



An
Bord
Pleanála

Inspector's Report

ABP-317634-23

Development	Erection and operation of an asphalt plant and office unit. A Natura Impact Statement (NIS) was submitted with this application.
Location	Cloghleigh, Golden, Cashel, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2360072
Applicant(s)	Lagan Tarmac Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission with conditions
Type of Appeal	First & Third Party
Appellant(s)	Michael & Denise Barry Brian Devitt
Observer(s)	Peter Sweetman & Associates
Date of Site Inspection	8 th August 2024

Inspector

Catherine Dillon

1.0 Site Location and Description

- 1.1. The site is in a rural area within the townland of Cloghleigh, c.6.8km as the crow flies from Cashel in Co.Tipperary. Golden village is c.2.5km to the north of the site on the N74 which connects the village to Cashel and Tipperary town. The M8 is c.4km to the east and the N24 is c.7.5km to the west of the subject site. The site lies within the southern end of a large quarry complex and is accessed via an internal roadway within the quarry off the L-8311, through an existing gate, and is set in from this road by c.746m on its western boundary. The quarry is operational and has a two-storey office building close to the entrance and a precast manufacturing facility to the east of the subject site.
- 1.2. The subject site slopes from the east to the west and comprises an area of hardstanding and an agricultural field. The hardstanding area was previously used by the pre cast operation business for storage. The site is bounded to the north by a sloping hill and to the south by the Scibereen stream. This stream is approximately 1m in width and flows in a westerly direction parallel to the site and flows southwards towards the river Suir. To the south of the stream is a forested area.
- 1.3. The River Suir is 1.2km at its closest point to the west of the site. There are a number of detached one off rural dwellings and farm and rural enterprises along the local roads surrounding the quarry site. The closest dwelling to the subject site is c. 520m to the south west of the site. The subject site would have an overall area of 1.02 hectares.

2.0 Proposed Development

- 2.1. The proposed development comprises an asphalt manufacturing plant designed to manufacture asphalt by coating bitumen onto the surfaces of dried stone aggregate. The proposed development would include the erection and operation of the asphalt plant together with a single/two storey office unit (133.6m²), a weighbridge, hardstanding area (2720m²), erection of associated aggregate storage bays, and all associated site development works. It is stated the lands have been leased for a 20 year period by the applicants from the owners of the quarry. It is proposed to use portaloos for staff toilets.

- 2.2. The asphalt plant would be located on the eastern end of the site and would have a maximum height of 30 metres to accommodate the chimney stack. The plant would include a hot storage unit, mixer, dryer, bitumen tanks and a conveyor which would lead to cold feed bins. The whole development would be positioned on a hardstanding area.
- 2.3. A number of stages are involved in the processing of the bitumen which would involve heating the raw materials, i.e aggregates from the quarry, imported sand, bitumen and limestone filler, mixing them with the bitumen in a drum dryer before discharging into one of a number of hot storage bins before being loaded onto a truck for delivery. The bitumen would be stored in a fluid state in 2 double skinned bitumen tanks and would be electrically heated and located next to the plant.
- 2.4. Provision is made on the site for the storage and re-use of Recycled Asphalt Products (RAP), as required. It is stated that the scale and extent of any RAP will depend on the nature of a given contract but is not anticipated to contribute significantly to the operation and the storage capacity for this product on site is 500 tonnes. The applicant anticipates that there will be little or no importation of RAP in the first year of operation, increasing to a maximum of approximately 500 tonnes by Year 2. The recycled materials would be brought to site and would be utilised in accordance with Article 27 (European Communities (Waste Directive) Regulations, 2011, S.I. No. 126 of 2011) notifications to the Environmental Protection Agency (EPA). The RAP brought to the site and stored in the dedicated storage bays located on a hard-surfaced area.
- 2.5. It is proposed to install 5 separate gravity ACO drains, across the site, which would collect the water into sump pits which would pass through a petrol interceptor with a built-in silt trap prior to being discharged into an underground soakaway system before discharging into the ground. An additional soakaway trench is proposed around the northern perimeter of the subject site and this would be filled with coarse stone/rubble to capture surface water from the sloping hill to the north of the site.
- 2.6. It is stated in the Environmental Assessment report the plant would have the capacity to produce 120 tonnes of asphalt product per hour. Production throughput is estimated at ca. 75,000 tonnes per annum. The access into the site would be off the L8311 and via an internal road through the existing quarry.

2.7. The application was accompanied by the following;

- Flood Risk Assessment
- Civil Planning Report
- Traffic and Transport Note
- Ecological Impact Assessment (EcIA)
- Appropriate Assessment Screening Report (AA)
- Natura Impact Statement (NIS)
- Environmental Assessment Report (EAR), which outlines the processes involved, air quality, noise & vibration, hydrology & hydrogeology assessments of the facility.

2.8. The activity is a Scheduled Process for which an Air Emissions Licence must be obtained, under the terms of the Air Pollution Act 1987.

2.9. The planning application was subject to a further information request seeking a visual impact assessment, traffic movements, capacity of the haul route and details on the volume of recycled road planings (RAP) to be used in the process. On receipt of the response to the F.I was readvertised.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 10th July 2023, Notification to grant was issued by Tipperary County Council subject to 8 conditions. The following conditions are of note:

Condition 2- relates to ACO drains and existing berm on the bank of the surface water drain to be extended for the full length of the site.

Condition 3- surface water to be collected and disposed within the curtilage of the site.

Condition 5- relates to noise emissions from the proposed facility not exceeding 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday (inclusive),

and 45 dB(A) at any other time, and no tonal audible or impulsive component from the development at any noise sensitive location.

Condition 6- relates to operational times being between 0800 & 1800 hours Monday to Friday and between 0800 & 1400 hours on Saturdays only.

Condition 7- restricts demolition and construction works to specific hours.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planner's report dated 21/3/2023 can be summarised as follows:

Principle of development

- Proposed development as part of an established extraction site considered acceptable in principle in accordance with Policy 8-7 of the TCDP.

Siting & Design

- Further information was sought on the visual impact of the development on the landscape by way of photomontages from local roadways (listed) in the vicinity of the site.

Residential Amenity

- It was considered the development would not impact on the closest residential receptor to the site which is c.520m to the south west of the site or the public road being c720m from the site.

Roads & Services

- Further information was sought regarding traffic movements, and capacity of haul route.

Flooding

- The development was considered to be a 'less vulnerable use' and acceptable within a Flood C zone.

Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

- The site has potential hydrological connectivity with the Lower River Suir SAC and further information was requested regarding measures to control groundwaters, details of volume of road planings, and clarity on the attenuation pond referred to in the NIS.

EIA assessment

- Mandatory EIA is required in respect of installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). The applicant was requested to provide details of the volume of waste material intake to the site.

Second planner's report dated 28/6/2023, on receipt of F.I response:

Siting & Design

- Following a review of the photomontages, it was considered the proposed development would be largely screened from the public roads and would not have a negative impact on the visual amenities of the area.

Haulage route

- The proposed plant would increase the number of trips to 36.9 trips in and 36.9 trips out of the existing and proposed facility daily i.e. 73.8 in total
- The proposed haulage route indicated vehicles would turn right onto the L8311 towards the L4305, and onto the M8 via New Inn or the N74 via Golden.
- Satisfied the haulage route could accommodate the increase in traffic.

AA assessment

- Following a review of the revised NIS and the control measures in place, it was considered that the proposed development is not likely to have significant effects on the conservation objectives of the European site. Reference to an attenuation pond was removed from the NIS.

EIA assessment

- Applicant confirmed the storage capacity for bulk Recycled Asphalt Pavement (RAP), also known as road planings, would be 500 tonnes. The planner's report accepted that road planings are not a waste product and an EIA was not required for the development.

Report concludes the proposal accords with the policies of the Tipperary County Development Plan 2022-2028 and would not impact on the visual and residential amenities of the area or the environment and recommends a grant of permission on this basis.

3.2.2. Other Technical Reports

District Technician dated 28/2/2023:

- Recommends a means of intercepting water should be installed at the proposed entrance to prevent water ingress/egress.
- More clarity required on the existing and proposed use of the facility.
- Additional information required on the existing and proposed traffic movements and the final combined movements of operations from the location.
- Confirmation required on what measures are proposed to maintain the public road in good condition such as wheel wash facilities etc.

Senior Executive Engineer (Roads) dated 25/3/2023: requested F.I on the following:

- Breakdown of the trips in and out of the existing facility and trips in and out of the proposed facility. Both empty and full trips should be identified, and vehicle type stated.
- Map of the proposed haulage route to and from the facility to where it joins a local primary route.
- An audit of the capacity of this route considering the effect of the additional traffic on it. The audit should identify ADT and road widths.

- A risk assessment of the route and plans to mitigate any adverse consequences of the additional traffic.

Senior Executive Scientist (Environment) dated 28/3/2023

- The nearest SAC is the River Suir SAC, located 1.25km northwest & west of this site, no direct impacts are considered likely as described in the Appropriate Assessment Screening, Natura Impact Assessment & Ecological Impact Assessment reports submitted with the planning application.
- The proposed development is located within the River Suir catchment. The Suir, along this section is at moderate status but is currently considered at risk of failing to achieve WFD status objectives, mainly from agricultural pressures. Given the nature of the proposed development, it was not considered likely that it will have any negative impact on water quality within the catchment.
- Direct emissions shall meet the parameters set out in any Licence received by the applicant.
- Given the isolated location of the proposed site, it is considered unlikely that odour or noise nuisance is likely to occur at this site, however noise limits must be adhered to as detailed in conditions.
- The site is not at risk of flooding.
- Recommended conditions regarding the existing berm on the bank of the surface water drain to be extended, ACO drains to be maintained in accordance with suppliers standards, noise levels, development to be constructed and operated in compliance with any licence under the Air Pollution licence, restrictions.

SES Environment email dated 6/7/2023 following F.I.

- Mitigation measures outlined in the NIS should suffice as protection for the Natura 2000 sites.
- The ACO drains and petrol interceptors will need to be of a standard outlined in the civil engineering report and accessible at all times.

