

Kathleen S Baker & Timothy R Baker  
Knockduff  
Dunmanway  
Co Cork  
P47WR24

Date 11th September 2026

An Coimisiun Pleanála  
64 Marlborough Street,  
Rotunda,  
Dublin 1  
D01 V902

|                       |             |
|-----------------------|-------------|
| AN COIMISIÚN PLEANÁLA |             |
| LDG-                  | _____       |
| ACP-                  | _____       |
| 14 SEP 2026           |             |
| Fee: €                | Type: _____ |
| Time: 9:15            | By: RWR pos |

Case Number: ACP 324277-26

Re: Application for Substitute Consent pursuant of 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 all associated site works. The application is accompanied by a remedial Environmental Impact Assessment Report (rEIAR) and a remedial Nature Impact Statement (rNIS). Ardcahan (townland), Dunmanway, Co Cork.

An Taisce response 28.7.26

Applicant response 14.8.26

Dear Sir/ Madam

We wish to comment on the above responses to the aforementioned application. We can concur with An Taisce's observation that the applicant has failed to provide the necessary clarity to satisfy the strict statutory criteria for Exceptional Circumstances. Furthermore, when navigating the complexities of the current Irish planning law, the statutory requirements remain unfulfilled by the applicant. The overriding ruling of the European Court of Justice demands that, first and foremost, that the environment has to be protected, and that the Applicant has to prove beyond doubt that it has done sufficient work in the past to warrant the trust placed upon it by the grant of Substitute Consent. What we have here is a classic dichotomy between two distinct styles of law: whether a defendant is guilty until proven innocent, or innocent until proven guilty. The Applicant cannot provide proof that no damage was done to the environment, and we argue that because there is no proof, then there remains the possibility that damage was done. To make matters worse, European Law demands that the time frame for the Environmental Assessment starts in 1993, which is way before the Applicant had anything to do with the site. How could the Applicant claim to have any pertinent information to enable them to complete an accurate assessment, when the previous occupant of the site was a sub-contractor to Cork County Council.

This leads us into the blockage that is caused by the nature of the State and the council. Choose your own start point between the original failure to complete an Environmental Assessment by the sub-contractor or the Environmental section of the Council, the failure of the Environmental Protection Agency to get involved, the National Parks and Wildlife Service when the Bandon River SAC was nominated in 1998, the conveyancing section of the Council when they sold the old quarry to the Applicant without pointing out that they would need Planning to continue quarry operations,



the Council Roads department who have been buying stone and Tarmacadam off the Applicant for the last 30 years or so, or perhaps the Applicant themselves who would have us believe that they happily blasted out and crushed over a million tons of rock without the need for any official clearance.

An Taisce sees fit to re-iterate the Section 177K(1J) of the Planning Development Act 2000 (as amended) states the following with regard to defining Exceptional Circumstances:

- a) *Whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive:*

The Applicant certainly circumvented the primary objective from both the Directives simply by not doing them when they had a chance. What the Applicant is now asking us to believe they will follow the directives that they have not done for the last 28 years.

- b) *Whether the applicant had or could reasonably have had a belief that the development was not unauthorised;*

The Applicant bought an old quarry off the Council and immediately started constructing a Tarmacadam Plant in the quarry and applied for Planning Permission for it. Basically, all they bought was a hole in the ground and a road to it. If they had bought a car off the council, they would have needed to have a licence to drive it. If they had bought a house and wished to enlarge it, they would have needed Planning Permission. To re-start quarrying would increase the footprint of the ex-quarry, it stands to reason they would have needed permission, otherwise what would be there to stop them blasting a hole's all the way to Wood's Cross. They knew they needed Planning Permission for the Tarmacadam Plant, why not put a Planning request for the quarry? That would have been in 1998, and it would have saved everybody all this trouble. We note what happens when a house is developed without Planning Permission as in the case of Michael and Rose Murray versus County Meath. They have had to demolish their 5 bedroom house after a 20 year battle that reached the Supreme Court.

It shows that Meath County Council and the Supreme Court used the Planning system correctly and the Court ordered a family home to be demolished because the applicant's had bypassed the Planning system. This is why this applicant's commercial operation should not be treated any differently and be not allowed to by-pass the law.

