

File With \_\_\_\_\_

**SECTION 131 FORM**

Appeal NO: ABP 319198-24

Defer Re O/H

Having considered the contents of the submission dated/ received 26/3/24  
from

George Doyle 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 material planning issues  
board to consider same

E.O.: Daniel O'Carroll

Date: 9/4/24

**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 2/3/4 weeks – BP \_\_\_\_\_

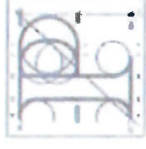
EO: \_\_\_\_\_

Date: \_\_\_\_\_

AA: \_\_\_\_\_

Date: \_\_\_\_\_

# Lodgement Cover Sheet - LDG-070913-24



An Bord Pleanála

## Details

Lodgement Date	26/03/2024
Customer	George Doyle
Lodgement Channel	Post
Lodgement by Agent	No
Agent Name	
Correspondence Primarily Sent to	
Registered Post Reference	RL 5284 8274 3IE

Lodgement ID	LDG-070913-24
Map ID	
Created By	Carol Gaffney
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	
PA Reg Ref	2360042

## Categorisation

Lodgement Type	Observation / Submission
Section	Processing

PA Name	Carlow County Council
Case Type (3rd Level Category)	Normal Planning Appeal PDA2000

## Fee and Payments

Specified Body	No
Oral Hearing	No
Fee Calculation Method	System
Currency	Euro
Fee Value	0.00
Refund Amount	0.00

Observation/Objection Allowed?	
Payment	PMT-055254-24
Related Payment Details Record	PD-055124-24

## Observation

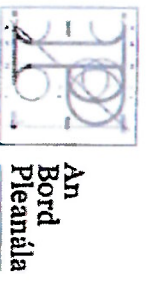
Run at: 04/04/2024 12:08  
Run by: Andrea Caraus

Development Type	
Development Address	Bannagole, Old Leighlin, Co. Carlow, R93 XN26
Appellant	
Supporting Argument	

Run at: 04/04/2024 12:08

Run by: Andrea Caraus

# Lodgement Cover Sheet - LDG-070913-24



## Details

Lodgement Date	26/03/2024
Customer	George Doyle
Lodgement Channel	Post
Lodgement by Agent	No
Agent Name	
Correspondence Primarily Sent to	
Registered Post Reference	RL 5284 8274 31E

Lodgement ID	LDG-070913-24
Map ID	
Created By	Carol Gaffney
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	
PA Reg Ref	

## Categorisation

Lodgement Type	Appeal <i>Observation</i>
Section	Processing

PA Name	Carlow County Council
Case Type (3rd Level Category)	

## Fee and Payments

Specified Body	No
Oral Hearing	No
Fee Calculation Method	System
Currency	Euro
Fee Value	0.00
Refund Amount	0.00

Observation/Objection Allowed?	
Payment	PMT-055254-24
Related Payment Details Record	PD-055124-24

## Appeal

AN BORD PLEANÁLA  
 1 of 6 070913-24  
 LDG: \_\_\_\_\_  
 ABR: \_\_\_\_\_  
 : 6 MAR 2024  
 Fee: € 50 Type: MC  
 Time: 9:50 By: Reg Post 20-3-2024

AN BORD PLEANÁLA CURRACRUIT  
 REF-PL-23-60042 BAGENALSTOWN  
 A.B.P. 319198-24 Co. CARLOW  
 20-3-2024

PLEASE READ ALL MY SUBMISSIONS ON THE ABOVE PROPOSED QUARRY, AS THEY CLEARLY SHOW WHY PLANNING PERMISSION SHOULD BE REFUSED.

MILFORD QUARRIES = [KILCARRIG QUARRIES] APPEAL TO A.B.P. SEEMS TO BE BASED ON, ALL CONCERNS THAT A.B.P. MIGHT HAVE CAN BE ADDRESSED BY ATTACHING CONDITIONS TO PLANNING PERMISSION. THE PROBLEM WITH THIS STATEMENT IS THAT MILFORD QUARRIES = [KILCARRIG QUARRIES] HAVE A VERY LONG TRACK RECORD OF NON-COMPLIANCE OF PLANNING CONDITIONS AND WASTE PERMIT CONDITIONS ATTACHED TO QUARRIES OWNED AND OPERATED BY THEM, INCLUDING BALLYMOON QUARRY, CURRACRUIT QUARRY, KILCARRIG PROCESSING PLANT = [QUARRY], ROSCAT QUARRY, POWERTOWN QUARRY, MARY KELLYS PIT POWERTOWN, AND CARLOW CO COUNCIL HAVE AN EQUALLY BAD TRACK RECORD ON ENFORCING SAME PLANNING AND W.P. CONDITIONS PLEASE SEE PREVIOUS SUBMISSIONS.

