



AIR POLLUTION ACT 1987, as amended

Air Pollution Appeal Register Number: E0010-01

APPEALS by Mr Christopher Wright & Others, of Clasheen, Killarney, County Kerry; Mr Dave Murphy & Others, Minish, Killarney, County Kerry; Michael and Kathleen Gleeson of Clasheen, Killarney, County Kerry; and Phil, Doreen and Philip Horan of Clasheen, Killarney, County Kerry, against the decision made on the 18th day of May 2021 by Kerry County Council to grant, subject to conditions, a licence to Roadstone Limited., Fortunestown, Tallaght, Dublin 24 in respect of the operation of an asphalt plant in the townland of Clasheen, Killarney, County Kerry (Reference AP20-01). The plant is a batch mixing operation and comprises a single exhaust stack, dust emissions control system, aggregate feed bins, oil-fired aggregate dryer and bitumen mixing hopper with hot storage and discharge to trucks. The principal emissions from the exhaust stack are, sulphur dioxide, oxides of nitrogen, particulates and other products of combustion from the production process all in accordance with plans and particulars lodged with the said Council.

DECISION: The Agency, in exercise of the powers conferred on it by Section 34 of the Air Pollution Act 1987, as amended, and based on the reasons and considerations set out below, hereby refuses the appeals and directs the said Council to grant the licence in accordance with the conditions attached to it. Notwithstanding said refusal, the Agency acknowledges the grounds of the appeal and furthermore directs Kerry County Council to grant the licence subject to the amendments detailed in the appendix of this Direction.

REASONS AND CONSIDERATIONS

Having regard to the location of the asphalt plant, the relevant air quality standards, the information submitted in support of the application, the appeals received, submissions or observations regarding the appeals, submissions on Appropriate Assessment and the report of the Inspector, it is considered that, subject to compliance with the conditions, and amended schedules and conditions, attached to the licence to be granted by Kerry County Council, the operation of the proposed asphalt plant would not result in air pollution and would otherwise be compatible with the protection of the amenities of the area and of public health and the environment.

In making its decision the Agency has completed an Appropriate Assessment of the likely significant effects of the industrial plant on European Sites.

A screening for Appropriate Assessment was undertaken to assess, in view of best scientific knowledge and the conservation objectives of the site, if the industrial plant, individually or in combination with other plans or projects is likely to have a significant effect on any European Site. In this context, particular attention was paid to the European Sites at Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365), Sheheree (Ardagh) Bog SAC (000382) and Killarney National Park SPA (004038).

The industrial plant is not directly connected with or necessary to the management of any European Site and the Agency considered, for the reasons set out below, that it cannot be excluded, on the basis of objective information, that the industrial plant, individually or in combination with other plans or projects, will have a significant effect on any European Site and accordingly determined that an Appropriate Assessment of the industrial plant was required. A Natura Impact Statement was received by the Agency on 03 June 2022.

This determination has been made in light of the following reasons:

- Due to the proximity of the industrial plant to three European Sites. The proposed plant is located ca. 600m from Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 000365), ca. 2.9km from Sheheree (Ardagh) Bog SAC (000382) and ca. 3.5km from Killarney National Park SPA (004038). It is noted from the application that air emissions from the plant will extend to a section of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC and as such it is within the zone of influence of the plant.
- The plant will emit nitrogen oxides (NO_x) and sulphur oxides (SO_x) to air. These emissions will give rise to atmospheric nitrogen and sulphur which could adversely impact qualifying interests at European Sites through nitrogen deposition and acidification. Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 000365) includes a number of habitats listed as qualifying interests that are sensitive to nitrogen deposition. With regard to Sheheree (Ardagh) Bog SAC (000382), nitrogen deposition is an attribute of the Conservation Objectives for habitat 7110 Active raised bogs*. Information in relation to European Sites is available on www.npws.ie (* indicates a priority habitat under the Habitats Directive).
- The licence application documents including the Air Impact Assessment Report (October 2020), Appropriate Assessment Screening Report prepared by SLR (February 2021), Response to request for clarification of further information (March 2021) and the Appropriate Assessment Screening determination (dated 16 April 2021) of Kerry County Council for the Air Pollution Licence Application (where it was determined that Appropriate Assessment was not required) were considered as part of this Appropriate Assessment screening. Account has also been taken of information on the European Sites in question on www.npws.ie and on the Agency's expertise.
- Taking all of the foregoing into account it is considered that significant effects on European Sites and their qualifying interests due to emissions to air from the plant cannot be ruled out at the screening stage and based on the precautionary principle this determination is that a Stage 2 Appropriate Assessment is required.