3.3. Prescribed Bodies

- 3.3.1. The HSE, Minister for Housing, Local Government & Heritage, An Taisce, Heritage Council and Inland Fisheries were all consulted but no comments were received to the planning application.

3.4. Third Party Observations

- 3.4.1. The planning authority received a total of 9 no. third party submissions were received to the initial application and no submissions were received at the F.I stage. The main concerns can be summarised under the following themes:
- Compliance with Planning and Development Act 2000 (as amended), regarding screening the development for Environmental Impact Assessment, Appropriate Assessment and Water Framework Directive.
 - Increase in HGV traffic and impact on roads and safety of road users.
 - Levels of emissions and pollution from the plant and impact on public health.
 - Impacts on residential amenity, i.e noise, health and devaluation of properties.
 - Proximity of development to River Suir.
 - The development cannot operate without an EPA air emissions licence (AEL).
 - Reference to a number of court cases involving the applicant.
- 3.4.2. Councillor representative Michael Fitzgerald was recorded as the nominated public representative for the application.

4.0 Planning History

Quarry site:

P.A Ref: P310467: Planning permission was granted on 23/6/1989 to Eddie Dalton for a quarry for production of crushed rock.

P.A Ref: 05/450: Planning permission was granted on 6/9/2005 (5 year permission) to Gleeson Precast for retention of a precast manufacturing plant, an office, a canteen with toilet facilities and for permission to retain the relocation of a concrete batching plant and all associated site works.

P.A Ref: 07/130: Planning permission was granted on 11/5/2007 for a temporary to Gleeson Precast for an office building, truck weighbridge, security gates, a new sign, percolation area, wastewater treatment plant and associated site works, subject to 5 conditions. Condition 3 stated the permission expired on 5/9/2010.

P.A Ref: 10/405: Permission was granted to Gleeson Precast on 24/11/2010 for the continuance of use of office building, entrance, precast manufacturing plant and associated site works (previously granted permission under ref. nos. 05/450 and 07/130), subject to 5 conditions.

Condition 5 of this permission required all petroleum products and chemical drum storage areas should be impervious to the materials stored. The tanks and storage area should be bunded to a volume greater than 110% of the capacity of the largest tank. Refuelling of vehicles should only be allowed within designated zone paved and sloped and constructed so as to retain any spillage's which may occur.

P.A Ref: 14/600435: Planning permission was granted to Gleeson Precast on 15/1/2015 for retention of area quarried in excess of the area granted permission under P.A Ref P310467. – this regularised all development on the site at that time. This permission was screened for an appropriate assessment and was subject to 2 conditions.

P.A Ref: 15/600553: Planning permission was granted to Gleeson Precast on 30/9/2015 to extend the extraction area of the existing quarry by c. 6.2 Ha (to give an overall extraction footprint of c. 10.0 Ha). The final quarry floor level will be c. 70.0 m OD. Permission is being sought for a 25 year period. An Environmental Impact Statement (EIS) is being submitted with the Planning Application. This permission was subject to 19 conditions which included measures to control dust, groundwater, noise, and Environmental Management System. There is no record of non-compliance with this permission

P.A Ref: QY12: Gleeson quarry registered under S.261 of the Planning and Development Act 2000.

4.1.1. **Enforcement:**

ENF 291/10: Case Closed

ENF 405/09: Case Closed

5.0 Policy Context

5.1. Tipperary County Development Plan 2022-2028

- 5.1.1. The site is not governed by any landuse zoning objectives and is located in a rural area. There are no specific policies or statements contained within the plan specifically relating to asphalt plants. Policies and provisions relating to mineral extraction and quarries are set out in Section 8.4.5 of the Development Plan. The site is located in the Landscape Character Assessment designation the River Suir Central Plain with a robust to normal level of sensitivity (least sensitive) and is not located within or near any amenity areas, views or scenic routes.

5.1.2. Chapter 8: Enterprise & Rural Development

Policy 8-7: Supports the extraction of minerals and aggregates, and to have regard to;

a) Quarries and Ancillary Activities, Guidelines for Planning Authorities, (DEHLG 2004), where such activities do not have a significant impact on the environment, landscape or residential amenities of the area.

b) In considering new development, to have regard to potential adverse impacts on sites of geological importance or known high quality aggregate reserves as set out in the County Geological Sites record (and any review thereof) as maintained by the GSI.

c) Where development proposals involve the redevelopment, rehabilitation or reuse of historic mining sites in the county, the Council may seek the preparation of a Master Plan for the entire landholding of the former mine to ensure the appropriate level of co-ordination of the entire landholding and protection of the environment.

5.1.3. Chapter 11- Environment & Natural Assets

Policies 11-1-11-2: In assessing proposals for new development to balance the need for new development with the protection and enhancement of the natural environment and human health. In line with the provisions of Article 6(3) and Article 6 (4) of the Habitats Directive, no plans, programmes, etc. or projects giving rise to

significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation decommissioning or from any other effects shall be permitted on the basis of this Plan (either individually or in combination with other plans, programmes, etc. or projects).

Policy 11- 8: Ensure that new development does not result in significant noise disturbance and to ensure that all new developments are designed and constructed to minimise noise disturbance in accordance with the provisions of the Noise Action Plan 2018 and relevant standards and guidance that refer to noise management.

Policy 11- 9: Assess all new developments (both within and without designated Flood Risk Zones) in line with the 'Staged Approach' and pre-cautionary principle set out in the Planning System and Flood Risk Management Guidelines for Planning Authorities, (DEHLG, 2009).

5.1.4. Chapter 15- Water & Energy Utilities

Policy15-7: Require all new development to provide a separate foul and surface water management system and to incorporate nature based water sensitive urban design, where appropriate, in new development and the public realm. New developments, or retrofit/upgrading works, including those contributing to combined drainage systems where streetscape enhancement programmes or resurfacing programmes are planned, will incorporate measures to reduce the generation of storm water run-off, and to ensure that all storm water generated is managed on-site, or is attenuated and treated prior to discharge to an approved storm water system.

The Council must be satisfied that the receiving environment has the capacity to cater for the development and will require, as necessary, the submission of appropriate environmental reports at planning application stage.

(a) Nature-Based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas (water sensitive urban design) Best Practice Interim Guidance Document (DHLGH, 2001) and any review thereof,

(b) The infiltration into the ground through the development of porous pavement such as permeable paving, swales and detention basis,

(c) The holding of water in storage areas through the construction of green roofs, rainwater harvesting, detention basis, ponds and wetlands etc.

(d) The slow-down in the movement of water.

5.1.5. **Development Management Standards-(Appendix 6)**

Section 3.6 Noise: The Council may require new commercial and industrial developments to submit a Noise Impact Assessment and appropriate mitigation measures as part of their planning application.

Section 3.12 Waste Management: All development shall include proposals for appropriately sited and designed, secure, sustainable waste management measures to be provided accessibly with screening from public view and wind.

Section 5.7 Industrial Development: Table 5.1 sets out standards for industrial development with regards to access, site layouts, design, storage of goods and fuels.

Section 6.0 Parking, Traffic and Road Safety- sets out sightline requirements

5.1.6. **Landscape Character Assessment & Schedule of Views and Routes (Appendix 3)**

The subject site lies within the River Suir Central Plains landscape character of the County within a 'robust' landscape.

5.2. **National Planning Framework**

5.2.1. Chapter 5 recognises the importance of the countryside as a living and lived-in environment, focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise. It identifies aggregates and minerals as important components in the supply of materials for the construction industry and other sectors.

5.2.2. **NPO23:** Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

5.3. Section 28 Guidelines

Quarries and Ancillary Activities Guidelines for Planning Authorities 2004

These Guidelines provide guidance on planning for the quarrying industry and ancillary activities. They include advice relating to best practice/mitigation in respect of issues such as noise, vibration, dust/air quality, ground water and surface water, ecology, landscape, traffic management, cultural heritage and waste management.

The Planning System & Flood Risk Management Guidelines for Planning Authorities 2009 and Circular PL 2/2014 of the Flood Risk Management Guidelines for Planning Authorities.

These guidelines provide advice in identify flood risk areas and addressing flood risk management in the design of a development.

5.4. Natural Heritage Designations

The site is not located within a designated European Site. The closest European sites are the Lower River Suir SAC (site code: 002137) within c.1.2 km to the west and Galtee Mountains SAC (site code: 000646) is c.11km to the south west of the subject site.

5.5. EIA Screening

- 5.5.1. An asphalt plant does not come within a class of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended, for which an Environmental Impact Assessment is required. The site has storage capacity up to 500 tonnes for Recycled Asphalt Products (RAP). The use of recycled asphalt is not considered a by-product and therefore not a waste product. The use of this recycled material would be utilised in accordance with Article 27 (European Communities (Waste Directive) Regulations, 2011, S.I. No. 126 of 2011) notifications to the Environmental Protection Agency (EPA). The development would be within a site of an existing extractive industry (Part 2 Class 2) but the proposed development would not be in excess of the threshold. Refer to Forms 1 & 2 attached in Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal against condition 6, and two third party appeals have been received from Michael & Denise Barry, Brian Devitt and one observation from Peter Sweetman & Associates.

6.2. First Party appeal

- The First party have appealed condition 6 of the Notification to grant of the Planning Authority on the grounds that it is unnecessary and unreasonable. They request that condition 6 be amended to the following:
- One site operations shall be limited to and may only be carried out between 0600hrs and 2000 hrs (inclusive) on Monday-Friday and to the hours between 0600 hrs and 1400 hours (inclusive) on Saturdays, unless otherwise agreed in writing with the Planning authority. The working of exceptional hours outside of these times shall only be undertaken with the prior written consent of the Planning Authority', for the following summarised grounds:

Interferes with the efficient operation of an asphalt plant

- P.A wording would prevent the asphalt plant commencing operations on site until 0800 hrs Monday through to Saturday, meaning the hot asphalt would potentially not be delivered to a project site until approximately midday (depending on location).

