

**From:** Evan Walsh <evan@brockmcclure.ie>  
**Sent:** Thursday 21 December 2023 09:21  
**To:** Appeals2  
**Cc:** Laura Brock  
**Subject:** Appeal Response - (ABP - 318510 - 23) First Party Response to Third Party Appeal by Stand with Badgers  
**Attachments:** Appeal Response (ABP 318510-23) - Stand with Badgers.pdf

Dear Sir/Madam,

We, Brock McClure Planning & Development Consultants, 63 York Road, Dún Laoghaire, Co. Dublin, are instructed by our client Marina Quarter Limited, Digital Office Centre, Block B, Maynooth Business Campus, Straffan Road, Maynooth, Co. Kildare, W23 W5X7, to lodge this first party response to a third-party appeal made by Stand with Badgers (ABP Letter dated 24th November 2023), regarding a residential development granted permission by Westmeath County Council, on lands at Cornamaddy, Athlone, Co. Westmeath (WMCC Ref. 22/577/ ABP. 318510). The development is described as follows:

*'The development will comprise of a residential development and public open space comprising the following: Amendments to permitted application WMCC Reg Ref. 14/7103 ABP Ref. PL25.244826 for the removal of 38 no. permitted units (not constructed) to be replaced by: Construction of 70 no. residential units comprising: 4 no. 2 bed terraced houses (c.78 sq.m each), 60 no. 3 bed semidetached (c. 96-116 sq.m each) and 6 no. 4 bed semidetached houses (c. 147 sq.m each) with associated private gardens. The creche facility, public open spaces, landscaping, roads layouts, car parking, boundary treatment works, public lighting and all associated site works associated with the 87 no. remaining units retained as permitted under WMCC Reg Ref. 14/7103 ABP Ref. PL25.244826 will remain unchanged. All pedestrian and vehicular access roads and footpaths including a section of the planned east/west distributor road connecting to a sections of the distributor road permitted under WMCC Reg. Refs 14/7103 ABP Ref. PL25.244826 and 22/253 to the east of the site. All associated site development works, services provision, drainage works, public open space (c.1.03ha), landscaping, boundary treatment works, public lighting, associated esb substation cabinets, bin stores, car and bicycle parking provision'.*

The response to the Stand with Badgers appeal of the scheme has been prepared with inputs from Marina Quarter Limited, Brock McClure Planning & Development Consultants and Enviroguide.

As per the appeal notification letter issued by ABP this response is now emailed to [appeals@pleanala.ie](mailto:appeals@pleanala.ie). This appeal response is submitted to An Bord Pleanala within 4 weeks from the date of notification of appeal received from An Bord Pleanala on the 24<sup>th</sup> of November 2023.

We ask that all correspondence regarding this appeal case is forwarded to our offices at 63 York Road, Dun Laoghaire, Dublin.

Evan Walsh

Senior Executive Planner



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**First Party Response to Third Party  
Appeal – Stand With Badgers**

**Residential Development on lands at  
Cornamaddy,  
Athlone,  
Co. Westmeath**

**WMCC Ref. 22/577**

**ABP Ref. 318510-23**

**On behalf of**

**Marina Quarter Limited**

**21st December 2023**



Planning and Development Consultants  
63 York Road,  
Dun Laoghaire,  
Co. Dublin

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## 1 Introduction

We, Brock McClure Planning & Development Consultants, 63 York Road, Dún Laoghaire, Co. Dublin, are instructed by our client **Marina Quarter Limited, Digital Office Centre, Block B, Maynooth Business Campus, Straffan Road, Maynooth, Co. Kildare, W23 W5X7**, to lodge this first party response to a third-party appeal made by Stand with Badgers (ABP Letter dated 24<sup>th</sup> November 2023) regarding a residential development granted permission by Westmeath County Council, on lands at Cornamaddy, Athlone, Co. Westmeath (WMCC Ref. 22/577/ ABP. 318510). The development is described as follows:

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This response to the Stand with Badgers appeal been prepared by the applicant and design team for the benefit of An Bord Pleanala. A response to each item raised in the appeal is provided in Section 5 of this report.

