

# Stand with Badgers

Ruairí Ó Leocháin  
Bramble Cottage  
Kilrickle  
Co. Galway  
H62D959  
21/11/2023

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1  
D01 V902

**AN BORD PLEANÁLA**  
LDG- 068239-23  
ABP- \_\_\_\_\_  
**23 NOV 2023**  
Fee: € 220 Type: Pro  
Time: 9.15 By: Reg. Post

To the Secretary,

I would like to submit an appeal on the recent decision by Westmeath County Council on planning application 22/577, by Marina Quarter Ltd.

Please find enclosed:

- My appeal on the decision of Westmeath County Council on planning application 22/577.
- Postal order for the relevant fee for a third party appeal.
- Acknowledgments of receipt from Westmeath County Council of submissions made on planning application 22/577.
- My complaint to Westmeath Council re planning violations.

Thank you,

Ruairí Ó Leocháin  
Stand with Badgers

# Stand with Badgers

## Introduction

From the outset of this project, badgers and their protected habitat have never been more than an afterthought. When initial planning permission was given, there were no badger surveys submitted. Despite the clear presence of a territorial footprint— tracks and trails, latrines, snuffle holes along with anecdotal evidence - multiple badger sightings, decades long supplementary feeding by locals – the need for a badger survey on this centuries old habitat was only recognised by planners on receipt of objections this year. As such, building at the site is now at such an advanced stage that much of the habitat has already been destroyed – there has been a drastic reduction in the amount of forage available.

Building has been completed adjacent to breeding setts, post survey and without evidence of the required permissions or supervision by the NPWS. (FOI included) Areas adjacent to setts were used as dumping grounds for boulders, post survey, as site workers were not made aware of setts. Heavy machinery was used to dump boulders. (Complaint included) Exclusion zones were only marked out at a later stage, once complaints were made.

There are multiple plans for this site. Some of these plans appear to overlap. As the plans were not submitted at the same time, the in-combination effects are not adequately dealt with.

The proposed Mitigation Factors by Enviroguide Consulting for PP 22577 are destined to fail. They do not provide a viable artificial sett for the badgers within the site. With building at such an advanced stage, it is unlikely that there is a suitable site for an artificial sett within the confines of this site.

Should the current setts be destroyed, along with the remaining forage area, there would be nowhere for the badgers to go. The entirety of the badgers forage area, which extends well beyond the site at 22577 is surrounded by roads, beyond which are rival badger territories. This would inevitably lead to the death of the badgers – territorial fighting, disease and road kill (which has already begun) would all play their part.

In this submission, I will outline key points which will show the inevitable failures of the proposed Mitigation Measures at Cornamaddy.

Comments – **“The Mitigation Strategy is very poor in terms of detail and it’s relationship with the original data set. This level of quality would never be tolerated in the Scottish planning system.”**  
**Steve Jackson – Matthews, Scottish Badgers.**

# Stand with Badgers

## Contributors

I am a founder member of the Stand with Badgers Group, with over 7,500 followers in Ireland and the UK. We are closely affiliated with the most respected Badger Conservation groups and experts in the UK. We regularly engage in online conference calls and workshops. In one of our most recent conference calls, with 22 contributors – Voices for Badgers, I was given the chance to speak on Badger Conservation in Ireland, with the focus being on the differences and similarities to Badger Conservation in the UK. It was during this conference that I learned how Mitigation Measures in Irish Planning are taken directly from the guidelines written by our UK experts.

Having particular concerns relating to the proposed Mitigation Measures by Enviroguide Consulting at Cornamaddy, Athlone, I contacted our colleagues in the UK.

**Steve Hawkes** runs the *Warwickshire Badger Group* – His accreditations, experience and expertise ensured that he would be my first contact.

I made a point of including **Graham Shepherd**, as he runs the *South Yorkshire Badger Group*, whose Mitigation Guidelines are quoted by Enviroguide Consulting, authors of proposed mitigation at Cornamaddy.

I contacted the team at **Scottish** Badgers, whose excellent Mitigation Guidelines are also quoted by Enviroguide. **Steve Jackson-Matthews** is the contact from Scottish Badgers – he is an Ecological Consultant with almost 20 years experience in planning.

I have spoken with **Siobhán MacMahon** of the *East Yorkshire Badger Protection Group*.

Finally, I have spoken with **Nigel Tolley** – a founder member and former Director at *Badger Trust*.

