



An  
Bord  
Pleanála

**Board Direction**  
**BD-003374-19**  
**ABP-301989-18**

The submissions on this file and the Senior Planning Inspector's report were considered at a Board meeting held on June 20<sup>th</sup>, 2019.

The Board decided that:-

- (a) An Environmental Impact Assessment and a Natura Impact Assessment is required,
- (b) Exceptional circumstances exist in the subject case, whereby it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent.

Accordingly,

- The Board decided to grant leave to apply for substitute consent, for the Reasons and Considerations set out below,
- To direct the application for substitute consent shall include a remedial Environmental Impact Assessment report and a remedial Natura Impact Statement.

### **REASONS AND CONSIDERATIONS.**

Having regard to Section 177D, Planning and Development Act, 2000, as inserted by Section 57, Planning and Development (Amendment) Act, 2010, the Board is

satisfied that an environmental impact assessment and an appropriate assessment is required.

Furthermore, the Board examined whether or not exceptional circumstances exist such that it would be appropriate to permit the regularisation of the development by permitting leave to make an application for substitute consent. In this regard the Board,

- considered that the regularisation of the development would not circumvent the purpose and objectives of the Environmental Impact Assessment Directive or of the Habitats Directive,
- considered that the applicant could reasonable have had a belief that the development was not unauthorised,
- considered that the ability to carry out an Environmental Impact Assessment and an Appropriate Assessment and for the public to participate in such assessments has not been substantially impaired,
- considered the nature of the actual/likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out of the development,
- considers that the actual or likely significant effects on the environment or adverse effects on the integrity of a European site, if any, can be remedied.

Taking all of the above into consideration, it is considered that exceptional circumstances do exist such that it would be appropriate to permit the opportunity for the regularisation of the development by permitting an application for substitute consent.

**Note 1:** the notice to the applicants advising of this decision should also direct that:

- (a) the application must be made within 12 weeks of the giving of the notice or such longer period as the Board may, on request, consider appropriate, and
- (b) the application must include a remedial Environmental Impact Assessment report and a remedial Natura Impact Statement.

**Note 2:** in deciding that appropriate assessment is required in this instance, the Board considered the content of the 'Review of Ecological Assessment Reports for Wexford Referrals (prepared by the ESB International, January 2016) as well as the report of the Senior Planning Inspector on this file. Notwithstanding the conclusions of the above mentioned report, which conclusions were reported also in the application document by ESB Networks Ltd, dated 20<sup>th</sup> June 2018, the Board considered that in the absence of a Natura Impact Statement, it could not be satisfied that the development in question would not have had significant effects on a European site, in terms of indirect effects arising from watercourses which flow to the European site. The Board therefore determined that the application should be accompanied by a remedial Natura Impact Statement.

**Note 3:** the application for leave to apply for substitute consent relates solely to the grid connections which serve Knocknalour, Gibbet Hill, Ballynancoran and Ballycadden windfarms, as sought in the application for leave.

**Board Member**

**Date:** 21/06/2019

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Chris McGarry