

An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902

24th February 2021

AN BORD PLEANÁLA	
LDG-	<u>036441-21</u>
ABP-	_____
26 FEB 2021	
Fee: €	<u>220</u> Type: <u>Chara</u>
Time: _____	By: <u>Post</u>

Re: Section 5 Declaration – on surface water management (Cessation of Surface water Discharge at Booths Precast Concrete Plant, Ballymullen, Ableyleix, Co. Laois.

Our Ref.: 20-056

A Chara,

Further to the above please find enclosed supporting documents and opinions from AOCA Engineering Consultants and the Irish Concrete Federation in relation the management of the surface water at our clients site. Prior to 2019 Booth Precast traded at the site under a sister company name Arastra Construction Ltd, this was the company name under which they were originally granted the discharge licence ENV 2-WP33.

In January 2020 Laois County Council informed Booth Precast the licence was not transferable and then discussions commenced to design a series surface water retentions ponds around the site and cease all surface water discharge. The ponds were designed and constructed in a manner to allow settlement of suspended fine material so water could be reused in the manufacturing of the concrete products and washing of stone for sale.

November 2020 it was recommended by the environmental engineers from Laois County Council that an opinion should be sought from the planning department as to whether or not the works were exempt from planning permission. On the 23rd of December 2020 an application for a section 5 declaration was received and acknowledged by Laois County Council, a copy of the decision and all other documents are enclosed.

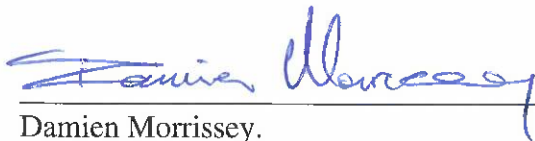
Due to their nature these businesses they are constantly moving soil, sand, stone heaps and open storage areas around the confined areas of their boundaries. The ponds were simply formed out of existing stored soil and pvc pipes, the water is used over and over again in the process of washing stone for sale and the production of some concrete products. It is our opinion that these works are normal maintenances and improvements of the site. Removing trade effluent discharges is an improvement, the use of less water from the on-site ground well are also improvements to the running processes.

There is a good relationship between the company and the local authority environmental engineers. A series of drawings and storage volume calculations have been submitted and they seem to be now satisfied with the proposals. A simplified illustration has been enclosed in Appendix A of this letter, the company & environmental engineers appear to agree this improves the previous procedure of allowing the water settle and then discharge to the open drain.

If the company has to retain the ponds this will lead to significant costs, they will have to consider whether financially it is more beneficial to apply for a new licence under their new name and start discharging again into the open water course as they did previously.

I trust this is acceptable but if you should need any further information please do not hesitate to contact the undersigned.

