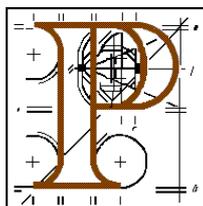


An Bord Pleanála Ref. No.: PL 04.245299

An Bord Pleanála



Inspector's Report

Proposed Development: Planning Permission for the construction of a new gated access to serve the Lagan Concrete site off the Ballynabointra Road. The proposed works include the provision of a wheelwash, 2.4 metre high palisade fencing, traffic signs, road markings, public lighting and all associated site works and services all at Milebush, Ballynabointra, Midleton, Co. Cork.

Planning Application

Planning Authority:	Cork County Council
Planning Authority Reg. Ref.:	15/04529
Applicant:	Healy Brothers Ltd (Lagan Concrete)
Type of application:	Planning permission
Planning Authority Decision:	Grant permission

Planning Appeal

Appellants:	Dee Byrne & Others
Type of appeal:	Third Party against permission
Observers:	None

Date of Site Inspection: 23/10/2015

Inspector: A. Considine

1.0 THE SITE

- 1.1 The site is located in the townland of Ballynabointra, in a rural area, approximately 2.5km to the west of the town of Midleton and 3km to the east of Carrigtwohill. The site is located to the south of the N25 National Primary Road via a small local road with the proposed access located approximately 500m from the junction with the National Road. This local road serves a number of quarries in close proximity to each other.

- 1.2 The site comprises part of a larger quarry Lagan Concrete, which has its primary access point closer to the National Primary Road to the north. The existing road side boundary comprises trees and hedgerows which provide screening to the large quarry operation to the west of the road. The proposed access is to be located at a series of significant bends in the local road and the Board will note that this application has been lodged in conjunction with a concurrent planning application for a quarry extension to the east of the local road. It is proposed that the proposed extension of the quarry will transfer raw material to the existing quarry site and will ensure the ongoing operation of the existing quarry in the area.

2.0 PROPOSED DEVELOPMENT

- 2.1 The application to Cork County Council was for planning permission for the construction of a new gated access to serve the Lagan Concrete site off the Ballynabointra Road. The proposed works include the provision of a wheelwash, 2.4 metre high palisade fencing, traffic signs, road markings, public lighting and all associated site works and services all at Milebush, Ballynabointra, Midleton, Co. Cork.

- 2.2 The Board will note that the concurrent application for the quarry extension across the local road remains to be decided by Cork County Council. On the date of writing this report, a response to the further information request issued by the County Council had been responded to on 15th October, 2015. As part of that proposed development, two scenarios for the extraction and management of rock extractions were presented. One of these scenarios proposes the direct link to the main Lagan Quarry site and the use of the existing infrastructure on this site.

In this regard, the proposed access, the subject of this appeal, is required and proposed.

- 2.3 The proposed development will result in the removal of the existing tree and hedgerow boundary with the setting back of the new boundary in order to achieve sight lines at the proposed entrance. The area between the road edge and the new boundary is to be stoned and large boulders placed on so that no unauthorised parking will occur. In addition to the setting back of the boundary, it is indicated that existing ESB overhead power lines will also have to be diverted. In addition to the boundary of the site being set back, an area of road side boundary on the site across the road, to the east of the road, will also require setting back. These lands are in the ownership of the landowner who is applying for the quarry extension and the necessary permission has been provided to carry out the works.
- 2.4 Overall, it would appear that the purpose of this application is to facilitate the extension of the quarry across the road from the main site only. It would seem that if permission is refused for the quarry extension, there would be no need for the subject proposed development.

3.0 REPORTS ON PLANNING FILE

- 3.1 There are 4 no third party submissions noted on the planning file and the issues raised as summarised as follows:
- David Walsh Jnr & Karen Morrissey:
 - Roads & Traffic issues including noise, dust, pollution, congestion, hedgerow and habitat destruction, amenity and recreational loss.
 - Location of proposed access is closer to residents and will make the condition of the road worse.
 - A letter of complaint was submitted in November, 2014, with regard to the current operation of Lagan's Quarry. No response has been received to date.