Puts the operation at a competitive disadvantage

- Refer to 2 other asphalt plants operating in Tipperary which do not have the same restrictions.
- Roadstone plant at Holycross (P.A. Ref: 07/412- condition 4 permitted operations between 0600-2000 hrs Monday to Friday and between 0700hrs - 1600 hrs on Saturdays.
- Kellys asphalt plant at Fantane (P.A Ref: 16601134) hours of operation not restricted instead Condition 3 of that permission restricted noise levels to

55dBs between 0700-1900hrs and to 50dBs between 1900hrs and 2300hrs, and to 45dBs between 2300hrs and 0700hrs.

- Residential amenity of neighbouring properties will be protected when the operation of the plant is fully compliant with Condition No.5 regarding noise levels. The noise impact assessment predicted noise impacts at the closest receptors to be less than 35dB(A).

6.3. Third Parties

Appeal by Michael & Denise Barry summarised as follows:

Environment

- Scibereen Stream flows into a natural lake and not an artificial lake as specified in the NIS.
- This stream connects to the River Suir and potential for contamination of the River Suir- a European protected site and permission cannot be granted under the Habitats Directive.
- No bore hole sample results to test the water table levels.
- Air quality will be severely affected by the fumes and toxins released from the tower and impact on health in surrounding area.
- Air Emissions Licence was not included with the planning application.

Traffic

- Local roads unsuitable for the proposed traffic.
- Traffic survey was carried out during Easter holidays and did not account for school traffic or quarry traffic.
- Traffic calculations are based on 30% operational capacity of the plant as estimated maximum output is stated 120 tonnes per hour but there could be an annual turnover of 70,000 tonnes per annum.

Lagan Tarmac

- Refers to court cases connected to the applicant in other parts of the country and having a 'cavalier' attitude to planning.

Personal

- Impact on health, road safety and quality of life.
- Visual impact of the 30m stack

Appeal by Brian Devitt summarised as follows

European Directives and National policy

- Development contrary to Environmental Impact Assessment (EIA) Directive, Habitats Directive and EU Water Framework Directive.
- Contrary to Planning & Development Act & Tipperary County Development Plan 2022-2028
- Development does not promote sustainable living and modal shift transport solutions as referenced in the policy of the Development Plan.

Ground water monitoring & drainage

- A single well pipe is not suitable for a hydrologically assessment as the well may have artificially lower water table levels.
- Lack of details for drainage of the site, given its location next to Scibereen stream which feeds into a natural lake which is hydrologically connected to the River Suir.
- Volumetric calculation regarding rainfall are not detailed enough to make an assessment on run off capacity and flow rates.

Aggregates

- Previous owner of the quarry tested the suitability of the quarry for aggregates for an asphalt plant and they were not suitable, therefore aggregates will have to be transported to the site which will have impact on traffic movements.

EIA

- Considers the development may require an EIA due to the importation of recycling asphalt pavement (RAP) as road runoff contains pollutants.

NIS

- Scibereen river has been known to flood contrary to specified in NIS.

- Scibereen flows into a natural lake first and then into one of the two artificial lakes in the quarry due to the high water table in the area, not into Lake Muck as stated in the NIS.
- The natural lake is 700m from the River Suir.
- Artificial lakes in the quarry are not lined and are hydrologically linked to River Suir.
- Natural lake has a significant bird population that contains protected species.
- Ambiguity in the plans regarding the attenuation pond referenced in the NIS.

Noise

- Noise at the quarry has increased significantly since the noise tests were carried out in the Environmental Assessment report.

Air emissions and dust

- No calculations provided to suggest that the stack height is adequate to effectively disperse the exhaust air beyond scientific doubt.

Traffic

- ATC 1 was placed in such a way to miss all traffic entering and existing the quarry, and where traffic speed is slow.

Flooding

- Road floods on both sides of the entrance to the quarry in heavy rainfall events.

6.4. Applicant Response

Armstrong Planning on behalf of the applicant have provided the following response to the third party appeal summarised as follows:

National & European Directives

- An Appropriate Assessment was carried out by the competent authority which determined that the development would not have any adverse effects on the integrity of all the European sites within the zone of influence of the proposed development.

- The NIS fully acknowledges that the EU Water Framework Directive is an important piece of environmental legislation which aims to improve water quality.

EIA screening

- A comprehensive and robust EIAR screening report was presented which concluded an EIAR was not required and the P.A determined same.

Hydrological connection to the River Suir

- The hydrological connection with the River Suir and associated European site is assessed in the AA process and NIS.
- Lough Muck does not appear on the Historic 6 inch OS mapping where the Scibereen Stream is shown leading to a swallow hole. In the later 25 inch map, the course of the stream has been diverted away from the swallow hole to create Lough Muck.
- There is an indirect pathway to the River Suir and there is no dispute there is a distant diffuse pathway through ground water. The NIS on the basis of best scientific knowledge available and through the implementation of mitigation and restriction measures (Section 3.6) concluded that the proposed development either alone or in combination with other plans or projects that the possibility of any adverse effects on the integrity of the European sites can be excluded beyond reasonable scientific doubt.

Noise levels

- Third party is confusing the existing permitted development with the proposed development relating to noise levels and predictions.
- Extensive body of monitoring works which indicate the existing quarry complies with best practice guidelines.
- Third party refers to noise reports carried out by residents in the area which contradicts the data for the proposed development but has not provided these details.
- The noise report demonstrates that the proposed development will not exceed 35dB(A) and will not be audible above other noise sources in the area,

Stack Height and emissions

- The dispersion modelling assessment was carried out by competent professionals in accordance with EPA guidance, which demonstrates how a 30m high stack was required to achieve effective and complete dispersion of emissions is set out in the Environmental Assessment report.
- Evidence relating to the efficiency of bag filters for removing particulate is well established and accepted in Ireland.
- The plant will be required to obtain an air emissions licence which will be monitored by an independent consultant company and the EPA.

Ecology

- There were no rare or protected species recorded on the site, and the implementation of best practice procedures during the construction and operation of the plant will apply to all surface waters hydrologically linked to the development and there will be no negative effect on bird species in the nearby lakes.

Engineering Issues

- Ground water monitoring occurred monthly over a 4 year period. The highest ground water table recorded remained 4m below existing ground level during winter months.
- Soil infiltration test report confirms the suitability for surface water discharge via soakaway and in accordance with BRE365. A 2m deep pit was dug that did not encounter any ground water.
- The Scibereen river is 5m from the site and at its lowest delta of 1.6m, a water filtration angle of up to 85° can be achieved with no adverse effects on the ground water table.
- Prior to construction additional boreholes may be installed to be monitored during the construction phase, and a shallower and wider soakaway could be considered, but consider 2m design is adequate and justifiable.

- ACO drains are a robust gully and drainage system and the products that are proposed are designed for load classes such as light vehicles and heavy duty machinery on the trafficked area of the site.
- There will be limited site run off, and all collected water will be diverted into sump pits, petrol interceptor and soil infiltration prior to discharge into the ground. The system would filter potential contaminants from entering the river Scibereen.
- Due to the distance between the site and the River Suir SAC it will not be negatively impacted by the filtered water discharge.
- The capacity of the drainage system is tested to collect and discharge at a rate of 50mm/hr per square metre in compliance with Building Regulations Part H.

Flood risk

- The site is relatively flat with no recorded floods or severe standing water and on good draining soil.
- Any surface run off from the artificial hill to the north will be collected via a trench soak away on site.
- Flooding experienced by local residents on the roads during heavy rainfall is not connected to the site.

Traffic & Highways

- Test engineering travelled the proposed routes and assessed each junction from a safety perspective.
- The rationale behind the positioning of ATC 1- 4 was to capture a wide ranging view of the road network.
- ATC 1 was placed within the sightline zones to provide available information that passing vehicles do not exceed the 80km/hr speeds as per the local speed limit.
- The ATC surveys were carried out over a 72 hour continuous survey period between on 17th & 19th of April and were completed during the

school term time and on a minimum of 2 neutral days in line with best practice.

- It is considered any risks can be safely mitigated to an acceptable level to allow the safe operation of the proposed development.

Lagan Tarmac Reputation

- Lagan Tarmac Ltd, was only incorporated in late 2022. The cases referred to by the third party appellants involved Lagan Asphalt Ltd, a separate company that is owned by Breedon Group PLC.

Productive capacity of the plant

- The plant is not expected to run at maximum productive output as the industry is seasonally affected with demand reduced during the winter months and weather conditions
- The applicant anticipates the plant will produce 75,000 tonnes per annum on average but will be dependent on government expenditure on roads.

6.5. Planning Authority Response

None

6.6. Observations

Peter Sweetman & Associates

- The mitigation measures regarding the potential risk to surface water from accidental spillages is not a definitive finding and is vague.
- The operational phase mitigation measures in the NIS are flawed as it assumes the proposed development is a stand alone development and no evidence has been presented the existing quarry is not having a negative effect on the SAC.

7.0 Assessment

7.1. I have read the entire contents of the file, have had regard to the issues raised in both the first and third-party appeals and the reports of the Planning Authority, and have also had regard to the issue raised in the observation on file. Furthermore, I have also visited the subject site and its surroundings. It is considered the main issues arising from the appeal are as follows:

- Principle of the development
- Traffic Impacts and road safety
- Residential amenity
- Drainage
- Visual amenity
- Ecology
- Hydrology
- Amendment to Condition 6 regarding hours of operation
- Other Issues, and
- Appropriate Assessment

7.2. Principle of the development

7.2.1. The importance of the countryside as a living and lived-in landscape is emphasised in both national and local policy as summarised in section 5.0 above and in chapter 8 of the Tipperary County Development Plan (CDP). In addition, the employment potential of brownfield industrial sites in both urban and rural areas is noted in terms of their contribution to a more sustainable pattern of development. The CDP supports the co-operative clustering of enterprises in supporting a sustainable rural economy. The site is located in a rural area in a robust landscape, which is the least sensitive landscape, and has the ability to absorb a moderate amount of development. As the site is in a brownfield industrial site with a long-established quarrying use and associated manufacturing use, it is considered that the siting of

the proposed asphalt plant accords with the general policy framework regarding development within a rural area in principle.

