Planning Objection from Cllr Noel Connolly

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An Bord Pleanála
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Re: Objection to Application for Substitute Consent by Bison Quarries Ltd, Ballykelly / Coolsickin or Quinsborough, Monasterevin, Co. Kildare
An Coimisiún Pleanála - Case reference: SU09.322432

Dear Sir/Madam,

Summary

This submission raises a strong objection to the application for substitute consent by Bison Quarries Ltd for a disused quarry at Ballykelly / Coolsickin or Quinsborough. The following concerns are raised:

- **A high probability that substitute consent will be used to justify future reactivation or expansion of quarrying activity at a larger scale.**
- **The site's immediate proximity to the Barrow Blueway, one of County Kildare's most strategically important public amenities.**
- **Unresolved and material risks to local water quality, including private wells and the Barrow catchment, based on incomplete hydrogeological analysis.**
- **Negative implications for biodiversity, ecological succession, and habitat restoration.**

- **Incompatibility with several key objectives of the Kildare County Development Plan 2023–2029.**
- **Documented risks to traffic safety, the region's rural character, and public health.**

If granted, the proposal would risk long-term environmental degradation, jeopardise a sensitive hydrological landscape, and undermine confidence in the planning system.

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1. Substitute Consent as a Gateway to Future Expansion

There is considerable concern in the local area that the current application by Bison Quarries Ltd will be used to establish a lawful baseline for future use of the site. If substitute consent is granted, it would retroactively legalise the unauthorised development, effectively enabling the applicant to:

- **Reopen the quarry with a new planning application under the guise of "resuming" an established use.**
- **Expand the site's operations beyond the originally worked area.**
- **Introduce intensified industrial activity directly adjacent to the Barrow Blueway and a sensitive rural landscape.**

This is not simply an application to regularise past use — it is a planning strategy that could reopen the door to future, intensified quarrying in an environmentally and culturally sensitive area.

The submitted remedial Environmental Impact Assessment (rEIAR) and Appropriate Assessment Screening Report — while ostensibly retrospective — could also serve as environmental groundwork for future applications. Unless the substitute consent is explicitly tied to permanent decommissioning and ecological restoration, granting it now opens the door to cumulative long-term impacts that have not been properly assessed.

Furthermore, it should be noted that Bison Quarries Ltd is not a locally owned or community-based operator. The business is owned by Ray Grehan, a prominent property developer with no known ties to the Ballykelly area.

There has been no attempt by the proposer to engage with the local community about this development, and locals are concerned that this will continue should the development be approved. Local engagement before and during such a development would be crucial to addressing community concerns, and ensuring that important issues are dealt with as the arise.

This lack of local accountability increases the risk that future decisions will prioritise short-term commercial extraction over long-term community wellbeing, environmental protection, and sustainable land use. Relevant precedent supports this concern. A 2020 expert review of a planning application for quarry restoration at an adjoining site (Ref: Judge Haulage Ltd, Ballykelly) highlighted serious gaps in environmental due diligence. That report found:

- **Borehole logs revealed uncontrolled deposits of construction and demolition (C&D) waste at depth, without any corresponding environmental risk assessment.**
- **Groundwater samples showed exceedances for lead, hydrocarbons, and orthophosphates downgradient of the site, raising the likelihood of contamination linked to historical activities.**
- **No reliable baseline soils or groundwater data had been collected, nor was there any site-specific analytical evidence confirming the inert quality of backfill material.**
- **Hydrological links between the site and the River Figile, which connects to the River Barrow SAC, were acknowledged, yet the supporting NIS relied on unverified assumptions and lacked supporting surface water data.**

These findings directly reinforce the concerns raised in the current submission: that insufficient scientific assessment, particularly regarding hydrogeology, poses a credible risk to environmental integrity in the Barrow catchment. It would be negligent to ignore these signals, especially given the physical and geological continuity between the two sites.

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2. Risk to Water Quality in the Barrow Catchment and Along the Barrow Blueway

The proposed quarry site lies within the sensitive Barrow catchment, in close proximity to the Barrow Line Canal and River Barrow, both of which underpin the ecological and recreational value of the Barrow Blueway. This is a critical concern, given the known vulnerability of water quality in this area.

