



An
Bord
Pleanála

Inspector's Report

Development	Quarry
Location	Carhoo Lower & Coolnagearagh, Coachford, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/6446
Applicant(s)	Mallow Contracts Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Abaigéal Smyth
Date of Site Inspection	30 th November, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is located within the townlands of Coolnagearagh and Carhoo Lower approximately 4km west of the village of Coachford in County Cork. The site forms part of a former gravel pit to the south of Regional Road No. R618 and north of the River Lee reservoir. The River Lee adjoins part of the site's southern boundary. The site lies east of the Glashagarriff River, which is a tributary of the River Lee. Access to the site is provided from the regional road via the existing quarry site entrance. Development in the vicinity includes a soil recovery facility immediately to the east of the area for the proposed quarrying activity, which is accessed from the quarry's internal road network, and Ballyhass Aquapark to the south-west which uses the nearby water resource.

2.0 Proposed Development

- 2.1. The proposal would comprise the development of a quarry for the extraction and processing of rock. It consists of the extraction of rock at the existing quarry to between 53m datum and 55m over a footprint of 2.15 hectares, with the depth of extraction ranging up to 6 metres. It is proposed to extract approximately 80,000 m³ of rock. Permission is sought for an eight-year period to include for the restoration of that part of the former quarry. Rock would be won by mechanical ripping and breaking and would be processed using mobile crushing / screening plant. Aggregate would be stored in the quarry area. A mobile wheelwash would be used. The existing site access from the regional road would continue, as would the use of the existing weighbridge office, welfare facilities and septic tank system. The water supply would be provided from an existing well. It is intended that some of the rock would be used for the future development of the site for leisure use / holiday and leisure park and some would be taken off site.
- 2.2. Details submitted with the application included an Environmental Report, a letter from the landowner permitting the making of the application, and a letter from the owner of the entrance permitting improvement works to provide sightlines.
- 2.3. The applicant submitted unsolicited further information to the planning authority on 10th December, 2020 in response to a third party submission.

3.0 Planning Authority Decision

3.1. Decision

On 28th April 2021, Cork County Council decided to grant permission for the proposed development subject to 28 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the planning history for the site and adjoining lands, the policy context, the reports received and a third party submission. It was considered that an AA Screening Report relating to a proposed soil recovery site adjacent to the proposed site was sufficient for the current site and it was submitted that AA was not required. It was noted that the quarry site had not been restored in accordance with the conditions of P.A. Ref. QR039 and that the site has ceased to operate as a sand and gravel pit. It was further noted that the gravel pit was registered under section 261 in 2007, that conditions permitted extraction to 53mOD and that current levels are as high as 63mOD. A request for further information was recommended based on the reports received, as well as demonstration that compliance was attained with conditions relating to QR039.

The Senior Executive Planner concurred with the Planner's recommendation.

3.2.2. Other Technical Reports

The Area Engineer requested clarification in the form of a flood risk assessment, certification of the septic tank system, and a Site Characteristic Report if required.

The Environment Section report on surface and groundwater had no objection to the proposal subject to the attachment of three conditions.

The Environment Section report on air and noise requested clarification on proposed hours of operation.

The Ecologist requested further information in the form of an ecological impact assessment and a site restoration plan.

3.3. **Prescribed Bodies**

Inland Fisheries Ireland required that should permission be granted there would be no interference with, bridging, draining, or culverting of the Glashagarriff River or any watercourse, banks or bankside vegetation and no excavation of materials below the watertable.

3.4. **Third Party Observations**

An objection to the proposal was received from Abaigéal Smyth relating to the unauthorised status of the existing site, the material difference between a rock and gravel quarry, project splitting with a soil recovery facility, and inadequate Natura 2000 considerations.

3.5. A request for further information was made on 8th January, 2021 and a response to this request was received on 1st April, 2021. Details received included a flood risk assessment, a report on the septic tank system, an ecological impact assessment report, and a restoration plan.

3.6. The reports to the planning authority were as follows:

The Environment Section report on surface and groundwater had no objection to the proposal subject to the conditions previously set out.

The Environment Report on air and noise had no objection to the proposal subject to a schedule of conditions.

The Area Engineer recommended a grant of permission subject to a schedule of conditions.

The Ecologist noted the further information response and set out the requirements to be covered by way of planning conditions.

The Planner noted the further information and the reports received. A grant of permission was recommended subject to a schedule of conditions.

The Senior Executive Planner concurred with the Planner's recommendation.

