

Kathleen S Baker and Timothy R Baker  
Knockduff

Dunmanway

Co Cork

Date 10<sup>th</sup> August 2025

P47 WR24

An Coimisiun Pleanala

64 Marlboough street  
Dublin 1

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| AN COIMISIÚN PLEANÁLA |             |
| LDG-                  | _____       |
| ACP-                  | _____       |
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| Fee: €                | Type: _____ |
| Time: 9:15            | By: neg pos |

Your Ref: ACP-324277-26

Your Correspondence dated 21<sup>st</sup> July 2026.

References: SU04 324277 Substitute Consent and FD 04 324278 and concurrent Future Development for quarrying, application by Murray Brothers Tarmacadam Ltd, Ardcahan, Dunmanway, Co Cork.

Dear Sir/Madam,

We wish to make a further submission to An Coimisiun Pleanala regarding the above referenced applications submitted pursuant to Section 177E of the Planning and Development Act 2000, (as amended). Consisting of the quarrying of rock that took place between February 1990 and October 2014, along with associated site development works.

We respectfully request that An Coimisiun Pleanala refuse the application by operation of section 37L of the PDA and the concurrent future development must also be refused.

We wish to formally address, support and comment upon observations previously lodged by other observers on this file. They include Mr Patrick Hayes & Ms Alice Hayes of Knockduff Dunmanway and Mr Norman Berry & Ms Patricia Berry of Knockduff, Dunmanway. We have reviewed their attached documents and confirm that we are in complete agreement with their contents.

### Ownership

As touched upon in the submission by Mr & Ms Hayes, their Ground 3, 4, 5, 7, 8, 9, and 11; and Mr & Ms Berry's Ground 2, 3, 4, 5, 6, 7, and 9; the issue of ownership is crucial.

- This application seeks the retrospective regularization of unauthorized development spanning the entire period from February 1990 to October 2014. However public records and historical local facts demonstrate that Murray Brothers did not acquire or take over operations at this site until 1998. Details of the landholding transferred at this time are very sketchy.
- Prior to 1998 the site was owned directly by Cork County Council, who leased extraction rights to a third party operator (Mc Sweeneys trading as Mid Cork Quarries) and we believe this creates an insurmountable legal and procedural contradiction.
- The current applicants cannot legally apply for substitute consent to regularize unauthorized works that occurred between 1990 and 1998 as they held no legal interest in operational control or planning liability for the site during those eight years. They do not hold any accurate extraction data or any records of Health and Safety or Environmental controls.

- Since Cork County Council owned the land during the initial eight years of the targeted period, allowing a private developer to retrospectively clear the planning status of the quarry bypasses proper state accountability enforcement laws.
- By the time Murray Brothers took over the site in 1998, any quarrying activity on this site would require an Environmental Impact (EIA) or an Appropriate Assessment (AA); and failure to complete either has stored up an impenetrable fog through which an accurate assessment is now unachievable.
- To achieve an accurate Environmental Assessment, baselines should have been set at 1998,
- The early quarrying stripped away topsoil and vegetation, heavy rain would have washed silt and fine sediments directly into local watercourses and drainage ditches as the modern water management and settlement ponds currently on site were neither established or regulated. No baseline hydrological data exists from 1990-1998 so the applicant cannot deny responsibility or provide evidence to the contrary that historical siltation went unchecked.
- Furthermore, there is no credible historical data or proper further querying regarding dust emissions and localized air pollution from those early operational years.

#### **Previous litigation**

We are aware that Patrick and Alice Hayes were appellants in appeal PL88.245174 which went to judicial review (2016No 499, JR Hayes v An Bord Pleanala (2018) IEHC.338 Ni Raifeartaigh J 17<sup>th</sup> May 2018) that squashed the An Bord Pleanala permission granted under that reference.

Had we been aware of this planning application, and the subsequent High Court proceedings we would have absolutely lodged a formal submission. Unfortunately, due to work and other commitments and we were unaware of the active status of these applications and procedures during the public consultation window.

This new development will directly affect us and we will be significantly impacted if this future planned development goes ahead.

#### **Ground 11 -Material Inconsistencies Undermining the Reliability of the rEIAR in a submission by (P H and A H)**

Macadam plant permission reference the official record An Bord Pleanala Ref. PL04.106466.20<sup>th</sup> May 1998 confirms the Cork County Councils reference for the adjacent plant as W/98/294. and this noted in 4.6 Ground 6 Impermissible project Splitting and Boundary Manipulation in (NB and PB) submission.

