

This Report has been cleared for submission to Director by Programme Manager Darragh Page

Signed: *Darragh Richards*

Date: 24th March 2025



MEMO

Office of
Environmental
Sustainability

To: Micheal Lehane, Director

Date: 24th March 2025

From: Katelyn Grant, Inspector, Office of Environmental Sustainability

Subject: Appeal of Air Pollution Act licence granted to Lagan Tarmac Ltd., Cloghleigh, Golden, Cashel, County Tipperary by Tipperary County Council

Appeal Registration No: E0012-01

Recommendation: The Director is asked to **APPROVE** the decision recommended hereunder with respect to the appeal submitted to the Agency in relation to the Air Pollution Act licence (AIR\L\05\01) granted to Lagan Tarmac Ltd., Mill House, Mill Street, Dundalk, County Louth for atmospheric emissions from the operation of an asphalt plant at Cloghleigh, Golden, Cashel, County Tipperary.

1 Background

Air Pollution Act licences are single media licences for certain industrial processes not included in the First Schedule of the EPA Act 1992 as amended, and are granted by Local Authorities under the Air Pollution Act 1987 ("the Act") as amended. The industrial processes are listed in the Third Schedule of the Air Pollution Act, 1987 as amended.

Under Section 34(1) of the Air Pollution Act, an appeal may be made in relation to the granting or refusing of a licence under the Act. As of the 31 August 2015, the Environmental Protection Agency ("the Agency") is the statutory authority for appeals in relation to Air Pollution Act licences. Prior to this date the statutory authority for these appeals was An Bord Pleanála.

The licence relating to this appeal is for the operation of an asphalt plant at Cloghleigh, Golden, Cashel, County Tipperary. The asphalt manufacturing plant proposes to facilitate the supply of bituminous materials. The plant process involves coating dried stone aggregate with bitumen. Bitumen is stored in double-skinned tanks that are electrically heated to maintain a fluid state. Waste gases from the asphalt plant discharge to the atmosphere through a 30 m stack.

The product (asphalt) is discharged into hot storage bins beside the mixer, which is then loaded onto trucks for transport offsite.

The site is to be located on an existing extraction site, with Golden the closest village 2.5 km North of the installation, and the closest town, Cashel, approximately 6 km North east. Site access is via the existing entrance of the adjoining quarry.

The Air Emissions Licence, AIR\L\05\01, was granted by the Local Authority, Tipperary County Council, on the 15 September 2023.

Emissions from the plant include the following:

- air emissions of nitrogen oxides, sulphur dioxide and particulate matter from the exhaust stack,
- fugitive dust emissions from aggregate storage and transportation,
- fugitive vapour losses from the vent pipes on the bitumen storage tanks, and
- noise emissions.

2 First Party Appeal

The Agency received one first party appeal against the decision of Tipperary County Council to grant the licence. The Agency did not receive any submissions or observation on this appeal.

Type	Name	Date received
First party appeals	Lagan Tarmac Ltd.	12 October 2023

The Agency's consideration of the appeal is limited to the appeal of the decision of the Local Authority to grant the licence and to the conditions attached to the licence. In accordance with Section 34(2) of the Air Pollution Act licence, the Agency has considered the appeal to the Lagan Tarmac Ltd. Air Emissions Licence (AIR\L\05\01) and has provided appropriate directions to the Local Authority relating to the granting of the licence.

The issue raised in the appeal is dealt with below. However, the original documents may be referred to for greater detail and expansion of points.

3 Consideration of the appeals

3.1 Emissions to air

First Party Appeal

The licensee objects to one condition in the Air Emissions Licence, in relation to operating hours. The planning permission for the asphalt plant was granted in July 2023 and an appeal was launched to An Bord Pleanála (ABP) following this. This appeal included a first party appeal against the operating hours imposed on the plant in the planning permission. The operating hours in the planning permission match those used in the Air Emissions Licence. They are under Condition 3.3 of the licence "*The asphalt plant shall conduct operations between 08.00 and 18:00 Monday to Friday and between 08:00 and 14:00 Saturday. There shall be no operation on Sundays and public holidays.*" The licensee argues that this deviates from operating hours of similar sites in the county and thus is a "significant competitive disadvantage". They request that this condition be edited to the initially requested operating hours of 06.00 to 20.00 Monday to Friday and between 06.00 and 14.00 Saturday.

Assessment of the appeal

The operating hours of a development are prescribed by the planning permission rather than the Air Emissions Licence. The ABP appeal was completed on 15 January 2025. The Board of

ABP approved the planning permission and made changes to the operating hours conditions attached.

Therefore, I recommend that Condition 3.3 is edited to reflect the decision made by ABP. This will change the operating hours to "*between 0700 hours and 1800 hours Monday to Friday and 0700 to 1400 hours on Saturdays. No activity shall take place outside of these hours or on Sundays or Public Holidays. The working of exceptional hours outside of these stated times shall only take place with the prior written agreement of the planning authority*".

Recommendation

Replace Condition 3.3 with the following:

The asphalt plant shall conduct operations between 0700 hours and 1800 hours Monday to Friday, and 0700 to 1400 hours on Saturdays. No activity shall take place outside of these hours or on Sundays or Public Holidays. The working of exceptional hours outside of these stated times shall only take place with the prior written agreement of the licensing authority.

3.2 Environmental nuisance – dust and noise

The first party appeal was only in relation to the operating hours in Condition 3.3 of the Air Emissions Licence but the ABP decision also made changes to other conditions that impact this Licence. Therefore, for completeness I have recommended the Licence sections impacted by the ABP appeal direction be updated by the local authority.

