consent application.

Due to the nature of the development, (an active quarry), the majority of water on site infiltrates to ground. Based on the layout and topography of the Site, any precipitation falling on the Site would either directly infiltrate the ground or flow towards the existing topographic low points: the two areas of excavation or the entrance to the Site.

An overview of the key infrastructure and water management in the northern area of the site has been provided in Section 6.4 of the EIAR (Water chapter).

The quarry has been developed on the flank of a hill where the original terrain sloped at around 1:20. The landcover classification gives the greenfield site as 'Agricultural Areas' and 'Pastures' (EPA, 2018). This landcover overlays soils consisting of superficial deposits of clayey drift according to the Irish Soil Information System (EPA, 2021). While the subsoils underlying the study area have been identified as bedrock at surface. Runoff from the hillside would have drained directly into the River Griffeen at the base of the hill.

The application area where existing quarrying activities and the proposed extension have and would result in the further excavation of deep pits into the hill side. As a result of the workings surface run off from approximately 80% of the quarry no longer contributes to the River Griffeen, and instead drains into the quarry pits. Runoff and direct rainfall entering the quarry pits are subject to seepage into groundwater and evaporation, while more extreme storm events will be significantly attenuated by the large storage capacity of the pits.

The remaining 20% of the application area mostly comprises of a relatively flat area of granular surfacing with no formal drainage system. During storm events surface water soaks into the granular surfacing or is directed towards the adjacent pits. Only approximately 1.3 ha of the site positively slopes towards the site entrance of the N7/M7 roadway, which included the access road. The runoff from this area is directed to the N7/M7 roadway drainage, where it was assumed for the purposes of the assessment, to discharge to a tributary of the Griffeen river close to Rathcoole.

By the nature of the development being a quarrying operation it can be seen that, contrary to increasing the peak runoff rate, it in fact significantly attenuates the pre-development greenfield runoff rate. The approximate 4.5% of the site that contributes to direct runoff is a small proportion of the overall application area greenfield runoff for all storm events, including climate change allowances.

Section 6.4.9.1 of the EIAR (Extreme Weather Events) provides storage of incident rainfall calculations where the runoff from a rainfall return event with a 1,440 minute (1 day), 1 in 100 year return period (87 mm) is taken to represent a worst-case scenario. The assessment concludes that there is sufficient short-term water storage capacity is provided on the west pond alone.

It is therefore our view that the development does not result in surface water discharges greater than that for the greenfield site, and as a result Sustainable Drainage Systems (SuDS) are not required.

Response to Item 4:

As identified above, limited surface water runoff is discharged to the culvert connected to the N7/M7 roadway drainage system, (and a tributary of the River Griffeen where it was assumed for the purposes of the assessment to discharge). The western pond area (SW1) is considered

to be a mixture of rainfall and groundwater, and is only periodically pumped following periods of prolonged rainfall to this discharge culvert near the site entrance.

To confirm, wheel washes and hardstanding areas associated with fuelling are not connected to public surface water systems.

Response to Item 5:

A fuel/oil interceptor is included in the design of the site's fuelling area in order to prevent contamination of groundwater on site. As described in the response to the s261A information request, there are certain structures on site which will be the subject of a planning application(s) to regularise these items in planning terms; this includes the relocated fuel storage and fuelling area along with the associated tank bunding, hardstanding and fuel/oil interceptor. The planning application for relocated fuelling area will include, as appropriate, surface water drainage layouts and the locations of pollution mitigation devices, (e.g., tank bunding and the fuel/oil interceptor).

Response to Item 6:

No item identified.

Response to Item 7:

As identified above, the relocated fuel storage and fuelling area on site will be the subject of a planning application to regularise the relocation in planning terms. Pollution mitigation measures associated with the fuel storage and refuelling area include e.g., tank bunding, hardstanding and the relocated fuel/oil interceptor. The planning application for this relocated fuelling area will include, as appropriate, surface water drainage layouts and the locations of all pollution mitigation devices.

Section 6.7 of the EIAR describes the 'Characteristics of the Development' and the 'Embedded Mitigation' (Section 6.7.2). This section describes embedded design and commonly undertaken good practice mitigation measures have been and will be in place at the Site, these include embedded design and commonly undertaken good practice mitigation measures that have been and will be in place at the Site.

In respect of Item 5.3.6 the local authority states the following.

Item 5.3.6: With regards to Flood Risk there is a lack of information, and the applicant should be requested to submit a site-specific flood risk assessment report with the inclusion of a justification test where applicable in compliance with OPW Flood Risk Management Guidelines for Planning Authorities. The report should outline details of the measures and design features to prevent/mitigate the risk of flooding to the proposed development and to adjoining lands. The applicant should submit plans showing the location of the proposed development in relation to surrounding flood zones identified on the OPW CFRAM maps.

Please refer to the response to Item 5.3.5 in relation to the attenuation capacity of the overall site.

With regards to flood risk, please refer to Section 6.4.9 of the submitted EIAR ('Flood Risk').

