



Board Direction

Ref: 01.LS0019

The submissions on this file and the Inspector's report were considered at a further Board meeting held on February 22nd, 2017.

The file was considered at the same meeting as the associated quarry file 01.LQ0001.

Generally in accordance with the recommendation of the Inspector, the Board decided to grant leave to apply for substitute consent for the reasons and considerations set out below.

Reasons and Considerations

Having regard to Section 177D, Planning and Development Act, 2000, as amended, the Board is satisfied that:

- (a) the development is one where both environmental impact assessment and appropriate assessment is required, and
- (b) the Board considered that:
 - the regularisation of the development would not circumvent the purpose or objectives of the Environmental Impact Directive and the Habitats Directive;
 - the applicant had or could reasonably have had a belief that the development was not unauthorised;

- the ability to carry out an assessment of environmental impacts of the development for the purposes of EIA and AA and to provide for public participation in such an assessment has not been substantially impaired;
- there is a lengthy planning history associated with this site and the adjacent quarry lands, and

the Board also considered

- the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the development; and
- the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated.

The Board concluded, having taken all of the matters under S.177D(2) into account, that 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.

The Board noted and considered the Inspector's recommendation not to seek a remedial EIS on the basis of the subject development not being of a class of development for the purposes of EIA as it does not fall within any of the Classes in Schedule 5, Planning and Development Regulations, 2001, as amended, or relevant preceding regulations or Annexes to the Directives. The letter issued by An Bord Pleanála on February 4th, 2016, similarly indicated that "this element of the development is not of a class of development for the purpose of EIA, the EIA requirements do not appear to arise".

In deciding not to accept the Inspector's recommendation the Board took into consideration the associated application for the quarry site under ABP Ref.01.LQ0001 – an application to seek substitute consent under

S.261A(24)(A) of the Act – which the Board considered at the same meeting. The Board considered that the production/manufacturing plant area identified in application LS0019 initially developed as a result of the substantial quarrying operation on these lands and was, therefore, an integral part of the overall development. Accordingly, the Board considered that, in this instance, the quarry and the production area, while requiring separate application processes, are closely interlinked and, therefore, concluded that a single common remedial EIS and remedial NIS should be submitted with each application (ABP Refs.01.LQ0001 and 01.LS0019) to facilitate the Board's assessments.

Note: Substantially as set out in the Inspector's report 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 includes a remedial Environmental Impact Statement and a Natura Impact Statement, and
- (c) the application site area refers to the production/manufacturing plant area as outlined in red on Drawing D03 attached as Appendix 10 to the application for leave to apply for substitute consent.

Board Member: _____ Date: March 2nd, 2017
Nicholas Mulcahy

Please issue a copy of this Direction with the Board Order.