

File With _____

SECTION 131 FORM

Appeal NO: ACP - 323676-25Defer Re O/H ☐Having considered the contents of the submission dated/ received 29/7/26

from

SUANE MONAGHANBELLAIR BOG COM. GR.

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 informationE.O.: Catherine FlynnDate: 5/8/26

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: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ACP -323676-25M i. BurkePlease treat correspondence received on 29/7/26 as follows:

1. Update database with new agent for Applicant/Appellant _____

2. Acknowledge with SC203. Keep copy of Commission's Letter ☐

1. RETURN TO SENDER with BP _____

2. Keep Envelope: ☐3. Keep Copy of Commission's letter ☐

Amendments/Comments

S131 response from S. Managhanobo Bellair Bog Community Group.

4. Attach to file

(a) R/S ☐(d) Screening ☐(b) GIS Processing ☐(e) Inspectorate ☐(c) Processing ☐RETURN TO EO ☐Plans Date Stamped ☐Date Stamped Filled in ☐EO: *[Signature]*AA: Lisanne O TooleDate: 29/7/26Date: 30/07/2026

James Sweeney

From: Bellair Bog <bellairbogcommunitygroup@gmail.com>
Sent: Wednesday 29 July 2026 01:58
To: Appeals2
Subject: Fwd: FW:
Attachments: Section 131 Submission.pdf

You don't often get email from bellairbogcommunitygroup@gmail.com. [Learn why this is important](#)

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

case Number SU.323676
Case Reference Number ACP-323676-25

To whom it may concern,

please find attached submission in response to Section 131 invite to make further submission on submissions made by external bodies.

for and on Behalf of Bellair Bog Community Group

for your consideration

Shane Monaghan (for and on behalf of Bellair Bog Community Group)

Bellair Bog Community Group

Bellair

Ballycumber

Tullamore

Co. Offaly

Chairperson: Shane Monaghan

Date: 19th July 2026

An Coimisiún Pleanála

64 Marlborough Street

Dublin 1

D01 V902

Re: Case Ref. ACP-323676-25

Substitute Consent under the provisions of Section 177E of the Planning and Development Act 2000 (as amended) for peat extraction and ancillary works at Lemanaghan Bog, Co. Offaly, in the townlands of Cooldorragh, Kilnagarnagh, Cappalossest, Tumbeagh, Killaghintoher, Castlearmstrong, Leabeg, Cornafurish and Corrabeg, Lemanaghan, Kilnagoony, Straduff, Lisdermot, Derrica More, Rosfaraghan, Rashinagh, Cor Mor and Cor Beg, and Corbane, Co. Offaly.

Dear Sir / Madam,

The Bellair Bog Community Group submits the following observations in response to the invitation contained in the Commission's letter dated 10 July 2026, issued pursuant to section 131 of the Planning and Development Act 2000 (as amended).

The invitation requested observations in relation to the following submissions:

- 323676 Response from TII to S131.pdf;
- HSE Response to S131 19.02.26.pdf; and
- 323676-25 -- DAU response S131 25.2.26.pdf.

Accordingly, the observations set out below are confined to those submissions.

Observations in relation to the submission of Transport Infrastructure Ireland (323676 Response from TII to S131.pdf)

Section 177E of the Planning and Development Act 2000 (as amended) provides for an application for substitute consent "*in respect of development of land*". The section further provides that such an application may be made by "*a person who has carried out the development*" or by "*the owner or occupier of the land on which the development has been carried out*". Consistent with the statutory provisions, An Coimisiún Pleanála describes substitute consent applications as follows:

"These applications relate to development that has occurred for which an EIA and or an Appropriate Assessment was required. Such applications can only be granted in exceptional circumstances..."

The Commission's own published description of substitute consent therefore reflects the language of section 177E, namely that substitute consent relates to development that has already occurred. Against this statutory background, the Bellair Bog Community Group has considered the submission of Transport Infrastructure Ireland ("TII") dated 13 February 2026.