- 7.2.2. I note the third party raise the issue that the existing aggregates at the quarry are unsuitable for the proposed asphalt plant, however, there is no evidence submitted to confirm this would be the case. On my site inspection I noted the existing quarry was operational and I have no reason to consider aggregates from the quarry could not be utilised.
- 7.2.3. The applicants have stated in their submission the facility expects to utilise 60,000 tonnes of aggregates from the adjacent quarry and I acknowledge this provides environmental benefits in terms of reducing trip generation. I consider there is a symbiotic relationship between an existing quarry activity and asphalt plant as they are both related industries. I consider there are merits in siting the plant in an existing quarry close to a national roadwork and therefore consider the development appropriate in principle. However, the proposed development would also have to comply with the requirements for the protection of the environment and residential amenities of the area. These matters will be examined in the following sections of this report.

7.3. Traffic Impacts and road safety

- 7.3.1. The application was accompanied by a Traffic and Transport Note and additional information by way of a further information response regarding the haulage route, traffic counts, speed survey and a road safety audit by Tent Engineering. Third parties have raised concerns about the level of traffic associated with the proposed development, the lack of capacity in the surrounding roads, the safety of road users in the area, and that the traffic survey was carried out when schools were closed. It is considered the capacity of the road network and the safety of the road users in the area is an important consideration when assessing this development.
- 7.3.2. The number of trucks per annum leaving the site has been equated to 3,410 per annum based on a production rate of 75,000 tonnes per annum. I note the first party has stated this would not be a continuous rate of production, as production would be less during the winter months and I consider this a reasonable assumption. The total traffic along the haulage route based on the traffic breakdown of trips between the

existing quarry and the proposed development would increase from 54 to 73.8 vehicles daily (26.8% increase). This is based on the assumption, the aggregates would be used from the existing quarry and the hardstone, bitumen and limestone would be imported from other areas. I also note the applicants speed audit indicates that the average speed along the L8311 is 62km/hr rather than the permitted 80km/hr. Having regard to the conditions and capacity of this road, I consider given this increase in traffic, and the general speed along the L8311, the development would have a negligible impact on the local road network, particularly given the proximity of the site to the N74, N24 and M8.

- 7.3.3. The existing entrance at the quarry has 160m sightlines in both directions and I am satisfied that the sightlines are acceptable onto the L8311, and are in accordance with Table 6.2 in the CDP for sightlines, where the speed limit is 80km/hr. The haulage route for the proposed development would require vehicles to turn right out of the entrance onto the L8311 and head north towards the L4305 junction. From there, vehicles would either travel to the M8 via New Inn or to the N74 via Golden. Vehicles would not turn left when exiting the site.
- 7.3.4. The capacity audit of the proposed haulage route was carried out over a 72 hour continuous period between 17th-19th April 2023 at 4 different locations along the haulage route. Third parties consider that Automatic Traffic Count (ATC) No.1 which was located along the L8311 was placed in such a way as to miss all the traffic entering and exiting the quarry from only one of the sides of the entrance, did not take into account the quarry's second entrance, was placed in a location where speeds are slower because of quarry traffic and at the widest part of the road. Whilst I note ATC1 was placed on a bend to the south of the entrance into the existing quarry I would not agree with the appellants that traffic leaving the quarry was not accounted for as there were further ATC points set up along the haulage route which would account for vehicles leaving or entering the quarry at both entrances. Nevertheless, the L8831 which leads from the site entrance is a typical rural road with varying widths, which naturally causes traffic to travel at a slower speed, is lightly trafficked, well maintained and serves a small number of dwellings along its alignment.
- 7.3.5. In addition, the access road (L8831) length from the site onto the junction with the L3121 is c.2.4 km before heading towards the N74 or via the L31121 to the M8. I

consider the haulage route is the optimum route, is capable of accommodating two-way traffic and the overall road network serving the site is very good from a road capacity perspective. I also note the Planning Authority on receipt of further information were satisfied regarding the trip generation, haulage route and road safety audit for the development.

- 7.3.6. It is demonstrated robustly that the risks can be safely mitigated to an acceptable level to allow the safe operation of the proposed facility. The key mitigation measures discussed include ensuring vegetation growth is controlled to protect the existing sightlines and providing driver awareness training will be taken forward by our client with high priority. Implementing such measures would lead to an overall improvement in the road safety for the wider area. Regarding concerns that the presence of trucks on the road network presents a hazard for pedestrians, I would advise the Board that this is a rural area, where there are no footpaths on the local roads.

Conclusion

- 7.3.7. I consider that the proposed development would have a negligible impact on the existing road network serving the development and is acceptable from a road safety and road capacity perspective, notwithstanding the fact that materials are required to be imported to service the proposed asphalt plant.

7.4. Residential Amenity

- 7.4.1. Third parties refer to a number of issues that have the potential to impact on the health and safety of local residents, including a school within 2.5km from the site. These issues include dust, air quality, odour and noise. One third party has queried the adequacy of the stack height and the emission calculations. An Environmental Assessment Report (EAR) was submitted with the planning application which assessed the impact of the proposed development on air quality, noise, hydrology and hydrogeology, odour and waste management and included mitigation measures.
- 7.4.2. The site is in a predominantly rural setting and considered a Zone D location (rural area) for air quality monitoring purposes. The closest residential dwelling is c.520m to the south west of the subject site and the public road is c.720m. The development would be located in a low-lying area of land within an overall quarry site, with a

sloped hill to the north and forestry to the south. The dominant wind direction is from the south-south west and west.

Dust

- 7.4.3. The site has a long history of being used as a quarry. Dust monitoring was carried out at 3 locations around the periphery of the quarry over a three year period, 2016, 2017 and 2019 with average yearly results of 116,188 and 127 mg/m²/day which is below the maximum limits set for the existing quarry of 350mg/m²/day. It is recognised there would be fugitive dust emissions from aggregate storage and transportation, but the existing dust background concentrations are low.
- 7.4.4. Mitigation measures proposed include a dust monitoring programme at the site boundaries; the partial enclosure of raw material storage bins, covered lorries for aggregate transport, fixed and mobile water sprays to control dust emissions from material stockpiles, yard and road surfaces as necessary in dry and/or windy weather, and all trucks leaving the site would pass through a wheelwash.
- 7.4.5. I am satisfied that the baseline data relating to dust is adequate and carried out in accordance with best practice guidance as set out in the documentation. It is also accepted that the predicted dust impacts of the proposed development is likely to be negligible on the existing dust environment given the separation distance from the nearest dwelling (c.520m to the south west) and in the vicinity of the site.

Air Quality

- 7.4.6. The proposed plant is designed to manufacture asphalt by a process of coating bitumen onto the surfaces of dried stone aggregates. The overall stages of the process are outlined in Section 7.0 of the EAR. The principal source of emissions to air arising from the development would include particulates (including PM₁₀ and PM_{2.5}), NO₂ (nitrogen oxide), SO₂ (sulphur dioxide), CO (carbon monoxide), CO₂ (carbon dioxide), water vapour, and trace VOCs (Volatile Organic Compounds), and odour from the bitumen storage tanks. As stated previously the site is representative of a rural area in terms of air quality standards as established by the Environmental Protection Agency (EPA), and therefore existing background pollutant concentrations are very low.

- 7.4.7. An Air Dispersal Modelling assessment was carried out to assess the ground level concentrations of SO₂, NO_x, NO₂ and PM₁₀ (particulates), to compare the development with the short and long term annual National Air Quality Standards (NAQS) in accordance with the EPA Air Dispersion Modelling Guidance Note (AG4 2020). The modelling is based on a worst-case scenario with the plant operating at full production during the proposed working hours, allowing for seasonal variation, and concentrations of pollutants in the stack exhaust at maximum emission levels. The results indicate that the maximum predicted concentrations for NO₂, SO₂ and PM₁₀ would be substantially below the relevant NAQS based on maximum emissions concentrations at the limit values. A stack height of 30m was demonstrated to achieve effective dispersion of any remaining particulate matter before reaching ground level.
- 7.4.8. A third party has queried how the velocity rates were calculated and that the rate of measurement changes from mg/Nm³ while the assessment criteria is in µg/m³.¹ I acknowledge this could lead to confusion, however I accept the first party response in this regard and that concentration units can be interconverted. I am therefore satisfied the stack dimensions, temperature and flow rates have all been included as required by the AG4 guidelines to assess the stack height and allow for an assessment to be made.
- 7.4.9. I note Section 2.2 of the EPA's guidance document Environmental Management in the Extractive Industry (Non-Scheduled Minerals) (2006) outlines the recommended emission limit values (ELVs) for emissions to air arising from asphalt plants and this is regulated under the Air Pollution Act 1987 and that a licence under the Air Pollution Act 1987 is required for a proposed asphalt plant that involves specific point emissions. Such licences are granted by the relevant planning authority and, in this context, I note that Section 3.4.2 of the guidance contains recommended ELVs for Sulphur Dioxide, Nitrogen Oxide and Dust. Section 3.4 of the guidance also states that the Air Quality Standards Regulations sets statutory limit values for sulphur dioxide, nitrogen oxide, particulate matter in ambient air and that these regulations apply to ambient air quality in the local vicinity of asphalt manufacturing facilities.

¹ mg/m³ represents milligrams (one-thousandth of a gram) per cubic metre of air, while µg/m³ stands for micrograms (one-millionth of a gram) per cubic metre of air.

- 7.4.10. In view of the level of regulation of emissions to air from a proposed asphalt plant, which entails a separate emissions licence and statutory ambient air limit values in the vicinity, I am satisfied there is adequate control over emissions to air from the development to ensure that no impacts to public health in the vicinity are likely to arise. I therefore consider it would be unjustified to refuse permission on this basis.
- 7.4.11. Emissions to air and any concerns raised by third parties in respect of health impacts associated with such emissions, would be subject to the terms of the Air Pollution Act, 1987 as the activity is a Scheduled Process for which an Air Emissions Licence must be obtained.

