



An
Bord
Pleanála

Inspector's Report PL.17.249045.

Development	Retention of structures, yard area, wastewater treatment system (inc. upgrade) and batching plant (inc. relocation) and permission for offices, parking and signage.
Location	Oakstown, Trim, County Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	TA/160910.
Applicant(s)	O'Reilly Oakstown Limited.
Type of Application	Permission and Retention Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	One Third Party Appeal.
Appellant(s)	Lars & Mary Christoffersen, Michael & Cecilia Murphy, James & Marie Brophy and Andrew & Marita Lynam.
Observer(s)	None.
Date of Site Inspection	14 th November 2017.
Inspector	Karen Kenny.

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1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Oakstown, Trim. It has access from the R154 (Trim to Athboy Road) approximately 2.5 kilometres to the north-west of Trim. The site is setback from the public road by over 200 metres and is served by a driveway from the R154 that also provides access to an adjacent dwelling to the south-west.
- 1.1.2. The site, which has a stated area of 3.115 hectares, is currently in commercial use for the manufacture of pre-cast septic tanks and other concrete products. There are two sheds, a batching plant and an open steel frame structure on the site. The larger shed is used for production and contains a concrete mixer that is fed by the batching plant. The second shed would appear to be used for storage and the open steel frame structure is used for slat production. The main body of the site is used for the open storage and the manufacture of concrete products. There are also single storey portacabin offices at the entrance to the site. Waste rubble is stored in the north eastern section of the site.
- 1.1.3. The northern and north-western boundaries of the site are delineated by an embankment with the western boundary delineated by a fence that is backed at intervals by trees. The lands bounding the site are in agricultural use.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a new two storey office building to replace existing offices, staff and customer car parking, signage, and the refurbishment and relocation of a concrete batching plant, together with all associated site works. The development also includes the retention of the waste water treatment system and percolation area, slat production shed and production / storage yard.
- 2.2. The proposed two storey office building has a stated floor area of 288 square metres and would replace existing portacabin offices. 12 no. car parking spaces are proposed adjacent to the proposed office building.
- 2.3. The size of the production / storage yard is not stated, however, it would appear to be c. 1.5 hectares in area.

- 2.4. Plans and particulars show a product display area of c. 225 square metres and the details submitted at further information stage detail the extension and alteration of the large manufacturing shed on site. These works are not reflected in the development description.
- 2.4.1. The following reports were submitted to the Planning Authority at Further Information Stage:
- Site Characterisation Form.
 - Noise Impact Assessment.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 11 no. conditions. The following conditions are of note:

- Condition no. 3 restricts the hours of operation from 08.00 am to 07.00 pm Monday to Friday and 08.00 am to 01.00 pm on Saturdays.
- Condition no. 5 requires dust monitoring on an annual basis.
- Condition no. 6 restricts noise levels from the site to an L_{A,r,T}¹ value of 55 db.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Officers assessment can be summarised as follows:

- The principle of light industrial use was accepted under file Ref. 82/562. Remaining industrial processes, site expansion, offices etc., are all currently unauthorised but appear to have been operational for some time.
- Details submitted to the Planning Authority at further information stage included a Noise Impact Assessment, Site Characterisation Form, details of processes undertaken on site, details of heavy vehicle traffic movements into and out of the site, and revised plans and particulars.

¹ The Rated Noise Level, equal to the equivalent continuous sound level (L_{Aeq}) during a specified time interval, adjusted for tonal character and/or impulsiveness of the sound.

- The assessment concludes that the proposed development and development to be retained is considered to be acceptable and in accordance with the proper planning and sustainable development of the area.

3.2.3. Other Technical Reports

Road Design: No objection.

Chief Fire Officer: No objection.

3.3. Prescribed Bodies

Irish Water: No objection.

EHO: No objection.

3.4. Third Party Observations

- 3.4.1. A total of ten third party observations were received from local residents and considered by the Planning Authority. The issues raised are similar to the issues raised in the grounds of appeal, as set out below.