In respect of Item 5.3.6 SDCC states:

Item 5.3.7: Irish Water's Report requests additional information. The applicant is requested to submit a drawing in plan outlining the existing and proposed water supply layout for the development. Furthermore, Irish Water raises concerns regarding the proximity of the works to a 1270mm concrete public watermain that traverses the site from west to east. ADDITIONAL INFORMATION required to assess the impact of the development on this major infrastructural piece. Information pertaining to foul drainage is also requested by Irish Water.

The wayleave for the Irish Water 1270mm Liffey aqueduct water main in the north of the site has been identified on Drawings 3 and 4, submitted as part of the s37L application pack. In addition, the water main is assessed as part of Chapter 12 of the EIAR (Material Assets) and a map of the route is provided in Appendix 12.3. The map provided by Irish Water indicates the water main has been in place since 1940.

Approximate locations of the watermain have been indicated on the cross section supplied with this response, Appendix A). Precise locations and other information requests with Irish Water will be identified through engagement with the applicant.

Section 12.6.4 of the EIAR documents potential effects on the 'Local Water Supplies and Sewerage Infrastructure'.

With regards to potential impacts on the Irish Water public watermain, the applicant will incorporate measures identified in consultation with Irish Water. In addition, the quarry will deploy a vibration monitor at the Irish Water pipeline during all blasting events on the northern face of the quarry. From these monitoring records the blasting contractor can determine the margin of compliance with the vibration limit and if blast parameters require refinement for future blasting events. The results of such events will be reported to Irish Water as appropriate. With these embedded design and management measures it is considered that impacts of Site activities on this Liffey aqueduct water main will be negligible resulting in effects that are imperceptible.

With regards to potential impacts on foul water infrastructure, the site utilises contained systems for collecting wastewater (sewage holding tank), and there are no additional toilets proposed as part of the Proposed Development. The current Site practices will be maintained and the wastewater will be collected and removed from the Site by contractors. Potential impacts from the Site's wastewater/sewage on the underlying groundwater and local environment are therefore considered to be negligible resulting in effects that are imperceptible.

In respect of Item 5.3.7 SDCC state:

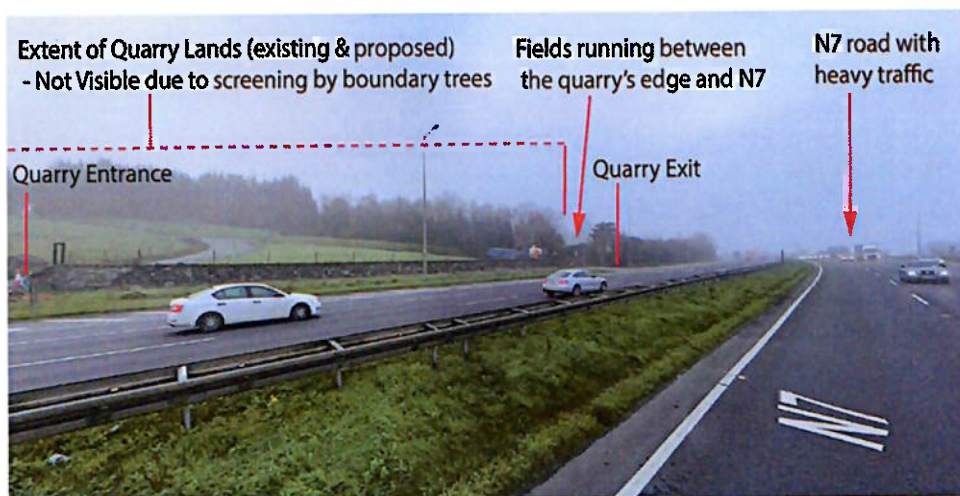
Item 5.3.8: Photomontages of the development from the N7 would be beneficial for the assessment. The LVIA submitted with this application considered potential views from the N17 road but it was excluded from the assessment following the landscape architect for the applicant travelling the route where it was found that the visibility of the existing quarry and the proposed extension lands is greatly screened due to N7 road's lower setting than the site, local topography, the mix of hedgerow and trees lining the roadside together with the direction and speed of the road user.

Due to road safety, it is not possible to undertake a photomontage from the N7, as requested, which is a busy national route. This is evident in the photographs below. However, as a reasonable alternative the following images have been annotated.

To help illustrate the proposed development's limited visibility from this route several images have been taken from Google Earth (image data captured October and November 2022) and are annotated to show the extent of the existing and proposed quarry lands. Please note that the images captured will be higher than that viewed from a normal car due to the camera mounted on rigging on the Google Earth's car's roof and are processed so they provide a wider field of view than the standard used for photomontages. The 4 no. view locations are indicated in the map below and briefly described further below.