- c) *Whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;*

The Applicant contends that the absence of a complete contemporaneous dataset is not, in itself, determinative of refusal, unfortunately for the Applicant, there is a complete absence of any environmental impact information available to the public. What is available in the Applicant's r EIAR is only what a passing satellite would have seen, and as I will show, this is illuminating but incomplete.

- d) *The actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;*

The Applicant's assessment concludes that while quarry operations may have contributed to suspended sediment loading during periods of heavy rainfall, there is insufficient evidence to quantify any such contribution. Well, let us not forget, this is West Cork we are dealing with, and periods of heavy rainfall typically fall every week from September to March. Had the Council and the Environmental Protection Agency done what they were supposed to do, then the Applicant should have been encouraged to provide evidence of water and air sampling. The nomination of the Bandon River Special Area of Conservation in 1998 by the NPWS was another opportunity missed, but still no regular water samples taken. The Applicant tries to make out that that the SAC did not come into force until 2019, yet it had 'Interim Legal Protection' since 1999. Whilst the lack of evidence of any adverse effect on the environment is not proof of innocence, An Taisce sites paragraph 58 of the

② 1473

324277-26



CJEU judgement in c-215/06: *The first recital of the preamble to Directive 85/337 states that it is necessary for the competent authority to take effects on the environment into account at the earliest possible stage.....the objective being to prevent the creation of pollution at source rather than subsequently trying to counteract their effects* ; the applicant has not shown any proof of preventing the creation of pollution.

e) *The extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;*

It seems straight forward, if there is no future quarry activity, then there is no generation of dust, no washing of stone, no noise nuisance, no escape of PAC into the environment. If the bunds and settlement ponds are constructed as suggested, then pollution from the Tarmacadam plant can be remediated. Let us put the mental into environmental and leave this disused quarry to the Peregrine Falcons and Kestrels.

f) *Whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;*

The Applicant's Planning Statement seeks to legitimize the planning status of the quarry through its use prior to 1963 and acceptance by both Cork County Council and An Bord Pleanála, and yet the High Court ruling has shown up the shortcomings of their decision-making processes regarding this site. In fact, the Council ruled in 2011 that the quarry did not have Planning Permission and enforced that decision in 2014 with closure. To invent a completely bogus Planning status using a false reference of 98/284 is demonstrably false and factually incorrect. All subsequent statutory attempts by the operator to reopen the quarry have failed, and the site is bound by the High Court to remain closed.

The Applicant observes in their 'Planning History and Legal Status' that the long established pre-1963 operation supports the continued use of the Substitute Consent procedure. We contend that morphological evidence and historical analysis of the extraction areas will demonstrate that it comprises two separate quarry entities rather than a single continuous development. The 'top' quarry holds the Tarmacadam plant, stone storage shed, ancillary buildings, hard standing and the area used for Mastic Tar blocks. What is not obvious to the layman is that the top quarry, floor level circa 90 meters OD., is worked out, that is to say there is no more winnable stone to be gained by quarrying at that height (this was alluded to by Bob Guinkel in 1998). The massive stone cliff behind the Tarmacadam building gives an illusion that the quarry cuts into a hillside, when in fact, the land falls away to the north. That cliff was not quarried because it is too narrow to drill and blast safely, it is in effect the pie crust left over when the pie has been eaten. Note the ariel photograph on page 41 of the Applicant's Substitute Consent r EIAR Volume 2 Main Statement, taken in 1995, erroneously described as "pre-1990 extraction area". The photo shows the boundaries of the 'top' quarry outlined in red, and this would represent that part that was quarried from pre-1995 until 1998 when it was taken over by the Applicant. Outside of the red area it is mostly woods and fields, but there can be seen a pale patch to the east which is the spoil dump.

