

For the Attention of

Administration
Environmental Licensing Programme
Office of Climate, Licensing & Resource Use
Environmental Protection Agency
PO Box 3000
Johnstown Castle Estate
Co. Wexford

Our Ref.: RG0201/WLA
Direct Dial: 01 8020523
Direct Fax: 01 8050525
Email: louise.odonnell@pateltonra.com
Date: 17th June 2014

Re.: EPA Ref. W0279-01 – Unsolicited Information – Planning Decision

Rehab Glassco Ltd. - Application to the Environmental Protection Agency for a Waste Licence for a Glass and Can Recycling Facility at an Existing Waste Management Facility at Unit 4, Osberstown Industrial Park, Caragh Road, Naas, Co. Kildare

Dear EPA,

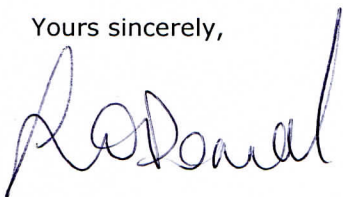
Patel Tonra Ltd., Environmental Solutions, is acting for our client, Rehab Glassco Ltd., with reference to the above application.

Please find enclosed a copy of An Bord Pleanála planning decision/conditions and the Planning Inspector's report.

I enclose 2 No. print copies and 2 No. CD-ROM copies. I confirm that the content of the electronic files on the accompanying CD-ROMs is a true copy of the original.

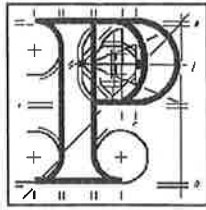
If you have any further queries, please do not hesitate to contact me.

Yours sincerely,



Louise O'Donnell
Director, Patel Tonra Ltd.

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2014

Kildare County

Planning Register Reference Number: 11/508

An Bord Pleanála Reference Number: 09.SU.0015

APPLICATION FOR SUBSTITUTE CONSENT by Rehab Glassco Limited care of Tom Phillips and Associates of 2-3 Roger's Lane, Lower Baggot Street, Dublin in accordance with section 177E of the Planning and Development Act, 2000, as amended by the insertion on section 57 of the Planning and Development (Amendment) Act, 2010, and as further amended by the European Union (Substitute Consent) Regulations, 2011 and European Union (Environmental Impact Assessment and Habitats) Regulations, 2011.

LOCATION: Glass recycling facility at Unit 4 Osberstown Industrial Park, Caragh Road, Naas, County Kildare.

BOARD DECISION

The Board, in accordance with section 177K of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, decided to **GRANT** substitute consent in accordance with the following conditions.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

The Board had regard, inter alia, to the following:

- the provisions of the Planning and Development Acts, 2000 to 2014, and in particular Part XA,
- the provisions of the current Kildare County Development Plan,
- the remedial Environmental Impact Statement submitted with the application for substitute consent and the further information submitted on the 9th day of July 2013 and the 24th day of February 2014,
- the Board's decision in relation to the application for leave to apply for substitute consent on the 17th day of September, 2012 (09.LS.0003),
- the report and the opinion of the planning authority under section 1771,
- correspondence with the Environmental Protection Agency in relation to the licensing of the facility (Register number W0279-01),
- the report of the Board's inspector, including in relation to potential significant effects on the environment,
- the submissions on the file,
- the site's planning history,
- the pattern of development in the area, and
- the nature and scale of the development the subject of this application for substitute consent.



The Board completed an Environmental Impact Assessment in relation to the development in question and concluded that the remedial Environmental Impact Statement submitted identified and described adequately the direct and indirect effects on the environment of the development. The Board considered that the Inspector's report was satisfactory in addressing the environmental effects of the development and also agreed with its conclusions in relation to the acceptability of mitigation measures proposed and residual effects.

The Board had previously established at the time of the application for leave to apply for substitute consent that the development in question would not be likely to have a significant effect on a European Site and therefore no 'Appropriate Assessment' issues arise.

Having regard to the acceptability of the environmental impacts as set out above and subject to compliance with the conditions set out below, it is considered that the subject development is not contrary to the proper planning and sustainable development of the area.

CONDITIONS

1. The grant of substitute consent shall be in accordance with the plans and particulars submitted with the application and the further information submitted on the 9th day of July 2013 and the 24th day of February 2014. All mitigation measures set out in the remedial Environmental Impact Statement and the further information of the 9th day of July 2013 and the 24th day of February 2014 shall be implemented in full.

Reason: In the interest of clarity.

2. Activities on site shall comply with the following requirements regarding hours of activity:
 - (a) General hours of operation of the facility shall be limited to the following:
 - 24 hours Monday to Friday inclusive.
 - 0700 hours to 2300 hours on Saturday.
 - No operation on Sundays or public holidays.



(b) Hours of operation of the drying plant shall be limited to the following:

- 0700 hours to 1900 hours Monday to Saturday inclusive.
- No operation on Sundays or public holidays.

(c) Hours of material acceptance or dispatch at the facility shall be limited to the following:

- 0700 hours to 1900 hours Monday to Saturday inclusive.
- No operation on Sundays or public holidays.

Reason: In the interest of residential amenity.

3. The maximum height of materials stockpiled on site shall be three metres.

Reason: In the interest of visual amenity.

4. Within three months of the date of this order, the applicant shall submit details of the following for the written agreement of the planning authority:

- (1) a maintenance agreement for the maintenance of the surface water drainage system on site and,
- (2) a design and method statement for the construction of the proposed attenuation pond to be located immediately adjacent to the 1500 millimetres surface water culvert on site.

Reason: In the interest of public health.

5. Details of the foul and surface water drainage system on site shall be to the detailed requirements of the planning authority.

Reason: In the interest of public health.

6. In addition to the retention of the existing wayleave serving the foul sewer rising main that traverses the site, a 10 metre wayleave shall be secured over the 1500 millimetre surface water culvert on site. Details shall be submitted for the written agreement of the planning authority within three months of the date of this order.

Reason: In the interest of public health.

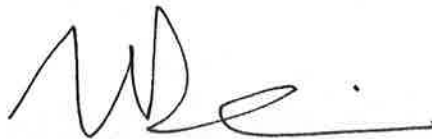
7. All planting and landscaping undertaken on the application site shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the date of this order, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

8. No advertising structures other than those indicated in the drawings submitted with the application shall be erected or displayed on buildings located on site or within the curtilage of the site

Reason: In the interest of visual amenity.

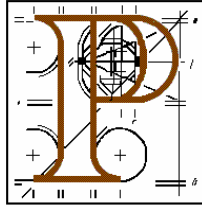
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**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 12th day of JUNE 2014.

An Bord Pleanála



Inspectors Report

Development: Application for Substitute Consent for a glass recycling facility at Unit 4 Osberstown Industrial Park, Caragh Road, Naas, Co. Kildare.

Planning Authority: Kildare County Council

Applicant: Rehab Glasco Limited

Case Type: Substitute Consent

Date Lodged: 6th March, 2013

Site Inspection: 28th June 2013

Inspector: Stephen Kay

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1.0 Site Location and Description

- 1.1 The site which is the subject of this application for substitute consent is located in Osberstown Business Park, Naas, Co. Kildare, c.2.5 km to the west of Naas town centre. The area in the environs of the site is partially developed and there is a significant area of undeveloped / vacant land in the general environs of the site within the business park lands. The site comprises what is described as sites 4 and 5 in the industrial estate and would appear to have comprised sites 5, 11 and 14 of the original site layout.
- 1.2 The site is bounded to the east by the Osberstown waste water treatment works and there is a wayleave that runs along the north eastern side of the site for the Newbridge Rising main. To the south east, the adjoining site is occupied by 'Double L' a business selling concrete and granite products. To the south west, the closest occupied site is Unit 12 which is occupied by a freight company.
- 1.3 The closest dwellings to the site are located to the north west of the site on the opposite side of the local road (Halverstown Road) and the closest dwelling of the 3 no. in this area is c.100 metres from the site boundary. In addition, there is a dwelling located immediately to the west of the subject site, the boundary of which is located on the opposite side of the estate access road from the subject site and within c.40 metres of the nearest site boundary. This dwelling is also separated from the site by mature planting and the relative positions of the site and this dwelling are indicated in the attached photographs.
- 1.4 The site is currently occupied by two large buildings, a main process building where the sorting of glass and cans is undertaken and a drying plant building where glass is dried and bagged. There is also a small maintenance building located close to the site access at the southern end of the site and a weighbridge.
- 1.5 The site is bounded by concrete boundary walls and within these boundaries are constructed bunded areas for the storage of materials. These bunds are also constructed of concrete and are of a significant height.

