

An  
Bord  
Pleanála

Board Order  
ABP-310263-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 20/659**

**Appeal** by Patrick Foran of Knockeen, Castleisland, County Kerry and by Ballyegan Community Protection Group care of Karina O'Mahony of Ballyegan, Ballymacelligott, Tralee, County Kerry against the decision made on the 22<sup>nd</sup> day of April, 2021 by Kerry County Council to grant subject to conditions a permission to Roadstone Limited care of SLR Consulting Ireland of 7 Dundrum Business Park, Windy Arbour, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Erection and operation of an asphalt plant (stack height 20 metres), associated aggregate storage bays and storage shed (980 square metres), a portaloo and a wheelwash within an overall application area of circa 1.8. hectares at the existing quarry landholding, all at Ballyegan Quarry, Ballyegan, Castleisland, Co. Kerry, as revised by the further public notice received by the planning authority on the 26th day of March, 2021.

## Decision

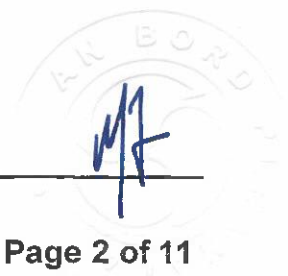
**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## Reasons and Considerations

Having regard to the nature and extent of the proposed development, the brownfield nature and established use of the site for quarrying and associated manufacturing activities, the planning history of the site, the availability of direct access to the national primary road network, the existing rural character and pattern of development in the vicinity, and to the provisions of the Kerry County Development Plan 2015 - 2021, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## 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 received by the planning authority on the 9<sup>th</sup> day of March, 2021 and by An Bord Pleanála on the 21<sup>st</sup> day of June, 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 is not to be construed as any form of consent or agreement for the extraction of material for use in the proposed asphalt plant from the applicant's landholding, as outlined in blue on the site location map submitted to the planning authority on the 22<sup>nd</sup> day of July, 2020.

**Reason:** In the interest of clarity.

3. (a) The proposed portaloo shall be omitted and the proposed development shall be served by the existing on-site wastewater treatment system located within the landholding. Within three months of the date of this decision, the developer shall carry out a detailed survey of the treatment system in question and shall submit the findings along with details of any proposed upgrading works to the planning authority for written approval.
- (b) Any upgrading works proposed or required for the on-site wastewater treatment system shall be submitted to, and agreed in writing with, the planning authority and shall be fully implemented prior to the first occupation of the proposed development.
- (c) The wastewater treatment system serving the development shall be maintained on an ongoing basis in accordance with the requirements of the document entitled "Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009, and with any relevant national legislation.

**Reason:** In the interests of environmental protection and public health.

4. (a) The asphalt plant and all activities occurring therein, shall only operate between 0600 hours and 1900 hours, from Mondays to Fridays inclusive and between 0600 hours and 1400 hours on Saturdays. No activity or operation shall take place at the site and/or the surrounding quarry site outside these times.
- (b) Operations between 0600 hours and 0700 hours shall be restricted to plant startup operations only. No heavy goods vehicles shall be permitted to enter or leave the site until 0700 hours.

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

5. During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location in the vicinity, shall not exceed –
  - (a) An LArT value of 55dB(A) during the period 0700 to 1900 hours from Monday to Friday (inclusive) and 0700 to 1400 hours on Saturdays.
  - (b) An LAeqT value of 45dB(A) at any other time.

All sound measurements shall be carried out in accordance with ISO Recommendations R 1996, "Assessment of Noise with Respect to Community Responses" as amended by ISO Recommendations R 1996/1, 2 and 3 "Description and Measurement of Environmental Noise", as appropriate. The measurement time intervals to be used are one hour by day and 15 minutes by night. There shall be no tonal or impulsive element to the noise generated on site during the night time hours.

**Reason:** To protect the amenities of properties in the vicinity of the site.

6. Vehicles transporting material to and from the site, and accessing the site, shall use the N21, the N22 and the N23 only and HGVs associated with the asphalt plant shall not be allowed to use the local roads in the vicinity of the site. All vehicles other than private cars and vans leaving the site shall pass through the wheel wash facility.