- Dee Byrne & Others:
 - Concerns raised regarding increased traffic in the area.
 - Existing issues regarding volume and type of speeding vehicles on the road and the proposal will result in an entrance located closer to residences.
 - The existing condition of the road is poor and increased levels of HGVs would make it worse.
 - A grant of permission will expand the works of the quarry and bring blasting closer to residents. There are existing concerns regarding subsidence.
 - Noise and environmental pollution issues
 - There is structural damage being done to the houses and blasting is very close and frightening.
 - A grant of permission, together with 15/4371, will reduce the value of residential properties in the area.

- David Snr & Kathleen Walsh:
 - Blasting will take place 50m from bedroom window in a house which is 200+ years old.
 - Questions the legal standing of the Pre 63 claim – the site is virgin land
 - Landscape destruction.

- James & Margot O’Byrne:
 - Proximity of quarry to home
 - Traffic issues
 - Concentration of quarries in the area have destroyed the environment.

3.2 There are 3 no external reports noted on the planning file from the following:

An Taisce: Notes that all issues of planning compliance needs to be addressed.

Gas Networks Ireland: Advises no comments to be made.

Irish Water: No objections

- 3.3 There are 2 no. internal reports noted from other departments within Cork County Council on file from the following:

Area Engineer: Requests that the applicant submit details and drawings for the upgrade of the existing public road that abuts the applicants boundary. The road front boundary fence/ditch to be set back a minimum of 2 metres from the road edge over the entire road front boundary, the bend in the road to the south of the south of the entrance to be realigned to improve sightlines and road safety, storm water drainage to be incorporated within the proposed design.

Environment Section: Advises no objections to the proposed development subject to the inclusion of conditions.

- 3.4 The Planning report considered the proposed development having regard to the planning history pertaining to the subject site and the concurrent proposed development within the immediate area, the content of the engineering sections internal report, third party submissions and the plans and particulars submitted with the planning application. The report notes that the third party submissions are effectively the same objections received under PL ref 15/4371, which relate to a proposed extension to the quarry operations. The report notes that this proposed development has been lodged to facilitate a rock extraction scenario that will lessen the impact on the public road. It is noted that the application for the quarry extension is under review and the outcome unknown as yet.

The report considers that the proposed development is for a new access and provided same can be satisfactorily developed vis a vis requisite site distance / public road, there is no overall objection to same. The wider issue pertaining to its functionality / suitability within the overall quarry operation cannot be fully determined. The report notes that the Area Engineer requested further information and recommends that further information be sought in line with his request.

- 3.5 The Senior Executive Planner also provided a report in relation to the proposed development. This report considered, and endorsed the Executive Planners assessment and recommended that further information be sought.
- 3.6 Cork County Council sought further information in accordance with the Area Engineers report. A response to this further information request was lodged on the 25th June, 2015.
- 3.7 Following the submission of the response to the FI request, there were no further submissions from third parties or external bodies. The Area Engineer of Cork Co. Co. considered the response to the further information request and advised that there was no objection to the proposed development subject to compliance with conditions.
- 3.8 The SEP considered the response to the further information request, together with the report from the Area Engineer. Permission is recommended subject to conditions.

4.0 DECISION OF THE PLANNING AUTHORITY

The Planning Authority decided to grant planning permission for the proposed development subject to 12 no. conditions.

5.0 RELEVANT PLANNING HISTORY

There is no relevant planning history associated with the subject site.

There is a concurrent planning application with Cork County Council for lands to the east of the currently proposed development site.

15/4371: Permission sought for the extension of existing limestone quarry. The application includes new entrance, septic tank and percolation area, prefabricated office building, wheel wash and associated site works. This application relates to lands across the public road from the current proposed development site and Healy

Investment Ltd is the applicant. No decision has been made by Cork County Council at the time of completing this report.

