



An
Bord
Pleanála

Inspector's Report ABP 308598-20

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| Development | Retention and continuance of use of sand pit and proposed soil recovery. |
| Location | Gortagullane, Killarney, Co .Kerry |
| Planning Authority | Kerry County Council |
| Planning Authority Reg. Ref. | 20/747 |
| Applicant | Patrick Doyle |
| Type of Application | Retention Permission & Permission |
| Planning Authority Decision | Split Decision |
| Type of Appeal | 1 st Party v. Refusal |
| Appellant | Patrick Doyle |
| Observer(s) | None |
| Date of Site Inspection | 29/03/21 |
| Inspector | Pauline Fitzpatrick |

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1.0 Site Location and Description

- 1.1. The site which has a stated area of 3.09 hectares, is in the townland of Gortagullane, Co. Kerry, approximately 4km southeast of Killarney town centre and 2.2km northeast of Muckross House in Killarney National Park. It is accessed from a minor local road to the east of the N71 (Killarney-Kenmare) National Secondary Road. The surrounding area is one of undulating rural countryside dominated by agricultural grassland with expanses of peatland and commercial forestry on the more elevated lands to the east and southeast, however there is a notable concentration of one-off residential development located along the local road network. Housing is noted to be in proximity to both the site access and to the current extraction area to the south. It is bounded by a disused quarry to the west with an auto-parts business located beyond same.
- 1.2. The site, as delineated in red on the plans accompanying the application, is setback from the road served by an existing access. The section of the access in proximity to the roadside is paved with the remainder of the accessways/haul routes within the site consisting of compacted ground. The site is irregular in shape and does not include the area to the north-west (behind dwellings which front onto the local road) which formed part of the site for which substitute consent was granted under ref. SU0028 in 2017. Whilst this area appears to have been restored, part has recently been dug up with a depression noted adjacent to the hard standing area (adjacent to the derelict building as delineated on the plans).
- 1.3. The existing quarrying operation involves the extraction of sand and gravel with the current extraction area along the southern boundary. Extraction is by means of mechanical excavation with no requirement for blasting. The aggregates are washed and screened using mobile plant before being stockpiled prior to removal off site. 1 no. lagoon and secondary water tank, processing equipment, stockpiles, bunded fuel storage area and staff facilities are located in the northern part of the quarry floor.

2.0 Proposed Development

Permission is sought for:

- Retention and continuance of extraction of sand and gravel in an area of 0.85 hectares at a rate of 15,000 tonnes per annum.
- Retention and continuance of use of aggregate processing facilities, offices, welfare facilities, access and associated works in an area of 2.24 hectares.
- Importation of inert soil and stones for use in site restoration for the above area (3.09 hectares) at a rate of 10,000 tonnes per annum.
- Installation of septic tank and percolation area.

A 10 year permission is sought.

The application is accompanied by:

- Planning Submission
- Appropriate Assessment: Screening Form
- Environmental Report
- Site Characterisation Form

3.0 Planning Authority Decision

3.1. Decision

Split Decision

Grant permission for (a) retention of extraction of sand and gravel in an area of 0.85 hectares, (b) retention of aggregate processing facility, offices, welfare facilities, parking and access subject to 4 conditions:

Condition 1: Grant of permission relates only to past quarrying and processing as described and does not authorise any structures or any future development, including further excavations unless authorised by a prior grant of permission.

Condition 2: Submission of restoration plan.

Condition 3: Restoration plan as required does not permit the importation of inert stone, soil or other material.

Condition 4: Section 48 financial contribution.

