S. 37

File With _____

SECTION 131 FORM

Appeal NO:_ABP 321806-25 **Defer Re O/H** ☐

Having considered the contents of the submission dated/ received 28/2/25 from

PA I recommend that section 131 of the Planning and Development Act, 2000 be/not be invoked at this stage for the following reason(s):. No new planning issues

E.O.: Daniel O Connor **Date:** 4/3/25

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage. ☐

Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.:_____ **Date:**_____

S.A.O:_____ **Date:**_____

M _____

Please prepare BP _____ **- Section 131 notice enclosing a copy of the attached submission**

to: _____ **Task No:** _____

Allow 2/3/4weeks – BP_____

EO: _____ **Date:** _____

AA: _____ **Date:** _____

S. 37

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 321806-25

M _____

Please treat correspondence received on 28/2/25 **as follows:**

1. Update database with new agent for Applicant/Appellant _____	
2. Acknowledge with BP 20	**1. RETURN TO SENDER with BP** _____
3. Keep copy of Board's Letter ☐	2. Keep Envelope: ☐
	3. Keep Copy of Board's letter ☐

Amendments/Comments PA's response to appeal

4. Attach to file	
(a) R/S ☐ (d) Screening ☐	**RETURN TO EO** ☑
(b) GIS Processing ☐ (e) Inspectorate ☐	D O Connor
(c) Processing ☐	

	Plans Date Stamped ☐
	Date Stamped Filed in ☐
EO: Daniel O Connor	**AA:**
Date: 4/3/25	**D ate.** 04/03/25.

David Behan

From: Elaine O'Reilly <elaine.oreilly@kilkennycoco.ie>
Sent: Friday 28 February 2025 13:03
To: Appeals2
Subject: ABP-321806-25
Attachments: PA Response to Appeal 2460100.pdf

Hello,

Please find attached the Kilkenny CoCo Planning Authority response to the above appeal.

Kind Regards
Elaine

Comhairle Chontae Chill Chainnigh
Halla an Chontae Sraid Eoin Cill Chainnigh
R95 A39T

Pobail agus Áiteanna Inbhuanaithe a Chruthú

Kilkenny County Council
County Hall John Street Kilkenny
R95 A39T

Creating Sustainable Communities and Places

Ref: ABP-321806-25 **28/02/2025**

To: An Bord Pleánala

appeals@pleanala.ie

Re: Extension of Kilmacow Quarry at Aglish North, Granny, Kilmacow, Co. Kilkenny.

A Chara,

In response to the third-party appeal received by An Bord Pleanála for the above planning application, please find below Kilkenny County Council's response to each item (sequenced as per items raised in third party appeal):

In making its decision the Planning Authority had regard to policy, the information contained in the EIAR and NIS as referenced below and its own inhouse assessments.

Appeal Reasons No.'s 1 and 2

- ***Direction of quarry extension;***
- ***Proximity of proposed quarry extension to residential dwellinghouses;***
- ***The proposed quarry extension would bring the quarry unacceptably close at a distance of 280m and 310m resulting in a further loss of residential amenity (direction of extension);***
- ***Continuation and worsening of blasting, vibration, noise, dust emissions.***

Worsening of existing blasting, vibration, noise and emissions effects

Blasting, vibration, noise and emissions are subject to existing conditions which are proposed to be continued to assist to monitor operations as part of the Notification of Grant of Planning Permission. These were subject to assessment by the planning authority for whom undertook air, dust, noise, vibration and blasting assessments as part of their overall assessment, including that of EIAR and considered such acceptable.

Precedent

With respect to concerns that quarrying may encroach even closer in the future excavation following the quarrying out of the proposed extension (within the proposed timespan of 20 years), future applications are to be addressed on their own merits and not as part of this appeal.

Alleged Omission of specific effects on appellant properties

With regard to the stated omission of appeal properties in the EIAR submitted (as per appeal), nearby dwellinghouses including both of the appellants are acknowledged throughout with effects to nearby receptors assessed throughout the EIAR.

Population and Human Health

Nearby one-off rural dwellinghouses including those of the appellants are acknowledged in Section 5.3.4 Surrounding Land Use while the sensitivity of the sensitivity of the local population (in subject 'Small Areas' A097002004 and A097002003) was considered in Section 5.3.6 Human Health, Sub-Section 5.3.6.1 Sensitivity and tabulated in Table 5-8 with the overall sensitivity of the population to any resulting impacts deemed to be 'low'.

