



Board Direction

Ref: 15.LS0026

The submissions on this file and the Senior Planning Inspector's report were further considered at a meeting of all available Board Members held on October 19th 2016.

In addition to the subject file, the Board had before it relevant planning history files (as listed in section 3 of the Senior Planning Inspector's Report), and also relevant enforcement file documentation supplied by the planning authority.

The Board decided, on a vote of 5 to 3, to refuse leave to apply for substitute consent, generally in accordance with the recommendation of the Senior Planning Inspector, 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 of the Planning and Development (Amendment) Act, 2010, the Board considered that Appropriate 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:

- a) considered that the regularisation of the development would not circumvent the purpose and objectives of the Habitats Directive,
- b) considered that the applicant could not reasonably have had a belief that the development was not unauthorised, particularly in the light of the planning history of the subject site,

- c) considered that the ability to carry out an Appropriate Assessment and for the public to participate in such an Assessment had been substantially impaired, given the difficulty inherent in assessing potential soil and surface/groundwater contamination concomitant with historical activities on the site over a number of years, and how these might have affected the receiving environment, including European sites,
- d) considered that adverse effects on the integrity of a European site could not be ruled out at an initial stage, having regard to the absence of a detailed and robust assessment of the impacts in respect of development already undertaken at the subject site, and the nature of that development, including car dismantling.
- e) considered that adverse effects on the integrity of a European site could be remediated,
- f) considered that the applicant has not complied with previous planning permissions granted and, based on the information provided by the planning authority, has carried out unauthorised development.

Taking all of the above into consideration, the Board concluded that exceptional circumstances do not exist such that it would be appropriate to permit the regularisation of the development by permitting leave to apply for substitute consent, and decided to refuse leave to make 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 of the Act.

Board Member: _____ Date: 7th November 2016
Philip Jones