2.0 Background to Proposed Development

- 2.1 This is an application for Substitute Consent under Section 177E of the Planning and Development Acts 2000-2011. The background to the case is set out in the attached file (ABP Ref. LS09.0003) and can be summarized as follows:
- 2.2 The site is operated by Rehab Glasco which is a subsidiary of Rehab Enterprises and the site has been in use for glass recycling since 2008, initially by Glassco recycling and since 2009 as Rehab Glassco following the merger of Rehab and Glassco. The use of the site for recycling of glass and cans was permitted under ref. 06/1710 and this permission has been the subject of a number of amendments and further permissions in the interim period. At the time that permission was applied for under Ref. 06/1710 the application was not accompanied by an EIS and the applicant did not submit an EIS on the basis that the activity proposed to be undertaken on site (recycling) did not come within the

scope of any development listed in the Fifth Schedule of the 2001 Regulations (as amended). It is noted that the Planning Authority did not disagree with this approach, that no EIS was sought at the time that the application was made and that a decision to grant permission issued by the Planning Authority. It is further noted that at the time that Ref. 06/1710 was submitted and assessed by the Planning Authority, the applicant did not detail in the application the quantities of material that would be processed and the Grant of Permission issued did not specify a limit or restriction on the amount of material that could be processed or stored at the facility.

- 2.3 The applicant applied and was granted by the local authority a waste facility permit for the operation of the facility (Ref. WFP-KE-08-0357-01). The applicant states that recent increases in the volume of material being processed at the facility have resulted in the need for a waste licence and an application has been made to the EPA for such a licence, (EPA Ref. W0279-01). This application was submitted to the EPA in July, 2011. No decision on this licence application has been made to date and there is no indication on the EPA website regarding a likely date for the issuing of such a licence. Additional details / clarification on a number of issues in the application have been requested by the EPA in order to process the application further. It is also noted that the EPA have highlighted to the applicant the provisions of the EU Industrial Emissions Regulations and the fact that the agency will, in future be responsible for an additional class of licence, an Industrial Emission Licence, and that the activities on the Rehab Glassco site may come within the scope of such a licence rather than a waste Licence.
- 2.4 Leave to apply for substitute consent was granted by the Board on the basis that it was not apparent to the applicant or to the planning authority at the time of the making of the application and granting of permission that an EIS was required. The decision of the Planning Authority was made on the basis that it was considered that the facility proposed and granted permission was a recycling facility and not a waste facility. This interpretation was conflicted by ECJ case C-486/04 (commission vs. Italy) which resulted in clarification that *'all operations leading either to waste disposal, in the strict sense of the term, or to waste recovery'* are to be classified as waste disposal. As the throughput of material at the facility is greater than 25,000 tonnes per annum, the activity on site comes within the scope of Class(b) of part 2 of the Fifth Schedule of the 2001 Regulations (as amended) being an installation *'for the disposal of waste with an annual intake of greater than 25,000 tonnes not included in part 1 of this schedule'*.
- 2.5 The applicant applied for an extension of time pursuant to Section 177E(4) of the Planning and Development Act, 2000 as amended. On the 4th of December, 2012 it was decided to grant an extension of time of 12 weeks for the making of an application for substitute consent.
- 2.6 The application is for substitute consent pursuant to section 261(A)(3) of the Planning and Development Act, 2000 as amended. The application has been made in accordance with Section 177E and is accompanied by a Remedial Environmental Impact Statement, (REIS).

3.0 Description of Development which is the subject of Application for Substitute Consent

The application relates to the existing development that is on the site at Osberstown Business Park, Caragh Road, Naas. The development to which the application for substitute consent relates can be summarized as follows:

A recycling facility for the processing of glass and aluminum cans having a current input of c.97,000 tonnes per annum. On the basis of the figures presented in the RIS for the 2012 calendar year, c. 97 percent of the input to the facility is glass with the balance aluminum cans.

On site, the recycling activity involves a main process building having an overall height of 12 metres and which includes ancillary office and staff accommodation in the total area of 9,734 sq. metres. This building accommodates the segregation and processing of glass and accommodates the main activity on site. The process of segregation involves a number of advanced process to separate the material including the use of high power magnetic equipment and the separation of various waste types using air jets. Infrared units that utilize lasers and compressed air jets to remove ceramic , stone and porcelain particles are also employed. The intermediate stage discharge from the sorting areas within the main process building discharges to bays located along the northern side of the building. Material from these bays is then moved to longer term storage bays that are located to the north and east of the main process building.

The process on site also involves a drying facility which is contained in a building having a floor area of 314 sq. metres and height of 8 metres and which is located to the north of the site access and the main process building. The drying unit is used to process material that would previously have been only suitable for dumping to landfill and is stated by the applicant to significantly increase the level of materials recovery. Loading to the drying plant is via a front end loader into a hopper located at the southern end of the drying plant. The drying process involves material being passed through the drying unit at a temperature of 200-250°C and the output material is crushed and screened to various grades of fine glass. The fine grain residue material is also a marketable product once it has been pelletized by the addition of water and sodium silicate to the fine material. The waste fraction at the end of the drying operation is stated to be less than 1 percent by weight.

A vehicle maintenance building is located immediately to the west of the site access. This building has a floor area of 241 sq. metres and a height of c.7 metres.

The development the subject of the substitute consent application also includes vehicular parking areas, external material storage areas, weighbridge and truckwash and foul and surface water infrastructure to include an underground surface water attenuation tank to be constructed towards the north west corner of the site is a location to the west of the drying plant. A total of 34 car parking spaces and 11 lorry spaces are proposed throughout the site. External storage areas are in the form of storage bays and an open storage area for ancillary materials such as pallets etc. There are a total of 19 no. bays having an area between 70 sq metres and 1000 sq metres located around the perimeter of the site and each is bounded by permanent pre cast concrete wall panels or moveable pre cast concrete blocks. The maximum height of the boundary walls to the storage areas is 3.6 metres and the maximum height of materials to be stored within these areas is stated to be 3.0 metres.

Class(b) of part 2 of the Fifth Schedule of the 2001 Regulations (as amended) state that the following shall be development for the purposes of Part 10 (require an EIS):

'Installations for the disposal of waste with an annual intake of greater than 25,000 tonnes not included in part 1 of this schedule.'

The facility that is operational on the site currently accepts a stated volume of 97,000 tonnes of material per annum (year to the end of January, 2013) and so exceeds the threshold of 25,000 tonnes specified in the regulations.

In terms of the volume of material accepted, Table 2.2 of the REIS sets out the annual input tonnages from 2008 – 2012 inclusive. These figures show a sharp increase in 2010 – 2011 due to the fact that the rehab site in Ballymount in Dublin closed in 2010 and the material that was previously processed at the Ballymount site was diverted to the subject site.

4.0 Planning History

An Bord Pleanála:

- An Bord Pleanála Ref. LS09.0003 – Permission granted to Rehab Glasco Limited for the leave to apply for substitute consent in respect of a recycling facility located at Number 4 Osberstown Business Park, Caragh Road, Naas, Co. Kildare. Leave was granted under s.177D(4) on the basis that the Board considered that the development on the site was one where an EIS is required and that the permissions granted for development on the site, (Refs. 06/1710, 09/48, 10/652, 10/1195 and 11/508) are defective by virtue of the omission of an EIS accompanying application Ref. 06/1710.

