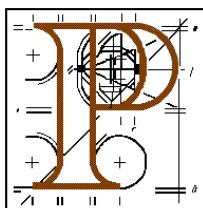


An Bord Pleanála



Development: Quarrying of stone with an extraction area of 6 ha. and to ground level of 77m. (O.D.) and site works at Ardcahan, Dunmanway, Co. Cork.

Planning Application

Planning Authority: Cork County Council
Planning Authority Reg. Ref.: 14/0616
Applicant: Murray Brothers Tarmacadam Ltd.
Type of Application: Permission
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): Murray Brothers Tarmacadam Ltd,
An Taisce,
Patrick & Alice Hayes
Type of Appeal: First Party V Condition no. 27
Third Parties V Grant
Observers: Peter Sweetman
Date of Site Inspection: 28th September 2015

Inspector: Kenneth Moloney

1.0 SITE DESCRIPTION

The subject site is located in a rural area in close proximity to the regional road from Dunmanway (R587) to the Macroom Road. The appeal site comprises of an unused quarry and is located adjacent to a tarmacadam plant which is operational. The primary land-uses in the immediate area of the appeal site is livestock farming with sporadic rural housing.

The appeal site includes an excavated quarry, which is no longer in use, staff offices and car parking provision. The tarmacadam plant on the site which takes aggregates from quarries in the local area is situated adjacent to the staff offices.

There is dense vegetation located within and surrounding the site.

2.0 PROPOSED DEVELOPMENT

The proposed development is for the quarrying of stone with an extraction area of approximately 6 hectares and to a ground level of 77 metres OD and all associated site works.

It is intended that the quarrying will extract quartzitic sandstone over an area of approximately 6 ha and that the annual extraction will amount to between 100,000 and 150,000 tonnes per annum. There is an established vehicular access off the local road (L4621-9) and within the landholding there is a series of access roads which served the previous quarry use on the site.

Additional information sought for the following;

1. Full details in relation to restoration of site.
2. Draft details of the proposed Operational and Environment Management Plan.
3. A full appropriate assessment
4. Detailed map of the site showing all watercourses
5. Details of surface water management
6. Details of surface water mitigation.
7. Details and drawings of the proposed water recycling scheme
8. Illustrate by way of map all occupied dwellings within 500 metres of the boundary of the quarry and predict noise levels.
9. Details of mitigating measures to reduce / eliminate any excessive noise levels.
10. Show on a site map the location of any proposed hydrocarbon leaks and providing details of bunding.
11. Details of any emergency plan at the site to deal with any excessive contaminated surface water in a flood situation
12. Full detailed proposals are required for an operational wheel wash
13. Details of traffic warning and safety signs

14. A commitment that the developers will enter into a financial bond regarding restoration of the site

Clarification of additional information sought for the following (a) additional details in relation to the design, location and scale of the attenuation pond required, and (b) a quantification in relation to polyaluminium chloride added to the wash water is required.

3.0 PLANNING AUTHORITY'S DECISION

The Planning Authority decided to grant planning permission subject to 27 conditions.

The following conditions are of note;

Condition no. 2 – duration of permission is 15 years

Condition no. 3 – operating hours restricted

Condition no. 4 – blasting limited between 10am and 4pm

Condition no. 10 – noise levels limited

Condition no. 19 – archaeology requirements

Condition no. 21 – habitat improvement works

Condition no. 23 - environmental and operational management plan

Condition no. 24 – quarry restoration plan

Internal Reports: There are six internal reports on the file:

- Environment Report: Additional information sought.
- Estates: No objection to the proposal in relation to a flood perspective.
- Environmental Health Officer: No objections subject to conditions.
- Area Engineer: Additional information sought in relation to wheel wash and traffic safety signage.
- Archaeologist Report: No objection subject to an archaeology monitoring condition.
- Ecologist: Additional information sought in relation to (a) reinstatement proposals, (b) draft operational and environment management plan, (c) NIS.

Objections: There is one third party objection on the planning file and the issues raised have been noted and considered.

Submissions: There is a submission from An Taisce who state that the application is a continuation of quarrying on a site which has not been subject to an EIA and is unauthorised. The IFI lodged a submission requesting that no quarrying is carried out below the water table, that all contaminated runoff surface water is contained on site and that there is no

interference with bridging, draining, or culver-ting of adjacent stream or any watercourse.

4.0 PLANNING HISTORY

- L.A. Ref. 98/284 – Permission **granted** for tarmacadam plant on a site within the overall landholding. This is a separate permission to the quarry operation.
- L.A. Ref. 11/317 – Permission **refused** for the expansion of quarry. The reasons for refusal included (a) unauthorised nature of quarry, (b) lack of appropriate assessment, and (c) the requirements of EIS on the site.
- Enforcement SKB 12/22 – An enforcement notice was served on the applicants under Section 154 of the Planning and Development Act. The enforcement case was closed following compliance with the order.

5.0 DEVELOPMENT PLAN

The operational development plan is the Cork County Development Plan, 2014 – 2020.

Section 6.12 of the Plan advises in relation to mineral extraction.

6.0 NATIONAL GUIDELINES

The Quarries and Ancillary Activities Guidelines for Planning Authorities (April, 2004) offers guidance to Planning Authorities on planning for the extractive industry through the development plan process and determining applications for planning permission for quarrying and ancillary activities. The following sections are relevant to the current appeal.

- Section 3.4 outlines the potential environmental effects caused by quarrying on water supplies and ground water.
- Section 4.7 sets out possible planning conditions.
- Section 4.9 advises on the life of planning permission.

7.0 GROUNDS OF APPEAL

7.1 Third Party Appeals

An Taisce lodged an appeal. The main grounds of appeal are summarised as relating to the following; -

Planning History to the Site

- There is no pre-1964 status on the subject site.
- There is no evidence of EIA threshold scale development on the site before 1990.

- The applicant purchased the site in 1996 and failed to establish the legal status of any quarrying operation on the site.
- The permission under L.A. Ref. 98/284 did not establish any legal status of any quarrying on the site.
- Section 260 required quarry owners to register sites.
- The applicant failed to register their quarry site in accordance with Section 261.
- ECJ Judgement case C215-06 debarred retention of unauthorised EIA level development.
- Section 261A amending the 2000 Act seeks to regularise the operation of quarries in relation to EIA and Habitats Directive.
- The local authority determined that the applicants were debarred from seeking a remedial EIS.
- The applicant's did not appeal this decision to An Bord Pleanala.
- L.A. Ref. 11/317 for expansion of quarry was refused by Local Authority for reasons of unauthorised status and lack of AA and EIS.
- The Local Authority issued an enforcement notice requiring cessation of all quarrying.

