



An  
Bord  
Pleanála

## Inspector's Report ABP 307835-20

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<b>Development</b>	Continued use and extension of quarry
<b>Location</b>	Ballahacommane and Ardaneanig, Killarney, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	19/839
<b>Applicant</b>	M.F. Quirke & Sons
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellant(s)</b>	1. Patrick Kelleher & Others 2. Noel O'Connell & Others
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30/03/21
<b>Inspector</b>	Pauline Fitzpatrick

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## 1.0 Site Location and Description

- 1.1. The existing quarry is accessed at the end of a private road off the N72 c. 4km to the east of Killarney town. It is bounded to the east by Ballahacommane Hill, to the north by Ballahacommane Stream with agricultural lands to the south west. Extensive one off housing is noted in the vicinity notably along a network of minor roads to the south and south-west.
- 1.2. There are a number of other quarries in the immediate vicinity, the largest being a short distance to the north in the townland of Coolcaslagh (Cronin's Quarry). There are a further three quarries to the south of the N72 with a small quarry located to the north-west of the site stated to be no longer in operation.
- 1.3. The existing quarry is roughly triangular in shape with two lagoons in its centre. The westernmost lagoon is almost completely filled. An outfall pipe running from the plant area discharges into this lagoon at its north-eastern corner. Water then flows along the eastern edge before discharging via a pipe into the lower lagoon.
- 1.4. The north-eastern face of the quarry is currently being worked, with the main pit for sand and gravel located along the southern boundary. The north-eastern most part of the existing quarry site has been reinstated.
- 1.5. The south-eastern portion of the quarry accommodates the office, service blocks, and vehicle sheds, which are on the left as you enter the quarry. On the right is the plant area for processing of product. Between these two locations is the wheel wash and weighbridge.
- 1.6. The area of the proposed extension to the west of the existing quarry consists of small to medium fields under grass with varying hedgerows. The north-eastern corner of the site falls sharply to the northeast. Similarly, the entire western flank consists of a linear escarpment, falling to the southwest. There is an unoccupied 2-storey house and associated outbuildings in the southern most section.

## 2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on **07/08/19** with further plans and details received **20/03/20** following a request for further information (FI) dated **30/09/19**. Copies of revised public notices were received **01/04/20**.
- 2.2. The proposal, as amended, entails:
  1. continuation of use of the existing quarry (stated area of 23.4 hectares)
  2. western extension to quarry (stated area 12.5 hectares)
- 2.3. Sand and gravel is extracted and processed. It is proposed to extract aggregate from the extension prior to the reserves being exhausted from the existing quarry area. No blasting is required in the extension area.
- 2.4. The annual output is to remain at a maximum of 240,000 tonnes per annum. Maximum truck movements will be 40 trips (80 movements per day). The existing access road from the N72 is to be used.
- 2.5. The proposal also includes the replacement of the septic and percolation area.
- 2.6. Originally a permission for 30 years was sought in the event that an extraction/production rate of 800 tonnes per day could not be sustained due to a reduction in market demand. Following further information a 25 year permission is sought.
- 2.7. Unsolicited further information that was received by the planning authority after the decision to grant permission responds to a number of issues raised in objections to the application.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission for the above described development subject to 26 conditions. Of note:

*Condition 3(a):* period of the permission shall be a maximum of 20 years.

(b): total extraction shall not exceed 4,800,00 tonnes over the lifespan of the permission.

(c): the daily rate of export of material shall not exceed 800 tonnes.

*Condition 4:* Permission shall cease to have effect 20 years from the date of the order. The quarry use shall cease, all structures removed and site restored unless a further permission for continuance of use is granted.

*Condition 5:* Sand and gravel not to be extracted from proposed extension area until such time as the reserves in the existing quarry have been exhausted.

*Condition 10 (c):* No extraction to take place below the level of the water table or within 1 metre of same.

*Conditions 14 and 15:* Noise and dust emission requirements.

*Condition 19:* No blasting in the extension area. Air overpressure ELVs and vibration requirements.

*Conditions 20 & 21:* Monitoring programme requirements.

*Condition 23:* Septic tank and percolation area installation.

*Condition 25:* Requirements for the silt fence proposed between Ballahacommane Stream and proposed adjoining 3 metre high berm.

*Condition 26:* Invasive species treatment.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The **1<sup>st</sup> Area Planner's** report (undated)

- The proposal is acceptable in principle and accords with national and local policies pertaining to the extractive industry.
- It would not impact on residential amenity having regard to the nature of the quarry and separation distances.
- The levels of traffic which are to accord with that as permitted is acceptable.
- The proposal, with additional safeguards provided, is not likely to have a significant impact on surface and ground water.

- Location and natural topography is a key mitigation measure which will significantly minimise dust nuisance for sensitive receptors. Monitoring will continue.
- The assessment of noise impacts and proposed mitigation measures by way of a 3 metre berm are considered to be reasonable.
- The further information on biodiversity as recommended in the Environmental Assessment Unit report noted.
- The landscape assessment is largely satisfactory. It is not readily visible from the surrounding countryside even when taken in conjunction with the existing quarried area within the landholding.
- It is considered reasonable to conclude that the proposal, individually or in combination with other plans and projects, would not be likely to have an adverse impact on a European Site provided that the mitigation measures as set out in the NIS are adhered to.
- The extent of duration of permission sought to be reviewed.

A request for further information recommended.

The **2<sup>nd</sup> report** dated **13/07/20** (countersigned) following FI notes:

- The amendments proposed are largely immaterial and insignificant from Habitats Directive assessment point of view. They include a reduction in the extent of the proposed quarry and its operational life which further reduces the likelihood of adverse impacts on Natura 2000 sites.
- The proposal to divert the quarry drain will reduce the risk of sediment laden runoff migrating off site during intense rainfall events. In addition, the topography of the quarry ensures that a silt water breakout can be ruled out.
- The use of silt fences noted.
- The proposal, as amended, it is not likely to significantly impact biodiversity or water resource.

**Note:** reference made in above report to a submission by Inland Fisheries Ireland. No report from same on file. The Area Planner notes that it recommends that mitigation measures presented in the EIAR be implemented, that a register of action

to be kept, protection of surface water from silt and groundwater levels and quality to be reviewed over lifetime of development.

A grant of permission subject to conditions recommended.

### 3.2.2. Other Technical Reports

**County Archaeologist** notes the archaeological impact assessment and that no archaeological monuments will be impacted. No further mitigation required.

**Fire Authority** has no objection.

**Senior Executive Engineer, Environment** in a report dated **27/09/19** recommends further information on duration of the permission sought, clarification as to whether it is proposed to extract sand and gravel from the extension prior to the reserves being exhausted in the existing quarry and details of vehicular access between the existing and proposed extension. The **2<sup>nd</sup> report** dated **16/06/20** following further information has no objection subject to conditions including restriction of duration of permission to 20 years and no extraction from the extension until such time as the reserves of the existing quarry have been exhausted.

**Executive Planner and Ecologist, Environmental Assessment Unit** in a report dated **27/09/19** considers that the proposal is not likely to impact Natura 2000 sites downstream by way of water quality impacts. No qualifying interest habitats or species are located in the vicinity, with the site outside the lands identified as potential foraging habitat for Lesser Horseshoe Bat. Biodiversity and water sections of EIAR considered to be largely satisfactory. Habitats found within and adjoining the 3<sup>rd</sup> phase of the proposed quarry should be clarified. Area identified as WNI (Oak-Birch-Holly) woodland is considered to be more characteristic of WN7 (Bog Woodland) type habitat. This and the presence of Sphagnum bog mosses suggests that the area is of biodiversity interest, is accumulating peat and is acting as a carbon sink. Potential indirect impacts arising from the provision of the (shallow) ring drain, tree planting and from any dust deposition could impact the wider wetland which includes a wet heath area. The significance of impacts on this wetland area have not been adequately assessed in the EIAR. It should be retained and safeguarded. The restoration details submitted do not appear to provide for progressive restoration or include final levels. This appears to be influenced by the presence of the protected species 'small cudweed' on the site. A reduced duration



in terms of the permission should be considered. The **2<sup>nd</sup> report** dated **12/06/20** following further information considers that a silt fence suitably located between the berm and Ballahacommane Stream would prevent dislodged material entering the stream. It is concluded that no adverse impact on a European Site would be likely to arise subject to the mitigation measures being applied. It is concluded that the proposal would not have any unacceptable or significant effects on biodiversity. Measures to be required detailed.

### 3.3. **Prescribed Bodies**

**HSE Environmental Health Officer** in a report dated **29/08/19** recommends public consultation be undertaken, noise monitoring, implementation of all measures to control waste, water pollution, public health nuisance, light pollution, traffic impact, any interruption to services, access issues and all associated emissions. System to deal with complaints to be put in place. Further information required on the nature of the wheel wash facility, treatment of washings and proposed controls with regard to any possible discharge from the system.

**HSE Emergency Management Consultation Report** has no specific observations.

**Transport Infrastructure Ireland** has no observations.

**Department of Agriculture, Food and the Marine** states that there are no FHC or aquaculture implications.

**An Taisce** notes the proximity of the site to the Woodford River which flows into the River Flesk which is within a SAC. Planning compliance and cumulative impacts need to be addressed. The use of a silt fence near the Ballahacommane Stream and re-routing runoff from the new site into an old lagoon is problematic in management. The location is landscape sensitive.

### 3.4. **Third Party Observations**

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3<sup>rd</sup> party appeals summarised in section 6 below.

## 4.0 Planning History

4.1. **PL08.238273 (10/1050)** – permission refused for a quarry, the area of which largely corresponds with that of the proposed extension herein. The 3 reasons for refusal can be summarised as follows:

1. The EIS was deficient in terms of detailed accurate information relating to the existing surface water and groundwater regime in the vicinity of the site. The potential pollution risks in particular in terms of siltation, have not been adequately considered. The Board was not satisfied that the proposed development would not pose an unacceptable risk to the quality and quantity of surface and ground waters in the vicinity, with consequent risks to the aquatic ecology of downstream habitats.
2. There are already a significant number of quarries/pits in operation in the general area. It is considered that, in the absence of substantive progress on the orderly restoration of the existing quarry, the cumulative environmental impacts of opening a further extraction area (in particular on the water resources and the landscape of the area) would be unacceptable. The proposed development would therefore represent a disorderly and unsustainable approach to land use which would seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.
3. The site is in close proximity to a large number of dwelling houses and, if permitted, quarrying activities would create a risk of nuisance to local residents by virtue of increased levels of noise and dust. It has not been satisfactorily demonstrated that satisfactory mitigation measures would be employed or that measures proposed in the EIS would be effective in protecting the residential amenities of neighbouring residents from undue nuisance.

4.2. **15/601** – permission granted for use of blasting for extraction of rock within a 3 ha area of existing quarry.

- 4.3. **PL08.201503 (02/910)** – permission granted for continued operation of the existing quarry. The duration of the permission was for 15 years and was due to expire in 2018. The duration was extended by order until 12/05/23.
- 4.4. **1062/95** – permission granted for the retention and extension of the quarrying activities on the site. Condition 2 requires compliance with the conditions attached to permission refs. 534/94 and 598/88.
- 4.5. **534/94** – permission granted for a tarmacadam plant.
- 4.6. **598/88** – permission granted for the erection of a crushing and screening plant and gravel quarry on the site.

## 5.0 **Policy Context**

### 5.1. **National Policy**

#### **National Planning Framework (NPF)**

Extractive industries are important for the supply of aggregates and construction materials and minerals to a variety of sectors..... The planning process will play a key role in realising the potential of the extractive industries sector by identifying and protecting important reserves of aggregates and minerals from development that might prejudice their utilisation. Aggregates and minerals extraction will continue to be enabled where this is compatible with the protection of the environment in terms of air and water quality, natural and cultural heritage, the quality of life of residents in the vicinity, and provides for appropriate site rehabilitation.

*National Policy Objective 23* - Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries.....while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

## 5.2. Regional Policy

### **Regional Spatial and Economic Strategy for the Southern Region**

The RSES provides the framework through which the NPF's vision and the related Government policies and objectives will be delivered for the Region.

It identifies high-level requirements and policies. It does not provide every detail for each matter.

## 5.3. Local Policy

### **Kerry County Development Plan, 2015**

Objective NR-1 – maximise the economic potential and development of natural resources in a sustainable manner while ensuring no significant adverse effect on the environment including the integrity of the Natura 2000 Network through the implementation of the objectives and the Development Management Guidelines and Standards of this Plan.

Objective NR-3 – ensure that the development and exploitation of natural resources does not result in any significant adverse effects on the local community.

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 industries.

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

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

Objective NR-7 – ensure that 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.

The site is within an area designated Rural General. Section 3.3.2.1 states that these areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character.

#### **5.4. Natural Heritage Designations**

The Woodford River which forms part of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC is c.1km to the west/north-west of the quarry extension.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

##### **6.1.1. Noel O'Connell & Others**

The appeal which is accompanied by supporting detail can be summarised as follows:

#### **Access and Traffic**

- The existing quarry access is via a narrow private road. Property owners along the road have facilitated the applicant via a legal agreement allowing the widening of the road (copy attached). The road can only be used for the lifespan of the existing quarry and not for any other land outside of that boundary. The licence agreement between the appellants and the applicant has expired. Such agreement will not be forthcoming going forward. Without the consent it will not be possible to access the quarry. The applicant is incapable of proving that it has a legal entitlement to use the road. It is a requirement that the roadway be restored to its original width.
- Existing boundaries and manholes along the right of way have not been maintained by the applicant.

- Conditions attached to the permission allow for a significant increase in vehicular movements over that permitted. Such levels are not appropriate or viable.
- Permission was refused for 3 houses on the road under ref. 584/04 on grounds of the road's substandard width and alignment incapable of accommodating the additional movements.
- The sightlines at the junction of the private road and the N72 are restricted.
- The lands of the new quarry in Ardaneanig are accessed from local L7047 off the N72. This entrance should be used for the quarry access rather than the existing access in Ballahacommane.