This appeal response is made in writing and is submitted to An Bord Pleanala within 4 weeks from the date of notification of appeals received from An Bord Pleanala on the 24<sup>th</sup> of November 2023.

The structure of this response is as follows:

**Site Context** – A brief overview of the site location and characteristics.

**Application Lodged** – A summary of the application originally lodged to Westmeath County Council.

**Planning Authority Decision** – Details of the time line associated with the decision to grant permission for the development by Westmeath County Council.

**First Party Response to Third Party Appeal** – An itemised response from the applicant and design team to all appeal items raised by Stand with Badgers in the lodged 3<sup>rd</sup> Party Appeal document.

**Conclusion** – Concluding comments from Applicant and Design Team regarding the lodged 3<sup>rd</sup> party appeals, and a request for An Bord Pleanala to uphold the decision of Westmeath County Council to grant permission for the development.

We ask that all correspondence regarding this appeal case is forwarded to our offices at 63 York Road, Dun Laoghaire, Dublin.

## 2 Site Context

The land subject to the originally lodged planning application is located at Cornamaddy, Athlone, Co. Westmeath, approximately 2km to the northeast of Athlone Town Centre. The site is generally bounded by surrounding greenfield lands to the immediate north, east and west, with an existing residential housing development 'Drumaconn' bounding the site to the southeast.

The access and egress road for the development is partially in existence, currently providing access and egress to the constructed 'Drumaconn' residential development off the Ballymahon Road - N55. This road will be extended as part of the permission granted under WMCC reg ref. 14/7103, and further extended into the development site as part of the application lodged to WMCC under WMCC reg. ref. 22/253. The subject development offers a further extension to the Distributor Road through the Cornamaddy lands, extending the road westwards from the section of road included in the planning application lodged to WMCC reg ref. 22/253.

It is envisioned that the section of the distributor road provided as part of the subject application will contribute towards the deliverance of the entirety of the distributor road, envisioned to traverse the central portion of the Cornamaddy lands as they are developed.

The development is located on greenfield lands that have been subject to surrounding previous grants of permission for residential development by Westmeath County Council and An Bord Pleanála and has been earmarked for new residential development since the early 2000's. It is noted that the applicant has begun construction on the Cornamaddy lands, granted as part of previous project phases.

The subject site is on the north eastern periphery of Athlone Town, with the town main street located approximately 2km to the south west of the development site, which is ideally located for residential development, outside the town centre but close to facilities and services. There are schools, supermarkets, a library and restaurants all within walking distance of the proposal site.

Aside from availing of the many amenities that Athlone to the south west of the subject site has to offer, the development site is proximate to several retail and retail warehousing services including SuperValu and Spar on the Ballymahon Road and Blyry Industrial Estate, which is highly accessible and a short walk from the subject site.

While the site is located within a comfortable walking distance of Athlone Town, it also benefits from nearby transport links. The site is well served by a number of reasonably frequent bus services departing from Athlone bus station approximately 2km to the south west of the site offering the following services:

- Route 72 to Limerick Train Station
- Route 70 to Green Bridge
- Route 440 to the Rail Walk
- Route 461 to Roscommon
- Route 466 to Longford
- Route 73 to Waterford City
- Route 70 to Mullingar
- Route 65 to Kilnacloy

The closest bus stop to the site is located approximately 900 metres to the south west of the site along the N55 and is served by the A2 Bus Eireann route which offers connections to Bealnamulla in Roscommon. It is noted that indicative locations for future bus stops along the proposed section of the Distributor Road were included on the drawings submitted to the Planning Authority for consideration as part of this application pack.

The subject site expands across residential and open space zoned areas. The site is located across lands with the following zoning objectives, as per the Athlone Town Development Plan 2014-2020:

- **Residential o-LZ1** – *‘To provide for residential development, associated services and to protect and improve residential amenity’.*
- **Open Space o-LZ8** – *‘To provide for, protect and improve the provision, attractiveness, accessibility and amenity value of public open space and amenity areas.’*

The proposal offers a residential development featuring a mix of unit types and sizes and will provide appropriate open space areas in accordance with the requirements of the Athlone Town Development Plan and Westmeath County Development Plan. The proposal represents a suitable response to the mix of zoning objectives on site and provides a high-quality residential development in an accessible location, in line with guidance for the provision of new residential units outlined in national policy.

