



An  
Bord  
Pleanála

## Inspector's Report 310263-21

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<b>Development</b>	Erection and operation of an asphalt plant, (stack height 20m), associated aggregate storage bays and storage shed (980sq.m), a portaloo and wheel wash within an area of 1.8ha at the existing quarry landholding.
<b>Location</b>	Ballyegan Quarry, Ballyegan, Castleisland, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	20/659
<b>Applicant(s)</b>	Roadstone Ltd.
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Grant permission s.t. conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Patrick Foran Ballyegan Community Protection Group
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	26 <sup>th</sup> October 2021
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site is located on the N21 approx. 4km to the west of Castleisland Town. It has a stated area of 1.8ha and is located within an existing limestone quarry. The quarry has an overall area of 34ha, and operations are currently suspended. It is accessed directly from the N21 (Castleisland – Tralee). The boundaries of the quarry are delineated by landscaping and earthen berms with mature vegetation, which largely screens the quarry from external areas. It is bounded to the north by the N21, which is a busy national primary road with hard shoulders. The existing entrance comprises a double-gated access with a widely splayed recess. There is a right-turning lane from the N21 for vehicles entering the quarry. The roadside boundary is delineated by dense, mature tree planting. There is a local road which abuts the quarry site to the south. The lands surrounding the quarry site are mainly in agricultural use with several farmhouses and one-off houses in the overall vicinity.
- 1.2.** The main quarried area is in the centre of the quarry and the void has been flooded following the return of natural water levels. The areas surrounding the void have previously been used for open storage of materials with a concrete batching plant, office building, weighbridge and ancillary storage buildings still on site. The proposed asphalt plant is to be located in the northern part of the quarry site, close to the site entrance and to the north-east of the void.

## **2.0 Proposed Development**

- 2.1.** The application was lodged with the planning authority on the 22/07/20 with further plans and details submitted on 09/03/21 following a request for further information dated 14/09/20.
- 2.2.** It is proposed to erect and operate an asphalt/macadam mixing plant with a stack height of 20 metres. It includes provision for the use of Recycled Asphalt Products (RAP) and associated aggregate storage bays and a storage area. It is also proposed to install a new portaloo and a wheelwash. However, other existing site infrastructure such as the weighbridge and site office will be utilised in addition to the existing site entrance, visitors and staff parking areas.

- 2.3.** Materials will include aggregates, sand, high PSV stone and bitumen. All material to supply the proposed asphalt plant will be imported into the site. Operations at the existing quarry site are suspended and there will be no aggregate material from the quarry to supply the development. The plant will receive planings from road jobs in the area under article 27 (European communities (Waste Directive) Regulations 2011) notifications to the Environmental Protection Agency. The RAP element comprises an additional hopper, a bottom-fed conveyor system and a rising elevator to deliver these materials to the plant. The recyclable bituminous material will be stored in a specially designed storage shed to keep the material dry.
- 2.4.** The proposed asphalt plant is described as a fixed plant of modular construction. The fuel oils associated with the plant will be stored in bunded areas. The process involves loading the aggregates into the feed system (steel bins) which discharge onto a collection conveyor. The materials are then fed into a drier feed box and then into a rotary drier fired by an oil burner. Once heated and dried, the hot material is transported by an enclosed bucket elevator to a sealed screening unit, where it is sized and discharged into hot-stone storage bins. Weighed aggregate from here is discharged into a mixer where the required amount of bitumen is added and the final product is transferred to a travelling skip for discharge to heated mixed-material storage silos for vehicle loading prior to delivery.
- 2.5.** The operating hours would be between 0600 and 1900 Monday to Friday and 0600 to 1400 on Saturdays, and no operation on Sundays or Bank Holidays, with start-up of the plant only from 0600 to 0700. Material will only be dispatched and received to the site from 0700 to 1900, with only two staff cars arriving before 0700. There will be no HGV traffic generated before 0700 hours. There are no proposals for occasional operating hours outside of these hours.
- 2.6.** The proposed development will provide employment for 2 direct employees. The potential maximum output of the proposed plant is stated as 240 tonnes per hour of ordinary road mix with a finished product temperature of 160 degrees. It is stated, however, that the plant will not be operating at maximum output level and that it will produce/export a maximum of 120,000 tonnes p.a. the expected amount of RAP to be used is given as 12,000 tonnes p.a. The total number of HGV trips is expected to be 64 per day (34 export/30 import). The aggregate material will be sourced from Ardfer Quarry (50%) and from Killarney Quarry (50%).

**2.7.** The application is accompanied by:

- Planning and Environmental Report
- Noise Impact Assessment
- Air Quality Dispersion Modelling
- Odour Impact Assessment
- Visual Appraisal (amended by way of further information)
- Traffic and Transport Assessment
- AA Stage I Screening Report

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to 15 no. conditions. These were generally of a standard type and included the following conditions of note:-

- Condition 2 required a financial contribution of €11,760.00.
- Condition 3 prohibited the extraction of material for use in the asphalt plant.
- Condition 4 restricted hours of operation as proposed.
- Condition 5 restricted noise emissions at nearest noise sensitive receptors to 55dBA daytime and 45dBA nighttime.
- Condition 6 required the omission of the proposed portaloo and instead the development to be served by the existing wastewater treatment system, which shall be subject to a detailed survey and shall be upgraded accordingly if required.
- Conditions 7 and 8, respectively related to surface water management and storage of liquids, including fuels and oils. Conditions 9 and 10 also related to measures to contain any spillages and storage/removal of hazardous waste.

- Condition 11 and 12 related to environmental monitoring. Condition 11 restricted dust deposition levels to 350mg/m<sup>2</sup>/day and also required noise and dust monitoring.
- Condition 13 related to external lighting.
- Condition 14 required the implementation of mitigation measures set out in the Visual Appraisal Report prior to operation of the plant.
- Condition 15 required a site survey of non-native plant species and a management plan for same.

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

#### **3.2.1. Planning Reports**

The Area Planner's report (14/09/20) noted that a similar development had been refused by the Board in March 2020 on the grounds of traffic safety and convenience and the impact on the amenities of properties by way of noise and general disturbance. However, the differences between that proposal and the current one were noted as follows:

- Supply of raw materials – no longer proposed to include existing quarry.
- Occasional operation outside permitted hours – no longer proposed.

It was also noted that submissions had been received from 17 no. third parties in which various issues were raised. These related to proximity to housing, farms, a creche and schools; better site at Killarney with planning permission and abandoned nature of quarry; apparent differences between max capacity and proposed output and failure to take account of seasonal variations and max daily outputs; queries re whether road planings over and above the 12,000 tonnes will be stockpiled on site; as well as issues such as noise, air quality, dust, odour, water contamination, traffic, hours of operation, lifespan and future use of site, and depreciation of property values.

The Area Planner considered that the site would be appropriate in principle having regard to its former use, access from the N21 (national primary road network) with a right-turning lane; the Rural General zoning and the distance of the closest dwelling at 248m, as well as the large size of the overall site (34ha) and the existing extensive

screening on site. It was considered that the site could facilitate the recycling of Asphalt products for the County. Notwithstanding this, it was considered that there was insufficient information upon which to make a determination. FI was requested in respect of a number of items including the following:

1. Revised layout showing details of storage/loading areas for each material, surface water drainage proposals including mitigation measures for protection of surface and ground waters, lighting plan and details of the berms and landscaping proposals.
2. Details of the pre-operational works including construction works, stockpiling of materials and hours of operation.
3. Clarification of the maximum quantities of materials to be stored on site and stockpiling of same.
4. Traffic management plan for HGV movements associated with the operation of the proposed development taking into account the nature of the road network and potential to impact on residential amenity.
5. Revised visual assessment taking into account the emissions plume.
6. Confirmation that the technical assessments (noise, odour, air quality) have taken specific account of the production levels and traffic volumes set out in the applications.
7. Confirmation that the air quality and odour assessments took specific account of the design maximum stack emission rate and clarification that this rate corresponds to the outlined maximum asphalt production rate (240t.hr).
8. Confirmation that noise and odour assessments have specifically taken account of EPA Guidance documents 'Guidance Note for Noise' and 'Odour Emissions Guidance Note', respectively.
9. Consider replacing the proposed portaloo with a new on-site wastewater treatment system.
10. Review all environmental assessments and update them in accordance with any new information provided in relation to the above as well as any recently permitted planning permissions of relevance in the area.

### **3.2.2. Other Technical Reports**

**Environment** (10/09/20) – Confirmation required regarding technical assessments in relation to noise, odour and air quality in terms of production levels, traffic volumes, max stack emission rate and correspondence with max asphalt production rate of 240t/hr. in addition, confirmation required that the assessments had regard to EPA Guidance on Noise and Odour emissions, respectively. Concern was raised re the proposed portaloo and revised proposals sought.

**Archaeologist** (04/08/20) – Recorded Monuments Ke039 021 and Ke039 022 have been completely destroyed and no trace of them remains. As such, there are no recorded monuments in proximity to the proposed development and no mitigation is required.

