



An
Bord
Pleanála

Inspector's Report ABP 300566 - 18

Development	Extension to Quarry
Location	Glannagillagh, Caragh Lake, Killorglin, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	17/14
Applicant	Michael F. Quirke & Sons
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	1 st Party v. Grant
Appellant	Protect Caragh Lake Group
Observers	(1) Rolf Bachem (2) An Taisce
Date of Site Inspection	27/06/18
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The existing quarry is located on the south side of the Killorglin to Glenbeigh National Secondary Road N70 c. 5 km southwest of Killorglin and 8km to the northeast of Glenbeigh. The area subject of the application for extension is c. 400 metres to the north of Caragh Lake. The quarry is accessed via a road which terminates at the entrance to the quarry c.500 metres from its junction with the N70. The road also provides access to a number of dwellings with the nearest to the quarry site being that to the north-east and which is served by an entrance in close proximity to the quarry access.
- 1.2. The overall quarry site is irregular in shape. The batching plant and site offices in addition to a weighbridge are in the northern section of the site with processing, washing and stockpiling of materials in the centre. A second batching plant was noted in the vicinity of same.
- 1.3. There are a number of settlement lagoons within the site notably along the eastern and southern boundaries of the site. A stream traverses the site at its narrowest point. The stream is piped over the internal access road. It then flows along the north-eastern boundary and along the private road before joining the Keal Stream. Water for washing on site is obtained from a well.
- 1.4. A disused railway line runs through the site but it has largely been obliterated by the quarrying operations. Planting has been undertaken on lands that have been remediated, notably those immediately to the south-east of the operational batching plant and site offices.
- 1.5. There are two other quarries in the vicinity, the nearest being c.1km to the east with a further quarry c. 3km to the south-east.

2.0 Proposed Development

- 2.1. The application was lodged on the 21/01/17 with further plans and details submitted 05/09/17 following a request for further information (FI) dated 07/03/17 with revised public notices submitted 06/10/17.

Note: The applicant responded to objections received by the planning authority by way of unsolicited further information.

- 2.2. As amended the proposal entails a 14.38 hectare extension to an existing quarry and removal of aggregate from same to the existing quarry area for processing. The area subject of the application includes the 'Phase IV' area which was subject of a substitute consent granted under ref. SU0081 in 2015.
- 2.3. The output being sought is 50,000m³ per annum. The expected lifetime of the extension area is 13 years. The processing infrastructure will remain in the existing quarry. One excavator and one dump truck are to work in the extension area.
- 2.4. The application is accompanied by:
- Environmental Impact Statement
 - Appropriate Assessment Screening Report
 - Archaeological Testing Report
 - Noise Survey
 - Dust Assessment Survey
 - Extractive Waste Management Plan

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 21 conditions including:

Condition 4: All environmental, construction and ecological mitigation measures to be implemented in conjunction with the timelines set out therein.

Condition 5: Permission for 20 years.

Condition 11: Operation shall not give rise to any noise nuisance at nearby sensitive locations. Process to be invoked should a complaint be received.

Condition 12: Dust emissions not to exceed 350mg/m²/day at the site boundaries.

Condition 14: Surface water management system to be amended as necessary to take account of and adequately treat/manage any potential surface water ingress from surrounding lands. Alternatively, the proposed surface water interceptor ring

drain shall be extended to the western side of the proposed extension. Revised surface water management proposals to be submitted.

Condition 15: (b) sufficient distances to be provided and maintained between the surface water interceptor ring drain and any proposed steep banks/sand martin nesting areas so as to facilitate maintenance and to safeguard against potential bank failure.

Condition 16: Proposed berms to be omitted from site restoration proposals.

Condition 17: Annual site survey of invasive non-native plant species.

Condition 18: Activities in the extension area to be restricted to quarrying/excavation of materials only.

Condition 21: Perimeter fencing requirements.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The **1st report** dated **06/03/18** recommends a request for further information on the basis of the reports summarised below. The **2nd report** dated **29/11/17** following FI includes an AA Screening Report. Visual impact is not considered an issue, traffic will be as existing with surface water disposal via soakpit. No negative impacts on neighbouring residential amenities are anticipated. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

The **County Archaeologist** in a report dated **23/01/17** recommends that given the scale of the development either pre-development testing or geophysical survey and subsequent testing of any identified features and/or anomalies be undertaken. The assessment should be carried out and submitted prior to any grant of permission.

The **2nd report** dated **15/09/17** following FI states that following the pre-development testing report no further mitigation is required.

Biodiversity Officer in a memo dated **26/01/17** states that considering the scale and nature of the development no significant effects on Natura 2000 sites are considered likely.

Environmental Assessment Unit in a report dated **28/02/17** recommends FI be sought on sufficient distances being provided between the surface water interceptor ring drain and any proposed steep banks/sang martin nesting areas to facilitate maintenance and to safeguard against potential bank failure. Revised proposals including restoration proposals to be submitted where necessary. A timescale for the next phase of the overall quarry site restoration so as to help ameliorate visual and ecological impacts also required. The **2nd report** dated **22/11/17** following FI entails an AA Screening Report and an EIA Report. The former concludes that the potential for significant effects to Natura 2000 sites can be ruled out and that a Stage II AA is not required on the basis that (1) adequate water quality protection measures are provided for, which are standard in nature, (2) there are no surface watercourses significantly impacted upon by the works and (3) there are no further source-receptor-pathways of significance. The EIA report incorporates the headings which are applicable under the current EIA Directive. It is concluded that the relevant impacts on the environment have been considered and taken into account in the EIS.

Capital Infrastructure Unit in a report dated **03/03/17** recommends FI on how the applicant proposes to comply with development plan objective RD-33 which seeks to protect the former Great Southern and Western railway line along the northern site boundary. The proposal would be in conflict with the objective.

Environment Section in a report dated **06/03/17** recommends FI seeking additional noise monitoring due to the increase in the number of dwellings within 500 metres of the site to 66, a dust assessment study and confirmation that all requirements of the Waste Management (Management of Waste from Extractive Industries) Regulations, 2009, will be met. In addition clarification is required as to whether the proposed facility would be classified as Category A under the said regulations and the basis for the determination. Clarification is also sought as to whether the drainage water in the ring drain is discharged from the site and, if so, to where. The **2nd report** following FI dated **22/11/17** details a schedule of conditions should permission be granted.

3.3. Prescribed Bodies

The **Department of Food, Agriculture and the Marine** has no observations.

Environmental Health Services in a report dated **08/02/17** notes that there have been no complaints in relation to the past or present operations at the quarry. The mitigation measures as outlined in the report are accepted in good faith and, subject to them being adhered to, there is no objection. The **2nd report** dated **09/10/17** has no further comment.

Transport Infrastructure Ireland has no observations.

Inland Fisheries Ireland in a report dated **21/02/17** details a number of recommendations including that if excess waters must be disposed of to adjacent watercourses then such waters should be treated to satisfactory effluent standards prior to discharge and subject to a water pollution licence. The depth of excavation should not extend to or be close to the maximum ground water level or within a limit which may allow ground water infiltrate into the site. The 1 metre buffer area proposed between ground water levels and excavation depth should be confirmed as effective in preventing any surface watercourse drawdown.

An Taisce requests notification of the decision.

3.4. **Third Party Observations**

Objections to the proposed development received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the grounds of appeal summarised in section 6 below.

