



An
Bord
Pleanála

Inspector's Report ABP-300740-18

Development	Upgrading an existing quarry entrance comprising of new entrance gate, stone wall, signage & road markings and all associated ancillary site development works.
Location	Ardgaineen & Kilgill, Claregalway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	17/1403
Applicant(s)	Harrington Concrete & Quarries
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Residents of Ardgaineen & vicinity
Observer(s)	None
Date of Site Inspection	23 rd April 2018
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site relates to a quarry entrance located on the northern side of the L-6182 road and forming the access to an existing quarry works. It is located on lands to the west of the N83 Road (former N17 Road) approximately 5km north of the village of Claregalway. There is a dense network of local roads in the general area and large scale ribbon development has taken place along these roads. The quarry is located approximately 1.3 kilometres to the west of the N83 and is accessed via the Ardgaheen Road (L-6182).
- 1.2. There are a number of residential dwellings on both sides of the road in close proximity to the quarry entrance.

2.0 Proposed Development

- 2.1. Upgrading an existing quarry entrance comprising of new entrance gate, stone wall, signage & road markings and all associated ancillary site development works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission. Conditions of note include:

- Condition 4: The proposal is for the improvement of entrance and egress from the site for the existing permitted elements of the quarry and shall not be construed as a permission for any intensification of use of the site for quarrying or any other purpose.

Reason: To protect the amenities of properties in the vicinity of the site.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The report of the planning officer reflected the decision of the planning authority.

Points of note are as follows:

- Further information was requested in relation to the following:

- (i) A synopsis of the Planning status of the quarry activities to date
- (ii) Justification of the proposed development to upgrade the existing vehicular entrance

Following the receipt of the Further Information the planning officer was satisfied the proposal was based only on the removal of the existing aggregate on site only and that the purpose is to improve the situation with respect to traffic safety.

Recommendation to grant permission.

3.2.2. Other Technical Reports

Roads – recommend conditions

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

3.4.1. A number of third party submission were received at application stage. The issues raised are covered in the grounds of appeal.

4.0 Planning History

300817 (17/1590) – CURRENT APPEAL - Erection of an aggregate storage shed and all associated ancillary facilities. Gross floor space of proposed works 886.4sqm.

07.QD.0014 – Further development of a Quarry and related site ancillary works – REFUSED by ABP (17/02/2017) for reasons of deficiencies in the submitted Environmental Impact Statement.

07.SU.0053 – Application for Substitute Consent for existing rock quarry, extraction and processing of rock by drilling, blasting, crushing, screening and all ancillary facilities / works, screening berms and landscaping on a 4.35ha site – GRANTED by ABP (17/02/2017)

Reg. Ref.13/575: Permission GRANTED by Galway County Council (11/11/13) to Harrington Concrete & Quarries for the erection of an aggregate storage shed and all

associated ancillary facilities.

Reg. Ref. 65913: Permission GRANTED by Galway County Council (18/05/92) to Frank Harrington Ltd for retention of existing aggregate stockpiling area in the townland of Ardgaineen.

PL7/5/088667 (Reg. Ref. 65144) - Permission GRANTED on appeal (30/11/92) for the erection of a concrete batching plant for production of readymix concrete, concrete blocks and stock piling area at Ardgaineen.

PL7/5/088665 (Reg. Ref. 65141) - Permission GRANTED on appeal (30/11/92) for the erection of a macadam/asphalt plant, office building and a septic tank at Ardgaineen.

PL7/5/088562 (Reg. Ref. 65041) - Permission GRANTED on appeal (30/11/92) for retention of stone crushing and screening plant and stock piling areas at Ardgaineen.

Reg. Ref. 24002: Permission GRANTED by Galway County Council (22/07/77) to Mr. Thomas Herson to open and operate a rock quarry in the townland of Ardgaineen.

5.0 Policy Context

5.1. Development Plan

5.1.1. The site is governed by the policies and provisions contained in the Galway County Development Plan 2015 – 2021.

5.1.2. Policies relating to quarrying include Policies EQ1 and EQ2. Specific Objectives relating to this particular appeal for an upgraded entrance include:

Objective EQ2 which provides that *inter alia* quarrying activity should have a minimal adverse impact on the road network and that the extraction of minerals or aggregates does not adversely impact on residential or environmental amenity.