The Agency has completed the Appropriate Assessment of potential impacts on these sites and has made certain, based on best scientific knowledge in the field and in accordance with the European Communities (Birds and Natural Habitats) Regulations 2011 as amended, pursuant to Article 6(3) of the Habitats Directive, that the industrial plant, individually or in combination with other plans or projects, will not adversely affect the integrity of any European Site, in

particular Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365), Sheheree (Ardagh) Bog SAC (000382) and Killarney National Park SPA (004038) having regard to their conservation objectives and will not affect the preservation of these sites at favourable conservation status if carried out in accordance with the licence, and amended schedules and conditions, attached to the licence to be granted by Kerry County Council, for the following reasons:

- There will be no direct loss of habitat at European Sites as the asphalt plant site will be outside the boundaries of European Sites.
- There is the potential for air emissions of sulphur and nitrogen to impact terrestrial habitats listed as qualifying interests at European Sites. However, the amended licence will restrict emission limits to those modelled by the applicant. At these emission limits, the impact of emissions from the industrial plant will be below the relevant air quality standards for the protection of ecosystems and vegetation.
- Air dispersion modelling has demonstrated that the contribution of emissions from the plant to nitrogen deposition at raised and blanket bogs within the SACs is less than 1% of their critical loads and at a magnitude that is insignificant. These sites can be considered outside the zone of influence of emissions from the plant when the controls in the licence are taken into account.
- The licence specifies noise emission limit values at nearby noise sensitive locations and monitoring which will prevent noise impacts beyond the site boundary. In addition, the distances to European Sites and qualifying interests within those sites is such that it can be considered that noise will not have an adverse impact on these sites. The nearest SAC is approximately 600m away and the River Flesk, where otters might be present, is ca. 700m away. The location of Lesser Horseshoe Bat roosts and foraging grounds are several kilometres away and can be considered outside the zone of influence of the plant.
- No significant in-combination effects are predicted; therefore, no additional mitigation measures are required.

The Agency is satisfied that no reasonable scientific doubt remains as to the absence of adverse effects on the integrity of those European Sites at Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365), Sheheree (Ardagh) Bog SAC (000382) and Killarney National Park SPA(004038)

MATTERS CONSIDERED

In making its decision, the Agency had regard to those matters to which, by virtue of the Air Pollution Act 1987, as amended and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

SEALED by the Seal of the Agency on the 12th day of December 2022

PRESENT when the seal of the Agency was affixed hereto:



Ray Cullinane
Authorised Person



Appendix

Amend Condition 3.1 as follows:

3.1 The concentration limits for emissions to atmosphere specified in this licence shall be based on gas volumes under standard conditions of: Temperature 273K, Pressure 101.3kPa, dry gas, 17% oxygen.

Reason: To clarify the interpretation of emission limit values.

Amend Condition 5.1 as follows:

5.1 Prior to the plant becoming operational, a commissioning programme for the new plant shall be agreed with the Licensing Authority to demonstrate the achievement of the necessary operational parameters and the specified air and noise emission limit values of this licence. The results of this programme shall be forwarded to the Licensing Authority as soon as they are available.

Reason: To provide for the protection of the environment.