### **3.3. Prescribed Bodies**

**Transport Infrastructure Ireland** (19/08/20) – No observations to make.

**Inland Fisheries Ireland** (11/08/20) – the site has an area of standing water which has historically been subject to ground water fluctuations and stream water inflow via rock fissures. This standing water requires protection from contaminated surface water runoff from the proposed activity and measures to control such surface flow should be implemented in full, including contaminated storm and surface run-off from the works site, from access roads and from the general storage and operational area. Specific control measures are needed where hydrocarbon type materials are to be used with bunded containment areas for all chemicals, petrol and other potentially toxic type substances. It will be necessary to provide proposals for storage specifying impermeable, bunded and secured areas within the site.

### **3.4. Third party observations**

Seventeen submissions received including one from each of the two appellants. The submissions received by the P.A. are on the file for the Board's information. The issues raised are summarised in the Area Planner's initial report (14/09/20). The issues raised are generally comparable to those set out in the third party appeals which are summarised in Section 6.0 below.

### 3.5. Response to Further Information Request received on 9<sup>th</sup> March 2021

1. Revised site layout – Detailed proposal regarding storage and stockpiling of materials, a lighting plan, a revised landscaping plan and details regarding the surface water management on site.
2. Surface water management system – revised plans indicate that there will be no surface water discharge from the proposed development as rainfall will percolate to ground or to the existing quarry void. Groundwater recharge is diffuse and there is no point recharge. Fuel storage areas will be bunded and silt traps will be used for run-off and emergency spill kits etc.
3. Pre-operational works – additional details provided including landscaping/berms to be provided in advance and phasing of works.
4. Storage/stockpiling of materials – the details requested are provided and stockpiling was included in environmental assessments.
5. Traffic movements – a TTA was submitted with application. Some of details regarding particular truck movements/trip generation reiterated.
6. Visual impact appraisal – A Plume Visibility Impact Assessment along with a Revised Visual Appraisal has been provided as FI.
7. Noise/Odour/Air Quality – The required confirmations were given. An amended Noise Impact Assessment was provided.
8. Portaloo – Confirmation that a portaloo is to be provided and additional details regarding location and maintenance given.
9. Revised environmental information – Confirmed that any supplementary information was reiterated in the individual responses to the items set out above. No further amendments to the planning application required.

The FI was deemed to be **Significant** and was required to be **readvertised**. It was readvertised on the **26<sup>th</sup> of March 2021**.

**TII** reiterated no objection to proposed development.

**Environment Dept.** – no objections subject to conditions.



Two further submissions were received from the public which included one of the appellants (Ballyegan Community Protection Group). It was considered that many of their concerns had not been addressed.

**Area Planner's second report (20/04/21)** - In respect of traffic impact, it was noted that since the previous use of the site (when there had been a spillover effect on some local roads), the Castleisland bypass has been built and other significant road improvements include the upgrade of Dysert Bridge (between Castleisland and Farranfore). The conclusions of the TTA that there would be negligible impact on the road network was generally accepted. It was considered that the Visual Impact of the plant and the associated plume would not be unduly adverse on the local environment. The noise and dust mitigation measures were noted and considered to be acceptable subject to mitigation as proposed and can be addressed by means of conditions. It was noted that an Air Emissions Licence would be required under the Air Pollution Act. It was noted that the proposed development is located above the water table and that no dewatering is proposed and there will be no surface water discharge to any watercourse. Surface water drainage was considered to be acceptable and the substantive risks to water quality have been addressed by means of best practice methods and appropriate mitigation. However, it was considered that the portaloo should be replaced by a more permanent solution for the treatment of wastewater on site which could be addressed by condition. The need for EIA was ruled out as the proposed development is not of a class of development requiring EIA. Appropriate Assessment was ruled out on the basis of distance and lack of a hydrological connection to any European sites. **Permission** was recommended subject to conditions.

#### **4.0 Planning History**

**ABP.305546-19 (18/1289)** – Planning permission **refused** by the Board following a third-party appeal against P.A. decision to grant permission for the erection and operation of an asphalt plant on the site to include a recycled asphalt products plant and associated aggregate storage bays and storage area. The reason for refusal: -

Having regard to the location of the proposed asphalt plant in close proximity to residential properties, and to the lack of adequate information presented in terms of capacity of the plant, the quantities and source of the aggregate required to service the plant, and vehicular movements that would be generated, the Board is not satisfied that the proposed development would not seriously injure the amenities of properties in the vicinity by reason of noise and general disturbance, or that the proposed development would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Prior to this, permission was granted in 1977 and 1999 for a Tarmac and Asphalt Plant, the quarry was registered in 2008 under S261 and permission was subsequently granted for an extension to the quarry in 1991. Details as follows:

**77/860** – permission granted for a tarmac and asphalt plant.

**99/1276** – permission granted for a mobile tarmac and asphalt plant.

**90/1950** – permission granted for extension to existing quarry and diversion of adjacent road.

**PL08.110118** – permission granted for concrete plant and associated activities.

**PL08.QC2008 (QY009)** – Quarry was registered under S261 of the P&D Act.

**EUQY009** – planning authority determined that no further action was required under Section 261A of the P&D Act.

## **5.0 Policy Context**

### **5.1. National Planning Framework**

- 5.1.1.** Chapter 5 recognises the importance of the countryside as a living and lived-in environment, focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise. It identifies aggregates and minerals as important components in the supply of materials for the construction industry and other sectors.

**NPO23** – Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

## **5.2. Quarries and Ancillary Activities Guidelines for P.A. s 2004**

**5.2.1.** These Guidelines provide guidance on planning for the quarrying industry and ancillary activities. They include advice relating to best practice/mitigation in respect of issues such as noise, vibration, dust/air quality, ground water and surface water, ecology, landscape, traffic management, cultural heritage and waste management.

## **5.3. Kerry County Development Plan 2015**

The site is located within an area zoned **Rural General**. This type of area is described (3.3.2.1) as being the least sensitive landscapes throughout the county and in terms of visual impact, these landscapes have the ability to absorb a moderate amount of development without significantly altering their character.

**Section 12.2.1** – it is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development.

**Objective NR-1** – maximise the economic potential and development of natural resources in a sustainable manner while ensuring no significant adverse effect on the environment including the integrity of the Natura 2000 Network through the implementation of the objectives and the Development Management Guidelines and Standards of this Plan.

**Objective NR-2** – maximise the employment potential of the natural resources within the County in a sustainable way through the promotion of associated industries at appropriate locations.

**Objective NR-3** – ensure that the development and exploitation of natural resources does not result in any significant adverse effects on the local community.

**Objective NR-6** – ensure that quarrying and mining proposals are not permitted in areas where the visual or other impacts of such works would significantly adversely injure the amenities of the area or create significant adverse effects on the road network in the area.

**Objective NR-7** – ensure that development for aggregates/mineral extraction, processing and associated concrete production will be prohibited in Prime Special Amenity Areas and will not generally be permitted in other open or sensitive landscapes.

**Objective ES-37** – Recognise the employment potential of brownfield industrial sites in both urban and rural areas in the County and their contribution to a more sustainable pattern of development.

#### **5.4. Tralee Municipal District LAP 2018**

The sites just within the Rural Area of the Tralee MD LAP. Section 2.6 'Rural Areas' emphasises the importance of the open countryside being a living and lived in landscape focusing on the requirements of rural economies and rural communities.

#### **5.5. Killarney Municipal District LAP 2018**

- 5.5.1.** Although the appeal site lies outside of the MD LAP, it is within the rural area close to Castleisland town. Castleisland (3.3) is a Regional Town in the Municipal District LAP area and is a significant employment centre. It is a market town which serves a large agricultural hinterland and the Plan seeks to strengthen its role as an important centre of population, employment, recreation, amenity and services. The town is strategically located at the junction of two national roads, the N21 Tralee-Limerick and the N23 Farranfore Road leading to the N22.

#### **5.6. Natural Heritage Designations**

The site is located within 15m of eight European sites, as follows

- Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161) – c.2km to the north
- Lower River Shannon SAC (Site Code 002165) – c.6km to northeast
- Ballyseedy Wood SAC (Site code 002112) - c.8km to the west
- Slieve Mish Mountains SAC (Site code 002185), c.9km to southwest
- Tralee Bay and Magharees Peninsula, West to Cloghane SAC (Site Code 002070) - c.13.5km to west
- Tralee Bay Complex SPA (Site code 004188) – c.13.5km to the west
- Castlemaine Harbour SAC (000343) – c. 13km to the south and southwest
- Castlemaine Harbour SPA (004029) – c. 13km to the southwest.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Two third-party appeals have been submitted. The first appeal is from Patrick Foran and the second is from Ballyegan Community Protection Group. The appeals have been accompanied by an extensive range of supporting material and documents which are attached as appendices and include a memory stick with video footage. The BCPG had also requested an Oral Hearing which was refused by the Board on the 29<sup>th</sup> June 2021. The main points raised may be summarised as follows:

- **Planning policy** – The NPF recognises the key role of the countryside in driving the economy and a high-quality environment and in strengthening the living and working community. It is questionable whether the asphalt plant would help towards the transition to a low carbon environment or in the protection of the environment in terms of air and water quality, natural and cultural heritage and quality of life of residents, and creating healthy communities which are aspirations of the NPF, and replicated in the policies of the South West Planning Guidelines and the National Spatial Strategy. Kerry CDP policy NR3 also seeks to prevent adverse impacts from the extractive industry on local communities.

