

CSR Ref: 23386

**CUNNANE STRATTON REYNOLDS**

ABP Reg. Ref. ABP-318674-23.

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

28<sup>th</sup> February 2024

BY HAND

Dear Sir/Madam,

**Further Development of a Quarry**

**Application under Section 37L of the Planning and Development Act 2000, as amended.**

**For quarrying and aggregate extraction on lands located at Redbog and Philipstown, Co Kildare.**

**Hudson Brothers, Redbog & Philipstown, Co. Kildare.**

This cover letter accompanies a planning application for prospective quarrying and aggregates related operations under section 37L of the Planning and Development Act 2000 as amended [PDA] on behalf of Hudson Brothers Ltd, Gorthlum, Brittas, Co. Dublin who are the owners and operators of a quarry and aggregate product operation located across the counties of Kildare and Wicklow at the Paddock, Blessington, Co. Wicklow.

This application for planning permission is accompanied by an Environmental Impact Assessment Report (EIAR) and `Stage 2 Appropriate Assessment Report (Natura Impact Statement) indicating no significant impact on any European Designated Site including Redbog SAC. This section 37L application for prospective planning permission is accompanied by, and runs immediately from, an application for substitute consent under section 261A of the PDA and which itself is also accompanied by a rEIAR and Stage 1 remedial Appropriate Assessment.

DUBLIN OFFICE  
GAINSBORO HOUSE, 24 SUFFOLK ST  
DUBLIN 2, D02 KF65  
TEL: 01 661 0419  
EMAIL: [info@csrlandplan.ie](mailto:info@csrlandplan.ie)

OFFICES ALSO AT:  
COPLEY HALL, COTTERS STREET, CORK  
TEL: 021 496 9224  
EMAIL: [corkinfo@csrlandplan.ie](mailto:corkinfo@csrlandplan.ie)

**DIRECTORS**  
Declan O'Leary BAgr Sc (Land-Hort) Dip LA MILI MLI:  
Eamonn Prenter BA (Hons) Dip TP MSc MRTPI MIPI:  
Jim Kelly BAgr Sc (Landscape-Hort) Dip LA MILI CMLI:  
Keith Mitchell MA (Hons) LA Dip EIA Dip Arb MILI CMLI:  
ARDAACONG, BALLYTRASNA, TUAM  
CO GALWAY  
TEL: 01 661 0419  
EMAIL: [galwayinfo@csrlandplan.ie](mailto:galwayinfo@csrlandplan.ie)  
**WWW.CSRLANDPLAN.IE**

This cover letter is provided by Cunnane Stratton Reynolds Ltd who are the agent for the applicant in this case. They are assisted by WSP as the lead consultant, with overall responsibility for the technical details and assessments provided. The purpose of this letter is to provide a context for, and record of, the enclosed S37L planning application.

This cover letter references required information to address S37N of the PDA contained within the enclosed application documentation and illustrates how the application has been prepared having regard to statutory provisions and the planning history and context of the application site.

The subject application covers that part of the subject site located within the confines of County Kildare. The remaining component of the existing quarry and aggregate production operation is located within County Wicklow, and has the benefit of a 25 year planning permission stretching into the 2030s. In assessing the impact of the subject development regard is had to the impact within County Wicklow and the proximity of residences within that county, in addition to County Kildare.

The format of this cover letter is set out under the following headings:

1. The purpose of this S37L planning application;
2. Content of this application;
3. The subject development;
4. Planning history and planning context;
5. The application site;
6. Key relevant legislation in respect of quarries;
7. Planning guidance and policy;
8. Planning merits of the subject development; and,
9. Conclusions.

## **1. The purpose of this S37L planning application**

This S37L is the culmination of technical input from a number of subconsultants under the umbrella of WSP Ltd. CSR has undertaken an online planning history search of the application site which has assisted the formulation of this application and undertaken planning histories within both Counties Kildare and Wicklow. WSP has similarly undertaken a remote search of the waste permits and certificates and registrations for the site.

## **2. Content of this application**

The content of this S37L application is prescribed within the Planning and Development Regulations 2001 (PDR) as amended. The following comprises this S37L application.

- A schedule of the set of drawings;
- Copies of those drawings;
- Copies of the site notice erected in 6 no. locations which are shown on the submitted drawings. Please note that 6 no. location are considered appropriate based on previous experience with regard to past planning applications and past site notices.
- Copies of the newspaper notice, which in this case comprises a full page of The Irish Star dated 27<sup>th</sup> February 2024;
- Letters of Consent as appropriate;
- An Environmental Impact Assessment Report (EIAR) with Non-Technical Summary;
- A copy of the EIA portal certificate is also appended to the completed application form;
- A Screening Report to inform Appropriate Assessment (AA); and,
- The S37L planning application fee which in this instance is calculated as €32,000 and a Euro Draft for this amount is attached, made payable to An Bord Pleanála.

The above documents have been prepared having regard to the requirements of the PDA and the Planning and Development Regulations 2001-2023 [PDR]. The reports provided, which will assist in environmental assessments have been prepared having regard to enabling Directives, relevant statutory guidance and best practice across the realms of Planning and Development; Environment; Birds and Habitats that are scheduled at the outset of each document.

Some 6 no. hard copies of the application are provided along with a soft copy as requested by the Board in prior communications.

Please note that letters of consent are provided where these are necessary and possible. These are from James Quinn and Thomas Eager in respect of lands comprising the application site and which are required to fulfil the function of expansion of extraction of the existing quarry.

We believe all the necessary consents are in place.

### **3. The subject development**

The description of the subject development is set out in the statutory notices which forms part of this application.

#### *The Proposed Development*

The proposed extensions involve digging for sand and gravel and extraction of rock. The westerly extension is for the extraction of sand and gravel and rock. The northerly extension is for the extraction of sand and gravel only. Blasting is therefore confined to the west.

The application area holds the main pit extraction area of the quarry and a proposed northern extension (approximately 21.2 ha in total with an internal extraction area of approximately 17.7 ha) and a proposed western extension (approximately 10.2 ha in total with an internal extraction area of approximately 9.4 ha).

**Extraction of sand and gravel** (to the north and west) will involve the following:

- Continuing excavation of sand/gravel using excavators;
- Washing and screening of sand/gravel at the existing 'wet' aggregate processing plant (which has a water recirculation system) into stockpiles of specific fragment sizes;
- Loading of material onto trucks for sale and distribution;
- Passing of trucks through an existing wheelwash before travelling onto the N81.

**Extraction of rock** (to the west) will involve the following:

- Excavation of rock by drilling, blasting, digging and rock breaking;
- Mobile crushing and screening of rock into stockpiles of specific fragment sizes on the quarry floor;
- Loading of material onto truck for sale and distribution; and
- Passing of trucks through an existing wheelwash before travelling onto the N81.

Key aspects of the development proposed that are important to the assessment of impacts are as follows:

- There will be no direct discharge to surface or groundwater from the quarry operations;
- Water laden with silt from the processing of sand and gravel will be managed in a silt lagoon which will be subsequently used in the restoration of the application site.
- Where practicable, overburden and materials not suitable for sale will be used in the restoration of worked out areas;

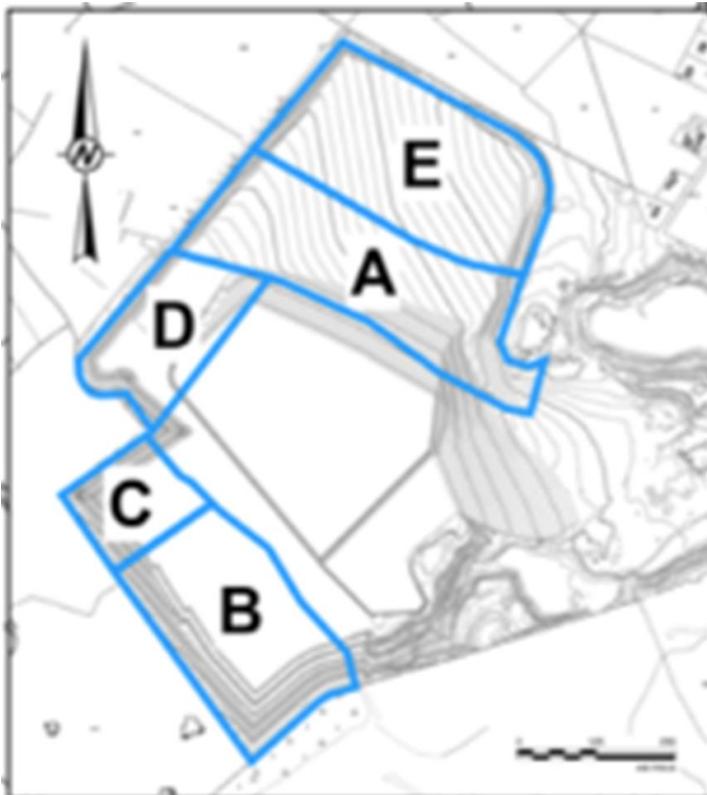
- Mobile plant maintenance activities will use a dedicated concrete hardstanding apron (with associated interceptor at the maintenance shed);
- Static plant or tracked elevators will be refuelled with care by appropriately trained members of staff;
- Spill kits will be maintained on site to deal with all spills and leaks, and spill training will be provided to relevant staff members
- The proposed finished floor level for each phase of extraction will not take place below a level of at 1m above the highest seasonal water table on site as permitted under KCC reg. ref. 07/267. The finished floor levels are therefore dependent on groundwater levels and how the ground water may fluctuate both seasonally and due to changes over the lifetime of the quarry.

#### *Phasing of Extraction*

It is proposed to extend the existing quarry void in a phased manner. This will allow time for stripping and storage of topsoil and overburden and the blending of material types depending on the extent of variation in the quality of the materials within the deposits at any given time. Phasing is dependent on the quality of materials encountered and also market demands. Having a number of operating faces will also facilitate the blending of materials and help to ensure the efficient use of this valuable resource.

Including restoration there are 4 no. phases. These are presented in more detail in Section 2.4.1 of the accompanying EIAR. CSR provides below an extract of Figure 2-3 of the EIAR submitted with this planning application below as our Figure 1. Phasing proposed is generic and governed by the rate and ease of extraction, value of the extracted material and market circumstances etc.

**Figure 1:** *Indicative phasing excerpted from EIAR Figure 2-3*



*Hours of Operation*

Excavation and processing of material will take place between the hours of 0800 hours and 1800 hours Monday to Friday, and between 0800 hours and 1300 hours on Saturday. There will be no extraction on Sundays or public holidays.

The carrying out, loading and transporting of processed materials will occur between 0700 hours and 1800 hours Monday to Friday; and between 0700 hours and 1300 hours on Saturdays. There will be no associated activities undertaken on Sundays or public holidays.

*Employment*

There will be direct and indirect employment. Employment levels vary in accordance with market demand and associated extraction and processing requirements. Direct employment include plant operators, fitters, laboratory technicians, and administration staff. The applicant seeks to maintain the current level on employment between c30 and 50 employees depending on market conditions.

Independent contractors will be appointed where necessary to meet haulage requirements. This and other indirect employment will be preserved through the maintenance of existing ancillary services required for the operation of the subject development and on the supply chain. In broad terms, indirect employment will be provided to the level of 25% to 33% of direct employment based on estimated additional jobs created in similar projects.

### *Safety and Security*

Statutory health and safety requirements will be met including in particular the relevant Health and Safety legislation (safety, Health and Welfare at Work Act 2005 and the Mines and Quarries Act 1965) and subsequent Quarries Regulations relating to health and safety, training, appropriate site management etc will be complied with. An up to date Health and Safety File will be kept on site which records safe procedures, deviations from those procedures and accident reports.

The operator/applicant maintains a Health and Safety File and facilitates site inspections by the Health and Safety Authority (HSA) and audits.

The EIA unit is fully fenced with any agricultural entrances permanently closed and locked. The perimeter stockproof fence will be maintained and monitored (with warning signage) in the interests of safety to both humans and livestock. A perimeter access track will be maintained around the inside of the security fence and the screening berm.

There is no vehicular entrance in operation in addition to that from shared land which is gated.

There is no lighting required outside the land in question but within the lands certain working hours (before sunrise and after dark in winter periods) necessitating lighting that is extinguished during daylight and when the site is closed. Thus no external light spill occurs.

### *Fuel and Chemical Storage*

Fuel storage is in bunded fuel tanks in the plant area and in the maintenance shed over a concrete apron with associated interceptor. Oils, chemicals and admixtures are ordered and used as needed and used oil and chemical containers are separately stored within the maintenance shed for disposal by licensed contractors. Static plant or tracked elevators are refuelled with care by appropriately trained members of staff. Spill kits are also maintained on site.

### *Waste Management*

Waste generated on site is municipal waste from staff welfare activities and is disposed of via domestic waste collection. Scrap metal is stored within a designated area on the site prior to collection by a licenced wate contractor.

### *Water*

Water provision and water disposal are set out in Section 2.4.8 in Chapter 2 of the accompanying EIAR to this application.

### *The Existing Reserve in this Location*

As stated in Chapter 2 of the accompanying EIAR the reserve at this quarry is greywacke rock, overlain by sand and gravel, currently worked to a depth of 188 mAOD. The rock reserve is traditionally excavated by blasting and mechanical means, primarily processed by mobile plant at the working face. As indicated in the accompanying substitute consent application, blasting has not occurred in this location since the 07/267 planning permission expired on 18<sup>th</sup> September 2020. Excavated sand and gravel material is mechanically extracted and transported internally to

a centrally located administration and processing area over 5 ha that holds further processing plant (ie washing screening and grading). This plant and processing area is an established part of the quarry area.

This S37L application should be considered in the context of the substitute consent application lodged concurrently with the Board. It should be noted that the subject site of this S37L application is for extraction purposes only and is aligned with legislation at the time of the substantive preparation of this application. The vehicle entrance to the existing quarry operated by the applicant, employees and visitors car parking, and administrative offices and amenities for existing quarry workers are all located within the lands found in Wicklow County and within the spatial and temporal extent of the 25 year period of planning permission granted by that local authority under their reg. ref. 06/6932.

#### *Future Extraction and Restoration*

The proposed development under S37L, which was strictly confined to quarrying and extraction activity under law, is to be located in the existing void area west of the existing processing plant area with lateral extension of the void proposed in a westerly and northerly direction. The rates of extraction predicted as part of the application has had regard to historical rates at the site. The combined total of sand and gravel, and rock to be extracted in the proposed development is 8,708,900 m<sup>3</sup> or circa 13,218,200 tonnes. Details of quantities of each resource are identified in Chapter 2 of the accompanying EIAR.

#### *Annual Extraction*

Details of extraction, including annual extraction rate, are set out in Chapter 2 of the accompanying EIAR submitted with this S37L application.

#### *Restoration*

Following cessation of extraction, the site will be restored to a mixture of grassland, hedgerows, woodland and a waterbody. The site restoration will be carried out in line with the site Restoration Plan (submitted with this Application). It is expected that the final restoration will be completed in 3 years following the cessation of extraction activities.

#### *Life of Planning Permission Sought*

As indicated in Chapter 2 of the accompanying EIAR, the period for which planning permission is sought is 15 years to facilitate extraction operations with a further period of 3 years for implementation of restoration.

As indicated above there are 4 no. phases to development including the final restoration phase. Summaries of these 4 no. phases are set out below.

#### Phase 1: Topsoil and overburden stripped

It is proposed to maintain the existing fence along the length of the site boundary and to maintain native hedgerows that align this fence. In addition, new areas for extraction will be securely fenced around the perimeter and planted with native hedgerow species to provide screening.

