

An  
Bord  
Pleanála

## Planning Appeal Form



### Your details

#### 1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Booth Precast Ltd

(b) Address

Ballymullen, Abbeyleix, Co. Laois. R32 RD68

### Agent's details

#### 2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Damien Morrissey

(b) Agent's address

AOCA Engineering Consultants Ltd.,  
Lismard House, Portlaoise, Co. Laois. R32 YXP2



## Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the  
address in Part 1

The agent at the address in  
Part 2

## Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

**(a) Planning authority**

(for example: Ballytown City Council)

Laois County Council

**(b) Planning authority register reference number**

(for example: 18/0123)

Section 5 Declaration reference 10/5 – Booth Concrete (4)

**(c) Location of proposed development**

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Booth Precast Ltd, Ballymullen, Abbeyleix, Co. Laois. R32 RD68



## Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

1. **Method of movement** of precast products from the production shed to the storage area. Previously done by wheeled Fork trucks will now being done by overhead gantry crane.
2. The reason we require this change is to reduce the risk of serious injury to our staff as the fork truck has to operate in a narrow area where staff are at higher risk of injury.
3. The gantry is considered to be plant machinery and not a building.

Supporting material included;

1. Section 5 Declaration Application & Receipt
2. Initial Agents & Irish Concrete Federation supporting letters
3. Drawings & Maps
4. Site/Structure Photos
5. Laois County Council Further Information Request
6. Agents Further Information Response
7. Laois County Council Decision



## Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

## Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

## Fee

8. You **must** make sure that the correct [fee](#) is included with your appeal. You can find out the correct fee to include in our [Fees and Charges Guide](#) on our website.





## Oral hearing request

9. If you wish to [request the Board to hold an oral hearing](#) on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on [our website](#) or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

**Yes, I wish to request an oral hearing**

**No, I do not wish to request an oral hearing**

NALA has awarded this document its Plain English Mark

Last updated: April 2019.

Planning Appeal Form  
April 2019









## **1. Section 5 Declaration Application & Receipt**



04



LAOIS COUNTY COUNCIL  
PLANNING DEPARTMENT

SECTION 5 DECLARATION – EXEMPTED DEVELOPMENT  
PLANNING & DEVELOPMENT ACTS 2000-2010

- 1. Applicants Name BOOTH PRECAST LTD.,  
 Applicants Address BALLYMULLEN,  
ABBEYLEIX,  
CO. LAOIS  
 Tel: 057-8731840 Fax No. \_\_\_\_\_ E-Mail petarbooth@boothconcrete.com
- 2. Name & Address of Agent (if any) DAMIAN MORRISSEY  
AOCA ENGINEER CONSULTANTS,  
LISWARD HOUSE,  
PORTLAOISE, CO. LAOIS.  
 Tel: 057-8663244 Fax No. \_\_\_\_\_ E-Mail damiem@aoca.ie
- 3. Address for Correspondence: (AGENT)  
 \_\_\_\_\_  
 \_\_\_\_\_
- 4. Location of Proposed Development: BALLYMULLEN, ABBEYLEIX,  
CO. LAOIS

5. Reference No. of any planning permission which governs the overall development of the site:

Quarry Registration : QY05/76

Planning Applications : 95/300, 06/24, 07/1451, 10/288, 10/289, 10/290, 98/780





6. Is this a Protected Structure, or within the curtilage of a Protected Structure?

NO.

7. Description of proposed development:

GANTRY / CONVEYOR - CLASS 21 EXEMPT.

8. Applicants' interest in the site:-

OWNER

9. List of items to accompany this application:-

- a) A fee of €80
- b) 1 x Site Location Map with the site outlined clearly- 1:1000 in urban areas and 1:2500 in rural areas
- c) 1 x Site Layout Plan at a scale of 1:500 showing all existing and proposed structures on site and distances from boundaries
- d) 1 x Floor Plans at a scale of not less than 1:200
- e) 1 x Elevations at a scale of not less than 1:200

(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)

Signed: *(AGENT)*  
*Daniel W. Hanrahan* Date: *07/12/20*

**NOTES:**

**PAYMENT OF FEE:**

This application will not be accepted and will be returned unless it is accompanied by a fee of €80

**LODGEMENT:**

This application should be forwarded to:

The Planning Department,  
Laois County Council,  
County Hall,  
Portlaoise,  
Co. Laois.





# COMHAIRLE CHONTAE LAOISE LAOIS COUNTY COUNCIL

Comhairle Chontae  
Laoise  
Áras an Chontae  
Port Laoise  
Contae Laoise  
R32 EHP9

Laois County Council  
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County Laois  
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F: (057) 8622313  
corpaffairs@laoiscoco.ie  
www.laois.ie

10/5 – Booth Concrete (4)

23<sup>Rd</sup> December, 2020

Booth Precast Ltd.,  
C/o Damien Morrissey,  
Acoa Engineering Consultants,  
Lismard House,  
Portlaoise,  
Co. Laois.