- **Need for the development** - There are four existing asphalt plants in the region (details set out at page 16 of Ballyegan CPG appeal). These are located at Listowel, Millstreet, Bunratty and Killarney. It is questioned how it could be economically viable to set up another plant operating at just 15% capacity. Roadstone already has planning permission for an Asphalt Plant at its Killarney pit (Reg. Ref. 10/1163), which was subject to an extension of duration (1091163) and is valid until 16/02/21. This application had indicated Roadstone's intention to relocate the existing Ballyegan asphalt plant to Killarney on the basis that it would require the importation of significant volumes of material to service the plant, which would have been unsustainable.
- **Environmental impact assessment** – having regard to the precautionary principle and in order to comply with best practice and guidance documents, it is submitted that the proposed development should be subjected to an Environmental Impact Assessment due to the nature of the development and the history of extraction and the possibility of Roadstone extracting materials in the future.
- **Planning History** – the quarry site has been the subject of many applications in the past. In 2011, it seems that Roadstone ceased all operations at the quarry with no restoration works completed. It has been in a neglected state ever since. It is not clear whether the conditions of the Quarry Registration have been complied with or whether there was a requirement to implement a restoration plan.
- **Human beings and good neighbour relations** – The previous quarry has generated significant problems with noise, dust and traffic over the years. Roadstone have never attempted to engage with the community either in the past or in relation to the current proposal. There are serious health concerns associated with the proposed asphalt plant due to chemical emissions which are carcinogenic and hazardous to human health arising from the production process as well as the loading and haulage of products. The proximity to residential properties, a creche, schools etc. is unacceptable and there should be a minimum of 1km separation distance from such plants. It will result in the significant devaluation of properties.

- **Health and Safety concerns** – reference is made to a fire in Mayo at a Roadstone operated asphalt plant. The same danger could arise here where there are a considerable number of houses nearby as well as a creche and schools. The current quarry is an abandoned and dangerous site with breaches in the security fencing around the site and with a building that has an asbestos roof. The remaining buildings should be removed, the land should be reinstated to grassland and the berms should be properly maintained.
- **Dust emissions and air quality** – There are 56 houses within 500m of the proposed plant. Wind can carry dust particles well beyond the site boundaries and fine materials from lorries can be deposited along public roads. Residents living within 0.5km can be affected by dust. Many residents grow their own vegetables and do not want to inject pollutants arising from the plant. There are many residents with health conditions such as asthma and cancer, for whom dust pollution could be detrimental to their health.
- **Noise emissions** – the proposed hours of operation commencing at 6am are unacceptable and the plant should not be allowed to operate before 8am. The previous asphalt plant on the site resulted in significant noise levels early in the morning (6-8am). The background noise levels submitted relate to a time when the quarry was winding down and are not relevant. The noise receptors seem to have been placed close to the N21 so that the background noise levels are dominated by traffic. The surveys at lunchtime are not representative. The use of the site for an industrial plant is strongly opposed and it is requested that an independent noise assessor be employed to prepare a more accurate report. How will the hours of operation for HGV traffic be enforced?
- **Visual impact** – it is disputed that the proposed plant will not dominate any views or distract from scenery in the area. At present the old sheds can be seen and the proposed plant will also be seen from surrounding roads and houses. The visible elements include the Mixing Tower (31.4m), the Filler Feed system (25.4m), the Stack (20m), the Hot Mixer storage systems (17.5m) and the Bitumen Supply System (14.5m). The amenity value of Glenageenty Wood would be adversely affected by the views of the various industrial elements and the plumes arising from the plant.

- **Traffic impact** – the traffic surveys are unreliable as they were taken during the Covid-19 lockdown. Slow-turning HGVs will pose a safety issue on the N21. Of greater concern to local residents is the impact on local roads. There is continued regular HGV use of the local roads linking with the N22, despite the logical routes available along the national primary network (N23/N21). The previous refusal was partly based on traffic impact, and it is difficult to see how it has changed. It is claimed that the rate given of 240t/hr would represent the plant working at only 15% of capacity. Concern is raised regarding the impact of HGV traffic on the routes to the site such as on Ardfert village, Tralee town, Castleisland, Farranfore village and the impact on local roads etc.
- **Water Quality** – There are concerns regarding surface and ground water pollution. The Mweenalaa river flows through the site and exits it at the SE boundary. In the past, it is believed that water was being pumped to this stream. It is not clear whether the water table has been breached and whether there is a hydrological connection to the River Maine. The groundwater vulnerability is also extreme, and it is a regionally important aquifer. The karstified bedrock in the area is highly vulnerable to pollution and can provide rapid conduits to sensitive receptors with little attenuation.
- **RAP** – the inclusion of RAP raises questions regarding the sourcing and storage of materials and whether it will give rise to additional risks of pollution and additional traffic.
- **Ecology and environmental issues** – it is submitted that the site is within 15km of a number of designated sites, including European sites and NHAs. Concern is expressed that protected species such as Hen Harriers, Merlin and Grouse can forage up to 5km from their nest sites and that the proposed development could have an adverse impact on such species. The AA screening report was based on desktop studies and no walkover of the site was undertaken. There is concern that the proposed development will result in environmental pollution which will affect the species and habitats of the designated sites in the vicinity.



- **Other matters** – it is submitted that the site is rich in archaeological history, and it is queried whether the site has been properly assessed in terms of archaeological impact.

## 6.2. Planning Authority Response

The P.A. has not responded to the grounds of appeal.

## 6.3. Response from First Party to grounds of appeal

Two separate responses were submitted by the first party to each of the appeals on 21<sup>st</sup> June 2021. The points made were mainly in the form of a rebuttal of each of the individual the grounds of appeal. The following points of note were made: -

**Need for the development** – it is pointed out that the asphalt plant in Killarney has not yet received its final grant of licence and that it will in any case serve the south Kerry/Cork area, including the Macroom bypass project. The proposed plant will serve the North Kerry/West Limerick/Northwest Kerry area including the Adare Bypass and Listowel Bypass projects. There is also a proposal to upgrade and realign the N22. Due to the volume of material required restrictions on operations on individual production rates, it is not possible to rely on one plant alone to serve the demand for the considerable number of infrastructure projects in the overall area. The nearest asphalt plants owned by Roadstone are located at Bunratty and Carrigtwohill, which are c.90km and 120km distant.

**Recycled Asphalt Pavement** – this product is in high demand and this process is in accordance with best available technology and provides for environmental benefits, which is being promoted in the TII/NRA Specification for Roadworks. The benefits include reduced reliance on primary aggregates, a significant reduction in CO<sub>2</sub> emissions and improved energy efficiency. The material to be recycled is required to be kept dry and will therefore be stored in covered storage areas which will minimise risk of dust blown material.

**Health impacts** – The concerns raised have been addressed in detail in a review by an expert in toxicology relating to exposure to atmospheric emissions from industrial plants, including asphalt plants. It was concluded that the information submitted was not applicable to the proposed development due to differences in the environment at the site and/or studies based on different types/design of plants.

**Health and Safety** - the fire referenced in the grounds of appeal relates to an asphalt plant in Mayo which has since been replaced by a new plant and which is operating under a new planning permission and Air Licence. Roadstone carry out regular health and safety risk assessments on all of their sites and implement updated health and safety management measures if and when required.

**Dust and air quality** - It was reiterated that the Ballyegan plant, even when operating at maximum capacity, would result in emissions which would be well below National Air Quality Standards and below those modelled in the air impact assessment. Furthermore, the plant will be licenced by Kerry Co. Co. under the Air Pollution Act and will be required to meet conditions of same which will require monitoring of emissions to air. It is stated that Roadstone will appoint an independent monitoring company to undertake dust deposition monitoring and will accept a condition of any permission to that effect.

**Noise impacts** – the noise assessment was carried out in accordance with relevant guidance, on an independent basis and using factual baseline monitoring results and source levels representative of the asphalt industry. For the purposes of the assessment, it was assumed that all of the noise sources were active for 100% of the time, at the distances stated and during the stated operational hours in order to give a worst-case scenario. The cumulative and long-term noise levels were predicted to be negligible. Notwithstanding this, best practice mitigation measures are proposed, and the applicant is prepared to employ an independent environmental monitoring company to undertake noise monitoring at the site. A condition to this effect would be acceptable. It is pointed out that the provision for out of hours operations for up to 40 times per annum (included in the previous application) has been removed from the current proposal.

**Visual impacts** – The submitted Visual Appraisal concluded that the proposed development would not dominate any views and would not reduce the visual amenity of the area. A revised visual Appraisal Report was submitted as FI which sets out the improvement works that will be undertaken in advance of the operation of the plant, and the requirement to undertake these works are subject to condition 14 of the P.A. decision. It is further noted that the Inspector in the previous application (305546) did not consider visual impact to be an issue which would give rise to a reason for refusal.

**Traffic impacts** – The maximum production limit is set at 120,000tonnes of asphalt per annum. This is bound by Condition 1 of the P.A. decision, but if the Board deems it necessary, the applicant is prepared to accept a specific condition to this effect. It is emphasised that the site has the benefit of a long-established access from the N21 which has been used in connection with quarry operations and is therefore suited to the type of traffic that would be generated by the proposed development. It also benefits from an existing right-turning lane and adequate sightlines. The TTA includes a detailed assessment of the traffic impact and junction capacity analysis which concluded that both the N21 and the junction will operate within capacity for each of the assessment years of 2021, 2026 and 2036 with a negligible impact on the road network. It was confirmed that all HGVs carrying fine aggregates and/or asphalt products will be covered, and the applicant is agreeable to a condition to this effect. No queuing will be permitted outside the premises prior to 0700 hours.