Grounds of Appeal

- It is contended that this current application is a de facto application for the retention and continuation of an unauthorised use.
- There is a preliminary matter to determine whether the applicant is entitled to make such an application.
- The actual reason for the current application is to seek consent for the retention of an unauthorised development in order to allow continued quarrying, which is not addressed in the public notice or advertisement or the level of fees.
- It is contended that the application and determination by Cork County Council is in breach of the EIA directive.
- The applicant has no legal entitlement to lodge the application which allows for an unauthorised development requiring EIS to be retained and secondly the applicant had the opportunity to appeal a Section 261A application to An Bord Pleanala.
- It is noted that contiguous application for quarrying L.A. Ref 11/317 was refused permission on the grounds that it was an extension to an unauthorised quarry.
- The planning application form provides no information that the site is located within an unauthorised quarry site.
- The application on the site amounts to continuation of quarrying on a site which has not been subject to EIA and is unauthorised.

Assessment by Local Authority

- It is contended that the local authority's planners report failed to address the legal issues raised regarding the legal entitlement of the applicant to make the planning application.
- It is submitted that the planners report is devoid of consideration of Section 261A.

- It is contended that the application has been determined under Section 261A and has no entitlements to obtain retention through substitute consent.
- It is submitted that the report fails to address the status of the application with regard to Section 261A.

Response to legal arguments by applicant

- The applicant's response does not address whether the process undertaken by the Local Authority is contrary to EU law (C 215-06).
- The applicant's response does not take account of the variety of actions which a planning authority, or An Bord Pleanala may take on a Section 261A determination, namely to determine.
- The subject application would contravene Case 215-06.
- Section 154 of the Planning & Development Act, 2000, was specifically amended to exclude quarries.
- There are separate considerations which apply to the development in breach of EIA and Habitats Directive.
- The effect of the current application will be to continue quarrying on an unauthorised site without resolving the European Court Judgement.
- The applicant's response is untenable as it puts private property rights above environmental and public interest regime which is placed under EU and Irish Law to regulate quarries.

The following is a summary of an appeal submitted by Declan Brassil & Company on behalf of **Patrick and Alice Hayes**;

Section 261A Status

- Section 261A contains a new provision in relation to quarries.
- The subject quarry could not avail of the Section 261A substitute consent provisions for reasons stated by the local authority in its order no. 10,012 dated 22nd August 2012.
- Section 261A also provides that where a quarry was unauthorised it will not be allowed to apply for substitute consent for unauthorised development which was in breach of the EIA / Habitats Directive. Instead an Enforcement Notice will be issued.

Planning History

- L.A. Ref. 11/317 for expansion of quarry was refused permission by the Local Authority for reasons of unauthorised status and lack of Appropriate Assessment and EIS.
- The current application is of the same nature and over a greater area than the above application refused by the local authority.
- It is contended that the current application does not address refusal reason no. 3 of L.A. Ref. 11/317.

Unauthorised Status of Quarry

- The current application claims that the proposal is for a new quarry. However based on the planning history it is evident that the current application represents an extension to an unauthorised quarry.

- The operator of the quarry has not sought to regularise the quarry under Section 177E of the Act.
- Substitute consent is not an option available to the developer as the requirement to register under Section 261 was not complied with.

Grounds of Appeal

- It is submitted that there has been no material changes in the circumstances of the site, legislation, or policy which could justify any departure from reason no. 1 under L.A. Ref. 11/317.
- It is submitted that Section 3.4 and Section 3.11 of the submitted EIS clearly states that the proposal is an extension to an existing excavated quarry.
- The existing quarry circumvented the EIA and Habitats Directive and was precluded from availing from the Section 261A provisions.
- The application and the extension proposed cannot comply with the requirements of the Directive as it is characterising the assessing an extension of a prescribed class of development (Class 13, Part 2, Schedule 5) as a 'greenfield' development under Class 2, Part 2, Schedule 5 project.
- The proposal has not been the subject of a substitute consent to regularise that element which contravenes the EIA Directive.

Abandonment of Quarrying Use

- It is submitted that having regard to case law there is no clear definition of what constitutes an abandonment or cessation of an unauthorised use.
- The Courts have established a number of uses to determine whether or not a use has ceased or been abandoned.

True Intention of the User

- Where a use is merely suspended for a temporary period, which could even amount to a considerable period with no intention to resume the former use it is considered that the use has been ceased or abandoned.
- The following is evident; (a) the unauthorised use only ceased following the issue of an enforcement notice, (b) aerial photography of site dated 4th March 2013 indicates activity within existing quarry, (c) site photographs contained in Chapter 3 of EIS confirmed the presence of existing machinery and vehicles, (d) the noise assessment carried out confirmed quarry noise to be audible at a sensitive noise receptor.
- There is anecdotal evidence suggesting that works only ceased in October 2014.
- The submitted EIS claims the quarry is disused.
- The planning application the subject of the appeal was submitted in October 2014.
- The local authority contends that the unauthorised use has ceased prior to making the planning application.
- It is concluded that the Planning Authority determined that unauthorised works have ceased as there can be no conclusion that

the quarrying use has been abandoned as there is a clear intention by the applicant to continue such works.

Length of Period of Cessation / Abandonment

- It is contended that the quarry works ceased for a very short period.
- It is argued that the unauthorised works continued until the lodgement of the planning application.
- It is contended that the subject application should be invalidated as (a) the quarry was not registered under Section 261, (b) the development represents an extension to an unauthorised development, (c) there is no retention planning permission sought, and (d) the development applied for contravenes the preventative intent of the EIA Directive and Article 6 of the Habitats Directive.

Visual and Landscape Impacts

- The existing quarry detracts significantly from the open views and vistas of the countryside.
- It is considered that the proposed extension would exacerbate this situation.
- It is contended that the Visual Impact Assessment of the EIS (Chapter 3) assesses the unauthorised quarry however this should have been considered from a retrospective position.
- It is therefore contended that the overall visual impact described as 'slight negative' is a vast understatement of the real impacts.
- It is contested that view no. 3 within the EIS cannot be considered as slight negative and short duration.
- The detached houses at Dromerk and Knockduff are situated on elevated sites in sensitive locations.
- It is contended that the visual impact on local residents would be long term.
- It is challenged how view no. 9 could be classified as having a slight impact as it is clearly more visible than view no. 10.
- It is submitted that views no. 8 and no. 9 appear to be identical.
- It is contended that five of the 10 no. viewpoints assessed in the EIS would result in negative impacts of which four are long term impacts.