Human health impacts are assessed in Section 5.4.2 'Human Health' for which dust, air quality, water quality, climate, acoustics (noise and vibration) impacts are set out. These factors are also assessed in detail in their own dedicated chapters which are set out below.

Section 7.5 Extractive Industries, Sub-Section 7.5.2 Development Management Requirements, acknowledges the need to minimise environmental and other impacts including impacts on residential and other amenities through development control. (Residential amenity impacts including dust, noise, vibration and water quality impacts were addressed in the EIAR and considered in full in the assessment of the planning application and were not considered to be over and above and/or significantly worsen the onsite situation).

Health and safety including potential consequences of unplanned events are addressed in 'Chapter 5 Population and Human Health'. Residual effects are also covered for which it is stated that the residual effect in terms of human health within the local population will be 'imperceptible' to 'not significant' in the long-term.

Water (Hydrogeology and Hydrology)

Impacts on water (Hydrogeology and Hydrology) are assessed in Chapter 8. Chapter 8 provides a description and assessment of the potential likely and significant effects of the proposed development on the receiving water environment.

With regard to sampling undertaken in the Flemingstown Stream, suspended solids were <7mg/L significantly below the 25mg/L standard set out in S.I 293/1988, concentrations of nitrate, phosphorus and orthophosphate were generally low with all results below the laboratory detection limit.

The existing water management (i.e. quarry dewatering pumps and water treatment) infrastructure will be used during the construction and operational phase of the proposed extension.

Discharge from the quarry is and will continue to be passed through an adequately sized settlement ponds and hydrocarbon interceptor. The discharge quality is monitored on a quarterly basis, and this is to continue at the quarry. Discharge volumes are continuously monitored at the discharge point location. Discharge from the Quarry is and will continue to

be passed through adequately sized settlement ponds and hydrocarbon interceptor. There is no current requirement to review the existing discharge licence (ENV/W82) which permits discharge (surface water and groundwater) to the Flemingstown Stream.

There will be no change in Ground Water Bodies (GWB) or Surface Water Body (SWB) status in the underlying GWB or downstream SWBs resulting from the site. There will be no change in quantitative (volume) or qualitative (chemical) status, and the underlying GWB and downstream SWBs are protected from any potential deterioration. As the Flemingstown_010 and the Middle Suir Estuary transitional waterbody are of "Poor" and "Moderate" status respectively, the proposed development will not prevent this waterbody from achieving 'Good' Status in the future as demonstrated by the quarry discharge water quality monitoring.

Nitrate N to the monitoring well was reported as 6.3mg/L which exceeds the discharge licence limit of 5.65mg/L, however analysis of groundwater samples from monitoring wells (sampled the same day as the discharge) show Nitrate N levels ranging between <1 and 5.97mg/L. This shows that baseline nitrate levels in groundwater inflows to the quarry void can exceed the discharge limit of 5.65mg/L. The most likely source of elevated nitrates is from surrounding agricultural activities rather than as a direct result of quarry operations.

With regard the Surface Water Regulations (S.I. 77/2019) threshold values, results for ammonia (<0.06mg/L), BOD (<1mg/L) and Orthophosphate (<0.05mg/L) were all at the very least below the Good Status threshold. This is given the WFD status of the Flemingstown Stream as poor. The majority of metals analysed for, including heavy metals cadmium, chromium, mercury and lead were below the laboratory detection limits. Total suspended solids were reported at <5mg/L and there was no detection of hydrocarbons.

With regard to effects on private wells as per 8.3.12 Quarry Groundwater Levels, it is stated in the EIAR that the closest appellant well EGW2 is showing no significant groundwater level effects as a result of the quarry dewatering based on groundwater level monitoring since 2009. The existing gradient towards the quarry means the rock in the proposed extension area is already being dewatered to an extent.

It is stated that a small increased pumping rate will not have the potential to significantly affect the surface water quality in the Flemingstown Stream or Middle Suir Estuary. The scheduled quarterly discharge water quality monitoring shows that the quality is generally compliant with the discharge licence threshold values. Any confirmed exceedances (i.e. nitrate, ammonia and orthophosphate) appear to be related to background groundwater quality in the GWB itself and not quarry activities. The more extensive water quality analysis completed in November 2022 shows the discharge water satisfies Good to High Status quality and therefore will have no negative effects on downstream water quality.