The Group notes that the TII submission is framed almost entirely by reference to future activities. TII states that:

"Any consent granted for development at the site should not result in any intensification of use of the existing direct access to the N62..."

It further states that:

"Drainage from the proposed development shall not interface with the national road drainage infrastructure nor increase the risk of flood events on the national road network."

TII also recommends that:

"Any damage caused to the pavement of the existing national road due to the development shall be rectified..."

It further refers to:

"any alteration to national road infrastructure assets..."

and

"development works..."

The Group respectfully submits that each of the five recommendations contained within the TII submission is concerned with the regulation of future activities, namely future intensification of access, future drainage arrangements, future infrastructure alterations, future development works and future damage to the national road network.

The relevance of these recommendations to the statutory determination before the Commission is unclear. Section 177E concerns substitute consent in respect of development that *"has been carried out"*. Likewise, An Coimisiún Pleanála explains that substitute consent applications relate to development that has occurred. However, the TII submission is framed almost exclusively by reference to future activities. It does not explain how recommendations relating to future regulation of access, drainage, infrastructure or development works assist the Commission in determining whether the statutory requirements for substitute consent have been satisfied.

The Group further notes that TII recommends that any consent granted should not result in *"any intensification of use of the existing direct access to the N62, above permitted levels of use"*. However, the submission does not identify the planning permission, statutory consent or other legal basis from which those *"permitted levels of use"* are derived. In the context of an application for substitute consent relating to unauthorised development, the basis for that assumed planning baseline is unclear. In the absence of any explanation as to how those *"permitted levels of use"* have been identified, the submission does not disclose the evidential or planning basis upon which that recommendation is founded.

The Group respectfully submits that the TII submission does not explain how the recommendations it makes assist the Commission in determining the statutory question before it under section 177E of the Planning and Development Act 2000 (as amended). The submission is therefore concerned with the regulation of future activities in the event that substitute consent is granted. It does not address how those recommendations assist the Commission in determining whether substitute consent should be granted in the first instance.

Observations in relation to the submission of the Health Service Executive (HSE Response to S131 19.02.26.pdf)

The Bellair Bog Community Group welcomes a number of important observations contained within the submission of the National Environmental Health Service ("NEHS"). In particular, the Group notes that the NEHS clearly identifies both the scope of its assessment and the limitations upon the conclusions it reaches.

The NEHS states:

"The NEHS does not carry out any independent environmental monitoring or validation of any measurements or data reproduced in an rEIA."

The Group welcomes this clarification as it properly identifies the limits of the NEHS's role within the substitute consent process. The conclusions reached by the NEHS should therefore not be regarded as independent verification of the environmental information contained within the remedial EIA. Rather, it remains the responsibility of the Commission, as the competent authority, to satisfy itself that the environmental information before it is adequate and reliable for the purposes of determining this application. The observations of the NEHS should therefore be read in the context of the limitations which the NEHS itself expressly identifies.

The NEHS further states:

"It is recognised that rEIA considers existing development and the significance of the effects and not predicted likely significant effects from a proposed development, but it is recommended that the Planning Authority follows the above methodology when consider Public and Environmental Health in their decision making."

The Group notes that this observation is consistent with section 177E of the Planning and Development Act 2000 (as amended), which provides for substitute consent in respect of development that has already been carried out. The Commission's assessment should therefore remain confined to the unauthorised development which is the subject of this substitute consent application and the environmental effects arising from that development.

The NEHS also states:

"It is the understanding of the NEHS that future proposed use of a development applying for Substitute Consent is not a consideration in a Remedial EIA. In this regard, any future planning application for proposed development will be referred to the HSE for observations on the likely significant effects on Public and Environmental Health. It is the understanding of the NEHS that this will be a separate process independent of the Substitute Consent application."

The Group notes that this observation reflects the distinction between the retrospective assessment required in a substitute consent application and any future proposal for development, which must be considered through its own statutory planning process. The Group respectfully submits that this distinction should be maintained throughout the Commission's determination of the present application.