5.1.3. DM Standard 20 'Sight Distances Required for Access onto National, Regional and Local Roads' is also of relevance and this states that vehicular entrances and exit points must be designed by the developer as part of a planning application with adequate provision for visibility so that drivers emerging from the access can enjoy

good visibility of oncoming vehicles, cyclists and pedestrians. Road junction visibility requirements shall comply with Geometric Design of Major/Minor Priority Junctions and Vehicular Access to National Roads, Volume 6, Section 2, Part 6, NRA TD 41-42/11, November 2011 (including any updated/superseding document).

5.2. Natural Heritage Designations

5.2.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal, as submitted by the Third Party Appellants (Residents of Ardgaheen and vicinity) are as follows:

- Residents have experienced problems of noise, dust, vibration from the quarry.
- Works are intended to facilitate a development which is unauthorised.
- Previous permission (Reg. Ref. 24002) only permitted development within a relatively small area – 3.8ha.
- Quarry was registered under Section 261. The area registered 30.42ha was much more extensive than the planning permission.
- Outlines history of site – Quarry owners served with a notice under S261A requiring activity cease and an application be made for Substitute Consent. – Substitute Consent only covers quarrying that had already been done and does not permit any subsequent quarrying.
- Application to ABP for further quarrying was refused (07.QD.0014)/Application to Galway County Council for quarrying was withdrawn (17/363).
- There is therefore no live permission for quarrying on this site – any quarrying carried out after the confirmation of the notice requiring substitute consent is authorised.
- Area covered by the Substitute Consent exceeds that of the original quarrying permission (24002) – find it difficult to understand how this area crept into the

Substitute Consent process when it never had planning permission in the first place – contrary to the terms of S161A.

- Planning permissions for other related works are still live and valid – however some the permission for the batching plant (65144) and the asphalt plant (65141) are subject to conditions tying them to only use crushed stone from the quarry – if the quarry closes so must these operations.
- In permitting works under consideration in this appeal, planning authority is facilitating an unauthorised and illegal operation.
- Further information requested by the Council does nothing to justify the development.
- By permitting this revised entrance the planning authority's decision will be interpreted as a *de facto* acceptance of the continuing quarrying operation at this location.
- Visual impact - the construction of the new entrance will require the removal of a large number of mature trees/act as a natural noise and dust barrier as well as providing visual screening.
- The existing entrance is suitable for short term removal of stockpiles.
- Appeal submission includes appendices as follows:
 - Appendix A – Copy of Planning Authority Decision Reg. Ref. 17/1403.
 - Appendix B – Acknowledgement of Receipt of Submission on Planning Application.
 - Appendix C – Direction to seek Substitute Consent QSP55.
 - Appendix D – Refusal of permission 07.QD.0014.
 - Appendix E – Copy of Request for Further Information 15/11/17.
 - Appendix F – Copy of Further Information Letter from Earth Science Partnership of 22/11/17.
 - Appendix G – Extract from Planner's Report of 18/02/17.
 - Appendix H – List of Dates of the Use of Explosives in the Quarry Notification of Blasts.

- Appendix I – Grant of Substitute Consent 07.SU.0053.
- Appendix J – Copy of Warning Letter of 23/11/2017

6.2. Applicant Response

6.2.1. The First Party Response to the Third Party Appeal is summarised below:

- Planning application was made in response to concerns of local residents in relation to traffic safety/Application will provide the required visibility splays in both directions/Will improve safety/Road Engineers Report has been submitted with the Planning Application.
- Development contributions required by the substitute consent application will ensure that the road surface will be maintained to a good standard/Applicant in discussion with Roads section of Galway Co. Co. regarding contributing to upgrade works at the junction of the L6812 and the N83.
- Sets out a detailed planning history – in summary the Board decided to grant the application for Substitute Consent (SU0053) and to refuse the application for further quarry development (QD0014).
- Two recent permissions for erection of aggregate storage sheds were granted in 2013 (13/575) and 2015 (15/342). The application area for both buildings is within areas which are authorised by permissions listed above.
- Two permissions were recently submitted to Galway Co. Co. which consists of this application and permission to construct an aggregate storage shed (P17/1590).
- Quarrying is currently taking place in the authorised areas of the quarry, granted under planning permission ref 24002 with ancillary activities such as processing, concrete and asphalt production being carried out under various permissions granted for the quarry.
- There is no limit on the permission in the area authorised by planning permission 24002 and there are significant reserves remaining which the applicant proposes to extract.