THE STARTING POINT WITH THIS APPEAL SHOULD BE FOR MILFORD QUARRIES = [KILCARRIG QUARRIES] TO ADDRESS ABOVE ISSUES.

JUST ONE EXAMPLE OF NON COMPLIANCE OF A PLANNING CONDITION ATTACHED TO A NUMBER OF QUARRIES OWNED AND OPERATED BY MILFORD QUARRIES = [KILCARRIG QUARRIES], IS THAT CERTAIN ENVIRONMENTAL

2 of 6

INFORMATION IS TO BE MADE AVAILABLE FOR PUBLIC INSPECTION AT CERTAIN LOCATIONS TO BE AGREED IN WRITING BETWEEN MILFORD QUARRIES = [KILCARRIG QUARRIES] AND CARLOW CO COUNCIL.

EXAMPLES OF THIS CONDITION.

1 A.B.P - 304209 - 19.

CON-8-B = ON AN ANNUAL BASIS, FOR THE LIFETIME OF THE FACILITY THE DEVELOPER SHALL SUBMIT TO THE PLANNING AUTHORITY FIVE COPIES OF AN ENVIRONMENTAL AUDIT. INDEPENDENT ENVIRONMENTAL AUDITORS APPROVED OF IN WRITING BY THE PLANNING AUTHORITY SHALL CARRY OUT THIS AUDIT. THE AUDIT SHALL BE MADE AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICES OF THE PLANNING AUTHORITY AND AT SUCH OTHER LOCATIONS AS MAY BE AGREED IN WRITING WITH THE AUTHORITY.

TO DATE THIS CONDITION HAS NOT BEEN COMPLIED WITH, OR ENFORCED. THERE IS NOT A SINGLE ENVIRONMENTAL AUDIT ON FILE.

2 PL-REF - 13-187

CON-14 = THE DEVELOPER SHALL PUT IN PLACE A PROGRAMME TO ENSURE THAT MEMBERS OF THE PUBLIC CAN OBTAIN INFORMATION CONCERNING ALL EMISSIONS FROM THIS ACTIVITY.

THIS PLANNING PERMISSION IS IN PLACE SINCE 2013, BUT THERE ARE ONLY 2 A.E.R'S ON FILE, THERE ARE 8<sup>NO</sup> A.E.R'S THAT WERE NEVER SUBMITTED, AND CARLOW CO COUNCIL SEEM TO HAVE NO ISSUE WITH THIS.

ANOTHER ISSUE WITH PL-REF - 13-187 IS THAT IT IS SUPPOSED TO MATCH A WASTE FACILITY PERMIT

3 of 6

ATTACHED TO SAME SITE = W.F.P. CW-22-001-01 FOR RECOVERY OPERATIONS, OF INERT WASTE - CLASS 5 AND CLASS 6.

THE ABOVE PLANNING PERMISSION - 13-187 IS SUPPOSED TO MATCH ABOVE W.F.P IN THAT W.F.P IS FOR RECOVERY OF INERT WASTE, AND PLANNING PERMISSION 13-187 SHOULD ALSO SANCTION RECOVERY OF INERT WASTE, WHICH IT DOES NOT.

ABOVE PLANNING PERMISSION ONLY RELATES TO THE EXTRACTION OF SAND AND GRAVEL AND MAKES NO REFERENCE TO ANY RECOVERY OPERATION.

ALSO THERE ARE NO PLANNING CONDITIONS ATTACHED TO ABOVE PLANNING PERMISSION - 13-187 THAT MENTION RECOVERY OPERATIONS

I LOOKED FOR CLARIFICATION ON THIS ISSUE FROM CARLOW CO COUNCIL, AND WAS INFORMED THAT CARLOW CO COUNCIL WERE MORE THAN HAPPY THAT PL 13-187 WAS INDEED A MATCH FOR W.F.P - CW. 22-001-01 AS CON 18 MENTIONS. THE POSSIBLE REQUIREMENT OF AN E.P.A. LICENCE.

THIS IS ANOTHER EXAMPLE OF CARLOW CO COUNCILS FAILURE TO ENFORCE PROPER PLANNING REGULATIONS.

3 PLANNING REF - A B P 01-238351

CON-7-B - ENVIRONMENTAL AUDIT TO BE MADE AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICES OF THE PLANNING AUTHORITY AND AT SUCH OTHER LOCATIONS AS MAY BE AGREED IN WRITING WITH THE AUTHORITY.

OVER THE PAST 2 YEARS I HAVE CONTACTED MILFORD QUARRIES = [KILCARRIG QUARRIES] TO VIEW ABOVE ENVIRONMENTAL INFORMATION GIVEN THEM

4 of 6

MY NAME, ADDRESS, E. MAIL, AND PHONE NUMBER, AND ALSO OFFERED TO COVER THE COST OF PRINTING MY LAST REQUEST FOR THIS INFORMATION WAS TUES-19-3-2024. TO DATE MILFORD QUARRIES = [KILCARRIG QUARRIES] WILL NOT ENGAGE WITH ME ON ANY LEVEL ON THIS ISSUE. THE TOTAL AMOUNT OF TIMES I REQUESTED ABOVE INFORMATION IS 30-40 TIMES INCLUDING PHONE AND E MAIL. I ALSO CONTACTED CARLOW CO COUNCIL TO GET ABOVE PLANNING CONDITIONS ENFORCED, BUT TO DATE THEY HAVE REFUSED TO DO SO. THE ONLY REASON THE ABOVE INFORMATION HAS NOT BEEN MADE AVAILABLE FOR PUBLIC INSPECTION, IS THAT IT DOES NOT EXIST IN THE FIRST PLACE. THE NON COMPLIANCE OF ABOVE ISSUES IS MORE THAN ENOUGH REASON TO REFUSE THIS APPEAL.

#### BALLYMOON QUARRY

THIS IS ANOTHER GREAT EXAMPLE OF NON-COMPLIANCE OF ENFORCEMENT NOTICES BY KILCARRIG QUARRIES, AND NON-ENFORCEMENT BY CARLOW CO COUNCIL. PLEASE SEE COPY OF ATTACHED E. MAIL.

SECTION 5 DECLARATION: REGARDING KILCARRIG QUARRIES PROCESSING PLANT LOCATED AT KILCARRIG BAGENALSTOWN WHICH PROCESSES - CRUSHED LIMESTONE, READY MIX CONCRETE, BLOCKS, LINE PRODUCTION, WASHED SAND AND GRAVEL, CONCRETE LINTELS, AND ALSO SITE OF LARGE MACHINERY SERVICE & SALES DEPOT.

THIS SITE STARTED OUT LIFE OVER 45 YEARS AGO AS A SAND AND GRAVEL PIT, ABOUT 35 YEARS AGO WHEN SAND AND GRAVEL DEPOSITS WERE

5 of 6

FULLY DEPLETED THIS SITE WAS TURNED INTO A PROCESSING PLANT, WITH ALL MATERIAL BEEN PROCESSED ON SITE, BEEN SOURCED FROM OTHER LOCATIONS IN CARLOW, KILKENNY, KILDARE AND WICKLOW.

I CONTACTED CARLOW CO COUNCIL ON MANY OCCASIONS TO CLARIFY IF KILCARRIG QUARRIES HAD PROPER PLANNING PERMISSIONS IN PLACE FOR ALL DEVELOPMENTS ON ABOVE SITE, CARLOW CO COUNCIL MORE OR LESS REFUSED TO ENGAGE WITH ME ON THIS ISSUE.

THE ONLY OPTION OPEN TO ME TO GET CLARIFICATION WAS TO REQUEST A SECTION 5 DECLARATION ON 16 DEVELOPMENTS ON SITE, THE RESULT OF SECTION 5 WAS THAT ALL 16 QUESTIONS WERE DEEMED DEVELOPMENT AND NONE WERE DEEMED EXEMPT DEVELOPMENT, INCLUDING QUESTION TO CLARIFY IF CHANGE OF USE FROM SAND AND GRAVEL PIT TO PROCESSING PLANT WAS DEVELOPMENT. WITH NO PLANNING PERMISSION WHATSOEVER IN PLACE TO ALLOW CHANGE OF USE FROM SAND AND GRAVEL PIT TO PROCESSING PLANT, THIS MAKES THE ENTIRE SITE UN-AUTHORIZED

SECTION 5 DECLARATION [S5-23 14] WAS ISSUED -17-5-2023 AND TO DATE CARLOW CO COUNCIL HAVE NOT EVEN CARRIED OUT A SITE INSPECTION OR ANY ENFORCEMENT.

I CONTACTED CARLOW CO COUNCIL FOR UP-DATE ON ABOVE ISSUES ON 19-3-2024 = [LORNA O CALLAGHAN] AND WAS TOLD THAT AT PRESENT CARLOW CO COUNCIL HAVE NO PLANNING ENFORCEMENT OFFICER IN PLACE AND THAT WITH OVER 300 ENFORCEMENT FILES TO BE PROCESSED, THE ISSUES I AM LOOKING FOR CLARITY ON WILL TAKE YEARS.

PLEASE SEE COPY OF ATTACHED E. MAIL THE PROCESSING PLANT AT KILCARRIG BAGENALSTOWN

6 of 6

WILL NO DOUBT BE USED TO PROCESS LINE STONE FROM PROPOSED NEW QUARRY, AND A.B.P SHOULD CLARIFY THAT ALL DEVELOPMENTS LISTED IN SECTION 5 HAVE FULL UP TO DATE PLANNING PERMISSIONS IN PLACE.

SUBSTITUTE CONSENT = UNDER SUBSTITUTE CONSENT REGULATIONS A.B.P. MUST CONSIDER WHETHER THE APPLICANT HAS COMPLIED WITH PREVIOUS PLANNING PERMISSIONS GRANTED, OR HAS PREVIOUSLY CARRIED OUT AN UN-AUTHORIZED DEVELOPMENT. THE SAME STANDARD SHOULD APPLY TO THIS APPEAL.

CARLOW CO COUNCIL LOOKED FOR CLARIFICATION ON ABOVE ISSUES, IN FURTHER INFORMATION REQUEST, BUT MILFORD QUARRIES = [KILCARRIG QUARRIES] TOTALLY IGNORED THIS REQUEST.

A.B.P SHOULD CLARIFY ABOVE ISSUES, IF NOT IT WILL MAKE PLANNING CONDITIONS WORTHLESS

PLEASE READ ALL MY SUBMISSIONS ON THE ABOVE PROPOSED QUARRY AS THEY CLEARLY SHOW WHY MILFORD QUARRIES = [KILCARRIG QUARRIES] SHOULD BE REFUSED PLANNING PERMISSION.

George Doyle 

Please indicate if your complaint relates to (select from list): \*

A planning enforcement matter

Enter Text

To whom it may concern,

I would be grateful if you could clarify an issue regarding enforcement notices dated 10/12/2008 & 02/10/2009 & 31/01/2011 which were issued to Kilcarrig Quarries, Kilcarrig, Bagenalstown, Co. Carlow (the operators of the quarry in question until 2012/2013) and also issued to Mr. Paul Sheill, present address of Ballymoon, Bagenalstown, Co. Carlow, regarding enforcement notices issued to a quarry at Ballymoon, Bagenalstown, Co. Carlow, which is also situated in a proposed NHA area (000797).

The quarry in question is located at Ballymoon, Bagenalstown, Co. Carlow, and the quarry is also located in a proposed NHA area (000797) (primarily for its rare plants: Basil Thyme and Green-winged Orchid, only known in 4 and 7 sites respectively, which affords it special protection). Kilcarrig Quarries operated the above quarry for approx. 25 years up until 2012/2013 and only ceased operations when all sand and gravel deposits were fully depleted, which included extracting large quantities of sand and gravel, from under the water table, putting local wells at serious risk of contamination. During the 25 years which Kilcarrig Quarries were operating the above quarry, we made many submissions to Carlow County Council regarding the importance of Ballymoon Esker, which is the only esker in Co. Carlow, and also one of the finest examples of an esker in all of Ireland. Kilcarrig Quarries made a few failed attempts to secure planning permission for the above site, but this was just a delaying tactic to allow them to continue operating on site.