### 3 Application Lodged

Marina Quarter limited applied for a 5-year permission for development at this site of total 10.87ha on lands located at Cornamaddy, Athlone, Co. Westmeath on the 22<sup>nd</sup> of December 2022. The site is generally bounded to the west by greenfield lands and Cornamagh Cemetery, to the north by greenfield lands, to the south by greenfield lands and the Ballymahon Road (N55) and to the east by the existing Drumaconn housing estate. The application site layout as originally lodged to Westmeath County Council is shown below for the benefit of An Bord Pleanála:



Figure 1: Originally Lodged Site Layout Plan

The application was originally lodged to Westmeath County Council comprised of the following:

- Amendments to permitted application WMCC reg Ref. 14/7103/ ABP Ref. PL25.244826 for the removal of 38 no. permitted units (not constructed) to be replaced by: Construction of 70 no. residential units comprising: 4 no. 2 bed terraced houses (c.78 sq.m each), 60 no. 3 bed semidetached (c. 96-116 sq.m each) and 6 no. 4 bed semidetached houses (c. 147 sq.m each) with associated private gardens.

- The creche facility, public open spaces, landscaping, roads layouts, car parking, boundary treatment works, public lighting and all associated site works associated with the 87 no. remaining units retained as permitted under WMCC Reg Ref. 14/7103 ABP Ref. PL25.244826 will remain unchanged.
- All pedestrian and vehicular access roads and footpaths including a section of the planned east/west distributor road connecting to a sections of the distributor road permitted under WMCC Reg. Refs 14/7103/ ABP Ref. PL25.244826 and 22/253 to the east of the site.
- All associated site development works, services provision, drainage works, public open space (c.1.03ha), landscaping, boundary treatment works, public lighting, associated esb substation cabinets, bin stores, car and bicycle parking provision.
- This development will form part of a larger/future phase of the development.

#### 4 Planning Authority Decision

Westmeath County Council made the decision to request Further Information for the development on the 24<sup>th</sup> of February 2023 regarding 9 no. items. This Further Information Request was responded to on the 15<sup>th</sup> of June 2023. Westmeath County Council then requested Clarification of Further Information regarding 3 no. items. This CFI request was responded to on the 6<sup>th</sup> of September 2023 (following a grant of an extension to the FI response period).

Subsequently, it was considered by Westmeath County Council that any concerns and queries in respect of the proposed development had been adequately addressed, and planning permission was granted for the development on the 31<sup>st</sup> of October 2023. The site layout plan as per the granted permission is shown below on Figure 2 for the benefit of An Bord Pleanála:



Figure 2: Granted Site Layout

## 5 First Party Response to Third Party Appeal

The decision from Westmeath County Council to grant permission for development under Reg Ref. 22/577 was subsequently appealed to An Bord Pleanála by 2 no. third parties as follows:

- Stand With Badgers
- DM Leavy

This First Party Response to Third Party Appeal has been prepared specifically to respond to the 3<sup>rd</sup> Party Appeal lodged to An Bord Pleanála by Stand with Badgers.

We note at this stage to An Bord Pleanála that no residents in the area immediately surrounding the development site have appealed Westmeath County Council's decision to grant permission for development. Through the Further Information and Clarification of Further Information stages it is considered that the applicant and design team have appropriately responded to any concerns or queries raised by third parties.

This appeal response has been prepared by Brock McClure Planning and Development Consultants with input from Enviroguide and Marina Quarter limited to directly respond to all items raised by Stand with Badgers in their appeal of the scheme.

### 5.1 Response to Appeal Introduction

The introduction of the appeal from Stand with Badgers notes that:

*'From the outset of this project, badgers and their protected habitat have never been more than an afterthought. When the initial planning permission was given, there were no badger surveys submitted'.*

We wish to directly refute this claim from the appellant and note that at every stage of the project the appropriate consideration has been given to flora and fauna on the site. The application as originally lodged contained a full Environmental Impact Assessment Report. As part of this EIAR a Badger Survey Report was completed by Flynn Furney on the 6<sup>th</sup> of November 2022.

