



An Bord Pleanála  
64 Marlborough Street,  
Dublin 1,  
D01 V902

Our Ref: IE-40000205.01

28 April 2025

Dear Sir/Madam,

**APPLICATION TO AN BOARD PLEANÁLA FOR SUBSTITUTE CONSENT FOR BALLYKELLY QUARRY UNDER SECTION 177E OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS AMENDED)**

This cover letter accompanies an application for substitute consent under section 177E of the Planning and Development Act 2000 as amended [PDA] on behalf of Bison Quarries Limited ('BQL') for a disused quarry located in the townland of COOLSICKEN OR QUINSBOROUGH, Co. Kildare.

BQL are seeking to regularise the Development that has taken place prior to their purchase of the lands at the Application site in 2022. It is noted that BQL were not the operator of Ballykelly Quarry during its operational lifetime (c. 2000-2006), and all extraction and associated works within the quarry had ceased prior to BQL purchasing of the lands at the Application Site. BQL has not undertaken, and do not intend to undertake, extraction activities at the Application Site.

This application for substitute consent is accompanied by a remedial Environmental Impact Assessment Report (rEIAR) and remedial Stage 1 Appropriate Assessment Screening Report. This Section 177E application for substitute consent will be accompanied by, and concurrent with, an application for further prospective development of the existing quarry under section 37L of the PDA within 6 weeks of this date and which will also be accompanied by an EIAR and Natura Impact Statement.

This cover letter is presented by WSP Ireland Consulting Ltd who have been appointed by BQL to prepare this substitute consent application on their behalf.

This application pack includes the following documentation:

- Completed planning submission form
- EIA portal notification documentation (portal ID number: 2025049).
- Remedial Environmental Impact Assessment Report (rEIAR) and Non-Technical Summary
- Remedial Stage 1 Appropriate Assessment Screening Report (rAAS)

- Proposed Restoration Plan (provided as an appendix to Chapter 2 of the rEIAR)
- Copies of public notices (site notice and newspaper notice)
- Drawing pack containing the following schedule of drawings (Table 1):

*Table 1 Drawing list*

| No. | Drawing Title            | Scale    | Sheet |
|-----|--------------------------|----------|-------|
| 01  | Site Location - Regional | 1:25,000 | A3    |
| 02  | Site Location - Local    | 1:2,500  | A3    |
| 03  | Baseline Site Conditions | 1:1,000  | A1    |
| 04  | Existing Site Conditions | 1:1,000  | A1    |
| 05  | Cross Sections           | 1:500    | A1    |

## Planning fees

The method of calculation of fees in line with Schedule 9 of the Planning and Development Regulations, as amended, is set out in Table 2 below.

*Table 2 Method of calculation of fees*

| Class                       | Column 1 Class of Development  | Column 2 Amount of Fee   | Item (Drawing ref. No.)   | Area |     | Fee           |
|-----------------------------|--|--|---|------|-----|---------------|
| 6                           | 6. The use of land for—<br>(a) the winning and working of minerals,<br>(b) the deposit of refuse or waste. | €500, or €50 for each 0.1 hectare of site area, whichever is the greater | Application site area.<br><br>(Indicated by Application Boundary provided in Drawing Nos. 01, 02, 03)   | 7.87 | Ha  | €3,935        |
| 13                          | Development not coming within any of the foregoing classes.  | €80, or €10 for each 0.1 hectare of site area, whichever is the greater. | Discharge of collected waters to ground (estimated)<br><br>(Estimated location is the terminus of the line labelled 'likely discharge line' No. 04) | N/A  | N/A | €80           |
| <b>TOTAL FEE CALCULATED</b> |  |  |   |      |     | <b>€4,015</b> |

*Note regarding Class 13 structure listed in Table 2:*

As discussed in detail in chapter 1 and chapter 2 of the rEIAR, there is limited information available regarding the operation of the project during the active life of the Quarry (c. 2000-2006). Therefore, facilities for the dewatering of collected waters in the quarry void and subsequent discharge of water within the Application Site has been estimated using professional judgemental and based on various information sources (e.g. KCC held planning files, satellite imagery). This approach has been adopted to allow for a robust assessment to be carried out for rEIAR and rAAS in line with precautionary principles.

### **Exceeding the substitute consent threshold for ‘exceptional circumstances’**

There is a statutory requirement imposed upon the Board to consider the grant of substitute consent in only exceptional circumstances as per Section 177K(1J) of the PDA as amended. The subject development meets each of those 177K(1J) exceptional criteria as follows:

*(a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive*

The subject development clearly does not circumvent the purpose and objectives of the Environmental Impact Assessment Directive. It is considered that the proposal is consistent with both directives.

*(b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised*

As stated above, BQL are seeking to regularise the Development that has taken place prior to their purchase of the lands at the Application site. This application is now made to regularise development deemed unauthorised at the Application Site.

It is noted that BQL were not the operator of Ballykelly Quarry during its operational lifetime (2000-2006), and all extraction and associated works within the quarry had ceased prior to BQL purchasing of the lands at the Application Site in 2022. BQL has not undertaken, and do not intend to undertake, extraction activities at the Application Site.

*(c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired*

The ability to carry out an EIAR or appropriate assessment in this case has not been compromised. Although limited data is available with regard to specifics of the operational life of the quarry, the operational and design of the quarry during its active life has been determined from various sources including KCC reports (including the 261A report), topographical assessment, and ariel imagery. Where assumptions have been made with regards to the development these have been set out in the rEIAR. Any assumptions regarding the operation of the Project have been based development of a similar of nature and scale from the co-current period (2000-2006), available information, and professional judgement to allow for a precautionary assessment of the Project throughout its lifetime.

*(d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development*

The attached remedial Appropriate Assessment Screening Report indicates no significant adverse effect on any Designated Site.

*(e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated*

In this case no remediation is required for any adverse effect on any European Site because there is no significant adverse effect on any Natura 2000 site. The accompanying rEIAR indicates no adverse impact on the environment from the subject development either on its own or in combination with other plans or projects.

*(f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development*

As stated above, BQL are seeking to regularise the Development that has taken place prior to their purchase of the lands at the Application Site. Unauthorised Quarry Development at the Site was not undertaken by the Applicant or on their behalf by a third party.

*(g) such other matters as the Board considers relevant*

All the above requirements are met under 177(K)(1J).

The subject development is also consistent with other provisions of S177 namely:

*(a) the provisions of the development plan or any local area plan for the area*

The subject development is consistent with both the 1999 and the 2005-2011 Country Development Plans.

*(b) the provisions of any special amenity area order relating to the area*

There is no special amenity order in the immediate area. The subject site is not located in an amenity area and there is no impact on any designated amenity area. The impact of the subject development on the landscape and visual amenity of the area is not significant.

*(c) the remedial environmental impact assessment report, or remedial Natura impact statement, or both that report and that statement, as the case may be, and, where section 177E(2A)(b) applies, the environmental impact assessment report or Natura impact statement or both that report and that statement, as the case may be, submitted with the application*

The submitted rEIAR indicates no significant impact from what has occurred by way of the Project between 01 January 2000 and 31 December 2006. The remedial Appropriate Assessment indicates clearly that there is no justification for a rNIS.

- (d) the significant effects on the environment, or on a European site, which have occurred or which are occurring or could reasonably be expected to occur because the development concerned was or is proposed to be carried out*

There is no such significant effect on the environment or any European Site.

- (e) the report and the opinion of the planning authority under section 177I*

The applicant welcomes any submission or observation raised by the Local Authority or others.

- (f) any submissions or observations made in accordance with regulations made under section 177N*

- (g) The applicant welcomes any submission or observation.any report or recommendation prepared in relation to the application by or on behalf of the Board, including the report of the person conducting any oral hearing on behalf of the Board*

This is noted by the Applicant.

- (h) if the area or part of the area is a European site or an area prescribed for the purposes of section 10(2)(c)*

The subject site is not located within a European Designated site but is located within a Zone of Influence of same and this is carefully considered by WSP in their supporting documents provided elsewhere in this substitute consent application. The subject development is compliant with section 10(2)(c) which seeks the conservation and protection of the environment including, in particular, the archaeological and natural heritage and the conservation and protection of European sites and any other sites which may be prescribed.

- (i) conditions that may be imposed in relation to a grant of permission under section 34(4), 282(3) or 293(7)*

Section 282(3) does not apply in this instance as neither the proposal nor the location are maritime and there is no maritime or coastal authority involved. Section 293(7) does not apply for broadly the same reasons.

- (j) the matters referred to in section 143*

The Board are obligated under this section of the Act to carry out their function, including determine substitute consent applications in accordance with prevailing government advice policies and objectives, the National Planning Framework and the appropriate Regional Spatial and Economic Strategy, consistent with the proper planning and sustainable development of the site and the area, and the national interest. We very much welcome that fact and seek a positive determination in this case on that basis and in the absence of any significant environmental harm having been caused or currently being caused.

- (k) the views of a Member State where the Member State is notified in accordance with regulations under this Act*

This criterion does not apply in this instance.



*(I) any relevant provisions of this Act and regulations made thereunder*

We believe that the subject application is in accordance with the principal act and is in accordance with the appropriate regulations.

We trust all is order and await the Board's determination of this application.

Yours faithfully

A handwritten signature in blue ink that reads 'Ruth Treacy'.

Ruth Treacy  
Technical Director, WSP Ireland Consulting Ltd

RT