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Bord
Pleanála

AN BORD PLEANÁLA	
LDG-	<u>078252-25</u>
ABP-	
25 FEB 2025	
Fee: €	<u>3.000</u> Type: <u>Cheq</u>
Time:	<u>15:20</u> By: <u>HAMP</u>

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

GABM Ltd

(b) Address

Belview Port, Belview, Co. Waterford,
X91 W424.

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Malone O'Regan Environmental

(b) Agent's address

Ground Floor – Unit 3,
Bracken Business Park, Bracken Road,
Sandyford, Dublin 18, D18V32Y

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1

☐

The agent at the address in Part 2

☒

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Kilkenny County Council

(b) Planning authority register reference number

(for example: 18/0123)

24/60103

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Gorteens, Slieverue, Co. Kilkenny.

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Please refer to the accompanying letter and attachments. In summary, whilst welcoming the Local Authority's decision, this appeal relates specifically to Conditions 4, 5, 6, 7 and 24 on the Notification of Decision to Grant of Permission issued by Kilkenny County Council ('Local Authority') dated the 12th February 2025, in respect of planning reference 24/60103

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the "yes, I wish to request an oral hearing" box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the "No, I do not wish to request an oral hearing" box.

Yes, I wish to request an oral hearing

☐

No, I do not wish to request an oral hearing

☒

NALA has awarded this document its Plain English Mark

Last updated: April 2019.



25th February 2025

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902.

Planning Ref: 24/60103

MOR Ref: E2077-03

By Hand

Re: First Party Appeal of Planning Conditions 4,5,6,7 and 24 as set down by Kilkenny County Council in the Notification of the Decision to Grant Permission in respect of planning reference 24/60103.

Dear Sir/Madam,

This first party appeal has been prepared by Malone O'Regan Environmental ('MOR Environmental') located at:

Ground Floor – Unit 3,
Bracken Business Park,
Bracken Road,
Sandyford,
Dublin 18,
D18V32Y.

MOR Environmental are submitting this First Party Appeal on behalf of GABM Limited ('the Applicant') located at:

Belview Port,
Belview,
Co. Waterford,
X91 W424.

1 FIRST PARTY APPEAL

The Applicant welcomes the decision of the Planning Authority to grant permission for the construction of an integrated plasterboard manufacturing facility, incorporating a production plant with access from the industrial area road infrastructure at Gorteens, Slieverue, Co. Kilkenny.

Whilst welcoming the Local Authority's decision, this appeal relates specifically to Conditions 4, 5, 6, 7 and 24 on the Notification of Decision to Grant of Permission issued by Kilkenny County Council ('Local Authority') dated the 12th February 2025, in respect of planning reference 24/60103.

A copy of the Notification of Decision to Grant Permission by the Local Authority is attached to this appeal (refer to **Attachment 1**).

Enclosed herewith is a cheque in the amount of €3,000 as the appropriate fee for consideration by the Board of a First Party Appeal.

1.1 Subject of Appeal

MOR Consulting Engineers, on behalf of the Applicant, applied to the Local Authority for permission for development on lands with an area of circa ('ca.') 11.57 hectares ('ha') located at Gorteens, Slieverue, Co. Kilkenny ('the Site'). The application, including an Environmental Impact Assessment Report ('EIAR') and Natura Impact Statement ('NIS') was received and validated by the Local Authority on the 1st March 2024 and assigned Planning Reference number 24/60103.

1.1.1 Proposed Development

The proposed development will consist of the construction of an integrated plasterboard manufacturing facility, incorporating a production plant with access from the industrial area road infrastructure at Gorteens, Co. Kilkenny ('the Proposed Development'). The production facility will have a floor area of 22,400 sq.m, with a height over the finished ground level ranging from 19 metres to 29 metres. Roof-mounted solar panels are proposed.

The Proposed Development includes:

- All site development works;
- Landscaping;
- Boundary treatments including:
 - Earthworks;
 - Road works;
 - Retaining walls;
 - Vehicle entrance;
 - Vehicle parking with charging (HGV, cars and bicycles / scooters);
 - Gates;
 - Fencing;
 - Paving;
 - Water storage tanks;
 - Drainage; and,
 - Lighting.

Servicing arrangements include the provision of:

- A constructed surface water attenuation area;
- Access to connect to the public foul network; and,
- Access to connect to mains water supply.

Planted berms are proposed within and along the perimeters of the Site. The development will include for extraction of groundwater for production process purposes (no abstraction licence is required).

1.1.2 Request for Further Information

The Local Authority proceeded to request further information to aid their decision, with a request issued to the Applicant on 25th April 2024.

A request for an extension of time for the submission of further information was requested by the Applicant on the 3rd October 2024. An extension of three months was granted by the Local Authority on the 4th October 2024.

The Applicant provided a detailed response to the further information request with receipt of same received on the 11th December 2024. This response was to the Local Authority's satisfaction, as the Local Authority issued the Notification of Decision to Grant Permission for the Proposed Development on the 12th February 2025 which was based on 36No. Conditions.

The Applicant is satisfied with the positive determination by the Local Authority. However, the Applicant does not agree with Conditions 4, 5, 6, 7 and 24.

The Board is, therefore, requested to consider this appeal under Section 139 of the Planning and Development Act, 2000 (as amended).

2 GROUNDS OF APPEAL

2.1 Conditions of Concern

The following conditions within the Notification of Decision to Grant Permission are of concern. MOR Environmental consider that the conditions below are not precise, relevant or reasonable.

Condition 4: Local Authority Air Pollution Licence

*"a) An Application for an "Air Pollution Licence" will be made to Kilkenny County Council Environment section **prior to works commencing onsite.***

In accordance with the Air Pollution Act, an application for an Air Permit will be submitted to Kilkenny County Council once planning consent has been obtained.

The application will comprise of the following:

- Application Form;*
 - List of emissions points, their locations, their heights, associated processes, pollutants emitted (NOx and dust) proposed ELVs, and monitoring regime;*
 - Site layout showing the location of each emission point;*
 - A detailed Air Dispersion Modelling Report that will be prepared in accordance with the best practice guidance.*
- b) The applicant will demonstrate that any air emissions will not result in air pollution as defined in the Act by submitting a robust application.*
- c) No odours to be omitted from the site, air quality monitoring may be requested by Kilkenny County Council under this permission.*
- d) Emissions should be monitored and results submitted to the Local authority in accordance with the Air pollution licence if granted.*

Reason: *In the interests of Environmental and Public Health."*

Condition 5: Integrated Pollution Control License ('IPPC')

"Following the submission of an Air Permit License to the planning authority, should this be deemed insufficient for the operations/production onsite (volume and nature etc.), the applicant shall liaise with the Environmental Protection Agency (EPA) for the submission of a Waste License Application to the EPA. Evidence of such liaison and subsequent application shall be provided to the planning authority. No works shall commence onsite until such an application is granted by the EPA.

Reason: *In the interests of proper regulation, public and environmental health."*

Condition 6: Local Authority Waste Facility Permit

- a) *A Waste facility permit is required under Class 7 of Part 1 of the Third schedule of the "Waste Management (Facility Permit & Registration) Regulations 2007 as amended. This license will be applied to and issued by Kilkenny County Council prior to any works commencing onsite.*
- b) *Waste materials will be from Construction and Demolition sites from the state only and will be delivered to site by a National Waste Collection Permit Office ('NWCPO') authorised waste contractors.*
- c) *All incoming waste will be recorded and made available for inspection in accordance with the EMS and Waste facility permit.*
- d) *All materials delivered to site are to be stored in Raw materials Warehouse, bunded and closed off to avoid any outside contamination.*
- e) *All guidelines of good practice as set out in the EIAR accompanying this application are to be adhered to.*
- f) *Proposal to seek an "end – of -waste" status under Article 28 process for the recovered waste materials will be determined from the Waste Facility permit application.*
- g) *Any other waste generated is to be segregated, stored in dedicated bins onsite and recycled where possible, Waste not recyclable will be segregated and disposed of by a license contractor.*

Reason: *In the interest of Environmental and Public Health"*

Condition 7: Waste License

"Following the submission of a Waste Facility Permit to the planning authority, should this be deemed insufficient for the waste generated onsite during production (volume and nature of waste etc.), the applicant shall liaise with the Environmental Protection Agency (EPA) for the submission of a Waste Licence Application to the EPA. Evidence of such liaison and subsequent application shall be provided to the planning authority. No works shall commence onsite until such an application is granted by the EPA.

Reason: *In the interests of proper regulation, public and environmental health."*

Condition 24: Noise, during operational phase

"a) Following the unloading of gypsum and other materials (involved in operations) from ships at Belview Port, no deliveries of such materials to the production facility shall take place during the hours of 2100-0700.

b) Prior to the commencement of development, the applicant shall provide a written agreement between the applicant and Belview Port facilitating the waiting of delivery lorries during the hours of 2100-0700 following unloading campaigns.

Reason: *In the interests of residential amenity for surrounding residents."*

3 GROUNDS OF APPEAL

MOR Environmental consider that the above Conditions, as currently worded, are inconsistent and overly burdensome; as such, we respectfully request they should be either amended or omitted.