6.0 POLICY CONTEXT

Cork County Development Plan, 2014:

6.1 The Cork County Development Plan 2014 is the statutory Development Plan for County Cork. The subject site is located within an area of the County which has identified as County Metropolitan Cork Strategic Planning Area and within a prominent and strategic Metropolitan Greenbelt Area.

6.2 The subject development site is located approximately 500m to the south of the N25 and within a prominent and strategic Metropolitan Greenbelt Area. Chapter 13 of the CDP deals with green infrastructure and the environment and section 13.8 deals with Prominent and Strategic Metropolitan Greenbelt Area. The Plan provides that such greenbelt areas 'require the highest degree of protection because they are made up of the prominent open hilltops, valley sides and ridges that give Metropolitan Cork its distinctive character and the strategic, largely undeveloped gaps between the main Greenbelt settlements. This plan recognises the importance of protecting these areas'.

6.3 County Development Plan Objective GI 8-1 deals with Prominent and Strategic Metropolitan Greenbelt Areas requiring Special Protection and provides as follows:

'Protect those prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Cork Greenbelt and those areas which form strategic, largely undeveloped gaps between the main Greenbelt settlements. These areas are labelled MGB1 in the Metropolitan Greenbelt map (Figure 13.3) and it is an objective to preserve them from development'.

6.4 Chapter 6 of the Plan deals with Economy and Employment where section 6.12 deals with Mineral Extraction. Section 6.12.3 identifies that there are distinct clusters (sand, gravel and stone quarries) at locations

near Carrigtwohill, Midleton, etc. The subject site is located within such a cluster of quarries.

6.5 Other relevant objectives include as follows:

Objective EE 12-1: Safeguarding Mineral Reserves

Objective EE 12-2: Mineral Strategy

Objective EE 12-3: Impacts of Mineral Extraction

6.6 In terms of landscape protection, the plan seeks to discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments
Objective GI 6-1.

7.0 GROUNDS OF APPEAL

7.1 This is a third party appeal against the decision of the Planning Authority to grant permission for the proposed development, subject to conditions. The grounds of appeal are summarised as follows:

- The application is linked to a concurrent application for an extension to the quarry (P15/04371) which has not yet been determined by Cork County Council. It is submitted that the application cannot be determined in isolation as both applications are mutually dependant on each other.
- It is considered that the two separate applications amount to project splitting. An EIS is required for the proposed extension to the quarry.
- The Ballynabointra Road is substandard in width and alignment and does not have the capacity to accommodate additional truck movements.
- The development would constitute a traffic hazard. The proposal facilitates unrestricted quarry traffic onto a substandard local road.
- Residents in the area are surrounded by quarry operations for many years and it is submitted that the proposed development will

adversely impact on the residential amenities of the area as it facilitates unrestricted quarry traffic onto a substandard local road.

- It is submitted that the description of the development is somewhat misleading as the proposed gated access is actually not intended to serve the Lagan Concrete site but rather is intended to serve a future proposed use and development, namely a new quarry located across the road from the application site and for which permission has not yet been granted.
- The traffic assessment submitted in support of the application only assessed the technical merits of providing a new entrance and has not assessed the use of the entrance. It is submitted that an inadequate assessment has been undertaken due to a lack of information.

8.0 RESPONSES

8.1 Planning Authority:

The Planning Authority has not responded to this appeal.

8.2 First Party:

The first party, through their agent, has submitted a response to this third party appeal. The submission is summarised as follows:

- It is submitted that the appeal is disingenuous and commercially motivated as one of the appellants operates a quarry immediately adjacent to the subject site.
- In terms of the issue of project splitting:
 - it is submitted that the current application has no interest in the application for the quarry expansion application (applicants HIL). The proposed development is to facilitate the potential transport of stone from the HIL site to the Lagan Concrete site for processing under contract. This would make sustainable use of existing quarrying infrastructure in the area.
 - The proposed developments are to be undertaken by two different parties.