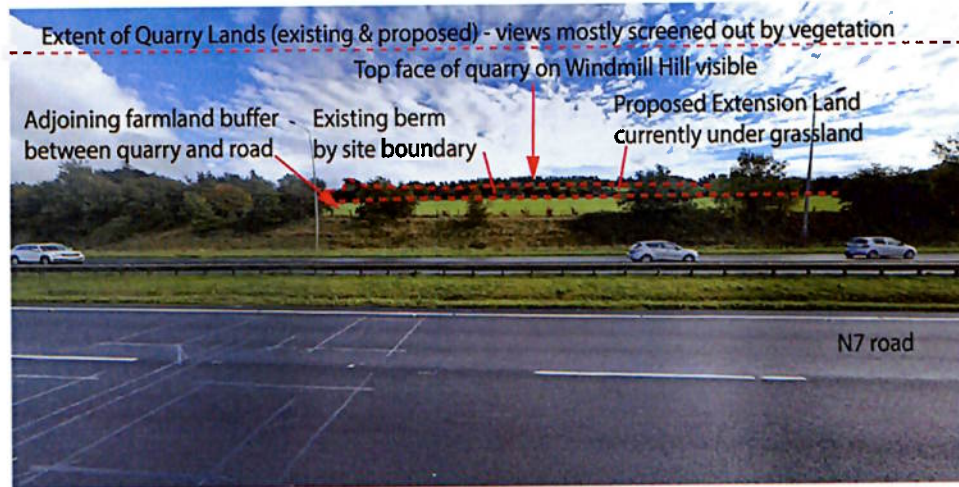


View 1 - Opposite the existing quarry entrance.



The existing trees and hedgerows screen views of the quarry and the proposed extension lands, with only the traffic on/off the quarry's entrance and exit visible. The image also shows how busy the road is with traffic.

View 2 - Along N7 road directly opposite the proposed extension area



While this view clearly shows some of the quarry's proposed extension lands it is important to note that this view is taken looking directly facing southeast towards the site which is perpendicular to the main direction of travel of road users. We emphasise again that the image is elevated above most road users, whose views of the subject development will be further blocked by the road embankment on the eastern side of the N7 road. Any potential views are likely to be limited to more elevated views of passing lorries rather than van or cars.

Views of the existing quarry from this point are limited to its top face of the worked part of Windmill Hill. The existing view shows a portion of the proposed extension lands which already contains a berm adjacent to the boundary and some of the agricultural lands further east.

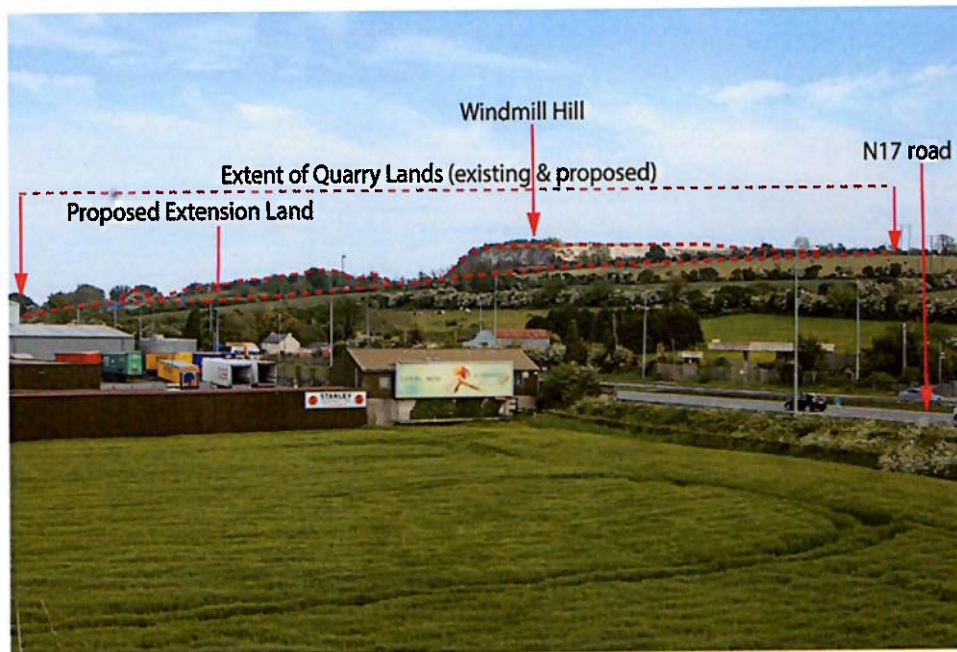
The proposed landscape mitigation on the site's northern boundary includes a continuation of the existing berm along the boundary edges which will be planted up with native woodland planting. Initially the loss of the agricultural lands will allow a slight increase of views of the worked quarry face of Windmill Hill. However, as the wooded area fills out, and grows upwards, such views will be reduced.

View 3 - Opposite entrance to Windmill Lane Industrial Estate



Although the existing and proposed quarry lands extends across a large portion of this view the roadside trees and hedgerows help ensure that the road user's views are blocked/screened out.

View 4 - On Junction 5 bridge of the N7 road



This is an elevated view (non-Google Earth image) from the N7 junction 5 bridge, approx. 750m southwest of the site boundary, showing the site in the context of the N7 road and local industry. This view, however, is not reflective of the road user's views from the main section of the adjacent N7 road, as their views are lower down and more screened by the roadside vegetation.

The view shows a small portion of the proposed extension lands to the left of the existing quarry's worked rock face of Windmill Hill.

The proposed landscape mitigation on the site's western boundary includes a berm planted up with native woodland planting which will help contain views of the quarry's existing and proposed working lands from this point. Overtime, the new woodland along with the retained boundary trees, will help reduce the visibility of the existing worked face along the top of Windmill Hill.