According to the Environmental Protection Agency (EPA), only 36% of surface water bodies in the Barrow Catchment achieved Good or High Ecological Status during the most recent assessment cycle (2016–2021). This represents a serious deterioration from previous years, placing the catchment in a high-risk category for failing to meet EU Water Framework Directive targets. In addition:

- **The Barrow River itself contains excessive levels of nutrient pollutants a nd must undergo a 50% reduction in nutrient loading by 2027 to comply with environmental objectives.**
- **92% of groundwater bodies in the catchment are currently classified as being at good status. This status could be jeopardised by industrial activity involving deep excavation, heavy machinery, and onsite water pumping.**

Potential impacts of the quarry operation include:

- **Sediment runoff into watercourses during heavy rainfall or dewatering activities.**
- **Fuel and chemical leakage from plant machinery contaminating groundwater.**
- **Disruption of natural drainage patterns and groundwater flow.**
- **Pollution of adjacent aquatic habitats affecting fish, invertebrates, and protected species such as otters and kingfishers.**
- **Damage to the Barrow Blueway's appeal as a clean-water, nature-based tourist destination.**

The precautionary principle must apply here. Where water quality is already under stress and national obligations demand improvement, it is entirely inappropriate to grant substitute consent for a site with clear potential to exacerbate those pressures. If the site is to be restored, it must be done with independent hydrological monitoring, binding restoration conditions, and zero tolerance for reactivation. Anything less risks long-term, possibly irreversible harm to one of the region's most important water-based ecosystems.

Deterioration in water quality can have significant impacts on various important species, particularly those that rely on clean and stable aquatic environments. Many key species could be affected:

1. Fish Species

- **Salmon**: Salmon are highly sensitive to changes in water quality, particularly to pollutants and changes in oxygen levels. Poor water quality can affect their spawning and development.
- **Trout**: Similar to salmon, trout require clean, oxygen-rich water for survival. Pollutants and sedimentation can disrupt their habitats and breeding grounds.

- **Perch and Pike**: These species are also affected by changes in water quality, particularly by pollutants and changes in water temperature.

2. Invertebrates

- **Freshwater Mussels**: Mussels are filter feeders and are highly sensitive to pollutants and sedimentation. Poor water quality can lead to a decline in their populations.
- **Crayfish**: Crayfish are affected by changes in water quality, particularly by pollutants and changes in oxygen levels. They are important indicators of water quality.
- **Dragonfly Larvae**: These larvae are sensitive to changes in water quality and are important indicators of the health of aquatic ecosystems.

3. Amphibians

- **Frogs and Toads**: Amphibians are highly sensitive to pollutants and changes in water quality. Poor water quality can affect their breeding and development.
- **Newts**: Newts require clean water for breeding and development. Pollutants and changes in water quality can lead to a decline in their populations.

4. Birds

- **Kingfishers**: Kingfishers rely on clean water to hunt for fish. Poor water quality can affect their food sources and nesting sites.
- **Herons**: Herons are affected by changes in water quality, particularly by pollutants that affect their food sources.

5. Mammals

- **Otters**: Otters rely on clean water for hunting fish and other aquatic organisms. Poor water quality can affect their food sources and habitats.

6. Plants

- **Aquatic Plants**: Many aquatic plants are sensitive to changes in water quality, particularly to pollutants and changes in nutrient levels. Poor water quality can lead to a decline in their populations.

Conclusion

The deterioration in water quality can have far-reaching impacts on these important species, affecting their survival, breeding, and overall health. Protecting water quality is crucial for maintaining the biodiversity and health of aquatic ecosystems.

3. Proximity to the Barrow Blueway – Threat to a Public Amenity

The proposed quarry site lies directly adjacent to the Barrow Blueway, a 46-kilometre multi-use green infrastructure project developed with significant public investment to enhance rural tourism, active travel, and community wellbeing. The Blueway supports a landscape typified by natural soundscapes, visual tranquillity, and ecological richness — all of which are fundamentally incompatible with the environmental legacy of extractive industry.

Importantly, the Barrow Blueway represents a public infrastructure investment of nearly €4 million under the Rural Regeneration and Development Fund, with the overall project cost exceeding €5 million. Kildare County Council, in partnership with Waterways Ireland, secured approximately €3.94 million in May 2024 to complete the 46 km route from Athy to Lowtown. This significant funding reflects the site's status not just as a recreational amenity, but as a strategic rural development initiative supported by national and local authorities.

The Blueway is designed to attract thousands of walkers, cyclists, and eco-tourists annually. Its character is defined by peace, scenic beauty, and natural soundscapes — all of which are incompatible with industrial activity. Even in the absence of resumed quarrying, the continued presence of a degraded void, coupled with the absence of enforceable restoration requirements, may:

- **Diminish the recreational and economic value of the Blueway corridor.**
- **Discourage future investment and conservation efforts in adjacent lands.**
- **Introduce uncertainty that devalues both land use planning and public amenity provision.**

The precautionary principle demands that any substitute consent be linked to full ecological rehabilitation and a permanent prohibition on reactivation. The proposed site is adjacent to the Barrow Blueway presents a considerable risk to this vital amenity.

