



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316300-23

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<b>Development</b>	Extension of an existing quarry to facilitate the extraction of sand and gravel and all associated site works. The planning application is accompanied by a Natura Impact Statement.
<b>Location</b>	Knockaunnagat, , Dunmore, Co. Galway.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	22686
<b>Applicant(s)</b>	Finnegans Sand Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	First V Special Development Contribution
<b>Appellant(s)</b>	Finnegans Sand Ltd
<b>Observer(s)</b>	None

**Date of Site Inspection**

17/01/24

**Inspector**

Darragh Ryan

## 1.0 Site Location and Description

- 1.1. The existing working quarry is located on local county road L-1652 in the townland of Knockaunnagat, 4km south-west of Dunmore village. The site is accessed through an existing working quarry and permission is sought under planning permission 22/686 to extend operations on lands to the west of existing operation.
- 1.2. The site size is 2.7Ha rectangular shaped site.

## 2.0 Proposed Development

- 2.1. Under planning permission 22/686 permission was sought for the extension of existing quarry by 2.7HA. The applicant also seeks to extend the quarry operations into lands to the west up until a period of October 2026.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority issued a decision to grant permission subject to 14 conditions. There are 3 conditions directly relevant to this appeal:

C9. Proposed passing bay along the existing L2215 road margin shall be cleared, graded levelled and tar macadam surfaced to a standard suitable for use to be agreed to the satisfaction of the Area Engineer and Planning Authority. The specification of the passing bay shall be implemented in strict accordance with the details as submitted and received by the Planning Authority on the 25<sup>th</sup> January 2023.

C13 A special contribution of €35,000 should be attached to any grant of permission in accordance with the provisions of Section 48 of Planning and Development Act 2000 as amended. This is to facilitate the long g term maintenance of proposed passing bay (and ancillary works) and to maintain the public road infrastructure in particular the Local tertiary link road L-64641.

C14 The applicant/ developer shall pay 47,559.20 to the Planning Authority. The charge has been calculated using the Development Contributions Scheme adopted

by Galway County Council in accordance with Section 48 of the Planning And Development Act 2000.

### 3.2. **Planning Authority Reports**

3.2.1. There are two Planning Reports on file which can be summarised as follows:

- The proposal adheres to County Development Plan policies.
- Documentary evidence of water quality monitoring has been provided by the applicant.
- It is determined that there will be no impact on amenity of neighbouring properties.
- An assessment of the EIAR has been undertaken and it is considered that the proposal will not give rise to significant environmental impacts.
- An assessment of the NIS submitted has been carried out and it is concluded that subject to mitigation measures the development will not have adverse impact on associated SAC.
- On receipt of a further information request the planning authority considered that there will be no archaeological impact following review of the archaeological impact assessment.
- Upon review of road safety audit it is considered appropriate that the applicant provide a passing bay to the northern section of the L2251 carriageway, in accordance with the provisions of Road Safety audit. It is considered that the works proposed outside of defined application site can be implemented under Section 34 (4) (a) of the Planning and Development Act (as amended).

3.2.2. Other Technical Reports

Roads and Transportation reviewed the development proposal and recommended a Special Contribution of €35,000 be attached to any grant of permission in accordance with the provisions of Section 48 of Planning and Development Act.

### 3.3. **Prescribed Bodies**

Department of Housing, Heritage and Local Government – a review of Archaeological Impact Assessment

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

None

## 4.0 **Planning History**

ABP 07.QD0016 – Substitute Consent associated with the operation of the existing quarrying activities on adjoining lands and to which the proposed development is directly related which regularised the previous activities and included for the expansion of the area to be quarried for a 10 year period Oct 2026.

PA 21/2132- Permission granted for a temporary retention planning permission for welfare and storage areas, wastewater holding tank and stormwater rainwater harvesting tanks for a period up to 6<sup>th</sup> of November 2026 in line with ABP 07/QD0016

## 5.0 **Policy Context**

### 5.1. **Galway County Development Plan 2022 -2028**

- Chapter 4.14 Mineral Extraction and Quarries
- MEQ 1 – Aggregate Resources
- MEQ 2 – Protection of the Environment
- MEQ 3 – Landscaping Plans
- DM Standard 18 – Extractive Industry

Galway County Development Contribution Scheme 2016

### 5.2. **Natural Heritage Designations**

Lough Corrib SAC 650m to the north

### 5.3. EIA Screening

This is a limited appeal by the first party related to the application of Special Development Contribution only. An assessment of EIA is not within the scope of the appeal.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

An appeal under section 48 (13) (a) of the Planning and Development Acts against condition 13 (special development contribution) was received on the 17/04/23. It is claimed that the special development contribution levied in this instance is not warranted as “specific exceptional costs” will not be incurred by the county council as a result of the proposed development.

- Galway County Council issued a development contribution as part of condition 14 under Section 48 of the Planning and Development Act. This development contribution was levied under Galway Development Contribution scheme for a total of €47,559.20. This development contribution captures any road maintenance costs that would have to be born by the local authority.
- The laying of a special development contribution in this instance does not meet the requisite criteria as set out under Section 48 (C). The wording of the condition indicates specifically, the proposed layby and maintenance of public road infrastructure are the basis on which a special development contribution is being sought. The layby is being provided fully by the applicant and the additional maintenance costs would be an integral part to the standard development contribution charge. Therefore no “exceptional cost” as required by the legislation is demonstrated.
- The special contribution represents the equivalent of almost 80% of the main development contribution for the entirety of the development and is considered to be excessive.
- The proposed lay-by works will be carried out by the applicant and at their own expense, the lay-by will remain in place after these quarry works have

ceased, forming part of the public road infrastructure to be available for use by all road users. The quarry ceases operations on November 2026 as mandated by ABP 07.QD0016

## 6.2. Applicant Response

None

## 6.3. Planning Authority Response

None

## 6.4. Observations

None

## 7.0 Assessment

7.1. The matters to be considered are as to whether the requirement for payment of a special development contribution in the amount of €35,000 to the planning authority under Condition No 13 made under Section 48 of the Planning and Development Acts falls, within the scope of the provisions of section 48 (2) (c) thereof. (Condition No 13, the appealed condition is reproduced in full under section 4.1 above.)

