

## Ballyshannon Action Group

As you meet to consider the proposed Planning and Development Bill 2022, in particular Section 9, Ballyshannon Action Group would like to highlight **the importance of public participation in every stage of the planning process**. What follows is of course the experience of just one community group, but we believe that our experience will echo that of many others around Ireland and may be helpful in scrutinising this legislation.

Ballyshannon Action Group formed in 2019, a few months before Kilsaran Concrete applied for planning permission to create a quarry on a greenfield site here at Racefield, Ballyshannon. Thankfully, we had heard rumour that Kilsaran were about to apply for what turned out to be a 32.2-hectare quarry development and we were organised to oppose it well in advance.

After lots of engagement from the community and public representatives too, Kildare County Council denied planning permission for the development on several grounds, including traffic hazard/public safety and loss of amenity to the area. The council's decision was appealed, however, by Kilsaran to An Bord Pleanala (ABP).

**An Bord Pleanala's own Inspector also recommended refusal, saying the development would "seriously injure the amenities of properties in the vicinity by reason of traffic, noise, air quality, visual impacts and general disturbance." Yet, An Bord Pleanala ignored their own inspector's recommendation and granted permission for the development in June 2021.**

Ballyshannon Action Group have since launched proceedings at the High Court, seeking a judicial review of ABP's decision. We are currently awaiting a decision from the judge on whether or not we will be granted Leave to proceed with this Judicial Review.

If allowed to proceed, the quarry here at Racefield will be **the fourth Kilsaran quarry in this area**, all four within 8km of the small town of Kilcullen, Co. Kildare.

If allowed to proceed, the road leading to the Racefield quarry, which now only allows for one car to pass comfortably, will need to be widened to fit the HGV traffic. However, this was never accounted for in the initial planning application, so a road widening plan was sent through as supplementary information to An Bord Pleanala, but what the bord may not have been aware of (without the public telling them) is that the land included in this widening is in the private ownership of several residents along this road, all members of Ballyshannon Action Group.

**Throughout this process, Kilsaran has evaded any public consultation.** When they applied for the initial planning permission, they posted a basic information leaflet to intermittent homes along the road but left out the homes closest to the proposed site. The home closest to the site was even left out of the maps of the area submitted as part of the planning application.

We did not launch our proceedings for the judicial review lightly and have had to make huge sacrifices and put in a lot of time towards fundraising to support this.

**We have found the process to date onerous and prohibitive, but such is the feeling in this community about how inappropriate this development is, and how it will destroy our community, that we are willing to pursue it nonetheless.**

There are many residents around the other three Kilsaran facilities in this area, who have led similar opposition against those quarries and most recently the extension of planning permissions on existing these sites, but have dwindled away over the decades, thanks to how difficult the process is and how stacked against the citizen the planning system in Kildare appears to be in the face of the powerful extractive industry lobby.

Incidentally, in a recent submission to Kildare's County Development Plan consultations, SLR consultants for Roadstone requested that the lands in Kildare be mapped out, so that areas with high potential for aggregates could be **ring fenced for quarrying into the future and saved from 'inappropriate development' such as housing.**

The programme for government, the **Climate Act 2021**, and Climate Action Plan, all place a responsibly on County Councils to prioritise longer life, lower carbon construction materials and say that alternative, lower carbon construction materials will be given preference over finite resources, in order to work towards more sustainable and environmentally-friendly construction solutions- but we are not seeing this in practice. In this age of Climate Action, when we know that the **concrete and cement industry is responsible for 8% of the world's carbon emissions**, the state/public bodies-the biggest consumer of concrete and cement products in the country- is not leading from the front and seeking alternatives in all public works contracts. **Instead, it seems to be rolling out the red carpet for the extractive industry, while making it more difficult for members of the public to have any recourse when a highly inappropriate development gets the green light in their area.**

We have been told by some well-meaning public representatives, to focus on conditions and enforcement, so that once the Racefield quarry opens, it will have to follow these conditions strictly. **However, there is no direct monitoring of planning conditions at any quarry in Kildare by the county council, unless a breach is reported by a member of the public. Financial Contributions and levies are another non-runner with the county council granting quarry companies extensions even when they have yet to pay outstanding levies.** Kilsaran, for example has over €1 million in outstanding contributions on just one of its sites in Kilcullen, dating back to 2017. Yet, they were recently granted yet another planning permission on that site regardless.

Kilsaran also have a habit of appealing the financial contributions that Kildare County Council request to An Bord Pleanala and having these contributions decreased substantially as a result. In 2019, An Bord Pleanala approved the reduction of levies requested by Kildare County Council for the Kilsaran quarry at the Ballysaxhills site in Kilcullen from €488,680 to €48,868. Similarly, the levies requested on the company's Brownstown/Corbally extension in Kilcullen were reduced by An Bord Pleanala from approximately €592,130 to €2,500.

There is a reference in the Kildare County Development Plan to only allowing for the extraction of 'adequate supplies' of aggregates to service the demand in the county and region, yet there is no measurement of what is being extracted from quarries here each year or where the demand for their products is coming from. So, our planning authorities are allowing the quarrying companies here to dictate what 'adequate supplies' mean.

Last year, Ballyshannon Action Group made two submissions to the public consultation process regarding **Kildare's Draft County Development Plan.** In these submissions we tried to highlight the preferential treatment afforded to the extractive industry over community interests, throughout the county and questioned why there was no exit plan for this carbon heavy business. Some of the changes we requested were made to the text. **However, most of the suggested alterations that were made by SLR, the consultants**

**for Roadstone, were adopted, once again placing the extractive industry in a more favourable light.**

Without public participation the planning system loses legitimacy. Under the Aarhus Convention there has to be legal recourse over An Bord Pleanala decisions. **The review procedures must provide “adequate and effective remedies ... and be fair, equitable, timely and not prohibitively expensive.”**

We would argue that the current system of judicial review is already extremely prohibitive. To further restrict the public’s role in the planning process, as alluded to in Section 9 of this Bill, by making it even more difficult for community groups to seek Judicial Reviews of decisions would be a blow to democracy altogether.

Thank you for your time and consideration.

Yours Sincerely,

The Ballyshannon Action Group

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