- An EIS has been submitted in support of the proposed quarry extension, being a development which requires EIA
 - Traffic and transportation issues are considered under the submitted EIS.
- The development is not premature as it can be implemented regardless of the outcome of the HIL application. Conversely, the HIL application could also be permitted without this subject proposal with processing happening on the HIL site.
 - In terms of traffic, it is submitted that the proposed development will not generate any traffic in its own right. The traffic will be generated on the HIL site and will be addressed under their EIS.
 - If permitted, the development will improve road safety by removing overgrown hedgerows, improving sightlines and softening the bends. It is submitted that Lagan Concrete already have an access point from their quarry so there is no reason why they would seek to utilise this application for the purposes other than its intended use.
 - There is no intention of directing all Lagan Concrete traffic through the proposed entrance and the existing entrance will continue in use. The development will only facilitate the crushing of stone from the HIL site.
 - There is a long history of quarrying in this area and it is a strategic asset for driving economic development in the Cork area. Given that existing quarries in the area are nearing exhaustion and new quarries are developed, it is unlikely that the existing traffic levels will change.
 - There is no ambiguity in the description of the proposed development.

9.0 OBSERVERS

9.1 There are no observations noted in relation to this appeal.

10.0 ASSESSMENT

10.1 Having regard to the nature of this appeal, and having undertaken a site visit, as well as considering the information submitted, and proposed development, I suggest that it is appropriate to assess the proposed development under the following headings:

- The principle of the development and compliance with policy
- Roads & Traffic
- Other issues
- Appropriate Assessment

10.2 Principle of the development and compliance with policy:

10.2.1 I consider it reasonable to consider the principle of the proposed development as it relates to Policy & the Cork County Development Plan 2014.

10.2.2 The site is located within a prominent and strategic Metropolitan Greenbelt Area. The Plan provides that such greenbelt areas 'require the highest degree of protection because they are made up of the prominent open hilltops, valley sides and ridges that give Metropolitan Cork its distinctive character and the strategic, largely undeveloped gaps between the main Greenbelt settlements. This plan recognises the importance of protecting these areas'. It is a further objective of the Plan, GI 8-1, to preserve such areas from development. In terms of landscape protection, the plan seeks to discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments Objective GI 6-1.

10.2.3 The proposed development will require the extensive removal of the existing tree and hedgerow boundary in order to facilitate the development of the proposed new access into the quarry. In this regard, it may be considered that the proposal would not be supported by the above objective and if permitted, will have a visual impact in this rural area.

10.2.4 However, it must also be acknowledged that the subject site, while being located within an identified greenbelt area, is also located within an identified distinct cluster of sand, gravel and stone quarries as identified in Section 6.12 of the CDP. In this regard, I consider that the principle of the proposed development must be considered in this light. Therefore, in principle, I consider that the development can be considered as being acceptable. Suitability issues however, must also be considered.

10.3 Roads & Traffic issues:

10.3.1 Access to the site is via a county road which currently serves a number of quarry developments, including the current Lagan Concrete quarry. The primary access to this quarry is located to the north of the currently proposed access in an area which provides quick and easy access to the national road network. The information provided indicates that the existing access to the quarry will continue in use as the primary access to the overall quarry.

10.3.2 Further to the above, the Board will note that the proposed access is to be located at a section of the county road where there is a series of significant bends in the road which significantly restrict sight distances, particularly to the south. In order to achieve the necessary sight distances, it is proposed to remove an extensive area of existing hedgerow boundary as well as removing hedgerow across the road from the subject site in order to achieve visibility. The area between the proposed set back boundaries and the public road will be stoned over with boulders placed on same to prevent unauthorised parking.

10.3.3 In order to construct the entrance to the quarry, I am concerned that extensive lengths of existing natural roadside boundary are to be removed. The proposal will require the removal of hedgerow on both sides of the road and will certainly have a visual impact in this rural landscape. I acknowledge that the proposal is primarily to facilitate the transfer of raw material from a proposed quarry extension across the road from the site. In this regard, I would suggest that in the absence of this extension proposal, I would have serious reservations, particularly in terms of the visual impact.