I have referred to all of the above experts, and have their full confidence and support in this appeal. The support of our colleagues is greatly appreciated.

# Stand with Badgers

## Proposed Location&Size of the Artificial Set

1. The proposed area for the artificial sett is 50m from the road which is yet to be constructed. This goes against guidelines quoted by Enviroguide that it should be "far away from any construction/development that could cause disturbance." Despite the fact that this planned road is marked out, I would query why it does not appear on the proposed Mitigation mapping.
2. This road will also block a significant area of remaining forage and inevitably lead to roadkill. This is a complete contradiction of the proposed mitigation plans by Enviroguide which state that "the proposed sett location will enable badgers.....to maintain connectivity with the currently utilised foraging lands outside the applicants landholding". Consideration should have been given to the installation of tunnels beneath this road which would have allowed the badgers continued safe passage to their foraging lands. With forage already reduced by up to 70%, a further loss would inevitably lead to our questioning the viability of these lands as a badger habitat.

Comments on points 1/2 –

***"If the siting of the artificial sett is such that it will end up being within 50 metres from the planned road then that is a recipe for disaster in badger terms. The planned road would be right through the middle of what the badgers have been using for part of their existing foraging areas for years. Naturally they will continue to go there as that is what their instinct will tell them to do.***

***That is where they have been used to getting a food supply and as such there will undoubtedly be problems from the road and the traffic thereon when they try to return there to forage. Common sense dictates that badgers***

***encountering road traffic (which will be even more significant in the event of new housing developments) does not usually end well for the badger.***

***The very best siting for an artificial sett is well away from roads and indeed human habitation of any sort.***

***The 50m distance between the proposed sett and the new road is nowhere near enough in my view to ensure accidents do not occur."*** – Steve Hawkes, Warwickshire Badger Group

***"I agree completely. 50m from the new road is completely inappropriate."*** - Steve Hawkes, Warwickshire Badger Group

On point 2 – ***"Again, I agree with you. I can't see any evidence of bait marking surveys/territorial analysis, so the ecologist appears to have made leaping assumptions without any supporting data. A bait marking survey should have been undertaken to inform the entire Mitigation Strategy."*** – Steve Jackson-Matthews, Scottish Badgers.

# Stand with Badgers

3. There is a flowing stream located 50m from the proposed sett entrances. Again, I would query why Enviroguide have not included this stream in their proposed mitigation mapping. There is an increased likelihood of flooding from this stream, given that water has been displaced by nearby developments on land once designated as 'bogland'. According to guidelines quoted by Enviroguide— "The sett and sett entrances should not be located near flowing water". Badgers will always avoid areas near flowing water. In centuries of tunnel excavation, they have always avoided this side of the Esker. This is unlikely to change now, especially with the increased localised flooding in recent years.

Comments –

***"The stream being so close to the proposed new entrances for the artificial sett is also a very big problem in my view. The badgers have built their existing sett area far enough away for them not to be troubled by flooding from that stream (presumably).***

***To have sett entrances around 50 m away with the proposed relocation, (and taking into account the problems which are very often associated with drainage/sewerage issues which almost always occur on new development sites), the badgers well-being is highly likely to be adversely compromised. Concerns about flooding for the sett are very realistic ones. As such any artificial sett entrances should be much further away in my view."*** - Steve Hawkes, Warwickshire Badger Group

4. According to guidelines quoted by Enviroguide - "An artificial sett must have adequate chambers and tunnels which replicate the bulk of the natural sett it replaces. A **minimum of 30m** radius is recommended to allow for outlying entrances and to prevent damage and disturbance after completion." Crucially, on this point, it must be noted that the original badger setts, which are at least 120 years old, cover an area of at least 80 metres. Worryingly, the plans for the proposed artificial sett show that it's size would be a meagre **15m X 15m**.

Comments –

***"The proposed size of the artificial sett is totally inadequate in this case too - especially given the historical footprint of the existing linked and unlinked holes that appear to be in use. The evidence suggests this is clearly a very old and well established main sett and given it spans approx 80 metres then 15x15m for a replacement would be a fairly pathetic substitute. This would not even remotely replicate conditions for the existing badgers within the clan. Indeed to provide a replacement sett so small in comparison to what they are used to would be highly likely to fail – particularly in terms of them taking up residence and continuing to occupy it as a substitute."*** - Steve Hawkes, Warwickshire Badger Group

***"I agree with you. Normally like-for-like mitigation is expected, which would mean a considerably larger sett than that proposed. Again, the Mitigation Strategy should have provided the rationale for this, but it doesn't."*** - Steve Jackson – Matthews, Scottish Badgers.