4.0 **Planning and Regulatory History**

4.1. **Planning History**

The following details the planning history on the overall quarry site:

1989 - 233/89 – permission granted subject to 7 conditions for the retention of use, extension and development of a gravel pit. Condition 1 required the development to be carried out within the area shaded green on drawing received 28/02/89. Condition 2 precluded any form of concrete manufacturing plant.

1997 - PL08.102875 (1890/96) – permission granted on appeal to retain extended gravel pit and crushing and screening plant, retention of concrete batching plant and

offices and permission for a further extension of the gravel pit. The application was accompanied by an EIS. 3 ha was identified as being covered by the existing permission with retention sought for 6.728 ha and permission for 6.827 ha. A split decision was issued with permission to retain the extended gravel pit granted subject to 30 conditions. Of note condition 4 limited the duration of the permission to 3 years from the date of the order whilst condition 6 limited the area for which extraction was permissible. Permission to retain the concrete batching plant was refused on grounds that it would seriously injure the amenities of the area by reason of intensification of on-site operations and the generation of additional HGV movements on a substandard road.

1998 - 2548/97 – permission granted for extension to the quarry (area for extension stated to be 8.1ha but calculated as being 7.71 ha by the PA). The application was accompanied by an EIS. Condition 2 stated that the grant of permission applied to the site outlined in red on the site map submitted 25/02/1998. Condition 5 limited the duration of permission to 2.5 years. Condition 7 limited the area for which extraction was permissible.

2001 - PL08.119998 (98/1329) – permission granted on appeal for retention of existing concrete batching plant and widening of private access.

2001 - PL08.123237 (3029/00) – permission for continued use of land and expansion for quarrying and upgrading of private road was refused on appeal for the following two reasons:

1. The proposed development is situated in a rural area in close proximity to Lough Caragh. Notwithstanding the history of sand and gravel extraction in the area, it is considered, on the basis of the submissions made in connection with the planning application and the appeal, that the proposed intensification of use cannot be carried out without causing serious injury to the rural amenities of the area and the residential amenities of property in the vicinity, by reason of additional traffic generation, noise from extraction activities, and interference with surface and groundwaters. The proposed development would, therefore, be contrary to the proper planning and development to the area.

2. The development as proposed would contravene materially a condition attached to an existing permission for development namely condition number six attached to the permission granted by An Bord Pleanála on the 11th day of December, 1997 under appeal reference number PL 08.102875.

The application was accompanied by an EIS.

4.2. **Section 261 Registration**

2007 - QY112 – the quarry was registered under Section 261 with conditions attached. The total site area of the quarry was stated to be 43.075 ha with the extraction area being 16.61ha.

4.3. **Section 261A Determination**

2013 - QV0045 - Section 261A review and determination by the Board that EIA and AA would have been required. The area to which the determination refers corresponds with Phase IV as delineated on the current plans and has an area of 4.1 hectares.

4.4. **Substitute Consent**

2015 - SU0081 – substitute consent granted by the Board for the area identified as Phase IV in the current plans. The area has a stated area of 4.1 hectares consisting of a mostly worked out sand and gravel pit. 3 conditions were attached. Condition 3 required the restoration scheme to be carried out for the subject site, generally in accordance with Figure 3.1 of the submitted remedial Environmental Impact Statement. The plan, to be submitted to the planning authority within six months of the date of the order, was to include for the provision of habitats to take account of previous damage caused, including the retention and provision of exposed gravel cliff faces suitable for nesting birds, and water/wetland areas using existing areas of standing water and areas of natural re-colonisation.

5.0 Policy Context

5.1. Development Plan

Kerry County Development Plan, 2015

Objective NR-4 – facilitate the sustainable development of the extractive industry and seek to ensure the ongoing availability of an adequate supply of aggregates for the construction industry, while ensuring environmental protection, through the implementation of the objectives and development management, guidelines and standards of this Plan.

Objective NR-5 – comply with the objectives of this plan as they relate to development management standards, flood risk management requirements and the protection of landscape, biodiversity, infrastructure, water and air quality, built and cultural heritage and residential amenity.

Objective NR-6 – quarrying proposals are not permitted where the visual or other impacts of such works would significantly adversely injure the amenities of the area or create significant adverse affects on the road network in the area.

Objective NR-7 – development for aggregates/mineral extraction, processing and associated concrete production will be prohibited in Prime Special Amenity Areas and will not generally be permitted in other open or sensitive landscapes.

Objective T-27 – promote and facilitate the sustainable re-use of existing former railway lines for amenity purposes, such as cycleways, walkways and other recreational activities in order to develop a network of ‘green routes’ throughout the County

Objective RD-30 - Support the sustainable establishment of a network of “Greenways” as outlined in Table 7.4 within the County and the adjoining counties where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network.

Objective RD-33 - Protect all existing or historic rail lines and associated facilities from redevelopment for non-transport related purposes in order to protect their future use as an operational transportation network or for Green cycling/walking routes.

5.2. Natural Heritage Designations

Killarney National Park, Macgillycuddy's Reeks and Caragh Lake Catchment (site code 00365) c. 400 metres to the south.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by McCutcheon Halley on behalf of the 3rd Party against the PA's notification of decision to grant permission (which is accompanied by a disc of the Coillte Walk above Caragh Lake) can be summarised as follows:

6.1.1. Procedural Issues

- The existing quarry has a history of unauthorised development.
- It has not complied with the conditions attached to substitute consent SU08.SU0081. It appears that the applicant has included Phase IV of the existing quarry within the application in an effort to combine the outstanding compliance issues.
- The Extractive Management Plan (EMP) is inaccurate. It is stated in the application documents that 3.8 hectares of the proposed extension have already been extensively extracted. Therefore the phasing of the plan should only mention the remaining 10.28 hectares. Since the 1st phase has commenced the corresponding berms should have been constructed in accordance with the EWM plan and the rehabilitation/restoration plan. This is not the case.
- There is an existing registered right of way through the site which would be extinguished by the proposed development.

6.1.2. Residential Amenity

- The proposed extension would increase the number of dwellings within 500 metres of the quarry to 66.

- The noise and dust monitoring locations and findings cannot be considered relevant to the proposed extension as they do not represent an accurate analysis of the potential effects of the proposal.
- The increase in noise and vibration would negatively impact the amenities of adjoining property and the overall area. The proposed development will see a significant reduction in separation distances for a large number of dwellings. The proposed quarry extension would be c.100 metres from monitoring location N5. While the constant audible sound of the existing plant will remain the same the proposed extension would create further noise generated by the constant working of the additional excavator and dumper truck. The cumulative effect would be totally unreasonable and unacceptable.
- The dust monitoring locations at the boundary of the proposed extension area recorded 306mg/m²/day. Both are a considerable distance from the existing quarry area. It is logical to assume that if granted the resultant dust levels would be well in excess of the permitted limit.

6.1.3. Cultural Heritage

- Due to the limitations stated and the large areas that were not examined the Archaeological Report and its findings are not conclusive. An additional geophysical survey and subsequent testing of any identified features and/or anomalies should be submitted.

6.1.4. Surface and Groundwater

- The proposal has the potential to result in severe environmental impacts on ground and surface waters and the nearby designated sites.
- The stated surface water level on page 51 of the EIS highlights the potential of groundwater flow from beneath the quarry to Caragh Lake. The groundwater vulnerability of the site and surrounding area is stated as extreme. The underlying geology is karstic limestone, thus has extreme ground water vulnerability and makes assessing geological impacts particularly difficult.