Noise and Vibration Impacts

- It is noted from the noise survey that there was audible activity on the 19th June 2014 and this reinforces the timeline of unauthorised development.
- A range of metrological conditions will affect the intensity of the air overpressure value experienced at a distance from the blast site.
- There is uncertainty over the true intensity of historic blast data.
- It is submitted that the mitigation measures proposed under sub-section 6.2 of the Noise Assessment responses are considered wholly insufficient to mitigate against any such potential impacts.
- It is recommended that the following mitigation measures are transposed onto a grant of planning permission;
 - No more than one blast a week
 - No blasting over weekends and public holidays

- Ample notice of blasting to residents within 500m
- Given uncertainties in relation to metrological conditions blasting shall be limited to the months of March to September.
- All blasts designed to ensure the PPV limit of 12mm/s and an overpressure limit of 125 dB Lin at the nearest noise sensitive locations is not exceeded.
- Trial blasts are carried out.
- Vibration and air pressure values shall be recorded at the nearest noise sensitive receptor to the blasting site during each blasting event.

Road Safety Considerations

- It is submitted that the vehicular access details lacks a critical assessment or clarification by means of a further information request.
- It is noted that none of the conditions deal with haulage routes to and from the site. It is therefore contended that an agreement with the quarry operator is inappropriate and inadequate to regulate the control of vehicle movements to and from site.
- It is requested that a condition is attached that prohibits HGV's to enter the site from an easterly direction (travelling east to west), or to leave the site in an easterly direction along the local road 4621-9 in the interest of road safety conditions.
- The quarry operator has failed to comply with Enforcement Notice SKBE/13/7, as unauthorised quarrying works are still continuing at the site.
- It is contended that the quarry operator uses the hospital road and this is in breach of a legal agreement.

7.2 First Party Appeals

The following is the summary of an appeal submitted by McCutcheon Halley Walsh, Planning Consultants, on behalf of the applicant Murray Brothers Tarmacadam Ltd.

Condition no. 27

- Condition no. 27 requires a payment of €197,014.
- Any contribution due to Section 48 (2) (c) must be linked to specific exceptional costs and must benefit the proposed development.
- The basis of calculation relates to the Area Engineers report dated 15/06/2015 which includes a cost breakdown.
- The breakdown does not include any assumptions regarding the length of road used for calculating the quantity of materials required.
- It is estimated based on the quantity surface / binder and base etc. divided by the actual road width of 5.8 metres that the road length has been assumed as 436 linear metres.
- This appeal is based on the fact that this road length has been overestimated.
- There is an existing agreement in place that no site lorries are to use the road to the east of the site (Hospital Road).

- The quarry traffic uses the short stretch of local primary road L4621-9 to the north west of the entrance, before joining the Regional Road (R587). The quarry use is the main user of this road.
- On this basis the applicant has no objection to making a financial contribution to the upgrade of this road.
- The L4621-9 to the south east of the quarry therefore provides no benefit to the proposed development.
- Any special contribution for road improvements should be limited to the stretch road from the quarry entrance, northwest to the R587.
- The submitted drawing no. 2546-06 indicates that the relevant length of road from the entrance of the quarry to the R587 is 300m.
- It is therefore considered that the length of road which therefore benefits the proposed quarry has been overestimated by 136 metres or 31% (€61,074).
- The wider splay at the R587 junction is compensated by the narrower road width along sections of the relevant road.
- The Board are requested to amend Condition no. 27 and reduce the special contribution by 31% from €197,014 to €135,939.

8.0 OBSERVERS

The following is the summary of an observation from Peter Sweetman;

- There is no evidence of an EIA or an AA having been carried out.
- The planning history for the site is documented in the local authority planners report.
- There are no exceptional circumstances included in the application.
- It is not legally possible for the Planning Authority or An Bord Pleanala to grant permission.

9.0 RESPONSES

9.1 Second Party Response

The following is a summary of the responses submitted by the local authority;

Financial Contribution

- The Area Engineer is satisfied with the required schedule of works identified in her report.
- The Area Engineer is satisfied with her calculations as set out and the total for the Special Contribution.

Response to appeal by Patrick and Alice Hayes

- A legal opinion by Dr. Yvonne Scannell outlining the entitlement of the Local Authority to entertain the application was submitted by the applicant.
- The County Solicitors Office, following consultation with Junior Counsel, was of the view that the application could be entertained.

- The local authority considered the application in good faith and in accordance with its statutory duties.
- The local authority fully considered a range of site-specific issues identified in the appeal including visual impact, noise and road safety. The local authority is satisfied with the decision to grant planning permission.

Response to appeal by An Taisce

- A legal opinion by Dr. Yvonne Scannell outlining the entitlement of the Local Authority to entertain the application was submitted by the applicant.
- The County Solicitors Office, following consultation with Junior Counsel, was of the view that the application could be entertained.
- The local authority considered the application in good faith and in accordance with its statutory duties.

9.2 First Party Response

The following is the summary of a response submitted by the applicant's agent;

Introduction

- The planning application included a legal opinion from Dr. Yvonne Scannell and details of an Enforcement case on the site.
- The existing tarmacdam plant draws in materials from quarries located in excess of 20km from the appeal site.
- It is essential from a commercial, employment and environmental perspective that the applicant secures permission to source material from the adjoining quarry in accordance with the permission under L.A. Ref. 14/616.
- An Taisce were informed that the substitute consent procedures were not appropriate.
- There are a number quarry cases where leave to seek substitute consent was refused (An Bord Pleanála references LS0015, LS0002, LS0011 and LS0009).
- The submitted NIS and EIS provided extensive mitigation measures that apply to both the tarmacdam plant as well as the proposed quarrying activity. This includes the following;
 - Detailed restoration for the previous and proposed quarrying areas. Should the proposed development not go ahead there is no provision for restoration of the previous quarried area.
 - The proposal significantly enhances the protection of the environment associated with the existing tarmacdam plant by providing additional berming, bunding and spill trays around the site.
 - The proposed development includes a very comprehensive water and wastewater management system to ensure that there is no adverse impacts on adjoining water courses.
 - The proposal includes an active management of invasive species.

- Should the application be refused then none of the mitigation measures outlined above will take place.
- It is contended that the appeal by An Taisce is so focused on procedural aspects that it fails to examine the EIS and the very significant mitigation measures within the planning application.

Section 261A and alleged unauthorised status of Quarry

- The applicant's acquired the quarry in the 1990's.
- It is submitted that the quarry had been established prior to October 1964 and that the operations had continued for many years without any material alteration.
- It is contended that the pre-1963 status was confirmed in the local authority report for the permission granted under L.A. Ref. 98/284 which was for a tarmacadam plant.
- It is submitted that Section 261 (1) (aa) determined that the quarry was deemed to be unauthorised development.
- The local authority considered that the quarry came under Section 261A (2) (a) because it was development carried out after 1 February 1990 and 26 February 1997.
- An enforcement notice (ref. SKBE 13/7) was issued requiring the quarry to cease operations.
- The applicant obtained a legal opinion from Dr. Yvonne Scannell who concluded that the as an enforcement case was complied with the owner can therefore make a new planning application.
- Sections 261 and 261A have a self contained enforcement procedure for breaches of their terms, i.e. an enforcement notice will issue and the owner occupier must comply with it.
- The Act does not state that a landowner who complies with Section 154 notice is then prohibited from applying for permission for carrying out any other development on the site or that the landowner is prohibited from extending the existing unauthorised development provided the enforcement measures are complied with.
- The Planning Authority cannot refuse a development where a previous enforcement case has been complied with.
- There is no legislative or regulatory provision which empowers An Bord Pleanala to refuse to consider an application / appeal for quarrying.
- An Taisce's position that the applicant is not entitled to make a planning application on their land is strongly rejected.
- It is inaccurate of An Taisce to refer to the development as retention and continuation of an unauthorised quarry site.
- There is no retention or continuation of use sought in this application. Also the planning application is not situated entirely within the confines of an unauthorised quarry site.
- Both third party appeals incorrectly refer to the status of the enforcement case on the site.
- The enforcement process has had a devastating impact on the applicant's quarry operation but it has been fully complied with.
- The applicant has imported stone from remote quarries to feed the permitted tarmacadam plant.