**Re : Section 5 Declaration - Outdoor gantry loading crane for site at  
Ballymullen, Abbeyleix, Co. Laois.**

Dear Damien,

I wish to acknowledge receipt of your application for a Section 5 Declaration and enclose herewith receipt in the sum of €80.00 receipt no. 190208 refers.

I wish to advise you that a response on this matter will be sent to you in due course.

Trusting the above is in order,

Pat Delaney  
Administrative Officer  
Planning Section

Tá Fáilte Romhat  
Gnó a Dhéanamh  
as Gaeilge

Midlands Ireland

*'I bpáirt leis an bpobal'*

Arna phrintáil ar pháipéar atá 100% athchírsáilte - Do Chomhshaoil a chothú





## **02. Initial Agents & Irish Concrete Federation supporting letters**



The Planning Department,  
Laois County Council,  
Áras an Chontae,  
JFL Ave.,  
Portlaoise,  
Co. Laois

16th December 2020

**Our Ref.: 20-056-04**

**Re: Section 5 Declaration – Exempted Development Planning & Development Acts 2000-2010 (Outdoor Gantry Loading Crane)**

A Chara,

Further to the enclosed documents and the recent on-site meetings with Ann Marie Callan Executive Scientist, Environmental Department and Ivonne O'Reilly Enforcement Department, Laois County Council we now submit detailed proposals in relation to how and which articles of the Planning & Development Regulations demonstrate exempted development.

This specific application refers solely to the Outdoor Gantry Loading Crane at our clients Booth Precast Ltd, site at Ballymullen, Abbeyleix, Co. Laois.

The site is covered by several planning permissions which, taken together, form an industrial facility for the processing of aggregates and manufacturing of concrete products. The structure/plant the subject of the Section 5 is internal to the overall site, is not generally visible from the boundary, is less than 15m in height, and does not materially change the appearance of the industrial facility. On this basis, the provisions of Section 4(1)(h) of the Planning & Development Act 2000, as amended, are relevant in relation to exempt development:

*4.—(1) The following shall be exempted developments for the purposes of this Act— ..... h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.*

I submit the development the subject of this application, being interior to the industrial facility which can reasonably be viewed as a structure and, thus, the development complies with the requirements of the Act in this regard. The Planning Authority may have regard to other provisions of the Act and Regulations and this submission does not purport to other than suggestive of certain provisions under which the development may be classed as exempt.





## Loading Gantry

Article 6 of the Planning & Development Regulations 2001, as amended, sets out the following:

(1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempt development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9 imposes restrictions, chief among which are that the development should not be contra to a condition of a permission or inconsistent with the use permitted by the conditions and should not materially impact on the landscape. I submit the development the subject of this Section 5 complies with the restrictions of Article 9, leaving the provisions of Schedule 2 open for application to said development.

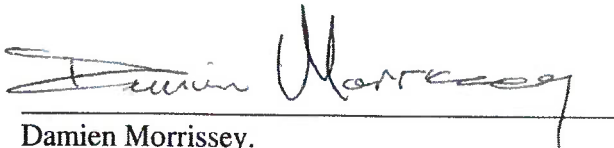
Schedule 2 Class 21 sets out the following development as exempt:

- (a) *Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process,.....(iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.*
- (b) *Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.*

I submit that the gantry development which facilitates the loading of bulky concrete elements in a safe fashion, as replacement for the use of a mobile teleporter is an addition to plant which is exempt development. It is adjacent to the production building which it services.

I trust this is acceptable but if you should need any further information please do not hesitate to contact the undersigned.

Yours faithfully,



Damien Morrissey.

MSc.(Surv),BSc.Arch.Const MCIQB

For and on behalf of **AOCA Engineering Consultants.**



**From:** Liam Smyth [<mailto:Liam.Smyth@irishconcrete.ie>]

**Sent:** 29 October 2020 12:19

**To:** Peter Booth | Booth Concrete <[peterbooth@boothconcrete.com](mailto:peterbooth@boothconcrete.com)>

**Subject:** Exempt Development Query re water management Recycling and Surplus Concrete Queries  
<https://www.irishconcrete.ie/>

Hi Peter,

**Item No 1. Exempt Development, construction of a small pump house with open sided shelter of the control panel.**

As I understand it, you have built a concrete sump and put an open sided cover over it for the purposes of protecting the switchgear. The sump is connected to other existing authorised development by way of piping. When looking at what is authorised, look at all permissions including the S261(6)(a)(i) conditions imposed on the 'pit' back in 2007. It is very important to understand that water as both an ingredient, and is integral to the authorised developments i.e. the washing plant.