Planning Authority (Kildare County Council):

- Kildare County Council Ref. 11/508 – Permission granted by the Planning Authority for the retention of free standing maintenance building with steel framed fabric covered structure for the maintenance of company vehicles at Site 4 Osberstown Business Park. The structure for which retention was granted had a stated height of 7 metres, a floor area of 241 sq. metres. The site area is stated to be 2.13 ha.
- Kildare County Council Ref. 10/1195 – Permission granted by the Planning Authority for the retention of a free standing plant with steel framed fabric covered structure for glass recycling. The building permitted was the drying plant that is located to the north of the main process building. The permission granted by the Planning Authority does not specifically limit the emissions from the site. Condition No. 5 requires the submission of details regarding car parking and storage of waste glass containers within 6 months of the Grant of permission. Condition 10 requires the submission of evidence of a reduction in the height of stockpiles on site to a maximum of 3 metres. Condition No.11 states that the permission does not authorize any increase in the volume of glass to be processed / accepted at the site from that initially permitted. (It is noted that the parent permission Ref. 06/1710 did not specify a maximum level of material that could be processed on the site however it is noted that the FI response states that there would be a maximum of 10 loads per day to the site).
- Kildare County Council Ref. 10/652 – Permission granted by the Planning Authority for retention of change of use of from industrial space to office space and retention of relocated and amended external staircase on structure that is the main processing building on the site.
- Kildare County Council Ref. 09/48 – Permission granted by the Planning Authority for the extension of the site of the existing glass recycling plant to provide additional vehicle parking and external storage areas on lands adjoining sites 4 and 5. This permission was the subject of a third party appeal that was withdrawn (PL09.233729). It is noted that in response to FI request, the applicant stated that the storage of material on the site will not exceed a height of 3 metres.
- Kildare County Council Ref. 06/1710 – Permission granted by the planning authority for the use of the site as a glass recycling plant. This permission did not specify a maximum level of material that could be processed on the site however it is noted that the FI response states that there would be a maximum of 10 loads per day to the site. FI response also states that hours of operation will be 8.30 – 17.30 hrs. Monday to Friday and 8.30 to 14.30 hrs. on Saturday. There are a number of conditions attached to the Notification of decision which issued that are of relevance.

- Condition 5 specifies that there shall be no further development / change of use on the site without another permission.
- Condition 7 requires that the use on the site shall be glass recycling only.
- Condition 10 requires the submission of a landscaping plan.
- Condition 27 requires that the development shall not increase noise levels at the site boundary by more than 3db(a) above ambient levels.
- Condition 31 requires that noise at noise sensitive locations (including dwellings) shall not exceed 55dB(A) during daytime hours and 45dB(A) at other times.
- Condition 38 relates to surface water disposal,
- Condition 49 requires a contribution of €54,000 in accordance with the s.48 contribution scheme.

The following applications relate to the wider business park lands / overall development of the business park.

- Kildare County Council Ref. 06/13 – Permission granted by the Planning authority for additional site development works to those granted under Ref. 99/2266.
- Kildare County Council Ref. 99/2266 – Permission granted by the Planning authority for site development works including entrance to the Caragh Road. Outline permission was also granted for a single storey industrial unit.
- Kildare County Council Ref. 94/1039 – Permission refused by the Planning authority for the construction of an industrial park on the site.

5.0 Submissions Received

5.1 Prescribed Bodies

The following prescribed bodies were invited to comment on the application:

- Inland Fisheries Ireland,
- National Roads Authority,
- Heritage Council,
- An Taisce
- DAU of Department of Arts Heritage and Gaeltacht.
- EPA.

Responses were received from the EPA and from the NRA and these can be summarized as follows:

NRA

- No specific comments having regard to the operation accessing the non national roads network.

EPA

- Notes that a waste licence application has been submitted by Rehab Glasco.
- Notes that the REIS submitted '*appears to address the key points in relation to the environmental aspects of the proposed activity which relates to the matters that come within the functions of the agency.*' Also stated that direct and indirect effects on the environment are addressed in REIS.
- States that all matters to do with emissions to the environment, licence application and EIS will be taken into account by the agency. A licence will not be granted unless a range of criteria set out are met, including that no relevant emission standard will be contravened and, subject to conditions, the activity would not cause environmental pollution.

5.2 Submission of Planning Authority (Kildare County Council)

The following is a summary of the issues raised in the submission received from the Planning Authority.

- Notes the extensive planning history of the site.
- Notes the zoning of the site NE1 (industry / warehousing under the Naas and Environs Development Plan). The existing glass recycling facility is considered to be consistent with this zoning.
- Notes that the hours of operation of facility are Monday to Friday – 24 hours, Saturday, 07.00 to 23.00 hrs and closed Sunday and that hours of acceptance are 07.00 to 19.00 Monday to Saturday and closed on Sunday. Also noted that the EPA licence application proposes 24 hour operation Monday to Sunday and that the hours of acceptance would be 07.00 to 22.00 hours Monday to Sunday. Recommended that hours of acceptance would remain 07.00 to 19.00 Monday to Saturday and closed on Sundays.
- Recommended that the height of stored material on the site would be limited to 3 metres and that this was proposed by the applicant during the assessment of previous applications.
- Regarding noise, noted that REIS records a residual background noise at closest dwelling of 46 dB(A) and that remedial measures in form of screens / barriers have been erected. REIS proposes that if continuing exceedances then hours of operation of drying plant should be restricted to 07.00 and 18.00. Recommended that development should be conditioned not to accept material outside of 07.00 to 19.00.
- Regarding landscape and visual impact, recommended that stockpiles be limited to 3 metres and landscape management plan for trees be implemented.
- Traffic impacts are considered to be generally acceptable having regard to experience since opening of the facility in 2006.
- That the proposed storm water attenuation pond proposal is acceptable to the Water services Section.

- Overall considered that subject to remedial measures / mitigation, the development does not have a detrimental impact on the environment.
- Conditions are recommended relating to hours of acceptance of materials at the facility, noise limits to be measured at the nearest noise sensitive location, height of stored materials and landscaping and dust management plan.
- It is confirmed by the Council that development contributions have been paid in full in respect of the development.
- A screening assessment report was undertaken by the Planning Authority that concludes that the nearest site is Ballynafagh Bog SAC c.8.5km to the north west and that there will be no significant impacts on any designated site.
- Appendix I of the submission of the Local Authority gives an assessment of the REIS submitted. The most significant points of note can be summarised as follows:
 - That the principle of development in this location is accepted and the use is consistent with the zoning.
 - Dust monitoring results for 2012 exceeded the relevant emission value. Remedial and mitigation measures proposed and the applicant to be conditioned to use best practicable means to prevent / minimize dust emissions.
 - Mitigation measures relating to noise and vibration as set out in the REIS are considered to be appropriate.
 - Noted that the landscaping remedial measures proposed in the REIS had been undertaken on the site.
 - Notes that REIS considers the on site water attenuation capacity to be inadequate but that the proposed new attenuation system is considered appropriate.
- The submission includes a memo prepared by the Water Services Section of the Council and which notes the location of a storm water culvert (1500mm diameter) that runs parallel to the northern boundary of the site and the attenuation pond shall not undermine this culvert. There is a wayleave along the northern site boundary where there is a 350mm rising foul main and it is noted that this is proposed to be upgraded. Consideration of consultation by the Board regarding this upgrade is suggested. Conditions are recommended.
- The submission also includes a memo from the Transportation department that notes a number of problems with the methodology used in the REIS and the proposed haul route. Noted that the area of the storage areas should be clarified to assess the requirement for TIA. Noted that 12 hour counts rather than peak morning and evening period counts should have been undertaken and that the M7 Newhall junction was not included in the assessment. Also noted that contrary to the statement of the REIS there are collision clusters at floods cross and Halverstown Cross that should be avoided in the haul route. A more direct and suitable route using the Naas South Ring Road is suggested.

- Comment from the Environment Section of the council that there is no further comment to make and that the council inspect the site regularly in view of it having a waste permit. Stated that site found to be in compliance with the permit issued.

5.3 Submission of Mr Michael Culhane

The following is a summary of the issues raised in this submission:

- That the site has been operating in breach of its planning permission.
- That previous objections / appeals were withdrawn on foot of assurances received and these were subsequently broken.
- That the plant is not fit for purpose and it does not have the capacity to process the material coming on site while remaining within the limits of its planning permission.
- That the operation is in breach of planning, environmental and health and safety legislation. The issue of birds carrying glass has not been addressed and causes safety issues on the observers property.
- Requests that activity at the facility ceases until it is brought up to an acceptable standard.
- That there has been a drying plant installed in recent years that results in dust at the observers property.