- The two third party appeals do not illustrate any evidence of unauthorised development at the site.

Jurisdiction and Validity of Cork County Council's decision to grant permission;

- It is contended that there is no express provision in the Planning and Development Acts for a planning authority to have power to refuse permission for new quarries on old quarry sites.
- The Planning Authority, when considering a planning application, is restricted to considering matters set out in Section 34(2)(a) of the Act.
- The proposed development is in accordance with the provisions of the County Development Plan.

Planning History and refusal of permission under 11/317

- The appeals consider that the applicant is bound by the decision in L.A. Ref. 11/317. This is not the case.

Noise, visual and landscape

- Mitigation measures include;
 - restoration plan
 - additional berming, bunding and spill trays around the site
 - a comprehensive water and wastewater management system
 - active management of invasive species
- It is contended that the permission of the new quarrying activity significantly enhances the environmental context of the area.
- The EIA carried out by Cork County Council indicates that the proposal will have no significant adverse negative impacts on the environment.
- It is rejected that the proposal will have an unsatisfactory impact on noise and landscape / visual.

9.3 Third Party Response

An Taisce submitted a brief response which states;

- The appeal from Patrick and Alice Hayes reinforces the legal grounds of procedural legality as lodged by An Taisce.
- The submission adds weight to the argument that the onus is on the Board to address the legality of the application as a primary matter.

10.0 RESPONSES TO RESPONSES TO THE APPEAL

10.1. Second Party Response

The local authority submitted a response stating that they had no further comments to the applicant's response in relation to the appeal submissions.

10.2 Second Party Response

The following is a summary of a response submitted by the Planning Authority in relation to the Special Contribution;

- The development site is accessed via a 340m section of local primary road which is approximately 6m wide.
- The current finished surface on this public road is macadam and the road surface and sub-base would be severely impacted by this development given the estimated extraction amounts.
- The junction of the L-4621-9 with the R-587 would also need to be upgraded to facilitate this development.
- The attached spreadsheet details the breakdown of fees which are based on 2014 figures.
- The road improvements are necessary to provide access to and from the proposed development.
- Road construction requires upgrading for the lorry loading proposed in this development.
- There is no additional funding forthcoming.
- There are no other sites outside the applicant's site, along this road where planning permission was granted and a general, supplementary or special contribution was levied.

10.0 ASSESSMENT

The main issues to be considered in this case are: -

- 10.1 Legal Context
- 10.2 Principle of Development
- 10.3 Environmental Impact
- 10.4 Environmental Assessment
- 10.5 Appropriate Assessment
- 10.6 Road Safety Considerations
- 10.7 Financial Contribution

10.1 Legal Context

The legislation with regard to quarry developments has altered in the recent years and the following is a brief summary of some of the key legislative changes;

- Section 261 of the Principal Act provided for a one-off registration process for quarries (other than those for which planning permission was granted in the previous five years).
- ECJ Ruling C-215/06 introduced a new directive ensuring that projects that were likely to have significant environmental effects are assessed before consent is given and before the development takes place. Essentially it states that any new application for development which would (a) need an EIA, (b) fall to be assessed

as to whether or not it would need an EIA, (c) would need an appropriate assessment can only be accepted if the development has not taken place. This ruling (Directive) was transposed into the provisions of the Planning and Development Act, 2010.

- An essential component of this new legislative provision was the requirement of the Planning Authority to determine the status of quarries in each local authority area. Arising from this the Planning Authority would decide whether each individual quarry requires an application for substitute consent or whether enforcement action is required.
- Section 57 of the Planning and Development Act, 2010, makes provision for a substitute consent process. This process allows for retrospective permission, in restrictive circumstances, solely for developments that would have required an EIA.

In relation to the subject quarry before the Board I would note from the documentation on the file that the application is contiguous to, and includes, part of a quarry against which an enforcement notice was issued in accordance with Section 154 of the Planning and Development Act, 2000, as amended. The enforcement notice, which issued by reason of non-compliance with Section 261 A, required the cessation of quarrying within a six month period. I note that the requirements of enforcement notice have been complied with.

The applicant's response to the third party appeals includes a submission from Dr. Yvonne Scannell (Barrister) which counters the validity arguments of the appeal submissions mainly on the grounds that there is no provision for the local authority not to entertain the subject application.

I would consider, having reviewed the documentation on the file and the relevant legislation that the applicant has fully complied with its enforcement case in accordance with Section 154 of the Planning and Development Act, 2000 (as amended). Accordingly Section 154 does not include a provision that the landowner is prohibited from applying for a future planning application. I would consider that should such a provision exist it would essentially sterilise the land from future development proposals. In absence of any such legislation I would consider that there is no merit in the argument that the Board cannot consider this current appeal.

I would also note that the appeal submissions refer to unauthorised development at the appeal site however I would consider that these issues raised are generally enforcement issues of which the Board has no function.

10.2 Principle of Development

Generally speaking the objectives of the use zoning in a development plan is to serve as a guideline for the control of development so as to achieve the goals set out in this plan. Usually where no specific use zoning is

indicated, the primary use can be assumed to be that already existing in the area. In this particular instance the primary use in the vicinity of the appeal site is predominately agricultural uses and there is also a permitted tarmacadam plant within the applicant's landholding.

I would acknowledge Section 6.12 of the Cork County Development Plan, 2014 – 2020, recognises the value of sand and gravel extraction to the local economy and also the importance of identifying sites which will have the least impact on the environment. Policy EE 12-3: 'Impacts of Mineral Extraction' of the County Development Plan outlines the environmental considerations for quarries and these include visual impact, methods of extraction, noise levels, dust prevention, protection of rivers, lakes, European sites, water sources and residential amenities. Also consideration shall be given to the impact on the road network.

The national guidelines 'Quarries and Ancillary Activities', 2004, recognise that there is a continuing need for some new or expanded aggregate quarrying operations on land to meet regional and local requirements and to ensure adequate supply of aggregates to meet likely scale of future demand. Although this national guideline document is now 10 years old I would note that the documentation on the file indicates that there is strong demand for the aggregates in question.