4.0 Planning History

P.A. Ref. 20/4969

Permission was granted for the importation of soil and stone for the restoration of a quarry in order to improve the agricultural output of the quarry and return it to an agricultural field. This relates to a land area which was part of the former quarry that lies immediately to the east of the proposed quarry site.

ABP Ref. 04.QC.2128 (P.A. Ref. QR039)

The Board, in accordance with subsection (9)(b) of section 261 of the Planning and Development Act, 2000, confirmed with modifications the decision of the planning authority and directed the Council to amend conditions numbers 7 and 48 of its 58 conditions imposed on the operation of the quarry.

P.A. Ref. 99/4229

Permission was granted for an extension through retention of sand and gravel workings on 1.8 hectares and for extension of sand and gravel workings into a further 1.9 hectares. A contribution condition was appealed to the Board under PL 04.116796 and was modified.

PL 04.102168 (P.A. Ref. 96/1445)

Permission was granted for the retention of an extension of the sand and gravel quarry on the eastern portion of the site and for retention of an access bridge.

5.0 Policy Context

5.1. Cork County Development Plan

Mineral Extraction

Objectives include:

EE 12-3: Impacts of Mineral Extraction

Minimise environmental and other impacts of mineral extraction through rigorous application of licensing, development management and enforcement requirements for the extractive industry and ancillary developments.

All extractive industry developments to have regard to the “Quarries and Ancillary Activities Guidelines for Planning Authorities (2004)” published by the DoEHLG or as may be amended from time to time.

With new quarries and mines and extensions to existing quarries and mines regard should be had to visual impacts, methods of extraction, noise levels, dust prevention, protection of rivers, lakes, European sites and other water sources, impacts on residential and other amenities, impacts on the road network (particularly with regard to making good any damage to roads), road safety, phasing, reinstatement and landscaping of worked sites

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- There are legal impediments to the consideration of the application due to retention requirements, possible EIA offences, cumulative impacts with adjacent development which require EIA and the preclusions contained in section 34(12) of the Planning and Development Act.
- The pit is not compliant with the many conditions under QR039 relating to section 261 and the pit is, therefore, unauthorised development, rendering the application invalid. The overall pit is greater than 5 hectares so retrospective EIA is required. An outcome of ‘No Further Action’ is meaningless in the context of compliance with binding conditions.
- An application for a rock quarry is materially different to a gravel pit. Therefore, past assessment, including historic EIA, cannot be taken as an indicator of potential impacts.

- The applicant is engaging in project splitting to avoid EIA as there is a parallel application for soil recovery, which is at or near the threshold for EIA, directly beside the proposed quarrying area. EIA must be determined as required and to require EIA where the site is unauthorised is prohibited under section 34(12). The application must be rejected. There is no attempt to discuss cumulative impacts of soil recovery and rock quarrying for the purposes of EIA, masterplan requirements, or project splitting. The landholding contains other development which is incompatible and no proper cumulative assessment of the impact of the public using those facilities has been provided. The applicant seeks to justify the development in part based on a future development. Such development should be part of the application otherwise there is no reason to grant permission.
- The Stage I Screening Report for AA is in relation to soil importation and recovery and is not for quarrying. It substantially dismisses the Cork Harbour SAC that is in the pathway of any refugee silt-laden water from the development. The need to manage stormwater also was not addressed and is a mitigation measure which cannot be considered outside of Stage 2, requiring an NIS. An NIS is required.

6.2. Applicant Response

The applicant's response to the appeal may be synthesised as follows:

- The allegation that the previous owners of the site operated illegally are non-specific. The applicant is not aware of any enforcement action and the Council has confirmed there are no open enforcement files.
- The Council undertook an assessment of the quarry in accordance with section 261A in 2012. It determined that no further action was required. Retrospective EIA was not sought as EIA was carried out for the pit for its extensions in the 1990s. The assertion it is now required is incorrect. Extraction of gravel at the registered quarry ceased by 2007 and a letter from the Valuations Office confirms that the gravel pit was closed in 2007.

- The proposal, in combination with the permitted soil recovery site, does not constitute an intensification of activity in comparison to the quarrying and ancillary activities carried out in the past.
- Regarding project splitting, EIA is not required for the proposed rock extraction by itself or in combination with the soil recovery facility.
- A Screening for Appropriate Assessment is attached and concludes a finding of no significant effects to any European sites within the potential zone of influence of the site or downstream of the site.

The response included the applicant's unsolicited further information to the planning authority, its further information response and a Stage 1 AA Report for the proposed development.