### 7.1.1. Section 48 (2) (c) - special contributions

The payment of a special contribution by condition comes within the scope of Section 48 (2) (c) of the Act, as claimed in the appeal. Section 48 (2) (c) is reproduced below:

*“A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development”.*

There are three essential requirements or characteristics that are essential to justify attachment of a of a “special contributions” condition to a grant of permission. The payment must be required (a) in respect of a particular development, (b) specific exceptional costs must be incurred as a result of or in order to facilitate it and, (c) such costs cannot be covered by a Development Contribution Scheme made under Section 48 (2) of the Act.

- 7.1.2. Having regard to the requirements set out within the act it is important to assess if there are specific exceptional costs incurred as a result of the development. I note as per condition 9 of the application the applicant is incurring the costs of providing a passing -bay for an area of 75m of roadway on local link road L64641. This condition also mandates that the finish of the passing bay should meet a standard to be mutually agreed upon with the local authority. Upon review, I find that the local authority is not incurring any exceptional expenses due to the provision of the passing bay.
- 7.1.3. Condition 13 states that the Special Contribution is being levied to facilitate the long-term maintenance of the proposed passing bay (and ancillary works) and to maintain the public road infrastructure in particular the local tertiary link road L-64641. Upon completion of a Stage 1 Road Safety Audit which was submitted as part of a further information, the applicant confirms that the quarry extension shall generate the same volume of traffic currently generated by ongoing operations and no increase in daily trips will be generated. As per the appeal the applicant contends that the standard development contribution levied can adequately cover the ongoing maintenance of the roads in the vicinity of the site. Additionally, it is put forward that quarry activities are only permitted up to 6<sup>th</sup> of November 2026 as per substitute consent received from An Bord Pleanála.
- 7.1.4. After reviewing the Explanatory Memorandum of the Development Contribution Scheme 2016 for Galway County Council, it is evident that development contributions are imposed as capital funding for public infrastructure and facilities. Maintenance of public roads is not included under the Development Contribution scheme. Hence, the applicant's assertion that the standard development contribution charge should encompass road surface maintenance is not relevant.



7.1.5. The issue of long-term maintenance for the passing bay and surrounding local road network may potentially lead to exceptional costs for the local authority. This is noted in the Galway Development Contribution Scheme whereby its specifically stated that special contributions may be applied for waste/landfill; quarries and gravel pits based on a number of criteria. These include:

- Scale of proposed development
- The condition of road serving the development
- The length of the road or roads from the development to the nearest Class 1 local road which is in good condition.
- The cost of bringing the road or roads up to a standard necessary to facilitate the development and not cause an adverse impact on other road users.

7.1.6. Scale of Development – Having regard to scale of development the applicant has outlined extent of operations and indicated that there will be no increase in traffic movements or trips resulting from the proposed development. At peak times internal quarry movements reach 6 truck movements per hour between the quarry face to the processing area, this will not increase as a result of quarry extension.

7.1.7. Condition of Roads – The roads at this location are narrow rural country roads. Traffic volumes on these roads would be considered generally low and there is a potential conflict between large HGV's and smaller domestic vehicles. Some of these concerns have been addressed by the applicant as outlined under 7.1.2 above. Having regard to the level of truck movements on these roads, it is reasonable to assume that there will be maintenance of the roadway required, whereby the original roads at this location were clearly designed for lower traffic volumes with reduced weights. There is potential for disturbance to the road surface and therefore road maintenance is required. This in my opinion constitutes an "exceptional expense" to facilitate the development as set out under the legislation.

The assertion made by the applicant regarding the lack of road maintenance requirement due to the planned closure of the quarry by November 2026 is not deemed acceptable. Considering the substantial activity level on-site, the frequency of truck movements to and from the site, and the narrow design of the road initially intended for lower traffic volumes, there is a realistic possibility of road damage

occurring over a relatively short timeframe. Thus, it is deemed prudent to uphold the special contribution condition in this case.

- 7.1.8. It can be concluded therefore that the inclusion of the condition does come within the scope of Special Development Contributions under the provisions of section 48 (2 (c) of the Acts, the appeal should be not be upheld and the condition should be retained.

## **8.0 Recommendation**

- 8.1. In view of the foregoing it is recommended that the appeal should not be upheld and that the planning authority should be directed to retain Condition No 13 on the basis of the Reasons and Considerations set out herunder.

## **9.0 Reasons and Considerations**

The maintenance of the road network in this instance would be considered to be “benefiting the development” and an “exceptional expense” incurred by the local authority owing to the nature of activity on site and number of traffic movements to and from the site.

### Condition 13 – Recommended to be retained.

The contribution was applied correctly and in accordance with the provisions of Section 48 (2) (c) of the Planning and Development Act.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Darragh Ryan  
Planning Inspector

8<sup>th</sup> of March 2023