Odour

- 7.4.12. Health impact concerns have been raised by third parties regarding toxic fumes from the proposed development on the surrounding residents and nearby school. The ERA identifies 3 potential sources of odour emissions that would arise from the proposed plant. These include the potential odour from the stack during the production process, bitumen fumes through the vent pipes on the bitumen storage tanks and, shipment of the product off site. The odour from bitumen arises when the material is heated, and not when it is cold.
- 7.4.13. Absorption of sulfur dioxide by the aggregate and filler materials would result in reduced emissions after the flue gas passes through the drum and bag filter house with a very high (99.9%) particulate removal efficiency before being released through the stack. These measures would serve to minimise ground level concentrations of sulfur dioxide, thereby minimising any potential odours that could potentially occur beyond the site boundary.
- 7.4.14. It is proposed to control the emission of bitumen fume from the tanks, through temperature control in accordance with Best Available Technology (BAT) requirements and at temperatures below 165°C. This temperature maintains the bitumen in a fluid state while minimising emissions of bitumen fumes. The aggregate and filler materials will also contribute towards adsorption of bitumen fume from the process. The nine daily outbound trucks carrying asphalt would be covered leaving the site to minimise the potential of odour emissions.
- 7.4.15. It is stated that the odour impact dispersion modelling assessment was undertaken in accordance with EPA Guidance Report AG4 and found that the maximum

predicted levels do not approach and do not exceed the odour detection thresholds of the substances present and therefore that there would be no odour detectable as a result of the emissions beyond the site boundary. I consider given the site is set back from the road by c.720m and c.520m from the closest residential property, the odour would not be detectable.

Noise

- 7.4.16. The principal sources of noise associated with the development would be from the operation of the plant, handling and transfer of operations and the loading and shipment of the product off site. Asphalt plant operational noise is emitted principally from the loading bays, the rotary drier, generator unit and from the bag filter fan motor.
- 7.4.17. The EPA guidance document Environmental Management in the Extractive Industry (Non-Scheduled Minerals) (2006) (NG4) provides guidance in relation to noise from quarrying and licensed sites including asphalt plants. It recommends the noise level at sensitive locations should not exceed a Laeq (1 hour) of 55 dB(A) by daytime and a Laeq (15 minutes) of 45 dB(A) by nighttime.
- 7.4.18. Historical noise data from 3 locations at the existing quarry (2016, 2017 & 2019) indicate noise levels ranged from 37dB(A)-55dB(A), and therefore within the recommended limit as specified in the aforementioned guidance document. The highest level recorded was at location point N1 in 2016 at 55dB(A), which was within the quarry boundary and not at the nearest sensitive receptor. This is attributed to truck movements on the access road, the crusher and rustling of vegetation.
- 7.4.19. It is stated the predicted noise levels for the proposed development allowing for the continuous operation of the plant (worst case scenario) would be 35dB(A) at the nearest noise sensitive receptor, and based on industrial standards would be below average baseline levels for the monitoring years recorded. I consider this a reasonable assessment, given the location of the subject site, its setback from the road and nearest sensitive receptors. I note the P.A recommend noise levels are to be monitored and limited to 55dB(A) and no audible tonal or impulsive noise emissions during the operational period of the plant at the nearest sensitive receptors, and 45dB(A) at any other time. I will discuss the operational hours of the plant in section 7.8 below.

7.4.20. It is worth noting the existing quarry on the site would have higher noise levels than the proposed asphalt plant. In Section 5.5 of the EAR a number of mitigation measures are proposed to minimise noise and vibration impacts from the proposed development which include, site preparation work will be of short duration and limited to daytime hours, drop heights for materials will be minimised, enclosed and insulated compressors and pumps, no idling of motors or vehicles, and regular maintenance of plant and machinery. It is considered that having regard to the foregoing, the proposed development, subject to suitable conditions, would not be likely to give rise to additional noise to the residential amenities of the property in the vicinity of the site.

Conclusion

7.4.21. I have read the planning and environmental considerations report contained on file and I am satisfied that the potential impacts arising from the proposed development can be adequately attenuated and addressed with the proposed mitigation measures. The Board will note that there are few residential receptors in the immediate vicinity of the site and it is not considered that the proposed development would give rise to any significant impact in terms of dust, odour or noise. The Board will note that the site is adjacent to a large quarry and pre cast business which would give rise to levels of noise and dust generation and HGV traffic travelling to and from the site. Having regard to the conclusions of my assessment under the heading Residential Amenity above, and to the requirement for the asphalt plant to be licenced under the Air Pollution Act, I consider that the proposed development is not likely to result in any significant impact on the local environment or health of the local community.

7.5. Surface and ground water

7.5.1. A Third party has raised concerns regarding the drainage details, water table depth at the site, rainfall calculations being inadequate, and lack of detail for the drainage for the site, given its location next to Scibereen stream which is hydrologically connected to the River Suir. The Scibereen stream is located 5m from the subject site's southern boundary and the proposed development would have liquids and

other materials stored on site such as fuel oil, bitumen, RAP and aggregates that could have the potential to cause groundwater contamination.

- 7.5.2. It is proposed to install a drainage system on the hardstanding area to the site which would be collected and directed through a petrol interceptor to an underground soakaway, before being discharged into the ground. The underground soakaway would be positioned 2m below ground level and would have sufficient capacity for a 10 year return period storm event and allows for 20% increase for climate change. The drainage system would be gravity fed with a storage volume of 610m³ and would pass through a petrol interceptor. A further soakaway trench is proposed to extend along the north boundary of the site filled with coarse rubble to provide a natural drainage barrier to collect water run-off from the sloping hill to the north of the subject site during rare storm events.
- 7.5.3. The level of the water table has been recorded using a borewell to the north of the boundary of the subject site. The highest water table level over a four year period is recorded at 4m below ground level (details of the readings provided in First party response to appeal). A soil infiltration test carried out on 7th Jan 2023 (contained within civil engineering report) indicated that no water was encountered at a 2m depth. The soil infiltration test was carried out in accordance with BRE 365 Digest test standards. I consider both these methods provide a good indicator of the water table depth at the site. I note the first party has proposed further monitoring on the site in the event of planning permission being granted, but I do not consider this necessary as the results are based on monitoring carried out over a four year period.
- 7.5.4. Specification details have been provided in the civil engineering report regarding the proposed ACO drains and petrol interceptor and a maintenance method statement provided by the suppliers. The proposed ACO drains have two different covers, one to allow for heavy duty industrial machinery and one where no vehicular traffic access would occur such as around the site edges and behind the storage areas. In the event of planning permission being granted I would recommend the drains are carried out in accordance with these specifications, and in accordance with the P.A condition in this regard.
- 7.5.5. A third party has raised concerns that the proposed drainage system does not account for rainfall in the area. The first party in their response to the appeal have

submitted Met Eireann's Periodic Rainfall depths (Appendix D of submission), although I note a rainfall profile was submitted as part of the civil engineering report with the planning application. The storage volume required for 10 year rainfall over a 24 hour period would equate to 508.1m³ and the proposed tank would exceed this volume and would have the capacity to store a volume of 609.54m³ I note the drainage system has been designed to half empty in 24 hours as required in Circa Report C753 SuDs Manual 2015.

Conclusion

- 7.5.6. Policy15-7 of the County Development Plan seeks to ensure that all storm water generated in a development is managed on-site or is attenuated and treated prior to discharge to ground. The proposed drainage system has been designed for a 10 year storm event, plus climate change allowance and has the storage capacity for the site area and I am satisfied that the risk posed by surface water run off to ground water is low, given any pollutants would pass through a petrol interceptor before being discharged to ground. I do not consider therefore it would impact on the Scibereen stream. I also note that all products associated with the proposed development would be stored in double skinned sealed storage.
- 7.5.7. The inclusion of an additional soakaway trench along the north boundary would assist in reducing rainwater onto the site from the sloping hill to the north onto the site. I would recommend in the event of planning permission being granted that the existing berm on the bank of this surface water drain shall be extended to the full length of the proposed site before construction commences as recommended by the Planning Authority to further reduce rainwater onto the site.

7.6. Visual Amenity

- 7.6.1. A third party appellant has raised concerns regarding the height of the proposed 30m high chimney stack. Photomontages were submitted in response to the F.I request by the P.A. by Model Works from 7 positions surrounding the subject site. The submitted photomontages indicate the proposed development would be visible from 2 viewpoints. The top of the stack would be visible at viewpoint No.2 along the L8311 to the south of the existing entrance. The development would be visible at a distance of 2750m away at viewpoint No. 5 along the L3405 to the east of the site

- 7.6.2. The development is located in a rural area within the River Suir Central Plains landscape character area of the County and is not classified as being a sensitive landscape, with a robust to normal sensitivity rating. The objective for this landscape is to encourage development that will improve the appearance and character of the area and facilitate development that continues established patterns of use and settlement. Industrial projects would have a medium compatibility within this area.
- 7.6.3. The subject site is located within the southern valley of the existing quarry and is screened to a large extent from the surrounding area by the existing slope face to the north and existing forestry to the south. It is set in from the L8311 to the west by 778m, and the L4305 to the east by 2825m. Each of these roads has a number of rural dwellings, rural enterprises and farmyards.
- 7.6.4. It is acknowledged the proposed development would be visible intermittently from a number of distant views and the top of the stack and its plume in particular along the L8311 to the south of the site. However, I consider the existing quarry is well screened from the road and surrounding area and I consider the views of the stack would not dominate the landscape or detract from any protected views or amenity areas. I would recommend the stack is painted a grey colour to assist in blending it into the landscape in the event of planning permission being granted.

Conclusion

- 7.6.5. Given that the site has been used as an industrial site for many years, the subject site's setback from the adjoining roads and that the landscape is not designated as being of specific visual amenity, it is considered that the proposed development would not give rise to an unduly obtrusive element in the landscape and would be largely screened from the adjoining roads.

7.7. Ecology

- 7.7.1. The third party refers to the absence in the ecological report of a natural lake, 400m to the west of the subject site which they consider is hydrologically connected to the site. This lake according to the third party is used by bird enthusiasts due to a number of protected bird species; namely *Anas platyrhynchos* (Mallard), *Gallinago gallinago* (Common Snipe) and *Cygnus cygnus* (Whooper Swan) that use the lake.