6.3. **Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

6.4. **Further Responses**

The Geological Survey of Ireland encouraged the use of and reference to its datasets. GSI requested the operator to assist in its geological heritage goals by including a relevant planning condition that is set out in its submission.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. I consider that the principal issues that need consideration in this assessment are clarity on the nature of the development before the Board, clarity on the adjacent development permitted under P.A. Ref. 20/4969, an understanding of the environmental impact of the proposed development, the need for Environmental Impact Assessment, and appropriate assessment.

7.2. The Nature of the Development

- 7.2.1. I note the planning history relating to the quarry at this location. From the details contained in the planning file and from the Board's previous considerations under ABP Ref. QL 04.QC2128, the following is noted:

S/77/2154

Permission was granted by the planning authority for extraction of sand and gravel.

PL04.102163 (P.A. Ref. 92/3016)

Permission was granted by the Board for a readymix batching plant and block making yard to be located on the western portion of the site.

PL 04.102168 (P.A. Ref. 96/1445)

Permission was granted by the Board for the retention of an extension of the sand and gravel quarry on the eastern portion of the site and for retention of an access bridge.

ABP Ref. PL04.116796 (P.A. Ref. 99/4229)

Planning permission was granted by the planning authority for a further extension/retention of extension of the sand and gravel quarry adjoining PL04.102168. There was an appeal to the Board against a financial contribution which the Board amended.

ABP Ref. 04.QC.2128 (P.A. Ref. QR039)

The Board, in accordance with subsection (9)(b) of section 261 of the Planning and Development Act, 2000, confirmed with modifications the decision of the planning authority under section 261A of the Planning and Development Act and directed the Council to amend conditions numbers 7 and 48 of its 58 conditions imposed on the operation of the quarry.

Permission was granted by the planning authority for the importation of soil and stone for the restoration of a quarry to return it to agricultural use.

- 7.2.2. Having regard to the above, it is apparent that planning permissions have been granted previously for the quarry that was in operation at this location. Furthermore, in accordance with section 261A of the Planning and Development Act, the planning authority decided to modify and add to the conditions imposed under Planning Permissions PL 04.102168 (P.A. Ref. 96/1445) and 77/2154. It is noted that the Board, under ABP Ref. 04.QC.2128, confirmed the decision of the planning authority and modified two conditions that were imposed by the planning authority. It is, therefore, understood that the quarry at that time had met with its statutory provisions requiring permissions and consents under the Planning and Development Act. The Board is in no position now to revisit these decisions.
- 7.2.3. The appellant raises a number of matters including retention requirements, possible EIA offences, non-compliance with conditions under QR039, and unauthorised development. No specific details are provided on these matters. It is my submission to the Board that the relevant planning permission and consent procedures appear to have been followed in relation to the former quarry at this location. I have no record of any unauthorised development arising from the planning authority's considerations on this quarry. I note the failure to carry out site restoration. I acknowledge that the range of conditions attached to the planning authority decision under QR039 related mainly to the operation of the quarry. I note that there is no quarrying taking place at this site and it is understood that quarrying operations have ceased. I further note Conditions 2 and 12 of the decision under QR039. The former required final restoration 10 years from the date of the planning authority's Order, while the latter required the submission of a bond or other security to secure the provision and completion of the site's restoration. The matter of the satisfactory restoration of the former quarry at this location lies with the planning authority in ensuring the requirements under section 261A are now met. I further submit that the requirement to achieve satisfactory restoration of the proposed quarry site now before the Board,

when works would cease, could be subject to a condition in the event of a grant of permission for the proposed development.

7.2.4. I note that the appellant has observed that the application is for a rock quarry and it is materially different to a gravel pit. The appellant submits that past assessment, including historic EIA, cannot be taken as an indicator of potential impacts. It is clearly understood that the previous operation at this location was a sand and gravel quarry and it is noted that the application now before the Board includes the applicant's environmental reporting on the proposed extraction and processing of rock. The applicant is expressly seeking permission to extract rock which lies below the previously exploited sand and gravel on this site. The difference between the natural resource being extracted is understood and the applicant clearly seeks permission to extract rock. It is further understood that the various sections of the planning authority who assessed the proposal did so in the knowledge that permission is being sought for rock extraction. The material differences are understood. The potential impacts and the need for EIA will be addressed later in this assessment.

