

File With \_\_\_\_\_

## SECTION 131 FORM

Appeal NO: ABP - 313939-22

Defer Re O/H

TO: SEO

Having considered the contents of the submission dated (received) 28/7/22

from

SLR Consulting on behalf of Roadstone Limited.

I recommend that section 131 of the Planning and Development Act, 2000

be (not be invoked) at this stage for the following reason(s): no new material planning issuesE.O.: [Signature]Date: 29/7/22

To EO: \_\_\_\_\_

Section 131 not to be invoked at this stage. ☐Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: \_\_\_\_\_

Date: \_\_\_\_\_

S.A.O.: \_\_\_\_\_

Date: \_\_\_\_\_

M \_\_\_\_\_

Please prepare BP \_\_\_\_\_ - Section 131 notice enclosing a copy of the attached submission

to: \_\_\_\_\_ Task No: \_\_\_\_\_

Allow 2/3/4 weeks – BP \_\_\_\_\_

EO: \_\_\_\_\_

Date: \_\_\_\_\_

AA: \_\_\_\_\_

Date: \_\_\_\_\_

File With \_\_\_\_\_

**CORRESPONDENCE FORM**Appeal No: ABP -313939-22M Mr. KellyPlease treat correspondence received on 28/7/22 as follows:

1. Update database with new agent for Applicant/Appellant \_\_\_\_\_

2. Acknowledge with BP 203. Keep copy of Board's Letter ☐

1. RETURN TO SENDER with BP \_\_\_\_\_

2. Keep Envelope: ☐3. Keep Copy of Board's letter ☐

## Amendments/Comments

Applicants response to Appeal

## 4. Attach to file

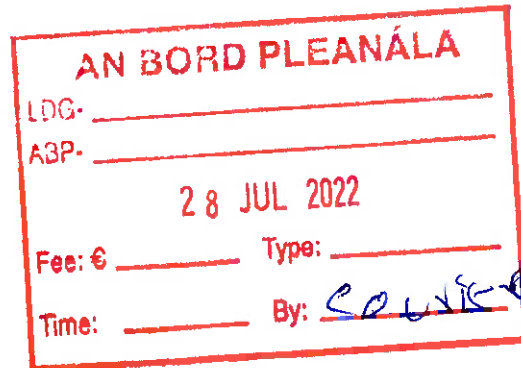
(a) R/S ☐(d) Screening ☐(b) GIS Processing ☐(e) Inspectorate ☐(c) Processing ☐RETURN TO EO ☒

	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>[Signature]</u>	AA: <u>[Signature]</u>
Date: <u>29/7/22</u>	Date: <u>29/7/2022</u>

28<sup>th</sup> July 2022

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

Our Ref: 501.00180.00264  
Your Ref : ABP 313939-22  
Planning Authority Ref. 21/772



Dear Sir / Madam,

**RE: ROADSTONE LIMITED – EXTENSION TO CAPPAGH QUARRY AND NEW CONCRETE BATCHING PLANT IN BALLYKENNEDY, KILGREANY AND CANTY TOWNLANDS, CO. WATERFORD**

**RESPONSE TO THIRD PARTY APPEAL OF DECISION BY WATERFORD CITY AND COUNTY COUNCIL TO GRANT PLANNING PERMISSION (WCCC PLANNING REF. 21/772)**

SLR Consulting Ireland, Unit 7, Dundrum Business Park, Windy Arbour, Dublin 14, acting as planning agent for Roadstone Limited, Fortunestown, Tallaght, Dublin 24, has provided herein its response to the third-party appeal by Terence and Mary McCarthy (ABP Ref. 313939-22) against the decision by Waterford City and County Council (WCCC) to grant planning permission to Roadstone Ltd. for a proposed quarry extension and a new concrete batching plant at Cappagh Quarry, Co. Waterford (Planning Ref. No. 21/772).

The Applicant has provided a response herein to each of the grounds of appeal identified by the Appellants, in the order in which they are raised in their submission.

