



AIR POLLUTION ACT 1987, as amended

Air Pollution Appeal Register Number: E0007-01

APPEALS by Mr. and Mrs. Brennan, Tonroe, Ardrahan, County Galway and TMS Environment Limited (TMS) on behalf of Lagan Materials Limited, Rosemount Business Park, Ballycoolin Road, Dublin 11 against the decision made on the 20th day of October 2020 by Galway County Council to grant, subject to conditions, a licence to John Madden and Sons Ltd in respect of the operation of an asphalt plant in the townland of Tonroe, Ardrahan, County Galway (Reference Number: AP13/20). The asphalt plant facility comprises storage bins, a filler silo, a mixing plant, a dryer and bagging house as well as hoppers to load aggregate into the plant. The principal emissions from the exhaust stack are particulates, oxides of nitrogen and sulphur dioxide, 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 Galway 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 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 Galway 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 in relation to European Sites, taking into account:

- the submissions by the Appellants;
- the observations on the appeals by the Applicant and other parties;
- the report of the Inspector dated 07th July 2022, containing the Inspector's Appropriate Assessment;
- submissions on Appropriate Assessment.

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 Castletaylor Complex SAC (site code 000242), Ardrahan Grassland SAC (site code 002244), Kiltiernan Turlough SAC (site code 001285) and Lough Fingall Complex SAC (site code 000606).

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 could not be excluded, on the basis of objective information, that the industrial plant, individually or in combination with other plans or projects, would have a significant effect on any European Site and accordingly determined that an Appropriate Assessment of the industrial plant was required. It is noted that a Natura Impact Statement was submitted as part of the licence application.

This determination was based on the proximity of the industrial plant to European Sites and the potential for significant effects on their qualifying interests.

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 Castletaylor Complex SAC (site code 000242), Ardrahan Grassland SAC (site code 002244), Kiltiernan Turlough SAC (site code 001285) and Lough Fingall Complex SAC (site code 000606), 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 conditions, and amended schedules and conditions, attached to the licence to be granted by Galway 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 in this SAC. 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.
- Dust from the operation of the plant could negatively impact vegetation of the nearest SACs. However, emissions of dust are controlled in the licence by emission limit values, and conditions which require that bag filters be in place for dust abatement and that the pressure across these filters be monitored. The licence also specifies ambient dust deposition limit values in the surrounding area. With these measures in place there will be no adverse impacts on the integrity of European Sites.
- The licence specifies noise emission limit values at noise sensitive locations and monitoring to demonstrate compliance with these limits. Based on these noise controls and bat surveys which found no evidence of Lesser Horseshoe Bat (*Rhinolophus hipposideros*) in the vicinity of the plant, and the distance to the nearest roosting site (ca. 5 km) and foraging area (2.5 km) in Lough Fingall Complex SAC (site code 000606), it can be concluded that noise from the plant will not adversely affect the

integrity of this site.

- 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 Castletaylor Complex SAC (site code 000242), Ardrahan Grassland SAC (site code 002244), Kiltiernan Turlough SAC (site code 001285) and Lough Fingall Complex SAC (site code 000606).

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 3rd day of August 2022

PRESENT when the seal of the Agency was affixed hereto:



Tara Gillen
Authorised Person



Appendix

Insert the following terms, conditions and amended schedules:

Glossary of Terms

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.

1. Air Emission

Insert Condition 1.5 in the licence to read as follows:

- 1.5 Prior to the commencement of the activity, the licensee shall carry out a test programme to demonstrate that the plant can operate within the emission limit values in Appendix A.2 of the licence and the noise limits in Condition 3.8.

The licensee shall submit to Galway County Council a written report on the test programme to include the following:

- i. Results of air emissions monitoring from the stack
- ii. Results of noise monitoring at noise sensitive locations

The activity shall not commence without the prior written approval of Galway County Council that they are satisfied, on the basis of the monitoring results, that the industrial plant can be operated within the limits of the licence.

3. Interpretation

Insert Condition 3.9 as follows:

- 3.9 The licensee shall carry out noise monitoring at noise sensitive locations in the vicinity of the plant. This monitoring shall be undertaken on an annual basis 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 Environmental Protection Agency. On the basis of results submitted, the local authority shall review the results and further to this assessment may thereafter alter the frequency of monitoring.

Reason for Decision:

To strengthen and clarify the Condition.

Insert Condition 3.10 as follows:

3.10 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 for Decision:

To clarify the interpretation of emission limit values.

Amend Appendix A.2: Stack Monitoring Limits as follows:

Appendix A.2: Stack Monitoring Limits

Emission Point Reference: Dryer Drum Exhaust Stack as shown on 1:500 site location map

Parameters	Emission Limit Values
Maximum volume to be emitted	70,000 Nm ³ per hour
Sulphur Dioxide (SO ₂)	100 mg/Nm ³
Nitrogen Oxide (NO _x)	200 mg/Nm ³
Dust	20 mg/Nm ³

Note: The following conditions need to be maintained

Minimum discharge height	18.3 meters
Fuel Type Specification	Light Fuel Oil<1% w/w Sulphur Gas Oil<0.1% w/w Sulphur Natural Gas

