



An
Bord
Pleanála

Board Direction
BD-002974-19
ABP-302837-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 8th May 2019.

The Board decided that:-

(a) An Environmental 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, and

Accordingly,

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

Appropriate Assessment

The Board considered the Screening Report for Appropriate Assessment on file and carried out an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report. It considered that, given the nature of the development, the lack of

a hydrological link to the Derryclogher (Knockboy) Bog SAC and the Cahra Mountains SAC and the separation distances to the SACs that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site in view of the site's conservation objectives.

Reasons and Considerations

Having regard to section 177D of the Planning and Development Act, 2000, as amended, the planning history of the site, all documentation on file and the report of the planning Inspector, the Board is satisfied that:

- (a) the development is one where an environmental impact assessment is required, and
- (b) That exceptional circumstances exist by reference, in particular, to the following:
 - the fact that the regularisation of the development would not circumvent the purpose or objectives of the Environmental Impact Assessment Directive or of the Habitats Directive
 - that the applicant could reasonably have had a belief that the development was not unauthorised;
 - that the ability to carry out an Environmental Impact Assessment or Appropriate Assessment and provide for public participation in such assessments has not been substantially impaired; and
 - the actual or likely significant effects on the environment or adverse effects on the integrity of a European Site, if any, can be remedied.

The Board decided that it would be appropriate to consider an application for the regularisation of the development by means of an application for substitute consent.

Note : The Notice to the applicant advising of the decision should also direct that:

- (a) The application be made within 12 weeks of the giving of the notice, and

(b) The application includes a remedial Environmental Impact Assessment Report

Board Member

Date: 08/05/2019

Terry Prendergast

Please issue Direction with Board Order.