### **Residential Amenities**

- Residents along the road are dealing with high levels of dust, noise and traffic which would increase with the additional extraction.
- There is concern about damage to properties due to vibration from the additional heavy traffic.

### **Nature and Extent of On Site Operations**

- The existing pit area is to be restored to agricultural land when the existing quarry is exhausted. Therefore, it cannot be used for processing material from the new quarry. Additionally, the applicant is currently extending the lifespan of the existing quarry by importing materials which is a breach of agreement and a means of avoiding returning the site to its original condition.
- The applicant has breached conditions attached to existing permissions and should be precluded from securing further permission.
- The quarry is impeding the flow of water from Ballahacommane Hill and surrounding lands causing flooding to lands.

## 6.2. Patrick Kelleher & Others

The appeal which is accompanied by supporting detail can be summarised as follows:

### **Nature and Extent of Proposed Development**

- There is conflicting detail as to duration of operation and annual tonnage to be extracted.
- The proposal should be viewed as a new quarry and not an extension.
- The Boards refusal on for a similar proposal under ref. PL08.238273 is relevant.

### **Residential Amenities**

- The proposed development would have a detrimental impact on the residential amenities of properties in the area arising from excessive noise, dust, pollution and traffic.
- It would have a negative impact on property values.
- It has not been demonstrated that the proposed mitigation measures would be effective.
- The proposal would have an adverse visual impact.
- Soil structure instability and impact on adjoining properties is a concern.

### **Surface Water and Biodiversity**

- The quarry is impeding the flow of water from Ballahacommane Hill and surrounding lands and is giving rise to flooding.
- The natural flow of the Ballahacommane stream is directed to a lagoon that has been used for many years. There are concerns regarding the new diversion of the quarry drain along the bottom of the site. There are reservations that the proposed diversion will give rise to siltation and potential pollution to the Woodford Stream and River Flesk.
- The NIS has not undertaken a physical survey to detect the presence of Freshwater Pearl Mussel in the Woodford Stream and along its pathway

where it converges with the River Flesk. The quarry poses a serious threat to the species arising from potential for discharges.

- The increase in frequency and intensity of extreme precipitation has not been addressed in the NIS and mitigation strategies proposed may not be viable over the lifetime of the quarry.
- The proposal will increase the effects on ground and surface waters within the catchment which will affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC.
- The NIS does not contain the complete, precise and definitive findings which would underpin a conclusion that no reasonable scientific doubt remains as to the absence of any potential detrimental effects on the protected site having regard to its conservation objectives.

### **Access and Traffic**

- Access to the site from the N72 presents a substantial risk to road users.
- The access road will not sustain the vehicular movements.
- The access road can only be used for the lifespan of the existing quarry. The applicant is extending its lifespan by the importation of materials.

### **Noise**

- There are reservations as to the accuracy of the modelling assessment and proposed mitigation measures. Research (details provided) criticise the accuracy of the A weighted measurements for the disturbing effect of noise with strong low frequency components.
- Noise emissions from the rock breaker has not been accounted for within the noise modelling assessment. The noise assessment does not take a representative amount of baseline measurements to show the impacts of the quarry at sensitive locations.
- Failure to adequately consider the impact of 80 no. HGV movements, 6 days a week. The cumulative noise impact of the quarry and traffic movements has not been addressed.



- The noise modelling assessment does not present the noise emissions prior to mitigation (construction of berms).
- Not satisfied that noise reverberation has been accounted for considering the various depths of excavation or that the mitigation measures will be effective in alleviating these disturbances.
- NML1 and NML 2 demonstrate sufficiently low  $L_{A90}$  values to deem these areas to be an Area of Low Background Noise. On this basis the daytime criterion would be 45dBA and the re-assessed noise predictions all exceed same.
- While the modelling was carried out applying a ground factor for hard standing, roads etc, the application of the 0.75 ground factor for the remaining area is not considered conservative, notably when there is very little actual acoustically soft ground between the quarry and nearest sensitive receivers. The application of a favourable ground factor can reduce predicted levels by several decibels. The application of a more judicious factor of 0.5 would increase the predicted levels above the recommended criterion of 45 dBA by several decibels.

### **Other Issues**

- There is a history of non-compliance with existing permissions.
- The preferred route for the Tralee Killarney Bypass is in close proximity to the site. Dust and noise emissions would adversely affect the route.
- The EIS has failed to consider reasonable alternative sites.
- The heavy traffic has caused breaks to the water supply. The extension will worsen the situation.
- The boundaries have not been maintained along the right of way giving rise to hazard.
- There is no scientific evidence to support the claim that the quarry will unlikely produce dust particles finer than 30um/10um. There are serious health concerns.

### 6.3. Applicant Response

The response by Fehily Timoney on behalf of the applicant to the 2 no. 3<sup>rd</sup> Party appeals can be summarised as follows:

#### **Procedural Issues**

- It is unclear what the grounds of appeal are in the submission by Residents of Ardaneanig c/o Patrick Kelleher. The majority of material provided relates to other persons who appear not to be named appellants. It is questioned whether these are observers under the act. It is queried whether the stated grounds of appeal conform with the relevant section of the Planning and Development Act.

#### **Access and Traffic**

- The maximum proposed output will be 240,000 tonnes per annum. Production will be 800 tonnes per day (6 day week, 50 week period). This equates to 40 HGV trips (80 movements) per day. 40 trips per day has been permitted since 1994. 40 trips is the maximum and only occurs during seasonal busy periods. There will be no increase in the number of employees. There will be no intensification of use and no increase in traffic.
- Mitigation measures proposed are a continuance of the existing measures which are currently operating within the conditions of the existing planning permission.
- The applicant will bear the cost of the day to day maintenance and of any structural repairs to the access road which may be needed.
- There have been no recorded accidents at the access road/N72 junction. The proposed mitigation measures in section 9.5 of the EIAR further reduce the likelihood of collisions.
- The restoration of the road to its original width of 8 feet 6 inches would reduce the safety of the road. The referenced District Court Agreement from 1996 is a civil matter concerning access over a private roadway. The applicant will liaise with the 3<sup>rd</sup> parties to address the legal obligations in relation to the operation of the quarry.

## **Planning History and Compliance**

- The proposal differs from that previously refused permission by the Board. A more comprehensive analysis of surface and groundwater impact has been completed. Significant restoration of the existing quarry will be completed prior to commencement of operations on the extension. No property will be within 100 metres of the extension.
- It is proposed to extract sand and gravel from the extension prior to reserves being exhausted from the existing quarry. The cumulative impacts have been fully assessed.
- The lifespan of the quarry cannot be increased by importing material as the lifespan is and will be dictated by planning permission.
- The 30 year duration sought was reduced to 25 years assuming that no unquarried aggregates would remain unused at the end of this period. There is precedent in Kerry for longer term permissions for quarries.
- The preferred route corridor for the N22 Farranfore to Killarney Road Improvement Scheme does not pass through the site.
- No non-compliances have been issued by Kerry County Council and the applicant has not been notified of any complaints.

## **Water**

- The existing settlement ponds have been in operation for a long time period, are located below the level of the surface water drainage network and all waterflow to the existing settlement ponds will be retained within the site boundary.
- The only existing discharge from the site is a shallow drainage ditch (referred to in the EIAR as the 'quarry drain') which runs along the southern boundary of the existing quarry. It is only active during and after high rainfall events when it discharges to the Ballahacommane Stream. The drain is to be directed into the main settlement lagoon removing the risk that sediment laden runoff will migrate off site. There will be no discharge of process or other water from the quarry.

- All surface water runoff from the extension will be accommodated within the proposed sandpit void which will be located topographically lower than the surrounding surface water drainage network.
- A 3 metre high berm will be constructed between the Ballahacommane Stream and the stockpile locations along the entire reach of the stream that is topographically lower than proposed stockpile locations.
- The drainage regime to the left of the entrance has been upgraded following a flooding event 2-3 years ago to allow the drain from these lands to flow into the quarry drainage.
- Flooding is not likely to occur elsewhere downgradient of the proposal as no discharge to surface water will take place.
- No quarrying of aggregate 3 metres of the water table in the extension area is proposed.
- Phased development of the extension and continual re-instatement of the existing site will minimise risk to groundwater.
- There is no likelihood of a flooding incident collapsing a berm. The existing and proposed settlement ponds will be located topographically lower than the surrounding surface water network. There can be no accidental break out from the lagoons to the surface drainage network. No berms will be used to retain water at any time.

### **Biodiversity**

- No direct discharge to watercourses is proposed.
- In terms of possible groundwater contamination the risk from discharges of high levels of suspended solids is effectively removed and the remaining risk is generally applicable to possible chemical contamination such as minor spills of hydrocarbons or minor issues relating to suspended solids or wastewater effluent. These risks will be prevented by the implementation of the site specific mitigation measures which are standard for quarries.

- There are no records of Freshwater Pearl Mussel in the Woodford River. The species is present within the main channel of the River Flesk from at least Brewsterfield to downstream of Flesk Bridge in Killarney town.
- Salmon is recorded in the River Flesk. Tributaries including relatively minor watercourses provide important spawning and nursery habitat. Therefore, this species could potentially occur in the lower reaches of the Ballahacommane Stream. The NIS and Biodiversity chapter of the EIAR adopted a worst case scenario and assumed that the said species were present in watercourses downstream of the extension.
- The NIS noted that in the absence of a negative impact on water quality or baseflows or loss of habitat, no direct, indirect or cumulative impacts on these species.
- The increase in frequency and intensity of extreme precipitation was considered in the flooding assessment in Chapter 13 of the EIAR.
- The development will impact primarily on low to moderate value habitats and there will be localised disturbance of fauna.

### **Noise and Vibration**

- The applicant has permission under ref. 15/601 to conduct blasting on 3 ha of the current quarry with 350,000m<sup>3</sup> of rock remaining in this area. The applicant commits to providing written notification to properties in the vicinity in the advance of future blasting. As part of the permission vibration levels at the nearest dwelling to the blast must be recorded. A review of historic measurements show vibration level below the guide values for cosmetic damage outlined in BS 7385-2:1993. Two blasting incidences in terms of distance from nearest sensitive receptor and peak particle velocity recorded noted.
- Rock breaking is not the preferred option and is a secondary extraction process which only occurs sporadically during the year.
- Blasting and rock breaking will not be required in the extension area.

- Additional noise predictions were undertaken to assess the impact of the rock breaking activity with measured noise levels at receptor locations below the 55dB limit.
- Berms will attenuate the noise emanating from the proposed development and have been referenced as mitigation. Without the berms the noise impact would be greater. The berms have been considered as part of the proposed development and hence predictions with the berms in place, only, have been considered.
- C-weighted frequency affords greater contribution from low-frequency noise. When sounds are very loud, humans become more sensitive to lower frequencies. The A-weighted curve is used extensively for general purpose noise measurements but the C-weighted correlates better with the human response to high noise levels. The noise levels predicted cannot be described as high noise levels in this context and A-weighted limit values in the relevant guidance apply.
- At lower depths there is potential for sound to reverberate but any increase in reverberant noise will be offset by increased effective berm height as the depth of the quarry increases. Additional noise predictions have been used to verify this.
- Existing plant and machinery will be used. No additional plant is proposed.
- The noise emission values in the EPA's Environmental Management in the Extractive Industry (Non-Scheduled Minerals) are applicable. The emission limit values in the guidance documents are guideline levels. The ultimate authority is with the planning authority/An Bord Pleanála.
- The ground cover of 0.75 used in noise modelling assumptions is conservative.
- The impact of vehicle movements has been assessed. Operations will not result in an increase in permitted traffic levels.

## **Dust**

- Previous results from dust surveys do not indicate that the quarry is resulting in high levels of dust with deposition rates largely compliant with the 350mg/m<sup>2</sup>/day/limit specified in the planning permission.
- The closest sensitive receptors are located in excess of 100 metres from the extension boundary and are located to the south and southwest. Berms and additional planting will significantly reduce the potential for fugitive dust emissions. The closest property to the northeast is 568 metres from the extension area. The preferred route corridor for the N22 Farranfore to Killarney Road Improvement Scheme would not be considered a sensitive receptor.
- For quarries most of the suspended dust will be in the coarse sub-fraction (PM<sub>2.5-10</sub>) rather than in the fine (PM<sub>2.5</sub>) fraction. The UK publication Guidance on the Assessment of Mineral Dust Impacts for Planning (Institute of Air Quality Management, 2016) notes that the national air quality objectives for these pollutants are rarely exceeded close to most mineral sites, as they are typically located in rural areas where there is generally a much smaller contribution from traffic pollution than in urban areas. Given the low potential for generation of finer dust particles, the absence of significant sources of such particles in the surrounding landscape, and the likely dispersal of such particles in an open rural setting, no significant impact from finer dust particles will occur.

## **Visual Impact**

- The site is not located within a designated scenic amenity area.
- The potential impact for houses to the north will be minimised by retaining the existing ridge between the existing and proposed developments bar a 6 metre gap for the haul road. Houses to the south will not have a view of the development and the construction of the perimeter berm and the retention of existing boundary vegetation will further minimise the visual impact.
- The overall impact will range from slight negative to moderate negative. The latter will only relate to a very small number of dwellings and to a minor road.

- It is concluded that the extension will not have a significant effect on the local landscape and will not impact on value and desirability of property in the area.

### **Residential Amenities**

- The nearest dwelling is c. 100 metres to the south of the extension.
- The EIAR has demonstrated that adhering to best practice and current applicable guidance the proposal will not have significant impacts on the receiving environment.
- Human health is discussed in Chapter 7 of the EIAR.
- As per section 7.8 the cumulative effect on natural geographical assets as a result of quarrying is considered moderate and permanent. No other cumulative or residual human health impacts are considered moderate.

### **Alternatives**

- Alternatives were thoroughly considered.

## **6.4. Planning Authority Response**

No further comment other than to state that the application was referred to the Environment Department and Environmental Assessment Unit of the County Council. Their recommendations were taken into account in the decision making process. The said sections have no further comment on the appeals.