# Stand with Badgers

## Forage

5. The primary source of forage for badgers is earthworms. On average, a badger consumes 200 earthworms a night. They will also eat insects, beetles, larvae, small mammals and amphibians. When seasons allow, berries, fruits and nuts may supplement their diet. Historically, at Cornamaddy, the badgers main forage areas extend well beyond the site in question, with evidence of multiple trails across the land, covered in snuffle holes as they forage for worms. The drastic reduction in forage due to building, has meant that we have already lost one badger to roadkill on one of the surrounding roads.

The field next to Cornamagh Cemetary was once "Cornamagh Lough" which has long gone but left a marshy field behind. This area does not provide suitable foraging ground.

The area at the top of the site through which the road is planned is also used for forage, and this is where supplementary feeding also happens. The planned road would cut this area off completely, further reducing forage, to a detrimental level. If this were to go ahead, the viability of the area as a badger habitat would have to be questioned. At this stage, EU law on habitat destruction would need to be invoked.

The entire area, including all forage areas outside of this proposed site provided adequate short grass forage for the badgers. In comparing this to the "potential foraging habitat" marked with purple lines on map 2, in proposed mitigation, even a layperson must question how such a tiny area could be adequate for forage. Please keep in mind that surrounding development and road would limit the badgers to this enclosed area. When the badgers decide to move on because of these restrictions, they would be compromised by surrounding roads, beyond which are rival badger territories. There is nowhere for them to go.

Mitigation plans for the planting of hawthorn, blackthorn and gorse around the artificial sett, after it is built "to provide cover and shelter, as well as in the future providing foodplants for the badger population". Given that it would be a number of years before any significant amount of berries are produced, to supplement an Autumnal diet, this planting wouldn't even have any significance in encouraging the badgers to stay – in term of forage in the medium term? Would the proposed planting do anything to encourage badgers to stay in a proposed area, where 90% of their worm foraging areas have been removed through development? I think not.

# Stand with Badgers

Comments –

“Regarding a comparison of the size of foraging areas “before” and “after” the proposed development. It is reasonable to suggest that the size of a badger clans existing foraging areas is tailored solely to suit that particular clan size’s needs. The size of the existing foraging areas is the size that it is because that is precisely what nature has determined is needed to sustain the established clan within that territory.

To reduce the size of these foraging areas within the exact same vicinity by building over parts would undoubtedly mean the food supplies would be adversely compromised and to a significant degree. This would undoubtedly cause the badgers to look elsewhere to forage which would inevitably lead to problems. For example : -

a) – by visiting neighbouring clan’s established territories which is fraught with problems associated with territorial disputes. Badgers are fiercely territorial and will defend their home patch with vigour – often severely injuring or even killing transgressors.

b) - by making incursions into gardens where the further wrath of some intolerant humans will be foisted upon them. The last thing anyone moving into new build homes wants is their nice new lawn to be turned over.

c) – I note there is a graveyard nearby and – if the existing foraging were to be reduced then that graveyard might prove to be a source of exploration by the clan as an alternative (less busy) foraging area. And badgers in graveyards can have obvious consequences – as many of us who have experienced this can attest to.”

“I would always endorse the use of hawthorn, blackthorn, gorse, nettles, brambles, holly, and the like as protective ground cover. However, to further suggest that haw berries and sloes would do very much to compensate for the extent to which the existing food sources would be lost in this instance by the reduced foraging grounds is a bit unrealistic. Badgers can and do eat such offerings but, in my experience, they are not over bothered by these which are generally nothing more than just a bit of a dietary supplement at the end of autumn. I also guess that any planting of this type would not involve mature trees with abundances of such food sources anyway. It would seem fanciful to me if anyone was to offer an argument that hawthorn, blackthorn, and gorse being planted around a sett would enhance occupation by badgers on the grounds of diet. Ground cover – yes but as foraging compensation – no.”

- Steve Hawkes, Warwickshire Badger Group

“As per my point above, bait marking surveys/territorial analysis doesn’t appear to have been undertaken, so the ecologist seems to have pulled this ‘mitigation area’ out of thin air I’m afraid. It feels like the mitigation area has been designed to fit with the development, rather than being based on scientific evidence. Either way, the proposed habitat provision is incredibly small. I genuinely can’t see how an ecologist can defend this.”