In summary, the above shows the limited visibility of the existing and proposed quarry lands from the N7 road, while any photomontage would at best show only a small section of berm and woodland planting on the site's outer boundaries.

In Summary,

1)The Planning Authority understands that there may be a number of anomalies with the drawings and the proposed development description that require clarification. The clarification of which, will not only help to enhance the overall assessment but will ensure that all plans and drawings that will eventually rest on the public file can be easily read in the interests of the management of development on the lands and to ensure that what is granted is unequivocal and not open for misinterpretation.

2)Significantly more information is required regarding, roads issues (including access to the site and the necessity for an upgraded junction) water services, foul drainage, parks and public realm, green infrastructure, and heritage (archaeology). The Planning Authority is therefore of the opinion that the above should be sought by way of Additional Information prior to a final decision being made.

We believe that inconsistencies in the application have been ironed out and the necessary clarification provided particularly in regard to the works and development the subject of this application. The position on roads access has been clarified and the necessary information on water services, ecology, and landscape impact requested have been provided. Much of what was requested by SDCC was contained within previously submitted material including the EIAR and other technical reports and drawings.

In order to resolve a number of concerns identified above SDCC have recommended a number of planning conditions be imposed. Our comments on these conditions is set out below.

Proposed Planning Conditions from SDCC

The Council propose a substantial range of planning conditions and the Board should take comfort from a detailed assessment of the application by the local planning authority in the first instance as indicated above and from such an extensive range of conditions which the Board are obviously entitled to accept, modify, or add to.

Section 5.4 is where the local authority suggests a number of conditions that would assist in meeting their stated concerns about the further development anticipated within this S37L application. Our client has read these conditions and will accept all these conditions. We note that the conditions suggested by SDCC in this instance are modelled on the original Substitute Consent application. Section 5.4.1 refers.

Condition 1: General

We support this condition clarifying the extent and nature of development permitted.

Condition 8: Communication and Consultation

Our client agrees to the means of consultation and the availability of information and personnel required to engage with local residents and interested parties including names, responsibilities, contact details etc.

Condition 9 Access for Monitoring

Our client agrees to this condition allowing any authorised officer of SDCC, the HSE, or the EPA, or their successors, to enter into the application site.

Condition 10 Updated Digital Terrain Model

This model shall be provided by the applicant and submitted to the local planning authority five years from the date of any grant of planning permission and thereafter over 5 year periods.

Condition 11 Annual Environmental Audit

Our client accepts this condition and will meet its requirements including a record of all movements of heavy vehicles outside permitted operating hours; a record of surface water quality and ground water quality and levels, measured at monthly intervals; breaches over the previous year of dust, noise, vibration/air over pressure and water quality standards; and, a written record of all complaints received and actions taken on each complaint.

Condition 13 Control of External Lighting

The current scheme of external lighting shall be submitted and agreed with SDCC. Where necessary measures shall be included to provide adequate screening from adjacent residential areas where appropriate, and to minimise any light overspill.

Condition 14 Advance Warning Signs

Our client will accept this condition which is relatively standard for quarry planning permissions.

Condition 15 Maintenance of Public Roadway

This is yet another relatively standard condition for a quarry and our client will accept its imposition on any grant of planning permission.

Condition 16 Wheel Wash Facility

This is a standard planning condition for quarries which our client accepts.

Condition 17 Surface Water Run-Off

Our client accepts this condition which seeks to prevent water pollution. No surface water run-off shall be allowed by the applicant to flow onto the public roadway or adjoining properties, and they will not discharge to any effluent disposal system or public foul sewer.

Condition 18 Discharges to surface or ground waters

Our client agrees to there being no effluent from the subject development directly discharging to surface or ground waters without treatment.

Condition 19 Surface water run-off from open cut areas

The applicant will take all reasonable measures to ensure that there is no surface water runoff from open cut areas that will flow directly into any stream or watercourse.

Condition 20 Ground water levels

Our client agrees to ground water level monitoring, the production of water balance report and a twice per annum water quality sample of water from the quarry floor water impound area that will be tested.

Condition 22 Settlement Ponds

This condition is acceptable to our client and it requires settlement ponds to be cleaned out monthly.

Condition 23 Details of drainage arrangements

Full details of all existing and proposed foul and surface water drainage arrangements for the entire site shall be submitted to SDCC for their written approval, within 6 months of any grant of planning permission.

Condition 29 Storage of Topsoil

All topsoil removed will be reused by spreading evenly over the worked surface of backfilled. That topsoil will be used for on-going landscaping and will be stockpiled in a manner so as to ensure that the soil flora and fauna are not destroyed.

Condition 30 Security for compliance with conditions

A bond will be lodged with SDCC for the satisfactory completion of rehabilitation and aftercare works.

Condition 31 Archaeological Impact Assessment

An Architectural Impact Assessment (AIA) will be undertaken upon the grant of planning permission.

Condition 35 Access to quarry

No access shall be provided from or to the minor public road adjoining the quarry lands to the south unless a separate planning permission is first obtained.

Condition 36 Screening of Exposed Quarry Cliff Face

Landscape screening plan to be undertaken by a qualified landscape architect and agreed with SDCC.