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4. Contravention of the Kildare County Development Plan 2023–2029

This application is demonstrably inconsistent with a range of development plan objectives:

- **NH 1 – To protect and enhance biodiversity and natural heritage.**
- **LA 1 – To preserve the county's landscape character and visual amenity.**

- **RDO 4 – To promote the development of the Barrow Blueway and protect associated tourism and green infrastructure.**
- **CA1 – To foster a low-carbon, climate-resilient planning model.**

Approval without full decommissioning and habitat restoration would not only violate local policy but contravene the broader principles of strategic environmental assessment and sustainable development. There are a number of protected views in the area which will be put at risk by this development.

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5. Environmental and Ecological Impact

The site and its surroundings provide habitat to a range of protected species, including:

- **Otters, badgers, foxes, and hares.**
- **Kingfishers, kestrels, buzzards, and swans.**
- **Pollinator species that rely on diverse hedgerows and semi-natural grasslands.**

Additionally, there are several equine farms and horse training facilities located within close proximity to the proposed quarry site. These establishments are highly sensitive to increases in noise, dust, and vibrations. Horses, especially those in training or foal, are easily startled by sudden or persistent loud noises, such as those generated by blasting, crushing machinery, or HGV traffic. This poses a serious risk not only to the wellbeing of valuable animals but also to the viability of local equine businesses, which contribute economically and culturally to the region's rural identity.

Legacy quarrying activity has previously affected Legacy quarrying activity has previously affected these habitats. However, since 2006, the land has exhibited signs of ecological recovery through natural succession. Granting substitute consent without binding ecological restoration measures risks reversing this trajectory. Hydrological disturbance, including runoff, sedimentation, and connectivity disruptions, poses measurable threats to adjacent aquatic habitats, particularly the Barrow Line Canal and the River Barrow.

6. Impact on Rural Character, Equine Industry, and Community Wellbeing

The quarry lies within an established rural setting characterised by:

• Historic and cultural landmarks (e.g. Ballykelly Mill, sites of 1798 commemoration).

• Working farms, equine training establishments, and long-term residential occupancy. The resumption of industrial activity — whether direct or incremental — poses multiple risks:

• Narrow, un-kerbed roads like the L7052 are unsuitable for sustained HGV traffic

• Equine facilities are particularly sensitive to acoustic and particulate disturbance

• Dust, vibration, and noise would reduce the quality of life for both residents and visitors These risks are not hypothetical; they are foreseeable based on known operational impacts of similar quarrying activity elsewhere in the county.

7. Questions & Concerns About Backfilling and Well Safety

This community remains deeply concerned about groundwater safety. The following material issues require direct, independently verified responses:

• What specific materials will be used for backfilling, and what certification processes apply?

• Has the applicant undertaken a hydrogeological study showing predicted groundwater behaviour post-backfill?

• What minimum buffer distances will be enforced between infill operations and private wells?

• Will a third-party authority conduct ongoing monitoring of groundwater contaminants (e.g. hydrocarbons, metals)?

• What response protocols and liabilities are in place if contamination or drawdown occurs? Where even a single rural household has been forced to drill a replacement well at considerable expense (approx. €18,000), the precautionary principle must apply in full.

8. Misuse of Section 37L and Legal Precedent: Commission v Ireland, Case C215/06
This substitute consent application is made concurrently with an application under Section 37L of the Planning and Development Act 2000, which proposes to restore the quarry void to agricultural use by importing "clean, uncontaminated soil and stone."

The accompanying remedial Environmental Impact Assessment Report (rEIAR) outlines a development footprint of over 10.6 hectares, encompassing both the substitute consent area and the intended restoration works. However, this dual application raises serious concerns:

Section 37L is intended to facilitate the conclusion of past unauthorised development, not to pave the way for renewed or intensified extractive operations. In practice, however, it is often used by developers to maintain legal access to a site and delay its permanent closure.

• The scale and detail of the rEIAR suggest that this restoration project may serve as a precursor to future reactivation, particularly as the restoration design lacks any enforceable final-use constraint.

• There is no legal or operational clarity that the site, once backfilled, will be permanently decommissioned or rendered unsuitable for future quarrying. If consent is granted under both Section 177E and Section 37L, it would effectively allow the operator to retain control of the site under a new planning framework, enabling the reemergence of industrial-scale activity without adequate scrutiny.