A buffer area will be developed around the existing pond/surface water body located to the north of the main extraction area and east of the northern lateral extension. The area surrounding this waterbody will be planted and will extend 3-5 m surrounding the waterbody. The buffer will be composed of a wet woodland mix of willow and alder and the remainder of the buffer areas will be allowed to naturally colonise with aquatic and marginal plants. Topsoil and overburden stripped from the proposed extraction areas (Areas A, B, C, D & E as presented in Figure 1 above) will be removed and used to construct new existing safety/screening berms in appropriate locations to screen active working areas. A new 6 m safety/screening berm in the northeast of the lateral northern extension will be constructed to establish visual, safety and acoustic screening.

The security fence around the perimeter of the site (i.e. planning boundary) will be maintained, with a perimeter access track around the inside of the security fence and outside the screening berm.

#### Phase 2: Further rock and gravel extraction

During this phase of the development, it is proposed to continue to develop the quarry in Areas B, C and D to allow for blending of this valuable resource, with topsoil and overburden being striped ahead of the advancing faces. This phase will include a:

- 3D topographical survey and planning boundary of the site.
- 3m wide access track between planning boundary and outside edge of screening berm.
- 2m high screening berm with 1 in 1.5 slopes on either side.
- 1 in 2 excavation slope from edge of inside access track surface to base of overburden.
- 1 in 1.5 excavation slope from base of overburden to base of sand and gravel.
- 3m stand-off on rock-head (i.e. between base of sand and gravel slope and top of rock 'cut').
- 7.5m wide benches with edge protection.
- 70° slope from top of rock-head to bottom of quarry face (depending on ground conditions).
- Maximum 20m high benches where design and ground conditions allow.
- Safety berms/edge protection should be >1.5m or higher than the radius of the largest wheel/tyre.

Safety/screening berms will be constructed outside the appropriate exclusion zones. Boundary hedgerows will be developed and left intact for the life of the quarry (and in perpetuity to continue to provide biodiversity to the Site and the local environment). Berms and planting in this area will serve to mitigate against noise and potential dust emissions from the Site, as well as offer reduced visibility of the site from surrounding lands.

#### Phase 3: Further rock sand and gravel extraction

It is proposed that during this Phase of the development that ongoing production from Area B will take place for rock, and from Areas C, and Area E for sand and gravel. Extraction of rock will continue in Area B in a westerly direction to the site boundary, with extraction of sand and gravel continuing in Areas C but ceasing in Area D. Stripping of topsoil and overburden will continue in Area E, with stripped materials used in the construction of screening berms. Surplus stripped

materials from Area E will be stored in temporary stockpiles for use in the restoration on cessation of quarrying. During this Phase of the operation, Area D will undergo restoration.

Having a number of different operating faces will allow for blending of materials of variable quality from different parts of the Site and help to ensure efficient use of this valuable resource. However, as noted previously, not all faces identified will be operational at any one time. During this phase of the operation, the quarry faces will be pushed back to their extraction limits.

#### Phase 4 – Restoration of the whole site

Following cessation of extraction, the site will be restored to a mixture of grassland, hedgerows, woodland and a waterbody. The site restoration will be carried out in line with the Site Restoration Plan (submitted with this Application).

It is expected that the final restoration will be completed in 3 years following the cessation of extraction activities. An additional waterbody will be located in the northern section of the main pit, following cessation of quarrying, which will also add to the biodiversity of the area. Water is trapped by clay/silt layers in the sand and gravel deposit in this region. Similar features exist throughout the landscape to the west and north of the site and also the Red Bog SAC. It is anticipated that this waterbody and the waterbody identified in Phase 1 will be of similar composition and complement each other in the restored landscape.

In addition, the site will undergo planting of grassland, native tree and shrub species. Indigenous plant species will be encouraged to re-colonize worked out areas (benches) to develop unique habitats and provide for increased biodiversity in the area. A native wildflower and grassland mix will be planted on finished sand and gravel faces (not steeper than 1(V): 2.5(H)). All seed mixes will be agreed with the local authority in advance. Inter-mixed with the planting of native trees and scrubs, restoration surfaces will be seeded with native grasses and wildflowers to provide increased biodiversity. Areas for grassland restoration will be dressed with ca. 0.3 m of topsoil and re-seeded with a grass seed mixture, similar to that used on adjoining lands.

Vertical faces which remain along the southern and western part of the site will be maintained and enhanced to promote biodiversity. Upon decommissioning of the site, it is the Applicant's intention to reinstate the majority of the site back to agricultural use, with a waterbody in the mid-western part of the site. All plant, equipment and temporary structures shall be decommissioned and removed from the site.

#### **4. Planning history and planning context including the current substitute consent application**

Hudson Brothers Ltd. is a family run aggregate and aggregate products company that is headquartered outside Blessington, Co. Wicklow. It has operated from the subject site and adjoining operation since the 1950s.

Their headquarters operations span two counties, with extraction and aggregate processing operations in both counties Wicklow and Kildare. The operational facility consists of the following: a pit, processing plant and offices at New Paddocks, Blessington, County Wicklow where the main entrance to their operation exists onto a local road that accesses the N81; and a quarry with processing plant and staff welfare facilities to the rear (north west) of their Wicklow lands over the townlands of Philipstown and Redbog in County Kildare. Generally, the facility is approximately

2 km north of Blessington, Co. Wicklow. It should be noted that access to the current quarry operated by Hudson Brothers is shared with J.W Carnegie & Co who operate the existing quarry to the east. That shared access is used by both parties in an amicable and cooperative manner.

Hudson Brothers operational facility, though trans-county is not a single, contiguous land unit. There is aggregate extraction and processing and ancillary development in each county, with the product from the Kildare land unit being hauled to the Wicklow land unit for onward processing and / or dispatch. The area of quarrying operations located within County Wicklow, and subject to a 25 year permission, is not in dispute from a planning perspective.

Table 1 below shows that Hudson Brothers Ltd. has its origins in the 1950s, when 3 brothers worked in quarrying businesses in and around Blessington. Hudson Brothers Ltd. has been continuously trading since 1971 and have continued to focus on their aggregate working and processing core competency to be a leading supplier of construction aggregates. This focus is evident in their significant investment in qualified personnel and laboratory equipment to ensure that all products are certified and fit for purpose.

Hudson Brothers Ltd. continues to be run by Hudson family members and, construction recession and Covid-19 suspensions discounted, directly employs circa 50 people. All employees live locally, and many of them are intergenerational Hudson Brothers employees. The company therefore holds intrinsic knowledge and capabilities about the lands of the facility, the working of its reserve, and its potential.

**Table 1 Hudson Brothers Evolution**

<b>Hudson Brothers Ltd. Operational Facility Formation</b>	
<b>Date</b>	<b>Main Event</b>
Early 1950's	Peter, Sean & Patrick Hudson all worked as employees in quarrying business in the Brittas, Ballymore Eustace and Blessington areas.
1955	Owen McDermott's, owner and operator interest of quarry at Philipstown Townland, Co. Kildare comes to Hudson Brothers.
1960's	William Headon owned quarry at Philipstown Co. Kildare that was taken over by Hudson Brothers.
1971	The Hudson Bros. Ltd. Company was formed (Peter, Sean & Patrick Hudson all Directors)
ca. 1982	Hudson Bros. Ltd. purchased existing quarries at Philipstown and Redbog, both located in Co. Kildare, and continued extracting at these townlands.
1986/87	Hudson Bros. Ltd. purchased existing quarries at New Paddocks, Old Paddocks and Santryhill, located in Co. Wicklow, and continued extracting at these townlands.

Setting aside the grant of planning permission for 25 years by WCC under their reg. ref. 06/6932, for what is essentially the administrative part of the business, the key planning decisions are as follows:

- S261 registration by KCC and WCC;
- Planning permission granted under KCC reg. ref. 07/267;
- Refusal of planning permission under KCC reg. ref. 19/1230 for a maintenance shed;
- Invalidated planning application under KCC reg. ref. 20/511 for continuation of development granted under 07/267 and extended area of quarrying extraction;
- Invalidated planning application under KCC reg. ref. 20/532 for continued use for quarrying of aggregates and ancillary plant and welfare facility; and
- The grant of leave to apply for Substitute Consent conferred on the applicant by ABP under your Reg. Ref. 211633 on 1<sup>st</sup> August 2023.

### ***S261 registration by KCC and WCC***

Aggregate extraction and processing in the general area is an historic use with the application lands having been used for aggregate production and aggregate processing since at least the 1950's ie. well before 1963. Following the coming into force of section 261 of the PDA in 2004, the applicant registered their facility with both WCC under their reg. ref. QY/43, and KCC under their reg. ref. QR/42. The applicant's operational facility was correctly and properly registered in accordance with section 261 of the PDA and both registrations related to pre 1963 quarrying.

### ***Planning permission granted under KCC reg. ref. 07/267***

Following the registration of the applicant's existing operation under S261, by both local authorities, respective planning applications for the continuance of the extraction area were submitted to WCC under their reg. ref 06/6932 and KCC under their reg. ref. 07/267. As indicated above the application to WCC was successful and was granted permission for 25 years.

Planning permission was granted by KCC under their reg. ref. 07/267 for the following: continuation of aggregate extraction and processing at Philipstown and Redbog, by mechanical means, blasting, aggregate processing, washing, screening, crushing, power house, control rooms, office building, portacabin/canteen, water recycling plant, lagoons, landscape berms and all associated site works. As indicated above the term of that permission was for 10 years. Permission was ultimately granted in April 2010 and expired on 18<sup>th</sup> September 2020.

Permission for 07/267 was subject to a number of planning conditions, the most notable of which included conditions 3 and 5:

*'3. Activities at the facility shall be restricted to the excavation, processing, haulage and storage of rock, sand and gravel material and their transportation off site.*

*5. This permission is for a period of 10 years from the date of this permission unless at the*

*end of this period a further permission has been granted for its continuance on site.'*

Mindful of the fact that their planning permission under 07/267 expired in September 2020 Hudson Brothers lodged a planning application to essentially renew the 07/267 permission under a separate application under WCC reg. ref. 20/511 earlier that year and well before the expiry of the 07/267 permission.

Under 07/267 it should be noted this applicant solely appealed the contributions sought from KCC under ABP reg. ref. PL09.235502.

***Refusal of planning permission under KCC reg. ref. 19/1230 for a maintenance shed***

Whilst considering the preparation of a renewal of 07/267, it became apparent that a key component of their operation, namely a maintenance shed did not have the benefit of planning permission and in order to rectify this, this applicant applied for retention of that shed under KCC reg. ref. 19/1230. The planning permission sought was for the following:

*'Retention of a single storey truck and plant maintenance shed of circa 432 square metres gross floor area that includes staff welfare facilities of a shower and W.C.; an underbody truck wash located on the concrete apron surrounding the shed; proprietary wastewater treatment system; interceptor; soakaway; and all ancillary works.'*

That above application for a truck and plant maintenance shed also comprised staff welfare facilities, underbody truck wash located on a concrete apron surrounding the shed, proprietary wastewater treatment system and soakaway, and all ancillary works.

KCC's grant of planning permission for that maintenance shed was appealed by a third party under the leave to appeal process (ABP reg. ref. ABP-307456-20) on the basis that the inclusion of a maintenance shed was considered a material difference to the permission expressly limited or prescribed by way of condition no. 3 attached to 07/267. The Board in determining the subsequent third party appeal under their reg. ref. 307870 and deciding to refuse planning permission, considered that it was not in a position to grant planning permission for a shed that was to extend an unauthorised development in the first place. The Board presented the following reason for refusal in its Order:

*'The truck and plant maintenance shed relates to a site the use of which is unauthorised for quarrying activity. The development to be retained would facilitate and support this unauthorised use. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for retention for the development in such circumstances.'*

That shed was subsequently incorporated within a further application to essentially extend the life of activities granted under 07/267 and to extend the extent of quarrying in a prospective manner. That application for continuance and extension of activities was allocated KCC reg. ref. 20/511.

When that application for retention was refused planning permission, attention focussed on the part of the applicant to extend the life of 07/267 and to extend the spatial extent of prospective quarrying. In doing so Hudson Brothers were mindful of the fact that they had received confirmation from KCC in a letter dated 9<sup>th</sup> September 2020 that the effective date of expiry of

07/267, based on 9 no. additional days over each Christmas over a period of 10 years (90 days) and a further 56 days due to emergency Covid 19 legislation, was 18<sup>th</sup> September 2020.

***Invalidated planning application under KCC reg. ref. 20/511 for continuation of development granted under 07/267 and extended area of quarrying extraction***

On 22<sup>nd</sup> May 2020, before the expiry of 07/267, confirmed by KCC as being 18<sup>th</sup> September 2020, Hudson Brothers lodged their planning application 20/511, to effectively regularise all planning matters on site. That application was declared as invalid by KCC and could not progress through to determination.

***Invalidated planning application under KCC reg. ref. 20/532 for continued use for quarrying of aggregates and ancillary plant and welfare facility***

This was a further attempt to regularise planning for the subject quarry and related activities under 20/532 having had 20/511 invalidated. That application was lodged on 27<sup>th</sup> May 2020 with a Request for Further Information dated 22<sup>nd</sup> July 2020 and with Further Information received by KCC from this applicant on 1<sup>st</sup> October 2020. As part of the assessment of that FI the planning case officer undertook a site visit on 30<sup>th</sup> October 2020. As part of that site visit, he/she was able to identify that activity granted under 07/267 was still occurring beyond the effective expiry date of 18<sup>th</sup> September 2020. The applicant genuinely believe that they could continue their operations beyond 18<sup>th</sup> September 2020 with a planning application presented to KCC well before that date.

The invalidation of the application 20/532 necessitated an application for leave to apply for substitute consent. That subsequent application under S261A of the PDA is be considered concurrently by the Board with this Section 37L application.

As was pointed out in the planning statement accompanying the application for leave to apply to the Board, the applicant had no recourse to lodge any appeal in circumstances where the rejection of their application was entirely unexpected. In those circumstances Hudson Brothers received legal advice that the WCC determination of 20/532 was contrary to law and in those circumstances an application for Judicial Review was made to the High Court under court reference 2021/01 in January 2021. The Board will be aware, from the planning statement accompanying the leave to apply application to the Board, that those legal proceedings have been adjourned with the agreement of WCC pending the lodgement and determination of a substitute consent application.

As indicated previously to the Board, suspensions (plural) of construction sites induced by Covid 19, were reducing and normal demand and pressures for aggregates were returning and the applicant had to consider their own financial obligations to its staff and creditors. Given that no application for 'normal' planning permission was possible, it was no longer financially viable for the suspension of extraction operations on the KCC lands to continue. Accordingly, business and extraction recommenced in the south west within the 07/267 boundary where there was, and remains, economic reserve. As indicated previously, there is no alternative available other than seeking substitute consent in light of the rejection of 20/532.

The point of going through this planning history is to indicate delays experienced by the applicant to this point in the context of them knowing that their existing operation needed to be regularised before extraction could be expanded.

