

Board Order 21.LS.0032

Planning and Development Acts 2000 to 2017 Planning Authority: Sligo County Council Planning Register Reference Number: PL 12/133

Application for Leave To Apply For Substitute Consent, by Derrysallagh Wind Farm Limited care of Fehily Timoney and Company of Core House, Pouladuff Road, Cork.

Development: Partially constructed grid connection cable from the consented Derrysallagh Wind Farm 38kV substation to the existing Garvagh Glebe 100kV substation at County Sligo, County Roscommon and County Leitrim.

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 177D of the Planning and Development Act, 2000, as amended, the Board considered that, having regard to the judgement of the High Court of the 11th day of May, 2017 (Patrick Daly and Kilronan Windfarm Limited and Derrysallagh Windfarm Limited), the Board is satisfied that an Environmental Impact Assessment is 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 reasonably have had a belief that the development was not unauthorised,
- considered that the ability to carry out an Environmental Impact Assessment and an Appropriate Assessment and for the public to participate in such assessments has not been substantially impaired,
- noted the enforcement correspondence on file in respect of the associated windfarm, and
- considered 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.

Taking all of the above into consideration, it is considered that exceptional circumstances do exist such that it would be appropriate to permit the opportunity for the regularisation of the development by permitting an application for substitute consent.

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

Dated this day of 2017