It is my view based on the policies of the County Development Plan, the national guidelines and the location of the subject development in this rural area that the principle of the subject development would be acceptable provided that it does not adversely impact on the local amenities of the area.

10.3 Environmental Impact

The application is accompanied by an environmental impact statement and there is a non-technical summary document.

In relation to the adequacy of the E.I.S, I submit that it contains the information specified in Schedule 6 of the Planning and Development Regulations 2001, as amended. In general the information provided is considered to be relatively clear and precise. I would suggest that the statement be seen as a contribution towards the process of making available to the relevant decision maker and the competent authority, in this case the Board, the information necessary to enable the decision to be made. The information flowing from this process also includes information submitted with the application.

In accordance with the requirements of Article 3 of the European Directive 85/337/EEC, as amended by Council Directives 97/11/EC and 2003/35/EC and Section 171A of the Planning and Development Act, 2000 – 2010, the environmental impact statement submitted by the applicant is required to be assessed by the competent authority, at this juncture the Board. In this assessment the direct and indirect effects of the proposed development

need to be identified, described and assessed in an appropriate manner, in accordance with Articles 4 to 11 of the Directive.

Human Beings, fauna and flora

In relation to direct and indirect impacts to **human beings** the proposed quarry development, should permission be granted, would offer a long-term viability to the established tarmacadam plant on the subject site. Without the on-site quarry operation the tarmacadam plant will import materials from further afield and these additional costs may have an adverse impact on the viability of the tarmacadam plant. The existing tarmacadam plant currently employs 7 persons in full-time positions.

I would note that there are 4 occupied residential properties located within close proximity to the appeal site and all are visible from the subject site. The proposed development will extract an additional area of approximately 6 ha over a period of 10-15 years. As such the proposal will have a direct impact on landscape / visual amenities in particular to residential properties within close proximity of the appeal site.

The proposal will result in additional noise due to traffic and excavation and the proposal will involve rock blasting twice a year. The proposed development will result in additional traffic locally on the local road network (L4621) and also the R587.

In relation to health and safety the proposal has the potential to be a hazard for humans. The proposed development also has the potential to impact on amenity in terms fishing and angling on the local river network given that surface run-off water may impact on water quality levels of the local rivers.

In relation to **fauna and flora** it is important to note that the subject site is not within nor does it adjoin a Natura 2000 site. However a unnamed stream / river is located adjacent to the southern and eastern boundary of the appeal site and this watercourse has a pathway to the River Bandon SAC. The River Bandon is located approximately 300 metres from the appeal site. There is therefore potential for surface water run-off from the appeal site to adversely impact on the water quality of the adjacent unnamed stream / river and in turn the River Bandon SAC.

Given the size of the subject site and the excavation proposed the subject development will directly impact on existing terrestrial habitats and some aquatic habitats. The main impacts to these habitats will be during the excavation phase and the principle impacts include habitat removal, increased pollutant levels from construction vehicles, earth movements and excavations, increased disturbance levels from vehicular movement and construction. Section 7.4.2 of the EIS outlines habitats that will be impacted by the proposed development. The EIS considers that these habitats range in value from low to moderate.

In relation to **fauna** the red squirrel and the otter are the only species recorded in the wider area that are currently of conservation concern. The EIS considers that the proposed extraction area is considered to be of low to moderate value for mammals overall. Although there will be habitat loss affected mammals can move into alternative and comparable habitats that are well represented in the wider area. The EIS considers that the proposed extraction area is considered to be of low to moderate value for bats overall.

Soil, water, air, climate and the landscape

In relation to **soil** a direct impact of the proposed development would be the removal of soil as part of the site clearance for the proposed excavation.

There is a watercourse located adjacent to the southern and eastern boundary of the appeal site. This watercourse is significant as it is situated some 300 metres from the Bandon River which is a designated SAC. The potential implications for **surface water** are more significant given the adjoining unnamed water course is a tributary of the Bandon River and the nature of the proposed development which involves the excavation. There is therefore a potential risk of sedimentation of the riverbed and suspended solids pollution of river waters. Run-off surface water is stored in ponds on the site. In relation to **ground water** there is the potential that settlement ponds or attenuation ponds on the site may adversely impact on ground water through means of percolation.

In relation to **air quality** the primary implications of the proposed development is dust generation resulting in dust particles becoming airborne and this is dependent on meteorological conditions such as wind and precipitation. Dust generation may occur at the proposed development site due to the removal of the overburden, excavation, the loading of the aggregates and the re-suspension of dust during the movement of vehicles on-site.

In relation to impacts on climate the vehicle movement to and from the site will give rise to CO2 emissions which is a harmful gas contributing to global warming.

In relation to **landscape** I would note from the provisions of the County Development Plan that the appeal site is not located within a designated landscape nor is the subject site located in close proximity to a designated 'scenic route'. The appeal site is a formerly excavated quarry and is generally visible in the local area particularly from higher ground.

The actual appeal site, although now a former excavated quarry, was previously a woodland, known as Clashnagallagh Wood. I noted from visual observation of the area that there is strong presence of mature trees within the immediate context of the appeal site and on the perimeter of the excavated area.

The landscape in the immediate environs of the appeal site is characterised by rolling topography. There is also a small unnamed river / stream situated to the south and east of the appeal site, adjacent to the southern boundary, and this watercourse adjoins the Bandon River to the west of the appeal site.

Materials assets and cultural heritage

In relation to **material assets** the proposed development will result in traffic generation and these issues are discussed in greater detail below in this assessment.

In relation to **cultural heritage** there are no recorded archaeological sites within the proposed development site. However there are 22 recorded archaeological sites listed in the Record of Monuments and Places (RMP) situated within 2km of the proposed development site. Appendix 10.1 of the EIS outlines a full description of these sites and they mainly include ringforts, enclosures, burial grounds, souterrains and some standing stones.

The interaction between the factors mentioned in the first, second and third indents

In my opinion the following interactions are relevant;

Human beings / landscape – the proposal will be visible from adjoining residential properties.

Human beings / noise and traffic – the proposed development will generate additional traffic and noise due to excavations.

Human beings / air quality – the proposal will have air implications during the excavation period.

Flora & fauna / landscape – the proposed development in terms of the works will result in a material alteration to the landscape.

10.4 Environmental Assessment

In relation to human beings I would consider the most significant impacts of the proposed quarry would be noise and visual impacts.

In relation to noise the EIS conducted a noise survey in three locations which are indicated in Figure 8.1 of the EIS. I would note that from the three survey locations that survey location S02 indicates a noise reading of 55 dB LAeq which is the highest reading of the three survey locations. Although the quarry is currently not in operation the tarmac plant is in operation. Having reviewed the results from the three survey locations it is evident that the most dominant noise source is the road traffic.