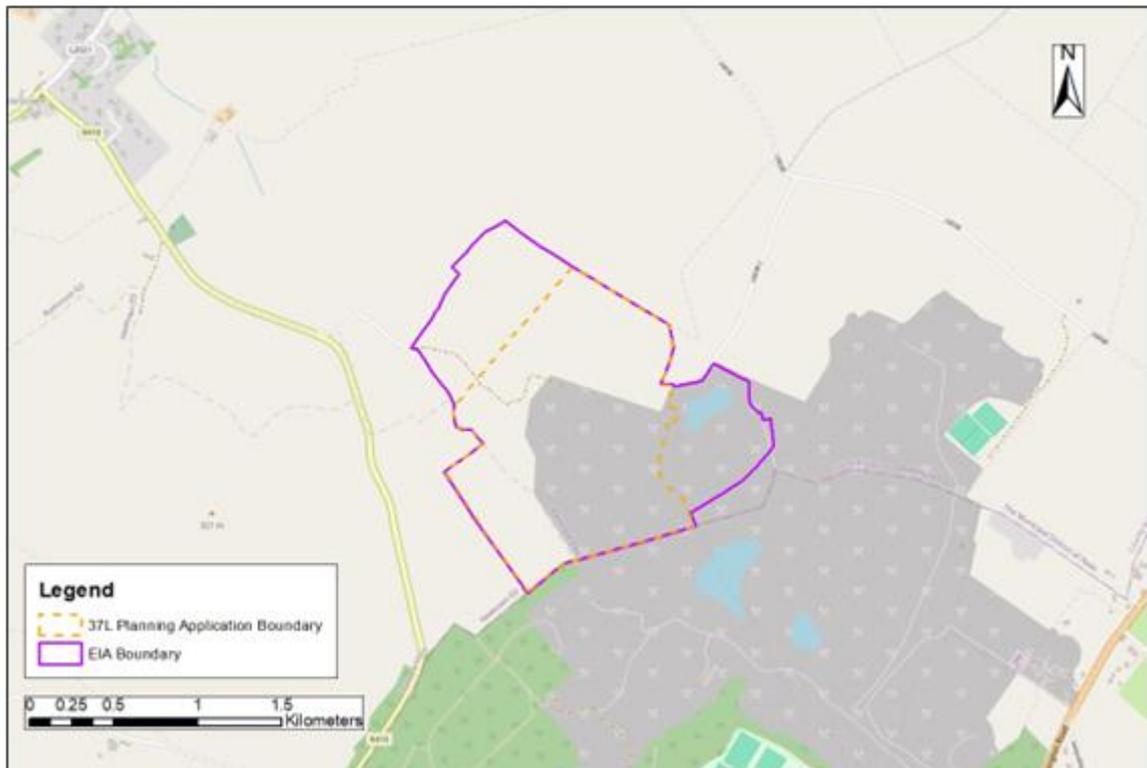
## **5. The application site, the existing operation and EIA boundary**

### *The Application Area*

The S37L application area holds the main pit extraction area of the quarry and also: (1) a proposed northern extension of approximately 21.2 ha in total of which 17.7 ha comprises an internal extraction area; and (2) a western extension of approximately 10.2 ha in total of which there is an internal extraction area of approximately 9.4 ha.

The extent of this S37 application boundary is shown in Figure 2 below.

**Figure 2:** *Extent of this S37L Planning Application Boundary*



It should be noted that the application site is located in relatively close proximity to a Gas Networks Ireland (GNI) pipeline. The applicant is not permitted to develop within 14m of that pipeline and no development is proposed in what the applicant has identified as a development free corridor which is indicated in green in the accompanying drawings. It is our understanding that this is not a registered wayleave and that it is best represented in key drawings as green, ie kept free from development, rather than indicated as yellow as would be customary for registered wayleaves.

## **6. Key relevant legislation in respect of quarries**

The principal Act in this case is the Planning and Development Act 2000, as amended, the 'PDA', which replaced the 1963 Act.

Section 261 of the PDA was commenced in 2004 and required that all owners and operators of quarries (rock quarries and sand pits) that held pre-1963 status, or whose planning permission

was more than 5 years old, had to register basic information about their site with the appropriate local authority. Each local authority then determined whether revised operating conditions would be imposed, or the quarry was required to seek planning permission for continuation with EIAR by reason of the land use exceeding EIA thresholds or the site would be required to close where it was not established as pre-1963 or found to hold planning permission. S261 registration of quarries was to be completed by 2005 with it being an offence not to register.

S37L of the PDA sets out the particular circumstances where this type of permission may be sought and previously limited the type of development for which planning permission may be sought under that section of the PDA to just quarrying activity. That has changed very recently as a result of Planning and Development Maritime and Valuation (Amendment) Act 2022 (Commencement of Certain Provisions) (No.2) Order 2023 (SI 645 of 2023).

A S37L application may only be sought where there is a substitute consent application in being, as in this case. It is a statutory requirement that both the substitute consent application and S37L application be lodged with the Board at the same time.

S37L had previously, prior to 20<sup>th</sup> December 2023, stipulated that proposed development under that section of the PDA was to be only for further development of a quarry as a quarry. That prior prescription has primarily informed the extent and the appearance of the proposal now before the Board under S37L. In summary this proposal comprises extraction works, the application site only relates to the quarry only, and is further quarrying. This S37L application remains contingent upon the making and outcome of the accompanying application for substitute consent which is concurrently before the Board. That 'retrospective' application under S261A is accompanied by an rEIAR, remedial Appropriate Assessment, and cover letter that provides a full rendition of the key statutory provisions in relation to planning permission for existing quarries, this quarry's recent planning history and the reason for substitute consent arising.

*Planning and Development, Maritime and Valuation (Amendment) Act 2022 (Commencement of Certain Provisions) (No. 2) Order 2023 (SI 645 of 2023)*

This amendment to the PDA coming into effect on 16<sup>th</sup> December 2023 indicates also that it extends all simultaneous applications for both retrospective and future facing development to the Board from quarries to cover all development types. The letter also allows for pre-application consultations with the Board on proposed applications. The letter also makes provision for receiving from the Board an opinion as to whether it is appropriate for permission to be made before certain details of the proposed development are confirmed for which a separate circular letter will issue in due course.

The Applicant has had regard to the relatively late introduction of this Act and the accompanying circular letter EUIPR 02/2023 in the formulation of this S37L planning application. The subject S37L application would have in any case been confined to extraction activity only and can be assessed by the Board as such.

## **7. Planning guidance and policy**

*National Planning Framework (Project Ireland 2040) and National Development Plan 2018-2027*

These joint documents set out a vision for the future development of the State and support the sustainable development of rural areas by encouraging growth. National Policy Objective 23 seeks to *‘Facilitate the development of the rural economy through supporting, amongst other sectors, a sustainable and economically efficient extractive industry sector, whilst at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.’*

On page 78 under the heading ‘Aggregates and Minerals’ the importance of the aggregates and minerals sector to the Irish economy and to development in general is recognised where it stated in the NPF that:

*‘Extractive industries are important for the supply of aggregates and construction materials and minerals to a variety of sectors, for both domestic requirements and for export. The planning process will play a key role in realising the potential of the extractive industries sector by identifying and protecting important reserves of aggregates and minerals from development that might prejudice their utilisation.’*

*Aggregates and minerals extraction will continue to be enabled where this is compatible with the protection of the environment in terms of air and water quality, natural and cultural heritage, the quality of life of residents in the vicinity, and provides for appropriate site rehabilitation.’*

*Quarries and Ancillary Activities: Guidelines for Planning Authorities*

These guidelines were issued by the Department of Environment, Heritage and Local Government in April 2004, and whilst relatively outdated, are of relevance insofar as they are the only national planning guidance available covering the control and development of quarries and the extractive industries. They provide guidance to planning authorities on planning applications and development plan policy as well as section 261 of the 2000 Act. The importance of quarries is emphasised and the continued need for aggregates is highlighted. The potential for environmental impacts is strongly recognised as being a key consideration.

Since aggregates can only be worked where they occur, these guidelines acknowledge the priority to be given to identifying the location of major deposits, and to including a commitment to safeguard valuable unworked deposits for future extraction. The Guidelines recognise that quarries and development around the extractive industries generate often generate unique environmental impacts and require environmental assessments and the application of appropriate planning conditions such as relating to noise and vibration, dust, water supplies and groundwater, traffic, archaeology, water, environmental monitoring, waste management, contributions, extraction limits.

Section 1.3 of these guidelines state that:

*‘aggregates are an essential input to the construction industry, worth about €20billion to the Irish Economy each year’*

It is further stated that:

*‘there will be a continuing need for some new or expanded aggregate quarrying operations on land to meet regional and local requirements. There is thus a need to identify and protect aggregate resources areas through the planning system, to ensure an adequate supply of aggregates to meet the likely scale of future demand, while at the same time protecting Ireland’s natural and cultural heritage.’*

Whilst the guidelines recognise the importance of the supply of aggregates to the Irish economy they are also sensitive to the potential environmental effects of quarries, sand and gravel pits, and provide guidance on appropriate mitigation measures for each identified effect. Guidance is also provided on restoration and after-use. These guidelines have been carefully considered in the formulation of this S37L application.

#### *Eastern and Midlands Regional Assembly Regional Spatial and Economic Strategy*

The Eastern and Midlands Regional Assembly (EMRA) Regional Spatial and Economic Strategy (RSES) 2019-2031 sets out regional goals and objectives deriving from the NPF.

Under the title ‘Enabling and Sustaining the Rural Economy’ the RSES states that *‘The rejuvenation of rural towns and villages requires that appropriate job creation can be supported in rural areas. Traditional sectors such as agriculture, tourism, extractive industries and forestry are complemented by diversification in [other] sectors’*. There is an explicit recognition of the need to accommodate and maintain extractive industries in the countryside.

Regional Policy Objective 6.7 also encourages extractive industry development where it states that the regional authority will:

*‘Support local authorities to develop sustainable and economically efficient rural economies through initiatives to enhance sectors such as agricultural and food, forestry, fishing and aquaculture, energy and extractive industries, the bioeconomy, tourism, and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage.’*

The need to reconcile rural based employment and activity with the needs of tourism and protecting the environment is recognised in these guidelines such as building on strengths to sustain a strong economy and support the creation of jobs and to ensure a good standard of living for all.

It is interesting to note that page 94 of the RSES indicates that Blessington is one of those towns recording the highest growth rate in the country over the 10 years prior to the adoption of the RSES at >32% but with lower levels of employment provision.

*Kildare County Development Plan 2023-2029*

The relevant statutory development plan currently covering the this application site is the Kildare County Development Plan (CDP) which took effect from February 2023. There are an extensive list of policies and objectives covering quarrying and the operation of aggregates within the county and the CDP is largely supportive of such activities in rural areas and where the natural resources are located.

The application site is zoned Objective I Agriculture.

Chapter 9 'Our Rural Economy' recognises in section 9.1 that activities in the countryside, such as extractive industries, whilst although in some cases absolutely necessary, represent competing demands on the rural resource and while there are economic opportunities associated with these, they require very careful management.

Section 9.9 (**Mineral Resources and Extractive Industry**) states the following key points.

- Mineral resources are generally located within the rural area. Reserves of suitable material are finite, and the nature of the extractive industry is such that the industry must be developed where the resource occurs.
- The industry can have damaging environmental effects and permission will only be granted where the council is satisfied that residential and natural amenities will be protected, pollution will be prevented, and aquifers and ground water safeguarded.
- Whilst the environment must be protected there must be adequate supplies of aggregates and to facilitate the exploitation thereof to meet the future needs of the county and region in line with the principles of sustainable development and environmental management.
- Aggregate resources are important to the general economy with over 500 active quarries nationally in 2018, directly employing over 5,000 people.
- The industry provides a valuable source of employment in some areas of the county and the sector is vital to ensure provision of raw materials for the construction industry to facilitate construction of infrastructure to accommodate the existing and anticipated population growth in the county over the lifetime of the Plan and beyond.
- Extraction sites have long term environmental impacts and can significantly alter the landscape therefore there is a need to manage this impact particularly in sensitive landscapes as outlined in Chapter 13 of the Plan – Landscape, Recreation & Amenity. While siting is based on resource locations, the Council will protect high amenity/special/unique sensitivity areas and limit new and/or extending existing extractive industries in these areas.

Section 9.9.1 sets out the County Council's 'after use' strategy for quarries. Rehabilitating ecology and biodiversity and restoration plans will provide for a mosaic of habitats. Infilling and backfilling may be preferred to reverting to agricultural grassland for ecological and biodiversity purposes.

Policy RD P8 states that the County Council will:

*‘Support and manage the appropriate future development of Kildare’s natural aggregate resources in appropriate locations to ensure adequate supplies are available to meet the future needs of the county and the region in line with the principles of sustainable development and environmental management and to require operators to appropriately manage extraction sites when extraction has ceased.’*

The following **extractive industry specific** objectives are particularly relevant to this application:

*‘RD O42 Ensure that development for aggregate extraction, processing and associated concrete production does not significantly impact the following: - Special Areas of Conservation (SACs) - Special Protection Areas (SPAs) - Natural Heritage Areas (NHAs) - Other areas of importance for the conservation of flora and fauna. - Zones of Archaeological Potential. - The vicinity of a recorded monument. - Sensitive landscape areas as identified in Chapter 13 of this Plan. - Scenic views and prospects. - Protected Structures. - Established rights of way and walking routes. - Potential World Heritage Sites in Kildare on the UNESCO Tentative List, Ireland.*

*RD O43 Consult with the Geological Survey of Ireland (GSI), with regard to any developments likely to have an impact on sites of Geological Importance listed in Chapter 12 of this Plan.*

*RD O44 Require applications for mineral or other extraction to include (but not limited to):*

*- An Appropriate Assessment Screening where there is any potential for effects on a Natura 2000 site (see Chapter 12).*

*- An Environmental Impact Assessment Report (EIAR). –*

*- An Ecological Impact Assessment may also be required for subthreshold developments to evaluate the existence of any protected species / habitats on site.*

*- A detailed landscaping plan to be submitted indicating proposed screening for the operational life of the site. The predominant use of native plant species in the proposed landscaping plan will be expected.*

*- Detailed landscaping and quarry restoration plans. Habitats and species surveying shall be carried out and shall influence the restoration plan for the site.*

*- Comprehensive Site Restoration Plan and/or After-Use Strategy having regard to the principles of ‘Rehabilitation Ecology’*

*- Transport Impact Assessment*

*RD O45 Require, where permission is granted for quarrying/extraction of aggregates, the submission by the developer of a bond (cash deposit, bond from an insurance company or other security acceptable to the planning authority) to ensure the satisfactory completion and restoration of the site.*

*RD O46 Require road re-instatement work to be on-going during operations, in the interests of road and traffic safety. Works undertaken to re-instate/improve the public road should be undertaken by the quarry developer or paid by them and completed by the Council.*

*RD O47 Protect and safeguard the county's natural aggregate resources from inappropriate development.*

*RD O48 Manage the finite aggregate resources being mined by the extractive industries in the county to supply the future needs of our region while working to reach our climate change targets.*

*RD O49 Have regard to the following guidance documents (as may be amended, replaced, or supplemented) in the assessment of planning applications for quarries, ancillary services, restoration and after-use:*

*- Quarries and Ancillary Activities: Guidelines for Planning Authorities, DEHLG (2004). - Environmental Management Guidelines*

*– Environmental Management in the Extractive Industry (Non-Scheduled Minerals), EPA (2006).*

*- Archaeological Code of Practice between the DEHLG and ICF (2009). - Geological Heritage Guidelines for the Extractive Industry (2008).*

*- Wildlife, Habitats, and the Extractive Industry – Guidelines for the protection of biodiversity within the extractive industry, NPWS (2009).*

*RD O50 Ensure the satisfactory and sensitive re-instatement and/or re-use of disused quarries and extraction facilities, where active extraction use has ceased. Future uses should include amenity, recreation and biodiversity areas shall be informed by an assessment of the specific site/lands and shall be subject to an ecological impact assessment or other environmental assessments as appropriate. Where it is proposed to reclaim, regenerate, or rehabilitate old quarries by filling or re-grading with inert soil or similar material, or to use worked-out quarries as disposal locations for inert materials, the acceptability of the proposal shall be evaluated against the criteria set out in Section 15.9.6 of this Plan. The Council will resist development that would significantly or unnecessarily alter the natural landscape and topography, including land infilling/reclamation projects or projects involving significant landscape remodelling, unless it can be demonstrated that the development would enhance the landscape and / or not give rise to adverse impacts.*

