



Board Direction

Ref: 05.LS0027

The submissions on this file and the Inspector's report were considered at a further Board meeting held on February 9th, 2017.

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(1), Planning and Development Act, 2000-2015, and to the conclusions reached by the Board in its review of the determination made by the Planning Authority under Section 261A of that act with respect to the quarry on the site, Ref. No. 05. QV0012, the Board is satisfied that an Environmental Impact Assessment was required for the development upon the site and that one was not carried out.

The Board concluded that exceptional circumstances exist by reference to the following matters:

- the regularisation of the development would not circumvent the purpose or objectives of the Environmental Impact Assessment Directive,
- the relatively small scale of the development when compared to the threshold set at class 2(b) of part 2 of schedule 5 of the Planning and Development Regulations, 2000-2016,

- the uncertainty regarding the applicant's belief that the development was not unauthorised and that the applicant might reasonably have believed that the development was not unauthorised,
- the ability to carry out an Environmental Impact Assessment and provide for public participation has not been substantially impaired,
- the limited nature of the actual or likely significant effects on the environment resulting from the development,
- the extent to which significant effects on the environment, if any, can be remediated,
- the location of the development and relevant development plan policies and objectives in respect of development of this type and at this location, and
- the planning history of the site based, inter alia, on the information available from the planning authority including:
 - the applicant's history of general compliance with permissions elsewhere and resolution of matters at an early stage,
 - the non-compliance with planning permissions which arose from exceeding the duration of permissions rather than any significant expansion beyond authorised site boundaries, and
 - the applicant's unsuccessful and incomplete engagement in the S261A substitute consent process,

and considered that it would be appropriate to consider an application for the regularisation of the development by means of an application for substitute consent.

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either

individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. Having regard to that assessment and the conclusions reached by the Board in its review of the determination made by the Planning Authority under Section 261A of that act with respect to the quarry on the site, Ref. No. 05. QV0012, the Board is satisfied that the development, either individually or in combination with other plans or projects, would not have been likely to have had a significant effect on the Special Area of Conservation at the River Finn, or any other European site, in view of the site's Conservation Objectives.

Board Member: _____ Date: February 20th, 2017
Nicholas Mulcahy