In relation to oils and fuels, best practice controls in place to ensure any potential sources of contamination on the site will be managed appropriately and the volumes present will be small in the context of the scale of the project. All water pumped from the proposed extraction area will be passed through the existing oil interceptors. The monitoring well groundwater samples had no detection of hydrocarbons. The potential residual effects associated with groundwater contamination and subsequent health effects are imperceptible.

Air Quality

With regard to Chapter 9 Air Quality, Sub-Section 9.3.5 Historic Dust Monitoring, Figure 9.3 shows current dust monitoring locations for which one such location D3 is proximate to the appellant properties.

Section 9.3.6, Table 9-5 'Identification of Sensitive Receptors (SRs) includes subject appeal properties and shows distance to such. Tree and hedgerow cover to field boundaries in-between in addition to planting will provide some degree of screening from fugitive dust emitted from the proposed development.

Table 9-9 'Classification of Pathway Effectiveness' classifies the pathway to both receptors as 'Ineffective', Table 9-10 'Dust Impact Risk for Sensitive Receptors' is classified as 'Low Risk', while Table 9-11 'Magnitude of Dust Impact on Sensitive Receptors' classifies 'Dust Impact Risk' as 'Low Risk', and, 'The Magnitude of Dust Effects' as 'Slight Adverse Effect'. Table 9-12 'Proposed Mitigation Measures' details existing measures, and, also design measures, and, construction/operational/restoration measures.
Construction, operational and weather impacts amongst other matters are discussed in the context of overall air quality and dust impacts (existing and proposed) upon the subject appeal properties are considered to be acceptable. Disamenity Dust Risk Assessment provided as part of EIAR appendices.

Acoustics (Noise, Vibration and Associated Disturbances

With regard to Noise Impacts, these are set out in Chapter 11. It is stated that operational noise is already controlled by Condition No.9 of Planning Permission reg. ref. 16/700 with the above limits inclusive of necessary adjustments to account for tonal or impulsive character in the noise.

It is also stated that both air overpressure and vibration are emitted from the source blast in predominantly low frequencies, therefore both are predominantly sensory rather than audible. It is further stated that existing blasting operations are controlled under Condition No.11 of Planning Permission reg. ref. 16/700.

Table 11-8 shows 'Daytime Noise Monitoring Results' taken on the 25th of October 2023 which shows daytime noise to be generally within limits onsite at noise sensitive locations including NM01 (Figure 11.5) near the appellant properties. It is noted that from noise modelling presenting worst case scenarios, the maximum sound level generated during operations incurred an exceedance however this was not the ambient (dominant) noise level for which was below the threshold of 55dB.

Table 11-10 also sets out construction noise (demolition of agricultural sheds and pumphouse) to be within the relevant 65dB threshold.

Noise charts, location of plates for monitoring and classifications are provided in appendices from a study of the aforementioned very limited exceedances would occur.

It is stated that only the initial bench, i.e., a working pit floor at ca.15mOD, has been modelled whereas with the works progressing for each lower bench, the noise will be reduced at NSRs

(noise sensitive receptors) due to the increasing relative height of noise sources to the berms, cliff face and Noise Sensitive Receptors.

It is further stated that based on the similarity of future activities to existing activities, activity onsite has been maintained, and not increased, sound values predicted to be below typical noise nuisance levels, the impact as per IOA(Institute of Acoustics)/IEMA(Institute of Environmental Management and Assessment) methodology is deemed slight local effect.

With regard to vibration, Figure 11-4 also includes a vibration monitoring compliant location located to the eastern boundary of the application site close to both appellant properties.

Construction vibration including plant, equipment, and stages outlined in Table 11-9, it is stated that due to the agricultural characteristics of the land, the probability of vibration extending over distance to the nearest receptors is unlikely.

With regard to operational blasting and subsequent vibration, there are established blasting procedures in place for notification of quarry manager, blasting engineer, explosives supervisor and the Gardai all neighbouring dwellinghouses within 500m radius.

It is stated in '11.4.5 Operational Phase Vibration' that blasting during previous operations at the quarry is considered a good representation of future predicted blast events as the site setting remains the same and blasts will be designed in line with historical blast experience.

It is also stated that during operations, rock will continue to be extracted by blasting and in compliance with current vibration limits for the quarry. Based on the existing experience at this site, a 150m buffer will be used to offset effects. The buffer has been calculated with both appeal properties outside of. This is shown in Figure 11-8.