Condition 4 – Grounds of Appeal

MOR Environmental disagrees with the language used in Condition 4(a). The currently worded conditions state that:

*"An Application for an "Air Pollution Licence" will be made to Kilkenny County Council Environment section **prior to works commencing onsite.***

In accordance with the Air Pollution Act, an application for an Air Permit will be submitted to Kilkenny County Council once planning consent has been obtained.

The application will comprise of the following:

- *Application Form;*
- *List of emissions points, their locations, their heights, associated processes, pollutants emitted (NOx and dust) proposed ELVs, and monitoring regime;*
- *Site layout showing the location of each emission point;*
- *A detailed Air Dispersion Modelling Report that will be prepared in accordance with the best practice guidance."*

In the wording of the condition, as drafted, an Air Pollution Licence Application will need to be submitted to the Council prior to any works commencing onsite – the wording of which was outlined in bold for emphasis by the Council. While we fully accept that an Air Pollution Licence will be required to be in place for the Operational Phase, we consider it unreasonable to include a condition that this licence has to be applied prior to any construction works commencing onsite. The reality is that the Construction Phase of the development will take in the region of ca. 14 months to complete. We are respectfully of the opinion that the Council will not require 14 months to adjudicate on an Air Pollution Licence application for a new state-of-the-art development.

Therefore, we request that Condition 4(a) be amended to:

"An Air Pollution Licence must be obtained from Kilkenny County Council Environment section prior to the commencement of normal operational activities onsite."

1. *In accordance with the Air Pollution Act, an application for an Air Permit will be submitted to Kilkenny County Council once planning consent has been obtained.*
2. *The application will comprise of the following:*
 - *Application Form;*
 - *List of emissions points, their locations, their heights, associated processes, pollutants emitted (NOx and dust) proposed ELVs, and monitoring regime;*
 - *Site layout showing the location of each emission point;*
 - *A detailed Air Dispersion Modelling Report that will be prepared in accordance with the best practice guidance."*

RFI Item 2 of the Applicant's RFI response confirmed that an application will be submitted and will comprise of:

- Application Form;
- List of emission points, their locations, associated processes, pollutants emitted (NOx and dust), proposed ELVs, and monitoring regime;
- Site layout showing the location of each emission point; and,
- A detailed Air Dispersion Modelling Report that will be prepared in accordance with the best practice guidance.

The Applicant will demonstrate that any air emissions will not result in air pollution as defined in the Act by submitting a robust application.

Condition 5 – Grounds of Appeal

MOR Environmental consider that Condition 5 is not applicable.

The Applicant's RFI response clearly demonstrated that the Proposed Development will not require an Integrated Pollution Control ('IPC') or an Industrial Emissions ('IE') licence to operate the Proposed Development. This was based on extensive consultation with the Environmental Protection Agency ('EPA'). For reference, RFI Item 1 is summarised below (refer to **Attachment 3**).

MOR Environmental contacted the Environmental Protection Agency ('EPA') on the 28th June 2024, requesting a determination if an IPC/IE or Waste licence would be required for the proposed development. The correspondence with the EPA is summarised below.

An Article 11 declaration was requested by the EPA on the 3rd September 2024. The Article 11 request (reference number 2814) was submitted by MOR Environmental on the 16th September 2024. In addition, on the 23rd September 2024, MOR Environmental provided clarification that...

"the offered calcining technology with hammer mill is a physical process. It is not a chemical process in which a chemical reaction happens and in which not one or more new products are produced from one or more starting material".

The Article 11 Declaration from the EPA was issued on the 1st October 2024, which confirmed that:

"...a Waste Facility Permit is required under Class 7 of Part I of the Third Schedule of the Waste Management (Facility Permit & Registration) Regulations 2007, as amended."

Further correspondence from the EPA (19th November 2024) stated:

"...The Agency notes your confirmation that there will be no chemical process associated with the calcining step. I refer you to Article 11 of the Waste Management (Facility Permit and Registration) Regulations 2007 as amended. Article 11 is a mechanism by which an applicant can request a determination from the EPA as regards the most appropriate waste authorisation ((i.e. Industrial Emissions licence, Waste Licence, Waste Facility Permit or Certificate of Registration, or none as the case may be) for a proposed activity. I refer you to the EPA Article 11 Declaration issued on 1 October 2024 'Article 11 No:2814' which determined a waste facility permit is required. The EPA deems that the Article 11 declaration is sufficient to address your query."

Therefore, MOR Environmental consider that the above Article 11 declaration and subsequent correspondence from the EPA confirms that **neither an Industrial Emissions nor a Waste Licence will be required from the EPA for the Proposed Development**. The EPA have confirmed that a Waste Facility Permit, administered by the Local Authority, will be required

to operate the Proposed Development, which relates to the acceptance and handling of waste gypsum.

Based on a review of the planning file, it would be reasonable to conclude that Condition 5 appears to be based on internal correspondence dated 10th February 2025 between the Assistant Engineers (Environment Department) and the Planning Department of the Local Authority (refer to **Attachment 2**) which appears to disagree with the EPA's determination and incorrectly drew similarities with the Proposed Development and a facility in Monaghan:

"There is concern from the Environment department that this process is not applicable to any licencing from the EPA. There is currently a manufacturing plant in Ireland with a similar process operating under an EPA licence, a submission was received from SGCPi regarding this, with the lack of other facilities like this in Ireland, they offer the only insight into existing regulatory regime for such a facility."

The submission that the Environmental Department of KCC reference is from Saint Gobain Construction Products (Ireland) who through their agent SLR Environmental Consulting (Ireland) Ltd., submitted a third-party observation on the 2nd April 2024. We are respectfully of the opinion that the Assistant Engineer had not reviewed all of the planning documents on the file prior to drafting their letter.

Saint Gobain's operate two distinct sites (Mining operations: Carrickmacross, Co. Monaghan and Processing Operations: Kells, Co. Meath) that currently fall under one Industrial Emissions Licence (P0519-04). Saint Gobain mining operations include for extraction of 200,000 – 500,000 tonnes of gypsum per annum. The gypsum extracted from the mine site is used to supply a factory owned by the applicant located in Co. Meath. The factory site is licenced to accept waste gypsum and a capped / decommissioned landfill is also located at the processing site.

Saint Gobain's are licenced for the following three activities:

Class 1.3: *The extraction and processing (including size reduction, grading and heating) of minerals within the meaning of the Minerals Development Acts 1940 to 1999, where an activity involves - any other operation where either the level of extracted or processed minerals is greater than 200,000 tonnes per annum or the total operational yield is greater than 1,000,000 tonnes, and storage of related mineral waste,*

Class 11.1: *The recovery or disposal of waste in a facility, within the meaning of the Act of 1996, which facility is connected or associated with another activity specified in this Schedule in respect of which a licence or revised licence under Part IV is in force or in respect of which a licence under the said Part is or will be required.*

Class 11.5: *Landfills, within the meaning of section 5 (amended by Regulation 11(1) of the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008 (S.I. No. 524 of 2008)) of the Act of 1996, receiving more than 10 tonnes of waste per day or with a total capacity exceeding 25,000 tonnes, other than landfills of inert waste."*

The Proposed Development is not comparable to the Saint Gobain licenced activities as:

1. The Proposed Development will not undertake mining activities The Proposed Development is not licensable under Class 1.3 as this class is only applicable to facilities that carry out extraction **and** processing, and as no extractive operations will be carried out at the Proposed Development, this class is not applicable;
2. The Proposed Development is not licensable under Class 11.1 of the EPA Act 1992 (Revised 19 September 2024) as no other activity class applies, this class cannot apply; and,
3. The Proposed Development is not licensable under Class 11.5 as it is not a landfill.

In addition:

4. The Proposed Development will process a maximum of 195,000 tonnes per annum; and,
5. The Proposed Development will accept less than 25,000 tonnes of gypsum waste per annum. Therefore, a waste facility permit from Kilkenny County Council will be sought under the Waste Management (Facility Permit and Registration) Regulations S.I No. 821 of 2007, and the Waste Management (Facility Permit and Registration) Amendment Regulations S.I No. 86 of 2008 (hereafter referred to as 'the Regulations').

Therefore, on the basis that Condition 5 is **not applicable**, MOR Environmental request that Condition 5 be removed from a final grant of planning.

Condition 6 – Grounds of Appeal

MOR Environmental disagrees with the language used in Condition 6(a). The currently worded conditions states that:

- a) ***"A Waste facility permit is required under Class 7 of Part 1 of the Third schedule of the "Waste Management (Facility Permit & Registration) Regulations 2007 as amended. This license will be applied to and issued by Kilkenny County Council prior to any works commencing onsite."***

We fully accept that the facility will require a Waste Permit to operate. However, as per the Grounds of Appeal outlined for Condition 4 above, it would be unreasonable that such a permit application would have to be submitted prior to any works commencing onsite – the wording of which was outlined in bold for emphasis by the Council. The reality is that it is provisionally estimated that the construction phase of the development will take in the region of ca. 14 months to complete. We are respectfully of the opinion that the Council will not require 14 months to adjudicate on a Waste Permit application for a new state-of-the-art development.

We also wish to highlight that the wording of Condition 6(a) refers to a license when, in fact, it should refer to a permit.