*RD O51 Require that quarry remediation plans provide for environmental benefit, biodiversity and re-wilding in all instances. The 80% requirement for environmental/biodiversity may be waived at sites closer to urban areas where a significant portion of the site is being provided for sports, recreation, and amenity.'*

Section 15.9.6 (**Extractive Industry**) states that:

*'When assessing planning applications for quarry and ancillary developments, the Council will have regard to:*

- *Section 261 and Section 261A of the Planning and Development Act, 2000 (as amended);*
- *the Quarries and Ancillary Activities Guidelines 2004 and any amendments to the Guidelines which may be made, and*
- *the Environmental Protection Agency's (EPA) publication 'Environmental Management in the Extractive Industry (non-scheduled minerals)' 2006.*

*In addition to the above, all planning applications for quarry and ancillary developments, such as batching plants, crushing and screening, shall appropriately detail the environmental baseline of the area in which extraction is proposed, the likely impacts and proposed mitigation measures relating to;*

- *Human health;*
- *Groundwater, surface water and important aquifers and compliance with the objectives of the Water Framework Directive;*
- *Natura 2000 sites (Special Areas of Conservation and Special Protection Areas), Natural Heritage Areas, proposed Natural Heritage Areas and other sites for environmental or ecological protection such as Statutory Nature Reserves, Ramsar Sites, Wildfowl Sanctuary and Biogenetic Reserves;*
- *Flora and fauna;*
- *Sensitive local receptors such as residences, Areas of High Amenity, Landscape Sensitivity Areas, Key Scenic Views and Prospects, and Key Amenity Routes as outlined in Chapter 13 of this Plan;*
- *Landscaping, berms and screening proposals;*
- *Local transportation networks with particular reference to details of haul routes, trip movements and articulated lorry weights;*
- *Noise, vibration, and dust emissions; and*
- *Archaeological and architectural heritage of the area.*

Planning applications shall also include general details on the proposed development as follows:

- *Project description:*
- *Map(s) showing (a) total site area, (b) area to be excavated, (c) any ancillary proposed development, (d) nearest dwellings or any other development (within 1 km of the site); Description of aggregate to be extracted and / or processed;*
- *Description of cumulative impact when taken together with all other quarries in the vicinity;*
- *Method of extraction and equipment to be used;*

- *Details of storage of materials and overburden;*
- *Total and annual tonnage of extracted aggregates, expected life of the extraction, maximum extent and depth of working;*
- *Details of any blasting;*
- *Fuel and chemical storage;*
- *Floor levels showing depths of extraction;*
- *Phasing programme for extraction and rehabilitation;*
- *Restoration and after care proposals for the site (plans and section drawings), including long-term quarry face stability, long-term water pollution potential and control, removal of buildings, plant and machinery, fencing and security.*
- *Remediation plans provide for environmental benefit, biodiversity, and re-wilding rather than simply re-grassing and reverting back to agricultural use / sheep grazing.*

*In order to facilitate the sustainable development of the extractive industry, the Council will require the lodgement of a financial bond to ensure the satisfactory reinstatement of the site following the completion of extraction and the payment of an adequate contribution towards the upgrading or repair of the local road network.*

*Traffic Assessments and Road Safety Audits may be required as part of any application. Proposals for batching plants, crushing, and screening on exhausted quarry sites are required to provide details on the source of aggregate and also the number of expected trips from source to plant and then from plant to offsite.'*

In addition to the above, it is also stated that:

- *The Council favours the use of existing authorised and planning compliant quarries over proposals for extraction from green field sites.*
- *The Planning Authority, may in certain instances, depending on the size and characteristics of the proposed development, require the preparation of a Natura Impact Statement, Environmental Impact Statement, and other assessments. However, it should be noted that the Council may require additional information, as necessary, on a case-by-case basis.'*

Section 1.8.1 (**Key Guiding Principles**) states that a key principle for the 2023 County Development Plan is identified as '(vii) *To recognise the role of the rural countryside in supporting the rural economy and its role as a key resource for . . . .tourism, recreation, mineral extraction, and rural based enterprises*'. The balance between providing for rural enterprises including aggregate working and quarrying and promoting tourism is therefore recognised. There are also key principles to protect the quality of the landscape, open space, recreational resources, natural, architectural, archaeological, and cultural heritage and the material assets of the county under key principle (ix); to facilitate the delivery of objectives contained in the Kildare Local Economic

and Community Plan (LECP) 2016- 2021 and any succeeding Plan under key principle (x); and finally to promote co-ordinated spatial planning to conserve and enhance biodiversity under key principle (xi).

The **preferred development strategy** for the county (section 2.11.1) indicates that a priority of the County Plan is to diversity rural enterprise and economic activity and to protect the environment by recognising the various environmentally sensitive zones within the county but not to exclude appropriate and otherwise acceptable uses and development.

Policy RE P1 is a positive presumption in terms of employment creation and therefore it is Council policy to examine such proposals within non-designated employment locations on a case-by-case basis for example employment related development in a location clearly linked to a rural resource activity, such as in this case.

Policy RE P2 supports and facilitates the economic development of the county in accordance with the Kildare 2025 (Economic Development Strategy).

Section 9.1 of the current CDP recognises that traditional sectors such as agriculture, extractive industries, and forestry will be important in helping Kildare reach targets in relation to climate change and will play a vital role over the coming years, and the period of this CDP to help Ireland reach its climate targets particularly in relation to food security, carbon storage, provision of renewable energy, reducing emissions, protection of water bodies and increasing biodiversity.

The Kildare CDP seeks to upgrade the N81 within the county of Kildare. Objective TM A24 states that it is an objective to:

*‘Upgrade the section of the N81 National Secondary Road (Tallaght/Baltinglass) that is located within County Kildare subject to funding and in accordance with the requirements of TII and subject to AA screening and where applicable, Stage 2 AA so as to ensure and protect the favourable status of European sites and their hydrological connections.’*

In respect of **biodiversity** there are a number of relevant policies and objectives. These include the following:

*‘Policy BI P1 Integrate in the development management process the protection and enhancement of biodiversity and landscape features by applying the mitigation hierarchy to potential adverse impacts on important ecological features (whether designated or not), i.e. avoiding impacts where possible, minimising adverse impacts, and if significant effects are unavoidable by including mitigation and/or compensation measures, as appropriate. Opportunities for biodiversity net gain are encouraged.*

*Objective BI O6 Apply the precautionary principle in relation to proposed developments in environmentally sensitive areas to ensure that all potential adverse impacts on a designated NHA or Natura 2000 Site arising from any proposed development or land use activity are avoided, remedied, or mitigated.*

*Objective BI O7 Pursue insofar as possible and practical, a policy of biodiversity net gain through strategies, plans, developments, mitigation measures, appropriate offsetting and/or investment in Blue-Green infrastructure.*

*Policy BI P2 Seek to contribute to maintaining or restoring the conservation status of all sites designated for nature conservation or proposed for designation in accordance with European and national legislation and agreements. These include Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Natural Heritage Areas (NHAs), Ramsar Sites and Statutory Nature Reserves.*

*Objective BI O9 Avoid development that would adversely affect the integrity of any Natura 2000 site and promote favourable conservation status of habitats and protected species including those listed under the Birds Directive, the Wildlife Acts and the Habitats Directive, to support the conservation and enhancement of Natura 2000 Sites including any additional sites that may be proposed for designation during the period of this Plan and protect the Natura 2000 network from any plans and projects that are likely to have a significant effect on the coherence or integrity of a Natura 2000 Site.*

*Objective BI O10 Ensure an Appropriate Assessment Screening, in accordance with Article 6(3) and Article 6(4) of the Habitats Directive, Section 177A of the Planning and Development Act (2001-2022) or any superseding legislation and with DEHLG guidance (2009), is carried out in respect of any plan or project not directly connected with or necessary to the management of a Natura 2000 site to determine the likelihood of the plan or project having a significant effect on a Natura 2000 site, either individually or in combination with other plans or projects and to ensure that projects which may give rise to significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites will not be permitted (either individually or in combination with other plans or projects) unless for reasons of overriding public interest.'*

Table 12.2 of the current CDP identifies the Natural Heritage Areas in Co. Kildare which includes Red Bog pNHA. Poulaphouca Reservoir is also identified in the same Table 12.2 as an NHA. The following policies and objectives apply to **Designated Sites**.

*'Policy BI P3 Ensure that any proposal for development within or adjacent to a Natural Heritage Area (NHA), Ramsar Sites and Nature Reserves is designed and sited to minimise its impact on the biodiversity, ecological, geological and landscape value of the site, particularly plant and animal species listed under the Wildlife Acts and the Habitats and Birds Directive including their habitats.*

*Objective BI O12 Require the preparation of an Ecological Impact Assessment (EclA) by a suitably qualified professional for proposals for development within or adjacent to a Natural Heritage Area (NHA)/proposed Natural Heritage Areas (pNHA), to ensure the development is designed and sited to minimise its impact on the biodiversity, ecological, geological and landscape value of the site, particularly plant and animal species listed under the Wildlife Acts. Such assessments shall be carried out in line with the CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine.*

*Objective BI O14 Conserve, preserve and protect the integrity of and maintain the favourable conservation value/status within or adjacent to Ramsar Sites, Statutory Nature Reserves, Biogenetic Reserves, Wildfowl Sanctuaries, all existing and proposed NHAs. They should be designed and sited so as to minimise their impact on the ecological and*

*landscape values of these sites under National and European legislation and International Agreements.'*

In respect of **protected habitats and species** it is stated that:

*'Policy BI P4 Ensure that any new development proposal does not have a significant adverse impact, incapable of satisfactory mitigation on plant, animal or bird species which are protected by law.*

*Objective BI O15 Ensure that any new development proposal does not have a significant adverse impact on rare and threatened species, including those protected under the Wildlife Acts 1976 and 2012, the Birds Directive 1979 the Habitats Directive 1992 and the Flora Protection Order species and any species listed under the national red lists or that could be listed on a national red list.*

*Objective BI O16 Ensure appropriate species and habitat avoidance and mitigation measures are incorporated into all new development proposals.*

*Objective BI O17 Require a derogation licence, where necessary, issued by the DHLGH, in the event of a proposed development impacting on a site known to be a breeding or resting site of species listed in the Habitats Directive (Annex IV species).*

*Objective BI O18 Require all applications for new developments to identify, protect and sensitively enhance the most important ecological features and habitats, and incorporate these into the overall open space network, keeping free from development and to provide links to the wider Green Infrastructure network as an essential part of the design process and by making provision for local biodiversity (e.g. through provision of swift boxes or towers, bat roost sites, hedgehog highways, green roofs, etc.).*

*Objective BI O22 Identify and protect areas of high nature conservation value (including but not limited to SAC/SPA/pNHA) and support the landscape features which act as ecological corridors/networks and stepping-stones, such as river corridors, hedgerows, and road verges so as to minimise the loss of habitats and features of the wider countryside which are of major importance for wild fauna and flora in accordance with Article 10 of the Habitats Directive.'*

Table 12.5 of the CDP entitled 'County Kildare Wetland Survey Sites - Rating of Importance of Ecological Sites' includes both Red Bog SAC, Red Bog pNHA and Poulaphouca Reservoir SPA, pNHA, and also Wicklow Mountains SPA. In regard to **wetland areas** the following policies and objectives are relevant.

*'Policy BI P8 Ensure that Kildare's wetlands and watercourses are retained for their biodiversity, climate change mitigation properties and flood protection values and at a minimum to achieve and maintain at least good ecological status for all wetlands and watercourses in the county by, at the latest, 2027 in line with the Water Framework Directive and Ramsar Convention.*

*Objective BI O49 Protect wetland sites that have been rated A (International), B (National) C+ (County) and C (Local) importance as identified in the County Kildare Wetlands Survey*

2012-2014, (See Tables 12.5 & 12.6). Any development within the zone of influence of these listed wetland sites should be subject to EclA and where appropriate, hydrological impact assessment.

*Objective BI O50 Protect and conserve wetlands from infilling, drainage, fragmentation, degradation, and resist development that would destroy, fragment, or degrade any wetland identified as part of the County Kildare Wetland Survey 2012-2014, (See Table 12.6).*

*Objective BI O52 Require the preparation and submission of a Hydrological Report/Assessment for significant developments within and in close proximity to protected raised bogs and to take account of same in the assessment of impacts on the integrity of peatland ecosystems.*

*Objective BI O55 Protect, conserve, and manage the character and appearance of ecological and archaeological heritage and amenity values of peatland landscapes and historic/ancient walkways through bogs, by promoting high environmental standards.*

*Objective BI O56 Ensure that development proposals or activities that may impact on sensitive water habitats, in particular wetlands (identified as part of the County Kildare Wetland Survey 2012-2014, (See Table 12.6), shall not be permitted without the introduction of mitigation measures agreed in writing with the Council to eliminate negative environmental impacts.'*

In terms of **geology**, Glen Ding is identified in Table 12.7 as a Site of Geological Importance. The following geology based policies and objectives apply therefore.

*'Objective BI P10 Maintain and protect the conservation value of geological sites of national or local importance and seek the sustainable management of the county's geological heritage resource as listed in Table 12.7.*

*Objective BI O60 Consult with the Geological Survey of Ireland regarding any development proposals within or likely to have an impact on Sites of Geological Importance set out in Table 12.7.*

*Objective BI O61 Contribute towards the protection from inappropriate development of Geological Natural Heritage Areas that become designated during the lifetime of this Plan.*

*Objective BI O62 Promote, encourage, and support the provision of access to geological and geo-morphological features of interest in cooperation/consultation with landowners (where appropriate/practicable).*

*Objective BI O63 Where appropriate support the restoration of Sites of Geological Importance (identified in Table 12.7).*

*Objective BI O74 Strengthen ecological networks between urban areas to create greater linkages to Natura 2000 sites, proposed Natural Heritage Areas, parks and open spaces and the wider regional Green Infrastructure network.'*

In respect of **green infrastructure**, which is located in relative close proximity to the application site it is stated:

*‘Objective BI 077 Integrate nature-based solutions and climate change considerations into the design, planning, and implementation of infrastructure provision/ works and development proposals at the earliest possible stage of the design process.*

*Objective BI 078 Actively promote and encourage nature-based approaches and green infrastructure solutions as viable mitigation and adaptation measures to surface water management.’*

In terms of **landscape and visual amenity** there are a number of relevant sections, designations, policies and objectives in the 2023-2029 CDP. These are set out below.

The relevant policies and objectives and permissibility of development within the county according to acceptability in principle within now well established landscape character areas are set out below.

Table 13.3 of the 2023 CDP is reproduced below as our Table 2 below.

