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10 April 2015

Reg No: P0914-01

Dear Mr Hamill

I refer to the Agency's letter to you of 21 May 2014 last when it indicated that it intended to put the determination of your licence on hold pending conclusion of judicial review proceedings against Bord Pleanála relating to whether planning permission was required.

I refer to your submission dated 6th February 2013 in which your solicitors noted the Agency's determination pursuant to Class 17 of Schedule 5 of the Planning and Development Regulations 2001 as amended, that your proposed activity requires an environmental impact assessment (EIA).

The Agency has since re-examined the matter and has concluded that its jurisdiction in relation to this matter arises out of S83(2A) of the Environmental Protection Agency (EPA) Act as amended. It does not now consider that it has any jurisdiction to reach any conclusion under S87 of that Act as to whether an EIA is required. That appears to be a matter for the relevant planning authority or Bord Pleanála.

The Agency considers that the activity being carried on by you is an activity that is likely to have a significant effect on the environment, and that it is required to carry out an EIA of that activity. It therefore hereby confirms its determination that an environmental impact statement (EIS) is required, and acknowledges receipt of same on 31 July 2013.

Your application is deemed to have been received on that date.

The Agency notes the parallel obligation on the planning authority to determine whether the peat extraction development in question is such as to require an EIA.

Note: Any telephone enquiries in relation to the above should be directed to Orla Harrington at 021-4875540.

All written communications and replies should be directed to Dorota Richards, Office of Climate, Licensing & Resource Use, EPA, PO Box 3000, Johnstown Castle Estate, County Wexford.



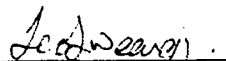
That would appear to be relevant to the application of Section 87(1A) to (1H) by the Agency, but is not determinative of whether an EIA is required for the activity.

Accordingly, the Agency will continue not to process the application insofar as S87(1B) to (1I) are concerned, until the proceedings have concluded.

The Agency notes that, since your licence application was initially lodged, and prior to the deemed date of lodgement, the European Communities (Natural Habitats and Wild Birds) Regulations 2011 (SI No 477 of 2011) have come into force. Article 73(3)(d) stipulates that they apply to pending licence applications.

In order to enable a rapid determination of the licence application once your judicial review proceedings conclude, the Agency has decided to require you to submit a natura impact statement (NIS). The Agency will separately issue a Regulation 10(2)(b)(ii) notice under the EPA (Licensing) Regulations 2013, to this effect.

Yours sincerely,



Mr. Leo Sweeney.
Environmental Licensing Programme
Office of Climate, Licensing & Resource Use

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