MOR Environmental suggest that condition 6(a) be amended to:

- "(a) A Waste facility permit is required under Class 7 of Part 1 of the Third schedule of the Waste Management (Facility Permit & Registration) Regulations 2007 as amended. This permit will be applied to and issued by Kilkenny County Council prior to the commencement of normal operational activities onsite"***

Condition 7 – Grounds of Appeal

MOR Environmental consider that Condition 7 is not applicable.

As outlined in the Grounds for Appeal for Condition 5 above, the Applicant's RFI response demonstrated that the Proposed Development will not require an IPC or IE licence to operate the Proposed Development. For reference, RFI Item 1 is summarised below (refer to **Attachment 3**).

MOR Environmental contacted the Environmental Protection Agency ('EPA') on the 28th June 2024, requesting a determination if an IPC/IE or Waste licence would be required for the proposed development. The correspondence with the EPA is summarised above in Condition 5 Grounds of Appeal.

Therefore, on the basis that Condition 7 is **not applicable**, MOR Environmental request that Condition 7 is removed from a final grant of planning.

Condition 24 – Grounds of Appeal

The Applicant recognises the importance of residential amenities for residents surrounding the Proposed Development. However, MOR Environmental disagrees with the hour restrictions set in Condition 24.

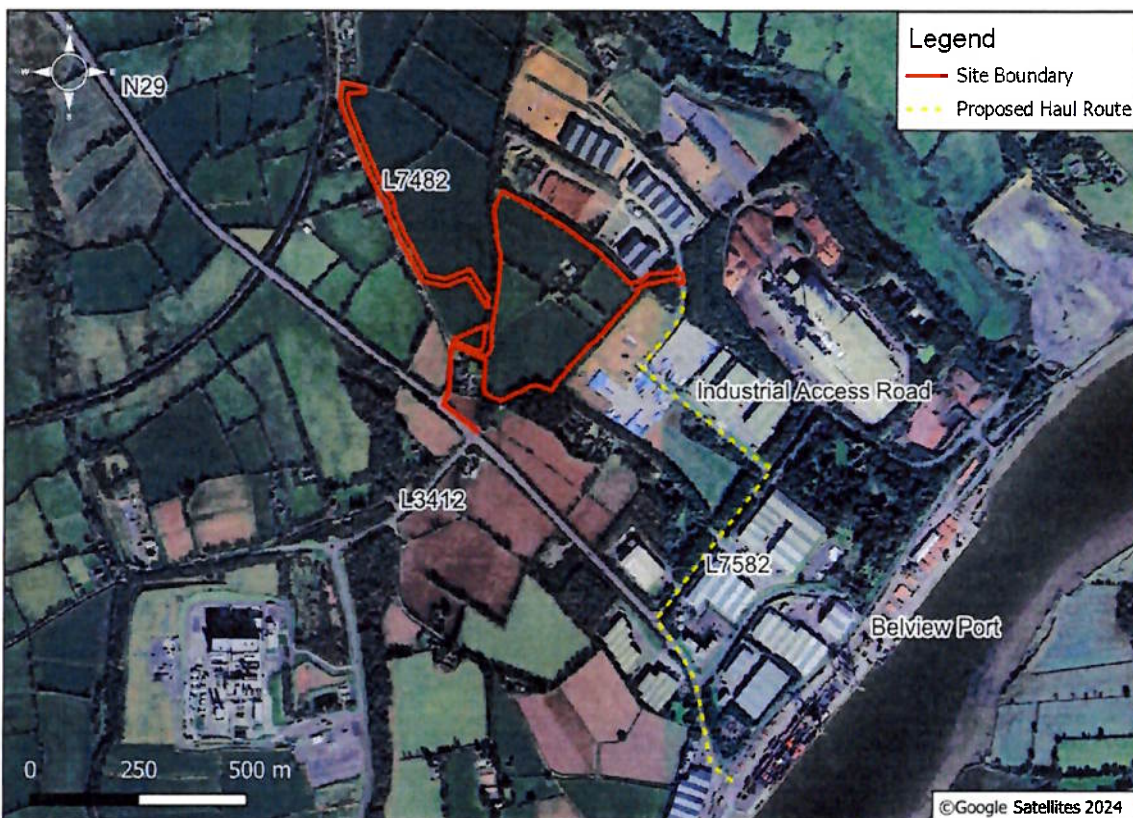
Belview Port is a significant trade gateway for Ireland, providing a vital link to international markets. Belview Port is strategically located, providing easy access to major road networks, including the N25 and N29 to incoming freight.

The Site is zoned under the Ferrybank-Belview Local Area Plan ('LAP') (2017) as mainly 'Port Facilities and Industry'. This is to allow for the further development and expansion of port facilities and associated industries. There are also partial areas of the Site zoned as 'Passive Open Space' in the LAP in order to protect sensitive environmental features [1].

In relation to Condition 24(a), MOR Environmental believes these restrictions to the "campaigns" (where the unloading of raw gypsum from the shipping vessel, which will be transported from Belview Port via HGVs to the Site over a 24-hour period) are unreasonable as they will occur broadly every 6 weeks or ca. 8 times per year.

The proposed haulage route will exit Belview Port onto the N29, which connects to the industrial estate, from here, internal industrial roads connect to the Site; refer to Figure 1 below.

Figure 1: Proposed Haulage Route



During the campaign events the direct impact on Noise Sensitive Receptors ('NSRs') in relation to noise will be a temporary, re-occurring, not significant effect.

The Applicant will, as part of the commitments within the EIAR, ensure the following practices are implemented:

- Routing policy to ensure all movements are made via the strategic road network to avoid HGVs passing through residential areas as far as is practical; and,
- A policy of safety and environmental awareness for all HGV drivers accessing the Site.

Furthermore, the Applicant will consult potentially effected neighbours prior to campaign events occurring and will implement a traffic management plan during these campaigns.

The noise levels from the operational phase are controlled by Condition 23 which states:

“a) Noise levels related to the Operational phase shall not exceed

- Daytime (0700 – 2100): 55dB(A) (Leq, 60 minutes);

- Night-time (2100 – 0700): 45dB(A) (Leq, 30 minutes).

(b) In the event of any unforeseen significant noise impacts with the potential to impact third parties during the operational phase of the development (as determined by the planning authority), additional mitigation measures shall be submitted for the agreement of the planning authority. Any such additional measures shall be implemented by the developer.

(c) Noise monitoring will be closely examined and reporting to Planning Authority shall be requested if deemed necessary.”

In relation to Condition 24(b), it is the Applicant's understanding that the Port of Waterford has permission to operate 24 hours, which is considered necessary, as water levels affected by the tides will dictate when ships may enter or exit the Port.

It is considered that the introduction of a 3rd party (Port Masters) and the restriction to their operations is not reasonable.

As the operational noise levels and any significant noise impacts from the campaign events will be controlled under Condition 23, MOR Environmental request that Condition 24 be removed.

4 CONCLUDING STATEMENTS

The Applicant, in general, welcomes the decision by the Local Authority to grant permission and is fully committed to ensuring operations will be undertaken in a manner that will not result in any adverse impacts to residential and other amenities.

The primary basis of the appeal is to request that the language in Conditions 4 and 6, be amended to ensure that works may commence onsite prior to the submission of applications for the required Air Pollution and Waste Facility permits.

It is also sought that Conditions 5 and 7 be removed on the basis that they are no longer applicable. It is fully accepted that normal operations at the facility cannot commence until both an Air Pollution Licence and a Waste Facility Permit have been issued by the Council.


In addition, Condition 24 is requested to be removed, as Condition 23 already provides for control and enforcement of operational noise in the local amenity, and the management of waiting HGVs will not be relevant where restrictions to the movement are not conditioned.

We look forward to an early and favourable decision. Should the Board require further information to inform its decision, the appellant will provide it.

Prepared by:


Gus Egan
Principal Environmental Consultant

Approved by:


Kevin O'Regan
Director

Accompanying Documents

1. ABP – Planning Appeal Form
2. Cheque for required fee €3,000

Attachments

Attachment 1 – Notification of Decision to Grant of Planning 24/60103

Attachment 2 – EPA Correspondence from RFI Response (PR 24/60103) dated 11th December 2024

Attachment 3 – Assistant Engineer (Environment Section) Internal Correspondence 10th February 2025

ATTACHMENTS

ATTACHMENT 1



KILKENNY COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACTS 2000 (AS AMENDED)

NOTIFICATION OF DECISION TO GRANT

TO: GABM Limited
c/o Gavin Lonergan
Malone O'Regan Cons. Engineers
3-4 Canada Street
Waterford. X91 V52K

Planning Register Number: 24/60103

Valid Application Received: 01/03/2024

Further Information Received Date: 11/12/2024

In pursuance of the powers conferred upon them by the above-mentioned Acts, Kilkenny County Council has by Order dated 12/02/2025 decided for the reason(s) set out in the First Schedule hereto to GRANT PERMISSION for development as follows:-for development on lands with a site area of approximately 11.57ha located at Gorteens, Co. Kilkenny. The development will consist of the construction of an integrated plasterboard manufacturing facility, incorporating a production plant with access from the industrial area road infrastructure at Gorteens, Co. Kilkenny. The production facility will have a floor area of 22,400 sq.m, with a height over finished ground level ranging from 19metres to 29metres. Roof mounted solar panels are proposed. The proposed development includes all site development works, landscaping, boundary treatments including earthworks, road works, retaining walls, vehicle entrance, vehicle parking with charging (HGV, cars and bicycles/scooters), gates, fencing, paving, water storage tanks, drainage and lighting. Planted berms are proposed within and along the perimeters of the development site. The development will include for extraction of groundwater for production process purposes. Servicing arrangements include the provision of a constructed surface water attenuation area. Access to connect to the public foul network and to mains water supply is proposed. The application will be accompanied by an Environmental Impact Assessment Report (EIAR) and by a Natura Impact Statement (NIS). AT Gorteens Slieverue Co. Kilkenny IN ACCORDANCE WITH THE PLANS, PARTICULARS AND DOCUMENTATION SUBMITTED SUBJECT TO THE 36 NO. CONDITIONS SPECIFIED IN THE SECOND SCHEDULE HERETO, THE REASONS FOR THE IMPOSITION FOR THE SAID CONDITIONS BEING SET OUT IN THE SAID SECOND SCHEDULE.