4.0 Planning History

Details of the planning history associated with the site is summarised below:

PA Ref. 82/562 – Application for retention of buildings on the site. Permission granted. Condition no. 2 of the said permission seeks to restrict emissions from the development, while condition no. 5 required the building to be used solely for light industry.

PA Ref. TA/60055 – Application for a 3521 sq.m. industrial building, revised site boundaries and new site entrance. Permission refused. The first reason for refusal relates to non-compatibility with development plan policy while the second reason refers to intensification of vehicular movements and potential for creation of traffic hazard.

ABP Ref. PL17.225151 / PA Ref. TA/70189 – Permission for industrial building of 2,435 sq.m, office accommodation, weighbridge, car parking, open storage and new site access (c. 500 metres north west of existing). Permission refused by the Planning Authority. This decision was subject to a **first party appeal** to An Bord Pleanála. An Bord Pleanála upheld the decision of Meath County Council and refused planning permission for two reasons relating to the following:

1. The Board is not satisfied that the current nature and extent of the industrial operation, for which extension is sought, has been the subject of and received planning permission. Considered that the development would facilitate the expansion and intensification of an unauthorised development.
2. The size and scale of the development would be inappropriate to the unserviced rural area, would impact negatively on the character and amenity of the surrounding area and contravene economic policy of the Development Plan.

5.0 Policy Context

5.1. Development Plan

The Meath County Development Plan 2013-2019 is the relevant statutory plan for the area. The site is located in a rural area outside of a designated settlement. The following policies and objectives are considered to be relevant.

- Core Principle 7: To protect and support rural areas through careful management of physical and environmental resources and appropriate, sustainable development.
- ED POL 6: To recognise the contribution of rural employment to the continued and sustainable growth of the economy and to promote this continued growth by encouraging rural enterprise generally, especially those activities that are resource dependent, including energy production, extractive industry, small scale industry and tourism in a sustainable manner and at appropriate locations.

- ED POL 17: To promote rural economic development by recognising the need to advance the long term sustainable social and environmental development of rural areas and encouraging economic diversification and facilitating growth of rural enterprise.
- ED POL 19: To recognise the contribution of rural employment to the overall growth of the economy and to promote this growth by encouraging rural enterprise and diversification generally and to promote certain types of rural enterprise, especially those activities which are rural resource dependent, including renewable energy production, food production / processing and the extractive industries.
- ED POL 20: To normally permit development proposals for the expansion of existing authorised industrial or business enterprises in the countryside where the resultant development does not negatively impact on the character and amenity of the surrounding area. In all instances, it should be demonstrated that the proposal would not generate traffic of a type and amount inappropriate for the standard of the access roads. This policy shall not apply to the National Road Network.
- ED POL 21: To permit development proposals for individual or business enterprises in the countryside where generally the following criteria are met:
 - (i) the proposed use has locational requirements that can more readily be accommodated in a rural location than an urban setting and this has been demonstrated to the satisfaction of Meath County Council;
 - (ii) the development will enhance the strength of the local rural economy;
 - (iii) the resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area;
 - (iv) the proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations;
 - (v) the proposal is in accordance with the policies, requirements and guidance contained in this plan;

- (vi) it is demonstrated to the satisfaction of Meath County Council that the proposal would not generate traffic of a type and amount inappropriate for the character of the access roads or would require improvements which would affect the character of these roads. This policy shall not apply to the National Road Network.
- Chapter 11 sets out Development Standards.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One third party appeal has been received from a group of local residents. The principal grounds of appeal that are relevant to the current appeal are summarised as follows:

- Existing use has never been authorised and the scale of the development exceeds site of 1982 permission. Condition no. 5 of file Ref. 82/562 restricts the use of the buildings to light industry. Extensive unauthorised development has taken place on site.
- The principle of the proposed development is unacceptable and contrary to the Development Plan. The development is not a rural industry. The policies of the Development Plan seek to protect and support rural areas and to direct employment uses into zoned lands.
- Development constitutes a visual eyesore in this rural area. Aerial photography included detailing scale and nature of operation. Appeal submission references the design and layout of facility.
- Surface water drainage is inadequate and there is a lack of fuel interceptors.