Condition 40 Burning of Waste

No burning, disposal or mixing of waste materials or use of waste materials in boilers should take place without the prior consent of the local authority.

Condition 41 Waste Management

Extractive waste to be managed so as to not cause damage to the environment (ie water, air, soil, and fauna/flora nor to human health.

Condition 42 Non-extractive waste

All non-extractive waste to be managed in accordance with the Waste Management Act 1996 as amended.

Condition 43 Waste Storage Management

Designated areas to be used for particular waste types and authorised waste collectors to be used for collection, reuse and disposal of waste oils, batteries, tyres, domestic waste and scrap metal in compliance with the Waste Management Act 1996 as amended.

Condition 44 Waste Management Plan

Within 3 months a waste management plan is to be submitted for the agreement of the local authority.

Condition 45 Imported waste management

Imported waste to the site shall be authorised by the local authority.

Condition 46 Waste Facility Permits

The applicant shall comply at all times with all conditions on existing waste facility permits and Water Pollution discharge licence and no development or change of use shall be undertaken that would conflict with such permits without prior approval.

Condition 47 Annual Environmental Report

Our client agrees to the imposition of this planning condition which is standard for quarries and whose requirements are set out in the suggested condition by SDCC. It is noted and accepted by the applicant that this requirement is in addition to the Annual Environmental Audit requirement set out in suggested Condition 11 above.

The above are relatively standard planning conditions imposed by local authorities. The following suggested conditions emanate from the various departments of the local planning authority and are considered by us to be more bespoke or unique to the circumstances of this particular application.

Condition 5.4.2 Upgraded access onto the N7

This condition is not required. Please see our response on item 5.2.1.

Condition 5.4.3 Dust

Our client will accept a planning condition requiring a programme for identification and reduction of fugitive emissions for submission to SDCC within 6 months of the date of planning permission. This shall specify dust deposition levels. It shall also require submission of results on a quarterly basis for agreement by the local authority. Current site-specific mitigation measures to control dust which have been employed since 1990 shall be submitted for the written approval of SDCC.

Condition 5.4.4 Noise

Our client also agrees to this planning condition which is relatively standard for quarry developments. This limits noise limits noise levels and the periods that audible tones or impulsive noise shall take place. Our client accepts that monitoring under this suggested condition will be required to take place.

Condition 5.4.5 Vibration

Our client agrees to this suggested planning condition from SDCC controlling vibration.

Condition 5.4.6 Water Services

Our client will provide a drawing in plan form outlining existing and proposed water supply layout for the subject development.

Condition 5.4.7 Distance to the Public Watermain

A plan is required showing the distance between all existing structures and the public watermain as well as existing cover levels over the watermain.

Condition 5.4.8 Compliance with Irish Water Standard Details and Code of Practice for Water Infrastructure

The applicant accepts that compliance with Irish Water standards are required in this instance.

Condition 5.4.16 Foul Drainage

The applicant will accept a planning condition advocated by SDCC in this regard. Such a plan will include point(s) of connection to the public foul water sewer and shall include the location of all Ajs, manholes, pipe size, material type and direction of flow.

Condition 5.4.17 Compliance with Irish Water Standard Details and Code of Practice for Water Infrastructure

This is a repeat of suggested condition 5.4.8 above, which our client agrees their willingness to comply with.

Condition 5.4.18 Development Contributions

Our client agrees to pay the contribution specified in suggested condition 5.4.18.

SDCC Public Realm Recommended Landscape Condition 1 (Landscape Plan)

Our client will accept this condition requiring a detailed landscape plan if the Board consider the already submitted landscape plan which includes implementation details and appropriate plant species is not in any way sufficient.

SDCC Public Realm Recommended Landscape Condition 2 (Landscape Management)

Our client will accept such a condition as stated in the Chapter 10 of the submitted EAIR.

SDCC Public Realm Recommended Landscape Condition 3 (Biodiversity Management Plan)

Our client will accept such a condition requiring a biodiversity management plan.

SDCC Public Realm Recommended Landscape Condition 4 (Environmental Impact Assessment Report (EIAR))

Our client will accept a planning condition requiring imposition of mitigation identified in the submitted EIAR.

SDCC Public Realm Recommended Landscape Condition 5 (Construction and Environmental Management Plan)

Our client will accept a planning condition requiring a CEMP be agreed with SDCC.

It is noted that, within the suggested conditions section of the SDCC submission, the local authority request that the full restoration of the site shall form a separate planning application which shall be submitted within 6 months of the date of planning permission. Our client will accept such a planning condition.

3. Transportation Infrastructure Ireland

The observation from TII indicates that the rEIAR details amendments that should be implemented to ensure that the improvements to the access junction to the N7, national road, should be implemented to the satisfaction of the County Council. TII also recommends a pre-commencement condition *'prior to commencing any statutory planning approval process the submission of a Design Report to TII in accordance with TII Publications (Standard) DN-GEO-03030 should be included as condition of any permission granted. The cost of any works is the responsibility of the applicant/developer.'* This suggests that TII supports the application in principle.

Matching Concerns against Suggested Planning Conditions

We believe that the issues raised by all other parties to whom access of observations have been provided by the Board can be dealt with by way of planning condition in each instance as set out on Table 1 below. This should give the Board reassurance that permission can be granted in this instance.