The submission is accompanied by e-mail correspondence from 2011 – 2013 between the observer and the manager of the facility regarding the noise issues arising.

5.4 Response Submissions

The submissions of Kildare County Council and the observer Mr Michael Culhane were cross circulated and referred to the NRA, EPA, to the applicant (Rehab Glasco Ltd.) and the observer (Mr Michael Culhane) for comment. The following is a summary of the responses received:

5.4.1 The applicant (Rehab Glasco) responded in the form of a submission made c/o Tom Phillips and Associates Planning and Development Consultants and prepared in conjunction with Patel Tonra Limited and Bryan Pyper Consulting Engineers. The submission appended detailed reports prepared by ORS Consulting Engineers (noise), Bird Control Ireland Limited (bird / pest control) and Atkins (roads and traffic). The following is a summary of the main issues raised in this submission:

- That the applicant has significant concerns regarding the procedure of An Bord Pleanála in accepting the submission of Mr Culhane as it was received outside of the time period originally specified. Mr Culhane was subsequently requested to submit an observation by the Board which is a most unusual procedure to follow.

- That the plant operates under a valid permission obtained in good faith and that the parent permission and subsequent amending permissions did not limit the volume of material to be accepted or the operating hours.
- The issue of bird nuisance was addressed at Chapter 13 of the REIS and mitigation measures proposed. Since the REIS, further work has been undertaken at the site and a Bird Management Programme devised and implemented. This is set out in the enclosed report from Bird Control Ireland. Measures proposed under the programme include a hand held dispersal unit, a hawk kite, and periodic hawk flying.
- That the power to require the cessation of activity is open to the Board however the environmental assessment of operations do not provide grounds to support such a direction.
- That dust emissions from the drying plant were undertaken in January, 2013. As noted in the REIS no ELVs have as yet been prescribed in relation to the emissions from the plant but monitoring results indicate that particulate levels are within acceptable limits.
- That the REIS specified a number of mitigation measures with regard to noise. The REIS stated that the dryer plant would not operate between 19.00 and 07.00 hrs. if there continued to be a noise issue and the applicant has now elected to cease operation of the drying plant between these hours. New noise monitoring under this scenario was undertaken on 1st and 2nd July, 2013. The results of this new assessment at contained in Appendix 2 of the submission and indicate that noise levels at the closest residential receptor (NSL1) were within EPA limits for daytime and evening time. There was an exceedance of 1db for nighttime that is explained in the assessment as being due to road traffic noise from the M7, R409 and local road and the adjacent 24 hour distribution facility.
- That the report of the Planning Authority (Kildare County Council) confirms that there is no history of planning enforcement on the site.
- Regarding **conditions**, the hours of acceptance of material at site of 07.00 – 19.00 hours is acceptable to the applicant.
- Regarding the suggested condition No.3 relating to noise it is requested that the wording be amended to reflect the current EPA Guidelines regarding time periods and measurement of limit values.
- Condition No.4 limiting the height of stockpiles to 3 metres is acceptable.
- Condition No.5 regarding the submission of a landscaping plan be amended to reflect the existing landscaping of the site undertaken.
- That Condition No.8 regarding water services be amended as it relates to the wayleave requirements. Specifically there is an existing wayleave of 22 metres around the foul sewer rising main and 10 metres around the 1500 surface water culvert that was constructed as part of the business park development and which has never previously required a wayleave.
- Regarding the comments made in the transportation department Report, a report prepared by Atkins notes the following:

- That a comparison of traffic count data and vehicle data from the site indicates that the M7 Newhall junction experiences a dilution rate of development related traffic of 0.16m percent which is considerably below the NRA threshold of 5 percent. The impact on the Newhall junction arising from the development is therefore submitted to be very limited.
- That traffic accessing the site have the option of using either the Floods Cross / Halverstown Cross route or the Naas South Link Road route and traffic uses both routes. The floods Cross and Halverstown Cross routes have formed the basis of the rEIS as a conservative option for analysis being a longer route with a lower grade of road.
- Regarding collision clusters at the time of writing the REIS the best information from the RSA website related to the 2005-2009 period. No sites triggered the threshold of 7 collisions in a five year period. Similarly the threshold has not been reached for the most recent 2005-2011 period (available since the REIS was prepared). If the local authority have other information available regarding collision risk on this route this can be discussed.
- That the relevant NRA Guidance makes no reference to a requirement for 12 hour traffic counts.
- That the area of warehousing on site is well below the trigger for TIA. In any event, a full traffic and transportation assessment has been undertaken and included in the REIS.

5.4.2 The **Planning Authority** responded to state that their report under s.177I highlighted a number of suggested conditions and that compliance with these conditions would mean that the residential amenities of adjacent properties would be protected. The submission also notes that the Environment Section of the council have inspected the site on an ongoing basis in connection with the Waste Permit issued and that the site was found to be in compliance with the permit issued.

5.4.3 The **NRA** responded to state that their submission of April 2013 remains the position. Submission also highlights to proposed upgrade to the M7 between the M7 / M9 interchange to the Maudlins Interchange at Naas.

5.5 Further Response Submissions

The submission received on behalf of the applicant was considered to contain new information that was circulated to other parties for comment. The following is a summary of the responses received to the circulation of the

The **Planning Authority** made a submission in respect of the comments made by the first party regarding suggested conditions. This clarifies that the Planning Authority are happy to accept the suggested amendments proposed by the applicant as they relate to Condition No.3 (noise) and Condition No.5 (landscaping).

The **NRA** responded to state that the content of their submissions dated 5th April and 1 July remain valid. Clarified that the thresholds indicated in Table 2.2 of the 21007 Guidelines set out when a TTA should be requested and that matters related to traffic and transport in such an assessment would be an issue for the road authority and the Board.

The **EPA** responded to state that the applicant has submitted a waste licence application to the EPA which is under consideration. Stated that a waste licence if granted would set out a range of controls in relation to the operation of the facility and the amount of waste that can be accepted at the facility.

No response was received from the observer to the case.

6.0 Development Plan Policy

6.1 The relevant Development Plan is the *Kildare County Development Plan 2011 – 2017*. A number of areas in the environs of the town have been the subject of zonings and these include lands to the west of the town centre, including the application site.

The site is zoned Objective NE1 (Industry / warehousing) under the provisions of the *Kildare County Development Plan, 2011-2017*. Under this land use zoning, Industry and light industry use as classified as being permitted.

The site is also located within an area where the Plan (Map 18.3) indicates that development proposals are to be the subject of site specific Flood Risk Assessment appropriate to the type and scale of the development proposed.

The site is located within the River Liffey valley area of high amenity.

Policy WC3 of the Plan states that it is policy *'to control development that will adversely affect the visual integrity of distinctive linear sections of water corridors and river valleys and open floodplains'*.

7.0 Assessment

Having inspected the site and examined the associated documentation, the following are the relevant issues.

- Procedural Issue
- Environmental Impact Assessment
- Nature of Activity / Requirement for a Waste Licence and Implications for Planning Assessment and Decision
- Noise, Dust and Hours of Operation
- Roads and Traffic
- Landscape and Visual Issues
- Other Issues

7.1 Procedural Issue

- 7.1.1 The applicant, in their response submission to the Board has raised an issue regarding the validity of the submission received by the Board from Mr Michael Culhane and specifically the issuing of a s.131 notice to this party seeking observations. The issue raised was addressed by the Board in a letter to the applicant dated 23rd July, 2013 in which the applicant was notified that S.177P(3) of the 2010 Act states that S.131 regarding the scope of the Board to request submissions or observations from any party shall apply in respect of applications for substitute consent. Notwithstanding the fact that the initial submission made by the observer was received outside of the specified time period, it is open to the Board to request observations by way of s.131. It is therefore my opinion that it was within the powers of the Board to request comments from Mr Culhane.

