

Planning and Development Acts 2000 to 2020

Planning Authority: Carlow County Council

Application for Leave To Apply For Substitute Consent, by Alan Alyyan care of Peter Thompson Planning Solutions of 4 Priory Grove Kells, County Kilkenny.

Development: (1) The construction of a workshop and associated works, (2) the siting and adaption of a storage container for use as a domestic non-habitable outbuilding and associated works, (3) the installation of an underground stormwater storage tank, pump and associated pipework, (4) the installation of a concrete hardstanding base (originally comprising a shed base but the shed is no longer proposed), (5) the erection of a stone garden feature, (6) the conversion and extension of a dwellinghouse double garage to a sun/living room, and (7) the extension of the dwellinghouse to provide for a two-storey garage and guest accommodation, all at "Riverview", Sliguff, Bagenalstown, County Carlow.

Decision

REFUSE 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

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

1. Having regard to section 177D of the Planning and Development Act, 2000, as amended, the Board considered that Appropriate Assessment was not and is not required in respect of the following development
 - (a) the installation of the concrete hardstanding base;
 - (b) the erection of the stone garden feature;
 - (c) the conversion and extension of the double garage attached to the dwellinghouse to use as a sun/living room; and
 - (d) the extension of the dwelling house to provide for a two-storey garage and guest accommodation;

due to the scale and nature of the development to be retained and was not likely, either by itself or in combination with other plans and projects to have had, or would not be likely to have an adverse impact on a European Site, and, in particular, on the River Barrow and River Nore Special Area of Conservation (Site code: 002162), in view of the site's conservation objectives. In these circumstances, a need for substitute consent does not apply.

2. Having regard to section 177D of the Planning and Development Act 2000, as amended, the Board considered that Appropriate Assessment is required in respect of the following development:

- (a) the construction of the workshop and associated works;
- (b) the siting and adaption of the storage container for use as a domestic non-habitable outbuilding and associated works; and
- (c) the installation of the underground stormwater storage tank, pump and associated pipework.

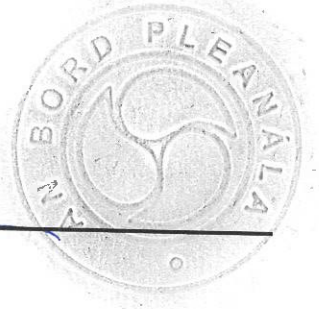
Furthermore, the Board examined whether or not exceptional circumstances exist such that it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent.

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;
- (c) considered that the ability to carry out an Appropriate Assessment and for the public to participate in such an Assessment had not been substantially impaired;

- (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;
- (e) considered that it was not possible to assess the extent to which adverse effects on the integrity of a European site could not be remediated without a comprehensive and robust assessment of a Remedial Natura Impact Statement pertinent to the development in question; and
- (f) considered that there was no evidence to suggest that the applicant had carried out any unauthorised development other than that which is the subject of this application.

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 opportunity for the regularisation of the development by permitting an application for substitute consent, and decided to refuse leave to make an application for substitute consent.



Dave Walsh
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 23rd day of June 2021.