- Scale of development would give rise to a significant intensification of use. Development, by virtue of nature and processes that are carried out will negatively impact on character and amenity of the surrounding area.
- The development provides for large scale offices and retention of extensive unauthorised development including 1.59ha production yard. Permission would legitimise unauthorised operation which has been carried out on the site and result in the permanent destruction of an attractive rural area.
- The noise, light and dust generated by the development would have a serious negative impact on the residential amenity of neighbouring properties. Submitted noise survey is unacceptable and does not provide a sufficient level of detail to accurately assess the proposed development. Concerns raised in relation to details of baseline noise, absence of assessment for vehicles moving on site, location of surveys and duration of surveys. There is no assessment of light pollution.
- Development should be refused for past failure to comply.
- The development would give rise to traffic hazard. It is located on a Regional Road at a point where there is a continuous white line and where sight lines and stopping distances are inadequate. Haphazard and uncontrolled internal traffic layout also of concern.
- Development, if permitted, would permanently establish the principle of this intensive heavy industrial use on the site which would result in facilitating further industrial units and further intensification in the future, particularly in the extensive yard areas.
- Application must be considered de novo as an application for change of use to heavy industrial manufacturing. The permission for light industrial use granted in 1982 was never taken up.
- Submit that previous decision of ABP remains applicable in respect of the proposed development.

6.2. Applicant Response

None.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

7.0 **Assessment**

7.1.1. I consider that the issues arising in the case can be summarised as follows:

- Nature and Extent of Operations
- Principle of Development and Compliance with Policy
- Impact on Residential and Rural Amenities
- Visual Impact and Impact on Rural Character
- Site Access
- Impact on Water Quality
- Other Issues

7.2. **Nature and Extent of Operations**

- 7.2.1. The site is roughly L-shaped with two sheds and a batching plant located in the southern corner, a slat production unit along the western boundary and portacabin offices in the eastern corner. The larger of the two sheds is used for production. The second shed would appear to be used for storage. The main body of the site to the north-west of the buildings is used for open storage and the further manufacturing and assembly of concrete products and septic tanks.
- 7.2.2. Permission was granted on the site in 1982 (Ref. 82/562) for the retention of two buildings. The applicant was Oakstown Concrete Products Ltd. Condition 5 of the permission limited the use of the 'building' to a 'light industrial' use. I am not aware of any other planning consents pertaining to the site.
- 7.2.3. The retention permission allowed for a light industrial use which would, effectively, have been commercial in nature, albeit family owned. The current application seeks

permission in summary to regularise an extended site area, permission to retain, upgrade or extend structures and for a new office building, parking area and product display area.

- 7.2.4. From the details provided in the application, it would appear that pre-cast concrete products have been manufactured at this location since the 1970s and that the applicant acquired the site and commenced producing precast concrete products at this location in 2004. It is clear that the use of the site for industrial purposes has been previously accepted. It is also clear that precast concrete products have been manufactured at the site for a substantial period of time, a point that is not disputed by any of the parties.
- 7.2.5. It is important in the first instance to establish what the nature and extent of the existing facility is, relative to that permitted in 1982. I would draw the Boards attention to the limited detail on the file in this regard.
- 7.2.6. As extrapolated from the drawing titled 'Site Map showing Oakstown Concrete Products' accompanying file ref. 82/562 this permission related to an approximate site area of 1.5 hectares, relative to the appeal site of 3.115 hectares. Quite clearly the footprint of the site has extended by over 1.5 hectares into a large area to the north-west. The site was roughly square in shape with two industrial buildings and a small office delineated thereon. The sheds, with an approved floor area of c. 1338 square metres and c. 279 square metres respectively, are largely as approved. Details submitted with the application state that some production processes now occur outdoors, thus it would appear that the manufacturing operations have extended beyond the sheds into the yard area. In terms of the industrial processes and activities undertaken, I consider that the production of concrete products represents a heavy industrial use and as such, I would concur with the view of the appellants that the current use is outside of the terms of the permission granted in 1982, which specifically restricted the use of the manufacturing building to 'light industrial'.
- 7.2.7. On the basis of the foregoing, it would seem reasonable to conclude that the nature and extent of the industrial operation on the appeal site is beyond that permitted under file Ref. 82/562.