## **6.5. Observations**

None

## **6.6. Further Responses**

The applicant's response to the appeals was circulated for comment by way of section 131.



#### 6.6.1. **Patrick Kelleher & Others**

In addition to reiterating a number of points raised in the original appeal submission the following are noted:

- The statement that it is proposed to extract sand and gravel from the proposed extension prior to the reserves being exhausted in the existing quarry is in breach of the requirements of condition 5.
- In view of the continued use of the facilities within the existing quarry including the lagoon, it is not presumptuous to conclude that the site at Ballahacommane will never be fully restored and the applicants will not comply with condition 1 of permission 1910/02.

#### 6.6.2. **Noel O'Connell & Others (submission on their behalf by Pdraig O' Connell Solicitors)**

- The agent for the applicant has failed to recognise that if the applicants do not have a legal entitlement to use the access road, that is the end of the matter. A grant of permission is meaningless in the absence of such a legal right.
- There have been near misses with HGVs along the lane.
- The County Council has failed to protect the appellants' rights. The applicant has failed to comply with planning conditions over the lifetime of the quarry.

#### 6.6.3. **Planning Authority**

No further comment.

#### 6.7. **Section 131 Notice**

As the Board is of the opinion that the proposal may have an impact on an SAC certain prescribed bodies were invited to make a submission/observation on the appeal.

No responses received.

## 7.0 Planning Assessment

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

- Policy Considerations
- Planning History and Nature and Extent of Development
- Site Access and Legal Interest
- Amenities of Adjoining Property
- Hydrology and Hydrogeology
- Other Issues

### 7.1. Policy Considerations

7.1.1. Following on from the Department's Guidelines for Planning Authorities on Quarries and Ancillary Activities (DoEHLG, 2004) the current Kerry County Development Plan recognises that aggregate resources contribute significantly to the economic development of the county and seeks to facilitate its further development. However it is acknowledged 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. I note that the existing quarry and the proposed extension are located within an area designated 'Rural General' in the plan in which there is no specific prohibition in terms of extractive industries stipulated. As noted on day of inspection and from aerial photography available the number of quarries in the vicinity is marked with in the region 5 no. sites evident.

7.1.2. Subsequent to the adoption of the development plan the NPF reiterates the importance of the supply of aggregates and construction materials to a variety of sectors and states that extraction will continue to be enabled where it is compatible with the protection of the environment and community amenities. National Policy Objective 23 embodies this commitment in seeking to facilitate the development of the rural economy through supporting sustainable and economically efficient agricultural and food sectors, together with forestry, fishing and aquaculture, energy and extractive industries....while at the same time noting the importance of

maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

- 7.1.3. The continued use of the quarry and its 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 landscape, biodiversity and protection of the community.

## 7.2. Planning History and Nature and Extent of the Development

- 7.2.1. As extrapolated from the details on the planning history the quarry was originally granted permission under ref. 598/88 with subsequent permission granted under ref. 1062/95 for the retention and extension of the quarrying activities on the site. Permission was secured under ref. PL08.201503 (1910/02) for continuance of use of the existing quarry and permission to extract aggregates from two further areas. The 1<sup>st</sup> condition attached to same specified a 15 year duration with full restoration of the site to be completed within 1 year of the cessation of extraction works. This would have required the quarry to cease operations in 2018. This permission was extended under ref. 0291910 allowing for quarrying activities for a further five years up to 2023. Use of blasting for the extraction of rock was permitted under 15/601.
- 7.2.2. The area of the proposed extension formed part of a larger 19.67 hectare site for which permission was sought for quarrying activity under ref. PL08.238273 (10/1050). In that instance, whilst not specifically referenced as an extension to the existing quarry the development was described as *'extraction and processing of sand and gravel from a 19.67 hectare site.....the proposed extraction is west of and contiguous to the existing quarry....it is proposed to continue to use the existing quarry... processing plant and buildings necessary for the processing of the extracted material. It is also proposed to export the processed material via the existing quarry access road to the N72'*. Permission was refused for 3 no. reasons.
- 7.2.3. Whilst appellants contest the nature and extent of the current development as given in the public notices and are of the view that the proposed extension constitutes a new quarry, I consider that it can be appropriately read as an extension to the existing quarry, albeit into undeveloped agricultural lands. It will be physically

connected to and will be directly reliant on the use of the existing access and servicing arrangements including processing activities.

#### *Continuance of Existing Quarry*

- 7.2.4. In terms of the existing quarry it is stated that there is c. 1 hectare of land with an estimated volume of 137,500m<sup>3</sup> remaining to be quarried in addition to 350,000m<sup>3</sup> of rock to be excavated. At an annual extraction rate of 240,000 tonnes this would render the quarry exhausted within two years and would accord with the extension of duration of permission granted until 2023. As per the documentation accompanying the application and the appeal responses the applicant is seeking to extract from the extension area prior to the existing quarry being exhausted.
- 7.2.5. To date the north-east section of the existing quarry area, only, has been reinstated. The agent for the applicant in the appeal response contends that the existing quarry will be progressively restored during the duration of the permission. This is effectively contradicted in the restoration plan provided in Appendix 11.4 in which it is stated that on completion of extraction and once decommissioning is complete reinstatement would commence. No plans or drawings accompany the application to provide elucidation on the issue. Taking into consideration the proposed use of the lands immediately to the west of the settlement lagoon for stockpiles of soil overburden and fines, the use of the existing haul route and the continuing use of the quarry infrastructure in place it is not unreasonable to conclude that restoration of a substantive portion of the existing quarry will not be possible.

#### *Extension Area*

- 7.2.6. In terms of the extension area I note the following differences between the current and previous applications:
- the narrow southern most portion of the site which is within the applicant's landholding, is excluded in the current application. Although included within the site boundary on the previous application it had not been earmarked for development.
  - the southern site boundary has been pulled back from that previously delineated to allow for greater separation to the dwellings to the south. In the previous application the extraction area would have had a setback of in the region of 55-

65 metres from the nearest dwellings to the south. This has been increased to a minimum of 100 metres.

- 7.2.7. As a consequence the overall site area of the extension is 12.5 hectares (reduced from 19.67ha) with a working area of 10.53 ha (reduced from 12.86ha). By way of further information the working area is reduced by a further 0.9 ha to allow for the retention of the heathland/woodland/bog woodland habitat along the western site boundary.
- 7.2.8. The proposed extension has an estimated resource of 2,752,800m<sup>3</sup>. This was reduced as a consequence of the contraction of the working area from the western boundary as detailed above. In addition potential extraction volumes were reduced to reflect potential 20 and 25 year permission durations at an annual extraction rate of 240,000 tonnes. Over a 25 year period this would equate to 2,493,750 tonnes per annum. Over a 20 year period this would reduce to 2,400,000 tonnes. The applicant reiterates that the current application does not seek to increase productivity over and above existing levels at the site.
- 7.2.9. I note the concerns raised by third parties regarding the substantial extension of quarrying beyond the original timescale set out in earlier permission, which primarily relate to the environmental, traffic and social effects of the quarry in the local area. Whilst I acknowledge these concerns, I would also acknowledge that such quarries make an important contribution to the supply of aggregates in the region and minerals can only be worked where they occur. I would consider, therefore, that the applicant is entitled in principle, to bring forward the proposed development for adjudication through the planning system

*Compliance with Previous Permissions*

- 7.2.10. As to the alleged non-compliance with conditions imposed in respect of previous grants of planning permission, 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.
- 7.2.11. However, in terms of the conditions attached to permission granted by the Board under ref. PL08.201503 for the continuance of the quarry use, the duration of which was extended until 2023 I note that the following:

- The current application is silent on whether an Environmental Management System as required by condition 5 was drawn up. The only reference to same is in section 9.5 of the EIAR which states that the EMS is in place.
- The application is silent on whether the annual environmental audit required by condition 6 was complied with. The review of Environmental Monitoring as set out in Appendix 4.2 in referencing condition 6 refers to the submission of quarterly reports of monitoring report on dust and noise monitoring, only.

7.2.12. In view of the fact that the Inspector on the previous appeal under ref. PL08.238273 noted the absence of such monitoring and audit records with the Board's reference to the absence of the EMS in its 1<sup>st</sup> reason for refusal, it is somewhat surprising that the applicant did not see fit to rectify these shortcomings in the current application or, at a minimum, make a statement in response to the Board's previous refusal in this regard. There is no question that such details would have been beneficial in assisting in the assessment of the proposed development.

### **7.3. Site Access and Legal Interest**

7.3.1. Appellants to the appeal contend that the quarry is accessed via a private road with the relevant landowners, by way of a legal agreement, having facilitated the quarry owner both in terms of its use for access for quarrying purposes and its widening to allow for HGV movement. It is contended that the agreement has expired, will not be renewed going forward with the road to revert back to its original width. Details of the agreement accompany the appeal. In response, the applicant considers that access over the private roadway is a civil matter and that it will liaise with the 3<sup>rd</sup> parties to address the legal obligations. It is also contended that the restoration of the road to its original width of 8 feet 6 inches would reduce safety. Notwithstanding, from the detail before the Board it would appear that the necessary consent to continue to use the road for quarrying activities and maintenance of widening works onto 3<sup>rd</sup> party lands would not be forthcoming. The planning authority in its assessment of the application was silent on the issue despite the fact that it was raised in objections received.

7.3.2. As noted in section 5.13 of the Development Management Guidelines the planning system is not designed as a mechanism for resolving disputes about title to land or

rights over land and that these are ultimately matters for resolution in the Courts. However, I consider that the doubt raised by the appellants in their submission as to the sufficiency of legal interest to access the site for quarrying activities should have been addressed in more detail by the applicant in rebuttal. Reference to addressing the legal requirements and securing agreement sometime in the future is, in my opinion, not sufficient or adequate to demonstrate legal interest.

- 7.3.3. Thus, on the basis of the detail provided the Board cannot be not satisfied that the applicant has sufficient legal interest in the lands on which access is proposed or has the approval of the person(s) who has such sufficient legal estate or interest to enable the use of this access road for quarrying purposes.

#### **7.4. Amenities of Adjoining Property**

- 7.4.1. The extent of one off housing in the vicinity of both the existing quarry and the proposed extension is marked especially along the local road network to the south and south-west as evidenced on Figure 8.1 of the EIAR. The nearest dwellings are on the private road accessing the existing quarry to the east and from the minor local cul-de-sac roads to the south. Appellants consider that the noise and dust, in addition to the vehicular movements would adversely impact on their residential amenities. I propose to address the latter issue in section 7.5 below
- 7.4.2. The existing quarry has been in operation over 30 years. As noted previously conditions attached to the permission granted under ref.PL08.201503 required an EMS to be drawn up in addition to an annual environmental audit. It is not clear whether the said conditions were complied with in full. The reasons given for the conditions include the safeguarding and protection of local and residential amenities. No reference is made as to whether a written record of any complaints, if made, including actions taken on each complaint required the as part of said annual environmental audit was kept.

##### *Noise*

- 7.4.3. In terms of noise, monitoring was undertaken on a quarterly basis between 2004 to 2009 but was suspended in April 2010. A single survey was carried out in July 2015 with quarterly monitoring recommenced in 2017 with the results up to November 2017 provided in Table 2 of Appendix 4.2 of the EIAR. The description of the

monitoring locations provided in Table 1 do not appear to correspond with the details given on Figures 9 -11

- 7.4.4. From the detail available it is noted that the applicable 55dBA limit specified in condition 9 attached to PL08.201503 was breached on a consistent basis at location BN3 between December 2008 and April 2010. This location is to the north of the existing quarry and immediately south of Cronin's Quarry at Coolcaslagh to the north. With recommencement of monitoring in 2017 a number of breaches occurred at BN1 which is the location in proximity to the site access. The consultants suggest that the Specific  $L_{Aeq}$  would be more indicative of the noise emissions arising from quarry operations and commenced recording same in 2017. It is put forward that the variation between  $L_{Aeq}$  and Specific  $L_{Aeq}$  was attributable to road traffic and not linked to quarry operations. It is noteworthy that the N22 is over 500 metres to the south and save for the quarry operation the private road serves a small number of dwellings only.
- 7.4.5. An attended baseline noise survey was carried out on 03/02/18 at 4 no. locations. The locations as delineated on Figure 10.2 are acceptable in terms their locations relative to the nearest noise sensitive receptors. In terms of the representativeness of the survey results presented, it is not clear exactly what level or intensity of extraction was being undertaken during the survey periods.
- 7.4.6. Noise modelling for the 'construction phase' entailing the construction of the 3 metre berm around the majority of the perimeter of the extension area is provided (section 10.8) and I accept that the assumptions made in terms of plant noise sources and proximity to boundaries provide for a conservative assessment. At the most exposed sensitive receptor to the south the cumulative noise level is calculated as 61.3 dB  $L_{Aeq}$  1hr. This is stated to be below construction noise limits. Although the timescale for the construction of the berm is not clear, by its nature it would be completed within a defined period and thus temporary in duration.
- 7.4.7. In terms of operational noise four scenarios were modelled. The 1<sup>st</sup> is the existing quarrying activities with the remaining three entailing the quarrying activities with material extraction from each of the 3 phases delineated for the extension area. For each of the 4 scenarios the major potential noise sources were identified and, again, the assumptions made provide for a conservative assessment. I note that there will



be no change in the current practices within the processing area of the existing quarry whilst the process in terms of extraction in the extension area will be the same as historically undertaken and will not entail blasting. As the tonnage to be processed and transported off site is to remain as is at 240,000 tonnes per annum traffic generated by the proposed development will be similar to that associated with the existing operations. The substantive issue is the movement of the extraction activities westwards and closer to the properties to the south.