Refuse permission for (a) continuance of extraction on 0.85 hectares, (b) continuance of use of aggregate processing facility, offices, welfare facilities, parking and access, (c) importation of inert soil and stones for use, including recovery, in site restoration and (d) septic tank and percolation area, for two reasons which can be summarised as follows:

1. The planning authority is not satisfied that the proposed development would not result in negative environmental impacts or pollution on the surrounding area and would, therefore, be prejudicial to the protection of the environment and public health.
2. The planning authority is not satisfied that proposed development would not result in water pollution downstream and would not facilitate the spread of invasive species. It would, therefore, be prejudicial to the protection of biodiversity, water and natural heritage.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Executive Planner's report (countersigned) can be summarised as follows:

- The retention element relates to quarrying activities which were undertaken at the quarry post 02/03/17 following the grant of substitute consent under ref. SU0028.
- Based on the details submitted no more than 40,000 tonnes were processed since the grant of substitute consent.
- The site is, in principle, considered to be a suitable site for the acceptance of inert stone and soil. The site is in proximity to Killarney which is a designated growth centre and would provide an outlet for surplus construction material within a short distance.

- The works to be retained are acceptable. They are similar in nature to those permitted with no evidence of significant effects on the environment.
- The application does not provide sufficient information on the proposed works including dust emissions, noise, spread of invasive species.
- The matters outstanding cannot be resolved by way of further information.
- Sub-threshold preliminary examination concludes screening determination is not required. Assessment limited to the retention elements recommended for permission only.
- AA- Screening concludes that AA is not required. Assessment limited to the retention elements recommended for permission only.

A split decision is recommended.

3.2.2. Other Technical Reports

Senior Executive Engineer, Environment Department recommends further information on the following:

- operation times,
- existing and proposed site drainage system,
- waste acceptance procedures and how the materials will be used,
- confirmation that the proposal is consistent with the policy objectives of the Southern Region Waste Management Plan,
- noise, vibration and air impact assessments,
- confirmation that requirements of the Waste Management (Management of Waste from Extractive Industries) Regulations 2009 would be met and submission of current Extractive Waste Management Plan (as required by Article 5 of the Regulations) for the overall facility.
- Given the apparent groundwater vulnerability a hydrogeological assessment is required including details of the quality control measures in relation to waste to be imported.

Site Assessment Unit, Environment Section recommends further information on separation distances between proposed effluent treatment system and site

boundaries, lagoon etc and clarification as to whether there is potential for overloading of the system by surface water due to the significant falls between the site boundary and the system.

County Archaeologist notes no recorded monuments in proximity to the development with the site previously disturbed. No mitigation required.

Fire Authority has no objection.

3.3. Prescribed Bodies

Environmental Health Officer, HSE recommends implementation of measures to control all waste, water pollution, associated emissions etc. It also recommends that a system/procedure be put in place to deal with complaints. Consideration to be given to installation of wheel wash and dust suppression facilities.

An Taisce states that the application seeks to retain a significant level of unauthorised and non-compliant development. AA and EIA screening is required. In the interim an investigation should be carried out to determine that no further unauthorised development is occurring.

3.4. Third Party Observations

None

4.0 Planning History

SU0028 – substitute consent granted in 2017 for a quarry with a stated area of 5.9 hectares.

08/2019 – permission granted in 2009 to extend the boundaries of the existing quarry, to intensify use by increasing the tonnage, to incorporate a sand washing plant, and all associated site works.

QY094 - Planning Authority issued an order in 2007 pursuant to Section 261(6)(a)(ii) of the Planning and Development Act, 2000, as amended, which imposed 39 no. conditions on the operation of the quarry.

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, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage 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 detail for each matter.

5.3. Local Policy

Kerry County Development Plan, 2015-2021

Chapter 8: Natural Resources:

Objectives: NR-4: Facilitate the sustainable development of the extractive industry and seek to ensure the ongoing availability of an adequate supply of aggregates for the construction industry, while ensuring environmental protection, through the implementation of the objectives and Development Management, Guidelines and Standards of this Plan.

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

Objective NR-6: 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 affects 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 proposed development site is located within an area of 'Secondary Special Amenity' as delineated on Map 12.1(o) of Volume 3 of the Plan.

Section 12.3.1: Zoning Designations: Rural Secondary Special Amenity: The landscape of areas in this designation is sensitive to development. Accordingly, development in these areas must be designed so as to minimise the effect on the landscape.

