



An
Bord
Pleanála

Board Direction
BD-003236-19
ABP-303629-19

The submissions on this file and the Planning Inspector's report were considered at a Board meeting held on 06.06.2019.

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, and
- To direct that the application for substitute consent shall include a remedial Environmental Impact Assessment Report.

1.0 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:

- a) the development is one where an EIA 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 or Habitats Directive;
- the applicant could reasonably have had a belief that the development was not unauthorised
- that the ability to carry out EIA and provide for public participation has not been substantially impaired;
- Any actual or likely significant effects on the environment can be remedied;
- There are no adverse effects on the integrity of a European site;
- The applicant has not previously carried out an unauthorised development and there are no previous planning permissions on the site.
- And the following additional circumstance, which, in this particular case, the Board considers relevant;
- That the notice of the planning authority under Section 261A was not served on the quarry operator and that h=thereby the applicant was not in a position to seek a review of this notice within the appropriate time period.

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

- a) the application 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 shall include a remedial EIS. This may include reference to proposed mitigation measures where appropriate.

Board Member

Date: 06/06/2019

Terry Prendergast

Note: The Board concurred with the Inspector that a remedial Natura Impact statement is not required in this instance.

Please issue Direction with Order.