- 7.4.8. Table 10.10 presents the predicted noise levels at the nearest sensitive locations during the operational phase which is supplemented by the predicted noise levels at all noise sensitive locations in Appendix 10. Although a plan delineating the said receptors is not provided it is assumed that they are the same as the dust sensitive receptors as set out in Figure 8.1 of the Appendices. In addition, while not explicitly referenced it is also assumed that the mitigation provided by the above referenced 3 metre berm (identified as a mitigation measure in section 10.5.2) is accounted for in the figures presented. As such the noise predictions do not provide for 'before' and 'after' mitigation scenarios. Notwithstanding, in all instances the predicted noise emissions following construction of the berm would be below the 55 dB L<sub>Aeq</sub> 1hr
- 7.4.9. The other mitigation measures detailed in section 10.5 can be considered to be best practice measures in both construction and operational phases within the development including ongoing monitoring.
- 7.4.10. Whilst appellants have contested the manner and accuracy of the noise modelling. I consider that the analysis complies with best practice including the use of A-weighted curve, modelling assumptions and ground cover allowances. The assessment also includes vehicular movements.
- 7.4.11. As noted blasting is not proposed in the extension area. Permission was secured for the use of blasting in a 3 hectare area of the existing quarry under ref. 15/601. As part of the permission vibration levels at the nearest dwelling to the blast must be recorded.
- 7.4.12. On the basis that no significant change is proposed to working methods, the screening effects of the proposed berms, and the implementation of best practice mitigation measures, the conclusions of the noise impact assessment appear

reasonable and I consider that significant residual noise impacts on sensitive receptors are unlikely to arise.

### *Dust*

- 7.4.13. Chapter 8 of the EIAR deals with air with specific reference to dust. Historical monitoring data is provided dating between 2003 and 2010 and then from 2017 and 2018 in Table 8-6 with the 6 no. dust monitoring locations delineated on Figure 8.3. As noted from the detail provided exceedances were recorded at a number of the locations between 2004 and 2007 but none since. No exceedances were recorded at the monitoring gauge closest to the site entrance in the vicinity of the processing plant. A further two monitoring gauges were set up along the western and north-western boundary of the proposed extension providing results for 3 dates in 2018.
- 7.4.14. The nearest dwellings to the proposed extension are located immediately to the south of the landholding with distances of a minimum of 100 metres to be maintained between the said dwellings and the extraction area.
- 7.4.15. In addition to the best practice measures to be implemented in the quarry operations including stripping of overburden in stages, extraction of aggregate in phases, spraying of stockpiles, use of wheel wash etc., a 3 m high x. 13 m wide berm is to be erected around the majority of the site perimeter prior to extraction.
- 7.4.16. Having regard to the above measures, coupled with the prevailing south/south-west winds resulting in the location of the nearest properties being downwind of the site, I consider that dust emissions would not exceed the 350mg/m<sup>2</sup>/day limit (when averaged over a 30 day period). Sensitive receptors located to the north and north-east are located a sufficient distance away and are on more elevated ground. On this basis I consider that the proposal would not adversely impact the amenities of adjoining property arising from dust emissions.

## **7.5. Traffic**

- 7.5.1. I refer the Board to my assessment in section 7.4 above in terms of use of the private road. The road is approx. 550 metres in length and has been widened in places with passing bays allowing for two way traffic. Surface conditions were noted to be poor in places. As per section 9.5 of the EIAR certain protocols are said to be in place with respect to the use of the road including 20 mph speed limit for HGVs,

ongoing liaison with residents and road cleaning and maintenance. Whilst the said EIAR states that that appears to be a prevailing satisfactory co-existence between the quarry operators and residents, the 3<sup>rd</sup> party appeals submitted would contest this conclusion with the veracity of the ongoing road maintenance regime queried.

- 7.5.2. The applicant states that the proposed extension would not give rise to an intensification of use and that the annual extraction of 240,000 tonnes per annum would continue resulting in up to a maximum 80 HGV movements per day. The applicant states that this level of vehicular movements has been permitted on the site since 1994. I note that the previous permission under ref. PL08.201503 did not include any specific conditions relating to vehicular movements. Reverting to the earlier permission Condition 6 of ref. 534/94 which pertained to the tarmacadam plant limited traffic movements to 200 trips in any 5 day period. It is from this that it is assumed that the applicant has calculated the 40 HGV trips. The said tarmacadam plant does not appear to have been constructed.
- 7.5.3. Whilst concerns are raised as to the traffic hazard arising at the junction of the private and the N22 I note that good visibility is available in both directions. The national secondary road in the vicinity of the site is straight with the benefit of hard shoulders. The 100 kph speed limit applies. I note that Transport Infrastructure Ireland had no objection to the proposed development.
- 7.5.4. The Board is again directed to section 9.5 of the EIAR in which a number of measures are proposed to be implemented to improve traffic and road safety including speed reduction cross lines on the N72 and increase in the size of the warning signs on the national road on approach to the junction.
- 7.5.5. The Board considered it appropriate to grant planning permission for the continuation of the existing quarry operations under PL08.201503 in 2003. As there will be no increase in intensity of activity, I do not consider that the baseline environment will be materially altered in terms of traffic generation and I consider that the Board can reach a similar conclusion that traffic to and from the quarry will be acceptable having regard to its previous decision.

## 7.6. Hydrology and Hydrogeology

- 7.6.1. The absence of detailed accurate information relating to the existing surface water and groundwater regime in the vicinity of the site was a substantive concern on the previous application and appeal on which the Board concluded that it was not satisfied that the proposed development would not pose an unacceptable risk to the quality and quantity of surface and ground waters in the vicinity, with consequent risks to the aquatic ecology of the downstream habitats.
- 7.6.2. To this end I reiterate the point that details of the annual environmental audit required by condition 6 attached to the permission for the continuance of the quarry under ref. PL08.201503 have not been provided in support of the application although I note the details provided in Appendix 13 of the EIAR in terms of ground and surface water analysis.
- 7.6.3. In terms of the surface water regime on the site I note:
- The Ballahacommane Stream flows long the northwest boundary of the existing quarry. It rises from a spring c.190 metres to the north east of the existing quarry. It flows in a south-westerly direction and is within the quarry boundary for a distance of 100 metres before it turns sharply in a north-westerly direction at the point where the existing quarry meets the proposed extension. It is stated to flow in a north-westerly direction (diverted through a settlement pond in an abandoned quarry c.400 metres downstream) discharging to the Woodford River c.1.5km downgradient and west of the site. The practice of diverting the stream through the site during dry weather has ceased and replaced by the groundwater supply from BH4 which was drilled in 2017.
  - There is a drainage ditch along the southern boundary, described as a ring drain, intercepting surface water runoff from the neighbouring lands to the south. It is stated that this was incorrectly referred to as the Quarry Stream in the previous application. This drain, which is culverted in part, discharges to the Ballahacommane Stream at the north-western tip of the existing quarry during high rainfall events.

- There is a land drain along the western boundary of the proposed extension area (referenced as the Ardaneanig Drain in the EIAR). Again, it would appear that this was incorrectly referenced as Ardaneanig Stream in the previous application. Flow is stated to be intermittent with a very shallow gradient. The drain discharges from a pipe under the L-3011 road to the Ballahacommane Stream. c.600 metres to the north-west of the extension area.

7.6.4. Approx. 90 cubic metres of water per hour is used for washing aggregates. It is sourced from groundwater via three boreholes and a spring seep at the north eastern corner of the quarry, all of which are diverted/pumped to the lagoon.

7.6.5. Whilst the existing and proposed drainage arrangement on the site is described in the EIAR with a layout provided in figure 4.2 therein, the drawings accompanying the application, as amended by way of further information, are somewhat vague. In terms of the lagoon the layout as delineated does not appear to accurately reflect the situation noted on the ground on day of inspection. The recycling of water from the sand washing plant is piped to the higher lagoon labelled as the area 'silt/spoil under reinstatement' and is piped into the lower lagoon (the main settlement lagoon). I also note that the details provided in the NIS and the restoration plan in Appendix 11.4 make reference to 4 no. settlement lagoons each with a capacity of 300m<sup>3</sup> located near the washer/sorter. Again this does not reflect this prevailing situation on the site. I also note the absence of details regarding the maintenance and cleaning of the pond as was required as part of the EMS conditioned as part of the permission granted under ref. PL08.238273.

7.6.6. Notwithstanding, the system as proposed will effectively be a closed system with water recirculated and no discharge to surface water. There will be a certain level of percolation to ground from the lagoon. In addition as the lagoon system is lower than the said surface water features there is no potential for accidental discharge which could impact on same.

7.6.7. To protect against the potential for sediment discharging from the ring drain to the Ballahacommane Stream it is to be diverted to the main settlement lagoon thus ceasing the current situation whereby there is the potential for run off during rain events. Silt fences are to be installed to prevent sediment laden runoff from the haul road where it crosses the drain. All surface water runoff from the extension will be

accommodated either within the lagoon or within the proposed sandpit void which are/will be located topographically lower than the surrounding surface water drainage network.

- 7.6.8. To protect against run off to both the Ardaneanig Drain and Ballahacommane Stream during the construction of the perimeter berms silt fences are to be incorporated into the design.
- 7.6.9. In terms of groundwater the level beneath the existing quarry was previously estimated at less than 70m AOD with the water level in the deep sump measured at 76.3m AOD in December 2017 and is assumed to represent the groundwater elevation although it may also be perched water. The quarry is stated to have been worked down to c.80 m AOD. In terms of the proposed extension area excavations dating back to 2009 encountered up to 55 metres of sands and gravels overlying bedrock with the depth to water in the borehole ranging between 52 and 60.44 BGL (49.58m AOD to 58.12 m AOD). The vulnerability of the bedrock aquifer underlying the majority of the existing quarry and the extension is rated as 'High'. The rating is 'extreme – rock near surface of karst' along the norther-eastern section. Extraction is to occur above the water table therefore no dewatering will take place.
- 7.6.10. The local stream and drainage network (including the Ballahacommane Stream, quarry drain and Ardaneanig Drain) are perched up to 35 metres above the underlying groundwater table.
- 7.6.11. The removal of topsoil and subsoil will expose the underlying and highly permeable sand and gravel subsoil. Water budget calculations (Appendix 13.8) indicate that there will an increase in the estimated percolation rate to deep groundwater from 3.54 litres per second to 4.15 litres per second in Phase 1, 4.33 litres per second in Phase 2 and 4.71 litres per second in Phase 3. This is considered to be imperceptible.
- 7.6.12. In response to the issue of flooding on lands adjacent to the site entrance raised in a 3<sup>rd</sup> party appeal the agent for the applicant stated that works to the drainage arrangement at the site entrance which feed into the quarry drain have been carried out and which have resolved the issue.
- 7.6.13. On balance I consider that the application is accompanied by sufficient information in terms of the surface and groundwater regime on the site and that the measures to be

put in place are adequate. In terms of potential for impacts on designated sites downstream I refer the Board to the appropriate assessment in section 9 below.

## **7.7. Visual Impact**

- 7.7.1. The immediate vicinity of the site is characterised by extensive quarrying operations both in terms of the current appeal site, Cronin's quarry c. 300 metres to the north and three operations of the N72. In addition, a quarry stated to be no longer in operation, is to the north-west. One off housing is prevalent with extensive concentrations to the south of the quarry of particular note.
- 7.7.2. The site is c. 4 km from Killarney and, whilst having an innate rural quality with visual merit in its own right, is not with an designated area of scenic amenity in the current County Development Plan. The nearest designated scenic area is approx. 4km to the west/south-west. The site is within an area defined as Rural General. These areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view are considered to have the ability to absorb a moderate amount of development without significantly altering their character. There are no designated scenic routes in the area. I note that the proposed extension area has expansive views to the west and north-west towards the Macgillycuddy's Reeks and Lough Leane which are within the Killarney National Park.
- 7.7.3. Due to the topography of the area views of the current quarrying operation are largely limited to the north and this will not change. The substantive concern pertains to the area of the extension. The said area varies in elevation between 120m AOD to the north-east with falls westwards to between 95 and 100m OD. The area is to be extracted in three phases from east to west working downwards with the slope. In view of the topography of the general area there is potential for its visibility from the west and north.
- 7.7.4. In assessing the visual impact the visual envelope was determined and extends to 3km. Within the designated visual envelope zones of visual influence were determined. The relevant zones are shown on Figures 14.4 and 14.5. In assessing the potential impacts from specific viewpoints consideration has been given to locations in the immediate vicinity to the north and south, only, save for 1 no. viewpoint (No.9) further afield near Teernabout to the north. Photographs are

provided however in view of their quality I would question their usefulness in the assessment.

- 7.7.5. Certainly the extension will extend the visual impact of the quarry when viewed from the north although I accept that the 6 metre berm to be maintained between the existing quarry and the area of the extension save to allow for the haul road will provide a level of screening. The fact that limited reinstatement in the existing quarry has occurred to date and will remain constrained as a consequence of the use of the existing area for storage and continued use of onsite infrastructure will ensure that the visual impacts from the north will continue. As noted, the reinstatement plan as set out in Appendix 11.4 contradicts the statement that progressive restoration is proposed. In view of this constituting a material concern in the Board's assessment of the previous appeal for the extension, the failure of the applicant to address this in a comprehensive and consistent manner in the current application is regrettable.
- 7.7.6. Due to the site levels and topography relative to the dwellings to the south coupled with the proposed perimeter berm the extension will be largely screened from view.
- 7.7.7. The commentary in terms of views from farther afield is somewhat cursory. The basis for the EIAR statement that visual impacts beyond 3km are considered negligible, in my opinion, has not been justified. Whilst the EIAR makes reference to the elevated lands stating that the proposed extension may be discernible it concludes that it will not be a significant visual element in the wider landscape. Whilst this may indeed be the case I submit that the onus is on the applicant to fully support this conclusion. Despite this being raised as a specific concern in the Inspector's report on the previous appeal (in which the adequacy of the assessment was raised) and the substance of the Board's 3<sup>rd</sup> reason for refusal this has not been done in this instance. In view of the topography of the site and the surrounding lands it is reasonable to conclude that the screening benefits of the berm and perimeter planting would decrease with intervening visual distance. I submit that the impacts have not been fully explored or depicted in the EIAR.
- 7.7.8. On this basis I consider that the substance of the 2<sup>nd</sup> reason for refusal as attached to the previous appeal remains valid. I submit that to allow for the extension, which constitutes an almost 50% increase in the quarry area and cannot be considered small, without a robust assessment of the visual impact in conjunction with a



comprehensive plan for progressive reinstatement is not acceptable. I consider that the proposal in seeking a minimum of 20 year extension to the existing quarry operation, in addition to opening a further extraction area, when coupled with the extensive quarrying operations in the area would be represent a disorderly and unsustainable approach to land use that would seriously injure the amenities of the area.