**Table 2: Landscape Areas, Landscape Sensitivity Areas and Appropriateness of Uses and Activities**

Compatibility Key		Sensitivity Class	Agriculture and Forestry		Housing	Urbanisation			Infrastructure	Extraction		Energy	
Most	High		Agriculture	Forestry	Rural Housing	Urban Expansion	Industrial Projects	Tourism Projects	Major Powerlines *	Sand & Gravel	Rock	Windfarm	Solar
North Western Lowlands	1	1	High	High	High	High	High	High	High	High	High	High	High
Northern Lowlands	1	1	High	High	High	High	High	High	High	High	High	High	High
Southern Lowlands	1	1	High	High	High	High	High	High	High	High	High	High	High
Central Undulating Lands	1	1	High	High	High	High	High	High	High	High	High	High	High
Western Boglands	3	3	High	High	Medium	Medium	Medium	Medium	Medium	Medium	Medium	Medium	Medium
Eastern Transition	2	2	High	High	Medium	Medium	Medium	Medium	Medium	Medium	Medium	Medium	Medium
Eastern Uplands	3	3	High	High	Medium	Medium	Medium	Medium	Medium	Medium	Medium	Medium	Medium
South-Eastern Uplands	2	2	High	High	Medium	Medium	Medium	Medium	Medium	Medium	Medium	Medium	Medium
<b>Sub-ordinate Landscape Areas</b>													
Northern Hills	4	4	High	High	Low	Low	Low	Low	Low	Low	Low	Low	Low
Chair of Kildare	4	4	High	High	Low	Low	Low	Low	Low	Low	Low	Low	Low
The Curragh	5	5	High	High	Least	Least	Least	Least	Least	Least	Least	Least	Least
Pollardstown Fen	5	5	High	High	Least	Least	Least	Least	Least	Least	Least	Least	Least
Allen Bog	4	4	High	High	Low	Low	Low	Low	Low	Low	Low	Low	Low
River Liffey	4	4	High	High	Low	Low	Low	Low	Low	Low	Low	Low	Low
River Barrow	4	4	High	High	Low	Low	Low	Low	Low	Low	Low	Low	Low
Dun Ailinne	5	5	High	High	Least	Least	Least	Least	Least	Least	Least	Least	Least

**Table 13.3 - Likely compatibility between a range of land-uses and Principal Landscape Areas.**

The subject application site is located within the **Eastern Uplands Landscape Character Area** (LCA). The Eastern Uplands LCA is categorised as sensitivity class 3, of 5, which would indicate a median level of sensitivity – classes 4 and 5 being more sensitive. Within the median sensitivity level of 3, extraction of sand, gravel and rock is shown in yellow as being of median appropriateness and specifically as ‘Likely to be compatible with great care’.

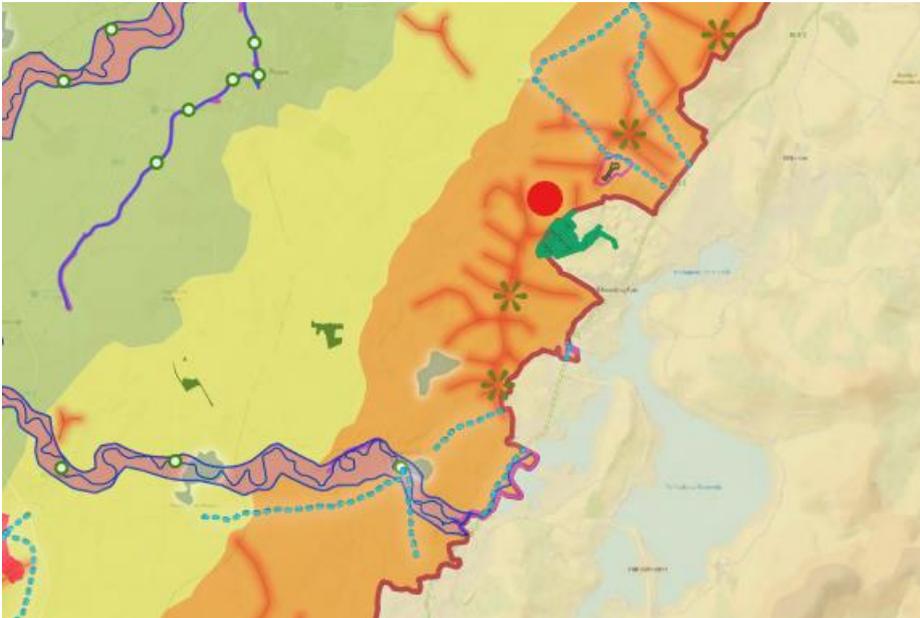
**Table 3: Likely Compatibility of Proposed Land Uses Within Landscape Sensitivity Areas**

5 - Likely to be very compatible in most circumstances. 4 - Likely to be compatible with reasonable care. 3 - Likely to be compatible with great care. 2 - Compatible only in certain circumstances. 1 - Compatible only in exceptional circumstances. 0 - Very unlikely to be compatible.	Agriculture and Forestry		Housing		Urbanisation		Infrastructure		Extraction		Energy	
	Agriculture	Forestry	Rural Housing	Urban Expansion	Industrial Projects	Tourism Projects	Major Powerlines	Sand and Gravel	Rock	Windfarm	Solar	
Proximity within 300m of Principal Landscape Sensitivity Factors.												
Major Rivers and Water bodies	5	5	2	2	2	3	2	1	0	1	0	
Canals	5	5	2	2	2	3	2	1	0	1	1	
Ridgelines	5	5	1	1	1	1	1	0	0	2	0	
Green Urban Areas	4	5	2	0	0	4	3	3	3	2	2	
Broad-Leaved Forestry	3	5	2	2	2	4	3	2	3	1	2	
Mixed Forestry	3	5	2	2	2	4	3	2	3	1	2	
Natural Grasslands	5	2	2	1	1	4	2	1	1	2	2	
Moors and Heathlands	2	2	1	0	0	1	2	1	0	2	1	
Agricultural Land with Natural Vegetation	5	5	2	2	2	3	3	3	3	4	2	
Peat Bogs	0	0	0	0	0	3	2	0	0	2	1	
Scenic View	5	5	2	1	1	5	1	3	0	0	2	
Scenic Route	5	5	2	1	1	5	1	3	0	0	2	

**Table 13.4 - Likely compatibility between a range of land-uses and proximity to Principal Landscape Sensitivity Factors.**

In terms of compatibility with key landscape features sand, gravel and rock extraction is identified as being very unlikely to be compatible with ridgelines. The site is located within 300m of a defined ridgeline as shown in Figure 3 below which accompanies CDP Table V1-13.2 entitled Landscape Sensitivity Area but the landscape and visual assessments undertaken indicate no significant impact on that particular ridgeline. From the above tables rock extraction is of medium compatibility with the sensitivity of the Eastern Uplands Landscape Character Area.

**Figure 3:** *The application site in the context of defined Landscape Character Areas*



In section 13.5.1 (Views to and from Hills) the County Council recognise that as the landform of the county is generally flat, with very little variation in topography and predominantly low vegetation, extensive views can be obtained from hilltops, allowing vistas over long distances, and similarly from the lowland areas the eye is drawn to the primary and secondary ridgelines that define the skyline throughout the county.

It is stated in 13.5.1 that *'Ridgelines are conspicuous features of the natural landscape as they perform an important role as dominant landscape focal points. It is important that development does not interrupt the integrity of ridgelines. Development on steeply sloping land can be viewed over greater distances.'*

In terms of landscape protection and enhancement it is council policy to:

*'Policy LR P1 Protect and enhance the county's landscape, by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the existing local landscape.'*

Furthermore, it is a council objective to:

*'Objective LR O2 Require a Landscape/Visual Impact Assessment to accompany proposals that are likely to significantly affect:*

- *Landscape Sensitivity Factors;*
- *A Class 4 or 5 Sensitivity Landscape (i.e. within 500m of the boundary);*
- *A route or view identified in Map V1 - 13.3 (i.e. within 500m of the site boundary).*

*Objective LR O4 Ensure that local landscape features, including historic features and buildings, hedgerows, shelter belts and stone walls, are retained, protected and enhanced*

*where appropriate, so as to preserve the local landscape and character of an area.*

*LR O7 Restrict the quarrying of sensitive sites within the Landscape Character Areas in line with Table 13.3 and Table 13.4 above and to protect and conserve the ecological, archaeological, biodiversity and visual amenity surrounding quarry sites.*

*Objective LR O8 Ensure that all quarrying activities and projects associated with the extractive industry comply with all relevant Planning and Environmental Legislation and the Guidelines for the Protection of Biodiversity within the Extractive Industry document 'Wildlife, Habitats & the Extractive Industry'.*

*Objective LR O12 Recognise that boglands, including cutaway and cut-over bogs, are critical natural resources for ecological and environmental reasons, particularly for climate mitigation and adaptation. Development proposals for boglands that reduce biodiversity and increase greenhouse gas will not be considered. Appropriate environmental assessment should be carried out for any development proposals which impact on boglands.*

*Objective LR O14 Maintain the visual integrity of Eastern Transition Lands which have retained an upland character.*

*Objective LR O15 Continue to facilitate appropriate development in the Eastern Transition Lands, in an incremental and clustered manner, where feasible, that respects the scale, character and sensitivities of the local landscape, recognising the need for sustainable settlement patterns and economic activity within the county.'*

Section 13.4 (**Areas of High Amenity**) states that '*In addition to Landscape Character Areas and the sensitivity of these areas to development, there are certain special landscape areas within the county, some of which overlap with sensitive landscapes. For the purposes of this Plan these areas have been defined as Areas of High Amenity. They are classified because of their outstanding natural beauty and/or unique interest value and are generally sensitive to the impacts of development.*'

The site in question is not within a defined Area of Amenity. However, Redbog SAC nearby is defined as such an Area. Section 13.4.11 refers to Red Bog SAC which is located 3 km north of the village of Blessington in east Co. Kildare. It comprises a wetland complex of lake, fen and bog situated in a hollow between ridges of glacially deposited material and underlain by rocks of Ordovician age. The site is a Special Area of Conservation (SAC) selected for Transition Mires. Red Bog is of ornithological significance and breeding birds recorded from the site include Mute Swan, Mallard, Tufted Duck, Coot, Moorhen, Snipe and Black-headed Gull.

Section 13.4.12 refers to the **Eastern Uplands specifically** and states as follows:

*'The Eastern Uplands are located in the east of the county and are part of the Wicklow Mountain complex. The topography rises from the lowland plains, through undulating terrain to the highest point of 379m above sea level (O.D.) at Cupidstownhill, east of Killeel. The elevated nature of this area provides a defined skyline with scenic views over the central plains of Kildare and the neighbouring Wicklow Mountains which further define the skyline and the extent of visibility. The East Kildare Uplands are rural in character with a number of*

*scenic views from elevated vantage points. The general land use on the uplands is pasture, with some tillage, quarrying and forestry.'*

It is further stated that *'Along a number of roads, which cross the upper and lower slopes of the uplands, there are long-distance views towards the Kildare lowlands and the Chair of Kildare. The sloping land provides this area with its distinctive character and intensifies the visual prominence and potential adverse impact of any feature over greater distances. Public roads traversing the slope provides an increased potential for development to penetrate primary and secondary ridgelines when viewed from lower areas and in a few areas the recent pattern of ribbon development obscures views across the plains of Kildare. In the Eastern Kildare Uplands, nearly all ridgelines are secondary when viewed from the lowland areas, as the Wicklow Mountains to the east define the skyline (i.e. form primary ridgelines). Gently undulating topography and shelter vegetation provided by conifer and woodland plantation can provide a shielding of built form. Views of the River Liffey Valley as well as of the Poulaphouca Reservoir are available from the hilltops and high points on some of the local roads.'* There are two public roads at 1km each from the application site to the north east and south west that go over the ridgeline that runs to the south of the S37L application area. There are no long distance views looking over the Kildare lowlands Chair of Kildare. The S37L development is capable of being seen from points of those roads but the primary views are those afforded by the direction of the road northwest and south east direction which is in the oblique direction to the subject quarry and not therefore in the viewing arc of road users as there is intervening vegetation. The application site is not on any ridgeline. There is no impact on views of the River Liffey Valley or Poulaphouca Reservoir.

The following policies and objectives are significant in the context of assessing impact of development on **designated high amenity areas**.

*'Policy LR P2 Protect High Amenity Areas from inappropriate development and reinforce their character, distinctiveness and sense of place.*

*Objective LR O17 Control development that will adversely affect the visual integrity of Areas of High Amenity by restricting the development of incongruous structures that are out of scale with the landscape within the Areas of High Amenity including advertising signs, hoardings, fencing etc. which create visual clutter and disrupt the open nature of these areas.*

*Objective LR O18 Facilitate appropriate development in areas of high amenity that can utilise existing structures, settlement areas and infrastructure, taking account of the visual absorption opportunities provided by existing topography and vegetation.*

*Objective LR O30 Sensitively consider developments in the Upland Character Areas including East Kildare Uplands that have a functional and locational requirement to be situated on steep or elevated sites (e.g. reservoirs, telecommunication masts or wind energy structures) where it can be explicitly demonstrated that residual adverse visual impacts are minimised or mitigated.*

*Objective LR O31 Have regard to the potential for screening vegetation when evaluating proposals for development within the Upland Character Areas including East Kildare Uplands.'*

In regard to **scenic routes and protected views** there are a number of policies and objectives that must be considered. These are summarised below.

Figure 4 below is an excerpt of Map V1-13.3 (Scenic Routes) with the location of the subject site identified with a red dot.

**Figure 4:** Location of the subject site in relation to designated scenic routes



Table 13.5 (Scenic Routes in County Kildare) is excerpted below as our Table 4 and shows 3 no. scenic routes worthy of consideration in respect of assessing the impact of the subject development and as being within the study area. These are identified as scenic routes 12, 20 and 30. Viewpoint 29 is on the verges of the study area the direction of the protected view is eastwards facing away from the subject site and therefore is of no relevance.

**Table 4:** Excerpt of Scenic Routes in County Kildare - 2023- 2029

No.	Description	Location
12	Views West of Kildare Plains from Redbog Area and Views towards Caureen; from Rathmore Cross Roads to Pipershall Views west of the Kildare Plains from the Redbog Area and views towards Caureen from Rathmore crossroads to Pipershall along the L6038 road.	Greenmount, Redbog, Pipershall, Wolfestown, Rathmore west and Punchestown lower.
20	Views to the north-west of the open countryside, from Killeel Village to Rathmore Village.	Furryhill, Killeel upper and lower, Rathmore east and west and Segravescastle.
30	Views to and from the Ridgeline of East Kildare Uplands and views of	Oldtown, Killeel upper, Rathbane, Punchestown upper and lower,

	the Central Plains along the L6030.	Furryhill, Caureen, Slatequarries, Hempstown common and Pipershall.
--	-------------------------------------	---

There are two hilltop views worth consideration in this instance and which are presented in the following Table 5, which is an excerpt of Table 13.6 in the CDP.

**Table 5: Hill Top Views taken from the 2023 CDP Table 13.6**

No.	Hilltop Views
7.	Kilteel Hill
8.	Caureen Hill

It is policy under LR P3 to

*‘Policy LR P3 Protect, sustain and enhance the established appearance and character of all important views and prospects.’*

It is stated in respect of protected views and prospects that:

*‘Objective LR O32 Avoid any development that could disrupt the vistas or have a disproportionate impact on the landscape character of the area, particularly upland views, river views, canal views, views across the Curragh, views of historical or cultural significance (including buildings and townscapes), views of natural beauty and specifically those views listed in Tables 13.5– 13.7 of this plan.*

*Objective LR O33 Ensure developments (due to excessive bulk, scale, inappropriate siting or siting on steep slopes i.e. >10%) do not have a disproportionate visual impact or significantly interfere with or detract from scenic upland vistas when viewed from nearby areas, scenic routes, viewpoints and settlements.*

*Objective LR O35 Encourage appropriate landscaping and screen planting of developments along scenic routes. Where scenic routes run through settlements, street trees and ornamental landscaping may be required.’*

In terms of recreation the following is stated:

*‘Policy LR P4 Protect and maintain the existing recreation infrastructure in County Kildare and support the diversification of the rural economy through the development of the recreational potential of the countryside in accordance with the forthcoming National Outdoor Recreation Strategy, subject to all relevant and cumulative environmental assessments and planning conditions.’*

## **8. Planning merits of the subject development**

The planning merits of the subject development are identified below in this section under the following headings:

- Lack of Significant Environmental Impact;
- Lack of Significant Impact on Designated Sites;
- Compliance with Planning Policy and Guidance; and
- Other planning merits of the case.

