

An  
Bord  
Pleanála

**Board Direction**  
**BD-010665-22**  
**ABP-307745-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/05/2022.

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, the Board considers that an EIA is required in respect of the development concerned. Furthermore, having regard to Section 177D(2) of the Act, the Board considers that the following exceptional circumstances are relevant to this particular application:

- (a) Regularisation of the development concerned would not circumvent the purposes and objectives of the EIA Directive,
- (b) The applicant had, or could reasonable have had, a belief that the development was authorised,
- (c) The ability to carry out an assessment of the environmental impacts of the development for the purpose of an EIA, and provide public participation in such assessments, has not been substantially impaired,

(d) The actual or likely significant effects on the environment resulting from the carrying out or continuation of the development would be capable of assessment, and

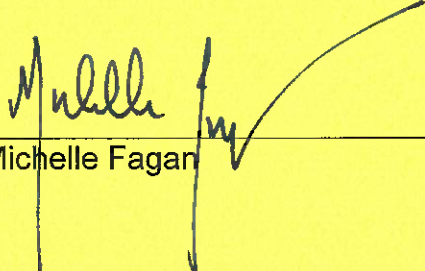
(e) The satisfactory extent to which significant effects on the environment can be remediated.

Having regard to the foregoing, 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 site outlined in this application.

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 and concluded 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 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 ~~been~~ not been substantially impaired; and
- 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

  
Michelle Fagan

Date: 10/05/2022