



An  
Bord  
Pleanála

## Inspector's Report PL17.248115

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<b>Development</b>	Retention of concrete silo structure with a footprint of 99m <sup>2</sup> and measuring 28.6 metres in height associated with the existing permitted precast concrete facility.
<b>Location</b>	Trammon, Rathmoylan, Co. Meath.
<b>Planning Authority</b>	Meath County Council.
<b>Planning Authority Reg. Ref.</b>	TA 161419.
<b>Applicant</b>	Keegan Precast Limited.
<b>Type of Application</b>	Retention of Planning Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party -v- Grant
<b>Appellants</b>	(i) An Taisce, (ii) Edo Advocacy.
<b>Observer</b>	Peter Sweetman.
<b>Date of Site Inspection</b>	9 <sup>th</sup> May, 2017.
<b>Inspector</b>	Paul Caprani.

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## **1.0 Introduction**

- 1.1. PL17.248115 relates to two third party appeals against the decision of Meath County Council to issue notification to grant planning permission for the retention of a 28.6-metre-high silo associated with an existing precast concrete facility within a quarry in Trammon, Rathmoylan, County Meath. The grounds of appeal argue that the cumulative impact arising from all unauthorised works on site have not been adequately assessed in terms of EIA. The proposal could give rise to significant traffic generation and that a significant level of unauthorised works have taken place on site.

## **2.0 Site Location and Description**

- 2.1. The existing quarry run by Keegan Precast Limited is located approximately two kilometres to the north-west of the small village of Rathmoylan in west County Meath. The site is bounded by the R156 which runs along the southern boundary of the site. The existing quarry is large, extending almost a kilometre north from the R156 and at its widest, it is approximately 300 metres in width. The main area of excavation is located in the southern part of the site while the structure for which retention of planning permission is sought is located in the northern part of the site adjacent to a permitted block making facility.
- 2.2. The silo structure for which retention of planning permission is sought is 28.6 metres in height and occupies a rectangular footprint of 9 metres by 9 metres. It accommodates four separate steel funnels at its lower level. Stair access to the top of the silo is located in a separate block adjoining the southern elevation. The silo is ancillary to and associated with the established industrial precast facility for the testing and developing of a prototype concrete silo for export to the UK. The company has designed this prototype precast twin wall concrete silo, which is the subject of the current appeal. The prototype concrete silo erected on site facilitates the on-going testing and monitoring of potential concrete products.
- 2.3. The structure is located directly adjacent to and within the curtilage of the existing precast concrete manufacturing facility.

### **3.0 Proposed Development**

- 3.1. Planning permission is sought for the retention of the concrete silo structure for a three-year period on the subject site.

### **4.0 Planning Authority Decision**

#### **4.1. Planning Decision**

- 4.1.1. Meath County Council granted retention of planning permission for the concrete silo on site. Condition No. 2 of the permission states that the silo shall cease after a period of 3 years from the grant of this permission unless otherwise approved by the Planning Authority.

#### **4.2. Documentation Submitted with the Planning Application**

- 4.2.1. The application was accompanied by a planning report prepared by Declan Brassil and Company which outlines the development and planning policy context as it relates to the development. The potential impacts arising from the proposed development are also assessed in the covering letter. A screening assessment was also carried out in respect of Appropriate Assessment where it was concluded that no significant effects are likely to arise either alone or in combination with other plans and projects on Natura 2000 sites in the vicinity.
- 4.2.2. A number of letters of objection were submitted the contents of which have been read and noted.
- 4.2.3. The planner's report sets out details of the extensive planning history associated with the site and sets out national and local planning policy. The large number of submissions on file objection to the proposed development are also set out. The report states that the silo while 28.6 metres, high is proposed for a temporary duration and is over 800 metres from the public road and for this reason it is considered acceptable. The report notes that there are no details in relation to noise generated by the silo. However, this issue can be dealt with by imposing appropriate conditions. The nearest recorded monument is located 900 metres to the south of the site and it is not considered that the proposal will have any impact on the

heritage of the area. It is therefore concluded that the proposed development is acceptable and it was recommended that planning permission be granted.