Yours faithfully,

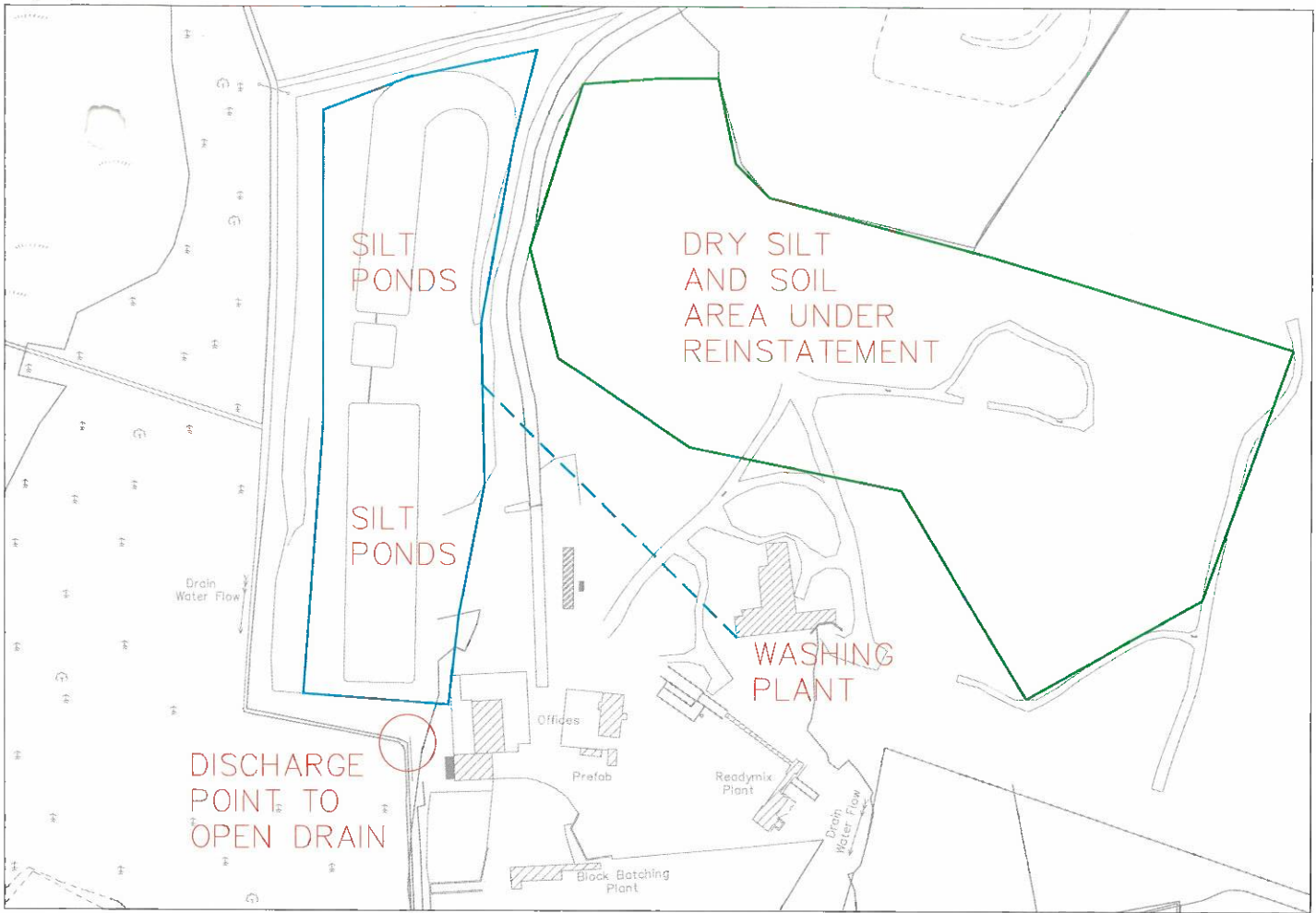


Damien Morrissey.