## **7.8. Miscellaneous Issues**

- 7.8.1. The applicant has queried the status of the grounds of appeal by one of the appellants. The 2 no. 3<sup>rd</sup> party appeals have been deemed to be valid by the Board.
- 7.8.2. The N22 Farranfore to Killarney Road Improvement Scheme is not in the vicinity of the site and will not impacted on by the proposed extension.
- 7.8.3. In terms of duration of permission the applicant originally sought a permission for 30 years. This was reduced to 25 years following the FI request. As per the relevant planning guidelines the purpose of setting a finite period is not to anticipate that extraction should not continue after the expiry of that period, but rather to enable the planning authority, in conjunction with the developer and environmental authorities, to review changes in environmental standards and technology over a decade or more since the original permission was granted. In this context and should the Board be disposed to a favourable decision a period of 20 years or less, only, is recommended.

## **8.0 Environmental Impact Assessment**

### **8.1. Introduction**

- 8.1.1. This section of the report comprises an environmental impact assessment of the proposed development. A number of the matters to be considered have already been addressed in the Planning Assessment above. This section of the report should therefore be read, where necessary, in conjunction with relevant sections of the said assessment.

- 8.1.2. Both the 2014 amended EIA Directive (Directive 2014/52/EU) and the European Union (Planning and Development)(Environmental Impact Assessment) Regulations 2018 are applicable.
- 8.1.3. In terms of the classes of development in Schedule 5, Part 2 of the Planning and Development Regulations 2001, as amended, for which an EIAR is required, the site at 12.5 hectares is above the 5 hectare threshold for extraction of stone, gravel, sand or clay.

Content and Structure of EIAR

- 8.1.4. The EIAR consists of 3 volumes, grouped as follows:

Volume 1 – Non Technical Summary

Volume 2 – Main EIAR

Volume 3 – Appendices

A Stage 2 NIS Report also accompanies the application.

- 8.1.5. In accordance with Article 5 and Annex IV of the EU Directive, the EIAR provides a description of the project comprising information on the site, design, size and other relevant features. It identifies, describes and assesses the direct and indirect significant effects of the project on the following environmental factors: (a) population and human health; (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape and it considers the interaction between the factors referred to in points (a) to (d). It provides a description of forecasting methods and evidence used to identify and assess the significant effects on the environment. It also provides a description of measures envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects. The mitigation measures are presented in each chapter. Where proposed, monitoring arrangements are also outlined. It is stated that no difficulties were encountered in compiling the required information.
- 8.1.6. I am satisfied that the information provided is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. I am also satisfied that the information contained in the EIAR complies with the

provisions of Articles 3, 5 and Annex (IV) of EU Directive 2014/52/EU amending Directive 2011/92/EU and Article 94 of the Planning and Development Regulations 2000, as amended.

- 8.1.7. I am satisfied that the EIAR has been prepared by competent experts and note the qualifications and expertise of the persons involved in its preparation as set out in Appendix 1.1.
- 8.1.8. I am satisfied that the information provided in the EIAR is sufficiently up to date and is adequate for the purposes of the environmental impact assessment to be undertaken.
- 8.1.9. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application and the appeal. A summary of the submissions made have been set out in sections 3 and 6 of this report.
- 8.1.10. The main issues raised specific to EIA can be summarised as follows:
- Impact on population and human health arising from noise, dust and traffic.
  - Impact on hydrology and hydrogeology arising from the drainage regime within the site.
  - Impact on biodiversity arising from discharges from the site.
  - Impact on the landscape from the visual impact of the proposal
- 8.1.11. These issues are addressed below under the relevant headings and, as appropriate, in the reasoned conclusions and recommendation.

### **Consultations**

- 8.1.12. Details of the consultations entered into by the applicant as part of the preparation of the project are set out in chapter 6 of the EIAR. The list of consultees is set out in Table 6.1 with a summary of submissions received set out in section 6.2.
- 8.1.13. Submissions received during the course of the planning authority's assessment of the application including submissions from prescribed bodies are summarised in sections 3.4 and 3.4 above with the 3<sup>rd</sup> party appeals received by the Board summarised in sections 6.1 and 6.5.

8.1.14. I consider that the requirements in terms of consultation have been adequately met by the applicant.

### **Vulnerability to Risk of Major Accidents and/or Disaster**

8.1.15. The requirements of Article 3(2) of the Directive include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disaster. The EIAR addresses this issue in section 4.5.

It notes that severe weather and storms may occur. The Ballahacommane stream may flood under extreme weather conditions but is unlikely to result in a severe flood event given that the source of the stream is c. 195 metres upstream of the quarry with water volumes low. In the event that soil stripping of the extension site was to coincide with a large rainfall event there would be the potential for the movement of soil. This is considered unlikely to occur given that this activity would not be carried out during period of high rainfall or storm event.

### **Alternatives**

8.1.16. Article 5 (1) (d) of the 2014 EIA Directive requires:

*“(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;”*

8.1.17. Annex (iv) (Information for the EIAR) provides more detail on ‘reasonable alternatives’:

*“2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for electing the chosen option, including a comparison of the environmental effects.”*

As the proposed development relates to the continuance and extension of an existing long-established quarry serving markets in Killarney and the wider hinterland, I consider that the ability to consider alternatives is somewhat constrained. I note from the EIAR the applicant’s planning history in terms of trying to

secure permission on alternative lands, with details given of other sites that were assessed in terms of potential.

I acknowledge that aggregates can only be worked where they occur and as a relatively low-value, high-density material, must be located within reasonable distance of key markets in order to make transport costs economically viable. I am therefore satisfied that the EIS has satisfactorily addressed the issue of alternatives.

## **8.2. Population and Human Health**

- 8.2.1. Chapter 7 of the EIAR addresses Population and Human Health but, as would be expected, the likely effects of the proposed development on human beings and health are addressed under several of the headings of this environmental impact assessment and, as such, should be considered as a whole. The chapter addresses socio-economic considerations, land use, tourism, health and safety, and human health. Other impacts that have the potential to impact on humans include potential effects on water, air, traffic and landscape; these are discussed in the respective chapters of the EIAR.
- 8.2.2. I consider that there is an overlap with section 7.4 of the planning assessment above and I recommend that the sections be read in tandem.

### ***Receiving Environment***

- 8.2.3. I refer the Board to section 1 above which gives a description of the site and its location. In summary, the existing quarry site is located outside of Killarney in a rural area with significant levels of one off housing along the local road network with marked concentrations to the south. There is a notable level of quarry activity in the general area.
- 8.2.4. The baseline environment in terms of population is set out. A demographic profile of the area is presented. Local tourist amenities in the wider area are identified.
- 8.2.5. The baseline environment in terms of noise is set out with the monitoring locations considered to be acceptable in view of the nearest sensitive receptors.
- 8.2.6. In a 'Do Nothing Scenario' the quarry would cease operation following extraction of the remaining reserves in the existing quarry with loss of employment and failure to provide for a source of aggregate material for the construction industry.

### ***Predicted Effects***

- 8.2.7. The continuance of extraction within the existing quarry and its extension will maintain the existing workforce of 13 no. and will not contribute to new employment opportunities. It will support the construction and related industries.
- 8.2.8. It is considered that the extension will have an imperceptible impact on recreation, amenity and tourism given its distance from any major tourist sites and absence of recreational or amenity uses in the vicinity.
- 8.2.9. For the purposes of environmental impact assessment health and safety matters are controlled by other regulatory instruments.
- 8.2.10. Air emissions are addressed in separate sections, but insofar as they relate to health, they are also addressed.
- 8.2.11. Chapter 10 of the EIAR addresses noise. An assessment of the construction phase entailing the construction of the 3 metre berm around the majority of the perimeter of the extension area is provided in section 10.8. This would present the greatest noise levels at the nearest properties to the south with 61.3 dB  $L_{Aeq\ 1hr}$  calculated. This is stated to be below construction noise limits. The construction of the berm will be temporary in duration although a timescale for its completion is unclear.
- 8.2.12. In terms of operational noise four scenarios were modelled. Table 10.10 presents the predicted noise at sensitive locations during the operational phase. It is assumed that the mitigation provided by the above referenced 3 metre berm is accounted for in the figures presented. In all instances the predicted noise emission would be below the 55 dB  $L_{Aeq\ 1hr}$ .

### ***Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment***

- 8.2.13. The mitigation measures in terms of dust and noise detailed in sections 9.5 and 10.5 respectively set out what can be considered to be best practice measures in both construction and operational phases within the development and includes ongoing monitoring.

### ***Residual Impacts***

- 8.2.14. No residual impacts are anticipated.

### ***Population and Human Health – Conclusion***

8.2.15. I have considered all the information on file including written submissions made in relation to population and human health and the information contained in the EIAR. Whilst the accuracy of the noise modelling was raised by appellants I am satisfied that it was conducted in accordance with best practice. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

### **8.3. Biodiversity**

8.3.1. Chapter 11 addresses biodiversity. In addition an NIS accompanies the application with an appropriate assessment undertaken in section 9 of this report. There is also an overlap with land, soil and water which are addressed below. I recommend that the relevant sections be read in conjunction with each other.

8.3.2. In a 'Do Nothing Scenario' the area of the proposed extension will remain in agricultural use with no change to the habitats and species thereon. The existing quarry area is due to be exhausted in the short term with a restoration programme to be carried out entailing as much naturally colonising vegetation as possible.

### ***Receiving Environment***

8.3.3. The EIAR includes a desk top study and site surveys. The chapter also identifies all Natura 2000 sites within a 15 km radius. The site is not within or adjacent to a European Site, the nearest being Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC c. 1 km downstream.

8.3.4. Site surveys were carried out between 2017 and 2019 and at appropriate times to record flora and fauna. The habitats recorded are reflective of those in the general area and are classified as being of local importance. Small Cudweed which depends on disturbed ground habitat is noted within the existing quarry area. The species is included on the Flora Protection Order, 2015 (SI NO. 356/2015).

- 8.3.5. Pipistrelle, Leisler's, Single Whiskered and Brown Long-eared bats were recorded commuting and/or foraging in proximity to the farmyard in the southern extent of the extension area. No bat roosts were identified.
- 8.3.6. Badgers' setts were identified along the northern boundary of the extension.
- 8.3.7. The majority of birds utilising the site are common in the vicinity. A colony of Sand Martin is identified within the sand cliffs.
- 8.3.8. Invasive species including Japanese Knotweed and Giant Rhubarb are recorded in the north-western corner of the existing quarry area with a band of rhododendron along the western boundary of the proposed extension area.

***Predicted Effects***

- 8.3.9. There will be a net loss of habitats as a result of the extension of the quarry. In view of the relatively low conservation value and dominance of comparable habitat in the vicinity the loss is not considered to be of significance.
- 8.3.10. Activity on site could result in spread of invasive species.

***Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment***

- 8.3.11. The measures to be employed to protect ground and surface water which are detailed under the heading 'Water' below in addition to measures to deal with dust under the heading 'Air and Climate' are relevant in terms of biodiversity. To avoid undue repetition, I recommend that these sections be read in tandem.
- 8.3.12. Maintenance of a buffer zone along the western boundary and retention of existing trees/hedgerows.
- 8.3.13. Preconstruction badger survey to be undertaken and a derogation licence to be sought if required. Mitigation measures as outlined in NRA publication *Guidelines for Treatment of Badgers prior to the Construction of a National Road Scheme* to be followed.
- 8.3.14. Mitigation measures as outlined in NRA publication *Guidelines for Treatment of Bats prior to the Construction of a National Road Scheme* to be followed.
- 8.3.15. Treatment of invasive species to be in accordance with the Invasive Species Management Plan, copy of which is included in Appendix 11.2.



8.3.16. Restoration of site following completion of extraction to be supervised by an ecologist.

***Residual Impacts***

8.3.17. No residual impacts anticipated.

***Biodiversity – Conclusion***

8.3.18. In conclusion the development will impact primarily on low to moderate value habitats. In view of the predominance of comparable habitat in the vicinity the displacement for any mammals and birds is not considered a material concern. In view of the existing quarry activity on the site and in the vicinity fauna identified would appear to have generally adapted to the level of disturbance arising from same and there is no substantive reason as to why the said species will not continue to do so with the continuing activities.

8.3.19. I have considered all of the written submissions made in relation to biodiversity. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on biodiversity.

**8.4. Land and Soil**

8.4.1. Chapter 12 of the EIAR addresses soils and geology. Chapter 7 also addresses land in terms of material assets. I consider that there is an overlap with hydrology and recommend that this be read in conjunction with the section below.

***Existing Environment***

8.4.2. According to GSI there is a variety of soil types present on the site of the proposed extension the majority of which is mapped as being underlain by shallow, well drained soils. The subsoils/quaternary beneath the site and proposed extension are mapped as gravels derived from Devonian sandstones with alluviums mapped as present in the low lying area along the Ardaneanig Drain.

8.4.3. The geophysical survey undertaken indicates sand and gravel deposits of least 20 to 50 metres with the central and northern parts of the proposed extension. The quality

of the deposits is regarded as variable and product grading and washing will be necessary to remove the clay and silt fraction. The existing quarry area is almost exhausted in terms of extraction of reserves.

- 8.4.4. In a 'Do Nothing Scenario' the area of the extension would remain in agricultural use. The existing quarry will be exhausted in the short term with the extraction of the remaining resources.

***Predicted Effects***

- 8.4.5. Loss of agricultural land with the extraction of the resource.
- 8.4.6. Sedimentation of surface and groundwater due to erosion of exposed topsoil and subsoil.
- 8.4.7. Accidental spillages or leakages of fuel and lubrication oils from machinery.

***Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment***

- 8.4.8. Overburden to be stripped only as required.
- 8.4.9. Measures employed in the existing quarry site are to be extended to the application site including use of machinery and storage of fuel/oils. Best practice methods to be incorporated in terms of storage of material, stripping of material and slope angles of storage mounds.
- 8.4.10. Topsoil and subsoil stripped to access the resource to be used for construction of the berms and for restoration, or placed in temporary overburden storage areas for use in future restoration.
- 8.4.11. A restoration plan has been prepared. Regrading of steep slopes to reduce the risk of cliff face slippage.
- 8.4.12. No discharge to surface water. Soil berms and silt fences to be employed along western and north-eastern site boundaries adjacent to existing watercourses/drains.
- 8.4.13. Designated person to have overall responsibility for ensuring excavation is carried out appropriately and monitoring the performance of pollution control measures adopted.

### ***Residual Impacts***

8.4.14. The extraction of the materials is a permanent and irreversible impact.

### ***Land and Soil – Conclusion***

8.4.15. The proposed development will result in the continuing use of an existing quarry. Its extension will result in the loss of agricultural land but will be replaced by the utilisation of existing geological resource. In the context of the land take the loss to agriculture is considered negligible.

8.4.16. I have considered all the written submissions made in respect of land and soil. I am satisfied that any potential impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects in terms of land and soil.

## **8.5. Water**

Chapter 13 addresses hydrology and hydrogeology. The Board is advised that there is an overlap with section 7.7 of the planning assessment, the assessment with respect to Land and Soil in section 8.4 above and the appropriate assessment in section 9 below. I recommend that the sections be read in tandem.

### ***Receiving Environment***

8.5.1. The regional hydrology is dominated by Lough Lean which is located c.4km downstream of the subject site. The site is within the Woodford River catchment. The Woodford River is a tributary of the River Flesk which is c. 2km to the south of the proposed extension. Lough Leane and the River Flesk are classified as being of 'Good' status under the Water Framework Directive. The Woodford River has no assigned status. The risk of the Woodford River not meeting the requirements of the Directive is under review with the main significant pressure identified on the waterbody being from extractive industry processes.

8.5.2. In terms of hydrogeology, the site for the proposed extension is primarily underlain by a locally important aquifer which is moderately productive only in local zones. In terms of groundwater the subject site is classed as being of high vulnerability.

- 8.5.3. The Ballahacommane Stream runs along and within the northern boundary of the existing quarry. It then flows north-west discharging to the Woodford River c.1.5km to the west of the site. An existing quarry drain discharges to the Ballahacommane Stream during intense rainfall events only. Water quality is deemed to be excellent.
- 8.5.4. The Ardaneanig Drain runs along the western boundary of the extension area and discharges to the Ballahacommane Stream c. 604 metres to the north west of the extension. Water quality is deemed to be poor due to presence of ammonia.
- 8.5.5. The groundwater table is up to 35 metres below the natural ground level at the site. Therefore all the streams/drainage ditches are perched
- 8.5.6. Water for aggregate processing is provide via 3 borewells and a spring seep located in the vicinity of the processing plant flows to the surface water lagoon. 90m<sup>3</sup> of water per hour is used for washing aggregate. It is a closed system with water recirculated. There is no discharge from this operation to surface water. Some water seeps from the base of the lagoon through the unsaturated zone to the water table.
- 8.5.7. The previous diversion of the Ballahacommane Stream into the site during periods of dry weather has ceased with water supplying the lagoon provided via borewells.
- 8.5.8. The water level in the deep sump in the existing quarry was measured at 76.3m AOD and is assumed to represent the groundwater elevation. The depth to water in the borehole in the extension area ranges between 49.58 and 53.05m AOD. Extraction occurs and is proposed to occur above groundwater. No dewatering is proposed.
- 8.5.9. According to CFRAM maps flooding is likely in the low-lying marshy ground at the north western boundary of the existing quarry. Flooding is not likely to occur elsewhere in the vicinity.
- 8.5.10. In a 'Do Nothing Scenario' the existing drainage regime on the site would prevail with continued outfall from the quarry drain to Ballahacoammane Stream. The existing runoff from the extension area will remain at green field rates.

### ***Predicted Effects***

- 8.5.11. Removal of topsoil will expose subsoil to erosion and potential for sediment laden run off to surface water.

- 8.5.12. Increased groundwater vulnerability.
- 8.5.13. There is the potential for pollution via hydrocarbons/spillage on the site.
- 8.5.14. Reduced baseflow to and runoff to Ballahacommane Stream and Ardaneanig Drain arising from extraction of aggregate and removal of perched water table.

***Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment***

- 8.5.15. The existing drain along the southern site boundary which currently discharges to Ballahacoammane Stream is to be diverted to the surface water lagoon. Silt fencing is to be installed where the haul route will cross the quarry drain.
- 8.5.16. Buffers zones and berms with silt fences to be constructed along the boundaries with Ballahacommane Stream to the north and the Ardaneanig Stream to the west.
- 8.5.17. Best practice methods of storage of fuels/lubricants and protocol for dealing with accidental spillages.
- 8.5.18. Phased stripping of soil and subsoil to take place in dry weather.
- 8.5.19. Minimum of 3 metres to be maintained to water table

***Residual Impacts***

- 8.5.20. Extraction of aggregate will increase the vulnerability of the underlying aquifer. Perched water will discharge to deep groundwater. Slight reduction in runoff to and baseflow to, the perched drainage network near the site, and increase the volume of recharge to groundwater. Reduced baseflow and runoff to the local drainage network will be offset by a potentially slightly increased baseflow to surface water bodies hydraulically downgradient of the site. Subject to implementation of the mitigation measures the residual impact significance is imperceptible.

***Water – Conclusion***

- 8.5.21. Appellants raised issues with respect to the diversion of the land drain along the southern boundary impeding drainage of adjoining lands. Works to the drainage arrangement at the site entrance which feed into the said drain have been carried out to address issues of flooding of adjoining lands. It is also noted that the diversion of the Ballahacoammane Stream to the lagoon during period of dry weather has ceased. I have considered all of the written submissions made in

relation to water. I am satisfied that any potential impacts would be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions including monitoring conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects in terms water.

## 8.6. **Air and Climate**

8.6.1. Air quality and climate is dealt with in Chapter 9 of the EIAR.

### ***Receiving Environment***

8.6.2. Details of the meteorological conditions relating to the local area are set out. The site lies within Air Quality Zone D (rural Ireland).

8.6.3. Historical monitoring data is set out in Table 8-6 between 2003 and 2010 and between 2017 and 2018 at 6 no. points around the quarry including points to the south and west of the proposed extension. The dust deposition rates were largely compliant with the 350 mg/m<sup>2</sup>/day save for a number of exceedances between 2003 and 2017. Two additional monitoring gauges were installed along the western and north-western boundary of the site with recordings for three dates in 2018

8.6.4. The closest sensitive receptors to the proposed extension area are set out in Table 8.4 with the closest being 80 metres from the site boundary.

8.6.5. In a 'Do Nothing Scenario' the remaining resources within the existing quarry would be extracted. On completion the quarry would close.

### ***Predicted Effects***

8.6.6. The main predicted impacts on dust and air quality which could arise during the construction phase include site clearance works, berm construction and emissions from vehicles and machinery. During the operational phase extraction and processing of materials and transportation of material can all give rise to dust generation and deposition.

***Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment***

- 8.6.7. Industry best practice measures to be incorporated including stripping of overburden in stages, extraction of aggregate in phases spraying of stockpiles during dry weather, use of wheel wash system and dust deposition monitoring.
- 8.6.8. Construction of a 3 metre high by 13 metre wide berm along the eastern, southern and western boundaries and approx. 50% of the north boundary.
- 8.6.9. Ongoing monitoring of dust emissions with 2 no. new monitoring locations along the boundary of the extension.

***Residual Impacts***

- 8.6.10. The development is unlikely to give rise to significant effects on air quality.
- 8.6.11. There will be no increase in greenhouse gas emissions from vehicular movements to and from the site which are to remain as existing. The additional vehicular movements within the site to and from the extension area and additional energy usage would be imperceptible.

***Air and Climate – Conclusion***

- 8.6.12. Appellants consider that their amenities are and will be adversely impacted from dust arising from the existing quarry and the proposed extension. The results of the monitoring undertaken show no exceedances of the relevant limit for a significant period of time. Sufficient detail has been provided to support the conclusion that the proposed development with mitigation would not result in excessive dust emissions. I have considered all of the written submissions made in relation to air and climate. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on air and climate.

**8.7. Material Assets**

- 8.7.1. Material assets is addressed in Chapter 7 with Roads, Traffic and Transportation addressed in Chapter 9. I refer the Board to my assessment in sections 7.4 and 7.5

of the planning assessment above. I recommend that the sections be read in tandem.

### ***Receiving Environment***

- 8.7.2. The existing quarry is accessed from a private road which connects the quarry to the N72 national secondary road c. 550 metres to the south. It varies in width from 3.6 metres to 7 metres at its widest point with ramps in place. Sight distances onto the N72 are good in both directions.
- 8.7.3. The results of a road traffic survey on 13/07/18 are provided in Table 9-1 with a total of 83 HGV movements. The quarry export figures given in Table 9-2 date back to 2008-2009.
- 8.7.4. In a 'Do Nothing Scenario' following the extraction of the remaining reserves the quarry would close with cessation of quarry related traffic using the private road.

### ***Predicted Impacts***

- 8.7.5. The HGV movements are to remain at a maximum of 80 per day and would fluctuate between 22 and 80 HGV movements per day.

### ***Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment***

- 8.7.6. The measures detailed in section 9.5 which are in place would accord with what is considered to be best practice including driver protocol, wheel wash and speed restrictions.
- 8.7.7. Additional measures detailed include increasing the size of warning signs on approach to the junction along the N72 and speed reduction cross lines on the N72.
- 8.7.8. Regular road cleaning and maintenance regime and preparation of regular condition report.

### ***Residual Impacts***

It is not possible to fully eliminate the impact that left and right turning HGVs have on traffic safety. There currently is, and will continue to be, a moderate residual adverse safety impact on the N72.



## **Material Assets – Conclusion**

- 8.7.9. I refer to my assessment in terms of lack of sufficient evidence that the applicant can use the private road for quarrying activities. I note that appellants have objected to the continuing use of the road and the impact quarry traffic has on residential amenities. Whilst the EIAR states that there appears to be a prevailing satisfactory co-existence between the quarry operators and residents, the 3<sup>rd</sup> party appeals would contest this conclusion with questions of the veracity of the ongoing road maintenance regime raised.
- 8.7.10. I have considered all of the written submissions made in relation to material assets. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on material assets.

## **8.8. Cultural Heritage**

- 8.8.1. Chapter 15 addresses archaeology, architectural and cultural heritage.

### **Receiving Environment**

- 8.8.2. The site is located c. 4km to the east of Killarney town in an area characterised by extensive quarrying operations and one off housing. The existing site has been largely quarried with the area of the extension undisturbed and in agricultural use. Both desk top and field inspection dating back to 2010 were carried out. Test trenching was carried out in 2017. There are no recorded monuments within the site and there were no archaeological finds in the test trenches. There are no protected structures in the vicinity. The existing 2 storey farmhouse within the extension area is not listed for protection.
- 8.8.3. In a 'Do Nothing Scenario' the proposed extension area would remain in agricultural use and any unidentified subsurface archaeological remains would remain intact.

### ***Predicted Effects***

- 8.8.4. No effects anticipated.

***Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment***

8.8.5. None proposed.

***Residual Impacts***

8.8.6. None anticipated.

***Cultural Heritage – Conclusion***

8.8.7. I have considered all of the written submissions made in relation to cultural heritage. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on cultural heritage.

**8.9. Landscape**

8.9.1. Chapter 14 addresses Landscape and Visual Impact. I refer the Board to section 7.7 of the planning assessment above and recommend that the sections be read in conjunction with each other.

***Receiving Environment***

8.9.2. The immediate vicinity of the site is characterised by extensive quarrying operations both in terms of the current appeal site, Cronin's quarry c. 300 metres to the north and 3 no. operations immediately south of the N72 road. One off housing is prevalent with specific concentrations noted to the south. The nearest dwellings are 100 metres to the south. Undeveloped lands are in agricultural use.

8.9.3. The site, c. 4km from Killarney, is within an area designated as Rural General in the current County Development Plan. It is not in proximity to an area designated as being of scenic amenity with no designated views in the vicinity.

8.9.4. Views of the current quarrying operation are largely limited to the north. The area of the extension varies in elevation between 120m AOD on the north-eastern portion of the lands to between 95m and 100m AOD along the western boundary. Extensive

views both westwards towards the Macgillycuddy's Reeks and northwards are available from the extension site.

- 8.9.5. The visual envelope and zone of influence which defines the general area within which topography allows the proposed site to be entirely or partially visible have been determined and are shown in figures 14-4 and 14-5.

#### ***Predicted Effects***

- 8.9.6. Visual impacts would be restricted to a small number of dwellings to the north. The extension would not be visible from Killarney town from the west or from scenic routes.

#### ***Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment***

- 8.9.7. Retention of trees and hedges on external boundaries with the retention of the semi-natural habitat along the western boundary. A 3 metre high berm is to be created along the eastern, southern and western boundaries and along approx. 50% of the northern boundary. Wood planting to be carried out in two areas
- 8.9.8. The ridge which runs between the western extremity of the existing quarry and the eastern section of the proposed extension area is to be maintained except to facilitate the haul road.

#### ***Residual Impacts***

- 8.9.9. The existing quarry and proposed extension would not have a significant visual impact

#### ***Landscape – Conclusion***

- 8.9.10. Certainly the extension will extend the visual impact of the quarry when viewed from the north although I accept that the 6 metre berm to be maintained between the existing quarry and the area of the extension save to allow for the haul road will provide a level of screening. The fact that limited reinstatement in the existing quarry has occurred to date and will remain constrained as a consequence of the use of the existing area for storage and use of ancillary infrastructure will ensure that the visual impacts from the north will continue. As noted, the reinstatement plan as set out in the Appendix 4 contradicts the statement that progressive restoration is proposed. In view of this constituting a material concern in the Board's assessment of the

previous appeal for the extension, the failure of the applicant to address this in a comprehensive and consistent manner in the current application is regrettable.