**Water impacts** – the proposed plant is located as 29mOD, which is c.10m above the water level in the flooded quarry void. There are no surface water features on site and there will be no discharge to surface water from the development. Notwithstanding this, best practice mitigation measures are proposed and there will be no contamination or pollution of the water environment.

**Existing quarry** – it is disputed that the quarry is abandoned. Operations have been suspended and it is not intended to supply raw materials from the existing quarry. It is confirmed that there are no current enforcement issues arising from the existing quarry. There is an existing steel structure with fibre-glass sheet sidings and an

asbestos cement sheet roof. It is stated that the building does not present a health hazard and is subject to regular health and safety checks.

**Video footage** – this evidence submitted by Patrick Foran dates from 1994, which means that it is 25 years old. Since the video was taken, Roadstone have replaced the 1977 plant with a mobile plant in 1999 (planning permission 127699). It is not representative of the proposed development which will incorporate advancements in best available technology (including emissions control) developed over the last 25 years. An environmental bund was erected and landscaped in the mid 1990s, the vegetation on which is now mature. Since 1994, several planning permissions, licences etc. have been granted at the site. A plume visibility assessment has been carried out (Feb 2021) and submitted as FI. The results indicate that the overall impact is likely to be minor or insignificant.

#### **6.4. Response from Third parties to grounds of appeal**

There were no further responses to the grounds of appeal.

### **7.0 Assessment**

7.1. It is considered that the main issues arising from the appeal are as follows: -

- Principle of development
- Nature and extent of development
- Traffic impact
- Residential amenity
- Health and safety
- Visual amenity
- Ecology
- Environmental Impact Assessment
- Appropriate Assessment

## **7.2. Principle of development**

### **Background and context**

- 7.2.1.** The use of the site as a limestone quarry has been established on the overall site of c.34ha, (with access from the N21), for many years, dating back to at least 1963, with the introduction of associated uses at various points, including the manufacture and storage of concrete products and two asphalt plants. Permission was granted in 1977 for an asphalt plant and subsequently permission was granted for a mobile asphalt plant in 1999, (as set out in 4.0 above).
- 7.2.2.** The quarry is not currently in operation but has been heavily worked in the past and has been operating at an intense level for many years. From the information on file and as evidenced by my site inspection, it would appear that operations had ceased in and around 2011. The issue of abandonment was raised in the previous application/appeal that was before the Board in February 2020 (ABP.305546-19). Although it had been acknowledged that the quarry had not been operational for 8-9 years, the Inspector considered that the issues of operation and compliance with conditions attached to the quarry were not before the Board for adjudication at that juncture.
- 7.2.3.** In terms of the current application/appeal, the first party addressed this issue at section 2.12.2 of the 'Response to the Ballyegan Community Protection Group' (21/06/21). It is refuted that the quarry use has been abandoned. It is stated that quarrying activities have been suspended and it is reiterated that there is no intention to supply material for the asphalt plant from the quarry. It is further stated that there are no non-compliance or enforcement issues currently associated with the quarry and that Roadstone operate their quarries and associated facilities in accordance with relevant planning permissions and best environmental management practice.
- 7.2.4.** Thus, in terms of the established use of the site, it is clear that it has been used (with the benefit of permission) for industrial and extractive purposes at quite an intensive level for many years, including the operation of an asphalt plant, in conjunction with quarrying. It is considered, therefore, that the use of this brownfield site for the manufacture of asphalt, which includes utilising existing infrastructure within the site, would generally be consistent with the established use of the site.

## Planning policy

- 7.2.5.** The importance of the countryside as a ‘living and lived-in landscape’ is emphasised in both national and local policy as summarised in 5.0 above. In addition, the employment potential of brownfield industrial sites in both urban and rural areas is noted in terms of their contribution to a more sustainable pattern of development. The site is located in an area designated as Rural General, which is the least sensitive landscape, with the ability to absorb a moderate amount of development. As the site is a brownfield industrial site with a long-established quarrying use with associated manufacturing uses, it is considered that the siting of the proposed asphalt plant could be considered to accord with this policy framework in principle, subject to compliance with other policies which seek to ensure compatibility with protection of the environment and of the amenities of the area.
- 7.2.6.** The NPF and the Kerry County Development Plan also recognise the importance of the extractive industries for the supply of aggregates, minerals and construction materials to a variety of sectors, including the construction sector. Relevant policy objectives generally state that aggregates and minerals extraction will be enabled where it is compatible with the protection of the environment, including the visual amenities and protection of quality of life of residents, and where there is no significant adverse effects on the road network in the area. In addition, the NPF seeks to facilitate the development of such industries, including the ‘Circular Bio-economy’ (**NPO23**). This is defined as “the production of renewable biological resources....and the conversion of these resources and waste stream residues, by-products or municipal solid waste into value-added products”.
- 7.2.7.** It is considered that the siting of the proposed asphalt plant within a larger established quarry site which is currently not operational, and which would utilise a brownfield site with existing industrial infrastructure within the site, would make use of an established access point with a right-turning lane onto the national road network, would benefit from the mature established landscape screening around the perimeter of the quarry site, and would also involve the use of waste stream residues in the production of asphalt (RAP), would be acceptable in principle and would be in accordance with the policy framework for the area. However, the proposed development would also have to comply with the requirements for the protection of

the environment and amenities of the area. These matters will be examined in the following sections of this report.

### **Need for the development**

- 7.2.8.** The appellants question the need for the development at this location on the basis that there are several existing asphalt plants serving the region which are located at Listowel, Millstreet, Bunratty and Killarney, and that planning permission has previously been granted for an asphalt plant at Roadstone's site in Killarney. It was further pointed out that Roadstone had previously indicated its intention to relocate the existing asphalt plant at Ballyegan to the Killarney site because the requirement to import significant volumes of material to service the plant (at Ballyegan) would have been unsustainable.
- 7.2.9.** In response, the developer stated that the proposed plant is required to serve the north Kerry/Limerick area (which will include upcoming projects such as the Listowel Bypass, the Adare Bypass and the upgrade of the N22), whereas the Killarney site will serve the south Kerry/Cork area. Furthermore, the Killarney plant had not yet received its final grant of licence either, and once granted, will be required to service the Macroom Bypass amongst other projects. It was submitted that the demand for a very significant volume of material in this area could not be addressed by means of a single asphalt plant, and that the distances involved would result in an unsustainable pattern of development. Furthermore, the demand for RAP (recycled products) is very significant and its production is in accordance with best available technology. The environmental benefits of this process are recognised by TII in the specification for roadworks, which requires a certain proportion of materials to be from a recycled source. The acknowledged environmental benefits include the reduced reliance on primary aggregates as well as a significant reduction in CO<sub>2</sub> emissions and improved energy efficiency.
- 7.2.10.** It is considered that the developer has provided adequate justification for the need for a new asphalt plant at this location, which would have the benefit of modern technology, and which would also utilise recycled materials. The siting of the proposed plant on a brownfield site with direct access to the national road network and in relatively close proximity to a number of significant road projects in the overall area is considered to be appropriate in principle.

### **7.3. Nature and extent of development**

- 7.3.1.** The previous application/appeal that was refused by the Board (305546) was deficient in information which was key to the determination of the appropriateness of the development at this location. The inadequacies related to the anticipated output from the plant, the source of the materials in terms of both volumes and origins, the extent to which RAP accounted for input/output, and the associated traffic volumes arising from input/output from the plant. The Inspector had noted, for example, that although the maximum output was stated to be 240t/hr, when the hours of operation were applied, concern was expressed that this could rise to anything up to 500,000 tonnes p.a. The role that RAP products would play in the overall operation had also raised questions, as did the degree to which the development would rely on winning resources from the existing quarry on the overall site, as these matters had not been made clear. Furthermore, the application had sought a facility to increase the hours of operation on 40 days outside normal operating hours (emergency basis). As a result, it was not possible to determine the full nature and extent of the development including the traffic volumes arising from the operation of the plant.
- 7.3.2.** The current application/appeal has sought to address these deficiencies, (Planning cover letter and Planning and Environmental Report submitted to P.A. 22/07/20). It is stated that whilst the potential maximum output from the plant is 240tonnes/hour of ordinary road mix with a finished product temperature of 160°C, the plant will not be operating at maximum output level. The anticipated maximum output is given as 120,000 tonnes of asphalt per annum. The RAP will not be used in all asphalt mixes but will be used as a supplement to production when possible, and the expected amount of RAP to be used is 12,000 tonnes over an annual period.
- 7.3.3.** Traffic generated by the proposed development is set out in the TTA and Table 3-1 of this document is reproduced in the planning cover letter. This indicates that there will be 30 daily trips associated with the input of material and 34 daily trips associated with the output of material. This is based on the operation of the plant on 6 days a week and for 49 weeks of the year. The raw materials (aggregate) will be sourced from existing Roadstone operations at Ardfert (50%) and at Killarney (50%). It is confirmed that no material will be sourced from the existing quarry on the site and that it is no longer proposed to seek additional hours outside of normal operating



hours. In terms of RAP, it is proposed to establish 'back loading' systems whereby HGVs bringing asphalt to a road project site can return fully laden with excavated road planings for re-use at the plant, which will reduce the number of truck movements in relation to RAP

- 7.3.4.** The likely impacts in terms of traffic, noise, dust etc. will be assessed in the following sections. The road planings will be imported as a by-product (and not a waste) under Article 27 of the European Communities (Waste Directive) Regulations, 2011. This activity is required to be notified to the EPA, who will maintain a register of notified decisions. It is considered, however, that adequate information regarding the nature and extent of the development has now been provided to enable a proper assessment of the proposed development.