Thereafter, in my opinion what you have done falls into the following classes of exempted development, (Class 16 is helpful if your permission was time limited but in your case its not.)

**CLASS 16** *"The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out. Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act".*

**Class 21** is a class of exemption the Concrete and quarrying industry have successfully argued in court in several counties with success over the years, An extensions to processing plant are regularly claimed as exempt under part (iii) subject to the 15m rule. In your case, I would claim (ii) and/or (iii) – I agree (ii) seems to meet the bill best. The structure aspect of (iii) in my opinion is best given you have an open sided 'shed'.

**CLASS 21** (a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking— (i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors, (ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus, (iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery. (b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building. 1. Any such development shall not materially alter the external appearance of the premises of the undertaking. 2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level [there's another bit to this about not exceeding the height of any structure replaced or 15m whichever is the highest]

**Item No2 Surplus Concrete, Bye products**

Your concrete manufacturing operations are all authorised and surplus concrete is an expected part of being a readymix supplier; with material ordered normally containing a safety amount to ensure every pour is complete. The material is certified on delivery to customers. The surplus material remains under your control at all times,



never leaving the delivery truck (concrete bottle) and is returned to your manufacturing plant for further uses; this material is not waste, it is a by-product of the concrete industry.  
This has been established in law in Europe and is clearly something encouraged by the EPA (see attached guidelines page 15 section 3.7.1 from the EPA which was circulated to all local authorities.)

The returned material may be used while still workable in other products, either ready-mix or pre-cast products; a third alternative is to allow the material to harden and then crush it, using existing authorised site processing equipment, back into aggregates.

Where this latter approach is taken the aggregates cannot be classed as waste as crushing is also covered in European case law as not comprising substantial re-processing. The crushed aggregates may be certified as suitable for use in civil engineering to ISEN13242+SR21 (Annexes A-D and F, as only Annex E requires virgin materials) – these aggregate types are typically specified in accordance with the TII specification, e.g. 6F2.

Otherwise, they can be screened (again not a substantial re-processing) and used in concrete again, with those aggregates complying to ISEN12620+SR16, the only difference between virgin and recycled concrete aggregates in that standard being the acid soluble sulphate level (0.2 for virgin, 0.8 for recycled concrete aggregates).

It should be noted that the industry has never accepted that surplus concrete should be classed as waste and the by-product categorisation is appropriate as the provenance of this material is known, indeed certified, and has never left the control of the concrete manufacturer, in complete contrast to the randomness of C&D waste streams from demolition projects.

Should you need more details let me know.

If you would like me to attend the upcoming site visit I would be happy to do so.

Regards,

Liam Smyth  
(LLB Hons .C.Eng. FIEI)



#### LIAM SMYTH Senior Manager - Regulatory Compliance

Liam has over 30 years of experience in the construction materials sector, in a variety of senior management roles. Having initially qualified as a civil engineer (BE) from then UCG, Liam has added to his academic base with further degrees in business administration (MBA) as well as Irish law (LLB Hons), and additionally holds a post-graduate diploma in EIA Management (Dip. EIA Mgmt). As a civil engineer, Liam has been a chartered member of Engineers Ireland (C.Eng) for over 25 years and a Fellow of Engineers Ireland (FIEI) since 2000. In his Regulatory Compliance role for the ICF, Liam represents and advises members on policy, operational and site specific issues relating to land use planning, environmental, and technical product and certification matters, as well as often performing first stage legal review in matters of dispute.



### **3. Drawings & Maps**







## 4. Site/Structure Photos







## 5. Laois County Council Further Information Request







# COMHAIRLE CHONTAE LAOISE LAOIS COUNTY COUNCIL

Comhairle Chontae  
Laoise

Áras an Chontae  
Port Laoise

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R32 EHP9

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corpaffairs@laoiscoco.ie  
www.laois.ie

10/5 – Booth Concrete (4)

01<sup>st</sup> February, 2021

Booth Precast Ltd.,  
C/o Damien Morrissey,  
Acoa Engineering Consultants,  
Lismard House,  
Portlaoise,  
Co. Laois.