The third party has provided no evidence of the species in the lake however, the first party has not refuted the evidence of the referred species.

- 7.7.2. The lake referred to in the attached maps by the first party appears to be Lough Muck. However, the EPA maps indicate the Scibereen stream flows to the south of Lough Muck and has no hydrological connection to this lake and flows to the south towards what appears to be 2 manmade lakes within the quarry before reaching the River Suir. Nevertheless, these 2 lakes and Lough Muck are not designated European sites or listed as a Natural Heritage Areas (NHA). I also note the species referred to by the First party are not included within the Qualifying Interests of the Lower River Suir SAC, c1.25 km to the south of the subject site.

Conclusion

- 7.7.3. The Board may wish to seek further clarification on this aspect of the proposal, however, as there is no hydrological link from the site to Lough Muck, I do not consider it necessary in this instance. Furthermore, subject to the proposed mitigation measures outlined in the NIS to protect ground and surface water quality from the development, I would consider there would be no impact on this lake.

7.8. First party appeal to Condition 6 - Hours of operation

- 7.8.1. The First party have sought to extend the hours of operation of the proposed facility to 06.00-20.00 hrs Monday to Friday and 06.00-1400 hrs on Saturdays, thereby increasing the hours of operation by an extra 4 hours Mon-Fri and an extra 2 hrs on a Saturday, as specified in Condition 6 of the P.A's notification to grant. They consider Condition 6 as issued by the P.A prevents the asphalt plant from commencing operations on site until 08.00hrs resulting in asphalt potentially not be delivered to a project site until midday.
- 7.8.2. The existing precast plant to the east of the subject site was initially granted temporary permission on 2 separate occasions for 5 years, to enable the planning authority to assess the impact of the development. On the third permission (P.A Ref: 10/405) for a permanent permission for this facility the hours of use were restricted to 08.00-18.00hrs Mon-Fri and 08.00-14.00hrs on Saturday. I also note in P.A Ref: 15/600535 at the quarry site, the hours of operation were restricted to the same hours. The residents in the area have therefore become accustomed to a level of

activity along the roads associated with the quarry site starting at 08.00 hours and ceasing at 18.00 hours during the week and 14.00 hours on Saturdays.

- 7.8.3. The Quarries and Ancillary Activities Guidelines (2004) recommend that normal operations at quarries should be confined to the hours between 07.00 and 18.00 hours, Monday- Friday, or as may be agreed with the planning authority and between 07.00 and 14.00 hrs on Saturdays. The applicants proposed hours of operation would exceed the guidelines and the P.A's proposed operation hours are more in align with the hours recommended in the guidelines, and more importantly are consistent with the established quarry and the adjacent pre cast manufacturing plant's hours of operation.
- 7.8.4. The applicant states the maximum output at 75,000 tonnes per annum and if the proposed hours of operation by the applicant were to be applied this could raise the level of output. I would also be concerned if the hours of operation were extended as specified by the first party, the development could exceed the level of aggregate proposed from the existing quarry, which could result in an increase in vehicular traffic along the haulage route. I therefore consider the hours of operation as conditioned by the P.A to be reasonable based on the applicant's submission regarding the supply of raw materials, and would be consistent with the operational hours of both the quarry and pre cast plant.
- 7.8.5. I note the first party considers that Condition 5 of the P.A's notification to grant restricting noise levels would ensure any activity would not impact on residential amenity. However, I would not agree with this assumption as the background noise levels would be low in this area early in the morning, and there would be a certain amount of traffic generated by staff and vehicles travelling to and from the site.
- 7.8.6. The first party is seeking to extend the hours in the morning to enable the asphalt to be heated and loaded and dispatched early for a road project. They have provided no time details as to how long the asphalt would take to heat up however, I consider 6 o'clock very early for HGVs to be leaving the subject site and consider that a start time of 06.00 is likely to result in noise and disturbance to the area at this time when the background levels would be low. I also consider it would be difficult to enforce that once the asphalt is ready that vehicles could not leave the site until 08.00 hrs for example. The appellants business requirement for an early start does not justifying

extending the closing hours by a further 2 hours to 20.00hrs which I also consider late. The hours of operation as specified by the P.A would ensure a consistency in starting and closing times across the overall site.

- 7.8.7. I note the First Party considers they would be at a competitive disadvantage to other asphalt plants in the area and refer to 2 planning permissions in Tipperary where the operating hours were earlier than the appeal proposal. Whilst I consider each planning application should be considered on its own merits, I reviewed the applications referenced. However, I do not consider either application is comparable to the current proposal as P.A Ref: 07/412 had an historical asphalt plant at this site, and P.A Ref: 16601134 was a construction and demolition waste facility.

Conclusion

- 7.8.8. The extended hours of operation as proposed by the First party exceed that specified in the guidelines and would be inconsistent with the existing hours of operation of the adjoining precast facility and quarry. I consider the hours attached by the P.A are reasonable and appropriate to maintain and protect residential amenity. I would therefore recommend the hours of operation remain as per condition 6 of the P.A's notification to grant.

7.9. Other Issues:

Flood Risk

- 7.9.1. The Third party makes reference to flood events in the area on both sides of the quarry entrance when heavy rainfall events occur and until recently along the Lagenstown Road. However, a review of the flood maps (accessed 30/10/24) do not indicate the subject site is in a flood zone and there have been no flood events associated with the quarry. A flood event was recorded (Flood ID 4544) at Lagenstown and at Lagganstown Upper (ID 4553). I note these lands and section of road are recorded as flooding frequently, but the roads were not impassable when the events occurred, nevertheless I consider the proposed development would not impact on these areas.
- 7.9.2. The subject site is not at risk of flooding. There is no indication on the floodmaps.ie site that the Scibereen stream floods or has been subject to flooding in the past. Furthermore I also consider the proposed development is not a vulnerable

development as specified in Planning System and Flood Risk Management Guidelines for Planning Authorities 2009.

Devaluation of property

- 7.9.3. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

Reputation of Applicant

- 7.9.4. Both third parties refer a number of court cases associated with the applicant. I note the first party states the applicant's company was established in 2022, and the cases referred to involved Lagan Asphalt Ltd, a separate company. Nevertheless, I do not consider it is a matter for the Board to determine whether an applicant is in compliance with previous planning permission or for past failures to comply (Section 35 of Schedule 4 of the Act refers) and I note this was not a matter raised by the P.A.

EU Directives

- 7.9.5. Third parties have raised questions whether the relevant EU Directives have been considered. In particular, regarding the EIA Directive, Habitats Directive and WFD. The issue of EIA and AA are addressed in Sections 5.5 and 8 of this report.

8.0 AA Screening

8.1. Stage 1- Screening Determination for Appropriate Assessment

- 8.1.1. Having carried out Appropriate Assessment screening (Stage 1) of the project (please refer to Appendix 2 of this report), it has been determined that the project may have likely significant effects on the Lower River Suir SAC (site code: 002137) in view of the sites' conservation objectives and qualifying interests.
- 8.1.2. An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of the SACs in light of their conservation objectives.

8.2. Stage 2 – Conclusion for Appropriate Assessment

- 8.2.1. The proposed development has been considered in light of the assessment requirements of Sections (177U and 177V) of the Planning and Development Act, 2000, as amended. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 8.2.2. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually, or in combination with other plans or projects would not be likely to give rise to significant effects on the integrity of the Lower River Suir SAC (site code: 002137) or any other European site, in view of the Conservation Objectives of this site with regards to impacts on water quality from the discharge of uncontaminated water run off during the construction and operational phase of the proposed development to ground and surface water affecting aquatic QIs..

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures set out in the NIS in relation to the Conservation Objectives of the Lower River Suir SAC (site code: 002137).

9.0 Recommendation

- 9.1. In accordance with the foregoing, I recommend that permission be granted for the following reason and considerations, in accordance with the following conditions.

10.0 Reasons and Considerations

Having regard to the nature and extent of the proposed development, the brownfield nature and established use of the site for quarrying and associated manufacturing activities, the planning history of the site, the proximity of the national primary road network, and the existing rural character and pattern of development in the vicinity, and to the provisions of the Tipperary County Development Plan 2022-2028, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, or of property in the vicinity, would not be prejudicial to public health,

would be acceptable in terms of roads and traffic safety and there would be no significant effect on the environment. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 16th and 18th days of May 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

3. The mitigation measures contained in the submitted Environmental Assessment Report (EAR), shall be implemented.

Reason: To protect the environment.

4. The development shall operate only between 0800 hours and 1800 hours Monday to Friday and 0800 hours to 1400 hours on Saturdays. No activity shall take place outside of these hours or on Sundays or Public Holidays.

Reason: In order to protect the residential amenities of property in the vicinity.

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 LAr,1h 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 LAr, 15 min value of 45 dB(A) at any other time.

Nighttime emissions shall have no tonal or impulsive component.

Reason: To protect the amenities of properties in the vicinity of the site.

6. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement, proposals for the quarterly monitoring of noise levels at nearby sensitive receptors. The results shall be submitted to the planning authority on a quarterly basis within one month of the end of the quarter being reported upon. On the basis of the results submitted over time, the planning authority may review the frequency of the monitoring and whether to engage a third party to carry out environmental monitoring on its behalf. Any recommendations arising from such monitoring shall be fully implemented and made available for public inspection at the offices of the planning authority and the costs of the monitoring shall be at the expense of the developer.

Reason: In the interests of environmental protection and public health.

7. The proposed development shall be constructed and operated in a manner that ensures water quality in the surface water drain adjacent to the site is not adversely affected, therefore the following shall be adhered to.
1. Existing berm on the bank of the surface water drain shall be extended to full length of the proposed site before construction commences
 2. ACO drains shall be maintained in accordance with the Maintenance Method Statement provided by its suppliers
 3. ACO drains and berm extension shall be maintained in such a manner that they are visible and open to inspection by all the Planning Authority.

Reason: In the interest of the protection of water quality.

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.