It is further stated that blasting during previous operations at the quarry is considered to be a good representation of future predicted blast events at the proposed development as the site setting remains the same and blasts will be designed in line with historical blast experience. Vibration results are provided as part of EIAR appendices

The peak site-specific emissions from restoration at the closest noise sensitive receptor (NSR02 appeal property) to the extraction area, NSR02 ca.282m from the site boundary, is calculated to be 42dBA which is below noise nuisance limits of LAeq,1hr of 65dBA.

Landscape and Visual

With regard to Chapter 12 Landscape and Visual, the proposed development would be largely underground, hence would not significantly affect views from either appeal property.
The Landscape and Visual Impact submitted contains Viewpoint 2 close to both appeal properties for which it is stated that there is a glimpse view to the southwest over a section of low-trimmed hedgerow for which structures within the quarry are identifiable in the background. The receptor sensitivity is classed as 'Medium-Low' and, the Visual Impact classed as 'Imperceptible/Negative/Permanent'. With regard to the quarry berm, it is stated that it will be vegetated, and once established, it will be not be easily differentiated from the adjoining agricultural fields; thus, it is not anticipated that it will detract from the visual

amenity at this location. Images VP1 and VP2 of the LVIA as part of the EIAR appendices demonstrate the aforementioned.

Traffic and Transport

With regard to traffic and transport, Chapter 13 addresses the additional traffic impacts on the L7434, the host local road which initially serves both the quarry and at a later point both appeal properties also. It is not proposed to increase current extraction rates and quarry traffic (including HGVs) would not travel by the appeal properties (they would turn off much earlier), hence there would be no significant impacts (very slight increase in other traffic to this section of local road). To reflect this scenario, the traffic modelling assessment undertaken is based upon the quarry facilitating 250 loads per day, which is an additional 125 loads above the average rate, the highest possible rate of extraction that is likely to be experienced. Traffic and Transport Assessment by PCME has been included in the EIAR appendices.

Restoration

A Restoration Plan is also included in EIAR appendices. Stated that the Restoration Plan has been carefully designed to prevent the creation of potential hazards that may pose a threat to public safety. Stated that following cessation of quarrying activities, the site will be decommissioned within a three-month period with boundary fencing is to be erected to prevent unauthorised access.

A Characterisation of Climate Hazards is also provided as part of appendices.

Reason No.3

- ***Prevailing wind direction from south west to north east.***

With respect to the direction of the prevailing wind, this noise, dust and disturbance were considered as part of planning authority's assessment of noise, dust etc. While the prevailing wind is from south west to north east and will blow in the direction of the subject properties, as set out in the EIAR submitted and as part of the aforementioned, these are not considered to be so substantial as to significantly worsen residential amenity impacts (dust and air quality, noise) over and above those from existing operations.

Reason No.4

- ***Inadequacy of NIS as it fails to adequately address the potential effects upon the conservation values and qualifying interest of the Lower River Suir SAC;***
- ***NIS does not meet the Kelly threshold set out in paragraph 44 of CJEU case 258/11***
- ***Some reasonable scientific doubt remains***

Potential receptors are identified in Section 6.3 Stage 1 – AA Screening 'Conclusion'. These include qualifying interests comprising of both habitats and species.

With regard to potential impacts upon qualifying interests, given the connection by way of the Flemingstown Stream (hydrological) to the River Suir and the physical distance from the site to the Lower River Suir SAC at c.1.5km due south/south west with the N24 and a variety of land uses in between (albeit the prevailing wind is in opposite direction – south west to north east), any significant impacts are likely to be in terms of water quality only. The focus is therefore narrowed to specifically address this issue and demonstrate that with mitigation measures proposed, it is unlikely that there will be any significant effects. Water quality is

further addressed comprehensively in Chapter 9 Water (Hydrogeology and Hydrology) of the EIAR.

Reason No.5

- ***Depreciation of property values***

As a substantial quarry is already in operation at the location, an additional impact on property value arising from the extension alone is unlikely to be material.

With regard to residential amenity impacts for which are material considerations have been addressed as part of response to preceding reasons (blasting, vibration, noise, dust emissions, landscape and traffic)

Conclusion
The Planning Authority trust that the response clarifies its position on the development proposal.

Is Mise le meas,

Úna Kealy
Administrative Officer
Planning Section