Chapter 13 sets out the Development Management Standards & Guidelines. Due regard is had to Section 13.13: Extractive Industry Standards and Guidelines.

5.4. **Natural Heritage Designations**

The development site is located c. 300 metres to the north of nearest point of Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365) and c. 300 metres to the south and south-west of the nearest point of the Killarney National Park Special Protection Area (Site Code: 004028).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The submission by C. Lonergan Consultancy Ltd. on behalf of the 1st Party, which is accompanied by supporting detail, can be summarised as follows:

6.2. **General**

- The detail required could have been provided under a further information request.
- It is unclear what is different between the granted retained extraction element and the refused prospective extraction element. All of the small area is being extracted with some areas at greater depth than others. The planning documents did not seek to differentiate between the retained and prospective development as they are inseparable. If the retained development would not seriously injure the amenities of the area or the amenities of property in the vicinity then the prospective extraction to complete the area under uneven development would be the same. The Environmental Report addresses the potential risks and makes objective findings.
- Intuitively, if the various details and reports submitted with the application, including the AA-Screening report and Environmental report are sufficient to establish the sustainable nature of the retained development, they must be adequate to do the same for the proposed extraction.
- Soil importation is to give effect to the principle of restoration as set out in the grant of substitute consent. Given that the restoration of 2.8 hectares of the original site used almost all available site materials, the importation of soil is

required to give effect to the restoration as per condition 2 of the planning authority's decision. The failure to grant permission for importation of soil means that the condition cannot be complied with.

6.3. Planning History

- The site is within a landholding of 5.9 hectares which was subject of substitute consent under ref. SU0028. The substitute consent application was accompanied by rEIS and rNIS. It is submitted that only the extension area was required to be subject of the said consent as the pre-63 rights had not been exceeded.
- Part of the site has been restored thus the site area subject of this application is 3.09 hectares.
- Permission was granted under ref 2019/08 for extension of extraction area by 0.681 hectares. The said area is entirely within the area which is the subject of the current application.
- During the substitute consent application process the applicant's agent declined to submit a parallel application for further development (section 37L process) in the mistaken belief that the substitute consent process would right the permission granted under ref. 2019/08. Works continued following the substitute consent in the belief that the works were authorised until receipt of notice of unauthorised development under ref. UO96-17 resulting in the current application.

6.4. EIA and AA

- The screening for EIA and AA were addressed by the application and is accompanied by an AA-Screening and Environmental reports.
- The council planner undertook EIA Screening and AA-Screening for the retention elements only. The assessment of the development is de facto incomplete and not properly assessed by the planning authority.
- The extraction area of 0.85 ha comprises only 34% of the minimum EIA determination level (2.5ha) and for what is effectively an extension to a site which has already undergone EIA. The environmental report has a similar

format to an environmental impact (sic). The documents are sufficient to address the concerns raised by An Taisce.

- No regard is had to the environmental monitoring results submitted in the Environmental Report.

6.5. Surface and Ground Water

- The process water management is substantially better than was reported on during the substitute consent process. While some process water as well as most stormwater percolates to ground this is industry standard practice. The proximity of the process water capture and settlement lagoon capacity ensures the loss of process water is minimised.
- Extraction will be 6 metres above the recorded water table at 33.5m OD. The suggestion of risk of pollution is not based on objective facts.
- The berms surrounding the lagoon limits water intake to gravitational flow from the process water area and to direct stormwater. The water management system typically runs at a slight deficit but infrequency of use results in re-charge. Additionally it is not feasible or required to operate the plant in periods of heavy rain so the upper water supply tank is not being drawn down so as to provide a surge into the primary lagoon post processing.
- Concerns about rainwater from the steep embankment flowing quickly towards the percolation area and possibly overloading the soil polishing filter is unlikely as the existing sub-soil has a very good percolation rate. As a precaution a French drain approx. 0.5 metres deep could be laid on the eastern side of the proposed soil polishing filter and piped to the lagoon. This would catch any excess water from the embankment.
- A wheel wash and dust suppression system can be required by way of condition.