7.3. **The Adjacent Development Permitted under P.A. Ref. 20/4969**

7.3.1. The appellant raises a concern that project-splitting arises with this development and the filling of the land to the east to return it to agricultural use. I note that permission was granted in recent times by the planning authority for the latter. This is a proposal to import soils to part of the former quarry, utilising the quarry access and internal quarry road. I understand that the planning authority did not seek the submission of an Environmental Impact Assessment Report for that development. From that application, it is understood that the filling of that site would form part of the quarry restoration process. I further note that that proposal initially seeks to return the land to agricultural use but that the applicant's long-term intent is to expand the leisure activity at this location. A response to a further information request in that application gave an outline of what the proposed development of the site entails, which was as follows:

- Importation of material to fill eastern part of site subject of planning application 20/04969: 2021-2029
- Application to complete quarrying adjacent to soil recovery: October 2020. If permitted complete quarrying and restoration of this area: 2021-2029
- Application to develop amenity and leisure activity on western side of landholding (near Aquapark): Q2 2021. This would include development of camping pods, further development of water-based activities, development of a club house / restaurant, development of outdoor sporting activities, development of an indoor activities centre, development of a greenway walk along the River Lee potentially tying in with the Lee to Sea Greenway etc.
- Commence development of leisure / amenity facilities in 2022.

7.3.2. It is clear from the current development proposal before the Board that the use of the rock proposed to be extracted would also facilitate the future development of the leisure activities at this location, as well as allowing for use of the rock elsewhere. I accept that the filling of the site to the east and the current quarry proposal both have the intent to allow for the utilisation of the overall landholding at this location for leisure/amenity uses at some time in the future. As uses, however, I submit that the filling of land to restore it to agricultural use granted by the planning authority and the quarrying and processing of rock for use off site and to facilitate some future development at the overall quarry are neither dependent on one another nor are they inter-dependent. There is clearly some future intent to use the restored land for leisure/amenity purposes at some time in the future. However, there is no clear understanding of the exact nature and extent of such development. I consider that the two uses can function, and would function, as independent activities at this location. Furthermore, it is reasonable to determine that the separate activities would not be reliant on one another in their functioning. In physical terms, the current proposal seeks to extract rock on one part of the former quarry, process it within the site, use some of it within the quarry, and export some materials. The filling of the land permitted under P. A. Ref. 20/4969 would be a separate activity on lands distinct from the proposed quarry site.

7.3.3. Having regard to the above, I do not consider that the issue of project splitting arises.

7.4. **The Environmental Impact of the Proposed Development**

7.4.1. I note the various reports that have been submitted with the application and in response to the third party appeal. I note the specific issues raised in the appeal, much of which relates to the former quarry, the permitted filling of land to the east of the site, and the cumulative impact of the proposed development with the latter. I wish to address the likely environmental effects of the proposed development, with due regard given to the likely cumulative effects.

7.4.2. My initial observations are as follows:

- The established land use at the site of the proposed development is quarrying. The site is within the area of the previous quarry and is well screened from view from the public realm. It has been subject to previous extraction of materials. It is immediately bounded by lands which were formerly used in the quarrying operation. There is a land area immediately to the east where filling of the land with soil is taking place. Having regard to the nature and context of the site for the proposed development, it is reasonable to determine:
 - The quarrying activity would have no significant landscape or visual impacts.
 - There would be no cultural heritage impacts, inclusive of archaeological impacts.
 - The site of the proposed development is located within a former quarry where a pattern of quarry use has previously been established in a location which is remote from residential areas.
 - The site forms land subject to previous quarrying. There are no waterbodies traversing or adjoining the site. There are no known flora or fauna of conservation value on the site. This is an area of low ecological value and it may reasonably be concluded that the proposed development would not have any significant impact on biodiversity.

7.4.3. It considered that the proposed development would have no known cumulative environmental effects relating to the factors addressed above.

7.4.4. I consider that it is reasonable to determine that the impacts with the potential for environmental effects relate to geology and hydrogeology, water, noise and air quality, and traffic. My considerations on these potential impacts are as follows:

7.4.5. *Geology and Hydrogeology*

- The applicant's Environmental Report refers to the sandstone at the quarry being suitable for engineered fill and as a base course for road construction.
- The proposed development would have no impacts on known Geological Heritage Sites.
- Quarrying to date at this location has not extended into the groundwater table.
- The proposed development would have no known impacts on wells or the source protection zones of public water supplies.
- The removal of 80,000m³ of rock would be a permanent impact. This would increase the vulnerability of groundwater at this location, including from leakage of fuel and from effluent disposal. However, excavation would not extend into the groundwater table.
- The applicant proposes a range of mitigation measures, including fuel management measures, the use of an established functioning septic tank, and stockpiling of overburden for reuse in restoration.