- 4.2.4. In its decision dated 6<sup>th</sup> February, 2017 Meath County Council granted retention of planning permission for the silo structure subject to 8 conditions.

## 5.0 Planning History

- 5.1. The extensive planning history associated with the site is set out in detail in the local authority's planner's report contained on file. Details of a number of decisions are also contained in a pouch to the rear of the file and are briefly summarised below.

Under TA/S5/1655 Meath County Council determined under the provisions of Section 5 that a lime drying and batching plant incorporating storage bays and a storage hopper and an enclosure over the plant for the purposes of dust control constituted development which was not exempted development and an exemption certificate was refused on this basis.

Under TA/S5/1656 a declaration was sought under Section 5 as to whether or not an ESB substation installed for the purposes of supplying power to the precast concrete facility constituted development which required planning permission. Again Meath County Council in its decision dated 13<sup>th</sup> January, 2017 issued a declaration that the works undertaken constituted development requiring planning permission.

Under Reg. Ref. TA/S5/1623; Meath County Council under the provisions of Section 5 issued a declaration that works including an ESB substation and lime drying and batching facility and an enclosure over the plant for the purposes of dust control constituted development which requirement planning permission.

Under Reg. Ref. 00/2075 Meath County Council granted planning permission for a mobile block making plant concrete yard and water settlement tank including temporary offices and storage shed at the subject site. The decision was dated the 6<sup>th</sup> July, 2001.

Under Reg. Ref. 97/1868 Meath County Council granted planning permission for a quarry on 8.5 hectares of land together with a workshop, a mobile pressing plant, wheel wash, weighbridge and fuel storage unit together with truck parking subject to 20 conditions. This decision was dated 7<sup>th</sup> December, 1998.

Under TA/20408 planning permission was granted to Keegan Quarries for the erection of a building to manufacture concrete floors, pipes, blocks, bricks and associated products. Permission was granted on the 9<sup>th</sup> day of June, 2003.

Under PL17 206702, An Bord Pleanála upheld the decision of Meath Co. Council and granted planning permission for the continuance of, and extension to the quarrying activity on the subject site. The extension amounted to 4.88 ha and an EIA accompanied the application.

Under TA/130400 Meath County Council granted an extension of duration of planning permission for the continuance and extension of quarrying of limestone and associated works and it is stated that this permission will expire on the 5<sup>th</sup> day of August, 2018.

Under TA/130401 Meath County Council refused permission for the extension of duration of planning permission TA/900976 which involved the extension of 2.85 hectares to the existing extraction area, the demolition of administration office, workshop, house, garage and associated accommodation works. The decision was dated 24<sup>th</sup> July, 2013.

Under TA/130581 Meath County Council granted an extension of duration of planning permission under Ref. No. TA/900976 for the extension of 2.85 hectares to an existing extraction area, demolition of administration office, workshop, house and garage and associated accommodation works. This decision was appealed but the Board upheld the decision to grant permission under PL17. 235960.

## **6.0 Grounds of Appeal**

### **6.1. Appeal by An Taisce**

- 6.1.1. This appeal argues that the proposed development raises significant legal issues regarding cumulative environmental impact and integrated environmental impacts assessment for the intensification of an EIA threshold development. It is stated that the application in this instance constitutes further piecemeal development or project splitting for an EIA threshold development. The application forms part of a significant intensification of activity on site. The application also has impact on the time period and compliance conditions of the existing permission including the cessation of the

quarry operation and site reinstatement. This application is being lodged in parallel with another application which seeks to provide a tunnel under the R156 in order to accommodate development to the south of this road.

