


*This Report has been cleared for submission to the Board by Programme Manager,  
Marie O'Connor*

*Signed: *

*Date: 30/10/2019*



OFFICE OF  
ENVIRONMENTAL  
SUSTAINABILITY

**REPORT OF THE TECHNICAL COMMITTEE ON  
OBJECTION TO PROPOSED DECISION**

**TO:** Directors

**FROM:** Technical Committee                      Environmental Licensing Programme

**DATE:** 30 October 2019

**RE:** Objection to Proposed Decision for ROADSTONE LIMITED, Killough Upper and Glencap Commons Upper, Kilmacanogue, County Wicklow, Waste Reg: W0293-01

Application Details	
<b>Classes of activity:</b>	R 5 - Recycling/reclamation of other inorganic materials, which includes soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials.  R 13 - Storage of waste pending any of the operations numbered R 1 to R 12 (excluding temporary storage (being preliminary storage according to the definition of 'collection' in section 5(1)), pending collection, on the site where the waste is produced).
<b>Location of activity:</b>	Killough Upper and Glencap Commons Upper, Kilmacanogue, County Wicklow.
<b>Licence application received:</b>	08 July 2016
<b>PD issued:</b>	11 December 2018
<b>First party objection received:</b>	No
<b>Third Party Objection received:</b>	Yes
<b>Submissions on Objections received:</b>	Yes

<b>Article 26/27 issued:</b>	No
<b>Additional Information received:</b>	No
<b>Article 33 extension of time:</b>	Yes (08 May 2019, 03 Sep 2019)

### Company

This waste licence application relates to the operation of an inert waste recovery facility by Roadstone Limited at Calary Quarry, Killough Upper and Glencap Commons Upper, Kilmacanogue, County Wicklow. The quarry has been operated by Roadstone Limited since 1973 and quarrying was suspended in 2010. The activity relates to the deposition of waste for the purposes of restoration of a quarry void using imported inert greenfield and non-greenfield soil and stone and dredging spoil. The total proposed licensed quantity of waste to restore the quarry is 3,280,000 tonnes, with a maximum annual intake of 300,000 tonnes.

Five valid submissions were made in relation to the application and were considered by the Board at Proposed Decision (PD) stage.

### Consideration of the Objection

This report relates to a valid Third Party objection and a First Party submission on this objection received by the Agency in relation to the PD issued to Roadstone Ltd on 11 December 2018. The Technical Committee (TC), comprising of Áine Murphy, has considered the issues raised in the objection and this report details the TC's comments and recommendations following the examination of the objection and submission on the objection, together with discussions with the inspector, Ewa Babiarczyk, and Cathal Gahan (Office of Environmental Enforcement), who both provided comments on the points raised.

### Third Party Objection

The issues raised in the Third Party objection and the First Party submission on this objection are summarised below. For clarity any submission on objections made by the First Party in relation to the Third Party objections, are dealt with in association with the objection to which they relate. The original objection and submission on the objection should be referred to at all times for greater detail and expansion of particular points.

<b>Name</b>	<b>Type</b>	<b>Date Received</b>
Mr. Albert Kerr	Third Party Objection	16 <sup>th</sup> January 2019
Roadstone Limited (Applicant)	First Party Submission on Third Party Objection	8 <sup>th</sup> February 2019

The Third Party objection is summarised according to the following headings:

1. Protection of Fauna
2. Use of Quarry
3. Alternative Uses and Location
4. Noise, Dirt, Dust and Vermin
5. Road Damage, Road Accidents and Traffic Delays
6. Tourist Buses and Cruise Ship Visitors
7. Restoration of Environment.

## **1. Protection of Fauna**

Mr. Albert Kerr states that protected frogs, newts and birds of prey were observed on a number of occasions in the quarry.

### Submission on Objection:

The applicant noted that the objection did not provide supporting evidence for the observations raised. The applicant referred to the ecological assessment undertaken as part of the overall Environmental Impact Assessment (EIA) process which recognised the habitat potential for these species at the site but failed to identify any newts or evidence that the site was being used for breeding purposes by peregrine falcons.