8.9.11. Due to the site levels and topography relative to the dwellings to the south coupled with the proposed perimeter berm, the extension will be largely screened from view.

8.9.12. The commentary in terms of views from farther afield is somewhat cursory. The basis for the EIAR statement that visual impacts beyond 3km are considered negligible, in my opinion, has not been justified. Whilst the EIAR makes reference to the elevated lands stating that the proposed extension may be discernible it concludes that it will not be a significant visual element in the wider landscape. Whilst this may indeed be the case I submit that the onus is on the applicant to fully support this conclusion. Despite this being raised as a specific concern in the Inspector's report on the previous appeal (in which the adequacy of the assessment was raised) and the substance of the Board's 3<sup>rd</sup> reason for refusal this has not been done in this instance. In view of the topography of the site and the surrounding lands it is reasonable to conclude that the screening benefits of the berm and perimeter planting would decrease with intervening visual distance. I submit that the impacts have not been fully explored or depicted in the EIAR.

8.9.13. I have considered all of the written submissions made in relation to landscape. I am not satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore not satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on landscape.

## **8.10. Interaction of the Above and Cumulative Impacts**

8.10.1. I have considered the interrelationships between factors and whether these may, as a whole, affect the environment, even though the effects may be acceptable when considered on an individual basis. The details of all interrelationships are set out in Chapter 16 with Tables 16-1 and 16-2 providing a matrix of the impact interactions. In my assessment of each environmental topic I have considered the likelihood of significant effects arising as a consequence of interrelationship between factors. Most interactions e.g. the impact of noise and air quality on the population and

human health, water and land and soil and biodiversity and land and soil are addressed under individual topic headings. I am satisfied that effects as a result of interactions can be avoided, managed and/or mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the approval for the development on the grounds of significant effects as a result of interactions between the environmental factors.

8.10.2. Cumulative impacts were assessed in each chapter of the EIAR with regard had to other quarrying operations in the vicinity. I am satisfied that the cumulative assessment assesses the impacts of the current proposal in the context of other developments and projects.

### 8.11. Reasoned Conclusion on the Significant Effects

8.11.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant by way of further information and submissions made by prescribed bodies to the application and the 3<sup>rd</sup> party appeals received by the Board, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows. Where appropriate the relevant mitigation measures are cited.

**Human Beings** - impacts arising from emissions of dust, noise and vibration during operation, with potential for nuisance to sensitive residential receptors proximate to the site. Such impacts are proposed to be mitigated by measures to reduce and control the emissions in the first instance and thereafter by the adoption of specific measures, including those forming part of the operation of the development including monitoring proposals.

**Water** - impacts on water quality through surface water containing sediment and/or pollutants discharging to the Ballahacommane Stream and Ardaneanig Drain. Such impacts are proposed to be mitigated by the diversion of the land drain along the southern boundary of the existing quarry to the settlement lagoon within the site, construction of berm along the watercourses and use of silt fences.

**Landscape** – negative impacts from the location and nature of the proposed extension, the absence of robust assessment of the visual effects and evidence that the mitigation measures proposed to mitigate such effects.

8.11.2. Having regard to the foregoing, I am not satisfied that potential effects on landscape would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures or through suitable conditions. I am therefore not satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on landscape.

## **9.0 Appropriate Assessment**

### **9.1. Compliance with Articles 6(3) of the EU Habitats Directive**

9.1.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

9.1.2. The application is accompanied by a Natura Impact Statement (NIS). It contains a description of the proposed development, the project site and the surrounding area. It contains a Stage 1 Screening Assessment in Section 4. It outlines the methodology used for assessing potential impacts on the habitats and species within the European Sites that have the potential to be affected by the proposed development. It predicts the potential impacts for the sites and their conservation objectives, it suggests mitigation measures, assesses in-combination effects with other plans and projects and it identifies any residual effects on the European sites and their conservation objectives.

9.1.3. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential impacts, and uses best scientific information and knowledge. Details of

mitigation measures are provided. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development.

- 9.1.4. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

### **Brief Description of the Development**

- 9.1.5. The proposed development is as described in section 2 above. In summary the proposed development entails the continuance of use of the existing quarry and its extension for extraction of sand and gravel.
- 9.1.6. The quarry is within the Woodford River catchment. Ballahacommane Stream that bounds the site to the north flows into the Woodford River 1.5km to the west. The Woodford River flows in a south-westerly direction before forming a tributary with the River Flesk approx. 2km to the west south-west of the proposed extension area. The River Flesk enters Lough Lean a further 3km downstream. The River Laune discharges from the north-west corner of Lough Leane approx. 12 km downstream of the subject site.

### **Submissions and Observations**

An Taisce in its submission to the planning authority during its assessment of the application notes the proximity of the site to the Woodford River which is within an SAC.

The 3<sup>rd</sup> Party appeal from Noel O'Connell and Others questions the validity of the NIS and considers that it does not contain complete, precise and definitive findings which would underpin a conclusion that no reasonable scientific doubt remains as to the absence of any potential detrimental effects on the designated site having regard to its conservation objectives.

## **9.2. Stage 1 Screening**

- 9.2.1. Screening for Appropriate Assessment was carried out by the applicant and is set out in sections 4 – 7 of the NIS. In determining the extent of potential effects of the development, the applicant took a precautionary approach in using a 15km radius around the development footprint as a potential zone of influence and thereby

included 6 European Sites in the screening exercise. The source-pathway-receptor model of impact prediction was employed.

9.2.2. The full catalogue of qualifying interest features of the SACs and special conservations interests of the SPAs are listed in Tables 3 -7 and Appendix 2. They were examined in view of the following types of impacts that could result in significant effects on the conservation objectives of those European sites namely:

- Habitat loss
- Disturbance/displacement of species
- Water quality and base flows
- Impact from invasive species

9.2.3. Due to the distance involved and/or the lack of hydraulic or any other connections no potential impacts on 3 of the sites has been identified, specifically Sheheree (Ardagh) Bog SAC (site code 000282) c. 2.88km to the south-west, Blackwater River (Cork/Waterford) SAC (site code 002170) c.11.47 to the north-east and Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161) c. 13.91 km to the north-east. Finding of no significant effect matrix for the 3 sites is set out in Appendix 2.

9.2.4. The screening report determined that further assessment was required to establish whether the proposed PRD could adversely affect the integrity of the 3 remaining sites.

9.2.5. Based on an examination of the Screening report for appropriate assessment and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, proximity and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that the proposed development may result in significant effects (or such effects cannot be ruled out at this stage) on 3 no. European sites and therefore, appropriate assessment is required to determine if adverse effects on site integrity can be ruled out. I include a summary of the screening assessment in relation to all 6 European sites considered in Table 11-1 below.



### 9.3. **Appropriate Assessment Screening Determination**

9.3.1. Following the screening process, it has been determined that appropriate assessment is required as it cannot be excluded on the basis of objective information that the proposed development individually or in-combination with other plans or projects will have a significant effect on the following European sites (i.e. there is the possibility of significant effect):

1. Killarney National Park. Macgillicuddy's Reeks and Caragh River Catchment SAC (site code 00365)
2. Killarney National Park SPA (site code 004038)
3. Castlemaine Harbour SAC (site code 00343)

Measures intended to reduce or avoid significant effects have not been considered in the screening process.

<b>Table 9-1 : AA Screening Summary Matrix</b>				
<b>European /Natura 2000 Site</b> <a href="http://www.npws.ie">www.npws.ie</a>	<b>Distance from proposed development/ Source, pathway, receptor</b>	<b>Possible significant effect (alone)</b>	<b>In combination effects</b>	<b>Screening conclusion</b>
Killarney National Park. Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 00365)	Woodford River which forms part of SAC c. 1 km to the north-west and downstream of the site. Hydrological connection via the Ballahaccommane Stream and Ardaneanig Drain.	Potential for impacts to surface and groundwater water quality and on water dependent habitats and disturbance of key species: <b>development may result in significant effects alone.</b>	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- <b>Appropriate assessment required.</b>
Killarney National Park SPA (site code 004038)	4km to the west. Woodford River c. 1 km to the west and downstream of the site. The River joins the River Flesk which flows into the SPA. Hydrological connection via the Ballahaccommane Stream and Ardaneanig Drain	In view of the proximity of the PRD to the designated site disturbance/displacement of the qualifying conservation interests could arise and potential for impact to water quality: <b>development may result in significant effects alone.</b>	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- <b>Appropriate assessment required.</b>
Sheheree (Aradagh Bog) SAC (site code 000382)	2.9km to the south-west of the site.  No hydrological connection	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in combination effects.	Screened out for need for appropriate assessment.

<p>Castlemaine Harbour SAC (site code 00343)</p>	<p>6.5km to the north-west.  Woodford River c. 1 km to the west and downstream of the site. It flows into River Flesk which flows into Lough Leane. The lough flows into the River Laune which is part of the SAC.  Hydrological connection via the Ballahacommane Stream and Ardaneanig Drain</p>	<p>Potential for impacts to water quality and water dependent habitats and disturbance of key species: <b>development may result in significant effects alone.</b></p>	<p>Possible- requires more detailed analysis.</p>	<p>Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- <b>Appropriate assessment required.</b></p>
<p>Blackwater River (Cork/Waterford) SAC (site code 002170)</p>	<p>11.5km to the north-east.  No hydrological connection</p>	<p>No possibility of effects due to the separation distance from the development and absence of ecological connections.</p>	<p>No possibility of in combination effects.</p>	<p>Screened out for need for appropriate assessment.</p>
<p>Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161)</p>	<p>14km to north-west</p>	<p>No possibility of effects due to the separation distance from the development</p>	<p>No possibility of in combination effects.</p>	<p>Screened out for need for appropriate assessment.</p>

## 9.4. **Appropriate Assessment**

### **The Natura Impact Statement**

- 9.4.1. The NIS (Dixon Brosnan, June 2019) examines and assesses potential adverse effects of the proposed development on 3 no. designated European Sites.
- 9.4.2. The NIS is stated as having been informed by best practice guidance for such assessments, a desktop and literature study, including NPWS databases, the synopses, Natura 2000 Data Forms and conservation objectives and EPA mapping, and habitat and species surveys.
- 9.4.3. Section 5 of the NIS contains an assessment of the potential impacts of the proposed development on the identified European Sites and in combination effects, while Section 6 sets out a series of mitigation measures.
- 9.4.4. The NIS concluded that there will be no significant effects to the integrity of the designated sites.
- 9.4.5. Having reviewed the NIS, all supporting documentation and submissions, I am satisfied that the information allows for a complete assessment of any adverse effects of the proposed development on the conservation objectives of the abovementioned European sites alone, or in combination with other plans and projects.

### **Appropriate Assessment of Implications of the Proposed Development.**

- 9.4.6. The following is an assessment of the implications of the project on the relevant conservation objectives of the European sites using the best available scientific knowledge in the field (NIS). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed. I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service. Dublin

- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC.

9.4.7. **Relevant European sites:**

The following sites are subject to appropriate assessment.

1. Killarney National Park. Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 00365)
2. Killarney National Park SPA (site code 004038)
3. Castlemaine Harbour SAC (site code 00343)

9.4.8. A full catalogue of these sites and their Qualifying Interests/Special Conservation Interests are set out in the NIS in Tables 3 – 7. Habitats and species for which direct or indirect impacts were identified for assessment of adverse effects are examined in view of their conservation objectives, including detailed targets and attributes (Section 5 of NIS). This was based on ecological surveys, analysis of distribution mapping, ecological requirements of individual species and habitats and impact pathways etc. I have examined and evaluated this scientific analysis. I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for these sites, available through the NPWS website ([www.npws.ie](http://www.npws.ie)). I am satisfied that in-combination effects have also been considered and adequately assessed in the NIS.

***Aspects of the proposed development.***

9.4.9. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include;

- Impacts to water quality and water dependant habitats through surface water runoff and discharge to groundwater during operation and extraction of aggregate on site.
- Impacts on species during construction and/or operation of the proposed development including disturbance/displacement.

- Spread of invasive species.