Subsequently, at Further Information stage an updated report was prepared by Flynn Furney to provide a Mitigation Strategy to avoid impacts to badgers on site and to be presented by Westmeath County Council to National Parks and Wildlife service for their assessment and approval.

Further to this, at Clarification of Further Information Stage, additional measures were put in place to appropriately mitigate any impact on badgers resulting from the development. A Badger Mitigation Table was prepared by Enviroguide Consulting, which outlined Mitigation Objectives and Commitments, Mitigation Measures, Timing of Mitigation Measures, Monitoring to Ensure Effectiveness of Mitigation Measures, and any Corrective Measures proposed.

At Clarification of Further Information stage, Enviroguide provided a direct evidence-based response to matters raised by the Department of Housing and Local Government in a submission made on the application.

As part of the CFI response, artificial sett details were prepared by Flynn Furney and submitted to the Planning Authority, and a blank Mitigation Monitoring Report template was prepared by Enviroguide and lodged to the Westmeath County Council. It was proposed that the Mitigation Monitoring Report would be completed by an ecologist and submitted to Westmeath County Council at increments decided by the Council to ensure that the mitigation measures were being implemented on site correctly, and that a record of monitoring was kept.

We refer An Bord Pleanála to the application documents submitted at Planning Application Stage, Further Information Stage and Clarification of Further Information stage for details. It is clear that mitigating any impacts to badgers on the development site has been a priority for the applicant and design team from initial application stage through to receipt of a grant of planning permission from Westmeath County Council.

The Stand with Badgers appeal introduction also notes that:

*'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'.*

It is acknowledged by the applicant that there are multiple plans proposed and granted on the application site, which overlap in a number of locations. The applicant and design team refute the claim of the appellant that the in-combination effects of development are not adequately dealt with. An Environmental Impact Assessment Report was submitted with the subject development which assessed the overall development on the lands. Subsequently a second Environmental Impact Assessment Report for the Cornamaddy lands was lodged to Westmeath County Council as part of application Reg Ref. 2360074, currently live for decision. This Environmental Impact Assessment Report provides an updated assessment of the site inclusive of all applications lodged, granted, or planned for the lands, as well as their impact in combination with surrounding permissions outside of the applicant's landholding.

## **5.2 Response to Appeal Item 1**

Stand with Badgers lists the following as their 1<sup>st</sup> reason for lodging an appeal against the proposed development:

*'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'.*

In response to this, Enviroguide note to An Bord Pleanála that the legal requirement in Ireland is a 50m buffer from any sett entrances from December to June (breeding season), and 30m outside of this period. Thus, the 50m buffer from the road is considered to be sufficient as per TII (formerly NRA) Guidance for sites without blasting / piling. This is supported within the following guidance document: TII (formerly NRA) (2005) *Guidelines for the treatment of badgers prior to the construction of national road schemes*.

### 5.3 Response to Appeal Item 2

Stand with Badgers lists the following as their 2<sup>nd</sup> reason for lodging an appeal against the proposed development:

*'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 of the applicant's 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.'*

In response to this, Enviroguide note to An Bord Pleanála tunnels to accommodate badger transit between foraging areas on the Cornamaddy lands are not feasible on a road of the nature of the distributor road through the Cornamaddy lands and are more appropriate on roads which facilitate motorway speeds of 100 – 120 kmph. The proposed speed limit on the distributor road is 60 kmph, falling far below this.

It is considered that it would be more suitable to propose tunnels beneath the N55 road to the east of the lands, which is outside of the control of the applicant.

In response to the appellant noting that there will be a foraging loss of 70%, Enviroguide submit that there is no evidence to support this percentage figure. Badger trails between the site and the area to the west were identified so they are in fact using the area to the west of the site for forage.