- The western boundary of the site lacks any form of ring drain. Due to the extreme ground level difference it is considered that external site water will enter the site.
- There are numerous drainage channels within the subject site. Despite claims they undoubtedly flow towards and enter Caragh Lake.
- The potential increase in siltation must also be considered. Any increase would be in direct contravention of the legislative requirements for the protection of the freshwater pearl mussel (SI No. 296/2009). The Sub Basin Management Plan (including Caragh Lake) specifically references that there cannot be any activity approved which impacts on the rates of siltation in the catchment area.

6.1.5. Landscape

- There is a lack of thorough investigation concerning interaction of impacts and interactions with adjacent quarries.
- The quarry has an adverse visual impact in this sensitive and scenic landscape.
- There are serious concerns regarding the adequacy of the landscaping/rehabilitation proposals. To date the applicant has not demonstrated a willingness to abide by previous restoration conditions with that carried out to a poor standard. The restoration proposal is vague in terms of the final design and specific types/species of planting.
- The proposal is not consistent with many of the objectives of the County Development Plan and other relevant planning policy.

6.1.6. Tourism

- The proposal would have a significant impact on tourism in the area. It would be in direct contravention of the tourism objectives in the County Development Plan.
- The proposal is not in accordance with objective RD-33 of the County Development Plan which states that the proposed Greenway will be protected and that development will not take place on the disused Railway Line which

runs along the northern boundary. The quarry has already obliterated a significant portion of the line through the site. The applicant's proposal to offer alternative lands does not result in compliance with the plan objective.

6.2. Applicant Response

The submission by OES Consulting, accompanied by supporting detail, can be summarised as follows:

6.2.1. Development Plan Policy

- The proposal complies with objective NR-4 of the County Development Plan in seeking to provide ongoing availability of aggregate supply for the construction industry.
- The site is within an area 'Rural General' and is not within a designated amenity area.
- The site is not within or adjacent to a designated site.

6.2.2. Residential Amenity

- The residential receptors closest to the proposal are located to the south and west of the site boundary. Due to the predominant south-westerly winds and the fact that dry weather and higher wind speeds rarely coincide these receptors are the least likely to experience elevated dust levels. No significant impacts from fugitive dust emissions are predicted to occur.
- The closest receptor downwind is approx. 240 metres to the northeast. Dust particles are potentially deposited within 100 metres. Thus no significant impacts would occur.
- Dust monitoring has been carried out since May 2007 at 4 sites surrounding the existing quarry. Results were below the limit of 350mg/m²/day and the average results recorded for each year are lower than the level at which noticeable adverse impacts might occur.
- A range of mitigation measures are proposed including retention of vegetation and additional boundary planting and water spraying where required. Speed restrictions and phased extractions will be implemented. Ongoing monitoring

will determine if impacts are occurring and allow for the provision of further mitigation measures if required.

- In the context of separation distances noise levels at the N5 gate are likely to be similar if not identical to noise levels at the N5 dwelling (in the applicant's ownership).
- The N5 position used is reasonably representative of a 2nd dwelling 70 metres to the southeast.
- Routine monitoring station N4 is located only 90 metres south of the N5 dwelling. Monitoring has been undertaken since 2003. Noise emissions have been well below specified limits.
- Predictive modelling indicates that noise levels at the nearest receptor as a result of a 6x6 dump truck operating on the haul road and occasional loading activity will gradually approach 45bB towards the end of the project. A comparison with residual noise levels recorded previously indicates that these emissions will be inaudible or slightly inaudible for most of the time, becoming slightly clearer on the breeze during certain conditions. Levels will be materially lower than the 55dB criterion. Given that washing and plant operations at the existing plant are inaudible or faintly audible at receptors to the southwest and given that these emissions will not increase, the assertion that cumulative effects will be completely unacceptable is considered unreasonable.
- The proposed extension will not give rise to vibration emissions at receptors.
- The 55dB is recommended by the Department of the Environment, Heritage and Local Government document Quarries and Ancillary Activities: Guidelines for Planning Authorities and the EPA's document Environmental Management Guidelines: Environmental Management in the Extractive Industry (non-scheduled minerals). Background levels in the area in the absence of quarry audibility have almost consistently exceeded 30bB and regularly exceeded 40dB. The application of the lower limit is not considered appropriate.

6.2.3. Cultural Heritage

- It is considered that a detailed comprehensive assessment was completed.
- The methodology was agreed with the National Monuments Service.
- The works were informed by a previous archaeological and cultural heritage assessment in 2013 which concluded that no items of cultural heritage are known within the area of the development.
- The total number of trenches selected to form a representative picture was not reduced as a result of the difficult ground conditions with trenches moved to other, more suitable locations.
- No further investigations or monitoring was required by way of condition attached to the Planning Authority's grant of permission suggesting its satisfaction with the conclusions.

6.2.4. Drainage and Hydrology

- The groundwater table is low and below the level of extraction ensuring there is little or no risk to the water levels or the flow of groundwater as there is no direct, physical alteration of the water table. With the implementation of mitigation measures the risk of contamination will be minimised.
- No surface waters are directly connected to the proposed extension or overall quarry, therefore no direct impact on local surface waters is envisioned. No increase in siltation in local watercourses will occur and there is no predicted impact on designated sites.
- The AA Screening report concluded that the proposed development area does not support the species or habitats for which the nearest designated sites were selected and that the proposal does not present any risk of a direct adverse effect on same. The indirect and cumulative impacts are predicted to be negligible.
- Surface water flow in the vicinity is to the south. There is no hydraulic connection to the designated sites.

- The only water features in the overall quarry are artificial and comprise of a number of settlement lagoons. There are none in the proposed extension. A closed system operates.
- There are no potential indirect impacts on the Keal Stream or Caragh Lake and it will not impact on the objectives of the Surface Water Regulations to restore 'Good Status' water quality in these waterbodies.
- There are no areas within 5km at risk of flooding.
- Ponds and areas of wetlands are proposed as part of the rehabilitation plan.
- A ring drain is not located on the western boundary of the proposed extension as existing topography and drainage patterns ensure that surface water within the lands west of the extension will continue to be served by the existing open drains along the northern and southern sides.
- The AA Screening Report concluded that the cumulative impacts with other quarries are unlikely and insignificant.

6.2.5. Tourism and Landscape

- The proposal will not result in any significant impacts on surrounding designated sites or scenic routes and is not in contravention of the tourism objectives of the Development Plan.
- It will not result in adverse impact on the visual landscape surrounding the site or on views surrounding Caragh Lake.
- The quarry is either not visible or is indistinct in views from the N70 and will not have an adverse impact on the Ring of Kerry or Wild Atlantic Way scenic drives.
- The proposal has no adverse impact on primary or secondary amenity areas.
- Views from an elevated vantage point on Glannagillagh Hill c.2km to the southeast are wide ranging and panoramic. The proposal would not form a prominent element within the view and would not have an adverse effect.

- Reinstatement and maintenance of the old railway line along the northern boundary can be carried out and is an element of the project which can be committed to following instruction and guidance with the County Council.
- The proposed extension will not impact on the former railway line/greenway in any way. The installation of drainage channels and the construction of graded grassland slopes along the northern boundary will ensure the line is not impacted.