- 6.1.2. The reports on behalf of Meath County Council do not assess and address the legal and compliance status of existing development on site. No compliance information has been provided by the applicant's consultants on the overall quarrying and processing on site. The entire compliance status of the site needs to be addressed. Reference is made to the height of a significant amount of material displaced on site. It is suggested that past failures to comply was not invoked in the case of the current application on the grounds of continued intensification and unauthorised development. It is also suggested that an unauthorised steel structure of a very significant scale was commenced in 2017 without the benefit of planning permission.
- 6.1.3. It is also stated that the traffic generation impact arising from the proposed development has not been adequately assessed. A full assessment is required. The proposal is contrary to a number of policy statements in the Meath Development Plan including the impact of quarrying industries on the visual amenities of the area and the need to minimise adverse impacts on the road network.

## 6.2. **Appeal by Eco Advocacy**

- 6.2.1. This appeal raises similar concerns in relation to unauthorised development on site and reference is made to a large steel "factory type structure" which was commenced in January, 2017.
- 6.2.2. Significant noise continues to emanate from the site causing much nuisance. It is noted that the latest enforcement notice gives the developer some 8 weeks within which to comply with planning requirements rather than seeking immediate cessation of works. It is suggested that enforcement is very poor at the subject plant. It is suggested that there is a significant amount of unauthorised development on the site including the presence of a concrete batching plant. Reference is also made to the two parallel consents sought at this site. The other relates to a tunnel under the R156 to facilitate development to the south of the road.
- 6.2.3. It is contended that dividing some many developments into separate applications constitutes project splitting and frustrates the need for EIA. It is submitted that the

scale of the unauthorised development is sufficient of itself to warrant EIA. It appears that no permission has been obtained to import sand and gravel for concrete production. It is suggested that the total site area is 37 hectares and this in itself triggers an EIA requirement.

- 6.2.4. Reference is made to a number of conditions attached and it is considered that the amount of financial contribution that the applicant is required to pay is derisory. The grounds of appeal go on to take issue with some of the statements contained in the planner's report including the contention that the proposal has not resulted in any increase in traffic movements to and from the site and that the height of the structure is considered acceptable.
- 6.2.5. The Board is referred to the submission originally made to Meath County Council in respect of this application which details the various unauthorised development which is taking place on site.

## **7.0 Appeal Response**

### **7.1. Response on behalf of the Applicant**

- 7.1.1. A submission was received from Declan Brassil Company Limited.
- 7.1.2. The first party of the response sets out the background to and description of the development for which retention of planning permission is currently being sought. It is stated that the silo is ancillary to and associated with the established industrial precast facility and facilitates the design, testing and development of a prototype concrete silo for export to the UK. The prototype concrete silo erected on site facilitates the on-going testing and monitoring of potential products. The prototype concrete silo will be produced primarily for export to the UK markets. The on-going operation of the precast plant together with the quarry continues to secure rural based employment in the area. Reference is made to the planning policy context and how the proposal complies and supports many of the policy statements contained in the National Spatial Strategy and the Meath County Development Plan.
- 7.1.3. In respect of the issues raised grounds of appeal, it is noted that a significant issue raised in the grounds of appeal relate to enforcement matters on the precast manufacturing site and the adjoining quarry site. It is submitted that these matters



are primarily matters for consideration by the Planning Authority as the enforcement authority under the Planning and Development Acts and are of limited, if any relevance to the Board's determination of this appeal. Accordingly, the response is confined to matters raised in the appeal documents which relate to the impact of the development to be retained under the current application.

