

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Louth County

An Bord Pleanála Reference Number: 15.LS.0026

APPLICATION FOR LEAVE TO APPLY FOR SUBSTITUTE CONSENT by Anthony Meegan care of David Mulcahy Planning Consultants Limited of 67 The Old Mill Race, Athgarvan, County Kildare.

DEVELOPMENT: End of life vehicle recovery facility at Skyhill, Drumbilla, Hackballscross, Dundalk, County Louth.

DECISION

REFUSE leave to apply for substitute consent under section 177D (4) 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 177D of the Planning and Development Act, 2000, as amended, the Board considered that Appropriate Assessment is required in respect of the development concerned. 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, particularly in the light of the planning history of the subject site,
- (c) considered that the ability to carry out an Appropriate Assessment and for the public to participate in such an Assessment had been substantially impaired, given the difficulty inherent in assessing potential soil and surface/groundwater contamination concomitant with historical activities on the site over a number of years, and how these might have affected the receiving environment, including European sites,
- (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, and the nature of that development, including car dismantling.
- (e) considered that adverse effects on the integrity of a European site could be remediated,
- (f) considered that the applicant has not complied with previous planning permissions granted and, based on the information provided by the planning authority, has carried out unauthorised development.

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.

In relation to section 177L of the Planning and Development Act, 2000, as amended, the Board did not consider it necessary to invoke the powers available to it under section 177L of the Act.

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

Dated this day of 2016.