#### **7.4. Traffic impact**

- 7.4.1.** The application was accompanied by a TTA which was prepared by PMCE Ltd. on behalf of the applicant. It was pointed out (2.4) that at the time that the TTA was being prepared, strict travel restrictions in association with the Covid-19 pandemic were in place, and as such it was not feasible to undertake traffic counts on the N21, as they would have under-represented the volume of traffic travelling on the N21. The assessment of traffic impact relied instead on the AADT figures provided by the TII's automatic traffic counter on the N21 (TMU N21 070.0s), which it is stated is located 1.8km to the east of the development access (Fig. 2-3 of TTA), and which provides hourly data on traffic volumes by vehicle class. Given the close proximity of the TII traffic counter to the development site, and the absence of any major junctions or alternative routes between the traffic counter and the site access, it was submitted that the traffic data is suitable for the purposes of traffic modelling. A time period prior to the pandemic was chosen, October 2019.
- 7.4.2.** The trip generation associated with the import and export of material/asphalt is set out in Table 3-1 and is based on 120,000 tonnes of asphalt production per year. The trips generated by importing material would be 30 round trips (for all materials) per day. This is based on a total of 120,960 tonnes p.a., including Aggregates and RAP as well as bitumen and fuel. The no. of trips generated by the export of 120,000 tonnes of asphalt is 34 (round trips) per day. Thus, the total no. of daily HGV trips (in/out) would be 64, based on a 6-day week and 49 weeks p.a. an additional 2 staff

vehicles and 4 miscellaneous vehicles were added to give a total trip generation figure of 76 per day.

- 7.4.3.** The modelling used TRICS to distribute the trips and information from the developer for the assignment of trips. In terms of aggregate, 50% would arrive from the west (Tralee/Ardfert) and 50% from Killarney via the Castleisland bypass. However, bitumen and fuel deliveries would be from Dublin (to the east via bypass). In terms of deliveries, just 10% would turn left (west) towards Tralee and 90% would head towards Castleisland bypass. The link capacity assessment found that the N21 would continue to operate well within capacity for each of the assessment years (2021, 2026 and 2036). The junction capacity analysis for the asphalt plant site access indicate that the N21 will operate well within capacity for each of the assessment years also. Thus, the findings of the TTA are that the proposed development would have a negligible effect on traffic flows and the capacity of the N21, inking the operation of the junction at the access to the site.
- 7.4.4.** The TTA also assessed the sightlines available at the junction in accordance with TII publication DN-GEO-03060 which requires 215m unobstructed visibility in each direction, at a point 3m back from road edge, where the design speed is 100kph. It was found that the visibility available exceeds the required sight distances in both directions. However, it was stated that vegetation will need to be cut back and that signage and road markings will be required at and in the vicinity of the entrance.
- 7.4.5.** The site has a long-established use as a large quarry with high associated traffic volumes, up to 100,000 truck movements annually. It has been served by an exceptionally wide and deep entrance with a dedicated right-turning lane. The N21 at this point is flat and straight with good quality hard shoulders and good visibility in both directions. The current AADT for the N21, (stated as 7,814 in Table 3-3 of TTA), is also lower than the capacity for a Type 1 Single Carriageway Road with a 7.3m cross-section (11,600). When the quarry was last operational, the traffic passing the site would have had to queue through Castleisland town when enroute to Dublin/Limerick. In addition, traffic travelling from Killarney would also have had to queue through the town. However, the construction of the Castleisland Bypass has significantly enabled all non-local traffic to bypass the town and as a result, the capacity of the N21 on the approach to Castleisland has been significantly improved.

Thus, the baseline scenario for the current application is considerably better than that which would have existed in 2011.

**7.4.6.** The proposed development is expected to generate a daily HGV trip rate of 64, which would be the equivalent of 18,816 trips per annum. This is substantially lower than the estimated 100,000 HGV movements p.a. associated with the quarry use prior to its suspension. It is considered that the infrastructure available in terms of the design and scale of the entrance and the design and high quality of the national road network serving the site is more than adequate to serve the proposed development. The concerns of the third-party observers that the HGV traffic would tend to use the local road network instead of the national road network are unlikely to materialise as there would be little justification to do so given the capacity and quality of the national road network in the vicinity. Concerns regarding the traffic surveys are unfounded as the TTA was not based on traffic surveys taken during the pandemic, but on data from the nearby TII traffic counter, as stated above.

**7.4.7.** I would, therefore agree, with the conclusions of the TTA that the proposed development will have a negligible impact on the capacity and operation of the road network and that the access to the proposed plant will operate within capacity for each of the assessment years. It is further considered that the reasons for refusing the previous scheme (305546) relating to traffic impact have been adequately addressed.

## **7.5. Residential amenity**

### **Noise impact**

**7.5.1.** In terms of the assessment of noise impact, I would refer the Board to the Noise Impact Assessment submitted with the application, the additional information on noise impact assessment submitted to the P.A. as FI (9/03/21) and to the responses to the grounds of appeal submitted to the Board on 21/06/21, as well as to the planning authority reports on file.

**7.5.2.** The site is located in a rural area where agriculture is the predominant activity and where there are a number of residential properties in close proximity to the site, and the N21 national primary road bounds the site to the north. The topography of the area is generally quite flat with elevated levels associated with the Stacks Mountains approx. 2km to the north. The residential properties predominantly consist of

clusters, (Groups 1-4) as shown on the submitted drawing entitled 'Monitoring Locations/Receptors' (Fig. NIA1). It can be seen that the majority of residential properties are located at least 500m away from the site but there are several properties (14no.) located between 250m and 500m distance and one at 248m (to the south-east). Groups 1 and 4 are located on the far side of the N21 and are over 500m from the site. Group 2 is located to the south-east with several properties within the 500m radius and Group 3 is located to the southwest, with most of the properties outside the 500m radius.

- 7.5.3.** The developer submitted a Noise Survey with the current application, (dating from December 2018), together with historical noise monitoring from 2011, when the quarry was in operation (Table 2, Planning Report). It is stated that the survey was undertaken on 10<sup>th</sup> December 2018, that daytime and night-time levels were recorded at three monitoring locations (BN1, BN2 and BN3). The recordings were taken between midday and midnight. The locations are shown on Fig NIA 1. Monitor BN1 is located adjacent to the N21 to the north-west of the site (c.500m distant). BN2 is located within 'Group 2' to the south-east and represents the closest group of dwellings to the development (at c.400m distance). BN3 is located within Group 3 alongside a local road and is c.750m to the west of the site. A summary of the measured noise levels is provided in Tables 3-1 and 3-2 of the Noise Impact Assessment Report. In Table 3-2, the values are averaged for each location and separated into day and night-time results. Nine sensitive residential dwellings/groups of dwellings are identified, together with their locations with distances from the proposed plant, which are set out in Table 3-3 and Plate 3-1 of the NIA.
- 7.5.4.** The Noise Impact Assessment of the proposed Asphalt Plant included the noise sources set out in Plate 4-1. The FI (09/03/21) confirmed that the assessment and conclusions took specific account of the production levels and traffic volumes associated with the proposed plant within the quarry. The sources included hoppers, conveyors, rotary dryers, a mixing tower, a dust control system, asphalt loaders and HGV and car movements. The results of the modelling at each of the receptors are set out in Plate 4-2 and Table 4-2 of the NIA. The table includes a comparison with the noise limit thresholds for each receptor.
- 7.5.5.** It can be seen that the predicted operational noise is substantially below the noise limits at all sensitive receptor locations during both permitted daytime hours and

early morning hours. It is noted that the assessment represents the worst-case scenario for the early morning period as it is assumed that all activities at the plant will be operating 100% of the time, (including peak hour HGV movements), when in fact less plant will be operating and no HGV movements. A cumulative assessment was also carried out at all receptor locations, and it was found that without mitigation, the impact from the proposed development would be negligible. Unsurprisingly, the dominant noise source in the area is the traffic associated with the N21.

Notwithstanding the results of the assessment, it is proposed to introduce a programme of noise mitigation measures which will further reduce the noise levels from the plant. The p.a. decision has also included several conditions to address any such impacts, including hours of operation.