Having regard to the above, it is reasonable to determine that the proposed development would not have a significant impact on geology and hydrology. Furthermore, there would be no known cumulative impacts with the neighbouring filling of lands.

7.4.6. *Water*

- The site of the proposed development is within the catchment of the River Lee. The Glashagarriff River flows through the former quarry lands to the west of the proposed site for quarrying. The River Lee / Inniscarra Reservoir is a

drinking water supply source for Cork City and its hinterland. Drainage from the quarry extraction area would be to the south. Surface water runoff flows to the low point on the holding and percolates through the gravel deposits to the Inniscarra Reservoir. A drain flows along the eastern and south-eastern perimeter of the landholding in the direction of the reservoir.

- The proposed quarrying would result in surface water runoff continuing to pond, percolate and filter through the gravel deposits on the holding before entering the Inniscarra Reservoir. It is acknowledged that surface water runoff from the site access road could enter the Glashagarriff River to the west and that fuel and effluent disposal issues could potentially arise, as referred to in my considerations on hydrogeology.
- I acknowledge the range of mitigation measures proposed in the applicant's Environmental Report to address potential impacts on water. These include an upgrade of the access road and associated drainage measures, fuel management and controlled discharge of foul effluent, as well as controlled provisions for surface water ponding.

Having regard to the above, it is considered that significant adverse impacts on water would not arise from the proposed development. Furthermore, there would be no known cumulative impacts with the neighbouring filling of lands.

7.4.7. *Air Quality and Noise*

- Further quarrying at the site of the former quarry would result in additional dust emissions from extraction and processing activities. Rock would be won by mechanical ripping and breaking and would be processed using mobile crushing / screening plant.
- Blasting is not proposed. Vibration is not considered to be a significant concern beyond the site for the quarrying activity.
- The applicant has the benefit of the findings from dust monitoring associated with the previous quarrying activity at this location.

- The impacts on air quality from the proposed development would relate to the ripping and breaking of rock, crushing and screening, stockpiling, and haulage.
- The proposed quarrying activity would occur within the main body of the former quarry, separate from neighbouring landholdings and bounded by former quarry lands.
- The applicant proposes a range of mitigation measures that includes maintaining the quarry road, using a wheel wash, spraying stockpiles in dry weather, and dust monitoring.
- The applicant provided the findings of a Noise Impact Assessment. This report notes that noise impacts with the proposed operation would be imperceptible at most receptors in the wider area. Traffic movements are acknowledged as being slight negative at dwellings opposite the road entrance. The former quarry use is again noted. The applicant also acknowledges the cumulative traffic noise impacts with the movement of vehicles associated with the filling of the neighbouring site to the east. It is noted that the increases in noise at the entrance location would be almost entirely due to the filling activity that has been permitted.
- I note the limited nature of the proposed quarry activity, its siting within the main body of a former quarry and its separation and screening from neighbouring sensitive receptors. Noise impacts would not be significant at any sensitive noise receptor in the wider area. The applicant proposes noise monitoring as part of the mitigation measures proposed to ensure compliance with any noise conditions that would be set.
- The applicant's Noise Impact Assessment addressed the cumulative impact with the neighbouring permitted filling activity. A worst-case scenario was assessed. Cumulative $L_{Aeq\ 1h}$ levels were predicted to be below 55 dB criterion at all times for the nearest sensitive receptors. The cumulative increases were found to relate to the emissions from the restoration proposal due to its proximity to dwellings to the east.

Having regard to the above, it is considered that significant adverse impacts on air quality and by way of noise would not arise from the proposed development.

Furthermore, there would be no known significant cumulative air quality and noise impacts with the neighbouring filling of lands.

7.4.8. *Traffic*

- The proposed development would use the existing entrance of the former quarry, accessing Regional Road No. R618. The volume of HGV traffic associated with the quarrying is estimated to be up to 10 loads per day. It is further estimated that the neighbouring filling activity would generate approximately five loads per day and that it would be an intermittent activity. The existing entrance is also used by traffic associated with the Ballyhass Aquapark.
- The applicant has noted the range of traffic mitigation measures associated with the filling of the lands to the east, including entrance sightline improvements, entrance widening, traffic barriers and signage.

Having regard to the above, it is determined that the limited traffic associated with the proposed development would have a low environmental impact on the road network in the area. Furthermore, there would be no known significant cumulative traffic impacts with the neighbouring filling of lands.