Table 8.9 'Predicted Operational Noise Level' in the EIS indicates estimated values and the highest value for the quarry and tarmacadam plant combined is 50 dB LAeq at the receptor locations. Therefore having regard to the set-back distances it is concluded that the overall noise impact on adjoining residential properties would be at the higher end of the acceptable level. It is evident that the noise from the proposed quarry activities will be audible to adjoining residents and the predicted higher value of 50dB is higher than a normal rural background level. I would recommend to the Board, should they favour granting permission, that noise monitoring conditions are attached to ensure local residential amenities are protected into the future and also a noise condition is attached to any permission which limits the total noise emissions.

In relation to blasting I would note that the EIS concludes that the site layout itself provides a significant degree of natural acoustic screening to noise sensitive receptors located to the north. However the EIS also states that the blasting in the western section of the site may lead to increased vibration levels at receptor R01. Overall it is envisaged that future blasting vibration levels at the subject site, based on historical onsite monitoring data, will be within specified criteria. I would recommend a condition, should the Board favour granting permission, that would limit the blasting events in the year and also require the applicant to notify the local residents of any scheduled blasting events.

In relation to employment the proposed development will retain established employment levels and offer a medium-term viability to an existing tarmacadam plant. The proposed development may impact on fishing in the Bandon and the Caha Rivers as fishing is dependant of the water quality of these rivers and its tributaries.

The quarrying activity will result in the generation of additional traffic on the local road networks. The proposal will result in additional traffic generation from the site entrance. I would not consider the traffic implications of the proposed development significant having regard to the capacity of the local road network. I have considered in greater detail the likely extent of traffic and access issues in Section 10.6 below.

In relation to visual impacts this is assessed below under the heading landscape.

In relation to **flora** present on the appeal site I would note from an evaluation in the EIS that the flora present on the subject site is generally low to moderate value. Given the low value nature of the existing flora to be removed I would not consider that the proposed development would have a significant adverse impact. Nonetheless I note the mitigation measures as set out in Section 7.5.2 of the EIS.

In relation to **fauna** the EIS noted that there was no rare or endangered species present during surveys of the appeal site. However the site makes it attractive for birds and in particular the peregrine falcon which has a

conservation designation. There is also the presence of bats on the site as recorded in the EIS. Overall I would consider that the mitigation measures, as outlined in Section 7.5.3 of the EIS, would ensure no residual impacts.

Soil, water, air, climate and the landscape

In relation to **soil** a direct impact of the proposed development would be the removal of soil as part of the excavation. There are also activities associated with the compaction of soil due to haulage vehicles travelling from the quarry to the tarmacadam plant. The contamination of soil could be caused during operation stage by hydrocarbon leaks. A hydrocarbon leak would have negative short-to-medium term moderate impact on the vegetation and earth materials on-site and down gradient of the development site.

In relation to **water** the unnamed stream / river which flows adjacent to the southern and eastern boundary of the appeal site is a concern given its proximity to the proposed quarry and its pathway to an SAC. This watercourse meets the River Bandon (Site Code 002171) approximately 300 metres from the appeal site. However I would note that the EIS outlines that surface water from the quarry is drained towards the existing storm water attenuation pond in the south western corner of the site, which is located down gradient of the proposed excavation area, and will prevent direct surface run-off to the adjacent watercourse. The gradient of the quarry prevents any linkages between the surface water run-off from the quarry and the watercourse. Also Section 6.5 of the EIS outlines general mitigation measures in the operational stage and these measures can be considered as genuine approaches to addressing surface water pollution. I would also note that there is no evidence of the previous operations on the site adversely impacting on the water quality of the adjoining watercourse.

However the Chapter 6 of the EIS does not refer to the mechanics of the settlement pond and whether the settlement pond would have an active role in preventing any ground water pollution. I would note that the submitted Natura Impact Statement sets out the mechanics of the settlement pond and there likely impacts on ground water.

In relation to the impacts on **air quality** it is relevant to consider the operations at the proposed quarry site. It is anticipated that the proposed quarry operation will extract a maximum of 150,000 tonnes of stone per annum from the 6.0 ha site. It is intended that the quarry material will be extracted by boring or blasting, through industrial explosives, bi-annually. The rock is then crushed and screened as necessary. After screening the material is either used on the on-site tarmacadam plant or supplied to Cork or Kerry County Councils for use in public roads.

The EIS estimates 1.6 truck movements in and out of the site per hour. The general operation of the proposed quarry is between the hours of 7:30pm to 5:30pm Monday to Friday and Saturday 7:30am to 2pm. Therefore in relation to air quality there is significant potential for dust

generation. The EIS included an air quality modelling that predicated air quality values to assess the dust deposition flux at the site boundary and it is estimated that the predicted deposition will be 248 mg/(m²*day) and this is below the limit value of 350mg/(m²*day). However the background level is currently 39mg/(m²*day). This therefore represents a significant increase in dust particles in the established air quality however it is below the accepted levels. I have examined the mitigation measures and I consider them acceptable.

The proposed development may give rise to CO₂ and N₂O emissions. However having regard to the time-frame of the proposed development (10 – 15 years) and the limited activities generated from the proposed development I would not consider that the proposal would have any significant implication for **climate**.

In relation to **landscape** the EIS includes a visual impact assessment from various vantage points. I would note that View no. 1 which is taken from the north of the appeal site indicates no impact and I would concur with this conclusion. However view no. 2 and view no. 3 illustrate partial visual impacts of the existing quarry development. These views are significant as third party houses are located in close proximity to these views. I would consider these views, in particular view no. 3, has the potential to significantly impact on established amenities in terms of landscape intervention. In relation to view no. 4 this indicates a view towards the site entrance from the public road which provides access to the quarry. I would concur with the EIS that this view is not significant given the established vegetation cover. View no. 5 is from the regional road, i.e. R587, and from the regional road there are currently no views available of the existing quarry and this is largely due to the change in elevation from the public road to the quarry. However it is unknown whether the proposed quarry will impact on views from the regional road. The views towards to the quarry from view no. 6, view no. 7 and view no. 8 are also screened by established vegetation and also given the lower elevation of the existing quarry. However some of this vegetation is likely to be removed with the proposed quarry excavation and therefore likely to open up views of the landscape. Both view no. 9 and view no. 10 are elevated and therefore allow views of the existing quarry and the proposed quarry excavation.

The EIS concludes that with the implementation of mitigation measures the fully extracted quarry can result in slight, positive impact. The EIS acknowledges that the excavated quarry will become a permanent feature in the landscape but given site suitability it is estimated that the proposed quarrying will not have any significant or profound residual landscape or visual impacts. Overall I would consider that the proposed development will have implications in terms of visual impacts for local residents. However I note that there is an established visual impact and that the current proposal includes a restoration plan which in the long term will improve the overall visual impact for local residents.