Re : Section 5 Declaration - Outdoor Gantry Loading Crane – Ballymullen, Abbetleix, Co. Laois

## Further information

A Chara,

I refer to your Section 5 application received in this office on 22<sup>nd</sup> December, 2020 in connection with the above. I wish to advise that the Planning Authority is not in a position to determine this section 5 application as the information received is not adequate. The applicant shall submit the following further information:

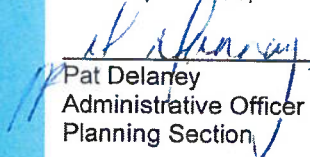
**The Planning Authority notes that there are inconsistencies between the drawings submitted by the applicant as part of this Section 5 application, and that considered by the Planning Authority under Planning Application Reference (10/288) and An Bord Pleanála (ABP Ref: PL 11.239206). For example, the dimensions referred on the Section 5 drawings, do not reflect what has already been considered and approved/**

**The applicant is required to amend the submitted drawings which accurately reflects what is constructed and clearly show's any works that have been undertaken to this building since planning permission was granted. For example, the height the adjacent area to the Gantry Conveyor is shown on the submitted Section 5 drawings to be c. 12.5m. However, the approved drawings indicate a maximum height of c 7.9m.**


**Please review and resubmit the necessary information.**

If you have any queries, please contact this office at [planning@laoiscoco.ie](mailto:planning@laoiscoco.ie)

Is mise, le méas,

  
Pat Delaney  
Administrative Officer  
Planning Section

Tá Fáilte Romhat  
Gnó a Dhéanamh  
as Gaeilge

  
MidlandsIreland.ie

*'I bpáirt leis an bpobal'*

Arna phríontáil ar pháipéar atá 100% athchúrsáilte – Do Chomhshaoil a chothú







## **6. Agents Further Information Response**



The Planning Department,  
Laois County Council,  
Áras an Chontae,  
JFL Ave.,  
Portlaoise,  
Co. Laois

01<sup>st</sup> March 2021

**Our Ref.: 20-056-04**

**Re: Section 5 Declaration – Exempted Development Planning & Development Acts 2000-2010 (Outdoor Gantry Loading Crane)**

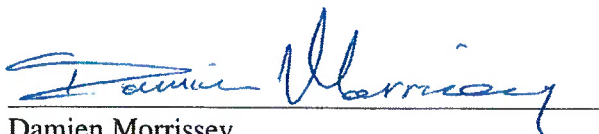
A Chara,

Submitted was the gantry development which facilitates the loading of bulky concrete elements in a safe fashion, as replacement for the use of a mobile teleporter is an addition to plant which is exempt development.

In relation to the adjacent production building we have not examined or did a detailed planning search of the building. Our focus at this point is the gantry externally within the red cloud from the previously submitted drawing 20-56-P-03-04. If some of the adjacent building, planning reference 10/288 has been constructed too high we will inform the client and advise that a retention planning application may be required.

I trust this is acceptable, please advise on previously submitted section 5 but if you should need any further information please do not hesitate to contact the undersigned.

Yours faithfully,



Damien Morrissey.

MSc.(Surv),BSc.Arch.Const MCIQB

For and on behalf of **AOCA Engineering Consultants.**



## **7. Laois County Council Decision**





# COMHAIRLE CHONTAE LAOISE LAOIS COUNTY COUNCIL

Comhairle Chontae  
Laoise  
Áras an Chontae  
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R32 EHP9

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10/5 – Booth Concrete (4)

22nd March 2021

Booth Precast Ltd.,  
C/o Damien Morrissey,  
Acoa Engineering Consultants,  
Lismard House,  
Portlaoise,  
Co. Laois.

**Re : Section 5 Declaration - Outdoor Gantry Loading Crane – Ballymullen,  
Abbetleix, Co. Laois**

A Chara,

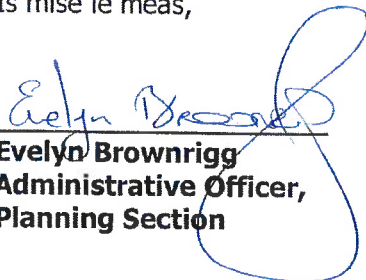
I refer to your Section 5 application received in this office on 22<sup>nd</sup> December, 2020 and the reply to the further information received on the 2<sup>nd</sup> March 2021 in connection with the above.

**NOW WHEREAS** Laois County Council, in exercise of the powers conferred on it by section 5(2)(a) of the 2000 Act, as amended it is hereby decided that the proposed development consisting of the Outdoor Gantry Loading Crane is **'Development' and is 'NOT Exempt Development'** subject to Article 9 of the Planning & Development Act 2000 as amended.

Please be advised that you may, on payment of the prescribed fee to An Bord Pleanala, request a review of this decision.


Any such request should be made to An Bord Pleanala within four weeks of the date of this correspondence.

Is mise le meas,



**Evelyn Brownrigg**  
**Administrative Officer,**  
**Planning Section**

Tá Fáilte Romhat  
Gnó a Dhéanamh  
as Gaeilge

  
MidlandsIreland.ie

*'I bpáirt leis an bpobal'*

Arna phrintáil ar pháipéar atá 100% athchúrsáilte - Do Chomhshaoil a chothú