- Steve Jackson-Matthews, Scottish Badgers.

# Stand with Badgers

## Conclusion

In conclusion, the points laid out above clearly show that the proposed mitigation measures, as set out by Enviroguide are not fit for purpose and would be destined to failure. In fact our ecological consultant, Steve Jackson-Matthews is scathing in his assessment - "I genuinely can't see how an ecologist can defend this."

Where breeding setts are to be destroyed, Badgers must be provided with a viable alternative – the plans do not provide for this. Had the need for an artificial sett been considered from the outset, the location, sett size and foraging habitat could all have been properly assessed using recognised bait marking surveys and territorial analysis. Unfortunately, the protection of badgers and their centuries old habitat was not considered and is now only an afterthought, due to objections.

Building work continued, apparently without licence or supervision required. Because of this, mitigation measures have been draw up to fit with work already completed or planned. The only area available in current plans for an artificial sett would be at the edge of the site, so long as it's size was no more than 15 x 15, with a flowing stream on one side and a planned road on the other. Badgers would be cut off from their territory, with foraging territory reduced to between 5 and 10 per cent of what it once was. As it stands, we have already lost badgers because of this territorial land grab. If current plans go ahead, we will lose all of our badgers.

Without a viable plan for mitigation in place, the closure and destruction of the breeding setts at Cornamaddy is illegal.

According to Minister Malcolm Noonan, head of the NPWS - "Our local authorities in both urban and rural areas have a critical role to play in addressing our Biodiversity Crisis." Unfortunately, Westmeath County Council have not fulfilled their 'critical role' on this occasion. With this in mind, I am appealing to An Bord Pleanála to overturn the decision made by Westmeath Coco on planning application 22577.

Ruairí Ó Leocháin  
Stand with Badgers





Ruairi O Leochain &lt;ruairioleochain@gmail.com&gt;

**Planning violation at Cornamaddy. Ref 22577**

7 messages

**Ruairi O Leochain** <ruairioleochain@gmail.com>

Mon, Feb 27, 2023 at 8:54 AM

To: "Secretar (SEO Corporate Affairs)" &lt;Secretar@westmeathcoco.ie&gt;

Dear Secretar,

"All active setts must be protected from interference or disturbance by an exclusion zone of 50m during the breeding season- Dec to June" 📌

At Cornamaddy Athlone (Application 22577), heavy machinery has already been used within the allocated 50m of Sett 4, as mapped on the planning application.

This is a breeding sett at which cubs have been born in the last 2 weeks. It is protected under Irish and European legislation.

Can you please refer this matter to the 3 departments of planning, environment and heritage.

Thank you

Ruairí O Leochain

**Ruairi O Leochain** <ruairioleochain@gmail.com>

Mon, Feb 27, 2023 at 8:54 AM

To: carmel gormley &lt;carmelgor@yahoo.com&gt;

[Quoted text hidden]

**Secretar (SEO Corporate Affairs)** <Secretar@westmeathcoco.ie>

Mon, Feb 27, 2023 at 9:49 AM

To: Ruairi O Leochain &lt;ruairioleochain@gmail.com&gt;

A chara

As requested, I've referred your email to Planning, Environment and the Heritage Officer.

Regards

Martina Slevin

**Martina Slevin | Chief Executive's Office****Westmeath County Council, Aras an Chontae, Mullingar, Co. Westmeath | 044 9332297 | 044 9342330 |****mslevin@westmeathcoco.ie | [www.westmeathcoco.ie](http://www.westmeathcoco.ie)**



Ruairi O Leochain &lt;ruairioleochain@gmail.com&gt;

**Acknowledgement of receipt of submission on a planning application**

1 message

OnlinePlanning <onlineplanning@planning.localgov.ie>  
Reply-To: OnlinePlanning <onlineplanning@planning.localgov.ie>  
To: ruairioleochain@gmail.com

Wed, Feb 1, 2023 at 3:23 PM

Submission No.: 150000000825

**THIS IS AN IMPORTANT DOCUMENT**

KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO PRODUCE THIS ACKNOWLEDGEMENT TO AN BORD PLEANALA IF YOU WISH TO APPEAL THE DECISION OF THE PLANNING AUTHORITY. IT IS THE ONLY FORM OF EVIDENCE WHICH WILL BE ACCEPTED BY AN BORD PLEANALA THAT A SUBMISSION OR OBSERVATION HAS BEEN MADE TO THE PLANNING AUTHORITY ON THE PLANNING APPLICATION.