Material assets and the cultural heritage

In relation to **material assets** the proposed development will result in traffic generation and these issues are discussed in greater detail in Section 10.5 below of this assessment. In relation to **cultural heritage** the proposed development is not likely to have any direct / indirect impacts on archeological sites given the context of the appeal site however there is the potential during the construction stage of the proposed development impacting on unknown archeological environment and in this instance I would recommend archeological monitoring conditions any grant of permission, should the Board favour granting permission.

10.5 Appropriate Assessment

The appeal site is not located within or adjoining a designated Natura 2000 site. However I would note that the nearest Natura 2000 site to the appeal site is the Bandon River SAC (site code 002171) and this is located approximately 300 from the appeal site. There is also a pathway from the appeal site to the River Bandon SAC as an unnamed river / stream adjoins the eastern and southern boundary of the appeal site and flows into the River Bandon SAC approximately 300 metres from the site.

In relation to the proposed quarry activities no works are proposed below the water table and there will be no abstractions from surface water or ground water. The on-site septic tank will be used for domestic wastewater. Therefore the greatest threat, in my opinion, is run-off water from the excavated quarry towards the unnamed river / steam and its potential for adverse impacts.

I would consider that given the nature of the designated Natura 2000 site that the most significant concern from the proposed development would be increased siltation, nutrient release and contaminated run-off and /or dust discharging into nearby unnamed watercourse. In relation to the SAC the Freshwater Pearl Mussel is a qualifying interest and this specie is particularly sensitive to negative impacts from siltation entering the water.

Section 2.2 of the NIS sets out surface water drainage and management, and in general surface water management is performed by a series of settlement ponds located throughout the site. These ponds contains surface water run-off throughout the site and this is achieved by the provision of berms between the watercourse and the quarry site, an interceptor, attenuation / settlement ponds and ground sloping away from the nearby watercourse. The overall objective of surface water management on the site is to retain surface water run-off and direct it towards the attenuation / settlement ponds.

The submitted hydrology report, which formed part of the response to the additional information request, in my view, clarifies the surface water management proposals on the site. The submitted drawing no. Fig. 01.DM

illustrates that there are six distinct surface water sub-catchment areas within the site. In summary this includes;

- A1 – Surface water contained within a berm.
- A2 – Surface water discharges to adjacent stream / river via existing silt traps and an interceptor. This area covers the established tarmacadam plant. It is proposed to increase the size of the silt traps and an interceptor.
- A3 – Overflow ponds that flow towards stream / river. The ponds are used to settle out any suspended solids before discharging to Pond L which sometimes, during periods of heavy rain, is discharged to the unnamed stream. It is proposed to install a suitably sized interceptor at the overflow point from Pond L to allow further mitigation of any potential sediment and /or hydrocarbon in the water prior to discharge into the nearby watercourse. There is potential for mitigating of any hydrocarbon risk by providing adequate interceptor for size of catchment.
- A4 – This area is located in the south west corner of the site where there are currently two surface water ponds established. It is stated in the NIS that the proposed new extraction area primarily drains south-westerly towards two existing ponds where surface water attenuates and suspended solids are able to settle out. Surface water will overflow from Pond J into an existing wet grassland and scrub area before discharging into the unnamed stream. The wet grassland and scrub area provides a further natural mitigation and polishing of residual suspended solids from the quarry overflow before entering the unnamed stream. It is proposed to install a 'penstock / adjustable weir' type water flow control on the downstream berm of the first attenuation pond so that its attenuation capacity can be increased back into the south west portion of the quarry area as necessary to accommodate greater volumes of run-off during a high and /or persistent rainfall.
- A5 – Drains to ground or runaway away from the quarry.
- A6 – This is the north-east area of the site. There are three clean ponds that are not part of the quarry operation. These ponds are drained to the watercourse by underground pipes in the event of high levels of rainfall.

The NIS outlines that the site has poor permeability and percolation to ground having regard to the hydrogeology of the site. The local authority Ecologist, in her report, states that she has no reason to disagree with this conclusion.

The NIS outlines proposed mitigation measures in Section 4.1 and I would consider these acceptable.

There is a submission on the file from the Department of Arts, Heritage and the Gaeltacht which states that the previous concerns in relation to estimates and calculations required to design an adequate settlement lagoon system are now addressed. In addition the submission states that concerns in relation to the amounts of polyaluminium chloride added to wash water are now addressed.

The report from the County Ecologist, dated 11th June 2015, concludes that the potential for adverse effects on the integrity of the Bandon River SAC can be ruled out.

I would consider that having regard to the documentation on the file and the nature and scale of the proposed quarry including the proposed surface water management proposals, outlined above, and mitigation measures, that no significant impacts are likely from the proposed development on the River Bandon SAC (site code 002171).

10.6 Traffic and Access

I would note that Chapter 4.0 of the EIS demonstrates that the proposed development will not adversely impact on the capacity of the adjacent local road (L4621) or the regional road (R587) or indeed the junction (R587/L4621). It is estimated that the maximum ratio of flow to capacity at the junction will be 8.1% which will leave a spare capacity of 76.9%.

An existing agreement is in place that no site lorries were to use the road to east of the site entrance. This will ensure that the site lorries will only use the (L4621) for a limited stretch to the west of the vehicular entrance to the quarry.

I would note that the report from the Area Engineer (dated 2nd December 2014) has no objections to the proposed development in terms of capacity or sightline provision. The Area Engineer's report also recommends a special development contribution for the upgrade of the local road (L4621-9).

Overall I would consider, based on the estimated traffic generation that the proposed development would not unduly impact on the established traffic on the existing regional road.

10.7 Financial Contribution

This relates to Condition no. 27 of the local authority permission. The appellant argues that principle of the special financial contribution is acceptable however it is argued that total amount should be reduced to reflect the actual length of public road in question.

The appellant argues that the actual length of relevant road is 300m rather than 436 metres which are used in the calculation for the special

contribution. Therefore the financial contribution is over-estimated by 136m or 31%, (i.e. €61,074).

The local authority in their submission indicated that the length of the relevant road is 330m and the road width is approximately 6m. I would estimate from the submitted documentation on the file that the road length marginally exceeds 300m. The appellant considers that the width of the road is 5.8m however the local authority state that the width of the road is 6m. I would consider based on a visual observation of the local road and also having regard to the submitted Site Location Map (Scale 1:2500) that the road width varies at different points along the stretch of public road. However on average I would consider that a 6m width is on balance a fair representation. I would therefore concur with the local authority and recommend a special development contribution of **€197,014.00** to the Board.

