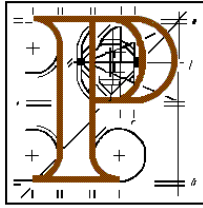


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Clare County

An Bord Pleanála Reference Number: 03.LS.0020

APPLICATION FOR LEAVE TO APPLY FOR SUBSTITUTE CONSENT by Michael Harty care of McCarthy Keville O'Sullivan of Block 1, Galway Financial Services Centre, Moneenageisha Road, Galway.

DEVELOPMENT: Sea defence wall at The Flaggy Shore, New Quay, County Clare.

DECISION

GRANT leave to apply for substitute consent under section 177D (4) of the Planning and Development Act, 2000, as inserted by section 57 of the Planning and Development (Amendment) Act 2010 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 177D(1), Planning and Development Act, 2000, as inserted by Section 57 of the Planning and Development (Amendment) Act, 2010, the Board considered that an Appropriate Assessment is required in respect of the development concerned, and the Board concluded such exceptional circumstances exist.

In this regard, the Board:

- considered, notwithstanding the uncertainty as to whether the regularisation of the development would or would not circumvent the purpose and objectives of the Habitats Directive, that the applicant, in the particular circumstances of this case, could reasonably have had a belief that the development was not unauthorised,
- considered the nature and limited scale of the development,
- considered that the ability to carry out an Appropriate Assessment and provide for public participation has not been substantially impaired,
- considered the limited nature of the actual/likely adverse effects on the integrity of a European site resulting from the development, and

- considered the extent to which any such adverse effects on the integrity of a European site resulting from the development can be remediated,

and, therefore, concluded that exceptional circumstances exist such that it would be appropriate to consider an application for the regularisation of the development by means of an application for substitute consent.

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

Dated this day of 2016.