Tables 9-2 to 9-4 summarise the appropriate assessment and integrity test. The conservation objectives, targets and attributes as relevant to the identified potential adverse effects have been examined and assessed in relation to all aspects of the project (alone and in combination with other plans and projects). Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed. In terms of possible in-combination effects, plans, programmes and existing and proposed developments were considered. This complete assessment allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

**Summary of Appropriate Assessment of implications of the proposed development on the integrity of European Sites alone and in combination with other plans and projects in view of the sites Conservation Objectives.**

**Table 9-2** Killarney National Park. Macgillycuddy’s Reeks and Caragh River Catchment SAC (site code 00365)

Key issues

- Water quality impacts due to soil/silt run off and pollutants during construction and operational phases and
- Disturbance/displacement of qualifying interest species

Conservation Objectives [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO000365.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000365.pdf)

**Summary of Appropriate Assessment**

<b>Conservation Objective To maintain (M) or Restore (R) the favourable conservation condition of the following:</b>	<b>Targets and attributes (summary-as relevant)</b>	<b>Potential adverse effects</b>	<b>Mitigation measures (including monitoring)</b>	<b>In-combination effects</b>	<b>Can adverse effects on integrity be excluded?</b>
Oligotrophic waters containing very few minerals of sandy plains (R)  Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea	Habitat area stable or increasing, maintain typical species, maintain appropriate natural hydrological regime and maintain/restore water	Potential for decrease in water quality due to ingress of silt and pollutants.  Contamination of water from blasting.	No direct discharges to watercourses. The ring drain to be diverted to settlement lagoon.  Berms to be constructed along	None	Yes  Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this species

uniflorae and/or Isoeto-Nanojuncetea (R)	quality to support the habitat.	Spread of Invasive Species	<p>perimeter of site adjacent to Ardaneanig Drain and Bellahacommane Stream with silt fences to be installed during their construction.</p> <p>Silt fences to be installed where haul road crosses drain.</p> <p>Best practice in handling and detonation of explosives.</p> <p>Best practice measures in soil/subsoil stripping, stockpiling of materials, fuel storage, incident spillage plan.</p> <p>Invasive Species Management Plan</p>	in view of the conservation objectives.
Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation (M)	Habitat area stable or increasing, maintain/restore appropriate hydrological regimes and water quality to support the habitat			
Freshwater Pearl Mussel (R)	Maintain distributions at Caragh, Currane and Gearhameen, restore adult populations, restore suitable habitat, restore water quality, maintain sufficient juvenile salmonids			
Sea Lamprey (M)	75% of mainstream length of rivers accessible from estuary, minimum 3 no. age/size groups present, juvenile density, no decline in			



	extent and distribution of spawning site, number of positive sites in 3 <sup>rd</sup> order channels.		No excavation of aggregate within 3 metres of water table.		
Brook Lamprey (M) River Lamprey (M)	Access to all watercourses down to 1 <sup>st</sup> order streams, no decline in extent and distribution of spawning beds, minimum 3 no. age/size groups present, mean catchment juvenile density				
Salmon (M)	100% of channels down to 2 <sup>nd</sup> order accessible from estuary, maintain or exceed fry mean catchment wide abundance threshold, no significant decline in out-migrating smolt abundance, water quality to be at least Q4				

	and no decline in number and distribution of spawning redds.				
Killarney Shad (M)	Access into inflowing and outflowing rivers for potential spawning migrations, full range of age classes present, no decline in extent and distribution and maintenance of spawning habitats, water quality oxygen levels.				
Slender Naiad (M)	No change to spatial extend, depth range, cover abundance, no decline in population viability, species distribution and habitat extent. Maintain/restore appropriate water quality				

<p>Otter (M)</p>	<p>No significant decline in distribution or extent of terrestrial or freshwater habitat. No significant decline in couching or holt sites. No significant decline in fish biomass available, no significant increase in barriers to connectivity.</p>	<p>Potential for decrease in water quality due to ingress of silt and pollutants</p> <p>Disturbance of otter if commuting along area affected.</p> <p>Reduction of prey availability</p>	<p>No direct discharges to watercourses. The ring drain to be diverted to settlement lagoon.</p> <p>Berms to be constructed along perimeter of site adjacent to Ardaneig Drain and Bellahacommane Stream with silt fences to be installed during their construction.</p> <p>Silt fences to be installed where haul road crosses drain.</p> <p>Best practice in handling and detonation of explosives.</p> <p>Best practice measures in soil/subsoil stripping, stockpiling of materials,</p>		<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this species in view of the conservation objectives.</p>
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			<p>fuel storage, incident spillage plan.</p> <p>No excavation of aggregate within 3 metres of water table.</p> <p>Best practice measures to reduce noise impacts.</p> <p>Monitoring of noise levels.</p>		
Lesser Horseshoe Bat (M)	<p>Targets set for numbers at known and important winter and summer roost sites, no decline in condition of known winter, summer of number of auxiliary roosts. No significant decline in extent of potential foraging habitat, or loss of linear features- no significant loss within 2.5km of qualifying roosts.</p>	<p>No bat roosts recorded on the site.</p> <p>Bat activity recorded in the vicinity of farmyard outside of the 2.5km radius of identified roosts in SAC.</p> <p>The development will not result in a reduction of available foraging or commuting habitat of the species designated as part of the SAC.</p>	N/A	None	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this species in view of the conservation objectives.</p>

<p>Northern Atlantic wet heaths with <i>Erica tetralix</i> (R)</p> <p>European dry heaths (R)</p> <p>Alpine and Boreal heaths (R)</p> <p>Juniperus communis formations on heaths or calcareous grasslands (M)</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> (M)</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinia caerulea</i>) (R)</p> <p>Blanket bogs (* if active bog) (R)</p> <p>Depressions on peat substrates of the <i>Rhynchosporion</i> (R)</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles (R)</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i></p>	<p>These qualifying interest species and habitats are outside of the range of any possible impact of the proposed development and are not considered further in the assessment.</p> <p>This was informed by ecological survey and reference to the distribution as detailed in best available scientific information from NPWS</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives. All occur outside of any possible range of influence of the proposed development.</p>
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(Alno-Padion, Alnion incanae, Salicion albae) (R) Taxus baccata woods of the British Isles (R) Killarney Fern (M)					
Marsh Fritillary (R) Kerry Slug (M)	No suitable habitat or evidence of species recorded on the site.  This was informed by ecological survey and reference to the distribution as detailed in best available scientific information from NPWS	N/A	N/A	N/A	Yes  Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives
<p><b>Overall conclusion: Integrity test</b></p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects. Note that monitoring is included as best practice and does not imply any uncertainty regarding adverse effects or the effectiveness of any mitigation measures.</p>					

**Table 9-3 Killarney Park SPA**

Key issues

- Water quality impacts due to pollutants or soil/silt run off during construction and operational phases
- Disturbance/displacement/ mortality of qualifying interest species

Conservation Objectives [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO004038.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004038.pdf)

**Summary of Appropriate Assessment**

Conservation Objective To maintain (M) or Restore (R) the favourable conservation condition of the following:	Targets and attributes (summary-as relevant)	Potential adverse effects	Mitigation measures (including monitoring)	In-combination effects	Can adverse effects on integrity be excluded?
Merlin Greenland White-fronted Goose	Generic conservation objectives apply. To maintain or restore the favourable conservation status of habitats and species of community interest	Potential for decrease in water quality due to ingress of silt and pollutants,  Disturbance  Reduction of prey availability	No direct discharges to watercourses. The ring drain to be diverted to settlement lagoon.  Berms to be constructed along perimeter of site adjacent to Ardaneraig Drain and	None	Yes  Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives

			<p>Bellahacommane Stream with silt fences to be installed during their construction.</p> <p>Silt fences to be installed where haul road crosses drain.</p> <p>Best practice in handling and detonation of explosives.</p> <p>Best practice measures in soil/subsoil stripping, stockpiling of materials, fuel storage, incident spillage plan.</p> <p>Invasive Species Management Plan</p> <p>No excavation of aggregate within 3 metres of water table.</p>		<p>increase in barriers to connectivity.</p>
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			Best practice measures to reduce noise impacts. Monitoring of noise levels.		
<p><b>Overall conclusion: Integrity test</b></p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Killarney Killarney Park SPA in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects. Note that monitoring is included as best practice and does not imply any uncertainty regarding adverse effects or the effectiveness of any mitigation measures</p>					

<p><b>Table 9-4 Castlemaine Harbour SAC</b></p> <p>Key issues</p> <ul style="list-style-type: none"> <li>• Water quality impacts due to soil/silt run off and pollutants during construction and operational phases and</li> <li>• Disturbance/displacement of qualifying interest species</li> </ul> <p>Conservation Objectives <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000343.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000343.pdf</a></p>					
<p><b>Summary of Appropriate Assessment</b></p>					
<p><b>Conservation Objective To maintain (M) or Restore (R) the favourable conservation</b></p>	<p><b>Targets and attributes (summary-as relevant)</b></p>	<p><b>Potential adverse effects</b></p>	<p><b>Mitigation measures (including monitoring)</b></p>	<p><b>In-combination effects</b></p>	<p><b>Can adverse effects on integrity be excluded?</b></p>

condition of the following:					
Sea Lamprey (M)	75% of mainstream length of rivers accessible from estuary, minimum 3 no. age/size groups present, juvenile density, no decline in extent and distribution of spawning site, number of positive sites in 3 <sup>rd</sup> order channels.	Potential for decrease in water quality due to ingress of silt and pollutants.  Contamination of water from blasting.  Spread of Invasive Species	No direct discharges to watercourses. The ring drain to be diverted to settlement lagoon.  Berms to be constructed along perimeter of site adjacent to Ardaneig Drain and Bellahacommane Stream with silt fences to be installed during their construction.  Silt fences to be installed where haul road crosses drain.  Best practice in handling and detonation of explosives.  Best practice measures in soil/subsoil stripping,	None	Yes  Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this species in view of the conservation objectives.
River Lamprey (M)	Access to all watercourses down to 1 <sup>st</sup> order streams, no decline in extent and distribution of spawning beds, minimum 3 no. age/size groups present, mean				

	catchment juvenile density		stockpiling of materials, fuel storage, incident spillage plan.		
Salmon (M)	100% of channels down to 2 <sup>nd</sup> order accessible from estuary, maintain or exceed fry mean catchment wide abundance threshold, no significant decline in out-migrating smolt abundance, water quality to be at least Q4 and no decline in number and distribution of spawning redds.		Invasive Species Management Plan  No excavation of aggregate within 3 metres of water table.		
Otter (R)	No significant decline in distribution or extent of terrestrial or freshwater habitat. No significant decline in couching or holt sites. No significant decline in fish biomass available, no significant	Potential for decrease in water quality due to ingress of silt and pollutants, disturbance of otter if commuting along area affected.	No direct discharges to watercourses. The ring drain to be diverted to settlement lagoon.  Berms to be constructed along perimeter of site adjacent to Ardaneraig		Yes  Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this species in view of the

	increase in barriers to connectivity.	Reduction of prey availability	<p>Drain and Bellahacommane Stream with silt fences to be installed during their construction.</p> <p>Silt fences to be installed where haul road crosses drain.</p> <p>Best practice in handling and detonation of explosives.</p> <p>Best practice measures in soil/subsoil stripping, stockpiling of materials, fuel storage, incident spillage plan.</p> <p>Invasive Species Management Plan</p> <p>No excavation of aggregate within 3 metres of water table.</p>		conservation objectives.
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			Best practice measures to reduce noise impacts. Monitoring of noise levels.		
<p>Estuaries (M)</p> <p>Mudflats and sandflats not covered by seawater at low tide (M)</p> <p>Annual vegetation of drift lines (M)</p> <p>Perennial vegetation of stony banks (M)</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts (M)</p> <p>Salicornia and other annuals colonising mud and sand (M)</p> <p>Atlantic salt meadows (M)</p> <p>Mediterranean salt meadows (M)</p> <p>Embryonic shifting dunes (M)</p> <p>Shifting dunes along the shoreline with</p>	<p>These qualifying interest species and habitats are outside of the range of any possible impact of the proposed development and are not considered further in the assessment.</p> <p>This was informed by ecological survey and reference to the distribution as detailed in best available scientific information from NPWS</p>	N/A	N/A	N/A	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives All occur outside of any possible range of influence of the of the proposed development.</p>

<p>Ammophila arenaria (white dunes) (M)</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) (R)</p> <p>Dunes with Salix repens ssp. argentea (M)</p> <p>Humid dune slacks (M)</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (R)</p> <p>Petalwort (M)</p>					
<p><b>Overall conclusion: Integrity test</b></p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Killarney Castlemaine Harbour SAC in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects. Note that monitoring is included as best practice and does not imply any uncertainty regarding adverse effects or the effectiveness of any mitigation measures</p>					

## 9.6. Comment

- 9.6.1. Appellants raise issues with respect to the adequacy of the assessment with respect to Freshwater Pearl Mussel and Atlantic Salmon.

### *Freshwater Pearl Mussel*

- 9.6.2. As per Map 8 attached to the Conservation Objectives for the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 00365) the site is not in or in the vicinity of the delineated catchment for the species. The NPWS following consultations with the applicant noted that it does not hold any records of Freshwater Pearl Mussel in the Woodford River. Killarney is located within the Laune Freshwater Pearl Mussel Catchment. The Laune Catchment was identified by the NPWS as a catchment with extant populations but with populations that were not considered of sufficient quality to warrant designation under the Environmental Objectives (Freshwater Pearl Mussel) Regulations, 2009.

### *Atlantic Salmon*

- 9.6.3. There are no mapped objectives for the species. The NIS in section 8.3 notes that tributaries including relatively minor watercourses provide important spawning and nursery habitat and that the species could potentially occur in the lower reaches of the Ballahacommane Stream.
- 9.6.4. The NIS in adopting a worst case scenario assumed that the two species were present in watercourses downstream of the proposed development.
- 9.6.5. With mitigation measures as detailed above including the diversion of the quarry drain to the lagoon, there will be no discharges to Ballahacommane Stream or Ardaneanig Drain.

## 9.7. Appropriate Assessment – Conclusion

- 9.7.1. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act, 2000, as amended.
- 9.7.2. Having carried out screening for appropriate assessment of the project, it was concluded that the proposed development may have a significant effect on Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code

00365), Killarney National Park SPA (site code 004038) and Castlemaine Harbour SAC (site code 00343). Consequently an appropriate assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

9.7.3. Following an appropriate assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (site code 00365), Killarney National Park SPA (site code 004038) and Castlemaine Harbour SAC (site code 00343), or any other European site, in view of the sites' Conservation Objectives.

9.7.4. This conclusion is based on:

- A full and detail assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (site code 00365), Killarney National Park SPA (site code 004038) and Castlemaine Harbour SAC (site code 00343)
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (site code 00365), Killarney National Park SPA (site code 004038) and Castlemaine Harbour SAC (site code 00343)



## 10.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

## 11.0 Reasons and Considerations

1. Having regard to the topography of the appeal site, the elevated position of the proposed extension area, the lack of clarity as to the potential visual impact of the proposed extension and the likely cumulative effects of the development, the absence of adequate details and timeframe for the progressive restoration of the existing site in tandem with the phased development of the extension and the efficacy of proposed mitigation measures with regard to landscaping, it is considered that the proposed development would form a discordant and visually obtrusive feature on the landscape at this location, would represent a disorderly and unsustainable approach to land use and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. On the basis of the submissions made in connection with the planning application and the appeal, the Board is not satisfied that the applicant has demonstrated satisfactorily that it has sufficient legal interest to continue to enable the use of the access road for quarrying purposes or has the approval of the person(s) who has such sufficient legal estate or interest to continue to enable the use of the access road for quarrying purposes.

In these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development the subject of the application.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**April, 2021**