Table 1: Issues Raised against Suggested (SDCC) Planning Conditions

Observation	Item No.	Issue /Requirement	Suggested (SDCC) Planning Conditions
Dept of Defence	-	Aviation Impact Assessment	N/A but we suggest that this be dealt with by way of planning condition.
SDCC	5.2.1	Site Access	Recommended SDCC Condition 1.
	5.2.2	Full extent of land proposed to be extracted	Recommended SDCC Condition 1.
	5.2.3	Discrepancy in red line/need to extend site area	Recommended SDCC Condition 1.
	5.2.4	Clarity on depth of excavation	Recommended SDCC Condition 1 or specific condition.
	5.3.1	Protection of national monument	Recommended SDCC Condition 31 (Archaeological Impact Assessment)
	5.3.2	No further extension towards the national monument nor into any other area without the benefit of planning permission	Recommended SDCC Condition 31 (Archaeological Impact Assessment)
	5.3.3	Concern at amount of inert subsoil and topsoil to be imported	This is excluded from this application and does not require a planning condition.
	5.3.4	Significant loss of green infrastructure	There are 5 no. conditions recommended by the Public Realm Section of SDCC to ensure that the proposal is GI policy compliant that our client will accept. Condition 1: Full implementation of approved landscape plan;

			<p>Condition 2: Submission and approval of a landscape management plan;</p> <p>Condition 3: Submission and approval of a Biodiversity Management Plan;</p> <p>Condition 4: Implementation of mitigation measures set out in the submitted EIAR;</p> <p>Condition 5: submission and agreement of a Construction Environmental Management Plan.</p>
	5.3.5	Surface water drainage	<p>See recommended SDCC conditions:</p> <p>Condition 17 (Surface Water run off)</p> <p>Condition 18 (Discharges to surface or ground waters)</p> <p>Condition 19 (Surface water run-off from open cut areas)</p> <p>Condition 20 (Ground water levels)</p> <p>Condition 22 (Settlement ponds)</p> <p>Condition 23 (Details of drainage arrangements)</p>
	5.3.6	Flood risk	<p>Flood risk is assessed in the EIAR and does not require a planning condition in our view.</p>
	5.3.7	Plan required for existing and proposed water supply layout and showing proximity to concrete public waterman	<p>See recommended SDCC conditions:</p> <p>Condition 5.4.6 (Water Services)</p> <p>Condition 5.4.7 (Distance to the public watermain)</p> <p>Condition 5.4.8 (Compliance with Irish Water Standard Details and Code of Practice for Water Infrastructure)</p>
	5.3.8	Photomontage to assist visual assessment	<p>See conditions under 5.3.4 in this table.</p>
TII	-	Submission of a Design Report to TII in accordance with their TII Publication (Standard) DN-GEO-03030	<p>Condition requires submission of a Design Report to TII in accordance with their TII Publication (Standard) DN-GEO-03030.</p>

Conclusion

In conclusion, the Department of Defence did not indicate that it opposed the application or recommend a refusal. Its request for the Aviation Impact Assessment appears a routine exercise as opposed to being based upon real concerns in respect of possible effects of the quarry. However, we believe that sufficient information has been submitted to address this matter.

While SDCC has raised certain concerns in respect of the application for Substitute Consent, it recognises that the application is permitted under the relevant provisions of the County Development Plan.

SDCC does not suggest refusal and instead demonstrates its support for the application under S.37L by providing a comprehensive series of conditions to be attached to a grant of permission by An Bord Pleanála. We confirm that our client, the applicant, is willing and pleased to comply with such conditions attached to a grant of permission by the Board. Furthermore, our client intends to regularise the unauthorised development identified by submitting fresh applications for retention permission to SDCC planning authority.

The observation from TII includes a recommendation that a pre-commencement condition is attached to a grant of permission of Substitute Consent with which our client is pleased to comply with. The recommended condition from TII indicates that they also support the application in principle.

We trust the Board are in a position to proceed with a determination.