### 5.4 Response to Appeal Item 3

Stand with Badgers lists the following as their 3<sup>rd</sup> reason for lodging an appeal against the proposed development:

*'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 from nearby developments once designated as 'bogland'. According to guidelines quoted by Enviroguide – "The sett and sett entrances should not be located 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.'*

In response to this, Enviroguide note to An Bord Pleanála that the artificial sett is located near a drainage ditch (FW4) not a river (FW2). The drainage ditches may have some flow during excessive rainfall events but are also stagnant and even dry in some locations. Any watercourses on or near the site are included within the habitat map for the site lodged with the original planning application. A 50m buffer zone between the artificial sett and the drainage ditch was deemed appropriate, striking a balance between keeping artificial sett close to original, while being outside of disturbance distances and away from any watercourses. As per NatureScot Standing Advice for Planning Consultations - badgers, "The most successful artificial setts have been located less than 100m from the original natural sett".

Furthermore, SuDS measures at the Site + the Flood Risk Assessment mitigation will preclude flooding at or in the vicinity of the Site up to 20% climate change level (Paul McGrail, 2023).

A full Flood Risk Assessment was carried out for the development site by Paul McGrail Consulting Engineers as part of the originally lodged application pack to Westmeath County Council. We refer An Bord Pleanála to this document, which outlined the compliance of the scheme with objectives of the Flood Risk Management Guidelines, including the following:

- Avoid new developments increasing flood risk elsewhere, including that which may arise from surface water run-off;
- Ensure effective management of residual risks for development permitted in floodplains;

As such flood potential is highlighted within this report and appropriately mitigated against, including off-site flooding or increased flows in downstream waterbodies. This includes an allowance for 20% climate change flood level (Paul McGrail, 2023).

The Guidance for the Creation of Artificial Setts (NatureScot 2018) states that:

*'Badgers must be able to locate the replacement sett without any difficulty. A site must be selected as close to the existing sett(s) and/or area of badger activity as is practicable. However, the site must not be so close to the new development that disturbance could distract badgers from using it.'*

*It is important that there is sufficient drainage to avoid the artificial sett becoming flooded. Soil type plays a part in this. However, it is also important to ensure that tunnels slope away from the sett chambers such that water flows towards the sett entrances. It is also important to ensure a depth of at least one metre of soil above the chambers. There are two ways this can be achieved. The preferred way is to build the sett on or into a sloping site with the pipes emerging at the lowest point. If this is not possible, the whole sett can be covered with a mound of soil.'*

The proposed artificial setts will be implemented to comply with the above noted NatureScot guidance. Landscaping and proposed SuDS measures will prevent any flooding at the site. The proposed sett is located near a drainage ditch, not a watercourse.

## **5.5 Response to Appeal Item 4**

Stand with Badgers lists the following as their 4<sup>th</sup> reason for lodging an appeal against the proposed development:

*According to guidelines quoted by Enviroguide – "An Artificial Sett must have adequate chambers and tunnels which replicate the bulk of the natural sett that 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 its size would be a meagre 15 x 15m.*

In response to this, Enviroguide note to An Bord Pleanála that 15m x 15m is the minimum proposed size outlined in the artificial sett design report. The artificial sett will have a minimum of 3 chambers and 5 entrances with a minimum buffer zone radius of 30m to prevent disturbance. Monitoring will be undertaken every 3 months for 2 years, with uptake of the artificial sett encouraged through baiting, provision of nesting materials etc. Expansion of the artificial sett will be undertaken if necessary.

Guidelines state that the bulk of the natural sett be replaced, they do not require a like-for-like replacement. This is outlined in the submitted Badger Report. As 3 no. entrances are to be removed (2 active, 1 inactive and in use by rabbits) and replaced with 5 entrances and 3 chambers, this is determined to be a suitable replacement. One active entrance (Sett 4, within the esker) is to be retained.

The age of a sett does not equal increased protection under the law.

As noted within the Biodiversity Chapter included in the Environmental Impact Assessment Report lodged for the scheme, NPWS were consulted in relation to the proposal to close 3 no. sett entrances to be replaced with an artificial sett, and met the ecologist on-Site. WMCC granted permission for the development and found the replacement setts to be sufficient.

It has also been determined in the Biodiversity Chapter submitted as part of the Environmental Impact Assessment Report for the scheme that there will be an overall negative impact on badgers, of varying levels of significance, see Table 8 15: Summary of potential impacts on KER(s), mitigation measures/mitigating factors and residual impacts, included in the Biodiversity Chapter of the submitted EIAR.