8.0 Principle of Development and Compliance with Policy

- 8.1.1. The grounds of appeal argue that the principle of the proposed development is unacceptable at this location and would be contrary to Meath County Development Plan 2013-2019 and the proper planning and sustainable development of the area.
- 8.1.2. As detailed above, permission is sought to regularise an extended site area, to retain, upgrade or extend new or altered structures and to introduce new office floor space, a display area and car parking.
- 8.1.3. In my opinion Development Plan Policy ED POL 20 is of particular relevance to the assessment of the current appeal. It is policy “to normally permit development proposals for the expansion of existing authorised industrial or business enterprises in the countryside where the resultant development does not negatively impact on the character and amenity of the surrounding area. In all instances, it should be demonstrated that the proposal would not generate traffic of a type and amount inappropriate for the standard of the access roads”. While the nature and extent of activities on the appeal site are clearly beyond that permitted in 1982, I am satisfied that there is a permitted commercial use on the site and that the development can be considered by reference to Policy ED POL 20. The applicant also refers to Policy ED POL 21, which is to permit new business enterprises in the countryside in limited circumstances where the proposed use has locational requirements that can more readily be accommodated in a rural area, subject to a range of safeguards. I would note that these policies do not in themselves suggest a positive presumption towards a grant of permission, as this must be tempered by the fact that the policies clearly require the resultant development to be of a size and scale which remains appropriate to the area. The fact that the nature and extent of the development may not be suitable at this rural location needs to be accepted as a reasonable possibility.
- 8.1.4. A key consideration in relation to policy ED POL 20 and ED POL 21 is the nature, extent and impacts associated with the existing and proposed development. I will address the nature and extent of the development in this section, while issues relating to residential and rural amenities, visual impacts and traffic are considered in the following sections.
- 8.1.5. While it is clear that precast manufacturing has been undertaken on the site for a substantial period, the use of the site for the manufacture of pre-cast concrete

products is a heavy industrial use that is outside of the terms of Condition no. 5 of file Ref. 82/562. I consider that the acceptability or otherwise of this heavy industrial use is a fundamental issue that needs to be addressed prior to the consideration of any intensification. While pre-cast concrete manufacturing of an appropriate scale, could be considered under Policy ED POL 20 and ED POL 21 subject to appropriate safeguards, I would draw the Boards attention to the fact that this application does not seek to retain the current use and that the submitted details do not address this issue in any meaningful way.

- 8.1.6. The scale of the original manufacturing and storage buildings are broadly as permitted in 1982 and I consider that the alterations proposed would support the upgrade and modernisation of the previously approved manufacturing facilities, which is considered reasonable. It is also possible that the alterations would allow for the internalisation of processes that would otherwise be undertaken outdoors, thus reducing the potential for environmental impacts.
- 8.1.7. The storage yard represents an approximate doubling of the commercial footprint of the site, relative to what was approved in 1982. While I noted on inspection that the extended yard area is not fully utilised at present (in particular the north western section), a grant of permission would allow for the intensified use of this area for production and storage purposes. I consider that the level of detail provided in relation to the extent of this potential and the potential for associated impacts is not adequately addressed in the application. I am not therefore convinced that the proposal can be seen to comply with the current development plan policy.
- 8.1.8. While the proposal to provide modern office, canteen and toilet facilities to support on site activities is considered reasonable, I consider the scale of the proposed office building to be substantial relative to manufacturing operation on site. I consider that the proposed product display area and sales and meeting areas to be inappropriate to the rural context and that such uses would be more appropriately located on zoned lands within a designated settlement.
- 8.1.9. On the balance of evidence before the Board, I consider that the 'heavy' industrial use of the site does not have a valid planning permission and that the application fails to address this issue. Furthermore, I consider that there is a lack of clarity in relation to the nature and extent of the existing and proposed operations. The

Development Plan seeks to permit business enterprises in the countryside in limited circumstances only, where there is an established and authorised use or where locational requirements are demonstrated, subject to an appropriate scale of development and other safeguards. It is considered based on the submitted information, that the applicant has failed to demonstrate that the proposed development is within the bounds of what is envisaged by the Development Plan as being appropriate for this rural location and in turn in compliance with the current development plan policy ED POL 20 and ED POL 21.

