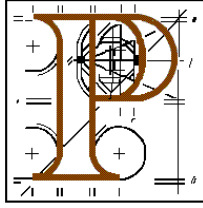


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Wexford County

An Bord Pleanála Reference Number: 26.LS.0022

**APPLICATION FOR LEAVE TO APPLY FOR SUBSTITUTE CONSENT** by Philip Wallace care of SLR Consulting of 7 Dundrum Business Park, Windy Arbour, Dublin.

**DEVELOPMENT:** Construction of an amenity and recreational area and the construction of a pedestrian bridge ancillary to the existing adjoining caravan park, at Clonsharragh and Ballystraw, Duncannon, New Ross, County Wexford.

## DECISION

**REFUSE** 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 of the Planning and Development Act, 2000, as inserted by section 57 of the Planning and Development (Amendment) Act, 2010, the Board considered that Appropriate Assessment is required in respect of the development concerned, and also that a determination is required as to whether an Environmental Impact Assessment would also be required. Furthermore, the Board examined whether or not exceptional circumstances exist such that it would be appropriate to permit the regularisation of the development by permitting leave to make an application for substitute consent.

In this regard, the Board:

- considered that the regularisation of the development would not circumvent the purpose and objectives of the Environmental Impact Assessment Directive or of the Habitats Directive,
- considered that the applicant could not reasonably have had a belief that the development was not unauthorised, particularly in the light of the planning history of the subject site,
- considered that the ability to carry out an Appropriate Assessment and an Environmental Impact Assessment and for the public to participate in such assessments has not been substantially impaired,
- considered that the development has had significant effects on the environment, in particular through the infilling of an area of historic wetlands, and may have adversely affected the integrity of the adjoining European site as a result of the carrying out of such infilling,
- considered that the significant effects on the environment and adverse effects on the integrity of a European site could be remediated, but that such remediation might, in itself, have potential significant effects and impacts, and
- noted the planning history of the site, and in particular the report of the Board's Inspector in relation to planning register reference number 2004/4998 (An Bord Pleanála reference number PL 26.212843).

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The Board concluded that exceptional circumstances do not exist such that it would be appropriate to permit the regularisation of the development by permitting leave to apply for substitute consent, and decided to refuse leave to make an application for substitute consent.

In relation to section 177L of the Act, the Board did not consider it necessary to invoke the powers available to it under section 177L of the Act.

In not accepting the recommendation of the Senior Planning Inspector to grant substitute consent, the Board did not consider, having regard to the planning history of the site, that the applicant could reasonably have had a belief that the development was not unauthorised, nor that the works that he had carried out could have constituted exempted development, having regard to the planning history of the site, and did not consider that it had been demonstrated that exceptional circumstances exist in this case so as to permit the regularisation of the development in question.

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

**Dated this            day of            2016.**