

An
Bord
Pleanála

Board Direction
BD-009142-21
ABP-306076-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/09/2021.

The Board decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

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 the development is one where an Environmental Impact Assessment and an Appropriate Assessment are required. Furthermore, the Board examined whether or not exceptional circumstances exist such that it would be appropriate to allow the opportunity for regularisation of the development by permitting leave to make an application for substitute consent.

In this regard the Board -

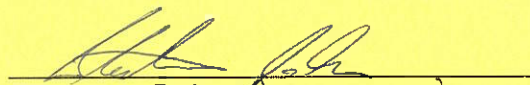
- Considered that the regularisation of the development would circumvent the purpose and objectives of the EIA Directive and the Habitats Directive,
- Did not consider that the applicant could reasonably have had a belief that the development was not unauthorised,
- Considered that the ability to carry out an Environmental Impact Assessment and Appropriate Assessment for the public to participate in such assessments has been impaired,

- Considered that there is uncertainty on excluding significant adverse effects on the environment and adverse effects on the integrity of a European site resulting from the carrying out of the development,
- Considered that the significant effects on the environment and adverse effects on the integrity of a European site cannot be remediated to any great extent,
- Noted the failure of the owner operator to engage in the process for the control of quarries introduced by S261A of the Planning and Development Act 2000 as amended, and noted the continued operation of the quarry by the owner operator notwithstanding the decision by the Board on the 16th September 2014 on the previous application for leave to apply for Substitute Consent under 08.LS0015 and the Enforcement Notice issued on 10th April 2014 directing the applicant to cease operations by 9th May 2014.

It is concluded, therefore, that exceptional circumstances do not exist such that it would be appropriate to allow the opportunity for the regularisation of the development by permitting leave to apply for substitute consent and that leave to make an application for substitute should be refused accordingly.

Notwithstanding the provisions of section 177L of the Act, the Bord considered that it would be inappropriate to invoke the powers available to it under this section having regard to the enforcement action being taken by the planning authority, which is currently before the courts.

Board Member


Stephen Bohan

Date: 23/09/2021