10.3.4 I note the comments of the third party appellants in relation to the information provided in support of this proposed development. In particular, concern is raised regarding the levels of traffic which will use the proposed access. Reference is also made with regard to the comments of the Planning Officer which suggest that the 'wider issue pertaining to its functionality / suitability within the overall quarry operation cannot be fully determined at this time'. The primary concern in this regard is that it appears that a new commercial quarry access has been granted permission without any restrictions or control. I would also consider this to be a concern. The matter is discussed further below.

10.3.5 In addition to the above, the third party submits that the carrying capacity of the road is inadequate to accommodate the proposed development. The local road onto which the proposed access will serve is very narrow and certainly, the location of the proposed access is problematic given the horizontal alignment of the road. The provision of the proposed access will require the extensive removal of the existing roadside boundaries in order to achieve the required 70m sight distance in both directions. I note the intention of the applicant that the proposed access will be used to transfer raw material from the proposed quarry extension across the road into the existing quarry where the existing infrastructure will be utilised. As such, it is considered that the carrying capacity of the full road is not critical as it is proposed that the distance will be 20m between the proposed access to the proposed quarry across the road and the current proposed access. I also note that the Cork County Council Area Engineer has indicated no objection to the proposal.

10.4 Other Issues

10.4.1 I have considered the full detail of the proposed development as well as the submissions made in relation to same. Clearly the third parties have concerns regarding the general quarrying activities in the overall area and there would seem to be some objection to the proposed quarry extension which is currently being considered by Cork County Council. While I acknowledge these concerns, I am restricted to considering the proposal before the Board. The proposal does not relate to the quarry extension, but is an element required to facilitate the extension. The third party has submitted that both proposed developments are intrinsically linked and therefore cannot be

considered independently. Reference is also made to possible project splitting.

10.4.2 I have looked at the current proposal with Cork County Council regarding the proposed extension of the quarry, purely to provide a complete assessment. The Board should note that an EIS has been prepared to support the said extension. The indication is that there is an agreement in place between the current applicant and Mr. Healy, proposer of the quarry extension, to supply the existing Lagan Concrete quarry with raw material subject to planning permission being granted. Should this situation arise, it is submitted that the transportation of raw material effectively across the road to the existing quarry site would make sustainable use of existing quarry infrastructure in the area.

10.4.3 The application details submitted by the first party, would clearly suggest that the proposed access is required to support the proposed extension of quarrying activities on lands across the road from the main quarry. It is further submitted, however, that both proposals can be implemented independently of each other. I also note that the potential environmental impacts associated with the proposed development of the access have been considered as part of the overall EIS provided in support of the proposed extension to the quarry. The first party in this instance considers that the proposed development of the access as proposed will have no significant effects on the environment in its own right and therefore, can be considered without EIA.

10.4.4 It is therefore logical, in my opinion, to conclude that any grant of permission in this instance should include a condition prohibiting commencement of development of the proposed new access until such time as a positive decision has been made with regard to the extension of the quarry across the road. Should permission not be forthcoming for the quarry extension, then it should follow that the access as proposed in this appeal will not be constructed. I would be concerned however, that this would be appropriate given that the 'red line' of the proposed development site includes just the area of the proposed access, while the 'blue line' on the submitted plans identifies only the main quarry to the north of the current proposed development site. There is no connection to the proposed quarry extension, for which it is indicated, that the proposed entrance is to support. Again, I would note that there

is no permission for the quarry extension, and in this regard, I suggest that it appropriate at this stage, not to consider it. As such, I consider that a refusal of planning permission is the most appropriate conclusion at this time.

10.4.5 I note the other comments made by the third party in terms of the potential impacts on existing residential amenity. While I acknowledge the issues raised, I would note that many relate to the proposed extension of the quarry on lands opposite the current proposed development site. The current proposed development, subject to compliance with conditions, will not represent a significant or adverse impact on existing residential amenities in the vicinity of the site.

