



Planning and Development Acts 2000 to 2019

Planning Authority: Cork County Council

Application for Leave To Apply For Substitute Consent by Cleanrath Windfarm Limited care of MKO of Tuam Road, Galway.

Development: Windfarm in the townlands of Cloontycarthy, Cleanrath North, Cleanrath South, Derreennacarton, Derrineanig, Turnaspidogy, Milmorane, Coomlibane, Rathgaskig, Derragh, Augeris, Gorteenakilla, Carrignadoura, Gurteenowen, Gurteenflugh, Lyrenageeha, and Lackabaun, County Cork.

Decision

GRANT 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

Having regard to section 177C and section 177D of the Planning and Development Act, 2000, as amended, the planning history of the site, all the documentation on file, and the report of the planning Inspector, the Board is satisfied that:

- (a) the development is one where an Environmental Impact Assessment and Appropriate Assessment are required,
- (b) the permission granted for the development by the Board (appeal reference number PL 04.246742, planning register reference number 15/6966) may be in breach of law, invalid or otherwise defective in a material respect pursuant to a final judgement of the Supreme Court [No. 167/18] by reason of a procedural error, and
- (c) exceptional circumstances exist by reference, in particular, to the following:
 - the fact that the regularisation of the development would not circumvent the purpose or objectives of the Environmental Impact Assessment Directive or of the Habitats Directive,

- that the applicant could reasonably have had a belief that the development was not unauthorised,
- that the ability to carry out an Environmental Impact Assessment and Appropriate Assessment, and provide for public participation in such assessments, has not been substantially impaired, and
- that the actual or likely significant effects on the environment or adverse effects on the integrity of a European Site, if any, can be remedied.

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

Chris McGarry
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2020.