Westmeath County Council

PLANNING APPLICATION REFERENCE No: 22577

A submission/observation in writing, has been received from Ruairi O Leochain on 31/01/2023 in relation to the above planning application.

The appropriate fee of €20 has been paid. (Fee not applicable to prescribed bodies)

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001 and will be taken into account by the planning authority in its determination of the planning application.

Yours faithfully,  
Westmeath County Council

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\*\*\*\*\*



Ruairi O Leochain &lt;ruairioleochain@gmail.com&gt;

## Acknowledgement of receipt of submission on a planning application

1 message

**OnlinePlanning** <onlineplanning@planning.localgov.ie>  
 Reply-To: OnlinePlanning <onlineplanning@planning.localgov.ie>  
 To: ruairioleochain@gmail.com

Fri, Feb 3, 2023 at 12:38 PM

Submission No.: 150000000873

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Westmeath County Council

PLANNING APPLICATION REFERENCE No: 22577

A submission/observation in writing, has been received from Ruairi O Leochain on 02/02/2023 in relation to the above planning application.

The appropriate fee of €20 has been paid. (Fee not applicable to prescribed bodies)

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001 and will be taken into account by the planning authority in its determination of the planning application.

Yours faithfully,  
 Westmeath County Council

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Ruairi O Leochain &lt;ruairioleochain@gmail.com&gt;

**Acknowledgement of receipt of submission on a planning application**

1 message

OnlinePlanning <onlineplanning@planning.localgov.ie>  
Reply-To: OnlinePlanning <onlineplanning@planning.localgov.ie>  
To: ruairioleochain@gmail.com

Fri, Apr 28, 2023 at 11:49 AM

Submission No.: 150000002525

Date of Issue:

28/04/2023 11:48am

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Westmeath County Council

PLANNING APPLICATION REFERENCE No: 2360074

A submission/observation in writing, has been received from Ruairi O Leochain on 27/04/2023 in relation to the above planning application.

The appropriate fee of €20 has been paid. (Fee not applicable to prescribed bodies)

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001 and will be taken into account by the planning authority in its determination of the planning application.

Yours faithfully,  
Westmeath County Council

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Ruairi O Leochain &lt;ruairioleochain@gmail.com&gt;

**Acknowledgement of receipt of submission on a planning application**

1 message

OnlinePlanning <onlineplanning@planning.localgov.ie>  
Reply-To: OnlinePlanning <onlineplanning@planning.localgov.ie>  
To: ruairioleochain@gmail.com

Mon, Oct 9, 2023 at 9:09 AM

Submission No.: 150000007392

Date of Issue:

09/10/2023 09:08am

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Westmeath County Council

PLANNING APPLICATION REFERENCE No: 22577

A submission/observation in writing, has been received from Ruairi O Leochain on 08/10/2023 in relation to the above planning application.

The appropriate fee of €20 has been paid. (Fee not applicable to prescribed bodies)

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001 and will be taken into account by the planning authority in its determination of the planning application.

Yours faithfully,  
Westmeath County Council

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Mr Ruairí Ó Leocháin  
ruairioleochain@gmail.com

7 November 2023

**Re: FOI request 0436-2023**

Dear Mr Ó Leocháin

I refer to the request, which you made under the Freedom of Information Act 2014 for records held by this body. Your request sought:

- access to all licences given by the NPWS for works by Marina Quarter Limited at Cornamaddy, Athlone. The relevant planning permission number is 22577 and the local authority is Westmeath County Council.

**Findings, particulars and reasons for decisions to deny access**

I am sorry to inform you that we cannot locate any relevant records in relation to the above request and I must therefore refuse your request. This decision is made under Section 15(1)(a) of the FOI Act 2014 which states:-

“A head to whom an FOI request is made may refuse to grant the request where (a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken”.

**Rights of appeal**

In the event that you are unhappy with this decision you may appeal it. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Department of Housing, Local Government and Heritage, Newtown Road, Wexford, Y35 AP90 or by sending an e-mail to [FOI@housing.gov.ie](mailto:FOI@housing.gov.ie). Your correspondence should include a fee of €30 [€10 for medical card holders] for processing the appeal.