Our case under these headings is as follows:

### ***Lack of Significant Environmental Impact***

The accompanying EIAR in its entirety, and in terms of individual assessments, indicates that the environmental impact of the proposed development is not significant and in most cases is imperceptible either on its own, or in combination with the existing quarries operating in the area, other projects or plans including the realignment of the N81, having regard to mitigation proposed as part of this application.

### ***Population and Human Health***

The impact of the proposed development is not significant in terms of impact on health and will ensure the retention of the direct employment of circa 50 Hudson's staff with continued extraction occurring in this location. The extension of extraction proposed will also enable a number of ancillary businesses in the area including hauliers, construction and excavation equipment suppliers, construction companies to continue their own business activities and will assist in the development of much needed infrastructure and homes not just locally, but in the region, and across the State.

There is no negative impact on human health and it is noted that there is no interference with water supply or private wells and no noise and disturbance to existing residents or amenities in the area.

A number of health and safety mitigation measures are already in place to prevent/minimise accidents and these will continue to be operated on site for the extension of excavation sought. A number of health and safety measures have already been enforced since 2020 (the expiry of planning permission 07/267) and will be continued if permission is granted in this instance under S37L. These include, to name but a few measures: dust monitoring locations; water sprinklers and bowser; regular servicing of all plant and machinery; a new health and safety officer since August 2023; all employees trained and receive regular safety training; wheel wash for all vehicles exiting the quarry; road sweeper cleans access roads; and company safety emphasised and health and safety officer is on site full time and undertakes daily checks in the quarry.

There are no dangers to human safety of those living, working or visiting the area. There is no threat to human safety as the site is secured with limited access and significant boundary

enhancements existing and proposed; there is no impact on water quality and supply; there is no risk of accident in regard to the Gas Networks Ireland (GNI) pipeline located nearby; and there is no danger or health risk associated with blasting proposed in this instance under very controlled circumstances set out in this application.

### *Ecology and Biodiversity*

It is recognised that the proposed development results in the loss of some 2.75km of hedgerow and treelines; some 28ha of agricultural grassland; some 2.7ha of dry meadows and grassy verges/wet grassland mosaic habitat; and 0.19ha of scrub. It is noted however that it is not proposed to disturb or remove any mesotrophic lakes.

There is considered to be no impact on either Red Bog SAC or Red Bog pNHA, or any of their qualifying interests and no mitigation required. There is considered to be either no impact or no significant impact at worst on either the Poulaphouca Reservoir SPA, Poulaphouca Reservoir pNHA or indeed Wicklow Mountains SPA or their qualifying interests without consideration of mitigation as set out in Table 4-12 of the accompanying EIAR.

Table 4.13 of the accompanying EIAR identifies that without mitigation there would be either no impact or alternatively a significant local impact on the following: mesotrophic lakes; dry meadows and grassy verges, wet grassland, and mosaic habitat; scrub WS1; hedgerows WL1 and treelines WL2; breeding birds; bats; badger; amphibians; reptiles; terrestrial invertebrates; other protected mammals; and invasive species.

It is stated in Section 4.7 of the accompanying EIAR that the proposed restoration plan includes for the creation of habitats within the existing quarry pit, which means that substantially larger areas will be created than what is required to be removed. The restoration plan also allows for diversification of species assemblages. Crucially, it is also stated (4.7.2.1) that losses of hedgerow /treeline, scrub and grassland will be compensated beyond existing area coverage.

Regarding breeding birds it is stated that clearance of woody vegetation including hedgerows, treelines, scrub and woodland and any sand martin nests will not occur during breeding seasons. It is also pointed out that the restoration plan includes proposals to replace at least the equivalent quantity of woody habitats such that there will be no net loss of breeding habitat.

It is also stated that if bat roosts are confirmed, a derogation licence would be required through an application to the NPWS. Mitigation regarding bats is identified in section 4.7.4.2 of the EIAR.

It is stipulated in Section 4.7.5 that in regard to badgers heavy machinery will not be permitted within 30m of any active badger sett. It is also indicated that blasting will not be permitted within 150m of an active sett. Assessment and mitigation is also set out in 4.7.6; 4.7.7; 4.7.8; and 4.7.9 in respect of reptiles including the common lizard, pine martins, red squirrels and other protected mammals and invasive species (both flora and fauna).

Table 4-14 of Chapter 4 of the EIAR indicates that with mitigation, compensation, and enhancement the residual impacts are not significant in most cases and there is no impact in others.

Regarding cumulative effects it is concluded by the applicant's ecologists that the proposed

development will not act in combination with other projects or plans as to result in significant impacts on any of the important ecological features (IEFs) identified (section 4.8.1 refers).

#### *Land, Soils and Geology*

Without mitigation effects on land (agricultural use) is imperceptible; effect on superficial deposits at the site and within the study area is moderate; and effect on bedrock geology at the site and in the study area is also moderate. Whilst the initial assessment of potential effects (considering embedded mitigation) has not identified any significant adverse effects (section 5.8 of the EIAR refers) a number of additional mitigation measures are proposed. These include:

- Future extraction is to remain above the 200 mAOD elevation or above anticipated depth of the bedrock aquifer, for areas to where borehole records confirm this depth. It is noted that this will require additional boreholes to reduce uncertainties.
- Geotechnical appraisals to be carried out on site to assess the stability of the worked faces and silt pond;
- Future design includes moving the silt pond into the base of the quarry which will prevent the need to have controlled overflow of the silt pond over the quarry walls. There is also a larger area available for the silt pond to be constructed within the base of the quarry; and,
- Soils will be reinstated on site during restoration works, and where possible, bedrock will be dressed with silt cover. Restored areas will be planted with native grassland species for grazing.

With mitigation, impacts on land are identified as low or imperceptible; on superficial deposits as low or slight; and with regard to bedrock geology as low or slight.

Finally, on land, soils and geology it is concluded that as a result of embedded and additional mitigation measures at the site it is considered that any impacts on soils and geology will not contribute to cumulative impacts associated with the various quarrying activities in the vicinity of the site.

#### *Water*

The effect of extending excavation to the north and west is assessed in Chapter 6 of the EIAR. The key components of the proposed scheme are set out as are the embedded features which include the following: excavation will not occur below the groundwater table; run off from the floor and faces of all areas of the extraction slope runs towards a low elevation point with trenches helping water to collect in Pond K2; there is no discharge to surface water; wash water is discharged into the silt pond with that pond being located above the groundwater table and is not in a direct connection; wheelwashing will be undertaken; mobile plant maintenance activities use a concrete apron with associated interceptors at the maintenance shed with spill kits managed on site and spill training given to all relevant staff; refuelling takes place on hardstanding in a designated location; all plant and machinery will continue to be regularly serviced and maintained; hydrocarbons are stored in bunded tanks on an impermeable hardstanding surface with all diesel

fuel and hydraulic fuel stored in bunded fuel tanks; and finally, monitoring of groundwater and surface water quality using available monitoring wells and artificial wells and artificial ponds will ensure no pollution of groundwater or surface water occurs.

Table 6-13 of the EIAR indicates that impact on ground and surface in the case of flooding due to elevated rainfall and/or discharge of silt laden process water into the silt pond, resulting in uncontrolled overflow to the quarry floor, would be 'slight'. Impact on water supply is imperceptible and impact on surface water is in most cases imperceptible.

Although the initial assessment of effects (considering embedded mitigation) has not identified any significant adverse effects additional mitigation is proposed as follows:

- Extraction of greywacke in the central area should remain at a level of 188 mAOD as there is increased risk that the water confined within the bedrock will be intercepted. Some lateral extension in the central greywacke is planned to level the area and continue extract of the valuable rock to this depth;
- Extraction of sand and gravel in the proposed northern and western extension areas should be undertaken to the proposed levels in the absence of further understanding of the localised groundwater levels in each area;
- Future phasing of the quarried depth is to be considered along with the anticipated depth to the aquifer for each area of the quarry. Borehole logs and quarrying to 188 mAOD have shown that the aquifer is confined in the bedrock and this depth is variable across the site;
- Boreholes to be installed to help better define the depth to the bedrock aquifer and variations across the site. BH3K is to be replaced with a bore that intercepts the bedrock aquifer;
- The silt pond should have a geotechnical assessment and be inspected regularly for signs of any structural defects that may cause a leak of material or failure; and,
- The silt pond is to be moved into the base of the quarry allowing the silt pond to cover a larger area to reduce overflow requirements.

Following mitigation, the residual impact is identified in all cases is negligible/imperceptible or negligible/slight.

Cumulative conclusions reached in the EIAR emphasise that extraction takes place above the water table and will continue to do so, with no discharge to surface water taking place. With the successful implementation of mitigation measures at the site, and extraction occurring above the water table, no cumulative impacts on local surface water or ground water environments are anticipated, including with other quarries in the area.

### *Air Quality*

Receptors are identified in Table 7-13, Figures 7-4 and 7-5 of the EIAR that are within 500m of and 50m of the application site respectively. Residential receptors are categorised as high sensitivity receptors. The remaining non-residential (industrial) receptors are categorised as medium sensitivity receptors.

The air quality assessment within Chapter 7 of the EIAR concludes the following:

The impact of coarse particulates (dust) on the surrounding area as a result of the expanded activities at the site is considered to be 'slight' and therefore Not Significant.

The assessment considered the employed mitigation measures which will continue to be in place and considered them effective.

With regards to fine particulates, it is considered that there may be the potential for an increase in PM10 and PM2.5 concentrations at the residential receptors downwind in the vicinity of the Site, due to the moving of the extraction area, but the predicted environmental concentration (PEC) is still predicted to be below the annual Air Quality Standard (AQS), with headroom.

The impact of fine particle PC from the continued operation of the site is therefore considered to be imperceptible and therefore Not Significant.

Details of mitigation measures that are currently in place and will continue to be implemented with the continued operation of the site are summarised below.

The aim of these measures is to continue to reduce the impact of potential dust emissions on the surrounding area and identified sensitive receptors.

- Dust monitoring at designated monitoring locations on a monthly basis. Exact locations have changed over the course of the assessment period due to being inappropriate or due to works expanding, but in these cases monitoring locations have been repositioned within the site boundary at the closest location to the relevant sensitive receptor;
- The timing of operations is optimised in relation to meteorological conditions, for example overburden has not been stripped during dry periods to reduce potential dust emissions;
- Material in outdoor stockpiling will be located away from sensitive receptors and prevailing wind to minimise dust erosion;
- Overburden mounds will be seeded to eliminate wind-blown dust;
- Perimeter bunds will be 2m high and 2m wide, and seeded to eliminate wind-blown dust;
- A water bowser will be available on site for dust suppression/dampening to minimise dust blow during working hours;
- There is also a water bowser that will be deployed on the haul road between the Applicant's Kildare and Wicklow sites. A fixed water spray system will also be available on

the Applicant's own section of the haul route during drier periods;

- HGV's carrying fine aggregate will be covered prior to exiting the quarry;
- A sprinkler system will be in place between the weighbridge and public road and available during drier periods. This route will be cleared daily from loose dirt and debris at the exit point to the public road;
- Plant will be regularly maintained;
- On site speed restrictions (<30kph) will be maintained in order to limit the generation of dust emissions; and,
- All vehicles exiting the site will exit through the existing wheel-wash to minimise trackout.

Residual impacts of deposited dust and particulates generated during the continued operations at the site on air quality are considered to be slight. During long spells of dry weather, dust emissions may have the potential to be elevated, however dust nuisance from the continued operations is expected to be unlikely as the above mitigation measures will continue to be implemented. The overall impact from the continued operation of the site, in terms of dust emissions and particulates, is considered 'slight' to the air environment and Not Significant.

Potential Air Quality accidents and unplanned events could occur relating to the malfunction of dust mitigation equipment particularly during dry and windy periods and the failure of covers resulting in the spillage of dusty material during transport. Unmitigated unplanned events may lead to short-term increases in dust emission from the site with the potential for short-term increases in dust nuisance and an increase in PM10 concentrations. Due to the limited spatial and temporal scale of any unplanned event and the climate/meteorological conditions in the area, any impacts from accidents and unplanned events are deemed to be insignificant.

Cumulative impact from adjacent quarrying activities has also been considered in Chapter 7 of the EIAR. The assessment undertaken has considered publicly available background monitoring data and incorporated this into the assessment, therefore the assessment includes a consideration for other sites operating in the area i.e. those immediately adjacent. The site and the adjacent quarry operations have and will continue to a shared section of the haul road. Vehicles from the site split off and have a separate section of haul road and exit onto the N81 public road via the Applicant's Wicklow site. The Applicant's sites also have a shared weighbridge which is located on the Wicklow site, therefore traffic from the site must pass through the Wicklow site in order to use it. The mitigation measures outlined in Section 7.7.5 which will continue to be undertaken are deemed to provide sufficient mitigation against significant effects from the site. These mitigation measures are also deemed to be capable of providing a level of cumulative mitigation for the shared haul road, as the Applicant will continue to deploy a water bowser to suppress dust on this shared haul route.

The same conclusion is made for the quarries, because good practice measures similar to those outlined in Section 7.7.5 should be in place at the surrounding sites, therefore minimising the likelihood of significant cumulative impacts relating to air quality. However, should this be the case, the level of mitigation which will continue to be employed at the site, for example, covered

aggregate trucks, dampening, ceasing particularly dusty activities during dry weather, and perimeter bunds, are sufficient as to prevent a significant level of dust from interacting with other quarries, therefore acting to prevent cumulative impacts as far as is practicable from the site.

### *Climate*

The climate assessment contained within Chapter 8 of the EIAR concludes that the proposal is not considered to be of a sufficient scale to have a potential to impact the regional or local climate in any significant manner. Furthermore, the assessment of the combination of the site's 'Sensitivity' and 'Exposures' have shown, overall, that it is at a Low risk from climate hazards, which are considered to be 'not significant'. Further adaptations have been inbuilt into the site as the area of extraction is the most exposed to potential climate impacts. Good site management in terms of groundwater monitoring and the good management of site excavations and run-off management during very extreme rainfall or flooding events have been incorporated into the design and operation of the quarry site. Following the implementation of these mitigation measures the overall impact from climate hazards at the site is considered to be 'imperceptible'

### *Noise and Vibration*

A substantial number of noise sensitive receptors (NSRs) have been identified (see Figure 9-1 of the EIAR). Each of these are considered to be potentially vibration sensitive. The noise and vibration assessment has considered potential noise and vibration impacts associated with the proposed future operations of the quarry on the amenity of residents at existing nearby properties. It has also assessed noise impacts on Glen Ding Wood and vibration impacts on the GNI gas transmission pipeline.

It is noted in Chapter 9 that condition 33 of previous permission 07/267 limits noise levels, requires a further noise assessment within one month of commencement of development and review every six months, and limits vibration from blasting activities at any vibration sensitive location in the vicinity of the site. It is also stipulated that air overpressure shall not exceed 125 dB (linear maximum peak value) at any overpressure sensitive location in the vicinity of the site. The hours of operation were also limited by condition (no. 33) and it is therefore proposed that the hours and limitations imposed in conditions 14 and 33 of 07/267 are maintained.

Vibration and AOP monitoring of quarry blasting has been undertaken on site at five vibration monitoring locations over a period between February 2018 and August 2020. No blasting has taken place at the site since August 2020 so no data is available after this time. The surveys were conducted by the blasting contractor using monitoring equipment provided by the contractor during daytime periods only when blasting was taking place.