7.5. **The Need for Environmental Impact Assessment**

- 7.5.1. I note that much of the third party appeal relates to the need for consideration of EIA and the cumulative impact the proposed development would have with the permitted filling of the land nearby. I note that the applicant submitted an EIA Screening as unsolicited information to the planning authority in response to the third party submission to the planning authority. This screening concluded that EIA was not required for the rock extraction by itself or in combination with the soil recovery facility (i.e. the filling of the land east of the proposed quarry site).
- 7.5.2. Having regard to my considerations above, I am satisfied to submit to the Board that the proposed development and the filling of the land to the east to return it to

agricultural use do not constitute a single project for the purposes of the EIA Directive.

7.5.3. I note the EIA Directive and Schedule 5 of the Planning and Development Regulations 2001 (as amended). I acknowledge the project types specified under 'Extractive Industry' in Part 2 of Schedule 5 of the Regulations. These include:

2(b) Extraction of stone, gravel, sand or clay, where the area of extraction would be greater than 5 hectares.

7.5.4. The proposed development seeks permission for the extraction of rock where the area of extraction would be 2.15 hectares. It is, therefore, understood that the proposal would be sub-threshold development. Having regard to this, it is reasonable to undertake a screening for EIA in this instance to determine if there is any likelihood of significant environmental effects.

7.5.5. My considerations are as follows:

7.5.6. *Introduction*

The proposed quarry development would occur on a site where there was a quarry previously which has now ceased operation. The applicant's Environmental Report has noted the requirements for EIA as they relate to quarrying activity and it acknowledged that the proposal would constitute sub-threshold development. A scoping process was undertaken by the applicant to inform the Environmental Report which identified possible environmental effects requiring assessment. The report states that this was based on examination of environmental impact statements for the former gravel pit and the experience of the consultants involved in the preparation of the report. I accept that the Environmental Report included consideration and assessment of the impacts of the proposed development which did not rely on previous environmental impact assessment of the quarry. The scoping exercise referred to the potential impacts from noise and vibration, traffic, air and climate, hydrology and surface water, geology and hydrogeology, ecology, landscape and visual impact, archaeology and cultural heritage, land use, and material assets.

7.5.7. *Mandatory EIA – Schedule 5 Part 1*

The classes of development which require a mandatory EIA are defined in Article 93 and Schedule 5 of the Planning and Development Regulations. The proposed development does not fall within the classes of development which require a mandatory EIA.

7.5.8. *Sub-Threshold EIA – Schedule 5 Part 2*

The relevant development class determined from Schedule 5 Part 2 is:

Class 2(b)

Extraction of stone, gravel, sand or clay, where the area of extraction would be greater than 5 hectares.

It is reasonable to determine that the quarrying of rock, where the area of extraction would be 2.15 hectares, would constitute sub-threshold development in the context of the above Class.

7.5.9. *Assessment of Environmental Significance*

Characteristics of the Proposed Development

- The proposed development would comprise a quarry for the extraction of rock within a site area of 2.15 hectares as described in Section 2 of this report.
- The proposed development would be provided beside land where soil is being imported to return it to agricultural use, sharing a common access road and entrance onto the public road network. The adjoining development was not subject to EIA.
- The proposed development would not include any demolition works.
- The nature of the development process is to extract and use the natural rock resource that is on the site. It is proposed to extract approximately 80,000 m³ of rock over an eight-year period.
- It is understood, by the nature of the activity, that extracted materials would be openly stockpiled at this location. There is no likelihood of any significant production of waste arising from the nature of the development.

- With a clear understanding of the site forming part of a previously worked quarry and the standard methodologies proposed to be employed in terms of extraction and processing at this site, the risk of accidents is understood to be low, having regard to substances and technologies proposed to be used.

Location of the Proposed Development

- The existing land use at this site is quarrying.
- The location for the proposed development is in a rural area where the dominant land use is agriculture.
- The proposed development would adjoin an area of the former quarry that is being filled in accordance with a recent grant of planning permission.
- The natural rock resource at this location is finite. It is understood that the natural resource would be prevalent in the vicinity of this site.
- The proposed development would not affect the absorption capacity of any wetlands, coastal zones, mountain and forest areas, nature reserves or parks.
- A Screening for Appropriate Assessment has been undertaken (see below) and it is concluded that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site.
- Areas in which the environmental quality standards laid down in legislation of the EU have already been exceeded do not apply in this instance.
- The proposed development would not affect the absorption capacity of any densely populated area.
- The proposed development would not affect the absorption capacity of any landscapes and sites of historical, cultural or archaeological significance.