11.0 RECOMMENDATION

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regards to:

- (a) the Environmental Impact Statement prepared for the application,
- (b) the Natura Impact Statement prepared for the application
- (c) the character and nature of the application site,
- (d) the location, scale and form of the existing and proposed development,
- (e) the proposed means to control and mitigate emissions arising from the development,
- (f) the policies of the planning authority in respect of extractive industry, landscape character and heritage,
- (g) the history of the site,
- (h) the pattern of development in the vicinity,

It is considered that the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would not pose an unacceptable risk of environmental pollution, and if carried out in accordance with the attached conditions the proposed development would accord with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans submitted on the 10th day of March 2015 and amended on 15th day of May 2015 and by unsolicited further information

submitted on 5th day of June 2015 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The duration of the permission shall be for 15 years from the date of this grant of permission.

Reason: In the interest of clarity and orderly development. .

3. The quarry shall be operated between the hours of 07:30 and 17:30 hours, Monday to Friday, between 07:30 to 14:00 hours on Saturday and at no time on Sundays or bank holidays or other public holidays.

Reason: In the interest of residential amenity.

4. (a) Activities at the site shall not give rise to noise levels off-site, at noise sensitive locations, which exceed the following sound pressure limits (Leq,T):

Day 55dB(A) $L_{Aeq}(30 \text{ minutes})$ (08:00 hours to 22:00 hours).

Night 45dB(A) $L_{Aeq}(30 \text{ minutes})$ (22:00 hours to 08:00 hours).

Noise levels shall be measured at the noise monitoring locations. Monitoring results shall be submitted to the Planning Authority on a quarterly basis per year.

- (b) There shall be no tonal or impulsive noise at noise sensitive receptors during night-time hours due to activities carried out on site.

Reason: To control emissions from the facility and provide for the protection of the environment.

5. a. Blasting operations shall take place only between 10:00 hours and 16:00 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays. Monitoring of the noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the planning authority.

Prior to the firing of any blast, the developer shall give notice of his intention to the occupiers of all dwellings within 500 metres of the site. An audible alarm for a minimum period of one minute shall be sounded. This alarm shall be of sufficient power to be heard at all such dwellings.

Reason: In the interests of public safety and residential amenity.

6. Lighting shall be in accordance with a scheme, which shall be designed to minimize glare and light pollution, and which shall be submitted for the written agreement of the planning authority prior to commencement of development.

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

7. Dust deposition levels during the operation of the quarry shall not exceed 350 mg/m²/day when measured at the site boundaries and averaged over 30 days. Monitoring of dust deposition shall be carried out in accordance with the requirements of the Planning Authority.

Reason: To protect the residential amenities of the area.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

9. Any hazardous or contaminated wastes arising on the site including any asbestos, contaminated soil etc shall be recycled as far as possible or disposed. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility. Adequate on site arrangements shall be made to the satisfaction of the Planning Authority for storage of recyclable materials prior to collection.

Reason: To protect the environment.

10. Within three months from the date of this order, the developer shall submit to the planning authority for written agreement a proposal for an Environmental Management System (EMS) for the facility. The Environmental Management System shall include the following: -

- (a) Proposals for refuelling of plant/machinery including emergency action in the event of accidental spillage.
- (b) Monitoring of ground water.
- (c) Monitoring of dust and or noise at the application site boundaries.
- (d) Full details of site manager, contact numbers (including out of hours) and public information signs on the entrance to the facility.
- (e) Details of the implementation of all mitigation measures set out in the Environmental Impact Statement accompanying the planning application for the development.

- (f) Monitoring and frequencies reports shall be in accordance with the requirements of the planning authority. An Annual Environmental Report showing detailed results of all monitoring shall be submitted to the planning authority each year.

Reason: In the interest of orderly development, public safety and to safeguard local amenities.

11. Storage tanks shall be inspected by a chartered engineer and certified as structurally sound for the purpose they were intended and at five year intervals thereafter.

Reason: In the interest of public health and to prevent water pollution.

12. One year prior to the expiry of the extraction period, the Applicant shall submit, for the agreement of the Planning Authority, a comprehensive Closure and Restoration Scheme. Such a Restoration Scheme may include additional requirements the Planning Authority may have to ensure environmental sustainability, public safety and quarry stability. Within two years of expiry of the extraction period, the lands shall be reinstated in accordance with the agreed scheme.

Reason: To ensure that the quarry is closed in a safe and environmentally sound fashion.

13. Prior to commencement of development, a landscaping scheme shall be submitted to the planning authority for agreement. This scheme shall include details of all existing trees and hedgerows on the site, specifying those proposed for retention, together with measures for their protection during the period in which the development is carried out. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.

Reason: In the interest of visual amenity and protecting residential amenities.

14. Archaeological Monitoring shall consist of the following;

(a) The Developer shall engage the services of a suitably qualified Archaeologist licensed under the National Monuments (Amendment) Acts, 1930 – 2004, to monitor all topsoil stripping associated with the development.

(b) Should archaeological material be found during the course of monitoring, the Archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The Developer shall be prepared to be advised by the Local Authority with regard to any necessary mitigating action (e.g. preservation *in situ*, and/or excavation). The Developer shall facilitate the archaeologist in recording any material found.

(c) The Planning Authority shall be furnished with a report describing the results of the monitoring.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

15. Oil and Sediment interceptors shall be installed at the locations indicated on the drawings received on the 24th October 2014, and these shall be maintained to ensure that all surface water discharging from the site shall pass through same prior to discharge to watercourses. The interceptors shall be installed prior to the commencement of quarrying at the site. They shall be monitored and maintained for the lifetime of the quarry to the satisfaction of the Planning Authority.

Reason: To ensure protection of the Bandon River SAC.

16. Habitat improvement works to the wetland area in the south west of the site shall be completed in accordance with a detailed plan to be submitted to the Planning Authority for written agreement. These works shall be completed within 2 months of commencement of quarrying.

Reason: In the interests of ensuring the protection of the River Bandon SAC.

17. The penstock weir, which is to be installed to control water flow to Pond I, shall be installed within 2 months of the commencement of quarrying at this site and in accordance with the specifications set out in the further information documents submitted to the Planning Authority on the 10th March 2015.

Reason: To ensure the protection of the River Bandon SAC.

18. Within three months of the date of grant of this permission, the Developer shall lodge with Cork County Council a cash deposit, a bond of an insurance company, or other security to secure the satisfactory completion of the and the associated on-going continued maintenance of the closed-out quarry, coupled with an agreement empowering the Council to apply such security or part thereof for the satisfactory rehabilitation, closure or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination. The amount of the fund shall, at all times, be sufficient to meet the costs of rehabilitation of all works and the subsequent on-going maintenance of the property to the satisfaction of the Planning Authority.

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

19. The developer shall pay the sum of €197,014.00 (one hundred and seventy six thousand euro) to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of works proposed to be carried out, for the provision of road improvements and maintenance, specifically overlay works for the Local Road L4621-9 and works at the junction with regional road R587. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Kenneth Moloney
Planning Inspector
13th October 2015