In deciding the Planning Application the Planning Authority have regard to submissions or observations received in accordance with the Regulations.

Signed on behalf of Kilkenny County Council

for DIRECTOR OF SERVICES

Date: 12/02/2025

See final page for details of appeal procedures.

Tel no. Planning Section: 056-7794010 Website: www.kilkennycoco.ie

Note: An applicant for permission and any person who made submissions or observations in writing in relation to the planning application to the planning authority in accordance with the permission regulations and on payment of the appropriate fee, may, at any time before the expiration of the appropriate period – “the appropriate period” means the period of four weeks beginning on the day of the decision of the planning authority – appeal to An Bord Pleanala against a decision of a planning authority under Section 34.

AN APPEAL SHALL BE MADE

- (a) by sending the appeal by prepaid post to An Bord Pleanala, 64 Marlborough Street, Dublin 1, Tel 01.8588100 or LoCall 1890 275175
- (b) by leaving the appeal with an employee of An Bord Pleanala at the offices of the Board during office hours (as determined by the Board) or
- (c) by such other means as may be prescribed.

APPEALING A DEVELOPMENT CONTRIBUTION.

- (a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.
- (b) An appeal may be brought to the Board where an applicant for permission under Section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

AN APPEAL SHALL

- (a) be made in writing
- (b) state the name and address of the appellant and of the person, if any, acting on his or her behalf
- (c) state the subject matter of the appeal
- (d) state in full the grounds of appeal and the reasons, considerations and arguments on which they are based
- (e) in the case of an appeal under Section 37 by a person who made submissions or observations in accordance with the permission regulations, be accompanied by the acknowledgement by the planning authority of receipt of the submissions or observations
- (f) be accompanied by such fee (if any) as may be payable in respect of such appeal in accordance with Section 144 and
- (g) be made within the period specified for making the appeal.

FEES FOR APPEAL

(a)	Appeals against decisions of Planning Authorities	
	Appeal	
(i)	1 st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if an EIS or NIS involved
(ii)	1 st party appeal relating to commercial development (no retention element in application)	€1,500 or €3,000 if EIS or NIS involved
(iii)	1 st party appeal non-commercial development where the application included the retention of development	€660
(iv)	1 st party appeal solely against contribution conditions (s) – (2000 Act section 48 or 49)	€220
(v)	Appeal following grant of leave to appeal	€110
(vi)	An appeal other than referred to in (i) to (v) above	€220
(b)	Referral	€220
(c)	Reduced fee for appeal or referral (applies to certain specified bodies)	€110
(d)	Application for leave to appeal (section 37(6)(a) of 2000 Act)	€110
(e)	Making submission or observation (specified bodies exempt)	€50
(f)	Request for oral hearing under section 134 of 2000 Act	€50
Note: The above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above)		

ORAL HEARINGS

The Board may, in its absolute discretion, hold an oral hearing of an appeal. A party to an appeal may request an oral hearing of the appeal. A request for an oral hearing of an appeal shall be made in writing to the Board and shall be accompanied by such fee (if any) as may be payable in respect of the request in accordance with Section 144. A request for an oral hearing of an appeal which is not accompanied by such fee (if any) as may be payable in respect of the request shall not be considered by the Board.

A request by an appellant for an oral hearing of an appeal under Section 37 shall be made within the appropriate period referred to in that section (the period of four weeks beginning on the day of the decision of the Planning Authority) and any request received by the Board after the expiration of that period shall not be considered by the Board. A request by a party to an appeal other than the appellant for an oral hearing of an appeal shall be made within the period referred to in Section 129(2)(a) (within a period of 4 weeks beginning on the day on which a copy of the appeal is sent to that party by the Board) within which the party may make submissions or observations to the Board in relation to the appeal, and any such request received by the Board after the expiration of that period shall not be considered by the Board.

Further details are available on the Board's website – www.pleanala.ie

FIRST SCHEDULE

REASONS AND CONSIDERATIONS ON DECISION P.24/60103

Having regard to the proposed development, the provisions of the Kilkenny County Development Plan 2021-2027 and the various referral responses, it is considered that the proposed development, subject to the attached conditions, accords with the proper planning and sustainable development of the area.

SECOND SCHEDULE

36 NO. CONDITIONS ATTACHED TO PLANNING REFERENCE P. 24/60103

General

1. The development shall be carried out and completed strictly in accordance with:
 - i. the conditions of this permission.
 - ii. the documents lodged with this application on the 01st March 2024 and further information lodged on the 11th of December 2024, except as otherwise required by the conditions of this permission;

Reason: In the interests of proper planning and orderly development.

Development Contribution

2. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in Kilkenny County Council's administrative area that is provided or intended to be provided by or on behalf of the Local Authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Acts 2000 as amended.

The amount of the financial contribution shall be paid upon commencement of development, with the amount of the contribution being the rate of contribution in existence on commencement of development. In accordance with the current scheme the amount of the contribution is calculated at **€298,279.13** (Two hundred and ninety eight thousand two hundred and seventy nine Euro and thirteen cents), however this amount may be recalculated in accordance with any newly adopted Development Contribution Scheme that may supercede the current scheme prior to commencement of development. Any applicable amount is subject to revision with reference to the Wholesale Price Index and to penalty interest in accordance with the terms of Kilkenny County Council's Development Contribution Scheme.

Reason: It is a requirement of the Planning and Development Acts 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.

3. The development shall be strictly carried out in accordance with the recommendations and mitigations measures set out in the Natura Impact Statement and Environmental Impact Assessment Report submitted with this application.

Reason: To provide for the protection of the conservation objectives of Natura 2000 sites and to ensure there is no real likely effects on the receiving environment arising from the proposed works.

Local Authority Air Pollution Licence

4. (a) An Application for an "Air Pollution Licence" will be made to Kilkenny County Council Environment section **prior to works commencing onsite.**
In accordance with the Air Pollution Act, an application for an Air Permit will be submitted to Kilkenny County Council once planning consent has been obtained.
The application will comprise of the following:
 - Application Form;
 - List of emission points, their locations, their heights, associated processes, pollutants emitted (NO_x and dust), proposed ELVs, and monitoring regime;
 - Site layout showing the location of each emission point;
 - A detailed Air Dispersion Modelling Report that will be prepared in accordance with the best practice guidance.
- (b) The applicant will demonstrate that any air emissions will not result in air pollution as defined in the Act by submitting a robust application.
- (c) No odours to be omitted from the site, air quality monitoring may be requested by Kilkenny County Council under this permission.
- (d) Emissions should be monitored and results submitted to the Local authority in accordance with the Air pollution licence if granted.

Reason: In the interests of Environmental and Public Health.

Integrated Pollution Control License (IPPC)

5. Following the submission of an Air Permit License to the planning authority, should this be deemed insufficient for the operations/production onsite (volume and nature etc.), the applicant shall liaise with the Environmental Protection Agency (EPA) for the submission of a Waste License Application to the EPA. Evidence of such liaison and subsequent application shall be provided to the planning authority. No works shall commence onsite until such an application is granted by the EPA.

Reason: In the interests of proper regulation, public and environmental health.

Local Authority Waste Facility Permit

6. (a) A Waste facility permit is required under Class 7 of Part 1 of the Third schedule of the "Waste Management (Facility Permit & Registration) Regulations 2007 as amended. This license will be applied to and issued by Kilkenny County council **prior to any works commencing onsite.**
- (b) Waste materials will be from Construction and Demolition sites from the state only, and will be delivered to site by a National Waste Collection Permit Office (NWCPO) authorised waste contractors.

- (c) All incoming waste will be recorded and made available for inspection in accordance with the EMS and Waste facility permit.
- (d) All materials delivered to site are to be stored in Raw materials Warehouse, banded and closed off to avoid any outside contamination.
- (e) All guidelines of good practice as set out in the EIAR accompanying this application are to be adhered to.
- (f) Proposal to seek an "end – of -waste" status under Article 28 process for the recovered waste materials will be determined from the Waste Facility permit application.
- (g) Any other waste generated is to be segregated, stored in dedicated bins onsite and recycled where possible, Waste not recyclable will be segregated and disposed of by a license contractor.

Reason: In the interests of Environmental and Public Health.