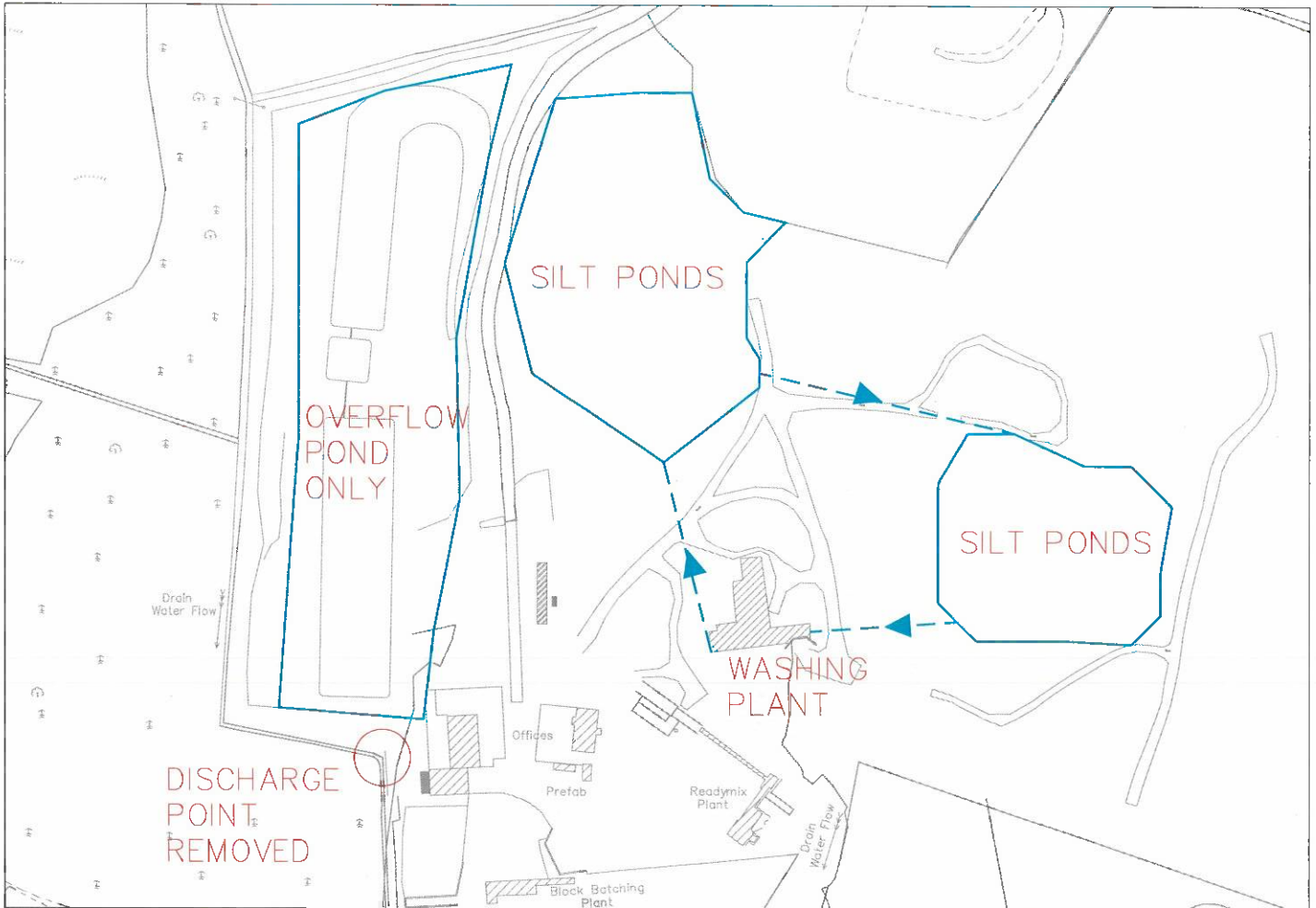
MSc.(Surv),BSc.Arch.Const **MCIQB**

For and on behalf of **AOCA Engineering Consultants.**

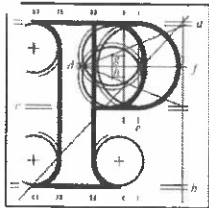
APPENDIX – A



PREVIOUSLY UNDER THE DISCHARGE LICENCE



CURRENTLY WITH NEW PONDS (OLD PONDS ARE OVERFLOW ONLY)



An
Bord
Pleanála

Planning Appeal Form

Your details

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

Your full details:

(a) Name

Booth Precast Ltd

(b) Address

Ballymullen, Abbeyleix, Co. Laois. R32 RD68

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

Damien Morrissey

(b) Agent's address

AOCA Engineering Consultants Ltd.,
Lismard House, Portlaoise, Co. Laois. R32 YXP2

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)

Laois County Council

(b) Planning authority register reference number

(for example: 18/0123)

Section 5 Declaration reference 10/5

(c) Location of proposed development

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

Booth Precast Ltd, Ballymullen, Abbeyleix, Co. Laois. R32 RD68

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.

Management and use of on-site surface water in the manufacture of concrete products. Supporting material included;

1. Section 5 Declaration Application
2. Agents supporting letter
3. Laois County Council Validation & Receipt
4. Drawings & Maps
5. Irish Concrete Federation opinion
6. Cover letter summarising events prior to section 5 application

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.