### Technical Committee's Evaluation:

The TC notes that the quarry and the quarry pond have been created as a result of human activities. The TC has reviewed the licence application documentation including the Environmental Impact Statement (EIS) and the Inspector's Report, dated 06/12/2018, which conclude that there will be no impact on the fauna identified by the objector. The TC also conducted an Appropriate Assessment Screening Determination that identified the Wicklow Mountains SPA and SAC, located 3.3 kilometres west of the facility, as the nearest European Sites. This screening concluded that it can be excluded that the proposed activities individually or in combination with other plans or projects, will have a significant effect on any European site. Further details are provided in the 'Appropriate Assessment – Technical Committee Review' section of this report.

### Reason for Decision:

The TC is satisfied that the activity will not unfavourably impact these species.

<b>Recommendation:</b> No change.
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## **2. Use of Quarry**

Mr Albert Kerr states that the quarry is not a void, rather it is a quarry filled with drinkable water that could be used for firefighting and recreation.

### Submission on Objection:

The applicant commented that reference to 'firefighting and recreation' uses have no relevance to this waste licence application. The applicant did not think it appropriate for the planning control and environmental licensing authorities to consider hypothetical development which had not been applied for and/or was unlikely to ever materialise.

Technical Committee's Evaluation:

The TC notes that An Bord Pleanála granted planning permission to the applicant on the 01/08/2018, following an appeal regarding Wicklow County Council's planning permission decision, dated 10/03/2017, for the backfilling and restoration of the quarry in accordance with the Eastern Midlands Regional Waste Management Plan (2015-2021), which refers to the need for recovery options such as quarries to facilitate the recovery of soil and stone waste. The TC notes consultation with Wicklow County Council and An Bord Pleanála was undertaken during the assessment of the licence application, as detailed in the Inspector's report, dated 06/12/2018.

Reason for Decision:

The TC is satisfied that this decision is a matter for the relevant planning authority.

**Recommendation:** No change.

### **3. Alternative Uses and Location**

Mr. Albert Kerr queries whether more suitable alternatives were considered other than emptying the water from the quarry and using it as a dump and refers to potential alternatives such as locations owned by Roadstone within a few kilometres of the Calary Quarry.

Technical Committee's Evaluation:

The TC notes that the location for the facility was considered as part of the EIS. The TC observed that the Eastern Midlands Regional Waste Management Plan (2015-2021), emphasised the importance of ensuring that recovery options other than landfills are available to facilitate the recovery of construction and demolition waste streams arising in future years and an existing quarry would satisfy this requirement. The TC notes from the Inspector's Report, dated 06/12/2018, that the suitability of the proposed recovery of soil and stone waste in the backfilling and restoration of the existing quarry void at Calary Quarry was assessed as part of the licence application, and was granted planning permission for this purpose.

Reason for Decision:

The TC is satisfied that the proposed activities are suitable for use at this location.

**Recommendation:** No change.

### **4. Noise, Dirt, Dust and Vermin**

Mr. Albert Kerr states that the activity will increase the noise, dirt, dust and vermin in the area.

Technical Committee's Evaluation:

The TC acknowledges the concerns raised in the objection and in response, notes that the PD specifies environmental controls and monitoring relating to dirt, dust and vermin to ensure the activity will not have a significant effect on the environment. The relevant Conditions and Schedules of the PD include:

- Conditions 3.8, 6.11.3 and 6.13 address concerns relating to dirt.
- Condition 4.4, Schedule B.4 and Schedule C.3 address concerns relating to dust. In addition, Conditions 6.11.1 and 6.11.2 require the applicant to implement adequate measures for the control of dust.
- Condition 5.5 requires the applicant to ensure that vermin, mud, dust and litter associated with the activity do not result in an impairment of, or an interference with, amenities or the environment beyond the facility boundary or any other legitimate uses of the environment beyond the facility boundary.
- Condition 8.13.8 addresses concerns related to vermin.

The TC notes the concerns raised in the objection relating to noise. The EIS indicates the existing noise baseline characteristics of the areas surrounding the site boundary are of low background noise, with contributions from both traffic and natural noise sources. The TC notes that the three noise sensitive locations (NSL) specified in the PD for noise monitoring of activity operations, are in the vicinity of the fourteen residential noise sensitive receptors within 400 metres of the site boundary. Condition 4.3 of the PD requires the applicant to ensure noise shall not give rise to sound pressure levels which exceed the limit values measured at the NSLs and Schedule B.3 specifies these limit values. The TC notes Condition 6.12 requires the applicant to carry out a noise survey of the site operations, in accordance with the Agency's guidance document, and in line with Schedule C.2, noise monitoring shall be conducted at the NSLs, during three time periods, and for a specific duration and sampling periods.