**7.5.6.** The appellants have disputed the results of the noise surveys and consider that the surveys were carried out at a time when activity at the quarry site was winding down. The appellants have also claimed that the noise monitors have been placed close to the N21, which means that the background levels are dominated by traffic and that lunchtime readings are not representative. Concern was also raised regarding the early morning hours of operation which were considered wholly unacceptable and requested that an independent assessor be appointed to prepare a more accurate report. The noise survey results relied upon in the assessment are those recorded in December 2018, which is some seven years after the use of the quarry was suspended. I note that only one of the monitors was placed adjacent to the N21, and it is clear from the results that there is a significant difference in the background levels recorded at BN1 compared with BN2 and BN3, which are well removed from the N21. It is considered that it is useful for comparison purposes to have results from close to and distant from the N21 and at different times of the day and night, including lunchtime, as it provides for a more comprehensive baseline data set. It is further noted that the noise impact assessment included noise associated with HGV and car traffic entering and leaving the site.

**7.5.7.** I am satisfied that the baseline data is comprehensive and adequate and that the assessment of the development that is before the Board has been carried out in accordance with best practice guidance as set out in the documentation. It is also accepted that the predicted noise impact of the proposed plant is likely to be negligible on the existing noise environment in the vicinity of the site and that the

overall environment is dominated by road traffic noise. However, the proposal to commence operation at 0600hours Monday to Saturday is likely to result in noise and disturbance at an unsociable hour, notwithstanding the proposal to restrict activity to setting up the plant. It would be very difficult to prevent loading of trucks or any other incidental noise emanating from the site during this hour. This is discussed further below.

- 7.5.8.** The first party has responded to the grounds of appeal by stating that the Noise Impact Assessment (including the surveys) was carried out on an independent basis, using factual baseline monitoring results and noise source levels representative of the proposed asphalt plant operation and related traffic. It is further stated that in addition to the proposed mitigation measures and to the conditions imposed by the planning authority, it is proposed to appoint an independent environmental monitoring company to undertake noise monitoring at the site, the results of which will be submitted to the P.A. on a regular basis. The developer is also prepared to accept a condition to this effect in the event that the Board decides to grant permission.

### **Air quality impacts**

- 7.5.9.** Emissions to air and any concerns raised by third parties in respect of health impacts associated with such emissions, will be subject to the requirements of an Air Pollution Licence under the Air Pollution Act 1987 and the Licensing of Industrial Plant Regulations 1988. The application was accompanied by an Air Quality Impact Assessment (Appendix B) and an Odour Impact Assessment (Appendix C). Further information was submitted to the P.A. on the 9<sup>th</sup> of March 2021 and in response to the grounds of appeal on the 21<sup>st</sup> of June 2021, which confirmed that the assessments had taken specific account of the maximum stack height emission rate operating at 240t/h.
- 7.5.10.** An Air Dispersion Modelling assessment was carried out and the predicted ground level concentrations for Sulphur dioxide (SO<sub>2</sub>), Nitrogen Oxides (NO<sub>x</sub>), Nitrogen Dioxide (NO<sub>2</sub>) and Particulates (PM<sub>10</sub>) were compared with the short-term and the long-term annual National Air Quality Standards (NAQS). The exhaust stack is proposed at a height of 20m. The modelling is based on a worst-case scenario with the plant operating at full production during the proposed working hours with no

seasonal variation, and concentrations of pollutants in the stack exhaust gas also at maximum emission levels. The results indicate that the maximum predicted concentrations for NO<sub>2</sub>, SO<sub>2</sub> and PM<sub>10</sub> are substantially below the relevant NAQS based on maximum emissions concentrations at the limit values. The report concluded that the actual emissions from the proposed plant, with efficient operation of the aggregate drier burner and particulate filter baghouse, will result in observed emission concentrations substantially below the maximum emission limit values (ELVs) used in the air quality modelling study. As such, there would be no significant impact on the local environment.

- 7.5.11.** It is noted that the planning authority attached conditions to the permission including operating hours and dust deposition ELVs. The developer has also proposed that an independent environmental monitoring company will be employed to undertake dust deposition monitoring, the results of which will be submitted to the P.A. on a regular basis for review. The developer is prepared to accept a condition to this effect. In addition, as stated previously, all emissions to air from the plant will be regulated and controlled separately by way of a separate Licence, by Kerry Co. Co., which will require monitoring of emissions to air to demonstrate compliance with the recommended emission limit values (ELVs).
- 7.5.12.** An Odour Impact Assessment was also submitted with the application. This identified 3 main sources of fugitive odour emissions which arise from the operation of an asphalt plant. Firstly, the delivery/storage of bitumen, the mixing of the bitumen and aggregate in the mixing tower and the transfer of the asphalt from the bottom of the hot-mix storage system into trucks is the principal source of odour. A secondary source is the exhaust stack which emits gases from the aggregate dryer burner and the third source is from loaded trucks before the asphalt mix is covered. The odour from bitumen arises when the material is heated, and not when it is cold.
- 7.5.13.** The bitumen will be delivered in purpose-built tankers for transporting substances above 100°C and will be transferred directly to the heated steel double-skinned storage silos located within a concrete bund. It is stated that the principal source of odour is when the hot mix falls from the pneumatic door at the bottom of the hot-mix storage bins, but in modern plants the doors are designed to minimise fugitive emissions. It is stated that the proposed plant will be operated and effectively managed to meet Best Available Technology requirements for the control and

reduction of emissions. Mitigation measures include regular inspections, transfer of the bitumen from the delivery tanker to the storage tank via a secure connection to the filling pipe, as well as continuous monitoring of the temperature of the bitumen.

- 7.5.14.** It is stated that the odour impact modelling study was undertaken in accordance with EPA Guidance report AG4. Predicted short-term odour concentrations at the nearest houses to the plant are given in Table 2 of the report. It can be seen that at the nearest house, the maximum level is predicted at 0.6 OU<sub>E</sub>/m<sup>3</sup>. This is well below the detection level of 1 OU<sub>E</sub>/m<sup>3</sup> and significantly below the EPA target value of 1.5 OU<sub>E</sub>/m<sup>3</sup>. The predicted odour levels at all other houses in the vicinity is less than this at 0.3 OU<sub>E</sub>/m<sup>3</sup> and between 0.1-0.17 OU<sub>E</sub>/m<sup>3</sup>. It was concluded that odour levels due to maximum emissions from the asphalt plant are predicted to be well below the odour detection level at the nearest houses to the quarry boundary, on the basis of a worst-case scenario.
- 7.5.15.** The appellants have asserted that there are 56 houses within 500 metres of the proposed asphalt plant. The first party has refuted this. It can be seen from the submitted aerial photograph (Fig. NIA 1) that there are 15 houses within the 500m radius and just under 50 properties within 1km. It is considered that having regard to the design and operation of the proposed asphalt plant together with the implementation of the proposed mitigation measures, the proposed development is not likely to give rise to fugitive dust or odour omissions which would give rise to a nuisance beyond the quarry boundary.

### **Operating hours**

- 7.5.16.** The proposed hours of operation are 0600 to 1900 Monday to Friday, 0600 to 1400 Saturdays with no operation on Sundays or Public Holidays with additional restrictions between 0600 and 0700 hours, in that activities are restricted to plant start-up only and no HGVs will be allowed to enter or leave the site during this period. It is noted that the operating hours stated in the Section 261 registration (Ref. QY009) were between 0700 and 2000 with loading and off-site haulage between 0600 and 2000 hours and exceptional circumstances applied from 0500 to 2200 Mondays to Saturdays. The planning authority did not attach any conditions restricting these hours as part of the registration process, but the Board in respect of



a subsequent permission for the concrete batching plant, imposed restrictions on hours of 0700 to 2000 Mon-Fri and 0700 to 1800 Saturdays.

**7.5.17.** It is noted that all of the operating hours referred to in the preceding paragraph exceed those recommended in the Quarries and Ancillary Activities Guidelines (2004) which recommend 0700-1800 Mon to Friday and 0700 to 1400 on Saturdays. The proposed hours of operation differ from the previous development for a proposed asphalt plant that was before the Board in 2020 (ABP.305546-19), in that the Saturday working hours have been reduced from finishing at 1900 hours to 1400 hours and by omitting the proposal for exceptional out of hours of 40 hours per annum.

**7.5.18.** Thus, the current proposed hours of operation are the most closely aligned to the recommended hours in the guidelines. The commencement time of 0600 hours is, however, very early and is the subject of much opposition from the third-party observers in the vicinity of the site. From the developer's point of view, the asphalt plant takes some time to heat up and the applicant requires a start time of 0600 hours, as it takes some time to come up to temperature. It is noted that asphalt must be laid hot in order to ensure adequate compaction and needs to be loaded in small batches so that it can be delivered within appropriate timeframes. The proposal is that the first hour would be restricted to starting up the plant only, with no HGV movements. However, the appellants have pointed out that it will be difficult to enforce the restrictions between 0600 and 0700 and effectively it will be the local community who will have to police the matter. I would have to agree and consider that the start time of 0600 hours is likely to result in noise and disturbance to the local community at this time, when the environmental background noise levels are quite low. The overall hours of operation exceed the recommended hours in the guidelines in the evening anyway, with an extra hour from 1800 to 1900, and it is considered that the earlier start time of 0600 hours is not justified in this instance. I consider that a starting time of 0700 hours is reasonable and in compliance with Government guidance.

**7.5.19.** In conclusion, it is considered that having regard to the foregoing, the proposed development subject to suitable conditions, would not be likely to give rise to nuisance or serious injury to the residential amenities of the property in the vicinity of

the site. Should the Board be minded to grant permission, appropriate conditions should be attached to any such permission as discussed above.