### **Potential Impacts and Nuisance Arising from Proposed Development**

In their submission, the Appellants raise a number of general concerns in respect of the potential environmental and/or nuisance impact arising at their residential property, located beyond the south eastern corner of the proposed quarry footprint.

Although the potential environmental and nuisance impacts arising from the proposed development are assessed in detail in the EIAR which accompanied the planning application and the noise modelling report supplied subsequently in response to a further information request from WCCC and were largely assessed as not significant at the Appellant's property, such findings are dismissed by the Appellants.

Notwithstanding the findings made in the EIAR and noise modelling report and the absence of any objective evidence or assessment to the contrary, the Appellants remain concerned that significant impact(s) will arise at their property, irrespective of what mitigation measures may be applied.

The Applicant wishes to draw attention to a number of features which are relevant when assessing potential environmental and/or nuisance impact arising at the Appellant's property and which influence the findings thereof. While specific to the Appellant's property, many of these same features also apply at other properties in the vicinity of the proposed development;

- (i) The actual quarry footprint will be at least 20m inside the development site boundary (and existing property / field boundary). It is important to clarify that the proposed quarry void will be approximately 265m from the Appellant's house at its closest point (rather than 140m, which might be inferred from their submission);
- (ii) For much of its operational life, extraction and processing activities at the quarry in fact will be taking place at much greater distance, at times in excess of 700m away;
- (iii) The Appellant's property will be physically screened from quarry activities and quarry related noise sources by the following features:
  - quarry faces developed in rock;
  - the proposed perimeter screening berm;
  - a 2m high acoustic noise barrier / fence atop the perimeter screening berms to the south of the proposed quarry;
  - existing hedgerows along the development site boundary, plus two further lines of hedgerow along intervening field boundaries;
- (iv) There is higher ground to the north and north-west of the Appellant's property, between it and the application site boundary (the difference in ground level approximately 5m higher). This difference in ground level helps to further attenuate any noise arising within the quarry;
- (v) The Appellant's property will be rarely downwind of quarry activity and as such, is much less likely to experience significant air quality impact (in the unlikely event any excessive fugitive dust emissions were ever to arise);
- (vi) The local road which runs in front of the Appellant's property will not experience any increase in traffic movements (or traffic-related impacts) as a result of the proposed development.

The cumulative, beneficial screening effect of the features identified above is discernible in the output data provided in the detailed noise modelling report submitted to WCCC at the further information stage. That report predicts a resultant noise level at the Appellant's property of between 45dB(A) and 50 dB(A)  $L_{Aeq}$  when the quarry is fully operational.

Ground vibration monitoring undertaken over many years at the quarry indicate that ground borne vibrations have been considerably below the level required to generate any structural damage.

The Appellants raise a number of specific concerns in respect of the potential noise impacts by rock drilling / compressors and rock breaking (chiselling) activities at the quarry. In general, drilling activity and/or rock breaking are ongoing for only a minor proportion of permitted working hours and are not a source of continuous noise at the quarry. Due account has been taken of the associated noise levels and impulsive tone(s) in the noise impact assessments presented in the EIAR and supplementary noise modelling report submitted at further information stage.

The Applicant acknowledges specific concerns raised in respect of rock breaking and accepts these may, in part, arise as a consequence of more recent operations at the quarry when there was an over-reliance on the use of rock breakers to extract and fragment the limited remaining rock resource within the existing quarry footprint (in the absence of large blocks which could be excavated by blasting).

In the event that planning permission is ultimately secured, the application and implementation of modern blasting techniques is expected to result in much more effective fragmentation of rock at the quarry than in the past. As a consequence, future requirements for rock breaking and use of rock breakers at the quarry would be significantly reduced. Modern blast design strives to achieve near 100% fragmentation of in-situ rock to the block size required for direct feed to rock crushers, thereby reducing the need further fragmentation using rock breakers. As the use of rock breakers incurs extra cost (and delay), quarry operators will always be incentivised to improve and optimise blast design and reduce the need for rock breaking.

