



An  
Bord  
Pleanála

## Board Direction 09.LS0023

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The submissions on this file and the Senior Planning Inspector's report were considered at a Board meeting held on 11<sup>th</sup> April 2019.

The Board decided that:-

- (a) A Stage II Appropriate Assessment is required,
- (b) An Environmental Impact Assessment is required, and

exceptional circumstances do not exist in the subject case, whereby it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent,

Accordingly,

- The Board decided to refuse leave to apply for substitute consent, for the Reasons and Considerations set out below,

## **REASONS AND CONSIDERATIONS**

Having regard to Section 177D, of the Planning and Development Act, 2000, as inserted by Section 57, Planning and Development (Amendment) Act, 2010, the Board considered that a Stage II Appropriate Assessment is required in respect of the development concerned and also that an Environmental Impact Assessment is required in respect of the development concerned.

Furthermore, the Board examined whether or not exceptional circumstances exist such that it would be appropriate to permit the 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 Environmental Impact Assessment Directive or of the Habitats Directive,
- considered that the applicant could not reasonably have had a belief that the development was not unauthorised, particularly in light of the planning history of the subject site
- considered that the ability to carry out an Environmental Impact Assessment and an Appropriate Assessment and for the public to participate in such assessments has been substantially impaired,
- considered that the development has had significant effects on the environment, in particular by way of impacts on nearby residents and the landscape, and may have adversely affected the integrity of a nearby European site,
- considered that the actual or likely significant effects on the environment or adverse effects on the integrity of a European site that may have arisen as a result of the development, cannot be remedied,
- did not consider that the demand for sand and gravel in the mid Kildare area is sufficient reason to overcome the environmental issues.

Taking all of the above into consideration, it is considered that exceptional circumstances do not exist such that it would be appropriate to permit the opportunity for the regularisation of the development by permitting an application for substitute consent.

In relation to Section 177L of the Act, the Board did not consider it necessary to invoke the powers available to it under Section 177L.

**Board Member**

**Date:** 11<sup>th</sup> April 2019

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Chris McGarry