7.2 Environmental Impact Assessment

- 7.2.1 The use of the site for recycling of glass and cans was permitted under PA Ref. 06/1710 and this permission has been the subject of a number of amendments and further permissions in the interim period. At the time that permission was applied for under Ref. 06/1710 the application was not accompanied by an EIS and the applicant did not submit an EIS on the basis that the activity proposed to be undertaken on site (recycling) did not come within the scope of any development listed in the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended). Leave to apply for substitute consent was granted by the Board on the basis that it was not apparent to the applicant or to the planning authority at the time of the making of the application and granting of permission that an EIS was required. The decision of the Planning Authority was made on the basis that it was considered that the facility proposed and granted permission was a recycling facility and not a waste facility. This interpretation was conflicted by ECJ case C-486/04 (commission vs. Italy) which resulted in clarification that '*all operations leading either to waste disposal, in the strict sense of the term, or to waste recovery*' are to be classified as waste disposal. As the throughput of material at the facility is greater than 25,000 tonnes per annum, the activity on site comes within the scope of Class(b) of part 2 of the Fifth Schedule of the 2001 Regulations (as amended) being an installation '*for the disposal of waste with an annual intake of greater than 25,000 tonnes not included in part 1 of this schedule*'. A REIS has now been submitted.
- 7.2.2 The **development the subject of this application** for substitute consent comprises a recycling facility primarily catering for glass but also accommodating aluminum cans. The **processes on site** comprise the crushing, screening and sorting of material and includes the processing and drying of residual glass material to produce usable end product and recyclable material. The impact of the development undertaken was assessed under all the relevant headings with respect to human beings, Roads and Traffic, Air and Climate, Noise and Vibration, Landscape and Visual, Flora and fauna, Soils, Geology and Hydrology, Surface Water, Archaeological, Architectural and Cultural Heritage and Material Assets. The document includes a description of the project and the activities carried out on the site (Section 2.0) and includes consideration of cumulative

impacts, other interactions and mitigation measures in section 13 of the EIS. A summary of mitigation measures is given in section 14 of the REIS document. In my opinion, the content and scope of the REIS is acceptable and is in compliance with the requirements of Article s.94 (content of EIS) and s.111 (adequacy of EIS content) of the *Planning and Development Regulations, 2001* (as amended). With regard to the issues which come within the scope of the licence application submitted to the EPA, it is noted that the that the EPA submission to the Board states that the REIS submitted '*appears to address the key points in relation to the environmental aspects of the proposed activity which relates to the matters that come within the functions of the agency*' and that the direct and indirect effects on the environment are addressed in REIS.

- 7.2.3 With regard to **impacts**, the REIS submitted examines the impact of the development that has been undertaken on the site under a grouped format approach with each of the impact areas set out in Article 3 of the EIA Directive being addressed for potential impacts, proposed mitigation measures and residual post mitigation impacts. While each of the required impact areas have been addressed the EIS, the layout has been adapted to the nature of the development on site with separate chapters covering Roads and Traffic, Air and Climate and Noise and Vibration. In my opinion, the REIS submitted addresses the main likely significant direct and indirect effects that the development has had on the environment and the following is an assessment of the most significant likely effects that are identified. Under **Roads and Traffic**, there are potential issues of disturbance to properties along the route that connects the site to the M7 (via Halverstown Cross and Floods Cross as per the REIS), capacity issues at the Newhall M7 junction and traffic safety impacts. Overall these impacts are not considered to be significant however it is noted that the Planning Authority have identified a preferred potential alternative route from the site to the M7 that is shorter and avoids minor roads and junctions. This alternative route has been addressed by the applicant in submissions subsequent to the REIS and the merits will be discussed in 7.5 (Roads and Traffic) below.
- 7.2.4 With regard to **Air Quality and Climate**, the process on site generates a significant quantity of **dust** and dust monitoring undertaken on site in 2012 showed levels in excess of the relevant emissions limit value. The applicant has proposed a number of mitigation measures be implemented with regard to dust, some of which have already been implemented at the site and a dust monitoring programme is proposed. It is noted that dust emissions will be limited by any licence issued by the EPA and that exceedance of any limit specified may result in revocation of the licence. With specific regard to the drying plant, the REIS notes that there are currently no ELVs specified for this process however the primary dust suppression system in the drying plant building was upgraded since the 2012 REIS dust monitoring was undertaken and additional mitigation measures including the option of the enclosure of the drying plant. With regard to **noise**, the REIS notes noise monitoring results for 3 no. on site locations and one off site NSL (adjacent to the residential property of the observer Mr Culhane to the west of the site). The REIS notes that there is significant road and commercially generated background noise at the site such that the night time background level at NSL with the Glasco site shutdown was 46 dB Laeq. The REIS notes that the drying plant appears from monitoring to be the primary source of noise at NSL1 and that if this continues to be an issue the operational

hours of the drying plant can be restricted to 07.00 to 19.00 hrs. (It is noted that in submissions subsequent to the REIS, the applicant has stated that they are willing to agree to the hours of the drying plant being limited to 07.00 to 19.00 hrs.). Subject to the undertaking of the mitigation measures as set out in the REIS, including the non-operation of the drying plant between the hours of 07.00 and 19.00hrs.

- 7.2.5 With regard to **landscape and visual impact**, the existing facility has an impact on local views, it is noted that the site is located within an existing industrially zoned area, adjacent to the Osberstown WWTP and in an area that is identified as being of low sensitivity in the Kildare County Development Plan. Visual impacts arise as a result of the significant scale of the main process building on the site, the height of boundary walls and the stockpiling of materials on the site. While there are open views of the overall industrial park complex from surrounding rural areas due to the location of the park on the edge of the town, the main visual impact arising is a local one and has been mitigated to some extent by the planting to the western and northern site boundaries. The principal outstanding impact arises due to the height of material stockpiles on the site. Subject to the achievement and maintenance of the maximum height of 3 metres proposed in the REIS, the visual impact arising in the local area would not be significant.
- 7.2.6 No significant impacts in terms of **flora and fauna** are identified in the REIS which is accepted given the location of the site within an industrial park. I would also note that the site is located on zoned lands where initial site development works were permitted and undertaken prior to permission for the development of the subject site being granted. The site is located at a significant remove from the closest Natura 2000 sites and there are no potentially significant negative impacts on any areas so designated identified in the REIS. The REIS does highlight the potential for birds to create a nuisance by the removal and deposition of glass from the site onto neighbouring lands. The applicant has elaborated in subsequent submissions on the detail contained in the REIS regarding the bird control measures including the use of hawk kites, noise devices and periodic flying of a hawk.
- 7.2.7 With regard to **Soils, Geology and Hydrology**, it is noted that the extent of soil removal and local conditions prior to the construction of the industrial park is not known. In terms of site operational phase, the input and processed materials stored on site are inert and have limited potential impact on soils and hydrology. Fuel storage tanks on site are bunded and double skinned. Analysis of the surface water attenuation and discharge from the site indicates that the original on site attenuation capacity proposed was not all installed. Monitoring also indicates that ELVs at interceptor drains on the site were exceeded for SS and BOD. Additional on site attenuation is required and it is proposed that a new storm water attenuation pond would be constructed at the north east corner of the site and an additional silt trap also installed. This additional attenuation measures 75 by 5 by 1.2 metres and is proposed to be constructed within 3 months of approval being obtained.

- 7.2.8 There are no recorded **archaeological** monuments in the immediate area of the site however the REIS notes that the area has a history of prehistoric burial sites from the Bronze age observed in local quarries and excavations. The possibility that archaeological impacts arose as a result of the development of the site cannot be ruled out and there were no archaeological monitoring conditions attached to the original grant of permission for site development works. On the basis of the information available however there will be no residual impacts arising and no archaeological mitigation measures are proposed.
- 7.2.9 In terms of **material assets**, the facility is a significant employer including a portion of staff with disabilities. Given its location on zoned lands and adjacent to the Osberstown WWTP it is not considered likely to impact significantly on property prices. The importance of the facility in terms of glass recycling at a national level and meeting recycling targets is noted in the REIS.
- 7.2.10 The REIS makes a significant number of suggestions regarding mitigation measures and these are covered in the chapters and summarised at Chapter 14. The most significant mitigation measures having regard to the potential impact significance, the nature of the facility and the remedial / retrospective nature of the assessment undertaken are considered to be those relating to noise, dust, and landscaping. In addition, it is considered that additional consideration should be given to mitigation measures regarding traffic and transportation and hours of operation / material acceptance and these will be addressed in the sections that follow.