Amend Appendix A.1 Emission to Atmosphere as follows:

A.1 Emission to Atmosphere

Emissions Point: Single Exhaust Stack

Volume to be emitted: 56,000 Nm³ per hour maximum

Parameter	Emission Limit Value (mg/Nm ³)	Monitoring Frequency
NO _x (as NO ₂)	350	Quarterly
Sulphur Dioxide	250	Quarterly
CO	500	Quarterly
Particulates	50	Continuous

Insert the following terms, conditions and schedules:

Glossary of Terms

Daytime: 0700 hours to 1900 hours

Evening Time: 1900 hours to 2300 hours

Night-time: 2300 hours to 0700 hours

Noise-sensitive location (NSL): Any dwelling house, hotel or hostel, health building, educational establishment, place of worship or entertainment, or any other installation or area of high amenity which for its proper enjoyment requires the absence of noise at nuisance levels.

CONDITION 5 EMISSIONS TO ATMOSPHERE

5.10 Noise from the plant shall not give rise to sound pressure levels measured at noise sensitive locations in the vicinity of the plant which exceed the limit value(s) set out in Appendix A.4.

Reason: To clarify the interpretation of limit values set in this licence.

CONDITION 7 AMBIENT MONITORING

7.7. The licensee shall carry out noise monitoring at the two nearest noise sensitive locations. This monitoring shall be undertaken within the first four weeks of operation of the plant, and quarterly thereafter, and shall be undertaken in accordance with the methodology specified in the 'Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)' as published by the Agency.

Reason: To provide for the protection of the environment by way of monitoring of emissions.

APPENDIX A

A.4 Noise

Emission Limit Values (Noise)

Daytime dB L _{Ar,T} (30 minutes)	Evening time dB L _{Ar,T} (30 minutes)	Night-time dB L _{Aeq,T} (15-30 minutes)
55	50	45 ^{Note 1}

Note 1: During night-time hours there shall be no clearly audible tonal component or impulsive component in the noise emission from the activity at any noise-sensitive location.

Emissions to Atmosphere, Monitoring Schedule (Noise)

Period	Minimum Survey Duration ^{Note 2}
Daytime	A minimum of 3 sampling periods at each noise monitoring location
Evening-time	A minimum of 1 sampling period at each noise monitoring location.
Night-time ^{Note 1}	A minimum of 2 sampling periods at each noise monitoring location.

Note 1: Night-time measurements should be made between 2300hrs and 0400hrs, Sunday to Thursday, with 2300hrs being the preferred start time.

Note 2: Sampling period is to be the time period T stated as per *Schedule 1.1 Emission Limit Values (Noise)*, of this licence. This applies to day, evening and night time periods.

Amend the following conditions:

CONDITION 2 MANAGEMENT OF THE ACTIVITY

2.2 The Licensee shall ensure that all operations onsite shall be carried out in a manner such that air emissions, noise or odours do not result in significant impairment of, or significant interference with amenities or the environment beyond the site boundary.

Reason: To make provision for the management of the activity.

CONDITION 6 EMISSION MONITORING

6.1.2 The Licensee shall nominate an independent company to carry out air emission and noise monitoring at the site. This company shall be adequately equipped to carry out the required monitoring and be competent in this monitoring either by experience or by qualification.

6.2 Monitoring of emissions to the atmosphere, dust deposition and noise shall be carried out as specified in Appendix A of this licence, when maximum emissions to the atmosphere are occurring. The Licensing Authority may decide to reduce the frequency of monitoring following the examination of the trends shown by the monitoring data as submitted.

Reason: To provide for the protection of the environment by way of monitoring of emissions.

CONDITION 8 RECORDING AND REPORTING

8.6 The Licensee shall submit to the Licensing Authority, a year from the date of grant of this licence, and each calendar year thereafter, an Annual Environmental Report. This report shall include as a minimum the following information:

- Emissions to the atmosphere monitoring summary
- Ambient Air and Dust Deposition monitoring summary
- Complaints Summary
- Air pollution emission and environmental incident report.
- Evaluation of the operation of the bag filter.
- **Noise Monitoring Summary.**

Reason: To provide for the collection and reporting of adequate information on the activity.