- Warning letter received from Galway Co. Co. - Subsequent site visit found that the quarry was operating within its planning permission.
- In relation to impact on residential amenity from noise, dust, vibration, Environmental monitoring for noise and dust is undertaken on a regular basis and results are within the recommended guideline values.
- Blasting events are monitored and readings are within recommended guideline values.
- Traffic associated with the quarry operate within the carrying capacity of the L6182 Local Road.
- Quarry traffic accounted for less than 20% of total traffic on the road between the hours of 7am and 7pm.
- Planning History of the Site and the Board's own assessment in relation to the Substitute Consent and the S37L application show that the existing quarry is authorised and it operating within its current planning permission within the Environmental Guidelines imposed.
- Appellant's suggestion that there is no live permission for the site is incorrect – planning permission 24002 is a valid permission. All extraction is currently taking place in this area of the quarry and will remain the case under a planning permission is granted to extract rock from other areas of the quarry.
- Appellant's assertion that the upgraded entrance is facilitating an unauthorised and illegal operation are totally unfounded.
- The main reason for the application is to improve traffic safety in the area.
- In relation to the application facilitating a short term operation, there is a number of years of authorised reserves available at the quarry. The applicant also plans to submit a planning application to authorise further areas of the quarry for extraction.
- The quarry informs residents in the vicinity of the quarry of blasting events which is standard practice in the quarrying activity and a condition of planning.
- There is no extraction from the area which was the subject of the substitute consent application (07.SU.0053).

- As the quarry is some distance from the road, the trees do not act as a natural dust and noise barrier nor do they provide visual screening. However the application proposes to provide additional trees inside the boundary wall which will provide additional screening of the quarry entrance.
- Later applications which were refused (07.QD.0014) and withdrawn (17/363) are of no relevance to the planning status of the quarry and the subject application.
- All developments within the quarry are authorised by way of a relevant permission.

6.3. **Planning Authority Response**

6.3.1. None.

6.4. **Observations**

6.4.1. None.

6.5. **Further Responses**

6.5.1. None.

7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Road Safety
- Visual Impact and Impact on Residential Amenity
- Other Issues
- Appropriate Assessment

7.2. **Principle of Development**

- 7.2.1. The principle of a revised entrance to facilitate existing extraction is acceptable. I note the appellants have raised the issue of unauthorised extraction on the site and state that the works proposed facilitate this unauthorised activity. The applicants state that all extraction currently taking place is authorised and have also submitted correspondence from the Enforcement Section of Clare County Council (dated 2nd February 2018) stating that the planning authority will not be taking any further action in subsequent to the issuing of a warning letter.
- 7.2.2. It is not a matter for the Board to determine whether or not unauthorised activity is taking place on the appeal site and it is of note that the Board does not have a role in Enforcement and in this respect regard is had to Section 10.1 of the Development Management Guidelines 2007 which provides:
- Enforcement of planning control is the responsibility of the planning authority and this is the case, of course, whether the planning decision, including conditions, was made by the planning authority or the Board.*
- 7.2.3. As such the assessment undertaken herein relates solely to the merits, or otherwise, of the works that are subject to this appeal – i.e. the upgraded entrance and associated works.

7.3. Road Safety

- 7.3.1. The application proposes to upgrade the existing entrance by improving the layout of the junction with the L-6182 and the existing quarry entrance, in order to improve traffic safety including increasing the sightlines along both directions.
- 7.3.2. The appellants state that there is no need for an upgraded entrance, as the only authorised activity on site is the short-term removal of existing stockpiles. The applicants state they have a valid permission to extract significant volumes of material that will take place over a number of years. It is further stated that the applicants intend to submit an application to increase the area of extraction on the site.
- 7.3.3. I cannot comment on the merits or otherwise of any future application on site, and any unauthorised activity on site is a matter for the Enforcement Section of the planning authority.