6.6. Invasive Species

- The invasive species identified near the site entrance is being addressed by the applicant.

- The presence of an invasive plant species has no bearing on the completion of extraction.
- The applicant has no objection to a condition requiring an Invasive Species Management Plan and would expect controls in the Waste Facility Permit to address this issue as standard.

6.7. Soil Recovery

- The management of the soil recovery facility requires that soil sources be pre-approved and a suitable assessment of available soil from local sites will include seeking evidence of fitness for use. These procedures are a standard part of a Waste Facility Permit.
- The soil to be imported is capped at 100,000 tonnes (10,000 tonnes per annum).
- The further information sought by the Environment Section is comparable to the details required on the waste facility permit application and are not necessarily material for a planning decision.
- The proposed operating hours are 8am to 6pm.
- The suggestion that a hydrogeological report is required for importing inert, non-hazardous fill is unjustifiable given the 6+ metre cover to the recorded water table.

6.8. Planning Authority Response

None

6.9. Observations

None

6.10. Section 131 Notice

Due to the proximity of the site to European Sites certain prescribed bodies were invited to make a submission/observation on the appeal.

No responses received.

7.0 Assessment

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

- Nature and Extent of Development
- Planning History and Legislative Provisions
- Environmental Impact Assessment
- Appropriate Assessment
- Other Issues

7.1. Nature and Extent of Development

7.1.1. The manner in which the nature and extent of the development for which permission is being sought is framed with the effective slicing up of the site and the subdivision of the extraction area from the rest of the quarrying activities is noted. It is unclear as to why it was set out in such a manner but I would suggest that it may have been so as to stress the small extent of the area for which retention in terms of extraction is sought in the context of the requirements of EIA.

7.1.2. In summary, I consider that the development for which permission is sought is as follows:

Retain and continue existing quarry activities on a 3.09 hectare site including retention of extension of extraction area and continuance of extraction of sand and gravel. Permission is also sought for the importation of inert materials for use in site restoration and installation of a septic tank and percolation.

The rate of extraction of sand and gravel is 15,000 tonnes per annum. The rate of material to be imported into the site would be at a rate of 10,000 tonnes per annum.

A 10 year permission is being sought.

7.2. Planning History and Legislative Provisions

7.2.1. The site subject of the appeal has the benefit of a substitute consent granted by the Board in March 2017 under ref. SU0028. The said application was accompanied by a rEIS and rNIS. This followed the planning authority's determination under ref.

EUQY094 pursuant to Section 261A of the Planning and Development Act, 2000, as amended, that development had been carried out after 1st February, 1990 that would have required an Environmental Impact Assessment or determination as to whether an environmental impact assessment was required and that development had been carried out after 26th February, 1997 which would have required an Appropriate Assessment. A subsequent application to the Board for a review of the determination of the Planning Authority under Section 261A(6)(a) was deemed invalid on the basis that it had not been made within the specified period.

- 7.2.2. The said substitute consent, whilst regularising the historical quarrying and extraction carried out on the site in accordance with the legislative provisions set out in Section 177, does not give consent for either the continuance or extension of extraction. As extrapolated from the details available the site subject of the consent application had a stated site area of 5.9 hectares. As per the Inspector's reports this comprised 4.78 hectares of disturbed land, including an extraction area of 1.98 hectares, in addition to 1.12 hectares of undisturbed land. The site subject of the consent also included the area to the north-west of the site boundary to which this current application refers. It is stated that this area has been restored but, as noted on day of inspection, part appears to have been recently dug up.
- 7.2.3. In the appeal submission on the current file the agent for the appellant is of the view that the substitute consent should only have applied to the extension area on the basis of pre 1963 'rights' on the original area. This is a moot point. It does not and cannot negate the fact that the application for substitute consent was assessed and granted for the site as delineated on the plans accompanying the application.
- 7.2.4. As per the details on the said substitute consent file and in the appeal submission in the current case the applicant did not avail of the opportunity to submit a parallel application under section 37L of the Planning and Development Act, 2000, as amended, for further quarrying development. The agent for the appellant stated that the option was not pursued on the basis that it was the belief that the substitute consent would cover the proposed extension in terms of the extraction area which had secured permission from the planning authority under ref. 2019/08. The lack of understanding of the law cannot be seen as a reasonable defence. It is noteworthy in this regard that the extent of the consent was clearly set out in condition 1 attached to the Board's decision with condition 1 (a) explicitly stating that the grant of