## **5.6 Response to Appeal Item 5**

Stand with Badgers lists the following as their 5<sup>th</sup> reason for lodging an appeal against the proposed development:

*'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 season allow, berries, fruits and nuts may supplement their diet. Historically, at Connamaddy, 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 Cemetery 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 needs to be invoked.*

The entire area, including all forage areas outside of this proposed site provided adequate short grass forage for badgers. In comparing this to the 'potential foraging habitat' marked within purple lines on map 2, in proposed mitigation, even a lay person must question how such a tiny area could be adequate for forage. Please keep in mind that surrounding development and road would limit 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 terms of forage in the medium term? Would the proposed planting do anything to encourage badgers to stay in the proposed area, where 90% of their worm foraging areas have been removed through development? I think not.'

In response to this, Enviroguide note to An Bord Pleanála that there is no suggestion that berries would be the primary food source for the badger population on the Cornamaddy lands, merely a supplementary one. The proposed planting is predominantly for cover and shelter particularly around sett entrances.

Badger trails between the site and the area to the west were identified so they are in fact using the area to the west of the site. According to the Ireland Red List No. 12: Terrestrial Mammals produced for NPWS & NIEA (Marnell et al, 2019), badgers are:

*"Opportunistic foragers that exploit a broad range of prey. Earthworms are common in the diet but account for little of the bulk". Other food sources include invertebrates, fruit, amphibians, small mammals, birds, reptiles etc.*

The applicant refutes the claim of the appellant that 90% of badger worm foraging areas are being removed at Cornamaddy, this percentage has no basis.

## 6 Conclusion

In conclusion we submit to An Bord Pleanála that all reasons for appeal listed by Stand with Badgers were addressed throughout the application process, in the originally lodged Application Pack, Further Information Response Pack and Clarification of Further Information Response Pack.

The Biodiversity Chapter included within the originally lodged Environmental Assessment Report for the site assessed residual impacts on badger as being 'Negative' overall, with the potential for lessened significance over the long-term. This is included in the report approved by Westmeath County Council (sett loss - negative impact, foraging habitat loss - negative impact, operational phase disturbance - negative impact). It is acknowledged by the ecologist, NPWS & WMCC that overall impacts on badger will be Negative, varying in significance.

The NPWS were consulted and met with on-Site prior to the authoring of the report, having input into the proposed badger mitigation for the site. The Badger Mitigation Strategy (Flynn Furney, 2023) was sent to and approved by NPWS.

Mitigation including artificial sett construction follows guidelines from TII, NatureScot and Scottish Badgers. The artificial sett is located at a suitable distance from a) waterbodies (>100m) and b) Development locations (>50m). Demarcated buffer zones will prevent any works taking place within disturbance distance of a sett entrance. There is no watercourse within 50m of the proposed artificial sett as suggested in this appeal.

As recommended in the Badger Report & Biodiversity Chapter, pre-construction surveys are to be conducted at the Site to ensure no alterations from the baseline recorded during the initial site surveys. ECoW Supervision is recommended during vegetation removal, sett destruction, artificial sett construction, etc. and no works are taking place within specific areas highlighted by the ecologist without prior checks from the ecologist.

Supplementary planting of native scrub including hawthorn, blackthorn etc, are proposed to provide cover for badger around the bund sheltering the new artificial sett upon its construction. There is no expectation that the berries produced by these plants will be the sole food source for badger and this is merely a secondary benefit of the proposed planting. It is mentioned in the Badger Reports that the primary purpose of this landscaping is the provision of shelter around the new artificial sett entrances.

Following the relevant guidelines and working within the bounds of Irish law including the Wildlife Acts (2000, as amended), all badger surveying, reporting, mitigation recommendations, artificial sett design and post-construction monitoring proposed for Phase 3 Cornamaddy are in line with, or exceed, expectations laid out by Ireland's legal requirements in relation to the protection of badgers, their setts, cubs and habitats.

We hereby request that An Bord Pleanála upholds the decision of Westmeath County Council to grant permission for application reference. 22/577.