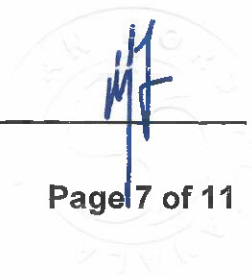
**Reason:** In the interests of traffic safety and in order to mitigate the extent of maintenance and upgrading works to the local road network necessitated by vehicular traffic accessing the site.

7. Water supply and drainage arrangements for the site, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. In this regard details for the protection of ground and surface water from contamination by run-off from the site shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.

**Reason:** In the interests of environmental protection.

8. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement, proposals for the quarterly monitoring of noise levels at nearby sensitive receptors. The results shall be submitted to the planning authority on a quarterly basis within one month of the end of the quarter being reported upon. On the basis of the results submitted over time, the planning authority may review the frequency of the monitoring and whether to engage a third party to carry out environmental monitoring on its behalf. Any recommendations arising from such monitoring shall be fully implemented and made available for public inspection at the offices of the planning authority and the costs of the monitoring shall be at the expense of the developer.

**Reason:** In the interests of environmental protection and public health.



9. 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). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures. Dust monitoring shall be carried out three times a year (twice during the period May to September), or as otherwise agreed in writing with the planning authority. The results shall be submitted to the planning authority within one month of the end of the period being reported upon. On the basis of the results submitted over time, the planning authority may review the frequency of monitoring and whether to engage a third party to carry out environmental monitoring on its behalf. Any recommendations arising from such monitoring shall be fully implemented and made available for public inspection at the offices of the planning authority and the costs of the monitoring shall be at the expense of the developer.

**Reason:** In the interests of public health and residential amenity.

10. All overground tanks containing liquids (other than water) shall be contained in waterproof bunded areas, which shall be of sufficient volume to hold 110 per cent of the volume of the largest tank within the bund. All water contaminated with hydrocarbons, including stormwater, shall be discharged via a grit trap and three-way oil interceptor with sump to a watercourse. The sump shall be provided with an inspection chamber and shall be installed and operated in accordance with the written requirements of the planning authority.



**Reason:** In order to protect ground water.

11. The proposed mitigation measures shown on Drawing Number FI 2, and as detailed in the Visual Appraisal submitted to the planning authority on the 9<sup>th</sup> day of March, 2021, shall be completed prior to the operation of the asphalt plant. The existing screen planting and earthen berms along the external boundaries of the developer's landholding shown on the said drawing shall be retained on site. All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of a similar size and species, unless otherwise agreed with the planning authority.

**Reason:** In the interests of the visual amenity.

12. A site survey for the invasive non-native plant species listed in the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended, shall be undertaken on an annual basis by a suitably qualified individual. Any such species found within the site shall be managed in accordance with a detailed Invasive Species Management Program prepared by a suitably qualified individual and shall be agreed in writing with the planning authority.

**Reason:** To control the introduction and spread of invasive species in the interests of orderly development and the proper planning and sustainable development of the area.

13. Construction and demolition waste shall be managed in accordance with a construction and demolition waste management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

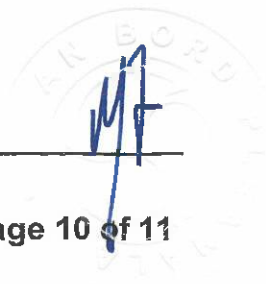
**Reason:** In the interests of sustainable waste management.

14. A comprehensive waste management plan to include Hazardous Waste (if any) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development.

**Reason:** In the interests of environmental protection and public health.

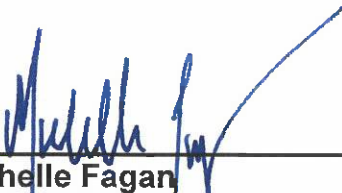
15. Comprehensive details of the proposed external lighting system to serve the development shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.

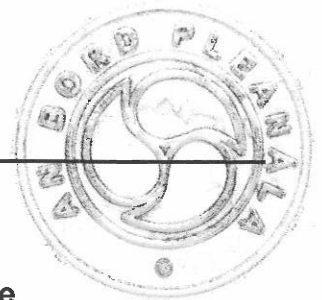
**Reason:** In the interests of amenity and public safety.



16. 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 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.

  
Michelle Fagan  
Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.



Dated this 24<sup>th</sup> day of February 2022.