substitute consent relates only to past quarrying that has been undertaken as described in the documentation supporting the application, and does not authorise any structures or any future development on this site, including any excavation of the 1.12 hectare existing 'undisturbed area' identified in the remedial Environmental Impact Statement to the south of the quarry, unless authorised by a prior grant of planning permission.

- 7.2.5. As can be extrapolated from the details on file quarry activities have continued since the consent with the extraction area extending into the above referenced 1.2 hectares of undisturbed ground. These works were not authorised by the consent.

7.3. Environmental Impact Assessment

- 7.3.1. The agent for the applicant considers that the area of extraction for retention and continuance is very small in scale and nature and does not trigger EIA.
- 7.3.2. Schedule 5 of the Planning and Development Regulations, 2001, as amended, sets out the classes of development for which EIA is required. Class 2, Part 2 as it pertains to extractive industry is relevant. The area of the extraction for which permission is sought to retain and continue is stated to cover 0.85 hectares. This is materially below the 5 ha threshold set out therein.
- 7.3.3. Due regard is also required to class 13 which pertains to changes and extensions. At this juncture I note that the quarry area subject of this appeal is stated to 3.09 hectares and omits the area to the north-east which formed part of the substitute consent application on the basis that it has been restored. As noted on day of inspection part of this area has been dug up with the purpose of these works unclear. As per the details on the substitute consent application the overall quarry had a stated area of 5.9 hectares. I consider that the removal of part of the area which formed part of the quarry as originally identified is not appropriate in this instance and that regard is had to the site as permitted under the substitute consent.
- 7.3.4. Notwithstanding, the component of relevance in terms of EIA is the area of extraction. As per the substitute consent the extraction area was 1.98 hectares. Whilst the proposal before the Board constitutes a 43% increase in the extraction area, the area falls materially short of the 50% of the 5 ha threshold (2.5 hectares) which is the greater figure. Thus the provisions of the class are not applicable.

- 7.3.5. The proposal is also seeking permission to import inert soil and stone at a rate of 10,000 tonnes per annum over a 10 year period giving an overall importation of 100,000 tonnes. Such materials are classified as waste and a waste permit will be required. This annual tonnage falls short of the 25,000 tonnes per annum threshold set out in Class 11 – Other Projects.

Sub-Threshold Development

- 7.3.6. “Sub-threshold development” means development of a type set out in Part 2 of Schedule 5 which does not equal or exceed, as the case may be, a quantity, area or other limit specified in that Schedule in respect of the relevant class of development.
- 7.3.7. As per Article 10 of Part 10 of the Planning and Development Regulations, 2001, as amended, a preliminary examination is required for sub-threshold development. It is stated that such a preliminary examination shall at least address the nature, size or location of the development.
- 7.3.8. Having regard to:
- (a) the planning history on the site where the applicant was required to seek substitute consent for a site with a stated area of 5.9 hectares encompassing an extraction area of 1.98 hectares to be accompanied by a rEIS and rNIS on the basis that the development carried out may have had significant effects on the environment.
 - (b) the size of the extraction area subject of this application relative to that subject of the substitute consent and the potential for cumulative impacts.
 - (c) the proposal to import 100,000 tonnes of inert soil and stones over a 10 year period (annual rate of 10,000 tonnes per annum) to run concurrently with the 15,000 tonne per annum extraction.
 - (d) the proximity of residential properties to the site including those to the south of the site and the current extraction area.
 - (e) the location of the site within an area designated as Secondary Special Amenity in the current County Development Plan.
 - (f) the proximity of the site to designated sites. It is situated approximately 300m northeast of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365) and the

Killarney National Park Special Protection Area (Site Code: 004028) whilst there are also other protected sites located downstream of the site.

there is a significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development. In my opinion the fact that the previous substitute consent application was required to be accompanied by a rEIS should have been a sufficient basis on which to conclude that a screening determination would be appropriate. On this basis and adopting the precautionary principle I consider that the need for a screening determination to be appropriate. In terms of designated sites referred to in (f) above I acknowledge that the AA - Screening has been undertaken. I will address this in section 7.4 below.