6.2.6. Procedural Issues

- Substitute consent was granted under ref. SU08.SU0088 in 2015. The consent does not permit future development or extraction within the Phase IV area. To meet the future operation plans for the site whilst also satisfying the requirements of the substitute consent condition, it was proposed to integrate the restoration scheme for Phase IV into the wider restoration plan for the proposed extension. This was considered the most practical solution in order to meet restorative requirements imposed by the Board and future operational requirements.
- The security bond payment required by condition 3 of the substitute consent was made.
- There has never been a right of way over the site.

6.2.7. Restoration Plan

- The proposals are specific and targeted with a focus on providing long term high value habitat for birds listed as being of conservation concern rather than the provision of low value cutover bog habitat.

6.2.8. Interactions

- A detailed assessment of interactions and cumulative impact was undertaken throughout the EIS.
- The cumulative assessments determined that any potential impacts on the local and wider environment that would arise from the concurrent operation of the proposal with other quarry developments will not be significant.

- The proposal was identified as the option that would result in the least environmental impact when compared to alternative site locations.

6.3. **Planning Authority Response**

None

6.4. **Observations**

6.4.1. The observation from Rolf Bachem can be summarised as follows:

- The proposal would further seriously injure the rural amenities of the area and residential amenities of property in the vicinity due to noise, dust and traffic.
- It materially contravenes the policies and objectives of the Kerry County Development Plan.
- It would contravene materially the decisions made under ref. PL08.102875 and PL08.123237.
- Issue of compliance with planning conditions.

6.4.2. The observation from An Taisce can be summarised as follows:

- The site is most prominent when viewed from the south (Caragh Lake side) particularly from the summit of the nearby Caragh Lake Forest Park.
- The new site is elevated so that the extra noise and dust arising from it is likely to be worst on the Caragh Lake side along which there is a high density of housing. Suitable measures will be required to be taken at source.
- The tourism value of Caragh Lake has been recognised for a long time. The quarry could impact on existing tourist establishments on the northern shore in particular.
- Processing of material should not lead to an increase in the present noise level on the proposed 'Greenway' route.

6.5. Appellant Submission following Applicant's Response to Ground of Appeal

The response by McCutcheon Halley on behalf of the 3rd Party appellant, in addition to reiterating a number of points made in its appeal submission, notes the following:

- There is concern that the proposal in such close vicinity to a highly sensitive tourism area would have an adverse impact on same.
- Although the site itself is within an area designated rural general it is bounded to the south by Caragh Lake which is a designated rural prime special amenity area. The boundaries cannot work in the same rigid manner as land use zoning. The general rural area designation does not automatically mean it can absorb development. The proposal is for a very large quarry extension in a beautiful landscape. A whole landscape approach should be taken to the overall visual impact of the proposed development.
- Landscape protection and preservation is very important and recognised within European and national policy frameworks. Reference is made to documents prepared by ITIC and Fáilte Ireland and current tourism policy set out in the document People, Place and Policy – Growing Tourism to 2025.
- The proposal should be refused permission on the grounds that it contravenes Objective ZL-2 of the County Development Plan which seeks to protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives. It would also be premature pending the preparation of the Landscape Character Assessment of the county which is a plan objective under ZL-2 and would be in direct contravention of the National Landscape Strategy and the European Landscape Convention.
- It would be in direct contravention of the Wild Atlantic Way initiative.
- The Board's reasons for refusal attached to PL08.123237 remain relevant. The proposal is even closer to Caragh Lake and the prime scenic amenity area.
- The proposal would not be in accordance with objective NR-4 as it cannot ensure the environmental protection through the implementation of the

objectives of the Development Plan. It would also be in direct contravention of objectives NR 5-7.

- The importance of tourism in the area was identified by the Inspector in PL08.123237.
- The importance of tourism is recognised in the development plan. The benefit of walking routes is also noted. The quarry is visible from the Caragh Lake Forest Recreation Area. The photographs submitted by the applicant are misleading as they were taken below the viewing point at a much lower level (in the carpark area). It is also visible from the Kerry Way.
- The road network is substandard for HGV use. The Wild Atlantic Way will result in an increase in traffic. Essentially the road network will become even less suitable.
- The appellant refutes the applicant's denial of right of way.
- Compliance with conditions attached to SU0081 remains outstanding.

The proposal will increase noise and dust emissions to the south and west.

6.6. **Prescribed Bodies**

Certain prescribed bodies were invited to be make an observation on the appeal by way of Section 131. No responses were received.

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Planning History and Status of Quarry Operation
- Extent of Area subject of Application
- Compliance with Development Plan Provisions
- Tourism and Landscape
- Environmental Impact Assessment
- Appropriate Assessment

7.1. Planning History and Status of Quarry Operation

- 7.1.1. As set out in section 4 above there is an extensive planning and regulatory history on the site dating back to 1989. Permission for the retention, extension and development of a gravel pit on a site with an approximate area of 2.8 hectares was granted under ref. 233/89. Subsequently permission to retain an extended gravel pit was granted by the Board under ref. PL08.102875 (1890/96) but subject to conditions limiting the duration of the permission to a period of 3 years (condition 4) and restricting the area of extraction in a southerly direction (condition 6). A further application for an extension was granted by the planning authority for a 2 ½ year period under ref. 2548/97. Consequent to same permission for continued use of land and expansion for quarrying was refused by the Board under ref. PL08.123237 (3029/00) for two reasons relating to the impact on the amenities of the area and material contravention of condition 6 attached to PL08.102875. The said application included proposals for intensification of use in terms of rate of extraction.
- 7.1.2. As the Board is aware although the quarry was registered under Section 261 this did not confer authorisation or equate to a grant of permission. I also note that whilst the entire operation was assessed under the Section 261A determination process the emphasis of same was whether the activities should have been subject to EIA and AA. Save for a certain area within the overall operation this was adjudicated to be the case and that the relevant requirements were met, notwithstanding the limited

duration allowed for under file refs. PL08.102875, 2548/97 and the refusal of permission under PL08.123237. Each of the applications was accompanied by an EIS.

- 7.1.3. The substitute consent following the Section 261A determination relates to what is referred to as 'Phase IV' and which forms part of this application. This has a stated area of 4.1 hectares.
- 7.1.4. On the basis of the said planning history it would appear that the majority of the existing quarry operation does not actually have the benefit of planning permission. Working on the basis of the figures provided in Table 2.1 of the EIS and the assessment undertaken on file ref. QV0045 I estimate that of the existing quarry area of 28.55 ha. only 7 ha or 24.5% has the benefit of permission. On this basis I consider that the proposal is effectively seeking the extension of what is largely an unauthorised development and I recommend that permission be refused on this basis.
- 7.1.5. With respect to the alleged non-compliance with conditions imposed in respect of previous grants of planning permission, the subsequent registration of the existing quarry pursuant to Section 261 of the Planning and Development Act, 2000, as amended, and the non-compliance with the restoration requirements for Phase IV attached by way of condition to the substitute consent secured for same under SU0081, it noted that the Board has no function in respect of issues pertaining to enforcement and therefore such matters should be referred to the Planning Authority. Should the Board be disposed to consideration of the proposed development I consider that in view of the proposed expansion proposals and its relationship to Phase IV that its inclusion within the site and review of the restoration proposals to be a practical approach.
- 7.1.6. At this juncture I note the contention regarding whether or not there is a public right of way through the site. As per the details provided in the appellant's submission in response to the applicant's response to its grounds of appeal, the details on the land registry documentation accompanying the application and as confirmed on Landdirect.ie there is a right of way traversing the subject site connecting the N70 to the north and the Caragh Lake Road to the south. As to whether this right of way is

public is not clear. The proposed extension of quarrying operations would result in the extinguishment of this right of way.