Waste License

- 7. Following the submission of a Waste Facility Permit to the planning authority, should this be deemed insufficient for the waste generated onsite during production (volume and nature of waste etc.), the applicant shall liaise with the Environmental Protection Agency (EPA) for the submission of a Waste Licence Application to the EPA. Evidence of such liaison and subsequent application shall be provided to the planning authority. No works shall commence onsite until such an application is granted by the EPA.

Reason: In the interests of proper regulation, public and environmental health.

Archaeology

- 8. (a) The developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, and/or dredging associated with the development. The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.
- (b) Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service of the Department, regarding appropriate mitigation (preservation in-situ/excavation).
- (c) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service of the Department, shall be complied with by the developer.
- (d) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the Planning Authority and the National Monuments Service of the Department shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

Note: You are requested to send any further communications to this Department's Development Applications Unit (DAU) at: referrals@npws.gov.ie.

Traffic and Pedestrian Safety

9. From an assessment of the proposed transport and access arrangements, the following has been noted and requires to be addressed.
- (a) Drawing ref no. P829 rev P1 and the cross section drawing ref P828 indicate footpath and pedestrian route widths ranging from 1m to 1.5m. These drawings shall be amended to provide for 1.8m wide footpaths along all pedestrian routes.
 - (b) The road marking layout for the proposed mini roundabout provides for yield road markings on the southern and western entry legs but none on the northern entry. The HGV swept path analysis for HGV's exiting the site through the roundabout appears to indicate HGV's will overrun the embankment on the northern exit. In addition, the 1m pedestrian route across the unloading area may conflict with HGV turning movements.
 - (c) The carparking dimensions and circulation aisle for the proposed staff parking area at the southern end of the site are unclear.

Prior to the commencement of development, the applicant shall submit revised proposals to address the issues outlined above for the written agreement of the planning authority.

Reason: In the interests of traffic and pedestrian safety.

Visual Amenity, Planting and Landscaping

10. (a) The physical integrity and the external appearance of the external structures walls shall be maintained and renewed as necessary and all galvanised areas shall be painted and maintained. Within one month of commencement of development, complete details of external finishes to all structures, shall be agreed with the Planning Authority. The external colour shall be predominantly dark grey or other dark colour or as proposed. The joint-sealing, physical integrity and external appearance of all external finishes of the structure shall be maintained and renewed as necessary.
- (b) Planting and landscaping shall strictly take place in accordance with documents lodged with this application and shall be completed within the first planting season following commencement of construction and shall be maintained and supplemented where failure occurs.

Reason: In the interest of visual amenity.

Surface Water

11. (a) During unloading of waste plasterboard and raw materials on site no contamination of surface water is to take place. This is to be controlled with unloading of materials within a Raw Materials Warehouse and not outside.
- (b) Run off from roof and yard areas will be to drains and into a settlement tank to trap solids and a fuel/oil bypass separator to remove oils and hydrocarbons.
- (c) For Surface water discharging to the soakaway pit, the storm water run-off shall pass through a settlement tank to trap solids and a fuel/oil bypass separator to remove oil and hydrocarbons.

- (d) All Storm water run-off from the access road is to be collected via a new drainage system, prior to discharge to the existing storm water drain located at the proposed entrance, this must flow through a fuel / oil bypass separator to remove oils and hydrocarbons;
- (e) No surface water run-off from the site shall discharge onto the public road.

Reason: In the interests of environmental and public health.

Drinking Water

- 12. The developer shall provide and arrange and indefinite maintenance of a supply of potable water for domestic and sanitary needs of the development.

Reason: In the interests of public health.

Groundwater

- 13. (a) The applicant is to engage with Uisce Eireann with regard to feasibility to connect to its watermains with upgrades. This connection is to be used for welfare facilities only and not processing works.
- (b) The proposed borewell on site to be used for the processing works and not for human consumption, there should be no cross contamination of water supplies on site with separate storage tanks for mains water connection and borewells.
- (c) All mitigations as stipulated in the EIAR and the Further information request for this application to be adhered to.
- (d) The proposal to extract groundwater will need to be registered with the Environmental Protection Agency (EPA).

Reason: In the interests of Environmental and public health.

Mitigation to water supply sources

- 14. (a) The developer shall identify and monitor at least four adjacent homeowner wells for a minimum period of three years during the operational phase of the development. The monitoring locations shall be agreed with the Planning Authority prior to commencement of development. The monitoring shall be undertaken at least quarterly and shall include water level and water quality testing. An end of year report shall be submitted in Year 1, Year 2 and Year 3 unless requested or agreed otherwise by the planning authority. The Planning Authority may amend or add additional locations for monitoring at any time during the three year period. The end of year reports shall assess the impact of the ongoing abstraction of groundwater on adjacent wells.
- (b) Where it has been determined at (a) above or by the Planning Authority that the developers ongoing water abstraction is having a negative impact upon adjacent homeowner wells, the developer shall be required to agree and provide a replacement potable water supply to the affected homeowners. The full cost of such measures shall be borne by the developer.
- (c) The developer shall maintain a log of all water related complaints received from homeowners along with corrective actions. The Planning Authority may request a copy of the log at any time during the operational phase of the development.
- (d) Wells on-site which are not being used for groundwater abstraction shall be promptly decommissioned and closed in an environmentally safe manner. Details in this regard

together with a time frame for decommissioning for purposes of production shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.

Reason: In the interests of amenities, environmental protection, public health and safety.

Wastewater

15. (a) The applicant shall sign a connection agreement with Uisce Éireann prior to the commencement of the development and adhere to the standards and conditions set out in that agreement;
- (b) This connection is to be used for foul water only resulting from staff and kitchen welfare facilities and not processing works. There shall be no trade effluent generated into the foul water system at any stage;
- (c) All development shall be carried out in compliance with Uisce Éireann Standards codes and practices.
- (d) Where the applicant proposes to build over or divert wastewater services the applicant shall have received written Confirmation of Feasibility (COF) of Diversion(s) from Uisce Éireann prior to any works commencing
- (e) Separation distances between the existing Uisce Éireann assets and proposed structures, other services, trees, etc. have to be in accordance with the Irish Water Codes of Practice and Standard Details.

Reason: To ensure an adequate provision of wastewater and that the development does not place an excessive demand on the existing public sewerage facilities in the area in the interests of environmental and public health.

Operational Waste Management Plan

16. An operational Waste Management Plan shall be submitted to the Planning Authority for written agreement prior to the commencement of development. This shall ensure that all mitigation measures have been addressed.

Reason: In the interests of environmental and public health.

Resource Waste Management Plan

17. (a) A Resource and Waste Management Plan (RWMP) shall be submitted to the Planning Authority for written agreement prior to the commencement of development.
- (b) All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interests of environmental and public health.

Service Cables

18. All service cables associated with the proposed development (such as electrical, communal communications, broadband, telephone and public lighting cables etc) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

Waste /Environmental Management System

19. (a) All wastes shall be dealt with according to the Environmental Management System (EMS) that will be implemented on-site and in accordance with all relevant waste legislation
(b) All wastes removed from the site will be handled only by appropriately licensed waste carriers.
(c) Records shall be kept of each waste consignment, showing the nature and volume / weight of the waste, it's recipient and the final destination and treatment. No waste is to go to landfill as stipulated in EIAR accompanying this application.

Reason: In the interests of Environmental and Public Health.

Industrial Management

20. The development shall be managed in accordance with a management scheme which shall be submitted to, and agreed in writing with, the planning authority, prior to the occupation of the development. This scheme shall provide adequate measures relating to the future maintenance of the development; including landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services together with management responsibilities and maintenance schedules

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

Industrial Storage

21. (a) No goods, raw materials or waste products shall be placed or stored between the front of the building and the road.
(b) All goods, including raw materials, manufactured goods, packaging, crates etc. shall be stored or displayed only within the enclosed building(s).

Reason: In the interests of visual amenity.

Weighbridge

22. The site shall incorporate an operational weighbridge for calculation of tonnages entering / exiting the site, this is essential to be implemented on site to track the amount of waste input and output. Details of the location and specifics of the weighbridge shall be submitted for the written approval of the Planning Authority prior to the commencement of development.

Reason: In the interests of road safety.

Noise, during operational phase

23. (a) Noise levels related to the Operational phase shall not exceed

- Daytime (0700 – 2100): 55dB(A) (Leq, 60 minutes);
- Night-time (2100 – 0700): 45dB(A) (Leq, 30 minutes).

(b) In the event of any unforeseen significant noise impacts with the potential to impact third parties during the operational phase of the development (as determined by the planning authority), additional mitigation measures shall be submitted for the agreement of the planning authority. Any such additional measures shall be implemented by the developer.

(c) Noise monitoring will be closely examined and reporting to Planning Authority shall be requested if deemed necessary

Reason: In the interests of residential and other amenity.

24. (a) Following the unloading of gypsum and other materials (involved in operations) from ships at Belview Port, no deliveries of such materials to the production facility shall take place during the hours of 2100-0700.

(b) Prior to the commencement of development, the applicant shall provide a written agreement between the applicant and Belview Port facilitating the waiting of delivery lorries during the hours of 2100-0700 following unloading campaigns.

Reason: In the interests of residential amenity for surrounding residents.