7.3 Nature of Activity – Requirement for A Waste Licence and Implications For Planning Assessment and Decision

- 7.3.1 The applicant has made an application to the EPA for a waste licence in respect of the operations on the site, (EPA Ref. W0279-01). The requirement for a waste licence application to be made arises from the fact that recycling is included in the Fourth Schedule of the *Waste Management Act, 1996* (as amended) most notably in respect of recycling / reclamation of inorganic materials. The application submitted to the EPA for a Waste Licence (EPA Ref. W0279-01) lists the classes of activity that are undertaken on site and which come within Schedule 4 of the Waste Management Act. The principal such activity is Class R5 (recycling / reclamation of inorganic materials) however the application also makes reference to Class R4 (reclamation / recycling of metal), R12 (waste exchange), and R13 and 15 (waste storage). From the information provided it would appear that the increase in levels of waste acceptance that have occurred at the site from 2009-2010 onwards has resulted in the materials input exceeding the threshold of 50,000 tonnes per annum necessitating a Waste Licence application. The application was submitted to the EPA in July, 2011 and has been the subject of a recent further information / Article 12 compliance request from the Agency. The fact that the application for substitute consent relates to an activity that is licensable has implications for the assessment of the application by the Board.

- 7.3.2 Under s.34(2)(c) of the Planning and Development Act, 2000, where development for which permission is sought comprises an activity for which a waste licence is required, the planning authority shall take into consideration that the control of emissions arising from the activity is a function of the environmental protection agency. S.257 of the 2000 Act amends s.54 of the *Waste Management Act 1996* and states that a Planning Authority or An Bord Pleanála shall not, where it decides to grant permission, subject the permission to conditions that are for the purposes of controlling emissions from the operation of the activity / facility or at the cessation of the activity.
- 7.3.3 The circumstances of the current application are not typical of the situation regarding applications for planning permission that involve activities that also require a licence from the EPA in that the application is for substitute consent relating to past activities rather than a future proposed development. In the case of the activity on the subject site, it is apparent from the information contained in the REIS (Table 2.2, pg.40) that the level of activity on the site as measured in input tonnage increased significantly from 34,000 tonnes in 2008 to 50-55,000 tonnes in 2009-2010 and 90,000 plus since 2011. From its opening in 2008 to 2009-2010 therefore, the activity on the site was under the threshold for licensing by the EPA. It is noted that during this period, the facility was of a scale that required a Waste Permit from the council though this was not issued until March, 2010. Prior to this date, there was the limitation on environmental emissions from the activity was on foot of Condition 27 (PA Ref. 06/1710) which required that the development shall not increase noise levels at the site boundary by more than 3db(a) above ambient levels and Condition 31 which required that noise at noise sensitive locations (including dwellings) shall not exceed 55dB(A) during daytime hours and 45dB(A) at other times. The purpose of a REIS is to assess the environmental impact of development that occurred in the past and while the activity on site may have operated in the past at a level that did not require a licence from the EPA the assessment in this application is whether such activity had a significant negative impact on the environment. The attachment of conditions to the current substitute consent application cannot be enforced against the past level of activity that was below the threshold of requiring an EPA licence and for this reason I consider that the correct approach is that in the event that a grant of permission is considered appropriate, this would not be subject to conditions limiting emissions from the facility.
- 7.3.4 The application was referred to the EPA on initial receipt of the application. The response submission received from the EPA states that all matters to do with emissions to the environment, licence application and EIS will be taken into account by the agency in consideration of the Waste Licence application submitted. It is also stated by the EPA that a licence will not be granted unless a range of criteria set out are met, including that no relevant emission standard will be contravened and, subject to conditions, the activity would not cause environmental pollution.

- 7.3.5 From information available on the EPA Web site relating to the Waste Licence application submitted by the applicant (EPA Ref. W0279-01), it is apparent that the EPA are in consultation with the applicant regarding the licence application and specifically whether the nature of the activity the subject of the application may be considered to come within the scope of the new First Schedule of the EPA Acts. This revised first schedule has resulted from the transposition into Irish legislation of the *Industrial Emissions Directive* (2010/75/EU) and has resulted in a third category of licence that may be issued by the EPA, the Industrial Emissions Licence. With specific regard to Rehab Glassco application for a Waste Licence, the range of activities listed in the First schedule of the EPA Acts has been expanded. The EPA have sent a registration form to the applicant requesting details of the activities on site and whether such activities will result in the application submitted being in respect of an Industrial Emissions Licence rather than a Waste Licence. From the perspective of the current application, it is noted that s.256 of the Planning and Development Act, 2000 relates to licenses issued under the EPA Acts and states that in such circumstances a Planning Authority or the Board shall not attach conditions controlling emissions from the activity. It would appear to me that while there is no reference in current planning legislation to an Industrial Emissions Licence and the powers of a Planning Authority or the Board to attach conditions controlling emissions from activities the subject of such a licence, the issuance of an Industrial Emissions Licence would be under the EPA Acts and would restrict or limit the emissions from the facility. For this reason it is not in my opinion appropriate that conditions restricting or controlling emissions from the activity would be attached to any Grant of Substitute Consent that may be issued by the Board.
- 7.3.5 It is noted that it is open to the Planning Authority or the Board to refuse permission on the basis of it being unacceptable on environmental grounds having regard to the proper planning and sustainable development of the area. The sections below address emissions from the site in terms of whether these are considered to be such as to be unacceptable on environmental grounds. The sections below also make a recommendation with regard to appropriate limitations regarding environmental emissions in case the Board do not agree that the approach as set out above is appropriate.

7.4 Noise, Dust and Hours of Operation

- 7.4.1 The principal issue raised by the objector relates to noise and is closely related to the hours of operation of the facility, and the position appears to be as follows. The permission granted under Ref. 06/1710 does not specify hours of operation. It is noted however that the response to FI made by the applicant states that the hours would be 08.30 to 17.30 Monday to Friday and 08.30 to 14.30 on Saturday. Subsequent permissions modifying / extending the development and for retention of structure on site Refs. 09/48, 10/652 and 10/1195 do not attach conditions specifying hours of operation or amending the hours that were set out in the FI response relating to Ref. 06/1710. The following Table summarises the position with regard to hours of waste acceptance and hours of operation at the facility as set out in the planning permission, waste permit, the recommendation of the Planning Authority to the Board, the EPA licence application and the current substitute consent application (REIS).

Licence / Application	Hours of Acceptance	Hours of Operation
Kildare Co. Co. Planning Permissions	Not specified	Not specified
KCC Waste Permit (WFP-KE-08-0357-01)	Not specified	06.00 – 22.00 hrs (M.- Sa.)
PA Report to ABP	07.00 – 19.00 hrs. (M.-Sa.)	Not specified
EPA Licence Application (Ref. W0279-01)	07.00 – 22.00 hrs. (M.-Su.)	24 hours (M.-Su.)
REIS (SU09.SU0015)	07.00 – 19.00 hrs. (M. – Sa.)	24 hours (M-F) 07.00 – 23.00 hrs (Sa.)

Table 1: Summary of Hours of Acceptance and Operation of the facility as per existing permissions / Permit and Current Applications.

7.4.2 Condition 34 of Ref. 06/1710 requires the applicant to obtain a waste permit from the council. The waste permit issued by the Council in March 2010 (Ref. WFP-KE-08-0357-01) states that the site shall only operate between the hours of 06.00 to 22.00 hours Monday to Saturday. Section 2.3 of the REIS states that the hours of waste acceptance are 07.00 to 19.00 hours Monday to Saturday and closed on Sunday. It is stated that the hours of operation are 24 hours Monday to Friday and 07.00 to 23.00 hrs Saturday and closed on Sunday. There are therefore apparent variations between what is currently permitted under the Waste Permit issued by the PA, that outlined in the waste licence application and what is proposed in this substitute consent application (as set out in the REIS).