7.2. Extent of Area subject of Application

- 7.2.1. The stated area subject of the application is given as 14.38 hectares. This includes what is referred to as 'Phase IV' which was subject of a grant of substitute consent by the Board under ref. SU0081. However as per the details given in Table 2.1 of the EIS Phase IV with a stated area of 4.1 ha. and the proposed quarry extension to the south with a stated area of 11 ha. equates to 15.4 ha. From my calculations of the site area as delineated on the plans accompanying the application I submit that the site area corresponds with that as given in the notices and is 14.38 ha. and not the larger area as suggested in Table 2.1.

7.3. Compliance with Development Plan Provisions

- 7.3.1. Chapter 4 of the EIS sets out the need for the development. The stone at the site is stated as having a high polished stone value (PSV) which is a necessary specification for road construction, but it is of a quality which is not found in all quarries. The processed aggregate from the site serves the Quirke Group's ready mix concrete batching plant at its Builder's Providers yard at Deelis Cahersiveen. The Group has a quarry at Rangué c. 2km to the east of the appeal site with the aggregate sourced there used mostly for block production at the Rangué factory site. It is stated that there is no sand produced between the appeal site and Kenmare travelling south-westwards along the N70.
- 7.3.2. The Department's Guidelines for Planning Authorities on Quarries and Ancillary Activities (DoEHLG, 2004) acknowledge that extractive industries make an important contribution to economic development in Ireland but that such operations can give rise to land use and environmental issues which require mitigation and control through the planning system. Similarly, the South West Regional Planning Guidelines 2010-2022 acknowledge that mineral resources of the region, especially aggregates, contribute largely to the economy and operational aspects of the construction industry (buildings and infrastructure) and that, where appropriate, local authorities should identify and protect important strategic mineral reserves in their

development plans. Following on from same the Kerry County Development Plan recognises that aggregate resources contribute significantly to the economic development of the county and facilitate its further development but that the exploitation of such resources is required to be carried out in a manner that does not adversely impact on the environment, existing infrastructure and the amenity value of neighbouring lands.

- 7.3.3. The proposed extension can be considered to be in accordance with the above policy provisions. However such compliance cannot be viewed in a vacuum and due regard must be had to other policy considerations, notably those pertaining to tourism and landscape.

7.4. Tourism and Landscape

- 7.4.1. The fact that the site is not within an area designated as being of specific visual amenity forms a substantive element of the applicant's case in terms of impacts on tourism and landscape.
- 7.4.2. Whilst within an area designated as rural general which is capable of absorbing development, its proximity to Caragh Lake which has the benefit of both primary and secondary special amenity designation is of particular concern. I would tend to concur with the agent for the appellant that whilst the site is not within an area designated as being of scenic value it borders same associated with the lake and is part of an overall landscape that is of very high importance for the tourism industry. This is evidenced by the density of tourist facilities and accommodation that ring the lake. The proposed extension will bring quarrying operations even closer to the lake and this associated tourism provision. The Board has previously adjudicated that such southwards expansion of the quarry towards the lake to be inappropriate. Notwithstanding the time that has elapsed since the said decision I consider that the issues arising remain pertinent.
- 7.4.3. Indeed I submit that since the previous applications on the site the tourism product in the vicinity has been augmented, notably with the Wild Atlantic Way Initiative along the N70 (also the Ring of Kerry) and it is expected to diversify further with plans for the development of the old railway line as a greenway which is an objective of the current development plan. The said rail line bounds the proposed extension area to

the north with that to the east no longer in existence as a consequence of the existing quarrying operations. As to how the local authority proposes to reconcile this situation so as to realise the development plan objective into the future is unclear. I note that a 32km stretch of the South Kerry Greenway from Renard to Glenbeigh is subject of a current application to the Board.

7.4.4. Having regard to the sensitivity of the location of the quarry site and the planning history in which the concerns regarding the expansion of the quarry towards Caragh Lake were clearly articulated either by way of condition or refusal of permission, I submit that there are inherent conflicts between core objectives of the Development Plan in respect of aggregate resources and tourism/landscape which undermine the continuation of the quarry.

7.4.5. On balance and having regard to the other quarry operation c.1km to the east I consider that the further extension south and south-westwards would militate against the tourism development of the area, especially that associated with Caragh Lake, and would therefore, be contrary to the proper planning and sustainable development of the area.

7.5. **Environmental Impact Assessment**

Introduction

7.5.1. This application was submitted prior to 16 May 2017, the date for transposition of Directive 2014/52/EU amending the 2011 Directive. Under the transitional provisions of the 2014 Directive, the 2011 Directive (Directive 2011/92/EU) as transposed into Irish legislation will apply to the appeal. I am satisfied that the information contained in the EIS complies with article 94 of the Planning and Development Regulations 2000.

7.5.2. As the competent authority for decision making, the Board is required to carry out an environmental impact assessment of the application for further quarry development ie. to identify, describe and assess the direct and indirect effects of a proposed development, in accordance with Articles 4 to 11 of the EIA Directive, on the following:

- Human beings, flora and fauna,

- Soil, water, air, climate and the landscape,
- Material assets and cultural heritage,
- and the interaction of the foregoing.

7.5.3. I submit that the EIS document which is prepared in the grouped format is generally consistent with the requirements of Article 94 of the Planning and Development Regulations, 200, as amended. A non-technical summary is also included. Whilst a section of the EIS is titled Examination of Alternatives no real assessment of same has been undertaken, but having regard to the particular nature of the development, this is not a significant omission. I acknowledge the established practices in place and, in principle, it is reasonable that the continued operation would seek to replicate same where it comprises efficient and effective exploitation of the natural resource.

Human Beings

7.5.4. In terms of assessing the potential impact of the proposed development on human beings I note that Chapter 5 of the EIS focuses attention on the wider issues of population and settlement, employment and socio-economic considerations with brief references made to noise, dust, traffic and visual impact. I note that the proposal will allow for the retention of the current workforce stated to be 6 employees and a further 6 involved in deliveries.

7.5.5. It is of relevance that there are various inter-relationships between effects on the human environment and effects on other aspects of the environment such as air and water quality. Accordingly, in order to avoid undue repetition I would refer the Board to my assessment of the specific implications of the proposal as regards soil, water and air quality etc. set out under the respective sections below. Furthermore, although referenced in separate chapters of the EIS I propose to focus the remainder of my assessment of the impact on human beings on the issues of noise and traffic.

7.5.6. Chapter 9 deals with noise and vibration. There are a number of dwellings in the vicinity located along the local roads which ring the site, namely the N70 to the north which is c.900 metres from the extension area, Caragh Lake local road to the south which is c. 200 from the proposed extension and minor local roads which run to the east and west c.740 and 400 metres respectively. The nearest sensitive receptors to the proposed extension area are located along the minor road to the west and those along Caragh Lake local road to the south along which extensive one off

housing, some which are used for tourist accommodation is evidenced, and is depicted on Drawing 9.1. There are also a number of dwellings accessed via cul-de-sacs from the Caragh Lake local road. The nearest dwelling here is c.240 metres from the current boundary. The proposed extension would see the separation reduce to 55 metres. The number of sensitive receptors in proximity to the enlarged operation would increase from 40 to of 66.