Moreover, this application must be assessed in light of the European Court of Justice ruling in Case C-215/06, Commission v Ireland, which found that the Irish substitute consent process must not be used to undermine the fundamental principles of EU environmental law.

The Court held that development carried out without the necessary Environmental Impact Assessment or Appropriate Assessment cannot simply be regularised retrospectively unless it meets strict criteria.

While the current applicant, Bison Quarries Ltd, did not carry out the original unauthorised development, this application seeks to derive legal and operational benefit from it.

In the Commission v Ireland (Case C-215/06) ruling, the European Court of Justice made clear that such retrospective regularisation — if allowed without rigorous environmental scrutiny and public oversight — constitutes a breach of the EIA Directive. The judgment applies to the planning system as a whole, not just the original developer, and remains binding upon An Bord Pleanála.

Granting substitute consent here would run contrary to the spirit and legal interpretation of that judgment, as it would legitimise substantial unauthorised development and further risk undermining public confidence in the environmental planning regime.

Conclusion

This is not a neutral or benign regularisation proposal. It is a retrospective authorisation strategy with material implications for future land use and environmental integrity.

As a local public representative living in close proximity to the proposed site, I have had an unprecedented level of contact from local residents. A local petition has attracted close to a thousand signatures. The following is a summary of local concerns that have been brought to my attention:

1. Environmental Impact

- **Dust Emissions**: The project will generate significant dust emissions, adversely affecting air quality and potentially causing respiratory issues for local residents.
- **Water Quality**: There is a risk of contamination to local water bodies and groundwater due to the infilling activities, which could impact local ecosystems and water supplies.

2. Ecological Concerns

- **Proximity to Sensitive Sites**: The project is close to the Grand Canal proposed Natural Heritage Area (pNHA) and the River Barrow and River Nore Special Area of Conservation (SAC). These are important ecological sites, and the project could negatively impact their integrity and biodiversity.
- **Habitat Disruption**: The potential disruption to local habitats and species, including those protected under national and European legislation, is a significant concern. The loss of biodiversity and the impact on protected species could have long-term ecological consequences.

3. Traffic and Infrastructure

- **Increased Traffic**: The project will lead to increased traffic on local roads, particularly the L7049 and R414. This could result in congestion, road wear, and increased risk of accidents, affecting daily travel for local residents. There is concern for local children who cycle to the local school on the narrow local roads. Ballykelly cross is a dangerous cross road on the busy Monasterevin to Rathangan Road on the brow of a hill. There have been many minor and several serious accidents at this cross, and increased heavy goods traffic increases the risk of a fatality significantly.
- **Infrastructure Strain**: The local infrastructure may not be equipped to handle the increased traffic and heavy loads, leading to potential damage and increased maintenance costs. Many of the local roads are in poor repair and the Councils response is that they don't get enough money from Central Government to patch them, let alone to strengthen and resurface them.

4. Human Health and Safety

- **Dust and Air Quality**: The infilling process will generate dust and airborne particulates, which could negatively impact air quality and pose health risks to nearby residents.
- **Noise Pollution**: The operation of heavy machinery and increased traffic will result in noise pollution, affecting the quality of life for local residents.
- **Safety Risks**: The project poses safety risks due to the movement of heavy vehicles and machinery. There is also a risk of accidents and disasters, which could have significant impacts on human health.

5. Economic and Social Impact

- **Limited Economic Benefit**: While the project may create some jobs, the number of direct and indirect employment opportunities is relatively small.
- **Impact on Local Amenities**: The project will no doubt negatively impact local amenities and recreational areas, such as the Grand Canal and associated footpath. The increased noise, dust, and traffic will deter visitors and reduce the quality of these amenities.

6. Community Wellbeing

- **Quality of Life**: The cumulative effects of traffic, noise, and visual intrusion will negatively impact the quality of life for local residents.
- **Public Opposition**: There is significant public opposition to the project due to the potential negative impacts on noise, air quality, traffic, and the local environment.

Conclusion

The local Community respectfully urge An Coimisiún Pleanála to:

• Reject the application for substitute consent in its current form

• Or, if it must be approved, to bind that approval to full decommissioning, ecological restoration, and a permanent prohibition on resumed extraction This decision will set a precedent. The planning system's credibility, the ecological future of the Barrow corridor, and the wellbeing of a rural community all depend on rigorous, transparent, and evidence-based judgment.

The proposed project has the potential to significantly affect local communities in terms of environmental, ecological, traffic, health, and social impacts. These concerns

highlight the need for careful consideration and stringent mitigation measures to protect the local community and environment.

Le gach dea-ghuí,

Cllr Noel Connolly