The Board will note that WCCC applied a condition in the planning permission which limits rock breaking to between the 08.00 hours and 18.00 hours on weekdays and prohibits it entirely on Saturdays. This originated on foot of feedback provided by local residents in the course of the (post-Covid) public consultation exercise undertaken in March 2022, in light of which Roadstone advised the Planning Authority that it was prepared to accept these restrictions in any decision to grant planning permission.

The Board will further recognise that in order to address community concerns around potential environmental or nuisance impacts arising from the proposed development, WCCC has applied multiple conditions in its decision to grant planning permission requiring

- (i) ongoing environmental monitoring across the development site;
- (ii) regular reporting of monitoring data to the Local Authority and
- (iii) provision of a publicly accessible website providing environmental data and information.

The Applicant considers that the cumulative effect of these measures / planning conditions is to

- (i) facilitate greater transparency around its environmental management and performance at the quarry and
- (ii) to improve and enhance its accountability to the local community.

### Operating Hours

In its grant of planning permission, WCCC limited working hours to between 07.00 hours and 20.00 hours on weekdays and between 07.00 hours and 14.00 hours on Saturdays. It is noted that these working hours are in line with those applied by the pre-existing planning permission (Planning Ref. 06.1599) for much of the past 14 years.

The Appellant's ask the Board to modify the permitted operating hours at the quarry and restrict them to the standard working hours observed by members of the Construction Industry Federation (CIF), namely between 08.00 hours and 17.00 hours on Mondays to Thursdays and 08.00 hours to 16.00 hours on Fridays.

The Applicant considers that this proposal is impractical on the following grounds

- (i) In many instances, deliveries of aggregate or concrete to construction sites are scheduled to arrive at the start of the working day. In order to facilitate this, quarries and concrete batching plants must commence operations earlier and dispatch materials off-site in good time to arrive at construction sites by 08.00 hours. A delayed start at the quarry / batching plant would mean that consignments would likely get caught up in morning rush hour traffic in nearby urban centres, delaying deliveries to site and resulting in longer journeys and increased turnaround times;
- (ii) In-situ casting of large construction elements (walls, floors, pavements etc.) often requires site work and supply of construction materials to extend for many hours past official industry working hours;
- (iii) Construction firms regularly extend working hours and work overtime as they look to take advantage of favourable working conditions, complete work in advance of inclement weather, avoid contract penalties or meet Client deadlines;
- (iv) Many construction firms, particularly small to medium-sized ones, are not members of the Construction Industry Federation and, as such, do not necessarily observe official CIF working hours.

Planning permissions for quarries and concrete production facilities conventionally allow extended weekday working hours so as to provide the required degree of flexibility necessary to fully service the demands of the construction industry.



In this respect, it is noted that the published departmental guidance to Planning Authorities in respect of Quarries and Ancillary Activities (DoEHLG, 2004) states in Section 4.7, under the heading 'Possible Planning Conditions'

*'It is recommended that normal operations should be confined to the hours between 07.00 and 18.00, Monday to Friday inclusive (excluding Bank Holidays) or as may be agreed with the planning authority, and between 07.00 and 14.00 on Saturdays, with no quarrying, processing or associated activities being permitted on Sundays or public holidays.'*

Condition No. 3(a) of the recent WCCC grant of permission for the proposed development at Cappagh Quarry is fully consistent with the published departmental guidance reference above. The Applicant considers that the working hours so applied are entirely appropriate and in keeping with established norms for the extractive sector and as such, should not be altered.

### Further Comments

The Appellant's submission also included a copy of letters previously submitted by them to the Planning authority on foot of the original planning application and in response to the submission of further information by Roadstone in early April 2022.