8.2. Impact on Residential and Rural Amenities

- 8.2.1. The appeal site is located in a rural area that is characterised by agricultural activities and sporadic one off housing. The site is set back from the public road by c. 200 metres. The nearest residential dwelling, is located 54 metres to the south west of the appeal site, with other one off dwellings located to the north and east at some 220 – 800 metres from the appeal site.
- 8.2.2. The grounds of appeal argue that noise, light and dust generated by the development would have a serious negative impact on the residential amenity of neighbouring properties and raise concerns in relation to the absence of any assessment in relation to light pollution.
- 8.2.3. The Noise Impact Assessment prepared by Boylan Engineering includes an assessment of the noise levels from the existing industrial processes on site at noise sensitive locations and an assessment of a more modern batching plant (identical to the one proposed) at a separate O'Reilly Concrete facility. The report concludes that the new batching plant eliminates vibration and would improve the noise environment and that the noise emissions from the proposed development would not exceed the recommended daytime noise level of 55 dBA. While the assessment addresses potential noise impacts arising from industrial processes, as raised in the grounds of appeal, the issue of noise, light and dust emissions and general disturbance from traffic and other activities on site is not addressed. I am not, therefore, satisfied based on the submitted information, that noise and general disturbance from a facility of the scale proposed would not impact unduly on the character and amenity of the surrounding rural area.

8.3. **Visual Impact and Impact on Rural Character**

8.3.1. I note the concerns raised in the grounds of appeal with regard to the impact of the development on visual amenity and on the character of the area. The landscape is relatively flat, largely in agricultural use and delineated by mature hedgerow field boundaries. While the site has an innate rural character it is not designated as being of visual sensitivity or as having a special quality in the current County Development Plan. I consider that the visual impact of the proposed development, taking in conjunction with existing and proposed screening, is not significantly different to that of a large farmyard and that the proposal would not bring about a material adverse impact on the visual amenities of the area, such that would warrant a refusal of permission.

8.4. **Site Access**

8.4.1. The site is currently served by an existing recessed access from the R154 which it shares with the dwelling immediately adjoining. The road has an 80 km/hr speed limit and is governed by a solid white line to either side of the entrance. The road is relatively well trafficked and I noted at time of inspection that vehicles were travelling at speed. Sight distances from the existing vehicular entrance onto the R154 are seriously restricted, with sightlines of c. 80 metres to the north and c. 50 metres to the south. The applicant has not demonstrated that an improved visibility envelope can be achieved in accordance with the requirements of the TII DMRB Road Geometry handbook TD42/95. On the basis of the information submitted with the application I am not satisfied that adequate sightlines can be provided and that traffic movements associated with any significant intensification of the existing development would not result in a traffic hazard. I consider the restricted sightlines at the entrance onto the R154 to be a significant limiting factor for any intensification of development on site.

8.5. Impact on Water Quality & Environment

8.5.1. Foul Water

The site is located on a locally important aquifer with high vulnerability. Details of a site suitability test were submitted to the Planning Authority. The soil type is till / clay and the water table was encountered at 2 metres (end of trial hole). Soil tests identified a T value of 36.67 and a P value of 33.61. The site is suitable for a septic tank or secondary treatment system discharging to ground. It is proposed to retain the existing packaged wastewater treatment system and polishing filter. I am satisfied, based on the submitted site characterisation form that the treatment system is suitable and that it meets the requirements of the EPA Code of Practice for Wastewater Treatment & Disposal Systems Serving Single Houses (2009) in terms of separation distances and the design of the system.