## **7.6. Health and safety**

- 7.6.1.** Health impacts and Health and Safety concerns have been raised by the third-party appellants including the potential impacts of a fire at the plant, emissions of carcinogenic and harmful substances to the air with significant implications for the health of local residents and schools, including a preschool within 650m of the site. Issues such as headaches, skin rash, fatigue, eye and throat infections and chronic health problems due to the emission of VOCs (Volatile Organic Compounds) were identified and some Scientific papers were referenced in respect of these matters.
- 7.6.2.** The first party has responded (21/06/21) with a specialist report by an air pollution and environmental consultancy, (attached as Appendix to Response to Ballyegan Community Protection Group appeal). It was pointed out that the studies that were referenced are not comparable to the proposed asphalt plant at Ballyegan. It was pointed out that the Air Quality Impact Assessment submitted with the application had concluded that the plant operating at maximum production would have a negligible impact on air quality in the vicinity of the site, which was assessed for properties up to 250m from the plant. The fire that was referenced at a plant in Mayo was noted and in response, it was stated that this plant has since been replaced by a new asphalt plant. It was concluded that no significant impact on the local environment or health of the local community is predicted due to the asphalt plant emissions. It was further pointed out that the plant will be licenced by Kerry Co. Co. under the Air Pollution Act and will have to comply with certain standards.
- 7.6.3.** Having regard to the conclusions of my assessment under the heading Residential Amenity above, and to the requirement for the asphalt plant to be licenced under the Air Pollution Act, I would agree that the proposed development is not likely to result in any significant impact on the local environment or health of the local community.

## **7.7. Visual amenity**

- 7.7.1.** A Visual appraisal by a Landscape Architect was submitted as an appendix with the application to the planning authority. Following a request for further information, a

revised visual appraisal was submitted together with a plume visibility appraisal (9/03/21). The site is located in Rural General zone which is the landscape area that is the least sensitive in the county. Such landscapes are described as being generally capable of absorbing a moderate amount of development without significantly altering their character. The site is located within a larger quarry site, which is very well screened by means of dense tree planting and vegetation combined with earthen berms. The asphalt plant would be located to the north-east of the quarry lake and south of the entrance from the N21. There are two local roads in the area, the L6543 which runs N-S from the N21 to the west of the site and the L6555 which runs close to the southern boundary of the quarry in an easterly direction from the L6543 to the N21, to the east of the site. Each of these roads contain a scattering of one-off houses.

- 7.7.2.** The conclusions of the visual appraisal and plume visibility appraisal were that the proposed asphalt plant will be fully screened in the majority of views from locations in the surrounding landscape, including views from the N21. It is acknowledged, however, that a small number of distant views will be available of the upper section of the plant (mixing tower) and the plume from certain sections of the local secondary roads to the west and east of the site. These views were considered to be intermittent and would not dominate any of the views available, as the plant would be seen as a small element of the overall views. Thus, it was concluded that the proposed development would not injure the visual amenities of the area.
- 7.7.3.** The third-party appellants, however, dispute that the proposed plant will not dominate any views or distract from the scenery. It is pointed out that at present, the old sheds are visible from the surrounding roads and houses, and that the views from Glenageenty Wood would be adversely affected by the views of various industrial elements.
- 7.7.4.** Having visited the site and surroundings, I would agree that the existing quarry site is very well screened by dense, tall vegetation and screening berms along all of its boundaries. In views from the N21, the quarry and associated buildings/plant are largely unseen, and the proposed asphalt plant would also be substantially screened by the existing vegetation within the site and along the roadside boundary. The topography is generally flat in the immediate vicinity and the existing plant on the site, including concrete silos and large sheds, are only visible from a limited number

of places along the two secondary roads (and associated houses). The views from these locations are currently composed primarily of an agricultural or rural landscape with the tops of the existing sheds and the concrete batching plant visible as one element in the overall view. These views, together with the proposed asphalt plant and associated plume, are represented in Viewpoint C (L6555 from the east) and Viewpoint D (L6543 to west) in Figures VA2 and VA3.

**7.7.5.** Parts of the proposed asphalt plant, particularly the mixing tower, the stack and the plume, will add to the existing industrial presence of the buildings in the rural landscape from a limited number of viewpoints. The residential nature of some of the vantage points makes these views more sensitive. I note, however, that the mitigation measures proposed as part of the FI include increasing the landscape screening of these elements by increasing the height/size of an internal berm, levelling a slope with additional tree planting, and painting the existing structures a light grey to reduce their visibility (see Drawing FI 2 9/03/21). These works are to be carried out prior to the commencement of the operation of the plant and were subject to a condition (14) of the P.A. decision. It is considered that the mitigation measures would reduce the visual impact of the existing structures and would ameliorate the impact of the proposed plant and plume.

**7.7.6.** In terms of the distant views, particularly from Glenageenty Wood (a local amenity walking area), the views are largely intermittent as the site is screened by the woods themselves and by roadside vegetation. Where views are available, the existing plant is seen as an industrial element within the overall panoramic views of the lowland landscape. In this context, these views are considered to be relatively unobtrusive. Given that the site has been used as an industrial site for many decades, and that the landscape is not designated as being of specific visual amenity, it is considered that the proposed asphalt plant would not give rise to an unduly obtrusive element in the landscape.

**7.7.7.** In conclusion, it is considered that the proposed asphalt plant and associated plume would be largely screened from adjoining roads, residential properties and elevated areas to the north, and where views are available, they will mainly be intermittent or absorbed into the overall panoramic view. Following the implementation of mitigation as proposed, the proposed development is unlikely to result in serious injury to the visual amenities of the area.

## **7.8. Ecology and Surface water management**

### **Surface water and ground water**

- 7.8.1.** Third party appellants have raised concerns regarding the potential for surface and groundwater pollution. It is stated that the Mweenalaa River flows through the quarry site and exits it in the south-eastern corner, and that water had previously been pumped to this stream. Questions were raised regarding the possible breach of the water table and a potential hydrological connection with the River Maine. Further concerns were raised regarding the karstified bedrock in the area, which is highly vulnerable to pollution.
- 7.8.2.** The Planning and Environmental Report submitted with the application indicated that any rain falling on the site recharges rapidly to ground, that the groundwater recharge is largely diffuse, and that there is no point recharge to the underlying water table. Groundwater levels in the flooded quarry were described as having rebounded to c.19mOD, and the proposed plant would be located at c.29mOD. Thus, it was stated that the plant would be c.10m above the water level in the quarry lake. The proposed asphalt plant would be located above the water table and no dewatering is proposed. It is further stated that there will be no surface water discharge to the Mweennalaa River, which is c.100m to the east, or to any local watercourse. Rainfall and surface water within the site will either percolate to ground or will be directed to the existing quarry void via a hydrocarbon interceptor and a silt trap.
- 7.8.3.** Notwithstanding the limited potential for groundwater or surface water contamination, it is proposed to introduce mitigation measures to prevent any reduction in the water quality of the local environment. The mitigation measures are set out at 4.3.4 of the Planning and Environmental Report submitted with the application. All fuel tanks are to be bunded and mobile plant will be refuelled in designated areas. All surface water run-off from the fuel storage area will be collected and passed through the silt trap and interceptor before being directed to the quarry void.
- 7.8.4.** Having regard to the foregoing, it is considered that the proposed development would be acceptable in terms of surface water drainage and that any potential risks to both groundwater and surface water have been adequately addressed in the submissions with the application and appeal. Thus, there would be no significant risks to water quality arising from the proposed development.

## **Ecology**

- 7.8.5.** The appellants raised concerns about some of the protected species associated with European sites in the vicinity of the subject site. In particular, it was noted that Hen Harriers, Merlin and Grouse can forage up to 5km from their nest sites and that the proposed development could have an adverse effect on such species. The site is located within an existing quarry site, which has been extensively quarried for many years. It is not located within a European site or an NHA. I refer to the AA-Screening below.

## **Archaeology and Geological sites**

- 7.8.6.** The appellants were concerned that these issues had not been properly addressed in the submissions or by the planning authority. It is noted that a Recorded Monument KE02937 is located to the south of the site, and is outside the red line boundary, but within the overall quarry lands. However, the County Archaeologist has noted that this feature has been removed by the quarrying operation. There are two further recorded sites to the west of the site which are also within the quarry site, but these have also been removed as a result of quarrying activity.
- 7.8.7.** Having regard to the nature and scale of the existing quarry site, it is not anticipated that the proposed asphalt plant would have any material impact on the archaeological or geological features within or in the vicinity of the site.

## **7.9. Conclusion Planning Considerations**

- 7.9.1.** The proposed development relates to a brownfield site which has been intensively used for quarrying and associated manufacturing activities for many years. It is located in a relatively flat rural landscape with no specific amenity designations and is well served by a high-quality national road network, with direct access to the N21. The proposed asphalt plant, with an anticipated output at 120,000 tonnes p.a., would occupy a small section of the existing quarry site, but would not rely on material from the quarry, which is currently not in operation, but would import the material from existing quarries in the local area.
- 7.9.2.** Having regard to the information submitted with the application and appeal, it is considered that the proposed development, subject to appropriate conditions, is likely to have a negligible impact on the capacity and operation of the national road

network, would not be likely to give rise to any significant nuisance or health impacts in terms of noise or air emissions, (including dust and odour), and would not adversely affect the visual or residential amenities of the area or the health of the local community. It is considered, therefore, that the proposed development would be in accordance with national and local policy provisions and with the proper planning and sustainable development of the area.

