



An
Bord
Pleanála

Board Direction
BD-011034-22
ABP-307350-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/07/2022.

The Board decided to grant leave to apply for substitute consent under section 177D of the Planning and Development Act 2000, as amended, based on the reasons and considerations set out below.

Reasons and Considerations

Having regard to section 177D of the Planning and Development Act, 2000, as amended, and taking account of the inspector's report and the documents contained on the wider file, the Board considers that Environmental Impact Assessment (and the submission of a remedial environmental impact assessment) was or is required in respect of the development concerned. The Board also considered that Appropriate Assessment (and the submission of a remedial Natura Impact Statement) was or is required for the development concerned.

Furthermore, having regard to Section 177D (2) of the Act, the Board considers that exceptional circumstances exist based on the following matters:

- (a) The regularisation of the development concerned would not circumvent the purposes and objectives of the Environmental Impact Directive or the Habitats Directive,
- (b) the applicant had, or could reasonable have had, a belief that the development was not unauthorised,

- (c) 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,
- (d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development and
- (e) the satisfactory extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated.

Having regard to the foregoing and the entirety of the information on the file, including the information contained in the inspector's report, it is considered that exceptional circumstances do exist such that it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent in relation to the development concerned.

In deciding not to accept the Inspector's recommendation to refuse leave to apply for substitute consent, the Board had regard to the submissions of the applicant, noted the lack of any ongoing enforcement procedures, concurred with the observations of the Planning Authority who responded (Longford County Council) and concluded that:

- (i) the regularisation of the development concerned would not circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive,
- (ii) the applicant could reasonably have had a belief that the development was authorised,
- (iii) 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; and

(iv) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site, resulting from the carrying out of the development, could be substantially remediated.

Board Member Patricia Calleary Date: 25/07/2022
Patricia Calleary