Reason: In the interests of public health and residential amenity

9. All overground tanks containing liquids (other than water) shall be contained in a waterproof bunded areas, which shall be of sufficient volume to hold 110 per cent of the volume of the tanks within the bund. All water contaminated with hydrocarbons, including stormwater, shall be discharged via a grit trap and three-way oil interceptor with sump to a watercourse. The sump shall be provided with an inspection chamber and shall be installed and operated in accordance with the written requirements of the planning authority.

Reason: In order to protect ground water.

10. The stack shall be painted grey in colour

Reason: In the interest of visual amenity.

11. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks

that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

Reason: In the interest of environmental protection of residential amenities, public health and safety and environmental protection.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Catherine Dillon

Planning Inspector

28th November 2024

Appendix 1 - Form 1 EIA Pre - Screening

An Bord Pleanála Case Reference	317634-23		
Proposed Development Summary	Erection and operation of an asphalt plant (stack height 30m) , together with an ancillary office unit (133.6m ² GIA), a weighbridge, hardstanding, the erection of associated aggregate storage bays and all associated site development works. It is proposed to import & store Recycled Asphalt Pavement (RAP), also known as road planings, to 500 tonnes in Year 2 of operation. A NIS has been prepared in respect of the application.		
Development Address	Cloghleigh, Golden, Cashel, Co.Tipperary		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Part 2- Class 13. <i>Changes, extensions, development and testing</i> (a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and (ii) result in an increase in size greater than – - 25 per cent, or - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.	Proceed to Q3
No			No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
No	X		No EIAR or Preliminary Examination required
Yes			Proceed to Q.4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	The subject site has an area of 1.02 which is	Preliminary Examination required (Form 2)	

	significantly below the 25% threshold of the existing quarry site.	
5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2 – EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-317634-23
Proposed Development Summary	Erection and operation of an asphalt plant (stack height 30m) , together with an ancillary office unit (133.6m ² GIA), a weighbridge, hardstanding, the erection of associated aggregate storage bays and all associated site development works. It is proposed to import & store Recycled Asphalt Pavement (RAP), also known as road planings, to 500 tonnes in Year 2 of operation. A NIS has been prepared in respect of the application.
Development Address	Cloghleigh, Golden, Cashel, Co.Tipperary
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposed development would be located in a rural area within an existing quarry site next to a pre cast manufacturing unit with a site area of 1.02 ha, and comprises an existing hardstanding area and agricultural area. It is anticipated that screened and Recycled Asphalt Pavement (RAP), also known as road planings, would be imported to the site and used in the asphalt process increasing to a maximum of 500 tonnes annually in year 2. The RAP is screened to remove oversized material which would be stored in the RAP storage bay, and the screened material stored in the bay labelled 'Crushed RAP' on the proposed hardstanding area. All materials brought to the site would be notified to the EPA on a case-by-case basis, which is the current regulatory system approved by the EPA. RAP is recognised as a by-product and not a waste by the EPA. There would be emissions from the development via a 30m stack, but these emissions would be operated so that the meet the requirements of the Air Pollution Act,

	1987 and any licence received by the applicant under this Act. It is proposed to install a drainage system on the hardstanding area to the site which would be collected and directed through a petrol interceptor to an underground soakaway, before being discharged into the ground. The underground soakaway would be positioned 2m below ground level and would have sufficient capacity for a 10 year return period storm event and allows for 20% increase for climate change	
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	There are no ecologically sensitive locations in the immediate vicinity of the subject site. The Lower River Suir (site code: 002137) is c.1.25km at its closest point to the west of the site. Scibereen stream to the south of the site (c.5m from the boundary) extends in a westerly direction parallel to the site before flowing in a southerly direction towards the River Suir and is hydrologically linked to the River Suir at a distance of c.3.2km. This stream is not recorded as being subject to flooding. Having regard to the scale of the proposal, in an established quarry site, the proposed drainage and SuDS measures and CEMP, there is no potential to significantly impact on the ecological sensitivities of these European sites or other significant environmental sensitivities in the area.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
Conclusion Given the relatively small scale of the development and its industrial location, cumulative impacts are considered to be slight, neutral and temporary/short term, during the demolition phase; none are expected during the construction phase or operational phase. RAP is recognised as a by-product and not a waste by the EPA. Emissions would be operated so that the meet the requirements of the Air Pollution Act, 1987 and any licence received by the applicant under this Act.		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No

There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 2- Appropriate Assessment: Stage 1 & 2

Appropriate Assessment Stage 1 Screening Determination
Description of the project I have considered the proposed residential development in light of the requirements of section 177U of the Planning and Development Act 2000, as amended. <u>Subject Site:</u> The subject site is a rectangular site located on the southern side of an existing quarry c.2.5km south of Golden village and is approximately 1.02ha. It comprises an area of existing hardstanding (26%) and remainder is an agricultural field and is located along the southern boundary of an existing quarry. The subject site slopes from north east to south west towards the agricultural field. There is an existing precast concrete manufacturing business to the east of the subject site. To the north of the subject site is a high berm slope. The proposed development would be set back 5m from a raised embankment watercourse known as Scibereen stream to the south which extends in a westerly direction parallel to the site before flowing in a southerly direction towards the River Suir and is hydrologically linked to the River Suir at a distance of c.3.2km. This stream is banked from the site with a forestry area to the south, and is not recorded as being at risk of flooding (floodmaps.ie accessed 30/10/24). Lough Muck is to the north west of this stream but does not appear to be hydrologically linked to the stream. There are two artificial lakes contained within the quarry to the south. The Scibereen stream appears to pass by the edge of these lakes. The River Suir is 1.25km to the west and c.2.6km south of the site and the Lower River Suir SAC (site code: 002137) is approximately 2.5km to the south of the subject site. <u>Project:</u> The project would comprise the erection of an asphalt manufacturing plant (stack height 30m) together with an ancillary office (133.6m² GIA), a weighbridge, hardstanding, the erection of associated aggregate storage bays and all associated site development works. It is proposed to store aggregate in storage sheds on site. The activity is a Scheduled Process for which an Air Emissions Licence must be obtained. An application for a licence is to be submitted in parallel to the Planning Application. Five separate gravity ACO drains are proposed on the site to drain surface water which would be discharged into a single drain pipe, which would discharge into a petrol interceptor for treatment and the clean water discharged into an underground soakaway. The interceptor has been designed with a large silt storage volume and capacity for the worst case flow. The drains would be designed to withstand industrial vehicle.

The petrol interceptor would discharge the treated run off into a large underground soakaway tank, designed to BRE365 standards. The soakaway would be 4.10m wide, 149m long and 1.35m deep., with 0.65m of topsoil. The underground soakaway is sized accordingly (610m³) to the site specific rainfall, allowing for 20% climate change during a 10 year return period and soil filtration rate in compliance with BRE365 Digest tests. The soakaway has been designed to take less than 24hrs to empty half the soakaway storage volume, in compliance with BRE365 design.

A typical discharge flow of 4.4L/s from the site has been determined and the petrol interceptor has a capacity of up to 30 L/s. The soakaway has been designed based on infiltration rates based on BRE365 Digest test results and would be above ground water.

A gravel soakaway trench is proposed along the northern boundary of the site to cater for a rainfall intensity of 50 mm/h and 20% climate change to cater for any surface run off from the hill to the north of the site. The NIS states SuDs measures would be in the form of a soakaway and attenuation pond, however it has been clarified by the applicant that the inclusion of an attenuation pond within the scheme was an error.

The asphalt plant has the capacity to produce approximately 120 tonnes per hour but expected output is 75,000 tonnes per hour of asphalt product. It is stated in the NIS and environmental assessment report that aggregates for the plant will be sourced from the adjoining quarry, whilst sand, bitumen and limestone filler would be imported to the site. Provision is also made for the use of recycled asphalt plantings (RAP) from road jobs for the development. The NIS states that there will be little or no importation of RAP in the first year of operation, increasing to a maximum of approximately 500 tonnes by Year 2, which equates to the storage capacity for RAP on the site. Recycled materials would be utilised in accordance with Article 27 (European Waste Directive) Regulations 2011, notifications to the EPA.

The aggregates and bitumen undergo a number of stages in the production process and the resultant asphalt is then discharged into a skip and transferred into one of a number of hot storage bins located in the plant. A detailed description of the production process can be found in section 7.0 of the Environmental Assessment Report. The asphalt product is then loaded onto trucks for transport to the required location. The site is not subject to flooding.

Submissions and Observations

The P.A's Senior Executive Environment scientist had no objections to the proposal regarding impact on water quality within the River Suir catchment, the River Suir SAC, noise, pollution or flooding.

The planning authority undertook an appropriate assessment of the project. The applicant's NIS was relied upon, and the conclusion was concurred with.

Third parties have raised issues regarding errors in the NIS regarding the flow of the Scibereen stream, attenuation pond, mitigation measures not being a definitive finding, and that no evidence has been submitted regarding whether the existing quarry is having a negative effect on the SAC.

Potential Impact Mechanisms from the project

Site Survey

The NIS does not refer to a site survey date. The area is classified as improved agricultural grassland (GA1), and the hardstanding area as Buildings and Artificial Surfaces (BL3). A small area of dredged spoil and rough ground is between these two habitats and is classified as Recolonising Bare Ground (ED3). The site is described as having Low to Moderate Ecological value. No recording of rare or protected habitats and no invasive plant species on the site.

The development is bounded to the south by the Scibereen Stream (Named Dangandargan by EPA) which according to the NIS flows into Lough Muck, stated as an artificial pond to the south of the quarry. Lough Muck is not present on the historic 6 inch maps (surveyed 1829-1834) which indicates the presence of a swallow hole on the eastern side of the L8311 (sw of subject site). Lough Muck appears on the 25 inch historic maps (surveyed 1863 - 1924). The EPA watermaps indicate the Scibereen stream does not flow into Lough Muck but flows in a southerly direction and either discharges and/or bypasses 2 artificial lakes which form part of the quarry. It is assumed these lakes are artificial lakes associated with the quarry as they only become evident on GeoHive maps dated 2006. The stream continues to flow in a southerly direction before joining the River Suir c.3.2km from the subject site. There is therefore a hydrological connection between the Scibereen stream and the Lower River Suir SAC.