01



LAOIS COUNTY COUNCIL
PLANNING DEPARTMENT

SECTION 5 DECLARATION – EXEMPTED DEVELOPMENT
PLANNING & DEVELOPMENT ACTS 2000-2010

1. Applicants Name BOOTH PRECAST LTD.,
Applicants Address BALLYMULLEN,
ABBEYLEIX,
CO. LAOIS

Tel [REDACTED] Fax No. _____ E-Mail [REDACTED]

2. Name & Address of Agent (if any) DAMIEN MORRISSEY
AOCA ENGINEERING CONSULTANTS,
LISWARD MOUSE,
PORTLAOISE, CO. LAOIS

Tel [REDACTED] Fax No. _____ E-Mail [REDACTED]

3. Address for Correspondence: (AGENT)

4. Location of Proposed Development: BALLYMULLEN, ABBEYLEIX,
CO. LAOIS

5. Reference No. of any planning permission which governs the overall development of the site:
Quarry Registration : QY05/76
Planning Applications : 95/300, 06/24, 07/1451, 10/288, 10/289, 10/290, 98/780

6. Is this a Protected Structure, or within the curtilage of a Protected Structure?

NO

7. Description of proposed development:

ON-SITE SURFACE WATER MANAGEMENT /
REMOVAL OF SURFACE WATER DISCHARGE

8. Applicants' interest in the site:-

OWNER

9. List of items to accompany this application:-

- a) A fee of €80
- 1 x Site Location Map with the site outlined clearly- 1:1000 in urban areas and 1:2500 in rural areas
- 1 x Site Layout Plan at a scale of 1:500 showing all existing and proposed structures on site and distances from boundaries
- 1 x Floor Plans at a scale of not less than 1:200
- 1 x Elevations at a scale of not less than 1:200

(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)

Signed: *Dominic Downey (AGENT)* Date: 01/12/20

NOTES:

PAYMENT OF FEE:

This application will not be accepted and will be returned unless it is accompanied by a fee of €80

LODGEMENT:

This application should be forwarded to:

The Planning Department,
Laois County Council,
County Hall,
Portlaoise,
Co. Laois.

02

The Planning Department,
Laois County Council,
Áras an Chontae,
JFL Ave.,
Portlaoise,
Co. Laois

16th December 2020

Our Ref.: 20-056-01

Re: Section 5 Declaration – Exempted Development Planning & Development Acts 2000-2010 (On-site Surface Water Management / Cessation of Surface Water Discharge)

A Chara,

Further to the enclosed documents and the recent on-site meetings with Ann Marie Callan Executive Scientist, Environmental Department and Ivonne O'Reilly Enforcement Department, Laois County Council we now submit detailed proposals in relation to now and which articles of the Planning & Development Regulations demonstrate exempted development.

This specific application refers solely to the surface water management improvement works carried out and to be completed at or clients Booth Precast Ltd, site at Ballymullen, Abbeyleix, Co. Laois.

The site is covered by several planning permissions (see application form) which, taken together, form an industrial facility for the processing of aggregates and manufacturing of concrete products. The structure/plant the subject of the Section 5 is internal to the overall site, is not generally visible from the boundary, is less than 15m in height, and does not materially change the appearance of the industrial facility. On this basis, the provisions of Section 4(1)(h) of the Planning & Development Act 2000, as amended, are relevant in relation to exempt development:

4.—(1) The following shall be exempted developments for the purposes of this Act— h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

I submit the development the subject of this application, being interior to the industrial facility which can reasonably be viewed as a structure and, thus, the development complies with the requirements of the Act in this regard. The Planning Authority may have regard to other provisions of the Act and Regulations and this submission does not purport to other than suggestive of certain provisions under which the development may be classed as exempt.

Water Pumping Station – Improvements to Water Management System

Article 6 of the Planning & Development Regulations 2001, as amended, sets out the following:

(1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9 imposes restrictions, chief among which are that the development should not be contra to a condition of a permission or inconsistent with the use permitted by the conditions and should not materially impact on the landscape. I submit the development the subject of this Section 5 complies with the restrictions of Article 9, leaving the provisions of Schedule 2 open for application to said development.