- 7.5.7. Noise monitoring has been undertaken on the quarry operation since 2003 at 6 points along the site perimeter with N4 located to the south of the proposed extension. Noise data included in the reports to the local authority are presented in Attachment 12 of the EIS and Table 1 of the unsolicited further information received by the planning authority on the 23/11/17. The noise monitoring details were supplemented by further detail including monitoring results for N1-N4 since the EIS was submitted in addition to monitoring at 3 additional locations to the south and south-west of the site as delineated on Figure 1 of the Noise Survey Report submitted by way of further information.
- 7.5.8. As per Attachment 12 of the EIS which details the monitoring undertaken between 2003 and 2016 a number of exceedances of the 55dB L_{Aeq} criterion were recorded, predominately at monitoring locations N1 and N2 along the northern boundary close to the entrance and processing area. Two exceedances were recorded at monitoring location N4 to the south of the extension area dating back to 2005 and 2010 respectively. As per the additional monitoring undertaken between 2016 and 2017 and submitted with the further information request no exceedances were recorded.
- 7.5.9. The proposal will extend quarrying operations in a south and south-westerly direction closer to a noticeable density of dwellings. No additional plant or alterations to existing plant will be required with a dump truck and loader, only, being required with processing to continue on the quarry floor to the east. Face working heights will be comparable to current heights and will be in the region of 9 metres. The level of vehicular movements to and from the extraction area to the processing area is to remain as is currently the case, equating to 6 movements per hour.

- 7.5.10. Table 9.4 details the predicted noise levels at the nearest noise sensitive receptors to the south which will approach 45dB towards the end of the project arising from the dump truck and loader.
- 7.5.11. Historically the planning authority and the Board has sought to limit noise to 55dB(A) L_{Aeq} as measured at nearby dwellings. In view of the expansion of the quarry activities towards Caragh Lake and its importance to the local tourist economy strict application of the noise criteria and monitoring should be required should the Board be disposed to a favourable decision.
- 7.5.12. In terms of traffic the site is served by one access from the semi-private road off the N70 and it is proposed to continue to use same. It is stated that the proposed development will not increase the level of traffic over the current levels of quarry generated traffic. Reference is made to permissions granted under 2548/97 and 1329/98 which allowed for up to 70 HGV movements per day. The fact that these permissions were for a limited duration, only, is reiterated.
- 7.5.13. Notwithstanding, the traffic count taken on the 18/08/16 shows that there were 114 movements on the semi-private road over an 11 hour count with 50% being HGVs. Obviously an increase to 70 HGV movements would suggest an intensification of use over what currently prevails.
- 7.5.14. The road serving the site, whilst relatively narrow, provides for a number of passing bays (see Figure 14.2 EIS Volume 2), It serves a small number of dwellings. The owners accept responsibility for the maintenance of the road and this is proposed to be continued. Further measures are proposed including replacement speed restriction and stop signage and gateway restrictor poles.
- 7.5.15. In view of the quarry activity that has been conducted to date on the site and lack of evidence that it has given rise to traffic hazard or has put an unacceptable strain on local infrastructure I consider that the traffic arising can be accommodated. Should the Board be disposed to a favourable decision I recommend that a condition be attached clearly setting out the maximum number of vehicular movements including HGV movements per day in the interests of clarity.

Flora and Fauna

- 7.5.16. Chapter 6 of the EIS refers to ecology with reference made to the data provided in the EIS documents prepared for previous applications. The Board is advised that an Appropriate Assessment Screening report accompanies the application.
- 7.5.17. The main habitat types identified within the subject area include cutover bog and dry meadow/scrub in addition to the existing quarried area (Phase IV). Coniferous planting has been undertaken along the perimeter. Small areas of wet heath and transition mire/quaking bog have been identified which are Habitats Directive Annex 1 habitats. Due to the significant modification of the former and the latter not considered to be a significant example of the habitat type they are assigned a value of local importance (higher value).
- 7.5.18. Invariably the proposed development will result in the direct and permanent loss of habitat within the operational area however I submit that the habitats as identified are of a relatively low conservation value and thus the impact arising from the loss of same is not considered to be of significance.
- 7.5.19. Small Cudweed which depends on disturbed ground habitat is noted within the active areas of the quarry. The species is included on the Flora Protection Order, 2015 (SI NO. 356/2015). Future restoration plans will need to take same into consideration to ensure it remains.
- 7.5.20. Invasive species including Rhododendron and Japanese Knotweed were recorded and appropriate measures are to be taken for its removal.
- 7.5.21. No fauna of conservation concern were recorded within the site. A colony of Lesser Horseshoe Bat was recorded in the derelict cottage located c.540 metres to the south-east of the proposed extension area. In view of the direction of the proposed works it is concluded that the development would not impact on same. I note that the species is a qualifying interest of the nearest SAC c. 400 metres to the south.
- 7.5.22. In addition there is evidence of Sand Martin nesting in the western face of the Phase IV area. No details are provided as to how the proposed progression of the quarrying activities will impact on same and what mitigation measures are required to address same especially in the knowledge that the Board in its grant of substitute consent under ref. SU0081 required a restoration plan which includes the retention and provision of exposed gravel cliff faces suitable for nesting birds.

7.5.23. Overall fauna observed on site would appear to have generally adapted to the level of disturbance arising from the quarry and there is no substantive reason as to why the said species will not continue to do so with the continuing activities.

Notwithstanding the current nesting site of sand martins will be adversely impacted upon. Should the Board be disposed to a favourable decision a condition addressing this matter may be considered appropriate.

Soil

7.5.24. Chapter 8 of the EIS addresses soils and geology. Top soil and sub-soils will be removed from the extension area together with the underlying sand and gravel deposits. Extraction of these materials is a permanent and irreversible impact. However, the application site in itself, is a relatively small area and this permanent loss is unlikely to be significant in terms of the overall reserve. In terms of cumulative impacts the larger quarrying operation of which the site forms part, with an overall area of 35.55 hectares, is considered to be large in a local context but, again, in terms of the overall reserve remains small.

7.5.25. In terms of storage all fuel/lubricant stores are outside the site subject of this application and located to the east. Measures employed in the larger quarry site are to be extended to the application site with the overall site operated in accordance with an Environmental Management System (EMS).

Water

7.5.26. The existing quarry straddles a topographic divide. Lands to the northeast slope gently to the northeast towards Castlemaine harbour, while land to the southwest slope gently to the southwest towards Caragh Lake. The groundwater table local to the proposed quarry extension lands is 2.7 – 4.3 m above the level recorded at Caragh Lake and highlights the potential for groundwater flow from beneath the quarry to the lake. The groundwater vulnerability within the proposed quarry extension varies from high to extreme.

7.5.27. The quarry overlies the Killarney Town Groundwater Body, which is considered to have a 'poor' water status. The details provided with respect to groundwater refer to studies undertaken in 2005 and 2013 both on and off the site (studies and monitoring taken at the former waste disposal site adjoining now in the ownership of Astellas Ireland) with further details up to 2016 provided for the three closest wells in

proximity to the extension (see figure 7.1 EIS Volume 2). Astellas Ireland undertakes regular monitoring of the three wells for both water depth and groundwater quality. As per section 7.4.4 of the EIS the risk to groundwater is increased with the proximity of the groundwater to the exposed surface which is currently less than 1 metre in places.