8.5.2. Surface Water

Surface water drains to an existing ditch to the north of the site. The site layout plan shows surface water drainage infrastructure including pipes and gullies and one oil / water retention separator tank. Drainage from the storage / production yard would enter an adjacent drainage ditch untreated. I noted on inspection that there was surface water ponding on site and that the catch drain in the yard area was overflowing. In my opinion the issue of site drainage and potential for contaminated surface water runoff has not been adequately addressed.

8.5.3. Water Supply

The application details indicate that water supply is from an existing well, although the location of the well is not indicated on the layout plan or in the site characterisation form.

8.6. Appropriate Assessment Screening

- 8.6.1. There are two Natura 2000 sites, the River Boyne and River Blackwater SAC (Site Code: 002299) and the River Boyne and River Blackwater SPA (Site Code:004232), located within 10 kilometres of the site.

- 8.6.2. The application is not accompanied by a screening report for Appropriate Assessment (AA).
- 8.6.3. The site itself comprises disturbed ground, artificial surfaces and buildings. Habitats surrounding the site include buildings and artificial surfaces, agricultural grassland, hedgerows and treelines. There are land drains and small watercourses in the vicinity of the site that drain to the Athboy River located approximately 1.8 kilometres west of the appeal site and the River Boyne located approximately 2 kilometres south of the site. Both watercourses form part of the designated areas of the River Boyne and Blackwater SAC and the River Boyne and Blackwater SPA.
- 8.6.4. While there are limited relevant pathways between the development and the aforementioned European Sites, there is potential for hydrological links to the Athboy River and the River Boyne SAC and SPA. Surface water from the appeal site discharges to a drainage ditch to the north, which in turn drains to the River Boyne catchment. I would suggest that in terms of potential impacts surface water impacts are most relevant. I am not satisfied that surface water from the site is adequately treated prior to discharge and on this basis, I consider that potential impacts on the River Boyne and River Blackwater SAC and SPA cannot be ruled out.
- 8.6.5. On the basis of the foregoing, I am not satisfied that sufficient information exists to reach a conclusion that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the River Boyne and River Blackwater SAC (Site Code: 002299) and River Boyne and River Blackwater SPA (Site Code:004232), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

9.0 Recommendation

- 9.1.1. I recommend a refusal of permission for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Taking into consideration the existing history on the site and the retention permission for light industry granted under planning reference number 82/562

and the submissions made in connection with the planning application, the Board is not satisfied that the current nature of the industrial operation on the site, for which an extension is being sought, has been the subject of an received planning permission. Thus, it appears to the Board that the proposed development would facilitate the expansion and intensification of unauthorised development. Accordingly, it is considered that it would be inappropriate for the Board to consider a grant of permission for the proposed development in such circumstances.

2. The site is located in a rural area. It is the policy of the planning authority, as set out in the Meath County Development Plan 2013-2019, to permit business enterprises in the countryside in limited circumstances, where it represents an expansion of an existing authorised enterprise or where the proposed use has locational requirements that can more readily be accommodated in a rural area (POL ED 20 and POL ED 21 refer). This policy is considered to be reasonable. The Board is not satisfied on the basis of the information submitted with the planning application that the proposed development is within the bounds of what is envisaged by the Development Plan as being appropriate for this rural location and in turn in compliance with policy ED POL 20 and policy ED POL 21 of the Development Plan. The proposed development would, therefore, contravene development plan policy and would be contrary to the proper planning and sustainable development of the area.
3. The site is accessed from the R154 a heavily trafficked Regional Road at a location where the maximum speed limit applies. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would be likely to generate on a rural road at a point where sightlines are restricted. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
4. The Board is not satisfied on the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in

combination with other plans or projects would not be likely to have a significant adverse effect on European Site No. 002299 (River Boyne and River Blackwater SAC) and 004232 (River Boyne and River Blackwater SPA) in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Karen Kenny
Senior Planning Inspector

20th November 2017