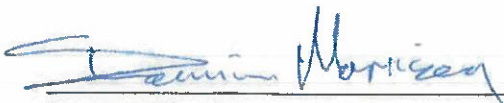
Schedule 2 Class 21 sets out the following development as exempt:

- (a) *Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process,.....(ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus, (iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.*
- (b) *Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.*

I submit that the pumping station is an addition to plant, which must be covered because of electrical switchgear, which improves the effectiveness of the site water management system, eliminating the need for the authorised discharge for best environmental benefit. It may be seen as additional plant required for the permitted activities which they serve.

I trust this is acceptable but if you should need any further information please do not hesitate to contact the undersigned.

Yours faithfully,



Damien Morrissey.
MSc.(Surv),BSc.Arch.Const MCIOB
For and on behalf of AOCA Engineering Consultants.

COMHAIRLE CHONTAE LAOISE LAOIS COUNTY COUNCIL

10/5 (1)

REGISTERED POST

Booth Precast Ltd.,
C/o Damien Morrissey,
Acoa Engineering Consultants,
Lismard House,
Portlaoise,
Co. Laois.

01st February, 2021

Re : **Section 5 Declaration - on site surface water
(Management/cessation of surface water discharge) site at
Ballymullen, Abbeyleix, Co. Laois.**

A Chara,

I refer to your Section 5 application received in this office on 22nd December, 2020 in connection with the above.

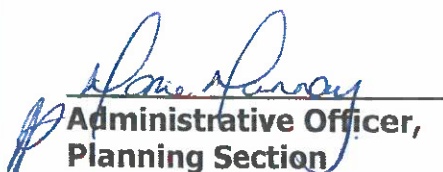
NOW WHEREAS Laois County Council, in exercise of the powers conferred on it by section 5(2)(a) of the 2000 Act, as amended it is hereby decided that the proposed development consisting of *on site surface water - management/cessation of surface water discharge at Ballymullen, Abbeyleix, Co. Laois* is

'Development' and is 'NOT Exempted Development' within the conditions and limitations set out in Column 2 of Class 21 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended and Section 4(1)(h) of the Planning & Development Act 2000 as amended.

Please be advised that you may, on payment of the prescribed fee to An Bord Pleanala, request a review of this decision.

Any such request should be made to An Bord Pleanala within four weeks of the date of this correspondence.

Is mise le meas,


**Administrative Officer,
Planning Section**




Comhairle Chontae
Laoise
Áras an Chontae
Port Laoise
Contae Laoise
R32 EHP9

Laois County Council
Áras an Chontae
Portlaoise
County Laois
R32 EHP9

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corpaffairs@laoiscoco.ie
www.laois.ie

Tá Fáilte Romhat
Gnó a Dhéanamh
as Gaeilge


MidlandsIreland.ie

'I bpáirt leis an bpobal'

Arna phrintáil ar pháipéar atá 100% athchairsúilte - Do Chomhshuíle a chothú



COMHAIRLE CHONTAE LAOISE LAOIS COUNTY COUNCIL



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Contae Laoise
R32 EHP9

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10/5 – Booth Concrete (1)

23Rd December, 2020

Booth Precast Ltd.,
C/o Damien Morrissey,
Acoa Engineering Consultants,
Lismard House,
Portlaoise,
Co. Laois.

**Re : Section 5 Declaration - on site surface water
(Management/cessation of surface water discharge) site at Ballymullen,
Abbeyleix, Co. Laois.**

Dear Damien,


I wish to acknowledge receipt of your application for a Section 5 Declaration and enclose herewith receipt in the sum of €80.00 receipt no. 190208 refers.

I wish to advise you that a response on this matter will be sent to you in due course.

Trusting the above is in order,

Pat Delaney
Administrative Officer
Planning Section

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as Gaeilge


MidlandsIreland.ie

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05

From: Liam Smyth [mailto: [REDACTED]]
Sent: 29 October 2020 12:19
To: Peter Booth | Booth Concrete [REDACTED]
Subject: Exempt Development Query re water management Recycling and Surplus Concrete Queries
<https://www.irishconcrete.ie/>

Hi Peter,

Item No 1. Exempt Development, construction of a small pump house with open sided shelter of the control panel.