The TC notes that the frequency of noise monitoring is not specified in the PD Conditions or Schedules, therefore the TC proposes that Condition 6.12 shall require noise monitoring to be completed annually by the applicant. The PD has made provision for the frequency of noise monitoring to be amended by the applicant, in accordance with Condition 6.5, with the approval of the Agency following evaluation of test results.

In addition, the TC notes clerical errors in Schedule C.2 in relation to evening monitoring times and Note 1.

The TC is satisfied that the Conditions and Schedules of the PD and the amendments identified below, shall ensure that emissions from the facility shall comply with the licence limits and consequently will not adversely impair or interfere with amenities or other legitimate uses of the environment beyond the facility boundary.

Reason for Decision:

The TC proposes to amend Condition 6.12 and Schedule C.2 as set out below and has reached its conclusion having regard to the following reasons:

- To ensure compliance with noise monitoring limits is demonstrated annually, or as approved by the Agency following evaluation of test results.
- To clerically amend two errors in the PD.

**Recommendation:**

6.12 Noise

The licensee shall carry out a noise survey of the site operations **annually as required by the Agency**. The survey programme shall be undertaken in accordance with the methodology specified in the ‘Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)’ as published by the Agency.

**C.2 Noise Monitoring**

Location: N01, N02 and N03 (as shown on Figure 9-1 titled ‘Noise Monitoring/ Receptor Locations’, dated May 2016, of the EIS) and at additional locations as may be agreed by the Agency.

Period	Minumum Survey Duration <sup>Note 1</sup>
Daytime (07:00 to 19:00 hrs)	A minimum of 3 sampling periods at each noise monitoring location.
Evening-time ( <del>19:00</del> 07:00 to 23:00 hrs)	A minimum of 1 sampling period at each noise monitoring location.
Night-time <sup>Note 2</sup> (23:00 to 07:00 hrs)	A minimum of 2 sampling periods at each noise monitoring location.

**Note 1:** Sampling period T will be in accordance **with** *Schedule B.3: Noise Emissions* of this licence. This applies to day, evening and night time periods.

**Note 2:** Night-time measurements shall be made between 2300hrs and 0400hrs, Sunday to Thursday, with 2300hrs being the preferred start time.

**5. Road Damage, Road Accidents and Traffic Delays**

Mr. Albert Kerr states that there will be road damage, traffic delays, accidents and every other road user will be adversely affected for ten years or more.

Submission on Objection:

The applicant outlined that the EIS and other supporting information submitted to the Local Authority in the course of the planning approval process, determined the proposed vehicular movements generated by the proposed waste facility are permitted and are comparable to those generated when the quarry was active. Furthermore, the applicant stated that the associated traffic movements will not give rise to any additional adverse environmental impacts, over and above those that arose prior to suspension of quarry operations.

In response to Mr. Kerr, the objection regarding the potential for adverse road-related impacts, the applicant notes that these issues are primarily within the competence of the planning authorities rather than the Environmental Protection Agency (EPA). In addition, the applicant noted the following:

- (i) planning permission for the proposed waste recovery facility includes a requirement for payment of a special contribution of €139,480 in respect of roads improvement works to the R755 Regional Road leading to the proposed recovery facility. The nature and extent of these road improvement works are clearly identified in submissions made to the planning authorities;
- (ii) the traffic impact assessment chapter of the EIS in respect of the proposed recovery facility identified that the R755 Regional Road is currently operating at approximately 18% of its actual traffic-carrying capacity and that any additional traffic generated by the waste recovery facility can be readily accommodated without any significant effect on road traffic flows; and
- (iii) there will be no additional traffic generated in backfilling and restoring the quarry over and above that already previously permitted at this location.

Technical Committee's Evaluation:

The TC notes that this is a matter relating to traffic outside of the facility boundary and its impact is a matter for the planning authority.

Reason for Decision:

The TC is satisfied that this decision is a matter for the relevant planning authority.

**Recommendation:** No change.

## 6. Tourist Buses and Cruise Ship Visitors

Mr. Albert Kerr suggests that tourist buses will be delayed en route to Glendalough and visitors will be discouraged from visiting the area due to the inconvenience that Roadstone Limited will cause.