Noise

7.4.3 Regarding **noise**, Permission Ref. 06/1710 limits noise at noise sensitive locations to 55dB(A) between 08.00 to 18.00 Monday to Friday and 45 dB(A) at any other time. These limits were restated in Ref. 09/48 (extension of the plant in sites 4 and 5). Permissions Refs. 10/652 and 10/1195 do not attach any conditions relating to noise. The waste permit sets noise limits of 55dB(A) and 45dB(A) also however these are Laeq 30 minutes whereas those in Ref. 06/1710 are Leq 15 minutes. While the observer has cited issues regarding noise emissions from the facility, the local authority stated that the applicant has been in compliance with the limits set in the waste permit.

7.4.4 Noise survey data as presented by the applicant in the REIS dates from November 2012 and February 2013. Initial survey results from 2012 exceeded recommended levels with a tonal component also present and the applicant therefore undertook further testing in February of 2013 when the plant was not operating to try and get an indication of background noise levels and the impact of other activities in the vicinity. 6 no. noise monitoring points were used in both surveys and the results of the 2013 surveys when the plant was not operating indicate the significant level of background noise in the area. The results from February, 2013 when operations on the application site were halted, shows noise

levels of 45 – 55 dB(A) during the day, 42 – 51 dB(A) during the evening and 41 – 55 dB(A) at night at the 6 monitored locations. In my opinion, the most significant noise monitoring locations from the perspective of amenity and the proper planning and sustainable development of the area are NSL1 (which is located to the west of the site adjacent to the closest residential property) and NM1 (located at the main site entrance facing towards the interior of the site).

- 7.4.5 At NSL1, recorded daytime values in the 2012 survey data exceeded the 55 dB(A) Laeq criterion by between 2 and 4 dB(A), the evening criterion of 50dB(A) was exceeded by 5 dB(A) and the night time limit of 45dB(A) exceeded by up to 10 dB(A). The REIS concludes that to reduce the level of noise emanating from the site that *'it may be prudent to investigate the use of an acoustic barrier / fence which would be installed at the boundary of the site'*. The report also concludes that the survey results indicate that the Rehab Glassco operation is responsible for low frequency tonal noise but that this noise is at very low frequencies that is not audible to the human ear. Section 6.6 of the REIS identifies mitigation measures that have been undertaken since the noise surveys of November 2012. These consist of the erection of a noise barrier / screen at the western site boundary in January 2013 (for the main process areas and NSL1) and the installation of a noise screen at the loading bay of the main process building. Section 6.6 of the REIS commits the applicant to undertaking any changes in terms of implementation of BAT, changes in site layout or plant and screening of openings / point sources necessary to meet the required noise levels. There is also a commitment given that should monitoring results indicate the evening and night noise levels be exceeded then the hours of operation of the drying plant will be restricted to 07.00 – 19.00 hours. Section 6.8 of the REIS also commits the applicant that there will be no material accepted into the facility between 19.00 and 07.00 hours.
- 7.4.6 In order to assess the impact of the mitigation measures implemented since the preparation of the noise data included in the REIS, the applicant submitted a revised noise assessment for location NSL1. This assessment was undertaken on July 1st and 2nd (Monday and Tuesday) during a period where the facility was fully operational with the exception of the drying plant only operating between 07.00 and 19.00 hrs. The hours of operation and materials acceptance is set out in the noise survey report and is as per the hours noted in the REIS. The results are set out at Appendix 2 of the first party response submission and indicate that noise levels at the closest residential receptor (NSL1) were within EPA limits for daytime and evening time. There was an exceedance of 1db for night time that is explained in the assessment as being due to road traffic noise from the M7, R409 and local road and the adjacent 24 hour distribution facility. This would be consistent with the elevated levels of background noise recorded in the surveys set out in the REIS.
- 7.4.7 The results of the noise monitoring data submitted by the applicant, both that contained in the REIS and that submitted subsequent to the preparation of the REIS, in my opinion supports the opinion set out in the REIS that the main source of noise at NSL1 related to the operation of the drying plant. The restriction in the operation of the drying plant to 07.00 to 19.00 hrs., together with the noise attenuation measures undertaken comprising a new timber screen along the western site boundary, has been shown in the updated noise monitoring provided

by the applicant to have the effect of ensuring that the noise level at NSL 1 would meet or only very slightly exceed normal limit values for L_{DEN} . In view of this, I am of the opinion that there is no clear basis to determine that the development on the site is unacceptable in environmental terms as measured by noise emissions from the site and that it is considered feasible that the site could be made to operate within normally acceptable limits. The achievement of an acceptable noise level requires materials acceptance and operational hours to be as per those set out in the REIS and the limitation on the operational hours of the drying plant to be 07.00 to 19.00 hours Monday to Saturday inclusive. It is therefore recommended that these hours would be made a condition of any grant of substitute consent.

- 7.4.8 In the event that the Board consider it appropriate that a noise condition be attached it is recommended that a condition be in the form of that suggested by the first party and agreed by the Planning Authority in their response submission, and be in accordance with EPA Guidance note NG4. The setting of separate limit values for day (07.00 to 19.00 hrs.), evening (19.00 to 23.00 hrs.) and night (23.00 to 07.00 hrs.) time periods would match with the proposed hours of operation and material acceptance of the facility.

Dust

- 7.4.9 A dust monitoring report prepared by ORS Consulting Engineers is given in Appendix 5.2 of the REIS. The figures recorded at the three sampling points on site examined exceed the 350 mg / m² / day limit specified in the waste permit issued by Kildare County Council by a significant margin and by a very significant margin in the case of the location in closest proximity to the drying plant where a figure of 1568 mg / m² / day was recorded against a permit limit of 350 mg / m² / day. The impact of the drying plant is evident from a comparison of the recorded dust levels from 2010 before the drying plant was in operation when the level of dust was below the 350 mg / m² / day limit with that from 2012 where significant exceedances were noted. Dust deposition at the site boundaries and beyond at sensitive locations would therefore appear to only become a significant issue since the drying plant was commissioned.

- 7.4.10 The applicant has also undertaken emissions monitoring from a point source being the drying plant building on the site and this assessment is summarized at 5.3.22 and 5.3.23 of the REIS and at Appendix 5.3. The result indicates a level of 63.6 mg / cubic metre and it is contended that while no emission limit values have been set so far in relation to this source, the levels recorded are below the normal limit specified by the EPA of 100 mg / cubic metre.

- 7.4.11 Section 5.6 of the REIS sets out mitigation measures in the form of water dust suppression and a new extraction system in the dryer building that have been implemented since the start of 2013. Section 5.6 also sets out remedial / additional dust mitigation measures that could be implemented. These include new dust extraction / filtration systems and if needed enclosure of the drying plant building will be investigated.

7.5 Roads and Traffic

- 7.5.1 Chapter 4 of the REIS sets out how the current HGV traffic volumes to and from the site is c.26 vehicles per 12 hour period (07.00 to 19.00 hrs.). The haul route to and from the site as set out in the REIS is via Halverstown Cross and Floods Cross with traffic exiting the site travelling west along the R409, left at Halverstown Cross onto the local road, left again at Floods Cross and onwards to the Newhall junction on the M7. The Planning Authority in their submission to the Board noted the fact that there is an alternative route between the site and the M7 that is shorter and involves the use of the Naas South Ring Road. The Planning Authority also state that this route would avoid potential collision clusters along the haul route proposed by the applicant as indicated in the REIS.
- 7.5.2 The applicant has responded to this issue regarding collision clusters and has demonstrated how the number of accidents along the indicated haul route is not such that there is any collision clusters. On the basis of the information presented I would accept that this is the case however the route identified by the local authority via the Naas South Ring Road is shorter and does not require vehicles accessing the site to travel on local roads. The applicant has submitted a report prepared by Atkins that acknowledges that traffic from the Rehab Glasco site can and do use both routes. The report concludes that the relative risk of the Naas Southern ring Road option is lower than that presented in the REIS and that as such the route presented in the REIS is a more conservative option in terms of analysis.
- 7.5.3 In terms of junction capacities, the REIS indicates that the traffic generated by the development accounts for only c.2 percent max. of the traffic volumes at the junctions along the haul route proposed in the REIS. The planning authority did note the fact that no specific junction analysis of the impact on the Newhall junction was undertaken however this issue has been addressed in a subsequent report from Atkins and the impact arising is not considered to be significant, comprising just 0.16 percent of mainline traffic.
- 7.5.4 From the information presented I do not consider that the operation of the rehab Glasco facility has resulted in a significant negative environmental impact arising from traffic accessing the site. The site is conveniently located relative to the M7 and the recent opening of the Naas South Ring Road has the effect of providing an alternative connection to the M7 at the Newhall junction. While the use of the Ring Road is considered to be preferable in terms of shorter distance and better road standard, given the volumes of traffic and the dilution of traffic by the option of two routes I do not consider that it is appropriate to specify by condition that all traffic accessing the site must use the Ring Road.