As I understand it, you have built a concrete sump and put an open sided cover over it for the purposes of protecting the switchgear. The sump is connected to other existing authorised development by way of piping. When looking at what is authorised, look at all permissions including the S261(6)(a)(i) conditions imposed on the 'pit' back in 2007. It is very important to understand that water as both an ingredient, and is integral to the authorised developments i.e. the washing plant.

Thereafter, in my opinion what you have done falls into the following classes of exempted development, (Class 16 is helpful if your permission was time limited but in your case its not.)

CLASS 16 *"The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out. Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act".*

Class 21 is a class of exemption the Concrete and quarrying industry have successfully argued in court in several counties with success over the years, An extensions to processing plant are regularly claimed as exempt under part (iii) subject to the 15m rule. In your case, I would claim (ii) and/or (iii) – I agree (ii) seems to meet the bill best. The structure aspect of (iii) in my opinion is best given you have an open sided 'shed'.

CLASS 21 (a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking— (i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors, (ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus, (iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery. (b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building. 1. Any such development shall not materially alter the external appearance of the premises of the undertaking. 2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level [there's another bit to this about not exceeding the height of any structure replaced or 15m whichever is the highest]

Item No2 Surplus Concrete, Bye products

Your concrete manufacturing operations are all authorised and surplus concrete is an expected part of being a readymix supplier; with material ordered normally containing a safety amount to ensure every pour is complete. The material is certified on delivery to customers. The surplus material remains under your control at all times,

never leaving the delivery truck (concrete bottle) and is returned to your manufacturing plant for further uses; this material is not waste, it is a by-product of the concrete industry.

This has been established in law in Europe and is clearly something encouraged by the EPA (see attached guidelines page 15 section 3.7.1 from the EPA which was circulated to all local authorities.)

The returned material may be used while still workable in other products, either ready-mix or pre-cast products; a third alternative is to allow the material to harden and then crush it, using existing authorised site processing equipment, back into aggregates.

Where this latter approach is taken the aggregates cannot be classed as waste as crushing is also covered in European case law as not comprising substantial re-processing. The crushed aggregates may be certified as suitable for use in civil engineering to ISEN13242+SR21 (Annexes A-D and F, as only Annex E requires virgin materials) – these aggregate types are typically specified in accordance with the TII specification, e.g. 6F2.

Otherwise, they can be screened (again not a substantial re-processing) and used in concrete again, with those aggregates complying to ISEN12620+SR16, the only difference between virgin and recycled concrete aggregates in that standard being the acid soluble sulphate level (0.2 for virgin, 0.8 for recycled concrete aggregates).

It should be noted that the industry has never accepted that surplus concrete should be classed as waste and the by-product categorisation is appropriate as the provenance of this material is known, indeed certified, and has never left the control of the concrete manufacturer, in complete contrast to the randomness of C&D waste streams from demolition projects.

Should you need more details let me know.

If you would like me to attend the upcoming site visit I would be happy to do so.

Regards,

Liam Smyth
(LLB Hons .C.Eng. FIEI)



LIAM SMYTH Senior Manager - Regulatory Compliance

Liam has over 30 years of experience in the construction materials sector, in a variety of senior management roles. Having initially qualified as a civil engineer (BE) from then UCG, Liam has added to his academic base with further degrees in business administration (MBA) as well as Irish law (LLB Hons), and additionally holds a post-graduate diploma in EIA Management (Dip. EIA Mgmt). As a civil engineer, Liam has been a chartered member of Engineers Ireland (C.Eng) for over 25 years and a Fellow of Engineers Ireland (FIEI) since 2000. In his Regulatory Compliance role for the ICF, Liam represents and advises members on policy, operational and site specific issues relating to land use planning, environmental, and technical product and certification matters, as well as often performing first stage legal review in matters of dispute.