- 7.1.4. With regard to visual impact it is stated that the silo structure is situated adjacent to and within the curtilage of an established industrial precast factory building. The topography, boundary hedgerows and tree cover effectively screen the silo from the public road in the vicinity of the quarry. It is stated that the silo is effectively screened from surrounding residential dwellings due to the undulating landscape.
- 7.1.5. The site is located in an area designated in the development plan as being 'moderately sensitive' with a medium capacity to absorb larger scale development such as large agricultural buildings. It is considered therefore that the character and capacity of the landscape to absorb development of this nature will result in a temporary development and shall not have a significant adverse impact on the visual amenities of the area.
- 7.1.6. With regard to traffic and transport issues it is stated that the applicant has confirmed that no material is or will be imported into the site as a result of the operation of the silo. The adjoining block plant will process and store materials extracted from the quarry and this reduces the need to import such materials which will give rise to associated traffic movements. Furthermore, the volume of traffic associated with exporting manufacture concrete products is significantly less than if the material was sold off-site as limestone aggregate. Accordingly, the silo facilitates a reduction of traffic movements associated with the established associated activities.
- 7.1.7. With regard to EIA, it was respectfully submitted that the development proposed to be retained does not come within any of the listed categories or classes set out in the 2001 Regulations as they relate to EIA. The storage facility does not give rise to any increase in the permitted output of the established precast and concrete block manufacturing facilities. Accordingly, an EIA is not mandatory or necessary in this instance.

## 7.2. **Planning Authority's Response to Grounds of Appeal**

- 7.2.1. The response on behalf of the Planning Authority sets out the issues raised in the grounds of appeal and states that it determined that the application lodged was valid and the proposed development was considered to be consistent with the policies and objectives contained in the Meath County Development Plan. Meath County Council are currently taking enforcement action against unauthorised structures on site. The Planning Authority would respectfully refer the Board to the planner's report for the application dated 2<sup>nd</sup> February, 2017. The Board is therefore respectfully requested to uphold the decision of the Planning Authority.

## 8.0 **Further Submissions**

- 8.1. A further submission was received from **Eco Advocacy** which specifically commented on the grounds of appeal submitted by An Taisce. This further submission fully supports and endorses the issues raised by An Taisce in its grounds of appeal.
- 8.2. A further submission from **An Taisce** specifically comments on the other third party submission received by Eco Advocacy. It states that the concerns raised in this appeal raise major enforcement compliance issues which need to be addressed as a preliminary matter.

## 8.3. **Observation**

An observation was submitted by Peter Sweetman and Associates and is summarised below:

- The Planning Authority has failed to screen this development for the requirement of an EIA.
- The Planning Authority failed to consider compliance with conditions of permissions granted.
- The Planning Authority failed to consider this development in conjunction with TA161345.

- The Planning Authority failed to consider the validity of the registration under Section 251A.
- No EIA was carried out on previous applications relating to the site namely TA/30334 and PL17.206702.
- The Planning Authority failed to consider whether it was legal to grant retention.
- The Planning Authority failed to consider other unauthorised development on the site.

## 9.0 Planning Policy Context

9.1. The site is governed by the policies and provisions contained in the Meath County Development Plan 2013 – 2019. Section 10.12 specifically relates to the extractive industry. It notes that *“Meath contains a variety of natural resources such as building material products in the form of sand, gravel, storm reserves including high purity limestone and shale used in cement and magnesium manufacture and base metal deposits. The potential of these resources to underpin construction output and provide employment and economic growth in the local and regional economy is recognised as is the need to exploit these in an environmentally sound and sustainable manner”*.

9.2. Policies identified within the County Development Plan with regard to the extractive industry and building materials production are as follows:

- To ensure that the project associated with the extractive industry carry out screening for appropriate assessment in accordance with Article 6(3) of the EEC Habitats Directive where required.
- To facilitate the exploitation of the county’s natural resources and to exercise control over the types of development taking place in areas containing proven or potential deposits whilst also ensuring that such industries are carried out in a manner which would not unduly impinge on the visual amenity or environmental quality of the area.
- To ensure that the extractive industry minimises adverse impacts on the road network in the area and that the full cost of road improvements, including during

operations and at a time of closure which are necessary to facilitate extractive industries are borne by the industry itself.