The NEHS further states:

"NEHS Comments: In remedial EIA it is beneficial to obtain 'lived experiences' of residents who have lived through the lifetime of the development with regard to dust and noise. Formal or informal complaints are not the only indicator of community concerns or impacts during the lifetime of a development."

The Group welcomes this observation. It recognises that a remedial Environmental Impact Assessment concerns development that has already occurred and that those who have lived alongside that development may provide important evidence regarding its environmental effects. The NEHS expressly acknowledges that formal or informal complaints are not the only indicator of community concerns or impacts during the lifetime of a development. Consistent with the NEHS's observations, the Group respectfully submits that the absence of formal or informal complaints cannot properly be equated with the absence of adverse environmental effects and should not be treated as determinative of the environmental impacts of the unauthorised development.

The Group further notes that Chapter 5 of the remedial EIAR records the following advice given by the HSE during the scoping stage of the remedial EIAR:

"The HSE further emphasized the importance of public consultation, stating that the rEIAR should address legitimate concerns and clearly demonstrate how public input informed the decision-making process."

However, Chapter 5 describes the Population and Human Health assessment as a desk-based assessment relying upon published datasets, census information, mapping, technical guidance and other documentary sources. While the chapter records consultation with statutory consultees, the Group has not identified any explanation within Chapter 5 as to how public input informed the assessment, notwithstanding the HSE's earlier scoping advice that the remedial EIAR should clearly demonstrate how public input informed the decision-making process. Nor has the Group identified any evidence within Chapter 5 that the lived experiences of local residents formed part of the assessment methodology. The Group further notes that, while Chapter 5 states that *"the issues raised by the HSE in their initial scoping response have been considered in this chapter,"* the Group has been unable to identify where or how the recommendation concerning public input was reflected in the assessment methodology. If that understanding is correct, the Group respectfully submits that this represents a limitation of the Population and Human Health assessment which should be taken into account by the Commission when determining whether the remedial EIAR provides a sufficiently complete assessment of the environmental effects of the unauthorised development.

The NEHS further states:

"The lived experiences and 3rd Party submissions may not concur with the reports in the rEIAR and should be considered and given due weight during the decision-making process."

The Bellair Bog Community Group respectfully welcomes this observation. The NEHS expressly recognises that lived experiences and third-party submissions may differ from the reports contained within the remedial EIAR and should nevertheless be considered and given due weight during the Commission's decision-making process. The Group respectfully submits that its own submissions, together with those of local residents, constitute such evidence and should therefore be afforded due weight by the Commission when determining this application.

Finally, the Group notes that the NEHS concludes that there was adequate protection of Public and Environmental Health during the relevant phases of the development. However, that conclusion is expressly qualified by the NEHS's acknowledgement that it did not undertake any independent environmental monitoring or validation of the measurements or data reproduced within the remedial EIAR. The NEHS also states:

"The above conclusion is not, however, considered as rationale for future development of the site with regard to protection of Public Health, which should be subject to Environmental Assessment on likely significant effects from any proposal and include meaningful public consultation as part of the process."

The Group respectfully submits that these qualifications are significant and should properly inform the weight to be attached to the conclusions reached by the NEHS. They reinforce the distinction between the retrospective assessment required in this substitute consent application and any future development proposal, while also recognising the limits of the NEHS's assessment and the fact that it did not independently verify the environmental information contained within the remedial EIAR. The NEHS further recognises that the lived experiences of local residents and third-party submissions may not concur with the reports contained within the remedial EIAR and should be considered and given due weight during the decision-making process. Consistent with those observations, the Group respectfully submits that the Commission should give careful consideration to the lived experiences of local residents and the detailed third-party submissions made throughout this substitute consent process before reaching its determination on whether the exceptional remedy of substitute consent should be granted.

Observations in relation to the submission of the Development Applications Unit (323676-25 -- DAU response S131 25.2.26.pdf)

The Bellair Bog Community Group notes the submission of the Development Applications Unit ("DAU") dated 25 February 2026.

The DAU states:

"The Department has reviewed the Archaeological Assessment Report that was submitted with the application.