10.5 Appropriate Assessment:

10.5.1 The subject site is located at a distance of approximately 2.5km to the north of Great Island Channel, pNHA and SAC Site Code 001058 and Cork Harbour SPA Site Code 004030. Given that a Natura 2000 site is located within 15km of the site, the Board will be required to consider the potential effects of the proposed development on the identified SPA. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *"if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects"* (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.

10.5.2 Having considered the nature of the proposed development, being the provision of a new access to serve the existing Lagan Concrete Quarry site and given the restricted scale of same on an existing greenfield rural site, together with the separation distance between same and the Natura 2000 site, it is appropriate to conclude that this project should not proceed to Stage 2 of the AA process and that an Appropriate Assessment is not necessary as there is little or no potential for significant effects to Natura 2000 sites.

11.0 CONCLUSIONS & RECOMMENDATION

11.1 Conclusion:

11.1.1 Having regard to the provisions of the current Cork County Development Plan, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application, I am not satisfied that the proposed development in principle, can be considered acceptable or accords with the policies of the Cork County Development Plan. In light of the absence of any grant of planning permission for the quarry extension, indicated as being the reason for the proposed new entrance, together with the fact that the existing quarry is already served by a suitable and appropriate access to the north of the subject site, I am satisfied that there is no current need for a second access to the quarry.

11.1.2 In addition to the above, the Board will note the location of the site within the Metropolitan Greenbelt Area where it is the objective, Objective GI 8-1, to 'Protect those prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Cork Greenbelt and those areas which form strategic, largely undeveloped gaps between the main Greenbelt settlements. These areas are labelled MGB1 in the Metropolitan Greenbelt map (Figure 13.3) and it is an objective to preserve them from development'. In terms of landscape protection, the plan seeks to discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments Objective GI 6-1.

11.1.3 I have considered all aspects of site suitability and conclude that the proposed is not acceptable as presented and if permitted, the development would represent a significant visual intrusion in this Greenbelt and rural landscape, would result in a significant loss of existing amounts of trees and hedgerows contrary to the requirements of Objective GI 6-1 and would set an most undesirable precedent for similar type developments which would further erode the visual amenity of this rural landscape.

11.1.4 However, should the Board be minded to consider a grant of planning permission in this instance, the development should be considered in the context the it was presented. A condition should be included in any

grant of permission preventing the implementation of the permission until such time as a grant of permission has issued for the proposed extension to the quarry, currently being pursued under Cork County Council reference 15/4371. In the event that permission is refused for the development sought under PA ref 15/4371, then the proposed access should not be constructed.

11.2 Recommendation:

It is recommended that planning permission be REFUSED for the construction of a new gated access to serve the Lagan Concrete site off the Ballynabointra Road. The proposed works include the provision of a wheelwash, 2.4 metre high palisade fencing, traffic signs, road markings, public lighting and all associated site works and services all at Milebush, Ballynabointra, Midleton, Co. Cork, for the following reasons and considerations:

REASONS & CONSIDERATIONS

Having regard to the information submitted in support of this appeal, An Bord Pleanála is not satisfied that the development, as it is currently presented accords with the policy objectives of the Cork County Development Plan in that the site is located within the Metropolitan Greenbelt Area of the County and where it is the objective, Objective GI 8-1, to 'Protect those prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Cork Greenbelt and those areas which form strategic, largely undeveloped gaps between the main Greenbelt settlements. These areas are labelled MGB1 in the Metropolitan Greenbelt map (Figure 13.3) and it is an objective to preserve them from development'.

In addition to the above, and in terms of landscape protection, the Board considers that the development as proposed, is not acceptable as presented and if permitted, the development would represent a significant visual intrusion in this Greenbelt and rural landscape, would result in a significant loss of existing amounts of trees and hedgerows contrary to the requirements of Objective GI 6-1 and would set an undesirable precedent for similar type developments which would further erode the visual amenity of this rural landscape.

Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

27th October, 2015