European Sites

The NIS identifies 1 European site within the zone of influence of the project (Table 1 of NIS). This is the Lower River Suir SAC (site code: 002137), 1.2km to the west of the subject site at its closest point. The Galtee Mountains SAC (site code: 000646) is located over 10km to the south east of the site.

Having regard to the source-pathway-receptor model, and given the separation distance from the subject site and associated habitats, the Galtee Mountains SAC was screened out. I consider that the likelihood of any significant effect of the project on this site can be reasonably excluded at this preliminary examination stage.

According to the site synopsis for the Lower River Suir SAC, the White clawed Crayfish is highly sensitive to hydrological change and pollution and is located on the stretch of the river Suir to the west of the subject site. The Clodaigh catchment contains Pearl Mussell (Maps 6 & 7 of site synopsis), but is located a substantial distance downstream from the subject site. Two stands of Yew (*Taxus baccata*) woods, occur within the SAC. However, the area at Cahir Park is fairly substantial in size and includes some relatively undisturbed patches of wood and some very old trees. Cahir Park is downstream of the subject site and is located at a distance of removal from the subject site.

The site is of particular conservation interest for the presence of a number of Annex II animal species, including White-clawed Crayfish, Salmon, Twaite Shad, three species of Lampreys and Otter. This is one of only three known spawning grounds in the country for Twaite Shad. Water quality objectives have been set for White-clawed Crayfish, and Atlantic Salmon. The Otter is dependent on water quality and riparian vegetation for breeding sites along the SAC.

Due to the hydrological connection and distance from the subject site, the Lower River Suir SAC was screened in.

Effect Mechanisms

The subject site is located within the Suir Catchment, and therefore the development would be hydrologically linked to the Lower River Suir SAC. Having regard to the characteristics of the project in terms of the site's features and location, and the project's scale of works, I consider the following impacts and effect mechanisms require examination for implications for a likely significant effect on the Lower River Suir SAC (site code: 002137). Effect mechanisms would include:

- A) Deterioration of water quality as a result of sediment, pollution during construction phase.
- B) Deterioration of water quality as a result of pollutants, dust, sediment, oil/hydrocarbon, hard surface run off etc., during operation phase.

European Sites at Risk

Table 1: European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/ zone of influence	European Site(s)	Qualifying/Conservation features at risk
A)Deterioration of water quality during construction phase.	Impact via a hydrological pathway	Lower River Suir SAC (site code: 002137)	Water habitats & species

B) Deterioration of water quality during operation phase.				
Identification of likely significant effects on the European site(s) 'alone'				
Table 2: Could the project undermine the conservation objectives 'alone'				
European Site and qualifying feature	Conservation objectives: To maintain favourable conservation condition (M) and to restore favourable conservation condition (R)	Could the conservation objectives undermined (Y/N)?		
		Effect A – Surface Water Run off during construction	Effect B – Surface water run off during operation phase	
Lower River Suir SAC (site Code: 002137)				
Atlantic salt meadows [1330]	To <i>restore</i> favourable conservation objectives	N	N	
Mediterranean Salt Meadows	To <i>restore</i> favourable conservation objectives	N	N	
Water courses of plain to montane levels [3260]	To <i>maintain</i> favourable conservation objectives	N	N	
Hydrophilous tall herb fringe communities [6430]	To <i>maintain</i> favourable conservation objectives	N	N	

Old Oak woodlands [91A0]	To <i>restore</i> favourable conservation objectives	N	N		
Alluvial forests [91E0]	To <i>restore</i> favourable conservation objectives	N	N		
Yew woodlands [91J0]	To <i>restore</i> favourable conservation objectives	N	N		
Freshwater Pearl Mussel [1029]	To <i>restore</i> favourable conservation objectives	N	N		
White-clawed Crayfish [1092]	To <i>maintain</i> favourable conservation objectives	Y	Y		
Sea Lamprey [1095]	To <i>restore</i> favourable conservation objectives	Y	Y		
Brook Lamprey [1096]	To <i>restore</i> favourable conservation objectives	Y	Y		
River Lamprey [1099]	To <i>restore</i> favourable conservation objectives	Y	Y		
Twaite Shad [1103]	To <i>restore</i> favourable conservation objectives	Y	Y		

Salmon [1106]	To <i>restore</i> favourable conservation objectives	Y	Y		
Otter [1355]	To <i>maintain</i> favourable conservation objectives	Y	Y		

Appropriate Assessment: Stage 1: Conclusion- Screening Determination

In accordance with section 177U of the Planning and Development Act 2000 as amended, and on the basis of objective information, having carried out Appropriate Assessment screening (Stage 1) of the project, it has been determined that the project may have likely significant effects on Lower River Suir SAC (site code: 002137) in view of the sites' conservation objectives and qualifying interests.

An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of the Lower Suir SAC in light of its conservation objectives. The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the weakness of connections between the project, the appeal site, and the European sites, Galtee Mountains SAC (site code:000646). No measures intended to avoid or reduce harmful effects on European sites have been taken into account in reaching this conclusion.

Appropriate Assessment

Stage 2

Aspects of the Proposed Development

The entire site will be created as hardstanding for the purpose of the proposed development and drained by five separate ACO drains which will pass through a petrol interceptor with a built-in silt trap. The hot storage unit would be contained within a single storey building with the remaining processes carried out on the hardstanding area. It is stated in the NIS that surface water will be collected in an attenuation pond. However, this was an error according to the applicant's response to the Third party appeal. The site is not identified as being subject to flooding and there is no record of the Scibereen stream flooding.

On the northern boundary of the site is a well pipe borehole (Borehole No.4) which indicates the well is within the clean groundwater range (7.5-7.9 ph) and the highest water table level over a 4 year period on a monthly basis has been 4m below existing ground level. Allowing for extreme high water table levels the proposed soakaways design has been limited to 2m in depth.

Surface water would be collected on site and directed through a petrol inceptor to a tank with capacity to service the 1.02ha site. The peak flow at the site has been determined as 142 L/s, which is at 48% utilisation of the proposed tank. Design allows for appropriate capacity for a 10 year return period storm event, including a 20% increase for climate change. Current rainfall tables are used in all surface water drainage calculations.

The soil was tested on 7th Jan 2023 in accordance with BRE365 standards. The trial pit was excavated to 2m in depth without impacting on the water table.

A soakaway trench will be installed on the northern site boundary to collect runoff from the slope to the north. A 20% climate change upsize factor in the design of the surface water management system. The discharging of surface water would finally be discharged to ground following filtration.

The subject site lies within the Suir sub-catchment and the closest watercourse to the appeal site is the Scibereen stream, 5m to the south of the site. The EPA river quality survey indicates the stream has a Q3-4 value (EPA code: 16052) in 2017 (latest available figure). The EPA maps indicate there is rock near the surface close to the site with alluvium subsoils and limestone and sand and gravel.

Direct effects

None

Indirect effects

Construction phase:

There is the potential during construction for water quality deterioration through traffic, suspended solids, hydrocarbons, uncured concrete in surface water run-off which could affect aquatic QIs/SCI through deposition in the Lower Suir SAC.

Operational phase

Surface water from hardstanding area and roof areas, liquid storage and bitumen, spillages/contaminants from heavy vehicles, fugitive dust from the asphalt process and aggregate material.

Mitigation Measures:

The mitigation measures are outlined in Section 3.6 of the NIS and include the following:

Construction Phase:

- Site preparation works to be set back at least 10m from Scibereen stream
- Storage and bunding of liquids in accordance with relevant standards and on-going monitoring.

Operational Phase:

- Surface water drainage system on site to capture surface water run off and discharged through a petrol interceptor with built in silt trap into an underground soakaway for final soil filtration.
- Drainage system 5m from the boundary of the site.

Where relevant, likely significant effects on the European site(s) 'in-combination with other plans and projects'

Table 3: Plans and projects that could act in combination with effect mechanisms of the proposed project (e.g. approved but uncompleted, or proposed)

Plan/Project	Effect Mechanism
Listed in Section 3.7 of the NIS.	A & B as per Table 1 above

The NIS has assessed the in combination effects in Table 3 of the NIS and list developments granted planning permission within 500m of the proposed project in the last 3 years, all of which propose surface water management to avoid potential impacts on the River Suir.

I note no reference has been made to the existing quarry and precast plant adjoining the subject site in the NIS as raised by a third party observer. However, I have outlined the relevant planning history connected to the site in 4.0 of this report. I note the quarry on the site was subject to an EIAR and AA and it was noted that extraction area was above the water table and there are monitoring wells in place which confirm the depths of the works both previous and ongoing and no dewatering of the quarry has occurred, conditions controlling surface water management on the site and an EMS were attached and there is no outstanding enforcement related to the quarry. The office and pre cast plant were granted planning permission, subject to all petroleum products and chemical drum storage areas being stored being impervious to the materials stored and bunded.

I do not identify any significant in-combination effect from same.

Table 4: Could the project undermine the Conservation Objectives in combination other projects?

European Site and qualifying feature	Conservation objectives:	Could the conservation objectives be undermined (Y/N)?		
		Effect A – Surface Water Run off	Effect B – Surface water run off during operation phase	

Lower River Suir SAC (site Code: 002137)	To maintain favourable conservation condition (M) and to restore favourable conservation condition (R)	N	N	N	
---	--	----------	----------	----------	--

Appropriate Assessment: Stage 2 Conclusion

The project has been considered in light of the assessment requirements of sections 177U and 177V of the Planning and Development Act 2000, as amended. On the basis of objective information, I have assessed the implications of the project on the Lower River Suir SAC in view of the sites' conservation objectives. I have had regard to the applicant's NIS and all other relevant documentation and submissions on the case file. I consider that the information include in the case file is adequate to allow the carrying out of an Appropriate Assessment.

Following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually or in-combination with other plans or projects would not adversely affect the integrity of the Lower River Suir SAC (site code:002137) in view of the sites' conservation objectives and qualifying interests.

This conclusion is based on:

- An assessment of all aspects of the project including proposed mitigation measures.
- An assessment of in-combination effects with other plans and projects including historical and current plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Lower River Suir SAC.

Inspector: Catherine Dillon

Date: