



An
Bord
Pleanála

Board Direction
BD-005653-20
ABP-306490-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/04/2020.

The Board decided to grant leave to apply for substitute consent generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the size and scale of the peat harvesting area which was carried out subsequent to 20th September 2012 and to the location the Ballaghurt peatland site (within the Blackwater bog group) to the River Shannon Callows SAC, Middle Shannon Callows SPA, Mongan Bog SAC and Lough Fin SAC, and to the location of the peatland site within the foraging range of bird species that are designated as being of Special Conservation Interest for the Shannon Callows SPA and Mongan Bog SPA, and to section 177D of the Planning and Development Act, 2000, as inserted by section 57 of the Planning and Development (Amendment) Act, 2010, the Board is satisfied that:

- (a) an environmental impact assessment and an appropriate assessment were required in respect of the development concerned, and
- (b) exceptional circumstances exist such that the Board considers it appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent.

In this regard, the Board considered that –

- the regularisation of the development concerned would not circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;
- the applicant had or could reasonably have had a belief that the development was authorised;
- the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment, and to provide for public participation in such an assessment, has not been substantially impaired;
- the actual or likely significant effects on the environment or adverse effects on the integrity of a European site, if any, resulting from the carrying out of the development, could likely be substantially remediated; and
- applicant has not otherwise carried out any unauthorised development.

Board Member

Date: 28/04/2020

Paul Hyde