- 7.5.28. There are a number of settlement lagoons located to the north and north-east within the overall site and these will continue to be used. Save for a brief description given in section 7.3.4.1 of the EIS and a report dating back to 2002 in Attachment 5 Volume 2 which provides details of the system prevailing and proposed at that time, no up to date information is provided in support of this application. I also note the absence of reference to the pond in the Phase IV area which forms part of the current application and is delineated on the plans accompanying the application. The said pond was evidenced on day of inspection. The inspection was undertaken during a period of prolonged dry weather. In light of same and in view of the proximity of the groundwater to the exposed surface which is noted to be currently less than 1 metre in places the potential for the watertable to have been breached is queried.
- 7.5.29. As can be extrapolated from the details provided water is recycled within the quarry with water in the supply lagoon topped up from the groundwater abstraction well on site which is next to the processing area. It is stated to be 33 metres deep and draws up to 750m³ per day although there are no borehole logs or drawdown and recovery data to confirm this depth and yield. As per a report on hydrology on the adjoining site dated 2005 it was noted that the well has a measurable impact on other wells in the area. It has also apparently affected groundwater flow within and beyond the quarry boundary in that it has created a plume of depression which extends beyond both the quarry and its proposed extension. As per the details provided in the EIS all domestic dwellings in the proximity to the quarry are connected to public mains and are not reliant on individual sources.
- 7.5.30. The abstracted water is used for processing with no discharge point and waters apparently draining into the quarry floor. Recycled water from settlement ponds within the quarry is also used. During my site visit I saw no evidence of deliberate dewatering or of water discharges external to the site. A ring drain system to

prevent ingress from adjoining lands is in place which will feed into the existing drains on site.

- 7.5.31. In terms of surface water there is a watercourse along the northern boundary of the site which is piped above the internal quarry access road. An examination of the watercourse in 2013 showed it to be stagnant but I note that no further investigation of the watercourse was undertaken as part of this current application. The said watercourse runs along the northern boundary before discharging into the Keal Stream. In my opinion the absence of up to date analysis of the watercourse is a material shortcoming in the EIS.
- 7.5.32. The area is within the catchment of the Keal Stream and Caragh Lake. The former is stated to be poor status and the latter moderate status. The impacts would most likely be via pollution such as from diesel leakage. There is no evidence that this has occurred, and the possibility is low if the quarry is managed effectively.
- 7.5.33. On balance I consider that the detail provided in support of the application is inadequate to allow for a proper assessment in terms of impact or otherwise on hydrology and hydrogeology. The reliance on data largely dating back to 2013 without further examination is not sufficient in view of the size of the proposed expansion and its location relative to Caragh Lake and the unnamed watercourse along the northern boundary.

Air

- 7.5.34. There are a number of dwellings in the vicinity located along the local roads which ring the site namely the N70 to the north which is c.900 metres from the extension area, Caragh Lake local road to the south which is c. 200 from the area and minor local roads which run to the east and west c.740 and 400 metres respectively. The nearest to the proposed extension area are located along the minor road to the west and those along Caragh Lake local road to the south along which extensive one off housing is evidenced and is depicted on Drawing 10.1. The nearest dwelling here is c.240 metres from the current boundary. The proposed extension would see the separation reduced to 55 metres. As a consequence of the extent of housing to the south the number of sensitive receptors within a 500 metre radius of the enlarged quarry operation will increase from 40 to of 66.

- 7.5.35. The main emission to air arising from the quarry is dust. Dust monitoring has been carried out since 2007 at four points along the perimeter of the existing operation. The detail provided in the EIS is supplemented by way of further information.
- 7.5.36. The results of the monitoring undertaken between 2007 and 2016 are set out in Table 10.1. with details of monitoring undertaken in 2017 submitted by way of further information. I note that the table refers to 2 no. further monitoring locations which were discontinued in 2008. No details are provided as to their location. The nearest point to the proposed extension area is MD4 along the southern boundary with results since 2014 ranging between 171mg/m³/day and 347mg/m³/day. One exceedance was recorded throughout at MD3 in the south-western most corner of the operation in 2007.
- 7.5.37. Two dust monitoring stations were set on the boundary of the proposed extension for 1 month in 2016 and are delineated on Drawing 10.3. Recordings of 193mg/m³/day and 262mg/m³/day were recorded.
- 7.5.38. It is expected that the emissions from the extension of the quarry would be comparable to those already recorded. Whilst I note the number of sensitive receptors to the south and south-west, given the prevailing south-westerly winds these receptors are unlikely to be significantly affected by the proposal.
- 7.5.39. The measures employed at the site in terms of dust minimisation as set out in section 10.5 of the EIS are comparable to those found in other quarry development and represent industry best practice. The ongoing implementation of the said measures, coupled with the screening that will be provided by the maintenance of perimeter planting and the deepening quarry floor, will also assist in limiting dust emissions.
- 7.5.40. In terms of climate the quarry extension will not entail any additional plant. Greenhouse gases will be emitted from the operation of the excavator on the site. However, these would not be significant locally.

Cultural Heritage

- 7.5.41. No recorded monuments lie within the site or in close proximity to it. In addition there are no protected structures in the vicinity with the nearest being over 500 metres to the south-west of the site. The desk top and field assessment which was carried out in 2013 and which was relied upon in the EIS did not reveal any potential

archaeological or cultural heritage features. This was supplemented by results of archaeological testing undertaken which noted that access to certain parts of the site was not possible due to ground conditions. Whilst I note the appellant's concerns as to the adequacy of the testing undertaken I consider that the detail provided, coupled with the previous studies, allows for a reasonable basis on which the applicant can base its conclusions. I note that the County Archaeologist was satisfied with the details provided and that no comment was received from the Department of Arts, Heritage and the Gaeltacht.

7.5.42. As there is the potential for undocumented sub-surface archaeological features appropriate monitoring is proposed during all peat and soil stripping.

7.5.43. I would therefore accept the conclusions that the quarry extension will not have an impact on cultural heritage.

Material Assets

7.5.44. This section of the EIS considers the location of the site relative to urban areas, utilities and waste management with reference made to traffic, agriculture and cultural heritage which are addressed elsewhere. Whilst tourism forms a heading within the chapter as noted above I do not consider that it provides for a sufficient assessment. Having regard to my earlier assessment in section 7.4 above I would not concur with the view that the primary tourism assets in the surrounding area are the scenic routes only.

7.5.45. Reference is made to the proposed South Kerry Greenway along the line of the old Great Southern rail line and I note that the 32km stretch from Renard to Glenbeigh is subject of a current application to the Board. As yet proposals for the section in the vicinity are not subject of an application. By way of further information the applicant has agreed to facilitate the greenway through his lands. As noted earlier in my assessment it is unclear as to how this will be realised in view of the existing quarry operation.

Landscape

7.5.46. The quarry is situated close to major tourist areas notably the N20 which is part of the Atlantic Way (Ring of Kerry) and Caragh Lake to the south. In terms of the former along which there are protected views and prospects, I noted that generally the quarry is not visible from the road.