- 7.3.4. There is existing quarrying on the site, which the applicant states is authorised by way of planning permission Reg. Ref. 24002, and there are ancillary activities such as processing, concrete and asphalt production being carried out under various permissions granted for the quarry.
- 7.3.5. The proposal is to provide the required visibility splays in both directions on the L-6182 for traffic associated with the quarry activities. An Engineers Report, submitted at application stage as part of the Further Information Response, by Tobin Consulting Engineers (dated November 2017) states that the existing visibility is severely limited by hedgerows and vegetation and is below the required visibility of 120m along this public road, which has a speed limit of 80km/h.
- 7.3.6. I note the provisions of Table 13.4 of the Development Plan which sets out the sight distances required for access onto regional roads, which are 120m for roads with a design speed of 85km/h. No sightlines parameters are set out for local roads.
- 7.3.7. My observations on site and my analysis of the existing plans, indicate that there are limitations to the existing entrance which could lead to a traffic hazard. Vehicles turning left from the quarry entrance have very limited sightlines to the north-east and are also somewhat limited to the south-west. The proposals to improve this situation by pulling back the boundary to the north-east, providing for improved sightlines to 160m in both directions, and facilitating safer turning manoeuvres will have a positive impact on road safety.
- 7.3.8. Furthermore, visibility of the quarry entrance, travelling from both directions, is limited in my view and the proposal to improve same, with a combination of junction improvements and signage, will also have a positive impact on road safety.

7.4. Visual Impact and Impact on Residential Amenity

- 7.4.1. The appellants contend that the existing trees provide visual screening and also provide a natural barrier to noise and dust. The applicant contends that the quarry activity is some distance from the road, so the trees do not act as a noise or dust barrier, although it is intended to provide replacement trees.
- 7.4.2. I note the plans submitted do not indicate that replacement trees are to be provided but a replacement hedge is to be provided.

7.4.3. I concur to some degree that the existing trees provide a visual screening to the quarry area just beyond the trees. However these trees also appear to be limiting visibility splays. The applicant has proposed replacement hedgerow which I consider will continue to provide a level of visual screening to the site.

7.4.4. I consider the appearance of the proposed boundary walls and entrance gate to be acceptable and do not result in a negative impact on visual amenity in my view.

7.5. Other Issues

7.5.1. The appellants have stated raised the issue of authorised activity on the site. However as noted above, the Board does not have a remit in Enforcement and as such I cannot comment on same.

7.6. Appropriate Assessment

7.6.1. No information in relation to Appropriate Assessment was submitted with the application. The planning authority carried out AA Screening and determined that significant adverse impacts on the Nature network could be ruled out.

7.6.2. There are 4 no. Natura 2000 sites within 15km of the appeal site and these are set out in the table below.

Name (Site Code)	Distance/Direction of nearest boundary from Appeal Site
Lough Corrib SAC (000297)	2.6km east
Lough Corrib SPA (004042)	6.9km west
Inner Galway Bay SPA (004031)	14km south
Galway Bay Complex SAC (000268)	14km south

7.6.6. I am satisfied that these sites can be ‘screened out’ on the basis that significant impacts on these European Sites could be ruled out on the basis of a lack of a source-pathway link to these European Sites and the distance to these European Sites, and having regard to the relatively small scale of the works proposed.

7.6.7. Having regard to the scale and nature of the proposed development, an upgraded entrance to an existing quarry, I consider it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a

screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No.s 004042, 000297, 004031 or 000268, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. Grant permission.

9.0 Reasons and Considerations

Having regard to the improved junction design, with a resultant positive impact on road safety, and having regard to the design and appearance of the proposed boundary wall and entrance gates, and the pattern of development in the vicinity, it is considered that, subject to compliance with conditions below, the proposed would not seriously injure the visual amenities of the area or residential amenities of property in the vicinity and would not lead to the creation of a traffic hazard. The development proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23rd day of September 2017, 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. (a) Sight distance triangles shall be adequately maintained and kept free

from vegetation or other obstructions that would reduce visibility below the minimum required.

(b) The applicant shall provide road markings (Edge of Carriageway lines RRM 0025) to delineate the edge of the public road, on both sides of the road, for a distance of 100m in both directions from the quarry entrance.

(c) The application shall provide a sign stating 'Caution Quarry Entrance 220m ahead' in an appropriate location. Details of same are to be agreed with the planning authority prior to the commencement of development on site.

Reason: In the interest of road safety.

3. a) All surface water generated by the development shall be disposed of within the site and shall not be discharged onto the road or the adjoining property.

b) Only clean uncontaminated storm water shall be discharged to the soakaway system or surface waters.

c) The development shall not impair existing land or road drainage.

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

Reason: In the interest of public health.

4. This proposal is for the improvement of entrance and egress from the site for the existing permitted elements of the quarry and shall not be construed as a permission for any intensification of use of the site for quarrying or any other purpose.

Reason: In the interest of clarify and in the interest of proper planning and development.

Ronan O'Connor
Planning Inspector

04th July 2018