Pollution Control

25. (a) In the event of an accidental spillage of wastewater, fuel, machine oil or any other substance which may threaten the quality of any watercourse or groundwater body either at construction or operational phase, the Planning Authority and Inland Fisheries Ireland, shall be notified in writing. A copy of the clean-up plan shall be submitted to the planning authority.

(b) Silt traps and oil receptors should be implemented on site as a control measure to mitigate against any potential incidents.

Reason: In the interests of environmental and public health.

Light and Glare (Operation)

26. (a) All measures outlined in EIAR to ensure luminaires are selected on the merit of their efficiency and minimal glare, back light and up light spill characteristics to ensure minimal light pollution to surrounding areas, including the treelines and hedge-lines on-site and surrounding the Site.

(b) The lighting strategy which has been designed as part of the Proposed Development should avoid excessive lighting.

(c) In the event of an unforeseen significant glint and glare impacts to third parties (as determined by the planning authority), additional mitigation measures shall be submitted for the agreement of the planning authority. Any such additional measures shall be implemented by the developer.

Reason: In the interests of residential and other amenity.

Construction

27. (a) Prior to commencement of development the preliminary Construction Environmental and Waste Management Plan will be updated as a final document and submitted to the Planning authority, outlying in a single document the procedures for monitoring the effectiveness of the environmental protection measures.
(b) All Environmental Commitments and Mitigation Measures outlined in the ELAR and NIS accompanying this application shall be adhered to.

Reason: In the interests of amenity.

28. During the construction phase all tank and drum areas shall be rendered impervious to the materials stored therein. In addition, tank and drum storage areas shall be bunded either locally or remotely to a volume not less than 110% of the capacity of the largest tank or drum within the bunded area. Drainage from the bunded area shall be diverted for collection and safe disposal.

Reason: In the interests of protection of the environment.

29. During the construction phase of the development, the developer shall ensure that all operations at the site shall be managed and programmed in such a manner as to minimize waste production. The developer shall ensure procedures are in place to deal with any litter arising during the construction phase of the development. Wastes sent off site for recovery or disposal including waste soil, subsoil and rubble, shall only be conveyed by an authorized waste contractor and transported from the proposed development site to an authorized site of recovery/disposal in a manner which will not adversely affect the environment.

Reason: To provide for the recovery/disposal of waste and the protection of the environment.

30. During construction, the developer shall keep port and public roads clean. Roads shall be regularly swept using a suction sweeper. No debris, and/or dust/dirt associated with the proposed development shall be deposited on port or public roads.

Reason: To control dust and dirt on the port and public roads in the interest of traffic safety.

Noise, Air and Odour during the construction phase

31. (a) During the construction phase the applicant shall ensure that all operations on site are carried out in a manner such that noise, air emissions and/or odours do not result in significant impairment of, or significant interference with, amenities or the environment beyond the site.
(b) Activities at this site shall not give rise to construction noise levels off site, at noise sensitive locations, which exceed the following sound pressure limits:
Daytime (0800 – 1800): 65dB(A) (Leq, 60 minutes)

Evening (1800 – 2200): 55dB(A) (Leq, 60 minutes)

Night-time (2200 – 0800): 45dB(A) (Leq, 15 minutes)

The above limits are inclusive of any necessary adjustments to account for tonal or impulsive character in the noise.

Construction work shall be limited to 08:00 to 18:00 Monday to Friday and 09:00 to 13:00 on a Saturday. No bank holiday work is permitted.

Delivery times for material to site is limited between 08:00 to 18:00 Monday to Friday and 09:00 to 13:00 on Saturdays. Any works outside of these times must be agreed in advance with the Planning Authority.

Reason: In the interests of residential and other amenity.

Dust Management (Construction and Operation)

32. (a) Prior to commencement a Dust Management Plan (DMP) shall be prepared for the site and submitted in writing for the agreement of the planning authority;

(b) All mitigation measures as outlined in the DMP shall be followed for both construction and operational phases.

Reason: In the interests of residential and other amenity.

Debris / Dirt control

33. A suitably designed wheel-wash which shall cater for both construction and operation phases shall be submitted to the Planning Authority for the written approval of the Planning Authority prior to the commencement of development onsite. This shall be implemented on-site as a control measure in order to clean wheels of any vehicles leaving the site onto the public road to avoid unwanted mud/debris from entering onto both port and public roads.

Reason: In the interests of road safety.

External Signage

34. A separate application for permission will be required for any additional external signage over and above those indicated on plans submitted.

Reason: In the interests of visual amenity.

Decommissioning

35. Under Article 10(1) "Improvement or Development of land", a facility closure plan shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

This shall be applied to the facility in the event of an unforeseen closure of the site, or, if the facility comes to the end of its life.

Reason: In the interests of orderly development

Further Monitoring

36. The applicant shall be required, if requested by Kilkenny County Council, to carry any other such investigation and monitoring as may be deemed necessary to demonstrate that onsite activity, granted under this permission, is not resulting in significant impairment of, or significant interference with amenities, or the environment, on or beyond the site. The Planning Authority reserves the right to amend any specific monitoring limits stated in planning conditions / applications having due regard to legislative amendments or amendments to guidance documents and Waste Management Regulations produced by central government or the EPA.

Reason: In the interests of orderly development.

FOOTNOTE:

The applicant is invited to discuss any of the above conditions, particularly with regard to pre-commencement conditions with the Planning Authority prior to commencement of development should they so wish.

All proposals & mitigation measures submitted in the Environmental Impact Assessment report shall be carried out in full.

Section 34 (13) of the Planning and Development Act 2000 as amended, states :

"A person shall not be entitled solely by reason of a permission under this section to carry out any development."

Developers are obliged to comply with other legislation and to avoid infringement of third party rights.

A road opening licence shall be agreed in respect of any works affecting the public road. The applicant shall liaise with Belview Port with regard to any works which affect port controlled road

The applicant shall also liaise with Belview Port with regard to the waiting of delivery lorries during loading which takes place between the hours of 2100 -0700.

Any tree or vegetation removal works that are required as part of this development should, where possible, be done outside of the bird nesting season. Bird nesting season is from March 1st until August 31st inclusive.

Any supplementary planting or new planting, should consist of native hedging species such as Hawthorn, Holly, Gelder Rose, Blackthorn and Hazel. Additional information can be found at: <https://pollinators.ie/businesses/> Kilkenny County Council is a signatory to the All-Ireland Pollinator Plan.

ATTACHMENT 2

Gus Egan

From: Licensing Staff <licensing@epa.ie>
Sent: Tuesday 19 November 2024 11:28
To: Gus Egan; Article 11
Cc: Licensing Staff; Kevin O'Regan; Shirley Murphy
Subject: RE: E2077: EPA IEL Determination Request - GABM Plasterboard

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr Egan,

The Agency notes your confirmation that there will be no chemical process associated with the calcining step.

I refer you to Article 11 of the Waste Management (Facility Permit and Registration) Regulations 2007 as amended. Article 11 is a mechanism by which an applicant can request a determination from the EPA as regards the most appropriate waste authorisation ((i.e. Industrial Emissions licence, Waste Licence, Waste Facility Permit or Certificate of Registration, or none as the case may be) for a proposed activity. I refer you to the EPA Article 11 Declaration issued on 1 October 2024 'Article 11 No:2814' which determined a waste facility permit is required.

The EPA deems that the Article 11 declaration is sufficient to address your query.

Kind regards

Demetra O'Farrell
Business Support & Environmental Assessment Team
Water, Energy and Business Support Programme
Office of Environmental Sustainability, Wexford
Foireann Tacaiochta Gnó & Measúnaithe Comhshaol
An Clár Tacaiochta maidir le hUisce, Fuinneamh agus Gnó
An Oifig um Inbhuanaitheacht Comhshaol, Loch Garman



053 9160600 (Reception) | Ext 6984

d.o'farrell@epa.ie

www.epa.ie



From: Gus Egan <gegan@mores.ie>
Sent: Tuesday, November 12, 2024 5:36 PM
To: Article11 <article11@epa.ie>
Cc: Licensing Staff <licensing@epa.ie>; Kevin O'Regan <KORegan@mores.ie>
Subject: RE: E2077: EPA IEL Determination Request - GABM Plasterboard

Dear Shirley,

Thank you for the reply which fully clarifies matters under the Article 11.

We would greatly appreciate your assistance in closing out one final point that we require to close off to meet the requirements of the Planning Authority.

The Agency in their email dated Tuesday 3rd September 2024 requested the following:

"The Agency also notes the calcining step in the proposed process - please provide the details of this step if it involves a chemical process, rather than a physical drying process, as this may constitute a licensable activity".

We have provided a response to this query on the 23rd September 2024. Please see attached the relevant details.

Based on the supplementary information provided, could the Agency please confirm that they are satisfied that there will be no chemical process associated with the calcining step that would constitute a licensable activity?

We would greatly appreciate a timely response to this request.