- To ensure that the extraction of minerals and aggregates minimise the detracting from visual quality of the landscape and do not adversely affect the environment or adjoining existing land uses.
- To ensure that all existing workings shall be rehabilitated to suitable land uses and that all future extraction activities will allow for that rehabilitation of pits and proper land use management. The use of landfilling with inert material is the preferred method. Each planning application will be considered on a case by case basis and where relevant will be dealt with under the relevant Regional Waste Management Plan.
- To ensure that development for aggregates/mineral extraction processing and associated concrete production does not significantly impact on the following areas.
  - Existing and proposed Special Areas of Conservation.
  - Special Protection Areas.
  - Proposed Natural Heritage Areas.
  - Other areas of importance for the conservation of flora and fauna.
  - Areas of Significant Archaeological Potential.
  - In the vicinity of a Record Monument.
  - Sensitive Landscapes.
  - World Heritage Sites.

## 10.0 Planning Assessment

I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I consider the following issues to be pertinent to determining the current application and appeal before the Board.

- Issues of Enforcement and Non-Compliance with Previous Permissions.
- EIA Requirement.
- Visual Impact.
- Traffic Impact.
- Nature of Financial Conditions Attached.

#### 10.1. **Issues of Enforcement and Non-Compliance with Previous Permissions**

The planning history associated with the site and the contention that significant issues in respect of unauthorised development and non-compliance with conditions is a major theme of both third party appeals. It is clear that there have been enforcement issues in respect of works undertaken on the site in question. Meath County Council have acknowledged that there have been on-going enforcement issues associated with the site. However, it is clear that the Council do not consider these enforcement issues to be so significant as to warrant a refusal of planning permission for the current application before the Council. I consider that any issues in relation to unauthorised developments and enforcement proceedings are on-going and are a matter between the Planning Authority as the enforcement authority, and the applicant. It appears that the applicant in applying for retention of planning permission for the current development before the Board, is engaging in efforts to regularise any unauthorised activity on site. I consider the application before the Board should be adjudicated on its merits and I do not consider it appropriate to refuse planning permission for the retention of the proposed silo for a temporary three-year period should be refused specifically on grounds relating to failure to comply with the planning code in respect of other works carried out on site. The current application before the Board should be evaluated on its merits and in accordance with the proper planning and sustainable development of the area.

#### 10.2. **EIA Requirement**

The submission from An Taisce and the observation received from Mr. Peter Sweetman argues that the cumulative impact arising from the various works undertaken on site should be subject to EIA. The Board will be aware that the applicant received planning permission for a quarry under 97/1868. This parent

application was the subject of subsequent applications for extension of durations of planning permissions in respect of the parent application. These applications were assessed by the Planning Authority and granted planning permission. The Board will note that the two appeal files attached were subject to EIA, and the Board granted permission in both instances. The current application before the Board specifically relates to the retention of a silo 28.6 metres in height occupying a footprint of approximately 100 square metres. It forms part of a larger established precast concrete manufacturing facility which has the benefit of planning permission. The proposed development for which retention of planning permission is currently sought is modest in size and scale, and as pointed out in the applicant's response to the grounds of appeal would not fall under any of the categories for which an EIA would be required. I therefore do not consider that an EIA for the application currently before the Board is either justified or warranted in this instance.

### 10.3. **Visual Impact**

The structure for which retention of planning permission is sought is large at 28.6 metres in height. However, it is set amongst existing buildings associated with the precast concrete facility and is therefore nestled within an industrial type setting - albeit in a rural area. Furthermore, the structure is located to the rear of the quarry and approximately 800 metres from the R156 Regional Route. Having visited the site, I noted that the structure is not visible from any vantage point along the R156 in the vicinity of the site. In fact, the Board will note that the structure is only barely visible from within the confines of the parking area and reception office of the quarry. The structure is located within a quarry floor and the intervening topography surrounding the site screens the structure from views of the wider area.