The noise and vibration assessment has comprised a desk-top study to determine an appropriate study area and identify potentially sensitive receptors, prediction of worst-case operational phase noise and vibration levels, and evaluation against appropriate criteria. In addition to this desk-top assessment, baseline noise monitoring during existing quarrying operations has been undertaken at least biannually at five monitoring locations around the site between April 2019 and January 2024 and this has been used to inform the noise impact assessment. Vibration and air overpressure monitoring had also been undertaken between February 2018 and August 2020 during periods of quarry blasting by the blasting contractor at five further vibration monitoring

locations. The baseline noise environment included contributions from road traffic noise, quarrying activities, other traffic sources, e.g. occasional overhead aircraft, and other sources typical of a rural environment, e.g., birdsong and rustling trees. With the exception of N1K, the average measured noise level at each location did not exceed the permitted level. At N1K, the exceedance was due to road traffic noise from the R410 rather than from quarrying activities. Operational noise from the quarry has been predicted for three future operational scenarios within the proposed extensions to the quarry. These scenarios occur during daytime periods only; nighttime operations are not proposed (and do not currently take place).

Operational noise from the quarry has been predicted for three future operational scenarios within the proposed extensions to the quarry. These scenarios occur during daytime periods only; nighttime operations are not proposed (and do not currently take place). All modelled scenarios have followed a conservative approach to determine the likely 'worst-case' noise levels at NSRs. Predicted noise levels for each operational scenario are within the permitted daytime limits and the levels recommended by the EPA Environmental Management Guidelines – Environmental Management in Extractive Industry.

The specific noise levels from quarry operations for each modelled scenario are predicted to not exceed the permitted threshold level, resulting in a negligible adverse impact at all NSRs which is not significant.

At NSRs R3 and R6, noise levels are predicted to increase the ambient noise level above the measured noise level (relative to the nearest measurement location) by <3dB for Scenarios 1 and 3 and no increase for Scenario 2, which may result in a negligible or low adverse impact at these NSRs which is not significant.

At NSR R4, the noise level is predicted to increase the ambient noise level above the measured noise level (relative to the nearest measurement location) by >3dB but <5dB for all future operational scenarios, which may result in a low to medium adverse impact at this noise sensitive location which is not significant.

At all other NSRs and at Glen Ding Wood, there is predicted to be no or negligible change in ambient noise level (relative to the nearest measurement location) due to proposed future quarrying activities, which is not significant.

Vibration monitoring undertaken between 2018 and 2020 at the nearest vibration sensitive receptors to the quarry, including the GNI gas pipeline, determined there were no exceedances in the specified vibration or air overpressure limits. Regression analysis indicates that at the NSR closest to the proposed new quarry face (approximately 300m from the nearest proposed blasting site), the PPV at the typical maximum MIC of 285 kg would be around 6 mm/s (at 95% CL), below the permitted threshold of 12 mm/s. The measured air overpressure levels were substantially lower than the levels which would see structural damage to windows. The predicted vibration impact due to blasting is predicted to be negligible to low adverse, depending on the proximity to the blast site, which is not significant.

When taking into account the predicted absolute noise level, the change in ambient noise level and the likely vibration level due to blasting, the overall magnitude of impact at each receptor is not significant.

Noise from operational activities associated with other quarries in the vicinity of the Site were ascertained to be imperceptible at all measurement locations. As such, the cumulative impact is not significant.

Potential noise and vibration impacts will be controlled by the continued implementation of mitigation measures at the quarry. Supplementary measures have been proposed to ensure that blasting is monitored appropriately, and potential impacts associated with the GNI pipeline are considered. With these mitigation measures in place, residual noise and vibration impacts due to proposed quarry operations have been determined to be not significant.

Regarding the Gas Networks Ireland (GNI) pipeline, Section 9.5.2.3 recognises that there is potential for an improperly managed blast to damage the gas transmission line. Fractures in the line could result in gas leaks and an explosion. The loss of gas transmission would result in further indirect effects elsewhere on the line. The blasted rock face of the quarry is ca. 370 m from the gas transmission line. As the proposed quarry extension progresses westwards, the blasting activities will occur nearer to the transmission line. However, the closest blasted face will be located ca. 315 m away from the line at its closest point. The GNI 2015 'Code of Practice for Working in the Vicinity of the Transmission Network' dictates that: *'blasting shall not be permitted within 400 metres of a transmission network without consulting GNI and making an assessment of the vibration levels at the pipeline'*. The Applicant has liaised with GNI on this matter and a site visit has been conducted by GNI.

In order to mitigate and reduce the potential of damage to the gas transmission line, numerous mitigation measures are employed during blasts, as identified in Section 9.7.2. These measures include a number of operational controls and also the requirement for blasting contractors to be trained and competent.

The applicant deploys a vibration monitor at the gas transmission line during all blasting events. From these monitoring records the blasting contractor can determine whether the MIC or methods need to be altered for future blasting events.

Regarding Glen Ding Amenity Area, Section 9.6.1.6 of the EIAR states that it is evident that predicted noise levels for current and proposed future operational scenarios are below the 55 dB LAeq,T limiting value for the application site and below the level which would normally be considered acceptable within an outdoor amenity area (in accordance with guidance within BS 8233). It is therefore considered that noise from activities within the application site will have a 'not significant' impact on the amenity of the Glen Ding woodland.

#### *Cultural Heritage*

Examination of the Sites and Monuments Record (SMR) which is maintained by the Dept. of Housing, Local Government and Heritage the 5<sup>th</sup> January 2024 indicated that that there are no SMRs included within the application area. There is one SMR included within the study area outside the application area.

This a deerpark wall (SMR WI005-123) situated in Deerpark townland (see Appendix 10B). This site is described in the SMR as:

*'WI005-123---- Deer park DEERPARK Indicated on the first edition OS 6-inch map. A detailed plan, elevation and photographic record of the north-western boundary of this Deerpark was undertaken in February 2000. This is a 285m length of mortared stone wall, revetting a low bank and internal ditch and defining part of the circuit of the 17th century deer park.'*

This Deerpark wall is situated on the southern edge of the study area forming the boundary with Deerpark townland.

There will be no other direct effects on any known items of archaeology, cultural heritage or buildings of heritage interest in the application area or the vicinity. There will be no indirect effects on any known items of archaeology, cultural heritage or buildings of heritage interest in the application area or the vicinity. No interaction with other effects have been identified. If the proposed development were not to proceed there would be no negative effect on the cultural heritage.

It is recommended that extraction should be set back 10 m from SMR WI005-123 (the Deerpark wall) that is situated on the southern edge of the application area forming the boundary with Deerpark townland. The proposed design does include such a setback for a safety/screening berm which will set back the extraction activities from the Deerpark wall.

It is also stated that due to the possibility of the survival of previously unknown subsurface archaeological deposits or finds within the unstripped part of the application area in Areas 2, 3, 4, 5, 6, 7, 8, 9 and 10 all soilstripping in these areas should be archaeologically monitored under licence from the National Monuments Service. There are no residual effects. The proposal will not have any cumulative effect on cultural heritage.

#### *Landscape and Visual*

The landscape and visual assessment has had regard to the receiving landscape and visual amenity of the area. It recognises this area as one characterised by existing, well-established quarrying and aggregate extraction, among other land uses.

The landscape assessment undertaken on this occasion has considered the previous 2020 application (KCC reg. ref. 20/532) for which 13 no. viewpoints were identified for landscape and visual assessment, including those from nearby residential properties, elevated sections of road and designated county Kildare/Wicklow scenic designations within the study area. These viewpoints were revisited and reviewed in November 2023. All 13 no. previous viewpoints were found suitable as the basis for assessment, with no adjustments needed to their orientation or location.

The assessment has carefully considered the proposed development, including its extension into pastureland and also the loss of some 2.75km of hedgerow and treelines; some 28ha of agricultural grassland; some 2.7ha of dry meadows and grassy verges; wet grassland mosaic habitat; and 0.19ha of scrub – all of which will be replaced to equal or greater extent.

In terms of landscape effects, on balance, the significance of landscape impact is not considered to be any greater than 'moderate' within the immediate context of the site and considered to be

'not significant' across the wider study area, as the proposed development becomes a comparatively smaller component of the overall landscape fabric.

In terms of likely impact on the landscape, following the restoration stage, the significance of landscape effects is not considered to be any greater than 'moderate-slight' within the immediate context of the site. This is likely to reduce rapidly to 'imperceptible' within the wider study area, with increasing distance from the site.

In terms of visual effects, 13 no. visual receptors/viewpoints were selected from a range of angles, distances and contexts. All of these viewpoints were from within the public realm, between County Wicklow and County Kildare, and covered a range of visual sensitivities. However, the assessment undertaken and presented in Chapter 11 establishes that the proposal will be largely obscured from most visual receptors by either intervening landform or vegetation, and that the range of potential residual visible impacts that are likely to be generated as a result of the proposed development is notably low.

In fact, of the 13 viewpoints selected, the likely visual effects varied from 'no change' (in the majority of cases), to 'imperceptible' (in 5 out of the 13 locations), to 'not significant' (in one instance).

Crucially, there are no significant effects on any protected views or ridgelines. There is no additional mitigation required, as mitigation is already embedded within the scheme. Furthermore, there is no significant residual effects and no significant cumulative effect with other developments, including quarries, in the immediate area.

In summary, there are no significant landscape or visual effects likely to be generated as a result of the proposed development.

#### *Traffic and Transportation*

A link capacity analysis was carried out on the N81 national road and the L873 local road within the vicinity of the quarry. It was determined that the L873 continued to operate within capacity for the time period of 2024 to 2039. The N81 historically has been operating over capacity. Checks against TII count sites on the N81 – specifically sites TMU N81 010.0 S (N81 between Blessington and Tallaght, South of R114 Jn, Co. Wicklow) and TMU N81 040.0 N (N81 Between Hollywood and Baltinglass, Donard, Co. Wicklow) have demonstrated a significant drop in actual baseline traffic – likely due to COVID-19 lockdowns. On this basis, it is apparent that traffic figures are only now normalising, and the traffic impact has been lower in comparison to the assumptions made in the PMCE 2020 TTA.

Junction Capacity Analysis was undertaken at the junction of the N81 and the local access road to the quarry. The results of the Junction Capacity Analysis indicate that the access is operating within capacity for the time period 2024 – 2039.

The effect of operational traffic from the Proposed Development during the assessment periods is considered to be 'Imperceptible' or 'An effect capable of measurement but without significant consequences', (EPA, 2022). As such road impacts of the Proposed Development are 'Not Significant'.

The effect of the site on road safety of the Proposed Development during the assessment periods is considered to be 'Imperceptible' or 'An effect capable of measurement but without significant consequences', (EPA, 2022). As such road safety impacts of the Development are 'Not Significant'.

This author notes that as traffic generated specifically by the proposed development is not considered significant, or significantly above existing traffic levels, we believe so too, that the noise and air quality impact from traffic, will also be not significant.

#### *Major Accidents and Disasters*

The site operates an environmental management system, this document manages the risk of environmental accidents occurring. The occurrence of a major geotechnical hazard, fire, explosion or fuel spillage resulting from operations at the quarry site, relating to the control of major-accident hazards involving dangerous substances, has the potential to give rise to a major accident or disaster, immediate or delayed.

The main potential impacts and associated effects that have been considered in the assessment relate to the following:

- Geotechnical hazard i.e. collapse of a quarry wall
- Accident during blasting
- Fire during operation
- Accident involving physical hazards such as heavy plant or falls from height
- Spillage of chemicals or fuels to the ground
- External major accident affecting the quarry
- Flooding

In respect of the first five items listed above, there is assessed to be no significant risk. In terms of risk from an external major accident affecting the quarry there is no risk as there are no relevant external industries in proximity to the site to result in a major accident and in regard to risk from flooding, as all excavations proposed will occur above the water table and no dewatering occurs. Here there will be no risk. It is noted also that there are no surface water features adjacent to the site which have potential to flood the quarry.

With the maintenance of practices identified in Table 14-1 and the undertaking of mitigation identified in Section 14.8 it is considered that the Proposed Development activities will not result in accidents or disasters that are deemed to be 'Major'. Therefore, it is considered that the Proposed Development would have an 'Imperceptible' effect (including no effect) on the surrounding environment in regard to major accidents and disasters.

Assuming other developments in the area have incorporated widely adopted good design, practice and mitigation measures it is considered that there will be no significant cumulative

effects of the Proposed Development with other similar developments in the locality.

### ***Lack of Significant Impact on Designated Sites***

The Appropriate Assessment Screening and NIS were completed in compliance with the relevant European Commission and national guidelines. The potential effects during, and after, the proposed works have been considered in the context of the European Sites potentially affected, their Qualifying Interests, Special Conservation Interests and Conservation Objectives.

Based on the best scientific knowledge available, it is concluded that there will be no significant adverse impacts on the integrity of Poulaphouca Reservoir SPA as a result of the Proposed Development. For this reason, mitigation is not deemed necessary.

### ***Compliance with Planning Policy and Guidance***

A very substantial list of planning policies and guidance documents are identified above. Compliance with those policies and objectives is set out below and reference should be made to the EIAR submitted.

#### *National Planning Framework (Project Ireland 2040) and National Development Plan 2018-2027*

In the absence of any significant impact, the proposal is consistent with National Policy Objective 23 which facilitates the development of the rural economy including a sustainable and economically efficient extractive industry sector whilst at the same time noting the importance of maintaining and protecting the natural landscape which are vital to rural tourism. There is no negative impact on rural tourism in this location. The importance of the Aggregates and Minerals sector to the Irish economy and the delivery of development is recognised on page 78 of the NPF. Such extraction will continue to be enabled where this is compatible with the protection of the environment (air quality, natural and cultural heritage, the quality of life of residents in the vicinity and where appropriate site rehabilitation is also proposed).

#### *Quarries and Ancillary Activities: Guidelines for Planning Authorities*

These guidelines also emphasise the importance of quarries and the continued need for aggregates is highlighted. The potential for environmental impacts is strongly recognised as being a key consideration but so too is the fact that aggregates can only be worked where they occur. These guidelines recognise that quarries and development around extractive industries generate often unique environmental impacts and require environmental assessments and the application of appropriate planning conditions such as relating to noise and vibration, dust, water supplies and groundwater, traffic, archaeology, water, environmental monitoring, waste management, contributions, and extraction limits.

The guidelines also state that:

*‘there will be a continuing need for some new or expanded aggregate quarrying operations on land to meet regional and local requirements. There is thus a need to identify and protect aggregate resources areas through the planning system, to ensure an adequate supply of aggregates to meet the likely scale of future demand, while at the same time protecting Ireland’s natural and cultural heritage.’*

*Eastern and Midlands Regional Assembly Regional Spatial and Economic Strategy*

The EMRA RSES 2019-2031 recognises the need to accommodate and maintain extractive industries in the countryside. Regional Policy Objective 6.7 seeks to support local authorities to develop sustainable and economically efficient rural economies through initiatives to enhance the extractive industries sector whilst at the same time noting the importance of maintaining and protecting the natural landscape.

The need to reconcile rural based employment and activity with the needs of tourism and protecting the environment is recognised in these guidelines such as building on strengths to sustain a strong economy and support the creation of jobs and to ensure a good standard of living for all.

*Kildare County Development Plan 2023-2029*

The statutory development plan covering the application site is the Kildare County development Plan 2023-2029 (CDP). Chapter 9 of the CDP indicates that extractive industries require sensitive management. Section 9.9 (Mineral Resources and Extractive Industry) identifies the following:

- The extractive industry can only be developed where the required resources occur;
- Residential and natural amenities will be protected, pollution will be prevented, and aquifers and ground water safeguarded;
- Principles of sustainable development and environmental management;
- Aggregate resources are important to the general economy;
- The industry provides a valuable source of employment in some areas of the county;
- Environmental and landscape impact must be managed or minimised insofar as siting is based on resource locations, and the Council will protect high amenity/special/unique sensitivity areas and limit new and/or extending existing extractive industries in this area;
- Rehabilitating ecology and biodiversity and restoration plans will provide for a mosaic of habitats. Infilling may be considered preferable to reverting to agricultural grassland for ecological and biodiversity purposes.