Characteristics of the Potential Impacts

- The site of the proposed development would be located in a rural area remote from any densely populated area.

- The proposed development would occur within a landholding formerly used as a quarry. The established land use is one associated with quarry activity.
- Having regard to the land's former use and the nature and condition of the existing site, there is no particular sensitivity relating to the land associated with the proposal. It would not impact in a significant manner on the regenerative capacity of the natural resources of this area.
- A significant schedule of mitigation measures is proposed as part of the proposed development and these measures are set out under the various topics discussed in the applicant's Environmental Report.
- There would be no transboundary impacts arising from the proposed development.
- There would be no potential significant effects from the proposed development having regard to its magnitude and complexity.
- There would be no potential significant effects from the proposal having regard to the probability of its impact.
- Having regard to the expected onset, duration, frequency and reversibility of the environmental effects of the proposal, the development would be understood to be permanent in its effects on the natural resource within the site.
- The proposed development would be consistent with the pattern, form, scale and nature of development permitted at this location.
- The proposed development would not result in any known significant cumulative impacts with development already approved and functioning at this location.

7.5.10. *Conclusion*

Overall, it may reasonably be concluded that the proposed development would not exceed the threshold of any project defined in Schedule 5 of the Planning and Development Regulations. Having regard to the consideration of the likely environmental significance of the proposal, it may reasonably be concluded that the characteristics of the development, its location, and the type and characteristics of

the potential impacts arising from the construction and operation of the development would not result in a significant environmental impact. It is, thus, reasonably determined that Environmental Impact Assessment is not required and the requirement to submit an Environmental Impact Assessment Report does not arise.

7.6. **Appropriate Assessment Screening**

7.6.1. *Background*

The applicant submitted an Appropriate Assessment Screening Report as part of the application to the Board which related to the soil recovery facility permitted under P.A. Ref. 20/4949. I note, however, in response to the third party appeal that a Screening Statement for Appropriate Assessment was submitted in relation to the proposed quarry. This Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European sites within a possible zone of influence of the development. The applicant's AA Screening Report concluded with a finding of no significant effects to any European sites.

Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone or in combination with other plans and projects, on European sites.

7.6.2. *Description of Development*

The applicant provides a description of the project in Section 1 of the AA Screening Report. In summary, the proposal comprises the development of a small-scale quarry with the extraction of rock using ripping and rock breaker and the on-site crushing and screening with mobile plant, and open storage of crushed rock. The extraction of rock would extend to an area of 2.15 hectares.

7.6.3. *European Sites*

A summary of European sites that occur within 15km of the site for the proposed development is presented in Figure 4 of the applicant's AA Screening Report.

The following are the European sites within 15km of the site:

Special Areas of Conservation

The Gearagh SAC

Special Protection Area

The Gearagh SPA

Mullaghanish and Musheramore Mounbtains SPA

Table 1 of the applicant's AA Screening Report identifies the Qualifying Interests and Conservation Objectives of each of these European sites.

7.6.4. *Identification of Likely Effects*

General Observations

- The site of the proposed development is not located in or in the vicinity of any European site.
- There are no pathways connecting the site of the proposed development to any of the referenced European sites. Each of these sites are upstream of the site and they lack hydrological connectivity.
- The site for the proposed development does not have habitat to support the Special Conservation Interests of the Special Protection Areas.

Other European Sites

- It is acknowledged that the River Lee is located to the south of the site of the proposed development and that it discharges into Cork Harbour which contains Cork Harbour SPA and Great Island Channel SAC. These sites are located more than 30km downstream of the site and are separated by the Inniscarra Dam and the Taiscumar Reservoir.
- Great Island Channel SAC is in the channel north of Great Island and is east of the main channel of the River Lee. It is accepted that there is no appreciable hydrological connection between the proposed development and this SAC.
- Cork Harbour SPA has hydrological connectivity to the proposed site but due regard must be had to the significant separation distance between both and the presence of the Inniscarra Dam.

It is reasonable to determine from the above, and excluding the existence of the dam, that any potential pollutants from this site would dilute, attenuate or settle out before any connectivity with the distant European sites. Furthermore, it could not reasonably be ascertained that the activity at this distant location could have any known significant effects on the birds of conservation interest at the distant SPA.

Overall, I submit to the Board that there would be no likely adverse significant effects for European sites arising from the proposed development.

7.6.5. *In-combination Effects*

If there are no likely significant effects on any European sites, then it may reasonably be determined that there can be no significant in-combination effects arising with any other plans and projects.