## **7.10. Environmental Impact Assessment**

**7.10.1.** An asphalt plant does not come within a class of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended, for which Environmental Impact Assessment is required. Thus, it is considered that an Environmental Impact Assessment is not required in this instance.

## **7.11. Appropriate Assessment - Screening**

**7.11.1.** The application is accompanied by an Appropriate Assessment Screening Report dated June 2020.

### *Project Description and Site Characteristics*

**7.11.2.** The proposed development is for an asphalt plant on a site within a large limestone quarry to the south of the N21 between Castleisland and Tralee. The site has been extensively quarried in the past and the quarry void is not flooded due to the return of natural water levels. There are no watercourses within the site, the nearest being the Mweennalaa Stream, approx. 100m to the east.

**7.11.3.** The following Natura Sites are located in the vicinity.

- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161) approx. 2km to north. Qualifying interest in Hen Harrier.
- Lower River Shannon SAC (002165) approx. 6km to north. The Qualifying Interests comprise a mix of sea water and freshwater habitats and species.
- Ballyseedy Wood SAC (002112) approx. 8km to west. The Qualifying Interests is alluvial forests.

- Slieve Mish Mountains SAC (0012185) approx. 9km to southwest. The Qualifying Interests comprise a number of habitats and species.
- Tralee Bay and Magharees Peninsula West to Cloghane SAC (Site Code 002070) and Tralee Bay Complex SPA (Site Code 004188) are c. 13.5km to the west. The Qualifying Interests are a mix of freshwater and sea water habitats and species.
- Castlemaine Harbour SAC and SPA (site codes 000343 and 004029) are located approx. 13km to south. The Qualifying Interests are a mix of freshwater and sea water habitats and species.

**7.11.4.** Detailed Conservation Objectives are available on the NPWS website for five of the European sites and generic C.O.s for the remaining three European sites. The overall aim of the conservation objectives for each of the sites is to maintain or restore the favourable conservation status of the said habitats and species.

*Assessment of likely effects*

**7.11.5.** The site is not located within any of the European sites and is not directly adjacent to such sites. Therefore, no direct impacts would arise from the proposed development. In view of the separation distances, nature of the qualifying interests, lack of hydrological connection and the conservation objectives of the following sites:

- Lower River Shannon SAC (002165) approx. 6km to north.
- Tralee Bay and Magharees Peninsula West to Cloghane SAC (002070) c.13.5km to west
- Tralee Bay Complex SPA (004188) c.13.5km to west
- Castlemaine Harbour SAC (000343) c.13km to south
- Castlemaine Harbour SPA (004029) c.13km to south

there is no potential for these designated sites to be indirectly affected by the proposed development. There is no watercourse within the site, although the Mweennalaa Stream flows to the east of the site (c.100m) and joins the River Maine approx. 3.2km further south. The River Maine joins the Castlemaine Harbour SAC approx. 16.5km (hydrologically distant) Surface water is not proposed to discharge to the stream and there is no risk of sedimentation or pollutants being released to the



watercourse during construction or operation of the asphalt plant. These European sites can therefore be screened out.

- 7.11.6.** The closest European site is Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161), which lies approx. 2km to the north. This site is not hydrologically linked to the site of the proposed development but could potentially be indirectly affected by emissions to air from the proposed plant. Ballyseedy Wood SAC (002112) and Slieve Mish Mountains SAC (002185) are located approx. 8-9km to the west. Neither of these sites are hydrologically connected to the subject site but there is the potential for indirect effects by means of emissions to air.

**Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161)**

- 7.11.7.** This is a large site bordering Counties Kerry, Limerick and Cork. It consists mainly of upland habitats, much of which is afforested, and much is comprised of unplanted blanket bog and heath. It is designated for the Hen Harrier and supports the largest population of the species in the country other species which are present include the Short-eared Owl, Merlin and Red Grouse.

**Ballyseedy Wood SAC (002112)**

- 7.11.8.** The woodland is situated in the floodplain of the River Lee and is dominated by native species such as Alder, Ash, Oak, Hazel and Willow. The woodland is also known as a nesting site for Long-eared Owl and the river is frequented by otters. It is located 8.1km from the site of the proposed asphalt plant.

**Slieve Mish Mountains SAC (002185)**

- 7.11.9.** This site occupies the central core of most of the Dingle Peninsula and is a mountain range composed mainly of Old Red Sandstone. The dominant habitats are wet and dry heaths and there is a small area of dry deciduous woodland. It contains a good population of Killarney Fern. Peregrine Falcons are known to breed on the cliffs and Chough feeds in the area.

- 7.11.10.** It is noted from the Air Quality Impact Assessment including the results of an air dispersion modelling exercise, and from the Odour Impact Assessment, that the potential for fugitive odours, pollutants and dust beyond the quarry boundary is very low. The results of the air quality modelling for the proposed asphalt plant indicate

that the annual average SO<sub>2</sub> PEC values with maximum emissions from the plant are below 4µg/m<sup>3</sup> which are 20% of the annual NAQS of 20 µg/m<sup>3</sup> beyond the quarry boundary. The corresponding annual average values for NO<sub>x</sub> and PM<sub>10</sub> are also predicted to be well below the NAQS. The modelling shows that the emissions that would occur outside the boundary of the site would be well below the NAQS for ecosystems. Thus, the emissions outside the quarry boundary are predicted to be below the levels of emissions that could result in effects to the qualifying interests of these European sites.

**7.11.11.** Given the separation distances and low levels of emissions to air that could result in effects to habitats and species listed as qualifying interests of the Stack's to Mullaghareirk Mountains West to Limerick Hills and Mount Eagle SPA, the Ballyseedy Wood SAC and the Slieve Mish Mountains SAC, it is considered that the emissions to air from the proposed asphalt plant would not have any significant effect on the qualifying interests of these European sites, having regards to their conservation objectives.

**7.11.12.** Given the separation distance (c.1.9km) between the project site and the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161), the intervening land uses and the N21 National Primary Road, it is considered that the noise levels emanating from the proposed development would not have any significant effect on the Hen Harrier. Similarly, in light of the distances between the proposed development and both the Slieve Mish Mountains SAC (002185) and the Ballyseedy Woods SAC (002112), at 8.8km and 8.1km respectively, and the intervening land uses, noise levels emanating from the proposed development would not be likely to have any significant effect on the qualifying interests of these European sites, having regard to their conservation objectives.

**7.11.13.** In terms of cumulative effects, I have had regard to the provisions of the current Kerry County Development Plan and to the planning authority's planning application database. I am not aware of any large planned or permitted developments in the vicinity.

**7.11.14.** Having regard to the nature of the proposed development, the lack of direct discharges to surface waters, the distances from and the lack of any direct hydrological connections between the site and the European sites in the vicinity, it is

reasonable to conclude that on the basis of the information on the file, which I consider to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans of projects, would not be likely to have a significant effect on European Sites No. 004161, 002185, 002112, 000343, 004029, or any European site, in view of these sites' Conservation Objectives. A Stage 2 Appropriate Assessment is not, therefore, required.

- 7.11.15.** In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European sites.

## **8.0 Recommendation**

- 8.1.** I recommend that planning permission should be granted for the reasons and considerations set out below.

## **9.0 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, to 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.

## **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 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. The operation of the asphalt plant shall be supplied solely by materials imported into the site as set out in the documentation submitted with the application and appeal and shall not be supplied by materials obtained from the quarry within the developer's landholding as shown outlined in blue on the Site Location Map received by the planning authority on the 22<sup>nd</sup> day of July 2020.

**Reason:** In the interests of clarity and orderly development.

3. The proposed development shall be amended as follows:
  - (a) The proposed portaloo shall be omitted. The proposed development shall instead be served by the existing wastewater treatment system on the site, which shall be upgraded prior to the commencement of development.

Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

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

4. Prior to the commencement of development, details of the proposed effluent treatment system shall be submitted to the planning authority for written agreement. The system shall be designed, installed, commissioned and operated in accordance with the requirements of the planning authority. Evidence of the necessary maintenance contract shall be submitted to the planning authority.

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

5. The development shall operate only between 0700 hours and 1900 hours Monday to Friday and 0700 hours to 1400 hours on Saturdays. No activity shall take place outside of these hours or on Sundays or Public Holidays.

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

6. 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  $L_{ArT}$  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  $L_{AeqT}$  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.

7. 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 wheelwash 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.

8. 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 the environmental protection.

9. 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.

10. 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.

11. All overground tanks containing liquids (other than water) shall be contained in a waterproof bunded areas, which shall be of sufficient volume to hold 110 per cent of the volume of the tanks 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.

12. The proposed mitigation measures shown on Drawing No. FI 2, and as detailed in the Visual Appraisal submitted to the planning authority on 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.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition 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. Comprehensive details of the proposed external lighting system to serve the development shall be submitted to and agreed with the planning authority, prior to the commencement of development.

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

15. 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.

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Mary Kennelly  
Senior Planning Inspector

8<sup>th</sup> February 2022