The proposal is consistent with Policy RD P8 which supports and manages appropriate future development of Kildare's natural aggregate resources in appropriate locations to ensure that there are adequate supplies to meet future needs of the county and the region consistent with the principles of sustainable development and environmental management. In the absence of any significant environmental impact this is a strong policy presumption in favour of the proposed development in this instance.

The proposal meets fully **extractive industry specific objectives** RD O42 ensuring no significant impact on any Designated Site; RD O43 demonstrating no impact on any site of Geological

importance; RD O44 where the necessary assessments including AA, EIAR, restoration plans etc have been carried out to guideline specification, legislative requirements, and best practice. Road reinstatement will be undertaken if necessary under RD O46 and a bond or equivalent security will be put in place in accordance with RD O45.

The proposal is also directly aligned with RD O47 protecting and safeguarding the county's natural aggregate resources from inappropriate development and RD O48 managing the finite aggregate resources being mined to supply the future needs of the region while working to reach climate change targets.

The proposal is consistent with RD O49 and accords with the Guidelines on Quarries and Ancillary Activities; Environmental Management Guidelines, Environment Management in the Extractive Industry (non-schedules minerals); the Archaeological Code of Practice between the DEHLG and ICF; Geological Heritage Guidelines for the Extractive Industry; and Wildlife, Habitats and the Extractive Industry Guidelines for the protection of biodiversity within the extractive industry.

The proposed restoration is consistent with RD O50 ensuring the satisfactory and sensitive reinstatement and/or re-use of disused quarries and extraction facilities where extraction has ceased and seeking consistency with the criteria set out in Section 15.9.6 of the 2023 CDP. The restoration plan and ecological assessment carried out in Chapter 4 of the EIAR complies with RD O51 requiring that quarry remediation plans provide for environmental benefit, biodiversity and re-wilding in all instances.

The proposal complies with Section 15.9.6 and in particular accordance with the previously cited guidelines as well as the requirements for impact assessment including the environmental baseline of the area in which extraction is imposed, the likely impacts and proposed mitigation measures in relation to: human health; groundwater; Natura 2000 sites, Natural Heritage Areas, proposed Natural Heritage Areas and other sites for environmental or ecological protection; flora and fauna; sensitive local receptors including residences, Areas of High Amenity, Landscape Sensitivity Areas, Key Scenic Views and Prospects, and Key Amenity Routes, all of which have been assessed in this application; landscaping, berms and screening proposals; local transport networks including haul routes, trip movements and articulated lorry heights; noise, vibration and dust emissions; and archaeological and architectural heritage of the area.

There are several **economic based policies** all of which support the subject development as an extension to an existing quarry. These include policy RE P1 seeking to facilitate employment creation and policy RE P2 supporting economic development in the county.

In terms of **biodiversity** the subject proposal is consistent with policy BI P1 requiring the protection and enhancement of biodiversity and landscape features by applying the mitigation hierarchy to potential adverse impacts on important ecological feature, where mitigation and/or compensation measures as appropriate. The applicant notes that opportunities for biodiversity net gain are encouraged. It is also consistent with BI O6 which applies the precautionary principle in relation to developments in environmentally sensitive areas, and which seeks to ensure that all potential impacts on a designated NHA or Natura 2000 site can be avoided, remedied or mitigated. There is no negative impact on any NHA or Natura 2000 site.

Chapter 4 of the EIAR indicates accordance with BI O7 in that the proposal will, after restoration,

provide a biodiversity nett gain. There will be no diminution of the maintenance and restoration of the conservation status of all designated or proposed designated sites under policy BI P2. There is no adverse effect on the integrity of any Natura 2000 site in accordance with BI O9. Appropriate Assessment undertaken by the Applicant is in accordance with BI O10 in respect of effect on a Natura 2000 site either individually or in combination with other plans or projects.

In respect of **natural heritage areas**, including Red Bog NHA, and Poulaphouca Reservoir, the subject development is consistent with BI P3 ensuring that any proposal within or adjacent to any NHA is designed and sited to minimise its impact on the biodiversity, ecological, geological and landscape value of the site, particularly plant and animal species listed under the Wildlife Acts and the Habitats and Birds Directive including their habitats. The proposal is also in accordance with BI O12 requiring ecological impact assessment for sites within or adjacent to a NHA, or proposed NHA, to ensure that development is designed and sited to minimise impact on biodiversity, ecological, geological and landscape value of the site and particularly plant and animal species listed under the Wildlife Acts. The proposal also accords with BI O14 which seeks to minimise impact on ecological and landscape values on sites under National and European legislation and International Agreements.

In respect of **protected habitats and species** the subject development accords with BI P4 as there is no adverse impact, not incapable of satisfactory mitigation on plant, animal or bird species which are protected by law. In accordance with BI O15 there is no significant adverse impact on rare and threatened species. The reader is referred to the schedule of mitigation measures proposed, many embedded into this scheme, ensuring that appropriate species and habitat avoidance and mitigation measures are incorporated into all new development proposals in accordance with BI O16. Any bat or other mammal derogation licence required will be obtained in accordance with BI O17.

Where it has been possible, and the instances for extraction expansion are limited, the proposal is in accordance with BI O18 requiring developments to identify, protect and sensitively enhance the most ecological features and habitats and incorporate these into the overall open space network and making provision of local diversity.

The proposal complies with BI O22 which seeks to protect all areas of high nature conservation value (including but not limited to SAC, SPA, pNHA) and supporting landscape features which act as ecological corridors/networks and stepping-stones such as river corridors, hedgerows etc so as to minimise loss of habitats and features of wider countryside which are of major importance for wild fauna and flora. Where these are to be unavoidably removed, replacement features of equal or greater extent will be provided as set out in the accompanying restoration plan.

In respect of **ecologically important sites** the proposal accords with BI P8 ensuring that Kildare's wetlands and watercourses are retained; BI O49 requiring that any development within the zone of influence of listed wetland sites should be subject to EclA and where appropriate hydrological assessment; BI O50 protecting and conserving wetlands and resisting development that would destroy, fragment or degrade any identified wetland in the county; BI O52 requiring preparation and submission of a hydrological report/assessment for significant developments within and in close proximity to protected raised bogs and the assessment of impact on the integrity of peatland ecosystems; BI O55 protecting conserving and managing the character and appearance of ecological and archaeological heritage; BI O56 preventing impact on sensitive water habitats

without mitigation measures.

In the terms of **geology** the subject development complies with the following on geology: BI P10 maintaining and protecting the conservation of value of geological sites of national or local importance and seek sustainable management of the county's geological heritage resource; BI O60 consulting with Geological Survey of Ireland regarding development likely to impact on Sites of Geological Importance; and BI O62 promoting, encouraging and supporting provision of access to geological and geo-morphological features of interest in co-operation/consultation with landowners where practicable.

In respect of **green infrastructure** the proposal is consistent with BI O77 requiring the integration of nature-based solutions and climate change considerations into the design, planning and implementation of development proposals at the earliest possible stage of the design process. It is also consistent with BI O78 which actively promotes and encourages nature-based approaches and green infrastructure solutions as viable mitigation and adaptation measures to surface water management.

In terms of **landscape character** and **landscape and visual impact** the proposal is located within an area of medium landscape sensitivity where extraction of sand, gravel and rock is shown of medium appropriateness and is 'likely to be compatible with great care'.

Chapter 11 of the accompanying EIAR indicates compliance with LR P1 which seeks to protect and enhance the county's landscape and the Chapter 11 assessment carried out complies with LR O2. Quarries in this location are a significant and well established feature of the local landscape and the proposal accords with LR O4 requiring retention of the most significant local landscape features.

The proposal complies with LR O7 restricting the quarrying of sensitive sites within Landscape Character Areas and protecting and conserving ecological, archaeological, biodiversity and visual amenity surrounding quarry. There is no such negative impact and the proposal is a reasonable extension of an existing, very well established quarry.

The proposal accords with LR O8 requiring all quarrying activities and projects associated with the extractive industry comply with the relevant guidelines and legislation. This is clearly the case in this instance from the submitted documentation contained within the planning application.

The NIS carried out, and assessments contained within Chapters 4 (Ecology and Biodiversity), 5 (Land, Soils and Geology) and 6 (Water) indicate compliance with LR O12.

The impact of the proposed development is such as to not contravene LR O14 maintaining the visual integrity of the Eastern Transition Lands which have retained an upland character. The proposal is considered consistent with LR O15 which seeks to facilitate appropriate development in the Eastern Transition Lands that respects the scale, character and sensitivities of the local landscape, and recognising the need for sustainable economic activity within the county.

The landscape and visual assessment undertaken, and set out in Chapter 3, indicates that there is no significant impact on any designated **high amenity areas**. The proposal therefore accords with LR P2 protecting High Amenity Areas from inappropriate development and reinforcement of

their character, distinctiveness and sense of place in so far as quarrying is a well-established use, and a key or determining feature of the existing landscape.

The proposal is also consistent with LR O17 controlling development that will adversely affect the visual integrity of Areas of High Amenity by restricting incongruous structures out of scale with the landscape within the Areas of High Amenity and where they will disrupt the open nature of these areas. In this instance there are no structures of any kind proposed within this S37L application. No existing structures are reused under LR O30. The proposal is in accordance with LR O30 which seeks to ensure that development on elevated sites can only be accommodated where it can be explicitly demonstrated that residual adverse visual impacts are minimised or mitigated. That is certainly the case in this instance. The landscape and visual assessment contained in Chapter 11 considers that no mitigation screening is required over and above what is proposed in the submitted restoration plan. The same response should be noted in respect of objective LR O31.

The proposal is respectful of and non-impactful on **protected views and prospects**. The proposal complies with LR P3 which seeks to protect, sustain and enhance the established appearance and character of all important views and prospects. There is no disruption to any vista nor is there any disproportionate impact on the landscape character of the area, particularly upland views and listed views in accordance with LR O32. Listed views that may be affected by the subject development are not impacted upon.

In this instance there is no disproportionate visual impact or significant interference with or detracting from scenic upland vistas when viewed from nearby areas, scenic routes, viewpoints and settlements in accordance with LR O33. It is considered that there is no landscaping or screen planting required along any scenic route as per LR O35.

In terms of recreation, policy LR P4 is complied with. That policy seeks to protect existing recreational infrastructure in the county and it is noted in the EIAR that there is no impact on Glen Ding Wood, nor on any other recreational facility or amenity, in the locality.

In summary, the proposed development is considered CDP policy and objective compliant.

### ***The planning merits of the case***

There are several substantial planning merits to this case.

This is a well-established quarry in this location. There has been a quarry in this general location since the 1800s and the Applicant's family have been involved in quarrying in this location since the 1950s. To enable that tradition to continue there must first be the grant of substitute consent but then of equal significance there must be a grant of planning permission under S37L of the PDA for the existing operation to reach its potential.

At a time when the Applicant's business was ready to extract existing reserves on site it was not in a position to do so during Covid 19 as the construction industry was all but decimated and both their ability to operate on site ceased and indeed the demand for aggregates plummeted. In the intervening period they have been able to expand within the confines of their site and that area is now reaching exhaustion. To make their existing operation viable they are now at a point where

they need to expand excavations laterally and to do so they have had to lodge concurrently a Section 261A application and this S37L application. Their needs for having had to apply for substitute consent are set out at length in the attached cover letter/planning statement to that substitute consent application.

To be able to continue their business through the grant of substitute consent, and to extend it through the grant of planning permission under S37L, the Applicant has tried on several occasions to regularise planning on their site with extenuating circumstances prevailing where KCC were prohibited from granting planning permission for several applications and where the last resort of a S261A application and S37L application are required.

The existing operation provides employment for c50 people and the grant of permission would preserve or protect that employment and would facilitate further direct and indirect employment to work the extended areas. Direct jobs will therefore be safeguarded in the first instance and further maintained and increased in the context of indirect employment in the second S37L instance.

We are aware that this S37L application will be the subject of imminent public and prescribed consultation. There will likely be objections, as there are with most quarry developments. However, in this instance we would point out that the third party submissions received on 20/532 demonstrated in the majority that the existing operation was well valued by the local community and business interests in the area. Proposed development under 20/532 was greatly supported by the local community as the Applicant supports local social and sporting activities and supports local businesses as a supply and local service user. The same will undoubtedly apply to the proposed extension the subject of this planning application. The proposed development would provide work and business for hauliers, contractors, transport companies etc.

The proposed development also will assist in the need for aggregates and in this regard County Kildare is well known for the excavation of sand and gravel and rock. These are essential ingredients to the provision of roads, other infrastructure and most importantly in the current social and economic climate, additional much needed homes.

If these merits were not enough we would point out that there is no significant impact identified on the environment or any Designated Sites. The proposal is compliant with planning policy at all levels, national, regional and local level.

Finally, the proposed development is not expected to be unacceptably harmful to the amenity of any residents - even those located close to the subject extensions. It should be noted that the most significant event potentially intruding on residential amenity concerns blasting and that activity will be undertaken under the strictest of limitations and controls. The impact of such blasting has conclusively been found to be likely to operate within acceptable standards in relation to noise, vibration and air quality based on previous surveys when blasting did previously occur. In terms of residential amenity, traffic increases are estimated to be insignificant and consequently any increase in traffic generated noise, vibration and air quality is also likely to be insignificant. The visual and landscape amenity of local residents will also not be substantially effected.

In terms of risk from an external major accident affecting the quarry there is no risk as there are no relevant external industries in proximity to the site to result in a major accident and in regard to risk from flooding, as all excavations proposed will occur above the water table and no dewatering

occurs. Here there will be no risk. It is noted also that there are no surface water features adjacent to the site which have potential to flood the quarry. The impact on water supply and water quality is considered in the attached EIAR as insignificant.

With the maintenance of practices identified in Table 14-1 and the undertaking of mitigation identified in Section 14.8 it is considered that the Proposed Development activities will not result in accidents or disasters that are deemed to be 'Major'. Therefore, it is considered that the Proposed Development would have an 'Imperceptible' effect (including no effect) on the surrounding environment in regard to major accidents and disasters.

## **9. Conclusions**

The EIAR submitted does not identify any significant negative impacts arising from the proposed development that are not adequately mitigated. The NIS submitted with this application also does not identify any significant impact on any Designated Site that is not adequately mitigated.

This overall site has a long, well established and continuous existence as a quarry, albeit with a complicated planning history, and the subject S37L application allows it to continue where it has been in existence over a very long period in family ownership and allows the applicant to harvest the rock, sand and gravel in this location for which it is well known already. Continued quarrying in this location is consistent with the proper planning and development of this area as it does not compromise any development objectives for the lands and will maintain the employment and aggregate product resource at this location into the immediate future which is a positive and material benefit in this instance.

In the absence of any demonstrable harm to the environment and any Natura 2000 sites the proposed development is consistent with the policies and objectives of the 2023 Kildare CDP which is generally encouraging to quarries and aggregate based operations where no such significant harm or impact occurs.

The proposed S37L development is also supported by the NPF and the EMRA RSES in the absence of any such harm. The proposal provides employment and the existing business contributes significantly to community and social care.

There are no significant reasons why permission should be denied in this instance in our opinion.

We await the Board's determination of this S37L application.

Yours sincerely,



**Eamonn Prenter** MIPI MRTPI

Director

**CUNNANE STRATTON REYNOLDS**  
**LAND PLANNING & DESIGN**

[www.cslandplan.ie](http://www.cslandplan.ie)