The Archaeological Assessment was carried out by Tobar Archaeological Services Ltd, and includes the results of a Desk-based Archaeological Impact Assessment and associated Field Survey. Because of the nature of the proposed substitute consent application the Assessment recommends that no further archaeological assessment is warranted.

The Department concurs with the recommendations in the Report and does not have any further archaeological requirements in respect of the proposed development."

The Group respectfully notes, however, that the DAU submission provides no explanation as to the basis upon which that conclusion has been reached. The submission does not identify the matters considered by the Department, explain why it concurred with the recommendations contained within the Archaeological Assessment, or address the acknowledged limitations identified within that assessment. Rather, it simply records the Department's concurrence with the recommendations contained within the Archaeological Assessment.

This absence of reasoning is particularly significant when considered alongside the Archaeological Assessment. Chapter 13 expressly acknowledges limitations in the archaeological baseline, stating that *"There is no photographic evidence available from 1988 to review the baseline conditions of the bogs on the ground"* and that *"Peatland surveys at the Application Site commenced in 1993 therefore resulting in a lack of information on archaeological finds and features therein from 1988 to 1993."* Those limitations concern the archaeological baseline against which the effects of historic peat extraction are assessed. The DAU submission does not explain why those acknowledged limitations do not affect its concurrence with the recommendation that no further archaeological assessment is warranted.

The Group further notes that Chapter 13 records:

"Regarding archaeological heritage, a scoping request was sent to the Department of Housing, Local Government and Heritage on the 30th August 2022 and again on the 21st June 2024 with a follow up sent on the 20th September 2024. No response has been received to date."

The Department therefore did not provide any response to the scoping requests or any observations to inform preparation of the Archaeological Assessment. Subsequently, the DAU response concurs with the completed Archaeological Assessment without explaining why the acknowledged evidential limitations identified within that assessment do not warrant any further archaeological assessment or requirements.

The archaeological sensitivity of the application site is apparent from the applicant's own documentation. Chapter 13 records that *"A total of 488 recorded monuments are located within the Application Site boundary"* and that *"During that survey a total of 470 sightings of archaeological material were made that were subsequently included in the Sites and Monuments Record (SMR)."* Appendix 13-3 further concludes:

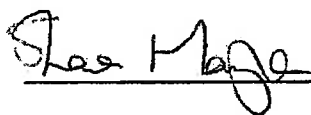
"There are 470 known sightings of archaeological material in the Lemanaghan substitute consent application area. 28 archaeological sightings of were excavated in the application area as part of the Peatland Excavations programme 1999-2000. There are 47 archaeological objects known from the substitute consent area that have been removed to the National Museum of Ireland."

The applicant's documentation therefore identifies an archaeologically sensitive landscape containing an extensive archaeological resource. Against that background, the DAU's concurrence, unsupported by any accompanying explanation, provides limited assistance to the Commission in understanding why it was satisfied that no further archaeological assessment or requirements were necessary notwithstanding the acknowledged limitations identified within the Archaeological Assessment itself.

Section 177K of the Planning and Development Act 2000 (as amended) requires the Commission to consider the remedial EIAR together with the submissions and observations made in relation to the application when determining whether substitute consent should be granted. The Group respectfully submits that the Commission must therefore reach its own conclusion as to whether the archaeological information before it is adequate, complete and reliable for the purposes of determining whether substitute consent should be granted in respect of the unauthorised development. In circumstances where the Archaeological Assessment acknowledges limitations in the archaeological baseline, the DAU's concurrence, unsupported by any accompanying explanation, cannot of itself resolve those acknowledged limitations or provide the evidential basis upon which the Commission's statutory determination must rest. That is particularly so having regard to the exceptional nature of substitute consent under Part XA of the Planning and Development Act 2000 (as amended).

For the reasons set out above, the Bellair Bog Community Group respectfully requests that the Commission take these observations into account, together with the Group's earlier submissions, when determining this application for substitute consent.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Shane Monaghan", is written over a horizontal line.

Shane Monaghan

Chairperson

Bellair Bog Community Group