Kind Regards,

Gus Egan

BSc (Hons) MSc, Dip IOA

AACI AMIOA

Principal Environmental Consultant

for and on behalf of

Malone O'Regan Environmental

Office 10, First Floor, The Junction,

Unit 25J, Axis Business Park,

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☎ +353 (0)1 5677655
☎ +353 (0)86 1982201
✉ gegan@mores.ie
Web: www.mores.ie

From: Article11 <article11@epa.ie>
Sent: Monday 4 November 2024 10:08
To: Gus Egan <gegan@mores.ie>
Subject: FW: E2077: EPA IEL Determination Request - GABM Plasterboard

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr Egan

I refer you to Article 11 of the Waste Management (Facility Permit and Registration) Regulations 2007 as amended. Article 11 is a mechanism by which an applicant can request a determination from the EPA as regards the most appropriate waste authorisation (i.e. Industrial Emissions licence, Waste Licence, Waste Facility Permit or Certificate of Registration, or none as the case may be) for a proposed activity. I refer you to the EPA Article 11 Declaration issued on 1 October 2024 'Article 11 No:2814' which determined a waste facility permit is required.

The EPA deems that the Article 11 declaration is sufficient to address your query.

Regards

Shirley Murphy
Programme Officer

Article 11

Circular Economy & Waste Authorisation

Circular Economy Programme

Office of Environmental Sustainability, Wexford

An Geilleagair Chiorclach & Udaruithe Dramhaíola

An Clár an Gheilleagair Chiorclaigh

An Oifig um Inbhuinítheacht i leith Cúrsaí Comhshaoil, Loch Garman



053-9160600 (Reception)
article11@epa.ie
www.epa.ie
   

From: Gus Egan <gegan@mores.ie>
Sent: Friday, November 1, 2024 4:35 PM
To: Licensing Staff <licensing@epa.ie>
Cc: E2077 - O'Briens Cement Gypsum Plant EIAR <E2077-O'BriensCementGypsumPlantEIAR@mores.ie>; Wexford Receptionist <REC_WEX@epa.ie>
Subject: RE: E2077: EPA IEL Determination Request - GABM Plasterboard

Dear Noeleen,

I am following up on the below. We are approaching a planning deadline and would appreciate the EPA's response providing your formal position on the licensing status of the proposed development next week please.

For reference I have attached the Article 11 determination and confirmation that the process is a physical one.

We trust the attached and previous information is sufficient for you to provide a response providing your formal position on the licensing status. We look forward to your response.

Kind Regards,

Gus Egan
BSc (Hons), MSc, Dip IOA
AACI, AMIOA
Principal Environmental Consultant

for and on behalf of

Malone O'Regan Environmental

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✉ gegan@mores.ie
Web: www.mores.ie

From: Gus Egan
Sent: Thursday 3 October 2024 11:15
To: Licensing Staff <licensing@epa.ie>
Cc: E2077 - O'Briens Cement Gypsum Plant EIAR <E2077-O'BriensCementGypsumPlantEIAR@mores.ie>
Subject: RE: E2077: EPA IEL Determination Request - GABM Plasterboard

Dear Noeleen,

Please see attached the Article 11 determination. The Agency has determined that a Waste Facility Permit is required under Class 7 of Part I of the Third Schedule of the Waste Management (Facility Permit & Registration) Regulations 2007, as amended.
We trust the attached and previous information is sufficient.
We look forward to your response.

Kind Regards,

Gus Egan

BSc (Hons), MSc, Dip IOA
AACI, AMIOA
Principal Environmental Consultant

for and on behalf of

Malone O'Regan Environmental

Ground Floor - Unit 3
Bracken Business Park
Bracken Road, Sandylford
Dublin 18, D18 V32Y
☎ +353(0)1 567 7655
☎ +353(0)86 1982201
✉ gegan@more.ie
Web: www.mores.ie

From: Gus Egan <gegan@more.ie>

Sent: Monday 23 September 2024 15:05

To: Licensing Staff <licensing@epa.ie>

Cc: E2077 - O'Briens Cement Gypsum Plant EIAR <E2077-O'BriensCementGypsumPlantEIAR@mores.ie>

Subject: RE: E2077: EPA IEL Determination Request - GABM Plasterboard

Dear Noeleen,

Thank you for the below email. We have submitted a request for a determination via the Article 11 request system. We will forward the determination once received.

In relation to the second point below, we can confirm that the calcining step is a physical process and does not involve a chemical process. We have also attached a supporting statement from Grenzebach who specialise in the construction of gypsum manufacturing plants stating that .. *"the offered calcining technology with hammer mill is a physical process. It is not a chemical process in which a chemical reaction happens and in which not one or more new products are produced from one or more starting material."*

We trust the above and attached is satisfactory. However, please do not hesitate to contact me, if you have any queries.

Kind Regards,

Gus Egan

BSc (Hons), MSc, Dip IOA
AACI AMIOA
Principal Environmental Consultant

for and on behalf of

Malone O'Regan Environmental

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Web: www.moeres.ie

From: Licensing Staff <licensing@epa.ie>

Sent: Tuesday 3 September 2024 16:11

To: Gus Egan <gegan@moeres.ie>

Cc: Licensing Staff <licensing@epa.ie>

Subject: FW: E2077: EPA IEL Determination Request - GABM Plasterboard

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr Egan,

The Agency notes in your documented request that waste gypsum from construction sites will be used at the proposed development. The recovery of waste requires a waste authorisation.

As defined in section 4(1)(b) of the Waste Management Act 1996 revised; "waste" means any substance or object which the holder discards, or intends, or is required to discard. The concept of a by-product was established by the [European Waste Framework Directive](#) (WFD). This concept has been transposed into Irish law through Regulation 27 of the [European Communities \(Waste Directive\) Regulations 2011](#), as amended.

Only a production residue can be considered a potential by-product. Further information in relation to by-products can be found on the Agency's website at the following link: [By-products Regulation 27 | Environmental Protection Agency \(epa.ie\)](#)

In order to determine which type of waste authorisation may be required for the recovery of waste gypsum from construction sites, applicants may submit a request for a determination via the "Article 11 request system" as regards the most appropriate waste authorisation (i.e. Industrial Emissions Licence, Waste Licence, Waste Facility Permit or Certificate of Registration) for a proposed activity. Details of the Article 11 request system can be found here at this link: [Declaration on waste authorisations \(Art. 11\) | Environmental Protection Agency \(epa.ie\)](#)

The Agency also notes the calcining step in the proposed process - please provide the details of this step if it involves a chemical process, rather than a physical drying process, as this may constitute a licensable activity.

Should you have any further queries, do not hesitate to contact us.

Regards

Noeleen Keavey

Office of Environmental Sustainability, Wexford
An Oifig um Inbhuanaithéacht i leith Cúrsaí Comhshaoil, Loch Garman



From: Gus Egan <gegan@mores.ie>
Sent: Friday 28 June 2024 12:18
To: Licensing Staff <licensing@epa.ie>
Cc: Wexford Receptionist <REC_WEX@epa.ie>
Subject: E2077: EPA IEL Determination Request - GABM Plasterboard

Dear Sir/Madam,

Please see attached a request for determination if IPC/IE or Waste licence is required as part of a request for information (RFI) from Kilkenny County Council regarding the application for an integrated plasterboard manufacturing facility at Gorteen, Slieverue, Co. Kilkenny (ref: 24/60103). MOR Environmental would welcome the EPA's formal position on the licensing status of the proposed development. As this declaration is required in support of an RFI response, we would greatly appreciate a timely response from the EPA.

Please do not hesitate to contact me, if you have any queries on the attached.

Kind Regards,

Gus Egan

BSc (Hons), MSc, Dip IOA

AACI, AMIOA

Principal Environmental Consultant

for and on behalf of

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Web: www.mores.ie

Ms. Laura Fitzpatrick
Malone O'Regan Environmental Services Limited
Ground Floor - Unit 3 Bracken Business Park
Sandyford
Dublin
Co. Dublin



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

01 October 2024

Article 11 No: 2814

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

Re: Article 11 Declaration

T: +353 53 916 0600
F: +353 53 916 0699
E: info@epa.ie

Dear Ms. Fitzpatrick

The Agency has reviewed your Article 11 Request, which was received on 16 September 2024, and, based on the information provided, advises as follows:

The Agency has determined that a Waste Facility Permit is required under Class 7 of Part I of the Third Schedule of the Waste Management (Facility Permit & Registration) Regulations 2007, as amended. This determination is contingent on:

- the activity consists of recovery of inert waste arising from construction and demolition activity;
- the annual intake shall not exceed 50,000 tonnes;
- residual waste consigned from the facility for disposal shall be less than 15% of the annual waste intake at the facility.

Please be aware that the waste will remain classified as a waste until such a time as end-of-waste status has been achieved, where required. In this regard the Agency would like to draw your attention to Regulation 28(4) of the European Union (Waste Directive) Regulations 2011 - 2020.

Further information and detailed guidance on end-of-waste is available at the following link: <https://www.epa.ie/our-services/licensing/waste/end-of-waste-art-28>

We trust this advice assists.

Yours faithfully

Jennifer Cope
Article 11
Circular Economy Programme
Office of Environmental Sustainability

cc Director of Services, Environment Section, Kilkenny County Council

ATTACHMENT 3



Comhairle Chontae Chill Chainnigh

Halla an Chontae Sraid Eoin Cill Chainnigh
R95 A39T

Kilkenny County Council

County Hall John Street Kilkenny
R95 A39T



Pobail agus Aiteanna Inbhuanaithe a Chruthú

Creating Sustainable Communities and Places

Planning Reg. Ref. No. P24-60103

Date: 10/02/2025

To: Planning Section

Re: Submission regarding Planning Application of: GABM Ltd. At Gorteen, Co. Kilkenny

A Chara,

There is concern from the Environment department that this process is not applicable to any licencing from the EPA.