- 7.3.9. The agent for the applicant considers that the information provided in the Environmental Report accompanying the application substantially addresses the issues as would be required to be considered in Schedule 7A of the Planning and Development Regulations, 2001, as amended, but that it does not constitute a formal Schedule 7A report nor a formal screening for EIA.
- 7.3.10. As noted above I consider that the manner in which the application has been framed both in terms of the nature and extent of the development, is so as to emphasise the small extent of the area for which retention in terms of extraction is sought in terms of EIA. It is reasonable to infer that were the application seeking permission for the extension of the extraction area then the agent for the applicant would be satisfied in presenting the documentation as adequate to allow for such a screening determination.
- 7.3.11. However, the fact that the application is seeking retention permission for which I consider an EIA screening determination is required, precludes the planning authority and now the Board from considering the application as per the provisions of section 37(12) of the Planning and Development Act, 2000, as amended. The procedures under Section 177 for substitute consent would be the appropriate mechanism.

7.4. **Appropriate Assessment**

Appropriate Assessment Screening

- 7.4.1. The requirement of Article 6(3) as relates to screening the need for appropriate assessment of a project under XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background of the Application

- 7.4.2. The applicant has submitted an Appropriate Assessment Screening Report as part of the application, *Stage 1: Appropriate Assessment: Screening Report prepared by Kingfisher Environmental Consultants dated 29/06/20*, with reliance placed on the AA Screening and AA undertaken by the Board in its assessment of the previous substitute consent application on the site.
- 7.4.3. The applicant's Stage 1 AA Screening Report provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.
- 7.4.4. The applicant's AA Screening Report concludes that the proposed development at the existing sand and gravel pit at Gortagullane will not have any significant effects upon any Natura 2000 site because of the site's location and separation distance from European Sites and the lack of any other connectivity.
- 7.4.5. Having reviewed the documents on file I am satisfied that the information allows for a complete examination and identification of any potential significant effects on the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment – Test of Likely significant effects

- 7.4.6. The proposed development is not directly connected to or necessary to the management of any European site and therefore it needs to be determined if the development is likely to have significant effects on a European sites(s).

Brief Description of the Development

- 7.4.7. The applicant provides a description of the project on pages 6 to 11 of the AA screening report. In summary the development comprises the retention and continuance of existing quarry activities on a 3.09 hectare site including retention of

extension of extraction area and continuance of extraction of sand and gravel. Permission is also sought for the importation of inert materials for use in site restoration and installation of a septic tank and percolation area.

- 7.4.8. The processing area includes mechanised washing and screening facilities as well as a primary lagoon for collection and settlement of process water which is then pumped after attenuation to a large concrete water tank for re-use. It is a closed loop system with no discharges. Some process water as well as most stormwater percolates to ground. Sand and gravel extraction occurs to a depth of over 6 metres above the water table. A site characterisation form accompanies the application demonstrating that the site is suitable for the installation of a septic tank and percolation area.
- 7.4.9. The location of the site is described on page 4 of the AA Screening Report. The site itself is not described. It comprises a working sand and gravel quarry with an area to the north-east which was previously restored noted to have been dug up.
- 7.4.10. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Uncontrolled silt laden surface water pollution and pollution of groundwater.
 - Species disturbance

Submissions and Observations

- 7.4.11. An Taisce in its submission to the planning authority stated that AA Screening is required.

