

**An  
Bord  
Pleanála**

**Board Order  
ABP-307350-20**

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Westmeath County Council/Longford County Council**

**Application for Leave To Apply For Substitute Consent**, by Klasmann-Deilmann Ireland Limited care of Tobin Consulting Engineers of Fairgreen House, Fairgreen Road, Galway.

**Development:** Extraction of peat at (1) Killinagh and Ballygarveybeg, Rathowen, County Westmeath and Clonmullan, County Longford, and (2) Derrydoonan Lower, Lissanure, Rathowen, County Westmeath.

### **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

  
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## Reasons and Considerations

Having regard to section 177D of the Planning and Development Act, 2000, as amended, and taking account of the Inspector's report and the documents contained on the file, the Board considered that an Environmental Impact Assessment (and the submission of a remedial environmental impact assessment) was or is required in respect of the development concerned. The Board also considered that an Appropriate Assessment (and the submission of a remedial Natura Impact Statement) was or is required for the development concerned.

Furthermore, having regard to Section 177D (2) of the 2000 Act, the Board considered that exceptional circumstances exist based on the following matters:

- (a) the regularisation of the development concerned would not circumvent the purposes and objectives of the Environmental Impact Directive or the Habitats Directive,
- (b) the applicant had, or could reasonably have had, a belief that the development was not unauthorised,
- (c) the ability to carry out an assessment of the environmental impacts of the development for the purpose of an Environmental Impact Assessment or an Appropriate Assessment and to provide for public participation in such an assessment has not been substantially impaired,



- (d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development, and
- (e) the satisfactory extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated.

Having regard to the foregoing and the entirety of the information on the file, including the information contained in the Inspector's report, it is considered that exceptional circumstances do exist such that it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent in relation to the development concerned.

In deciding not to accept the Inspector's recommendation to refuse leave to apply for substitute consent, the Board had regard to the submissions of the applicant, noted the lack of any ongoing enforcement procedures, concurred with the observations of the planning authority who responded (Longford County Council) and concluded that:

- (i) the regularisation of the development concerned would not circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive,
- (ii) the applicant could reasonably have had a belief that the development was authorised,
- (iii) the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment, and to provide for public participation in such an assessment, has not been substantially impaired, and

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- (iv) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site, resulting from the carrying out of the development, could be substantially remediated.

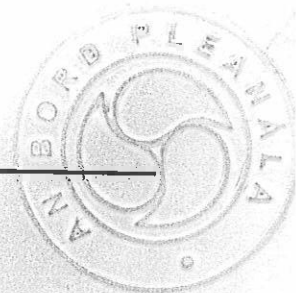
*Patricia Calleary*

**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**



**Dated this 05 day of August 2022.**