Technical Committee's Evaluation:

The TC notes that this is a matter related to tourism which lies outside the remit of the EPA.

Reason for Decision:

The TC is satisfied that this decision lies outside the remit of the EPA.

**Recommendation:** No change.

## 7. Restoration of Environment

Mr. Albert Kerr suggests that the licence would give Roadstone Limited permission not to restore the environment to its original state and instead destroy forever an environment that has developed over many years.

Submission on Objection:

The applicant refutes the assertion in the objection that the proposed development will destroy the environment. The applicant believes the recovery of soil and stone waste in

the backfilling and restoration of a quarry void in a valued and sensitive landscape around the Great Sugar Loaf has been fully assessed, and determined to be an acceptable land-use by both the Local Authority and An Bord Pleanála.

Technical Committee's Evaluation:

The TC notes planning permission was granted for the backfilling and restoration of the quarry. In addition, the EIS states that the backfilling of the quarry void will facilitate the restoration of the site to original ground levels and will serve the reinstatement of the heathland/grassland habitats that were existing on the site prior to the quarrying operation.

Reason for Decision:

The TC is satisfied that the backfilling of the quarry void will facilitate the restoration of the site and its return to a heathland/grassland habitat.

<b>Recommendation:</b> No change.
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**Additional Item**

The TC notes that the Inspector's Report, dated 06/12/2018, refers to the Recommended Decision providing "for the processing of construction and demolition waste to take place in a dedicated building, which will contain any dust as may arise." This statement was inserted in error and no such building or processing of construction and demolition waste is provided for under the PD.



## Environmental Impact Assessment Directive – Reasoned Conclusion Update

The TC has reviewed the assessment in the Inspector's Report and, taking into account the objection and submission on the objection received, and the contents of this TC report, the TC considers that the likely significant direct and indirect effects of the activity have been identified, described and assessed in an appropriate manner as respects the matters that come within the functions of the Agency, and as required by Section 83(2A) and Section 87(1G)(a) of the EPA Act 1992 as amended.

It is considered that the mitigation measures as proposed in the Inspector's Report, will adequately control any likely significant environmental effects from the activity.

It is also considered that the proposed activities, if managed, operated and controlled in accordance with the licence conditions included in the PD, is unlikely to damage the environment as a whole and the risk of potential impacts occurring is not unacceptable.

It is further considered that the proposed activity, if managed, operated and controlled in accordance with the licence conditions included in the PD, will not cause environmental pollution or the breach of any environmental quality or emission standard, and can be authorised by the Agency in accordance with Section 83(5) of the EPA Act.

## Appropriate Assessment – Technical Committee Review

### Appropriate Assessment – Update

The TC notes that updated Conservation Objectives have been issued for the European Sites specified in Table 1 below, since the completion of the Appropriate Assessment Screening Determination, dated 17/01/2017.

In light of these updates, a screening for Appropriate Assessment was undertaken to assess, in view of best scientific knowledge and the Conservation Objectives of the site, if the proposed activities, individually or in combination with other plans or projects are likely to have a significant effect on any European Site. Table 1 lists the European Sites assessed, their associated qualifying interests and Conservation Objectives.

**Table 1:** Updated Conservation Objectives issued by the National Parks and Wildlife Service, since completion of the Appropriate Assessment Screening Determination, dated 17/01/2017.

Site Code	Site Name	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives
000719	Glen of the Downs SAC	<b>Habitats</b> 91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles	<i>NPWS (2018) Conservation objectives for Glen of the Downs SAC [000719]. Generic Version 6.0. Department of Culture, Heritage and the Gaeltacht.</i> <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000719.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000719.pdf</a>