Carlow County Council issued first enforcement notice on 10/12/2008 to cease all operations and to re-instate the land to its pre-existing use. The second enforcement notice on 02/10/2009 also instructed Kilcarrig Quarries to cease all operations on site and to re-instate the land to its pre-existing use. The third enforcement notice, dated 31/01/2011 instructed Kilcarrig Quarries to cease operation immediately and to take the following steps within three months of this notice:

- i) re-instate the land to its pre-existing use
- ii) submit appropriate assessment screening as required under Article 6.3 of the Habitats Directive 92/43/EEC and liaise directly with the National Parks & Wildlife Services (NPWS) of the Department of the Environment, Heritage and Local Government to agree a plan of action for restoration of this site
- iii) document any proof of this agreement to be submitted to the Planning Authority

To date, Kilcarrig Quarries have not carried out any restoration what-so-ever, and also to date, Carlow County Council have not enforced any of the conditions contained in the enforcement notices. During the past two years, I have been in regular contact with Carlow County Council regarding getting the enforcement notices complied with, but have always been told by Carlow County Council that they cannot enforce the above enforcement notices as there is a 7-year limitation which would have ended in 2018 regarding the last enforcement notice, and that as far as Carlow County Council are concerned, that is the end of the matter. However, from my own research, the Planning and Development Act 2000, the same planning act as the 2011 Enforcement Notices were based on, Section 157, subsection 4(b) states the following: Notwithstanding paragraph (a), proceedings may be commenced at any time in respect of any condition concerning the use of land to which the permission is subject. Also, regarding the Planning and Development Act 2010, the Irish Legal Guide states the following: Special Provisions - The Planning and Development Act 2010 clarifies that failure to comply with conditions imposed under the 2000 legislation makes development unauthorised even in the case of a pre-1964 quarry. The seven-year time limit does not apply to certain unlawful quarry development. Extractive activities which are immune from enforcement prior to commencement of the 2010 legislation may be required to cease but cannot be the subject of enforcement retrospectively. Extractive activities which were not immune from enforcement on that date, are not subject to any time limit for enforcement. Where a quarry, had a significant effect on the environment and was required to apply for planning permission but did not obtain it, then it became unauthorised.

I would be grateful if you could clarify the following:

- i) Does the seven-year statute of limitations apply to the above enforcement notices, or can the above enforcement notices still be enforced by Carlow County Council?



George Doyle - [Redacted]

### APD decision

George Doyle [Redacted]  
To: Enforcement <enforcement@carlowcoco.ie>

Mon, Feb 26, 2024 at 12:26 PM

Hi Loma,

Further to our telephone conversation today, could I please have an update and a timeframe on the following issues.

1) Alleged unauthorised quarry activity Ballymoon Esker, Curracruit, Bagenalstown, Co. Carlow: An official complaint was lodged in writing in August 2023. I have had no response to date, despite the esker being destroyed (including its ancient woodland) on a weekly basis. This is also despite the esker being located in a proposed NHA area, which affords it special protection.

2) Enforcement notices regarding the quarry at Ballymoon, Bagenalstown, Co. Carlow, operated by Kilcamg Quarries: We have looked for clarification on this issue from the EPA & the Office of the Planning Regulator, and we would also like a response from Carlow County Council as soon as possible. (please see copy of email attached below)

3) Alleged unauthorised developments at Kilcamg Quarries Processing Plant, located at Kilcamg, Bagenalstown, Co. Carlow: Section 5 declaration (S5.23.14) was issued on 17/05/2023 which stated that all 16 developments listed in Section 5 declaration request were deemed development and none were deemed exempt development. I was informed in a letter dated 05/07/2023 that the matter had been referred to an Inspector who was to carry out a site inspection to determine what action, if any, should be taken. Please clarify if the site inspection has taken place and, if so, what the outcome of the inspection was. This is a serious issue as the above processing plant has been in operation for the past 40 years with not a single Annual Environmental Report on file.

Can you please respond to the above issues and provide a timeframe as to when you can provide clarification on the above issues.

Regards,  
George Doyle,  
Curracruit,  
Bagenalstown,  
Co. Carlow,  
R21 E791  
Mob [Redacted]

Gmail - RE Complaint Form - OPR.pdf  
120K