Finally, in relation to the issue of visual amenity the structure in question is located within an existing precast concrete facility which has the benefit of planning permission and surrounded by a quarry. In my view the character of the area therefore has been significantly altered from a greenfield site in a rural area and this makes the building for which retention is sought more acceptable in my view. In addition, the Board will note that the permission sought under the current application relates to a three-year period only. This suggests that the structure will not be a permanent structure in the landscape over the long term.

#### **10.4. Traffic Impact**

With regard to the traffic impact the applicant in response to the grounds of appeal states that the silo currently stores materials extracted from the adjoining quarry for use in the associated precast and adjoining block plant. It does not utilise or store any imported materials. The applicant has confirmed that no material is or will be imported into the site as a result of the operation of the silo. The current application therefore before the Board will not generate traffic to and from the site and as such will have a negligible traffic impact on the surrounding road. In fact, the applicant's response to the grounds of appeal points out that if the silo was not constructed on site aggregate from the quarry would be required to be exported off site in order to be processed. Therefore, having the silo in situ on site results in a decrease in traffic generation. I am therefore satisfied that the proposed development will not give rise to any significant impact in terms of traffic. Traffic volumes on the R156 are currently very modest.

#### **10.5. Nature of Financial Conditions Attached**

Section 10 of the local authority planner's report notes that the structure has a site area of 99 square metres which will be charged at an industrial/manufacturing rate of €11 per square metre. However, as the structure relates to a temporary permission only the development will be charged at a rate of 33% of the normal rate. I have assessed the Development Contribution Scheme and I consider that the contribution has been levied in accordance with the above scheme. I specifically note Section 7.1.1 which relates to temporary permissions and it states that temporary permissions shall be levied at a rate equivalent to 33% of the development contribution normally attributed to a permanent development of that class and scale. I am therefore satisfied that the development contribution has been levied appropriately.

### **11.0 Appropriate Assessment**

#### **11.1. Appropriate Assessment**

The closest Natura 2000 site is the River Boyne and River Blackwater SAC which is located approximately 1.1 kilometres from the subject site. The applicant submitted

an appropriate assessment report with the application. The qualifying interests associated with the River Boyne and River Blackwater SAC include:

- Alkali Fens.
- Alluvial Forests and the qualifying species include:
  - River Lamprey.
  - Salmon.
  - Otter.

There are no connected pathways between the subject site and the River Boyne and Blackwater and as such there is no potential for any adverse impacts to occur on either the species or the habitats associated with the Natura 2000 site. Due to the separation distances involved, and the fact that there is no hydrological link between the structure, which is the subject of the current application and the nearest Natura 2000 site, I consider that having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development will be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 12.0 Conclusions and Recommendations

Arising from my assessment above I consider that An Bord Pleanála should uphold the decision of Meath County Council in this instance and grant retention of planning permission for a three-year period for the concrete silo structure.

## 13.0 Reasons and Considerations

It is considered that the retention of the structure for a period of three years from the date of this order, subject to conditions set out below would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## 14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The use of the prototype silo shall cease after three years from the date of this order unless otherwise approved by the planning authority or An Bord Pleanála by way of a further grant of planning permission

**Reason:** To comply with the terms of the planning application lodged.

3. The development shall comply with conditions set out under planning reference numbers P00/2075 and TA/20408 except where conditions hereunder specify.

**Reason:** In the interest of the proper planning and development of the area.

4. The silo shall only operate between the hours of 0700 hours and 1900 hours Monday to Friday and 0700 hours to 1400 hours on Saturday and not at all on Sundays or Bank Holidays.

**Reason:** To protect the residential amenity of the area.

5. The noise levels generated by the operation of the development shall not exceed 55 dB(A)  $L_{AeqT}$  when measured at the nearest occupied house. When measuring the specific noise level the time shall be 1 hour period during which the sound emission is at its maximum level.

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

6. The developer shall pay to the planning authority a financial contribution of €360 (three hundred and sixty euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

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

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Paul Caprani,  
Senior Planning Inspector

25th May, 2017.