There is currently a manufacturing plant in Ireland with a similar process operating under an EPA licence, a submission was received from SGCPI regarding this, with the lack of other facilities like this in Ireland, they offer the only insight into existing regulatory regime for such a facility.

The following conditions should be applied.

1 Licencing / Waste

- a) A Waste facility permit is required under Class 7 of Part 1 of the Third schedule of the "Waste Management (Facility Permit & Registration) Regulations 2007 as amended.
This license will be applied to and issued by Kilkenny County council **PRIOR TO ANY WORKS ON SITE COMMENCING.**
- b) Waste materials will be from Construction and Demolition sites across the southeast only, and will be delivered to site by a National Waste Collection Permit Office (NWCPO) authorized waste contractors.
- c) All incoming waste will be recorded and made available for inspection in accordance with the EMS and Waste facility permit.
- d) All materials delivered to site are to be stored in Raw materials Warehouse, bunded and closed off to avoid any outside contamination.
- e) All guidelines of good practice as set out in the EIAR accompanying this application are to be adhered to.
- f) Proposal to seek an "end – of -waste" status under Article 28 process for the recovered waste materials will be determined from the Waste Facility permit application.
- g) Any other waste generated is to be segregated, stored in dedicated bins onsite and recycled where possible, Waste not recyclable will be segregated and disposed of by a license contractor.

2 Waste /Environmental Management System

- a) All wastes will be dealt with according to the Environmental Management System (EMS) that will be implemented on-site and in accordance with all relevant waste legislation.
- b) All wastes removed from the Site will be handled only by appropriately licensed waste carriers.



Comhairle Chontae Chill Chainnigh

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- c) Records will be kept of each waste consignment, showing the nature and volume / weight of the waste, it's recipient and the final destination and treatment. No waste is to go to landfill as stipulated in EIAR accompanying this application.

3 Groundwater

- (a) The applicant is to engage with Uisce Eireann with regard to feasibility to connect to it's watermains with upgrades. This connection is to be used for welfare facilities only and not processing works.
- (b) The proposed borewell on site to be used for the processing works and **not for human consumption**, there should be no cross contamination of water supplies on site with separate storage tanks for mains water connection and borewells.
- (c) All mitigations as stipulated in the EIAR and the Further information request for this application to be adhered to.
- (d) The Proposal to extract groundwater will need to be registered with the EPA.

4 Wastewater

- (a) The applicant is to engage with Uisce Eireann with regard to feasibility to connect to wastewater with upgrades. This connection is to be used for foul water only resulting from staff and kitchen welfare facilities and **not processing works**.
- (b) There will be no trade effluent generation from site as confirmed in EIAR Volume 2 – sections 3.3.10.1 and 16.4.2.2
- (c) Confirmation on correspondence and or notification with Uisce Eireann that there will be no trade effluent generated into the foul water system should be submitted to planning authority prior to commencement of works.

5 Surface water

- a) During unloading of waste plasterboard and raw materials on site no contamination of surface water is to take place – this is to be controlled with unloading of materials within a Raw Materials Warehouse and not outside.
- b) Run off from roof and yard areas will be to drains and into a settlement tank to trap solids and a fuel/oil bypass separator to remove oils and hydrocarbons.
- c) For Surface water discharging to the soakaway pit, the storm water run-off must pass through a settlement tank to trap solids and a fuel/oil bypass separator to remove oil and hydrocarbons.
- d) All Storm water run-off from the access road is to be collected via a new drainage system, prior to discharge to the existing storm water drain located at the proposed entrance, this must flow through a fuel / oil bypass separator to remove oils and hydrocarbons.



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Creating Sustainable Communities and Places

6 Air

- a) An Application for an "Air Pollution Licence" will be made to Kilkenny County Council Environment section **PRIOR TO ANY WORKS COMMENCING ON SITE.**

In accordance with the Air Pollution Act, an application for an Air Permit will be submitted to Kilkenny County Council once planning consent has been obtained.

The application will comprise of the following:

- Application Form;
 - List of emission points, their locations, their heights, associated processes, pollutants emitted (NOx and dust), proposed ELVs, and monitoring regime;
 - Site layout showing the location of each emission point;
 - A detailed Air Dispersion Modelling Report that will be prepared in accordance with the best practice guidance.
- b) The applicant will demonstrate that any air emissions will not result in air pollution as defined in the Act by submitting a robust application.
- c) No odours to be omitted from the site, air quality monitoring may be requested by Kilkenny County Council under this permission.
- d) Emissions should be monitored and results submitted to the Local authority in accordance with the Air pollution licence if granted.

7 Noise, Air & Odour during construction phase:

- (a) During the construction phase the applicant shall ensure that all operations on site are carried out in a manner such that noise, air emissions and/or odours do not result in significant impairment of, or significant interference with, amenities or the environment beyond the site.
- (b) Activities at this site shall not give rise to construction noise levels off site, at noise sensitive locations, which exceed the following sound pressure limits:

Daytime (0800 – 1800): 65dB(A) (Leq, 60 minutes)
Evening (1800 – 2200): 55dB(A) (Leq, 60 minutes)
Night-time (2200 – 0800): 45dB(A) (Leq, 15 minutes)

The above limits are inclusive of any necessary adjustments to account for tonal or impulsive character in the noise.



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Construction work shall be limited to 08:00 to 18:00 Monday to Friday and 09:00 to 13:00 on a Saturday. No bank holiday work is permitted.

Delivery times for material to site is limited between 08:00 to 18:00 Monday to Friday and 09:00 to 13:00 on Saturdays. Any works outside of these times must be agreed in advance with the Planning Authority.

8 Noise, during operational phase:

(a) Noise levels related to the Operational phase shall not exceed

- ❖ Daytime (0700 – 2100): 55dB(A) (Leq, 60 minutes)
- ❖ Night-time (2100 – 0700): 45dB(A) (Leq, 30 minutes)

(b) In the event of any unforeseen significant noise impacts with the potential to impact 3rd parties during the operational phase of the development (as determined by the Planning Authority), additional mitigation measures shall be submitted for the agreement of the Planning Authority. Any such additional measures shall be implemented by the developer.

(c) Noise monitoring will be closely examined and reporting to Local authority may be requested if deemed necessary

8 CE&WMP

- a) Prior to commencement the preliminary CE&WMP will be updated as a final document and submitted to the Planning authority, outlying in a single document the procedures for monitoring the effectiveness of the environmental protection measures.
- b) All Environmental Commitments and Mitigation Measures outlined in the EIAR and NIS accompanying this application to be adhered to.

9 Dust management

- a) Prior to commencement a DMP (Dust Management Plan) will be prepared for the site and agreed with Local Authority.
- b) All mitigation measures as outlined in the DMP to be followed as outline for both Construction and Operational phases.

10 Light and Glare



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- a) All measures outlined in EIAR to ensure Luminaires are selected on the merit of their efficiency and minimal glare, back light and up light spill characteristics to ensure minimal light pollution to surrounding areas, including the treelines and hedge-lines on-site and surrounding the Site.
- b) The lighting strategy which has been designed as part of the Proposed Development should avoid excessive lighting.

11 Pollution Control

- a) In the event of an accidental spillage of wastewater, fuel, machine oil or any other substance which may threaten the quality of any watercourse or groundwater body either at construction or operational phase, the planning authority and Inland Fisheries Ireland, shall be notified in writing. A copy of the clean-up plan shall be submitted to the planning authority.
- b) Silt traps and oil receptors should be implemented on site as a control measure to mitigate against any potential incidents.

12 Resource Waste Management Plan

- a) The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development.
- b) All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

13 Waste Management Plan

An operational Waste Management plan should accompany the planning application to ensure that all mitigation measures have been addressed

14 Debris / Dirt control

A suitably designed wheel-wash is to be implemented on site as a control measure to clean wheels of any vehicles leaving the site onto the public road to avoid unwanted mud / debris from entering onto the public road.

15 Weighbridge



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The site should incorporate an operational weighbridge for calculation of tonnages entering / exiting the site, this is essential to be implemented on site to track the amount of waste input and output.

16 **Decommissioning**

Under Article 10(1) "Improvement or Development of land", A facility closure plan should be submitted.

This should be applied to the facility in case of an unforeseen closure of the site or if the facility comes to an end of life.

17 **Further Monitoring:**

The applicant shall be required, if requested by Kilkenny County Council, to carry any other such investigation and monitoring as may be deemed necessary to demonstrate that onsite activity, granted under this permission, is not resulting in significant impairment of, or significant interference with amenities, or the environment, on or beyond the site. The Planning Authority reserves the right to amend any specific monitoring limits stated in planning conditions / applications having due regard to legislative amendments or amendments to guidance documents and Waste Management Regulations produced by central government or the EPA.

Mise, le meas,

Edel Brett
Assistant Engineer
Environment Section.

Tel no. Environment Section: 056-7794470