Site Code	Site Name	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives
002122	Wicklow Mountains SAC	<p><b>Habitats</b></p> <p>3110 Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>3160 Natural dystrophic lakes and ponds</p> <p>4010 Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>4030 European dry heaths</p> <p>4060 Alpine and Boreal heaths</p> <p>6130 Calaminarian grasslands of the <i>Violetalia calaminariae</i></p> <p>6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)*</p> <p>7130 Blanket bogs (* if active bog)</p> <p>8110 Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladanii</i>)</p> <p>8210 Calcareous rocky slopes with chasmophytic vegetation</p> <p>8220 Siliceous rocky slopes with chasmophytic vegetation</p> <p>91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p><b>Species</b></p> <p>1355 Otter (<i>Lutra lutra</i>)</p>	<p>NPWS (2017) Conservation Objectives: Wicklow Mountains SAC 002122. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.</p> <p><a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002122.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002122.pdf</a></p>
000725	Knocksink Wood SAC	<p><b>Habitats</b></p> <p>7220 Petrifying springs with tufa formation (<i>Cratoneurion</i>)*</p> <p>91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)*</p>	<p>NPWS (2018) Conservation objectives for Knocksink Wood SAC [000725]. Generic Version 6.0. Department of Culture, Heritage and the Gaeltacht.</p> <p><a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000725.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000725.pdf</a></p>
	Carriggower Bog SAC	<p><b>Habitats</b></p> <p>7140 Transition mires and quaking bogs</p>	<p>NPWS (2018) Conservation objectives for Carriggower Bog SAC [000716]. Generic Version 6.0. Department of Culture, Heritage and the Gaeltacht.</p> <p><a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000716.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000716.pdf</a></p>
000714	Bray Head SAC	<p><b>Habitats</b></p> <p>1230 Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>4030 European dry heaths</p>	<p>NPWS (2017) Conservation Objectives: Bray Head SAC 000714. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.</p> <p><a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000714.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000714.pdf</a></p>
000713	Ballyman Glen SAC	<p><b>Habitats</b></p> <p>7220 Petrifying springs with tufa formation</p>	<p>NPWS (2019) Conservation Objectives: Ballyman Glen SAC 000713. Version 1. National Parks</p>

Site Code	Site Name	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives
		( <i>Cratoneurion</i> )* 7230 Alkaline fens	and Wildlife Service, Department of Culture, Heritage and the Gaeltacht. <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000713.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000713.pdf</a>
002249	The Murrrough Wetlands SAC	<b>Habitats</b> 1210 Annual vegetation of drift lines 1220 Perennial vegetation of stony banks 1330 Atlantic salt meadows ( <i>Glaucopuccinellietalia maritima</i> ) 1410 Mediterranean salt meadows ( <i>Juncetalia maritim</i> ) 7210 Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davalliana</i> * 7230 Alkaline fens	NPWS (2018) Conservation objectives for The Murrrough Wetlands SAC [002249]. Generic Version 6.0. Department of Culture, Heritage and the Gaeltacht. <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002249.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002249.pdf</a>
004040	Wicklow Mountains SPA	<b>Birds</b> A098 Merlin ( <i>Falco columbarius</i> ) A103 Peregrine ( <i>Falco peregrinus</i> )	NPWS (2018) Conservation objectives for Wicklow Mountains SPA [004040]. Generic Version 6.0. Department of Culture, Heritage and the Gaeltacht. <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004040.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004040.pdf</a>
004186	The Murrrough SPA	<b>Birds</b> A052 Teal ( <i>Anas crecca</i> ) A046 Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) A050 Wigeon ( <i>Anas penelope</i> ) A184 Herring Gull ( <i>Larus argentatus</i> ) A195 Little Tern ( <i>Sterna albifrons</i> ) A043 Greylag Goose ( <i>Anser anser</i> ) A179 Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) A001 Red-throated Diver ( <i>Gavia stellata</i> ) <b>Habitats</b> Wetlands	NPWS (2018) Conservation objectives for The Murrrough SPA [004186]. Generic Version 6.0. Department of Culture, Heritage and the Gaeltacht. <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004186.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004186.pdf</a>

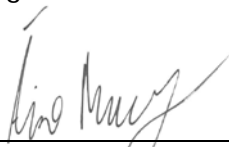
The proposed activities are not directly connected with or necessary to the management of any European site and the Agency considered, for the reasons set out below, that it can be excluded, on the basis of objective information, that the proposed activities, individually or in combination with other plans or projects, will have a significant effect on any European site and accordingly determined that an Appropriate Assessment of the proposed activities was not required for the following reasons:

- There is no hydrological connectivity between the storm water discharges from the facility and the surface waters of the European Sites.
- There are no point source emissions to air from the facility.

## Overall Recommendation

- It is recommended that the Board of the Agency grant a licence to the applicant
- (i) for the reasons outlined in the Proposed Determination and
  - (ii) subject to the conditions and reasons for same in the Proposed Determination, and
  - (iii) subject to the amendments proposed and the reasons set out in this report.

Signed



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Aine Murphy

for and on behalf of the Technical Committee