The ABP Direction included dust conditions for the operational phase of the plant which are relevant to the Air Emissions Licence. They prescribed an ambient dust limit and monthly monitoring which are already in the Licence. The Direction added the requirement for an annual review of all dust monitoring data. I recommend adding this requirement to Condition 5 of the Licence. Please see the full ABP dust condition below.

8. (a) Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.

(b) A monthly survey and monitoring programme of dust and particulate emissions shall be undertaken to provide for compliance with these limits. Details of this programme, including the location of dust monitoring stations, and details of dust suppression measures to be carried out within the site, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall include an annual review of all dust monitoring data, to be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.

ABP changed the noise conditions in the Direction (Condition 5) for the operational phase of the proposed development (see below).

5. During the operational phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed:

(a) A rating of L_{Ar}, 1 hour value of 55 dB(A) during the period 0800 hours to 1800 hours Monday to Friday (inclusive) and 0800 to 1400 hours on Saturdays.

(b) An L_{Ar}, 15 min value of 45 dB(A) at any other time.

Nighttime emissions shall have no tonal or impulsive component.

I recommend editing the noise limits in the Air Emissions Licence to match this.

Recommendation

Amend Condition 5 with the following:

5.1 Dust levels shall be monitored monthly at the three existing dust deposition monitoring locations with an additional dust monitoring location to be added close to the asphalt plant and agreed with Tipperary County Council.

5.2 Dust levels shall not exceed 350mg/m²/day (30-day composite) as measured using the Bergerhoff Method. The results shall be submitted to the licensing authority within one month of the end of the period being reported on. On the basis of the results submitted over time, the licensing authority may review the frequency of monitoring.

5.3 This dust monitoring programme shall include an annual review of all dust monitoring data, to be undertaken by a suitably qualified person acceptable to the local authority. The results of the reviews shall be submitted to the local authority within two weeks of completion. The operator shall carry out any amendments to the programme required by the local authority following this annual review.

Amend Condition 6.2:

Noise from the plant shall not give rise to sound pressure levels measured at Noise Sensitive Locations in the vicinity of the plant which exceeds the following limit values:

L_{Ar}, 1 hour value between 0800 to 1800 hours Monday to Friday (inclusive) and 0800 to 1400 hours on Saturdays	L_{Ar}, 15 minutes value at any other time
55 dB (A)	45 dB (A)

Note: Nighttime emissions shall have no tonal or impulsive component.

Remove the following definitions from the Glossary of Terms:

~~Daytime: 0700 hours to 1900 hours~~

~~Evening Time: 1900 hours to 2300 hours~~

4 Appropriate Assessment

Appendix 1 lists the European Sites assessed, their associated qualifying interests and conservation objectives.

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 Lower River Suir SAC (Site Code: 002137) and Galtee Mountains SAC (Site Code: 000646).

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 can 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 not required.

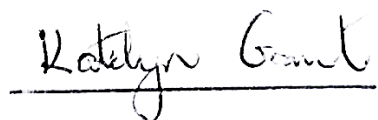
This determination has been made in light of the following reasons:

- The plant is not located within a European site and there are no European sites within 1.25 km of the installation. The nearest site is Lower River Suir SAC (002137), located 1.25 km west of the plant.
- Air dispersion modelling for NO₂, SO_x and dust has demonstrated that the European sites are outside the zone of influence for these air emissions. The modelling demonstrated that emissions will not cause breaches of relevant air quality standards for humans or vegetation at or in the vicinity of the plant. Therefore, it is considered that air emissions will have no significant adverse effects on the qualifying interests of any European site.
- All European Sites and their qualifying interests are considered to be outside of the zone of influence of noise emissions arising at the plant. The closest European Site, the Lower River Suir SAC, with a noise sensitive species (otter) is approximately 1.25 km away.
- Given the nature and scale of emissions, it is considered that the activity in combination with other plans or projects will not have a significant effect on European sites.

5 Overall recommendation and notes

It is recommended that the Agency, in accordance with Section 34 of the Air Pollution Act 1987 as amended, direct Tipperary County Council to grant the licence (Reference AIR\L\05\01) under the Air Pollution Act 1987 as amended, to Lagan Tarmac Ltd., for atmospheric emissions at a site located at Cloghleigh, Golden, Cashel, County Tipperary, subject to the amendments detailed in this report.

Signed



Katelyn Grant
Inspector OES

Appendix 1 Appropriate Assessment

Table 1: List of European Sites assessed, their associated qualifying interests and conservation objectives.

Site Name and Code	Distance to SAC	Qualifying Interests (* denotes priority habitat)	Conservation Objectives
Lower River Suir SAC (002137)	1.25 west	Habitats 1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) 3260 Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels 91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles 91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>)* 91J0 <i>Taxus baccata</i> woods of the British Isles* Species 1029 Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>) 1092 White-clawed Crayfish (<i>Austropotamobius pallipes</i>) 1095 Sea Lamprey (<i>Petromyzon marinus</i>) 1096 Brook Lamprey (<i>Lampetra planeri</i>) 1099 River Lamprey (<i>Lampetra fluviatilis</i>) 1103 Twaite Shad (<i>Alosa fallax</i>) 1106 Atlantic Salmon (<i>Salmo salar</i>) 1355 Otter (<i>Lutra lutra</i>)	NPWS (2017) Conservation Objectives: Lower River Suir SAC 002137. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.
Galtee Mountains SAC (000646)	10.8 south west	Habitats 4010 Northern Atlantic wet heaths with <i>Erica tetralix</i> 4030 European dry heaths 4060 Alpine and Boreal heaths 6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)* 7130 Blanket bogs (* if active bog) 8110 Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) 8210 Calcareous rocky slopes with chasmophytic vegetation	NPWS (2016) Conservation Objectives: Galtee Mountains SAC 000646. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional,

		8220 Siliceous rocky slopes with chasmophytic vegetation	Rural and Gaeltacht Affairs.
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