7.5.47. Whilst within an area designated as rural general which is capable of absorbing development its proximity to Caragh Lake which has the benefit of both primary and secondary special amenity designation is of particular concern. I would tend to concur with the agent for the appellant that whilst the site is not within an area designated as being of scenic value it borders same associated with Caragh Lake and is part of an overall landscape that is of very high importance for the tourism industry. This is evidenced by the density of tourist accommodation that ring the lake. The proposed extension will bring quarrying operations even closer to the lake and to the associated tourism provision.

7.5.48. The quarry is not visible from any vantage point I could identify from the public roads on all four sides. However I submit that of specific concern is the view from higher ground to the east and south in terms of the operation's expansion towards Caragh Lake. Of particular concern are views from the Coillte Viewing Point to the east which does allow for panoramic views of the area. In such views the existing quarry operation and the quarry at Ranguc c.1km to the east are visible. Whilst it could be considered that the extension in the context of the prevailing environment would not detract to such a degree as to be a material concern I submit that in view of the relatively level topography of the area and absence of any material screening the encroachment towards the lake is inappropriate.

Interactions

7.5.49. Chapter 15 of the EIS addresses interactions with a matrix provided and are generally considered reasonable.

7.6. Appropriate Assessment

An Appropriate Assessment Screening Report accompanies the application.

7.6.1. Project Description and Site Characteristics

The proposed development and site are as described in sections 1 and 2 above.

7.6.2. Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives

Table 1 sets out the sites within 15km of the proposed development. They are:

- Killarney National Park, Macgillycuddy's Reeks and Caragh Lake Catchment SAC (site code 00365) c. 400 metres to the south.

- Lough Yganavan and Lough Nambrackdarrig SAC (site code 00370) c.1.5km to the north-west
- Castlemaine Harbour SAC and SPA (site codes 00343 & 00409) c. 4km to the north
- Iveragh Peninsula SPA (site code 004154) c.10 km to the west
- Slieve Mish Mountains SAC (site code 002185) c. 10km to the north
- Dingle Peninsula SPA (site code 004153) c.12 km to the north west

7.6.3. *Assessment of Likely Affects*

As the site is not within a designated site no direct impacts will arise.

In view of the separation distances or lack of connectivity to the Iveragh Peninsula SPA, Slieve Mish Mountains SAC and Dingle Peninsula SPA and Lough Yganavan and Lough Nambrackdarrig SAC, I consider it reasonable to conclude that the proposed development would not have significant effects on the qualifying interests of the designated sites.

Killarney National Park and Macgillycuddy's Reeks SAC

The qualifying interests of the designated site are:

- Oligotrophic waters containing very few minerals of sandy plains
- Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or *Isoeto-Nanojuncetea*
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
- Northern Atlantic wet heaths with *Erica tetralix*
- European dry heaths
- Alpine and Boreal heaths
- *Juniperus communis* formations on heaths or calcareous grasslands
- Calaminarian grasslands of the *Violetalia calaminariae*
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*)

- Blanket bogs (* if active bog)
- Depressions on peat substrates of the Rhynchosporion
- Old sessile oak woods with Ilex and Blechnum in the British Isles
- Alluvial forests with Alnus glutinosa and Fraxinus excelsior
- Taxus baccata woods of the British Isles
- Kerry Slug
- Freshwater Pearl Mussel
- Marsh Fritillary
- Sea Lamprey
- Brook Lamprey
- River Lamprey
- Salmon
- Lesser Horseshoe Bat
- Otter
- Killarney Fern
- Slender Naiad
- Killarney Shad

Detailed conservation objectives have been drawn up for the site and are available on npws.ie, the overall aim being to maintain or restore the favourable conservation status or habitats and species of community interest.

As noted in the ecology section of the EIS a colony of Lesser Horseshoe Bat was recorded in the derelict cottage located to the south-east of the proposed extension area. The species is a qualifying interest of the designated site. In view of the expansion of the quarry in a southerly and south-westerly direction away from the cottage, the long established quarrying operation at the location and the absence of any blasting within same, I would accept the conclusion that there would be no significant impact on the species.

As noted in section 7.5 above the groundwater table local to the proposed quarry extension lands is 2.7 – 4.3 m above the level recorded at Caragh Lake and highlights the potential for groundwater flow from beneath the quarry to the lake. Extraction to a depth of in the region of 1 metre above the watertable is anticipated at certain points. The groundwater vulnerability within the proposed quarry extension varies from high to extreme. On the basis of my assessment in section 7.5 above and the fact that a number of the qualifying interests of the designated site are water dependent I do not consider that there is sufficient, up to date detail to support the conclusion that there would be no significant impact on groundwater.

Castlemaine Harbour SAC and SPA

The qualifying interests of the SAC are

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Annual vegetation of drift lines
- Perennial vegetation of stony banks
- Vegetated sea cliffs of the Atlantic and Baltic coasts
- Salicornia and other annuals colonising mud and sand
- Atlantic salt meadows
- Mediterranean salt meadows
- Embryonic shifting dunes
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)
- Fixed coastal dunes with herbaceous vegetation (grey dunes)
- Dunes with *Salix repens* ssp. *argentea*
- Humid dune slacks
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*
- Sea Lamprey
- River Lamprey

- Salmon
- Otter
- Petalwort

The qualifying interests for the SPA include wintering waterfowl and waterbirds

Detailed conservation objectives have been drawn up for the sites and are available on *npws.ie* the overall aim being to maintain or restore the favourable conservation status or habitats and species of community interest.

There is a watercourse along the northern boundary of the proposed extension area which is then piped over the internal road. It discharges into the Keal Stream which, in turn, discharges into Castlemaine Harbour and thus there is a hydrological connection. As noted in section 7.5 above the reliance on survey work carried out in 2013 is insufficient and absence of up to date analysis is a material shortcoming. I therefore do not consider that there is sufficient detail to support the conclusion that there would be no significant impact on surface water.

In view of the relative separation between the site and the SPA and the prevailing quarrying operations I consider it reasonable to conclude that the proposed development would not have significant effects on the qualifying interests of the designated site.

In conclusion, on the basis of the information provided with the application and appeal, and in the absence of a Natura Impact Statement I am not satisfied that the proposed extension would not be likely to have a significant effect on European Sites 00365 and 000343. In such circumstances I submit that the Board is precluded from granting permission.

8.0 Recommendation

Having regard to the documentation on file, the grounds of appeal, the responses thereto, observations received, a site inspection and the assessment above I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to extent of the existing quarrying operation at this location, the planning history on the site and the area of the site which has the benefit of planning permission and substitute consent, it is considered that the proposed development would constitute an extension to a largely unauthorised development and it is considered inappropriate that the Board should consider the grant of a permission for the proposed development in such circumstances.
2. On the basis of the information provided with the application and the appeal, and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 00365), and Castlemaine Harbour SAC (site code 00343) in view of the conservation objectives for those sites. In such circumstances, the Board is precluded from giving further consideration to a grant of planning permission.
3. The proposed development is situated in a rural area in close proximity to Lough Caragh. Notwithstanding the history of sand and gravel extraction in the area, it is considered, on the basis of the submissions made in connection with the planning application and the appeal, that the proposed extension cannot be carried out without causing serious injury to the rural and tourism amenities of the area and the amenities of property in the vicinity. The

proposed development would, therefore, be contrary to the proper planning and development to the area.

Pauline Fitzpatrick
Senior Planning Inspector

November, 2018