#### **Our submission dated June 2022, ABP case reference SU 04 313649, ACP ref 324277.**

We are enclosing the 2022 submission and its original accompanying letter strictly as historical data to illustrate the initial administrative confusion. This historical document has been submitted to provide the planning authority with information and clarification only, of historical non- compliance by the applicant and does not introduce a new proposal. We request the planning authority accepts this document to ensure a fully informed determination.

Under Irish planning law, any attempt by an applicant to deliberately hide, obscure, or prematurely remove a site notice is illegal and invalidates the entire planning application. The notice must be securely erected in a conspicuous position it must be **clearly visible** and easily readable by the passing public from the public road. And must not include a reference to an **incorrect planning number**.

This notice stated that it was accompanied by a remedial Environmental Impact Assessment and a remedial Nature impact Statement. As our documents stated there were no rEIAR or rNIS documents

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to view on An Bord Pleanála files. These mistakes completely strip the public of their statutory right to view the proper files and make an informed submission.

This notice dated 18<sup>th</sup> May 2022 states that the tarmacadam/ asphalt plant was included in its substitute consent planning application had been granted permission under reg no 98/284. This is a factual inaccuracy, the Tarmacadam/asphalt plant was **not** granted permission by Cork County Council under planning reg no 98/284. This 2022 planning application was later withdrawn.

### Irreversible loss of Habitats

As noted by both (PH & AH and NB & PB), the applicants documents state that approximately another 5.1 hectares are to be removed on this site over a 20 year period, this is almost the same as the original 5.2 hectares which were extracted over a the previous circa 65 years plus. It seems that 25 hectares landholding footprint has swallowed up the local landscape, Clashnagallagh Woods, agricultural land, trees and scrub and the natural drainage pathways. Quarrying alters the natural drainage and how water moves across land, creating long term risks for surrounding areas and changing the hydrology from the top of the hillside of natural slopes and topsoil. The vegetation acts as a natural sponge absorbing rainfall and funnelling it into local streams and drainage ditches.

### Flooding

Highlighted by (PH & AH) in their documents as Ground 2. The boundary stream is already under pressure under during very heavy rain, there is simply too much water to get under the little bridge. When the Caha and the Bandon rivers are in flood the water comes down the road and joins that of the boundary stream at the junction with the L4621. This fact is reinforced the Council sign that warns that the road is liable to flood.

### Penstock Weir

Highlighted in documents Ground 2 (PH & AH): The pollution control infrastructure proposed and is going to be relied upon in Section 37L states a manually operated penstock system, this contains no definite dimensions and most importantly the volume of water that will eventually will be discharged to this south western corner of the site. The applicant's documents state, Ponds I and J previously existed on the site. **We must explicitly reiterate that a ditch had not previously been dug out and was not present beside the applicants' roadway leading into their site at the south west corner, and no berm had been constructed next to the ditch until April 2025, enough vegetation was taken away in this area to allow a HGV plus to park up.**

The South Western corner of the site is going to be under severe pressure especially in heavy rain, their pipe goes under the road and connects to the boundary stream which puts further pressure on an area which is already struggling with water and flooding during heavy rain.

The proposal is to plant Flag Iris and Bullrush around ponds I and J, while these plants can trap silt, and their dense root system can slow down water flow, relying on them next to a delicate eco system like the Bandon River SAC could present problems. The seeds from Flag Iris have the potential to escape into the surrounding watercourse, and their root systems could be uprooted in heavy rain.

**Table 7.1 of the rEIAR summary of On -Site Surface Water Catchments; Area 4 states the risk as Medium High this should be changed to High /Very High.**

Under Section 4 of the Local Government (water pollution) Act, standard planning permission from the board is not enough to allow an operator to pump industrial water into a river system. They must secure a separate, highly restrictive Trade Effluent Discharge License from Cork County Council. The Council Environmental Department should enforce strict limits on how much chemical residue or dust or solids can be inside that water when the Penstock Gate is opened.

### **Freshwater Pearl Mussel**

We fully endorse and incorporate by reference the exhaustive scientific evidence submitted in previous representations concerning the critical status of the Freshwater Pearl Mussel (*Margaritifera margaritifera*). The strict environmental threshold required for the survival of this species is established beyond scientific dispute. The core vulnerability of this protected population lies in its extreme sensitivity to sedimentation and substrate disturbance. Silt introduction permanently destabilises the micro-habitat required for juvenile recruitment and adult filtration. Given the definitive zero-tolerance biological constraints of the species, it cannot be conclusively or legally ruled out that siltation originating from the operations of Murray Brothers Tarmacadam caused material, adverse, and irreversible damage to this habitat. In the absence of rigorous, site-specific exclusionary data from the applicant, the burden of proof has not been discharged. Full precautionary principle protections must be applied to prevent further ecological default.

### **PAC (Poly Aluminium Chloride)**

As stated by PH and AH and NB and PB, if the applicant is going to scale up operations for a 20 year period, clarification on what quantity of PAC will be needed for future quarrying operations. Details of storage and structural design required to store PAC on site and to regularize the monitoring regime. Clarity is required on how many litres of water will be required during each phase of the extraction. How long will it take before the proposed closed loop system is operational. The applicant has not had to deal with such a massive volume of raw heavy clay and fine silt contaminated with PAC during the interim period. The pathways of silty water generated on the site will need to be calculated for each extraction phase.

### **Invasive Species**

Clarification is required on the final invasive species management plan, measures must be taken to eliminate Japanese Knotweed regardless of whether the applicant is to be allowed to carry on quarrying or not. The applicants survey should have included the stands of J/K that are growing on the corner of their roadway that joins the L4621; as it has been noticed it has begun to spread in the adjoining landowners' hedge. The stand of J/K on the L4621 on the left of the road leading to the R587 crossroads has been sprayed twice but still growing and this should be dealt with also.

The plant that is growing /spreading on that berm by the ditch on the applicant roadway has not been positively identified, Winter Heliotrope or Coltsfoot, both identified growing on site. They both have similar leaves, we know Coltsfoot has a distinctive yellow flower and flowers earlier in the year. Some areas on the site could not be surveyed because access was limited. It states soil is to be taken and used near ponds I and J and they hope this area will be become reseeded over time, we hope regeneration will be monitored. Heavy rain takes no prisoners, it can take away stone, soil and uproot plants.

If Flag Iris gets a hold in the Bandon river it can suffocate other plants and can severely compromise protected habitats, the Bullrush can be seen growing on the applicants' site and these two plants need constant management if they are to be used in this area.

Due to past land use and the history of the site, Japanese Knotweed has been identified as a high risk invasive species for this project, the applicant should not be allowed to decide which Invasive species method is to be implemented and must be advised by NPWS on the best method.

### **NOISE**

The Hayes' Ground 11: Material inconsistencies the reliability of the rEIAR

There is an inconsistency regarding blasting records across the documents, that does not align with either statement. The applicant has failed to provide "clear, complete and consistent description of the project" as required by the EIA Directive. according to chapters 6 and 7 2014 EIS and describing as bi- annually, while its own blast record (table 8.10) this table shows an irregular non -bi- annual

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pattern. The entire noise section and vibration impact assessment is fundamentally flawed. There are statutory environmental limits that dictate exactly how much noise the local community is expected to tolerate. The noise from a quarry operating and a tarmacadam plant operating are heavy industrial processes and must be assessed together.

We request the planning authority reject any attempt by the applicant to assess the noise impacts of the proposed quarry and the macadam plant as isolated, or separate entities. Because environmental noise is measured on a logarithmic scale, decibels do not add together using standard mathematics. If both operations are permitted to emit noise up to the daytime limit of 55 decibels individually, their combined acoustic energy doubles. On a logarithmic scale 55dB plus 55 dB results in a cumulative noise level of 58 decibels at nearby homes, this exceeds the legal threshold and represents a doubling of sound pressure. Before any decision is made both operations must be modelled together at nearby properties.

### **Traffic**

We note that this stage of the planning process strictly permits us to not to introduce new documentation, consequently this response focuses directly on correcting the record and establishing necessary site requirements based on historical fact.

**Our primary objection relates to the reinstatement and visibility of the Boundary Bollard, it is vital that the Bollard is properly reinstated and positioned as the details/drawings on the map, and the no left turn sign is clean and visible and not obscured by lichen or foliage. It needs to be seen clearly to serve its legal and practical purpose. Noted in the applicants' documents, it is stated that they intend to only use the stretch of road L4621 to the R587 for HGV traffic. The applicant states they intend to sell aggregate to third parties'. How does the applicant propose to stop HGV traffic from using the L4621 from the south (Dunmanway Hospital direction) to enter and leave the site. A log should be kept, and should be able to be inspected by the local authority. This should be stated in the final documents, as failure to enforce this will be a breach of planning conditions.**

Clarification is needed on how the applicant proposes to stagger HGV vehicles coming in and going out of the quarry without having a row of trucks standing there with engines idling. The L4621 (Hospital road) already serves as a cut off/ rat run for heavy/wide/large vehicles. HGV vehicles from other quarries use the L4621 road travelling from the south side of Dunmanway heading out to the north of Dunmanway on a regular basis, this road cannot accommodate a HGV vehicle passing a standard car, let alone two large vehicles the L4621 is narrow in places and has bends and pinch points. No offence to the HGV drivers- most are brilliant, but the state of the traffic on this road its every driver out there, big or small, there is already a 60 kilometre speed limit on the L4621.

**Response by Transport infrastructure Ireland (TII)** transport infrastructure Ireland (TII) reviewed this file and had no comments to make. The local authority have sole responsibility for L- roads, this leaves traffic and haulage management to local oversight.

### **Peregrine Falcon /Birds**

Mr and Mrs Hayes brought up the issues of protected birds of prey in Ground 10 – Active Annex 1 Peregrine Falcon and Red Listed Kestrel. The nest height is 15 meters above the floor of the quarry, and to have a wash plant adjacent to this would be illegal. The cliff face opposite the nest is at the same height, and less than 100 meters away and is due to be quarried under Phase 1. This will involve topsoil clearance and drilling of the rock prior to blasting. It is understood that Falcons are upset if there is activity above the level of their nest, and a set back of 150 meters is recommended. These are specific, evidence based conditions. While the Peregrine Falcon population have stabilized their future protection is essential.

**The following measures require implementation.**

150m Buffer zone. Blasting should be discontinued at a quarry face, in the nesting season, from March to July to minimize disturbance to the eggs and young chicks until fledging. The processing of

stone will generate sudden noises and clouds of dust, with tall machinery and excavators. Whilst it is acknowledged that Falcons like nesting in quarries and will tolerate a moderate level of work, what is proposed is extreme.

It is our belief that the Kestral nest site is due to be destroyed under Phase 1. These Birds are on the Red List of highly endangered species.

### **The OPR Study Paper CSP07 Monitoring Quarries- Extractive Industry Register and Mapping**

**5.2 of the Document** found that there is more work to be done by local authorities in development management and enforcement, it was evident by research done on (11 planning authority's questionnaire) that quarry developments continue to generate significant levels of enforcement complaints requiring detailed, painstaking investigation and evidence gathering. For example, one planning authority reported that it has 58 live unauthorized development cases on illegal quarry activities or breaches of planning conditions, which it notes is an unsustainable workload. If the planning authority cannot manage its current workload, given the current administrative backlog and delays and future public access to essential environmental records will be non-existent.

I wished to contact the Environmental Directorate at Cork County Council, Inniscarra on July 8<sup>th</sup> looking for further information regarding the Tarmacadam Plant operating conditions. I was requested to send an e-mail as no one could provide me with any information, my e-mail was sent on to headquarters in Wexford; since then I have heard nothing.

### **CONCLUSION**

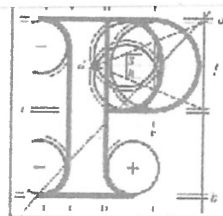
We concur entirely with the submissions of other parties stated on the report Norman Berry & Patricia Berry and Patrick Hayes & Alice Hayes that the evidence demonstrates that the applicant has failed to provide objective, verified baseline data, consequently the applicant has been forced to rely on ad-hoc guesswork and assumptions rather than real-world numbers throughout their assessment.

Yours Faithfully

Kathleen S Baker

Timothy R Baker

K.S. Baker  

An  
Bord  
Pleanála

Copy

Kathleen and Timothy Baker  
Knockduff,  
Dunmanway,  
Co. Cork

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**Date:** 29 June 2022

**Re:** Substitute Consent for Rock Quarry Development at Ardcahan, Dunmanway, Co. Cork.  
Ardcahan, Dunmanway, Co. Cork.

Dear Sir / Madam,

An Bord Pleanála has received your submission in relation to the above-mentioned application for substitute consent.

Your observations in relation to this application and to the existence or absence of exceptional circumstances justifying a grant of substitute consent will be taken into consideration when the application is being determined.

Yours faithfully,

Catherine Flynn  
Administrative Assistant  
Direct Line: 01-8737143

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To: An Bord Pleanala

Case reference: SU04.313649 also CorkC.C. Reg No. 98/284

Kate and Tim Baker

Knockduff

Dunmanway

Cork P47 WR24

10th June 2022

We wish to make some Observations on the Application to An Bord Pleanala for Substitute Consent for development by Murry Brothers Tarmacadam Ltd.

#### **Position of the Planning Site Notice**

We do not normally walk that far down the quarry driveway as far as the gates to the quarry. It was only by going there on a Sunday afternoon, whilst walking the dog, that we were able to see that there was a Planning Notice attached to the quarry gate, which was closed at that time. The gates are always open during working hours, Monday to Saturday, when the quarry gate is open, it is within the site of the quarry, and on private land. The signage for Ardcahan Quarry and Tarmacadam is adjacent to the local road, not on the quarry gates. We state that the planning notice cannot be seen from the public road and believe that this does not comply with the spirit of the planning legislation.

#### **Availability of Planning Information**

The planning notice on the gate quotes Planning Reg. no 98/284 but we cannot find the documents for this on Cork County Council planning viewer. When we phoned ABP, they suggested that we look at planning number SU04/313649 but still found no information except that it is due decision by 20/09/2022. The notice on the gate refers to a remedial Environmental Impact Assessment Report and a remedial Natura Impact Statement but we are unable to read either. We have talked to the Planning Office in Skibbereen but they were unable to get it up on line, if the information is quoted on the Planning site notice, then it should be available to read as of the date of the erection of the site notice 18/05/2022. As of 10/06/2022 we are still unable to access any information. When we checked on line, Planning Reg. no 98/284 referred to a recycling centre in Lehenagh More by Jim Collins (no further information available).

#### **Tarmacadam Plant**

We have some documentation relating to Cork County Council Planning Ref. No 98/294, which refers to Tarmacadam/asphalt manufacturing plant which is situated within the existing quarry at Ardcahan, Dunmanway. Please find enclosed photocopy No. 1 of letter from Cork County Council, also enclosed photocopy No. 2 of letter from ABP, also enclosed photocopies No. 3 of part of the Planning Permission and photocopies No. 4 and No.5 of agreement to withdraw appeal to ABP and the conditions attached to it between Harry Dixon and Murray's. Please note the change from 284

to 294. Harry Dixon lived in our house in 1998 until we arrived in October 2006. Please note the planning reference number is always 98/294 and not 98/284. We believe a mistake has been made somewhere, and is being repeated.

### **Refused Permission**

We are aware that the High Court overturned Planning Permission for this quarry in 2016, and are surprised that an attempt is being made to unravel this decision without going back to the court. We cannot understand how ABP can make a decision on this case that would overrule the High Court. The case reference PL88.245174 had a Cork County Council planning number 14/616, and is listed as annulled. It is confusing in that in the ABP documentation is persistently incorrect in quoting the original planning number for the Tarmacadam plant as 98/284.

### **Issues**

We feel that there has been a lack of consideration and no communication by Murray Brothers to us personally it is important to us and for the people whose homes are closest to the Quarry and Tarmacadam Plant.

There has been some antisocial behaviour in the form of a car racing up and down the internal roads within the quarry site, and one Saturday afternoon in October 2021 it was particularly noisy what seemed to be 'doughnutting' and 'popping' perhaps they did not realize that the cliff face would reflect the noise outwards.

If the Tarmacadam Plant is working, it can also be noisy and it rattles and drones.

The quarry road entrance has been widened and the stone bollard, which had discouraged wagons from using the 'hospital road', was removed and destroyed. Our suggestions are that a stone bollard should be put back and clear signage to encourage heavy vehicles to turn right.

The site notice should be moved and put closer to the road L4621; and the date of the site notice and all the Planning information should be available to be viewed at the same time the site notice goes up.

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## APPLICATION TO AN BORD PLEANÁLA FOR SUBSTITUTE CONSENT

### SITE NOTICE

Murray Brothers Tarmacadam Ltd. intend to apply for substitute consent for development at:

**Ardcahan (Townland), Dunmanway, Co.Cork.**

The development consists of the quarrying of stone that has taken place between February 1990 and October 2014 and all associated site development works. The extraction area during this period was approximately 5.94 hectares.

The overall site boundary of this substitute consent application includes the tarmacadam / asphalt manufacturing plant which was granted permission by Cork County Council under Planning Reg no. 98/284.

The application is accompanied by a remedial Environmental Impact Assessment Report and a remedial Natura Impact Statement.

Submissions or observations may be made on the application, to An Bord Pleanála, Marlborough Street, Dublin 1, without charge. Submissions or observations must be in writing and made within the period of 5 weeks beginning on the date of receipt of the application by An Bord Pleanála and such submissions and observations will be considered by An Bord Pleanála in making a decision on the application. An Bord Pleanála may grant the consent subject to or without conditions, or may refuse to grant it. The application for consent may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of An Bord Pleanála, or the relevant planning authority during its public opening hours.

Signed:

Janet Payne, McCutcheon Halley Walsh; 6 Joyce House, Barrack Square, Ballincollig, Co. Cork  
(for and on behalf of the applicant)

Date of erection of site notice: 18<sup>th</sup> of May 2022