7.6.6. *Mitigation Measures*

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

7.6.7. *Screening Determination*

The proposed development has been 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 any European site, in view of their Conservation Objectives, and Appropriate Assessment is not therefore required.

This determination is based on the following:

- There are no known pathways between the site areas associated with the proposed development and any European site within 15km of the site,
- The flow distance to the European sites in Cork Harbour with which there is hydrological connectivity being at distances of over 30km, the existence of a dam at Inniscarra, and the dilution factor associated with the relevant waterbodies before connectivity with such distant European sites; and
- The site for the proposed development does not have habitat to support the Special Conservation Interests of the Special Protection Areas within 15km of the proposed development.

8.0 **Recommendation**

8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

9.0 **Reasons and Considerations**

Having regard to the planning history of the site, the resource based nature of the proposed development, the pattern of development in the area and the provisions of the Cork County Development Plan in respect of the extractive industry, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of

property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would otherwise be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 10th December, 2020 and 1st April, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission shall cease to have effect eight years from the date of this order. Full restoration of the site shall be carried out by that date unless, prior to the end of the period, planning permission shall have been granted for a further period.

Reason: To limit the impact of the development on the amenities of the area and to ensure appropriate restoration of the site.

3. The quarry, and all activities occurring therein, shall only operate between 0700 hours and 1800 hours, Monday to Friday and between 0700 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays. No rock-breaking activity shall be undertaken within any part of the site before 0800 hours on any day.

Reason: In order to protect the amenities of property in the vicinity.

4. Mitigation and monitoring measures outlined in the Environmental Report submitted with the planning application shall be carried out in full, except where otherwise required by condition attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

5. (a) The developer shall monitor and record groundwater, surface water flow, noise, and dust deposition levels at monitoring and recording stations, the locations of which shall be submitted to and agreed in writing with the planning authority within three months of the date of this Order. Monitoring results shall be submitted to the planning authority at monthly intervals for groundwater, surface water, and noise.

(b) On an annual basis, for the lifetime of the facility and within two months of each year end, the developer shall submit to the planning authority five copies of an environmental audit. Independent environmental auditors approved in writing by the planning authority shall carry out this audit. This audit shall be carried out at the expense of the developer and shall be made available for public inspection at the offices of the planning authority and at such other locations as may be agreed in writing with the authority. This report shall contain:

- (i) A written record derived from the on-site weighbridge of the quantity of material leaving the site. This quantity shall be specified in tonnes.
- (ii) An annual topographical survey carried out by an independent qualified surveyor approved in writing by the planning authority. This survey shall show all areas excavated and restored. On the basis of this, a full materials balance shall be provided to the planning authority.
- (iii) A record of groundwater levels measured at monthly intervals.
- (iv) A written record of all complaints, including actions taken in response to each complaint.

(c) In addition to this annual audit, the developer shall submit quarterly reports with full records of dust monitoring, noise monitoring, surface water quality

monitoring, and groundwater monitoring. Details of such information shall be agreed in writing with the planning authority. Notwithstanding this requirement, all incidents where levels of noise or dust exceed specified levels shall be notified to the planning authority within two working days. Incidents of surface or groundwater pollution or incidents that may result in groundwater pollution, shall be notified to the planning authority without delay.

(d) Following submission of the audit or of such reports, or where such incidents occur, the developer shall comply with any requirements that the planning authority may impose in writing in order to bring the development in compliance with the conditions of this permission.

Reason: In the interest of protecting residential amenities and ensuring a sustainable use of non-renewable resources.

6. During the operational phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed-
 - (a) an $L_{A,T}$ value of 55 dB(A) during 0700-1800 hours. The T value shall be one hour.
 - (b) an L_{AeqT} value of 45 dB(A) at any other time. The T value shall be 15 minutes.

Reason: In order to protect the residential amenities of property in the vicinity.

7. Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge).

Reason: To control dust emissions arising from the development and in the interest of the amenity of the area.

8. Restoration shall be carried out in accordance with a restoration plan, which shall include existing and proposed finished ground levels, landscaping proposals and a timescale for implementation. This plan shall be prepared by the developer, and shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this grant of permission.

Reason: To ensure the satisfactory restoration of the site, in the interest of visual amenity.

9. Within three months from the date of this order, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory restoration of the site

10. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of future resurfacing at the entrance to the site proposed to be carried out by the local authority. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning

authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Kevin Moore
Senior Planning Inspector

15th December 2021