Some of the points raised in these letters touch on the grounds of appeal addressed previously. Although a number of other points will have been considered by the Planning Authority is arriving at its decision to grant planning permission, the Applicant would like to take the opportunity afforded it in providing a response to the third-party appeal, to also briefly address some of the other points raised as follows :

### Quarry Restoration Plans

Issues raised by the Appellants in respect of quarry restoration works necessitated by the previous planning permission have been addressed in the planning application. While it is recognised that limited restoration works have been completed across the existing quarry footprint to date, the development proposal under review provides for the remaining restoration works to be progressed on foot of stripping and re-use of excavated topsoil and overburden soils at the proposed satellite quarry / quarry extension to the east. It is noted that Condition 25 of the planning permission issued by WCCC requires submission of a detailed restoration scheme for the quarry site for its written agreement prior to commencement of development.

### Public Consultation

The Appellants submission to the Planning Authority make a number of criticisms about the extent of public consultations prior to submission of the planning application to WCCC. As the Board will appreciate, opportunities for in-person consultations in advance of submitting the planning application in the summer of 2021 were severely constrained by the measures introduced by the Government to contain the spread of Coronavirus (COVID-19).

The Applicant considers that public consultation obligation in EIA has been achieved through a combination of written pre-application consultations with the Planning Authority and Statutory Bodies, the planning process itself and the public consultation exercise undertaken in March 2022 in response to the Planning Authority's request for in-person consultations with the local community at further information stage.

An overview of consultations undertaken in respect of the proposed development is provided in the consultation report submitted to the Planning Authority's in response to its request for further information.

It will be noted that the in-person consultation exercise undertaken in March 2022 resulted in some modification of the development proposal and this necessitated publication of a public notice by the applicant notifying local residents of the submission of further significant information to the Planning Authority. This in turn afforded members of the public yet another opportunity to make submissions in respect of the proposed development.

### Passageway

Issues and concerns raised by the Appellants in respect of the impact of the proposed development on the existing roadway, particularly in respect of user safety, are addressed in the EIAR which accompanies the planning application and subsequent submissions.

It is noted that many of the impacts and concerns in respect of the passageway raised by the Appellants also applied previously when the existing quarry was developed on the western side and the passageway remained in use without incident. Roadstone is of the view that continuation of extractive activity on the eastern side of the passageway will mean that its value as an amenity will be broadly the same as it has been over recent for decades (with the possible exception of the period Covid imposed restrictions in 2020 and 2021 when construction activities were curtailed).

### Noise

Additional comments made by the Appellants in respect of the noise impact of the proposed development following submission of further information touch on the relationship between resultant (ambient) noise levels and background levels. The appropriateness of using background noise levels as a reference level or to set compliance levels for rural-based extractive development is discussed in the noise impact assessment report submitted in response to the Planning Authority's request for further information.

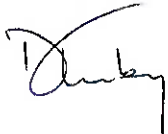
The Board will also be aware that this same issue is the subject of a separate first-party appeal submitted by Roadstone in respect of noise conditions applied by the Planning Authority in its decision to grant planning permission for the proposed development and due regard should be had to same when considering noise related impacts and setting of appropriate noise compliance conditions.

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In closing, the Applicant would like to thank the Board for the opportunity afforded it to make this submission in respect of the third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed quarry extension and new concrete batching plant.

The Applicant hopes that the Board is persuaded of the merits of the proposed development and, on the basis of the information and evidence provided to it, will decide to uphold the Planning Authority's decision to grant permission.

Yours sincerely

**SLR Consulting Ireland**



**Derek Luby**  
Technical Director

cc Mr. Pat Gibney / Mr John Glynn (Roadstone Limited)





28<sup>th</sup> July 2022

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

Our Ref: 501.00180.00264  
Your Ref : ABP 313939-22  
Planning Authority Ref. 21/772

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### Noise

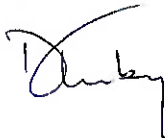
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Yours sincerely  
**SLR Consulting Ireland**



**Derek Luby**  
Technical Director

cc Mr. Pat Gibney / Mr John Glynn (Roadstone Limited)

