

19 August 2026

An Coimisiún Pleanála
64 Marlborough Street
Dublin1
D01 V902

By Hand

SLR Project No.: 501.00118.00012

Re: Bryko Ltd.

**Application for Substitute Consent for Development at Kilmurry Upper,
Baltinglass, Co. Wicklow**

Dear Madam / Sir,

The enclosed application for substitute consent and accompanying documentation is submitted, on behalf of Bryko Ltd. under Section 177E of the Planning and Development Act 2000, as amended, for development at Kilmurry Upper, Baltinglass, Co. Wicklow.

The development consists of overburden storage and extraction sand & gravel beyond the original permitted areas (Planning Reg. Ref. 08/856 (ABP Ref. PL27.230573; Planning Ref. 19/312) and completion of restoration within an overall site of c. 8.4 hectares. The application is accompanied by an Appropriate Assessment remedial Natura Impact Statement (rNIS).

The planning history of the site and the requirement for substitute consent are set out in Section 2 and 3 below. The site has not been operational since 2024.

1.0 Application Documentation

The following documentation is enclosed with this application:

Application Form –

- One original and five copies of a completed application form signed and dated 16th August 2026.

Planning Notice –

- Full page The Irish Examiner (6 no. copies) dated 7th August 2026

Site Notice –

- Site Notice (6 no. copies) signed and dated 7th August 2026, erected at the location shown on Drawing PL02 and PL03.

Planning Fee –

Planning application fee €4,200 paid by electronic bank transfer by Bryko Ltd. to An Coimisiún Pleanála (Payment confirmation attached)

Drawings –

- Six sets of the application drawings at the appropriate scales (Refer to Schedule of Drawings).

Supporting Information –

Copies of the following documents:

- Remedial Natura Impact Statement (rNIS) (10 copies)
- Water Framework Directive Assessment (6 copies)

An USB key is also enclosed with a digital copy of the planning application documentation.

2.0 Planning History Summary

The planning history of the site is summarised below

2.1 Planning Ref. 08/3356 (ABP Ref. PL57.230573)

Planning permission was granted on the 26th May 2009 (ABP direction date) for a sand & gravel pit (3.2 hectares extraction area within an overall application area of 6.2 hectares) together with mobile crushing / screening and washing plant; a bagging plant; an office (37 sq. metres)), a wheelwash, and internal access road, screening berms, and landscaping works and all other ancillary works at Kilmurry Upper Baltinglass, Co. Wicklow with 22 condition attached.

Environmental monitoring has been carried out at the site in compliance with the conditions attached to the planning permission . The monitoring results have complied with the dust and noise emission limit values set out in the permission. These results together with surface water quality results on samples from the nearby tributary of the River Slaney upstream and downstream of the site have confirmed that the development has had no significant impact on the environment within or surrounding the site. 2020 and 2021 Environmental Monitoring Reports have been included as an appendix to the Appropriate Assessment submitted with this application.

2.2 Section 261A Quarry Ref. QY68 (ABP Ref. 27QV.0290)

Bryko Ltd. appealed the determination dated 17th August 2012 by Wicklow Co. Council in resp the pit (quarry) at Kilmurry Upper. The effect of the Board's decision dated 29th November 2013 was to:

Set aside the determination of the planning authority under Section 261A(2)(a)(i) of the 2000 Act, as amended, that an Environmental Impact Assessment would have been required.

Confirm the determination of the planning authority under Section 261A(2)(a)(ii) of the 2000 Act, as amended, that an Appropriate Assessment would have been required.



Confirm the determination of the planning authority under Section 261A(5)(a) , as amended, in respect of appropriate assessment, having regard to the development carried out after the 3rd of July 2008.

In determining that an environmental impact assessment was not required the Board has regard to a number of reasons and considerations including: the planning of the site including the overall environmental considerations arising; the extent of quarrying carried out outside the terms of the permission at the site being below the threshold for mandatory EIA; the environmental attributes of the area and the pattern of development in the area including roads and houses and environmental considerations arising; the criteria for determining whether the development would or would not be likely to have significant effects on the environment (Schedule 7 of the Planning Regulations, 2001).

The Board considers that: *the extent of quarrying undertaken outside the terms of the planning permission in place would not of itself created a requirement for sub-threshold EIA.*

2.3 UD4354 Unauthorised Development

On the 5th December 2014 Wicklow Co. Council issued an Enforcement Notice to Bryko Ltd. requiring discontinuance of extraction outside the permitted area; stockpiling (overburden storage) outside the permitted area (and reinstatement of the land) and compliance with a number of the conditions attached to planning permission ABP . ref. PL27.230573.

Responses to the Enforcement Notice were submitted to Wicklow Co Council by SLR Consulting in 2019, the delay arising from late discovery of the Enforcement Notice by the current Bryko directors, following review of company documentation after the passing of their father, the late Mr. Timmy Murphy.

Bryko Ltd. have restored / reinstated the development area outside the permitted area and were generally compliance with the conditions attached to the planning permission as detailed in the responses to the Enforcement Notice. It is noted a wheelwash was not installed at the site, however as stated to the planning authority there was a long section of internal roadway to the pit entrance, and no dust / dirt was generated on the public road. There were no complaints received from the neighbours / members of the public or the planning authority in relation to the condition of the road over the operational life of the pit).

2.4 Planning Register Ref. 19/312 Extension of Appropriate Period

Notwithstanding the Section 261A determination and the UD4354 enforcement notice, on the 15th May 2019 Wicklow Co. Council granted an extension of the appropriate period for the development of land under ABP Ref. PL27.230573 for a period of 5 years up to and including 12th August 2024.

The application for extension of the appropriate period was accompanied by an Appropriate Assessment Screening report that confirms the development would not have any significant effects on any European sites or their qualifying interests. This assessment was reviewed and accepted by Wicklow co. Council in their decision to grant an extension of the appropriate period.



On receipt of this decision to grant the extension of the appropriate period it was reasonable for Bryko Ltd. to assume matters related to the requirement for Appropriate Assessment and the enforcement notice had been satisfactorily addressed.

2.5 Pre-Application Consultation Ref. PP 23/56

Bryko Ltd. undertook a pre-application consultation to Wicklow Co. Council for a proposed extension to the existing pit. Wicklow Co. Council advised that:

The Planning Authority considers that in the absence of the appropriate assessments / Substitute Consent for both the unauthorised areas , and the areas diverging from that permitted, that it may be legally restrained from dealing with any future application having regard to the provisions of the Planning and Development Act 2000 (as amended) and associated Regulations.

3.0 Requirement for Substitute Consent

Bryko Ltd want to regularise the development at Kilmurry Upper and based on the planning history summarised above including the exceptional circumstances arising from the Section 42 Extension of Appropriate Period in 2019 (from which the applicant could have reasonably assumed matters relating to Appropriate Assessment and enforcement had been satisfactorily addressed); and the advice from the planning authority under Pre-Application Consultation Ref. PP 23/56, the only mechanism available to Bryko Ltd. is through an application for substitute consent to An Coimisiun Pleanala.

Accordingly, this application for substitute consent has been submitted to the Commission.

Please direct all related correspondence to SLR Consulting Ireland, 7 Dundrum Business Park, Windy Arbour, Dublin 14 N2Y7, who act as agents on behalf of Bryko Ltd.

Yours Faithfully,

SLR Environmental Consulting (Ireland) Ltd



Tim Paul

Director

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Enc.

Application Documentation

Cc. + Enc.

Wicklow Co. Council - Planning Section, County Buildings, Whitegates,
Wicklow Town, A67 FW96 (1 no. hard copy plus digital copy (USB key))