7.6 Landscape and Visual Issues

- 7.6.1 Landscape and visual impact are assessed in chapter 7 of the REIS. The facility is visible from the R409, the Halverstown Road and from within the industrial park itself. The most significant of these views are clearly those from within the park and other views from the Halverstown Road and R409 are classified as slight in the REIS. I would accept this assessment.

- 7.6.2 The closest residential property located to the west of the site is screened from the site by trees that are located on the residential site and also by trees that have recently been planted along the western boundary of the application site. This residential property does not have a direct access into the industrial park and I do not consider that the visual impact on this property is significant. Properties to the north accessed off the Halverstown Road are located on the northern side of the road and are significantly separated from the site such that the visual impact arising was and is not significantly negative.
- 7.6.3 The issue of the height of the stockpiles on site has been referenced in the REIS and also in the submissions of the applicant, the Planning Authority and the observer. The applicant has acknowledged that the height of the stockpiles has exceeded the maximum of 3 metres that was specified in the original planning permission and this appears to have been an ongoing problem over a significant period. The excess height is stated by the applicant to be as a result of the additional material diverted to the site following the closure of the Rehab site in Ballymount. The excess height of material stockpiled in the storage areas around the site perimeter is visually unsightly when viewed from within the industrial park. The REIS proposes that stockpiles would be limited to 3 metres as a mitigation measure (section 7.8) and it is recommended that this be made a specific condition of any grant of substitute consent issued.
- 7.6.4 The applicant has undertaken boundary planting along the western and northern boundaries of the site where the site faces the observers dwelling and the boundary with the Osberstown WWTP. The REIS commits that trees planted will be maintained and replaced as necessary. The comments of the Planning Authority with regard to the submission of a landscaping plan are noted as is the submission from the applicant stating that the planning proposed for the site has been completed. The planting undertaken is considered to be appropriate and no additional screen planting is considered necessary or feasible on site. In the event of a grant of substitute consent it is considered appropriate it is recommended that a condition requiring the maintenance and upkeep of existing landscaping be attached.
- 7.6.5 The Planning Authority have requested that a condition specifying that no advertising or advertising structures other than those shown on the drawings shall be erected on the site or buildings within the site without a prior grant of permission. The existing facility has some relatively small scale signage at the site entrance and on the elevation of the main process building that faces the entrance. The inclusion of a condition restricting additional signage is considered to be appropriate.

7.7 Water and Drainage

- 7.7.1 The submission includes a memo prepared by the Water Services Section of the council and which notes the location of a storm water culvert (1500mm diameter) that runs parallel to the northern boundary of the site and requires that the attenuation pond shall not undermine this culvert. Conditions are recommended. With the exception of the wording of the condition regarding the wayleave through the site, these conditions have been accepted by the applicant and are in my opinion appropriate. A condition requiring the applicant to comply with the detailed requirements of the Planning Authority with regard to surface water drainage would cover the issues of detail raised by the Planning Authority.
- 7.7.2 With regard to the impact of the development on hydrology, it is noted that the extent of soil removal and local conditions prior to the construction of the industrial park is not known. In terms of site operational phase, the input and processed materials stored on site are inert and have limited potential impact on soils and hydrology. Fuel storage tanks on site are bunded and double skinned. Analysis of the surface water attenuation and discharge from the site indicates that the original on site attenuation capacity proposed was not all installed. Monitoring also indicates that ELVs at interceptor drains on the site were exceeded for SS and BOD. Additional on site attenuation is required and it is proposed that a new storm water attenuation pond would be constructed at the north east corner of the site and an additional silt trap also installed. This additional attenuation measures 75 by 5 by 1.2 metres and is proposed to be constructed within 3 months of approval being obtained.
- 7.7.3 With regard to the suggested condition of the Planning Authority that a 10 / 20 metre wayleave is retained over the fouls sewer rising main and the 1500 surface water culvert, it is noted that the applicants request that the condition be amended to state that the existing wayleave over the rising main be retained and that a 10 metre wayleave over the surface water culvert be provided. This would appear to be reasonable as the rising main is stated to be secured by a 22 metre wayleave of which approximately two thirds is within the application site, the balance being within the site of the Osberstown WWTP.

7.8 Financial Contribution

- 7.8.1 The Planning Authority have noted the fact that the applicant paid a financial contribution in respect of the original grant of permission on the site as well as subsequent permissions for retention of other elements and extension of the site. In view of this, the Planning Authority have not requested that a condition requiring a financial contribution would be attached to any substitute consent permission granted. Having regard to the fact that the applicant has previously paid financial contributions in respect of the development on site the subject of the substitute consent application, I do not consider that it is appropriate that any additional contribution would be levied in this instance.

7.9 Other Issues

- 7.9.1 The observer to the application has raised an issue regarding a problem of birds scavenging on the site and being attracted by glass pieces which they then drop off site. The exact extent of this problem is not clear however it was referenced in the REIS. The applicant has elaborated in subsequent submissions on the detail contained in the REIS regarding the bird control measures including the use of hawk kites, noise devices and periodic flying of a hawk and it is considered that these measures should be such as to minimise the potential nuisance arising from birds depositing glass off site.

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RECOMMENDATION

In view of the above, I recommend a grant of substitute consent based on the following reasons and considerations and subject to the attached conditions:

REASONS AND CONSIDERATIONS

Having regard to nature and scale of the existing recycling activity carried out at this location, to the application for a licence from the Environmental Protection Agency for the activity and subject to the implementation of a number of remedial measures, it is considered that, subject to compliance with the conditions set out below, the existing recycling activity has not had an adverse or unacceptable level of environmental impact, and is, therefore, in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. This grant of substitute consent only relates to works carried out on site to date and does not relate to any future works that may be carried out on site. All mitigation measures set out in the Remedial EIS that accompanied the application for substitute consent shall be implemented in full.

Reason: In the interest of clarity.

2. Activities on site shall comply with the following requirements regarding hours of activity:

(a) General hours of operation of the facility shall be limited to the following:

- 24 hours Monday to Friday inclusive.
- 07.00 to 23.00 hrs. on Saturday
- No operation on Sundays or public holidays

(b) Hours of operation of the drying plant shall be limited to the following:

- 07.00 to 19.00 hrs. Monday to Saturday inclusive
- No operation on Sundays or public holidays

(c) Hours of material acceptance at the facility shall be limited to the following:

- 07.00 to 19.00 hrs. Monday to Saturday inclusive
- No operation on Sundays or public holidays

Reason: In the interests of residential amenity.

3. The maximum height of materials stockpiled on site shall be 3 metres.

Reason: In the interest of visual amenity.

4. Within three months of the date of this order, the applicant shall submit details of the following for the prior written agreement of the Planning Authority:
- 1) a maintenance agreement for the maintenance of the surface water drainage system on site and,
 - 2) a design and method statement for the construction of the proposed attenuation pond to be located immediately adjacent to the 1500 surface water culvert on site.

Reason: In the interest of public health.

5. Details of the foul and surface water drainage system on site shall be to the detailed requirements of the Planning Authority.

Reason: In the interest of public health.

6. In addition to the retention of the existing wayleave serving the foul sewer rising main that traverses the site, a 10 metre wayleave shall be secured over the 1500mm surface water culvert on site. Details shall be submitted for the agreement of the Planning Authority within 3 months of the date of this order.

Reason: In the interest of public health.

7. All planting and landscaping undertaken on the application site shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the date of this order, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

8. No advertising structures other than those indicated in the drawings submitted with the application shall be erected or displayed on buildings located on site or within the curtilage of the site

Reason: In the interests of visual amenity.

Stephen Kay
Inspectorate,
13th September, 2013