The second photograph on page 41, taken in 2000, shows a new pale area to the west of the old 'top' quarry and this is the part that is under active excavation, this was previously woods and fields. This new quarry is the area which the Applicant has been excavating to a depth of 74 meters OD. This area is adjacent to the 'top' quarry but has separately accessed from the southwest. This 'lower' level was not being quarried prior to 1990, hardly scratched by 1995, and therefore it is disingenuous to suggest that just because there was a quarry somewhere nearby, then it must be legitimate; this new area is a distinct, unauthorised phase of site clearance and extraction which occurred well after the statutory baseline dates, directly undermining the applicant's claim of long standing historical immunity.

The photograph on page 42, taken in 2005, shows the newer 'lower' quarry now fully developed, with rounded piles of crushed stone at the western side and a prominent line running north-south marking the quarry face which will be moving eastwards. Please also note white areas to the east of

③ 1278 324277-20



the site which are unconsolidated spoil without any vegetative cover and subject to rainwater runoff adjacent to the boundary stream. This ariel photograph also highlights just how much white there is, they are all areas of the 'quarry environment' type, characterised by hard surfaces, coated with mud or dust, and highly mobile on windy days or rainy days.

An Taisce is concerned about the details of the proposed Remediation Plan and whether it is adequate. The Applicant purports to provide a comprehensive Remediation Plan to address the issues around runoff, constructing lagoons with penstock weirs and attenuation ponds with wet grassland. We contend that they should be in place and working properly before any further quarry activity can take place. The Applicant wishes to blast out an area under Phase 1 before the lagoons are constructed. This is a problem insofar as there will not be any proper barrier in place to protect the Bandon River SAC from silt runoff for probably five years or so.

The Applicant seeks to downplay the inconsistencies in its response, but questions remain; the Regeneration Plan will use the existing entrance and access roads on site *'but is likely to include the provision of a new bored well, pump house and septic tank/wastewater treatment system as well as a new weigh bridge. The office, canteen and WC will be located off the roadway to the tarmacadam plant on the quarry floor as shown'*. Unfortunately, they are not shown, but a small smudge marked 'existing weighbridge'. What phase of work is this going to take place in? and why the need to duplicate these facilities which are all available in the Tarmacadam plant?

**S37L EIAR Vol 2: Main Statement; 7.4.4.1** There is also talk of a **second quarry access being made in the NW corner of the site**, but there is no sign of it on any map, and will it meet a public road?.

**S37L EIAR Vol 2 Main Statement 11.2.1 Lagoon, Silt Pond, and Washing Facility** the proposed site layout will need to make provision for a clean water lagoon(s) located on the quarry floor. This may involve blasting to form a lake. This whole site would drain into this lagoon(s) and would require a controlled overflow for times of heavy rainfall. this would require a **new discharge point to the Caha Stream** and will require monitoring as well as a possible discharge licence. Note that the Caha River is some 360 meters away to the northwest. There is a group of local farmers who have worked together to prevent any stock related pollution from entering the river, through improved fencing to keep stock out of the river and provide alternative drinking sources. Will all their hard work be in vain.

An Taisce states that more detail is required on the remediation of the full impacts of historic habitat removal, and yet more habitat is due to be removed. The Applicant proposes to replant areas once Phase 2 has been completed, but this will be by their own estimates planting will take ten to fifteen years, and only covers 10% of the site.

**Request for Clarification regarding planning application.**

Re: Serious Concerns Over Ambiguous Access Roads Infrastructure Mapping, and Environmental Impacts

We formally request that the planning Authority require the applicant to submit comprehensive clear and a fully scaled site map. the current documentation leaves critical structural and logistical details ambiguous, making it impossible to accurately assess the localised environmental and structural impacts, we require the planning authority to enforce clarity on the following points.

**Undocumented Northwest Access:** the applicant states that a new access is required to the Northwest, yet this road is completely missing from the submitted maps. the applicant must clearly mark the exact route of this northwest access. Further-more they must clarify its precise operational boundaries: is this access road located entirely within the site boundary, or does it exit the site **onto** external public/private roads?

(4)

KTB 324277-26



**Unmapped Heavy Infrastructure:** the applicant acknowledges that new infrastructure-such as a weighbridge and associated facilities-is "likely needed," yet these major structures have not been positioned or marked on the site plan. All proposed infrastructure must be definitely located and mapped.

**HGV Traffic Routes:** Heavy Goods Vehicles generate significant mud, dust, and dirt. Because the applicant has failed to map the second northwest access and weighbridge, the exact transit routes of these lorries remain unknown. We require a clear mapping of all HGV internal and external transit routes to evaluate the true extent of dust and mud pollution.

While the applicant proposes mitigation measures and re-seeding to combat the environmental degradation, the specific areas designated for these remediation works are completely unclear. The exact zones for reseeded and environmental mitigation must be distinctly marked out on a unified site map so their proximity to sensitive areas (and their overall efficacy) can be properly evaluated.

*Regarding the use of poly-aluminium chloride to settle solids and silts, this was raised by An Taisce and on all other submissions, we all highlighted that PAC is toxic and harmful to aquatic ecosystems, particularly when in concentrated forms. An Taisce along with the Cork County Council Environmental Officer (Air and Water) and ourselves share concerns that the use of PAC does not appear to have been regulated and that more information on potential impacts is required, including if sediment is disturbed.*

The Applicant states: *the r NIS specifically assesses the use of PAC and acknowledges that, under certain circumstances, aluminium compounds can affect aquatic organisms. However, the assessment demonstrates that only very small volumes of PAC were used on site, and that the material was heavily diluted, retained internally within settlement ponds and further diluted before any potential discharge.*

We can highlight that there is a lack of documentation, testing or monitoring, that it was applied on an ad hoc basis, and that it may have been used before 1998 by previous quarry operators. We have been led to believe that incorrect dosage levels can compromise its efficiency, along with the Ph of the water and an intermittent process. There is no proof either way as to the harm that may have been caused, and this falls short of requirements of European Environmental legislation.

Our ability to comment has been strictly limited to the **An Taisce response 28.7.26 and the applicant's response 14.8.26.** how-ever this final submission must address the core issues of the environmental risk and applicant's trust worthiness. The site sits directly adjacent to the Bandon River SAC an environmentally sensitive waterbody, the required standard of protection is absolute. The applicant has demonstrated a consistent lack of responsibility, by the evidence submitted in our first submission. The applicants survey team have focussed strictly on the historical period 1990-2014.

While the specific details of the applicant's failures since 2014 have been detailed in our previous submissions and remain on the boards records for review- we urge the board to look at the whole picture, the applicant has consistently demonstrated a disregard for planning regulations, environmental protection and the local community, the continual cutting of invasive species,( and in 2026 reported to the Dunmanway roads authority by email),unauthorised removal of the bollard and the failure to secure the site against disruptive anti-social behaviour( such as car drifting),allowing a wind farm contractor to utilise the lower quarry floor without proper environmental survey (EIA)or assessment being carried out, is a violation of planning laws. Hiding the site notice in 2022 from public view, and the blasting note we received stating" this one will blow your roof off."

A planning permission is based on trust, accuracy, and strict adherence to environmental law.

⑤ LTB

324277-20



As a final point the board should be made aware of the obstacle course the public has been faced with just to get the basic facts for this submission. when we phoned the local Cork Co council office in Inniscarra to ask for the planning number for this application 98/294, they could not help us, and we was told to send in an e-mail, that e-mail was silently sent to Wexford (head office) five weeks and zero reply, (we had actually started to find out information on-line at the beginning of July 2026). When we spotted the councils own surveyors name in the report we e-mailed Cork Co council Inniscarra back to ask the councils Surveyor for some information directly, the system shuffled us straight back to Wexford again. Resorting to formal information request (FOI) yielded a response within 30 minutes, not with the information data we had requested but with a warning we would have to pay 100 euros unless we held medical cards, with no guarantee of even getting the records. We should have requested AIE (Access to Information on the Environment.) now done so. The applicant has had decades to prepare their case, local citizens are passed from pillar to post, hit with financial barriers, and left completely in the dark. This is not meaningful public participation, it is administrative exclusion. (EPA letter enclosed).

Yours sincerely

Kate Baker

Tim Baker

K.S. Baker  


⑥ KTB 324277-26





Kate Baker  
Knockduff  
Dunmanway  
Co Cork  
P47WR24  
[katentim3459@yahoo.co.uk](mailto:katentim3459@yahoo.co.uk)

Headquarters, PO Box 3000  
Johnstown Castle Estate  
Co Wexford,  
Y35 W821, Ireland

Ceannchethrú, Bosca Poist 3000  
Eastát Chaisleán Bhaile Sheáin  
Contae Loch Garman,  
Y35 W821, Éire

T: +353 53 916 0600  
F: +353 53 916 0699  
E: [info@epa.ie](mailto:info@epa.ie)

04/09/2026

**Re: FOI-0036-2026 Acknowledgement**

Dear Ms Baker,

I refer to your request dated and received on 21 August 2026 made under the Freedom of Information Act 2014 (FOI Act), for records held by the Environmental Protection Agency (EPA). The reference number assigned to your request is **FOI-0036-2026**. Please use this number in all future correspondence with the EPA on this matter.

Your request sought:

**“...Records for . Murray Brothers Tarmacadam Ltd Dunmanway Co Cork.  
Air Pollution Act 1997  
Air Emission License number AP 01/98**

**Any records relating to Murray Brothers Tarmacadam Ltd operating their Tarmacadam /Asphalt Plant.**

**Specifically we request access to the following records, covering the past ten years, which we understand from the Draft license that is in our possession , as stated in CONDITION 10 - REPORTING 10.2.**

**Environment Compliance documents, copies of all Emission Monitoring Records and related environmental paperwork submitted by or for this facility to the EPA. Any correspondence, notices or audit reports held by the EPA regarding the Facility emissions licensing monitoring data or record keeping compliance. Any internal record keeping , corrective action reports or files held by the EPA regarding Murray Brothers, this should include any electronic or hard copy documentation concerning operational monitoring ,waste tracking from the plant.**

⑦ KTB

3a4a77-26



**The documents can be sent by email or post. We are aware the EPA have been on this site to generate a report regarding an application for substitute consent for Murray Brothers operations. under ACP planning ref 324277 and 324278. The licensing documents are held at Inniscarra regional office. We would appreciate a response within 30 days of this e mail being sent...."**

The decision maker handling your request is myself Kathleen Byrne. I wish to acknowledge receipt of your request. A final decision on your request would normally be sent to you within 4 weeks from the date of receipt of your request, where a week is defined as 5 working days excluding the weekend and public holidays. This means that you can expect a decision letter to issue not later than 18 September 2026. However, we may be in touch with you again depending on whether your request is valid or not.

Section 27 of the FOI Act provides for the charging of fees in relation to costs associated with search, retrieval and copying of records. This fee is charged in accordance with the details on the EPA's website.. Please note that the fee may be waived where the cost is estimated at less than €100. We will consider reducing the fee if you hold a medical card or are in receipt of a social welfare payment. We will disregard charges if the record contains only personal information.

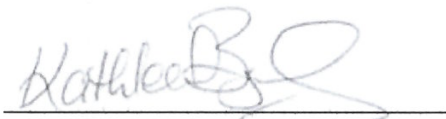
There are some limited situations under the FOI Act, where a final decision may take longer than 4 weeks. If this occurs in the case of your request, we will advise you promptly in writing setting out the reason and the new decision date.

If you have not heard from us once the allotted time has expired, you are automatically entitled to appeal to the Environmental Protection Agency for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired. The review is a full and new examination of the matter carried out by a different member of staff.

In the event that you need to request such a review, you can do so by writing to the FOI Unit, EPA, Johnstown Castle Estate, Wexford, Ireland, or alternatively by sending an e-mail to [foi@epa.ie](mailto:foi@epa.ie). You should state that you are seeking this review because an initial decision was not sent to you within the time allowed for a response. You have 4 weeks (after the initial decision should have been sent to you) in which to make the appeal. Consideration will be given to late applications in certain circumstances.

I wish to advise you that details of all non-personal FOI requests, and associated documents released will be recorded on an FOI disclosure log which will be published on the EPA website in due course.

Yours sincerely,



**Kathleen Byrne**  
FOI Decision Maker  
Office of Environmental Sustainability

⑧ LTB

324277-26