Yours sincerely,



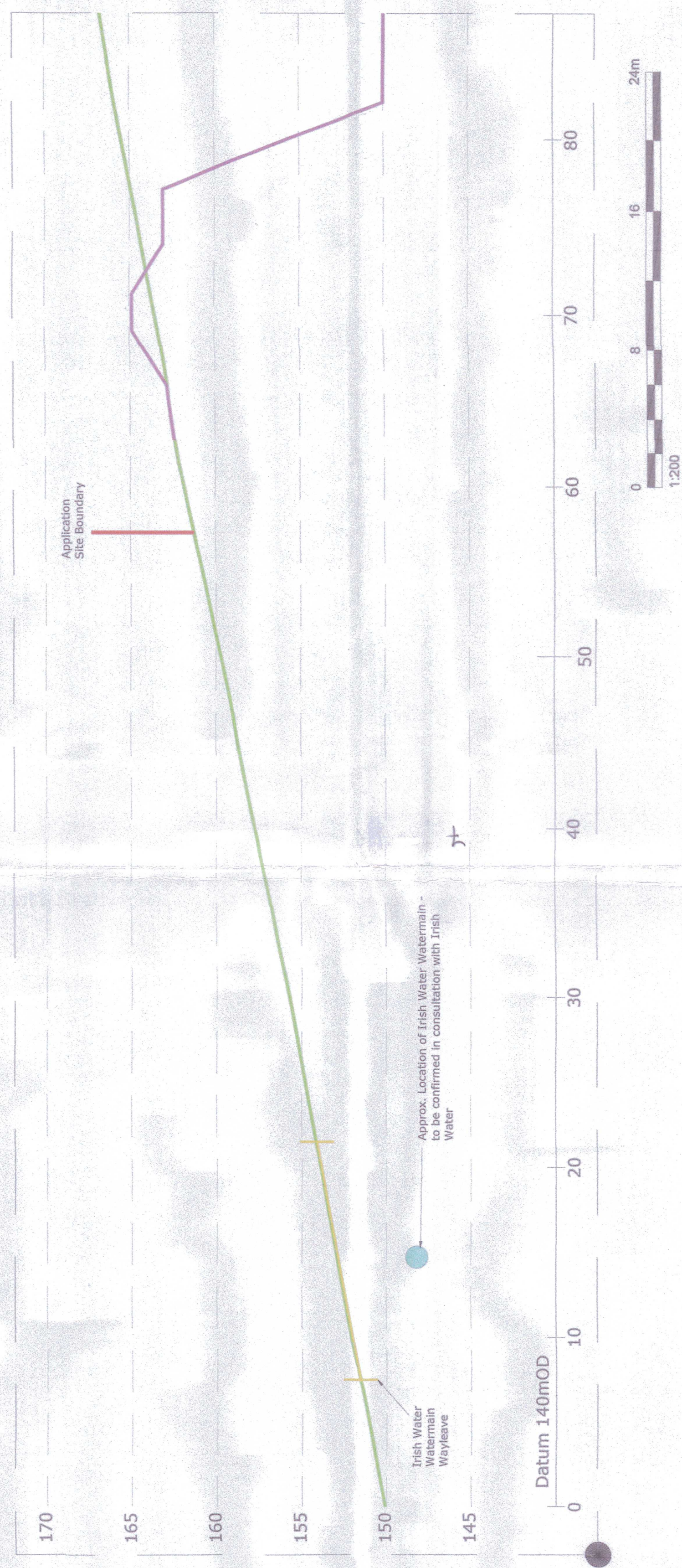
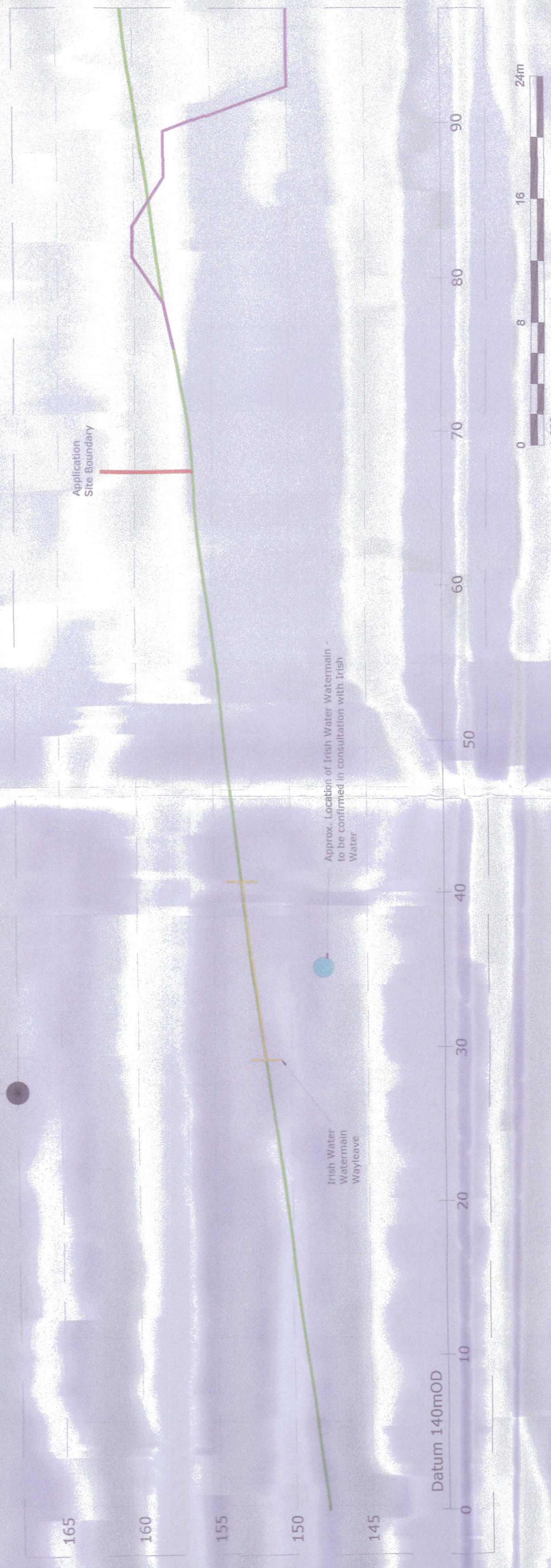
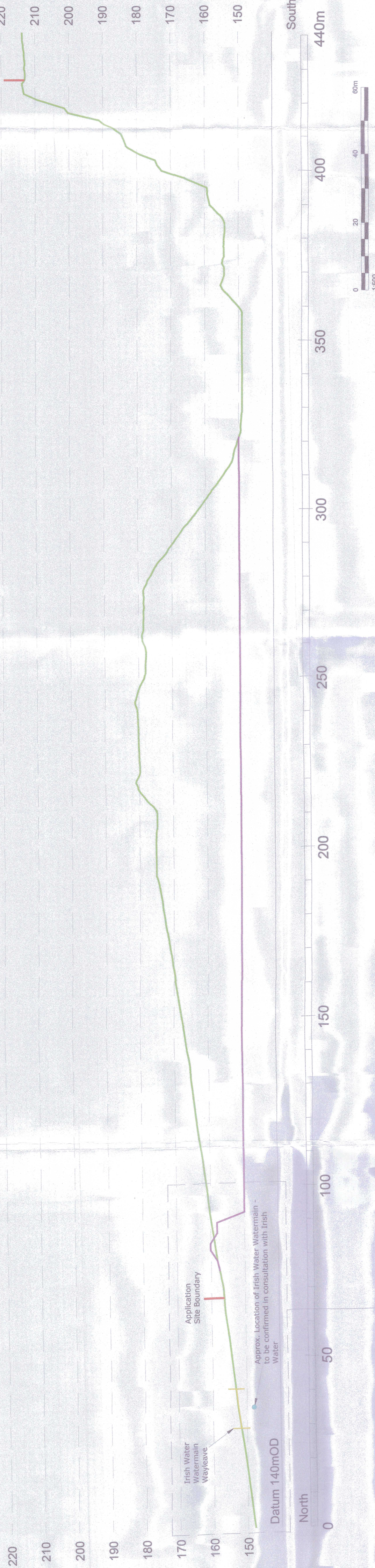
Eamonn Prenter MIPI MRTPI
Director
CUNNANE STRATTON REYNOLDS
LAND PLANNING & DESIGN