European Sites

- 7.4.12. The development site is not located in or immediately adjacent to a European site. the closest European site is Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365) c. 300 metres to the south and the Killarney National Park Special Protection Area (Site Code: 004028) c. 300 metres to the south and south-west.
- 7.4.13. A summary of the European Sites that occur within a possible zone of influence of the proposed development is presented in the table below.

AA Screening summary matrix

| European Site https://www.npws.ie/ | Distance from proposed development/source, pathway receptor | Possible effect alone | In combination effects | Screening Conclusion |
|--|--|--|------------------------|------------------------------|
| Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365) | 300 metres to south No surface water drains within quarry. Closed surface water system used on site. No discharge to surface water. No extraction below the water table | No possibility of effect due to lack of connection | No effect | Screened out for need for AA |
| Killarney National Park Special Protection Area (Site Code: 004038) c. 300 metres to the south and south-west. | None No suitable habitat for species on site. No likelihood of disturbance | No possibility of effect due to lack of connection | No effect | Screened out for need for AA |

| | | | | |
|---|---|---------------------------|-----------|------------------------------|
| Sheheree (Ardagh) Bog SAC (site codes 00383) | c. 1 km to the north No hydrological connection | No possibility of effects | No effect | Screened out for need for AA |
| Castlemaine Harbour SAC (site code 00343) | c. 9km to the west. No surface water drains within quarry. Closed surface water system used on site. No discharge to surface water. No extraction below the water table Separation distance | No possibility of effects | No effect | Screened out for need for AA |
| Old Domestic Building Curraglass Wood SAC (site code 00364) | c. 10km to southwest Beyond the 2.5km foraging range of qualifying interest | No possibility of effects | No effect | Screened out for need for AA |
| Kilgarvan Ice House SAC (site code 00364) | c. 14km to southwest Beyond the 2,5km foraging range of qualifying interest | No possibility of effects | No effect | Screened out for need for AA |

7.4.14. As outlined, none of the sites outlined above have a direct pathway to or from the proposed development site. There are no surface drains within the quarry. It operates a closed loop surface water system with no extraction below the water table. There is no risk of sedimentation of surface waters. The application site does not, itself, support any habitat which might be used by the species listed as a special conservation interest.

Mitigation Measures

7.4.15. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise

Screening Determination

7.4.16. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for appropriate assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the following European Sites

- Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365)
- Killarney National Park Special Protection Area (Site Code: 004038),
- Castlemaine Harbour SAC (site code 00343)
- Sheheree (Ardagh) Bog SAC (site code 00383),
- Old Domestic Building Curraglass Wood SAC (site code 00364)
- Kilgarvan Ice House SAC (site code 00364)

in view of the sites' conservation objectives and Appropriate Assessment (and submission of a NIS) is not, therefore, required.

7.4.17. This determination is based on the absence of hydrological connection and separation distances.

7.5. Other Issues

7.5.1. In terms of the importation of material to the site the agent for the appellant notes that the bulk of the further information recommended by the Environment Section are

issues which arise in the application form for a Waste permit. Whilst I note that the waste permit application is covered by a different legislative code certain details are also required to allow for a full and proper assessment of the proposal in terms of the proper planning and sustainable development of the area.

- 7.5.2. I consider that invasive species management could be addressed by way of condition.

8.0 Recommendation

Having regard to the foregoing, the planning history of the site and the need for an EIA screening determination I conclude that the Board is precluded from granting planning permission.

9.0 Reasons and Considerations

Having regard to the planning history on the site including the substitute consent granted by An Bord Pleanala under reference number SU08.SU0028 on the 2nd day of March 2017 which was accompanied by a remedial Environmental Impact Statement and was subject to Environmental Impact Assessment, it is considered that the subject application includes retention of development of extraction of sand and gravel and associated works, and that the development the subject of the application would have a requirement for a screening determination for Environmental Impact Assessment if it had been made in respect of development before it was commenced. Accordingly, by reason of Section 34 (12) of the Planning and Development Act 2000, as amended, the Board is precluded from granting planning permission.

Pauline Fitzpatrick

Senior Planning Inspector

May, 2021