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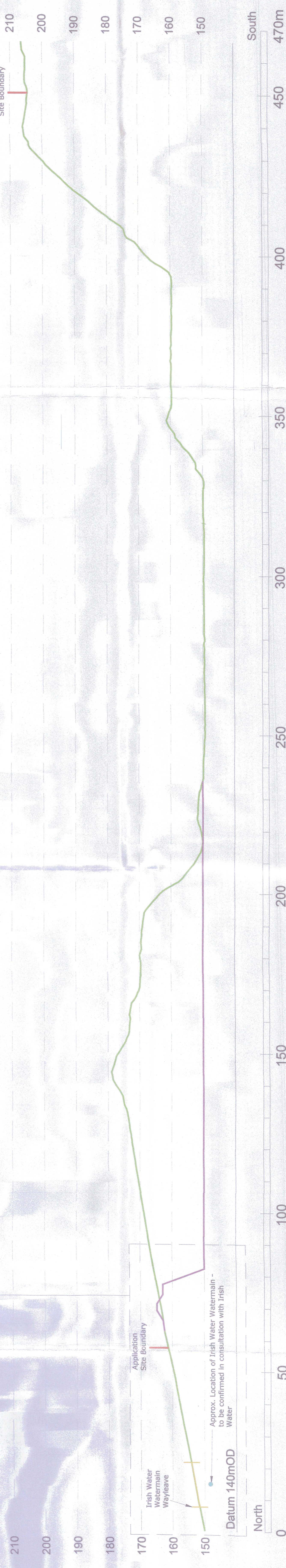
APPENDIX A

WATERMIAN CROSS SECTION DRAWING

Cross Section S37L RFI - A_A'

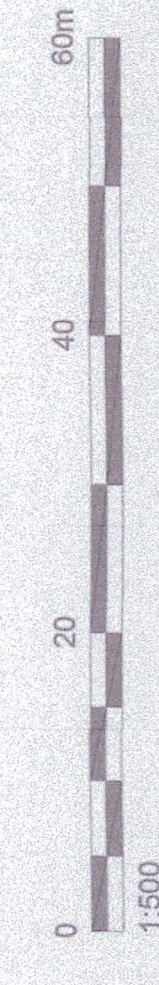


Cross Section S37L RFI - C_C'



LEGEND:

- EXISTING GROUND (mOD)
(consistent with original application drawings)
- PROPOSED GROUND (mOD)
- WATERMAIN WAYLEAVE



CLIENT
L BEHAN AGGREGATES & RECYCLING LTD

PROJECT
37L APPLICATION - LAURENCE BEHAN

CONSULTANT
wsp

YYYY/MM/DD	2022-Mar-15
DESIGNED	POB
PREPARED	POB
REVIEWED	KMG
APPROVED	RT

TITLE
CROSS SECTIONS - Original Application Existing & Proposed - Including Irish Water Watermain

PROJECT NO.
20137776

DRAWING NO.
RFI-02

REV.
18 MAR 2023

SCALE
As shown A0

DATE
18 MAR 2023

BY
LAURENCE BEHAN