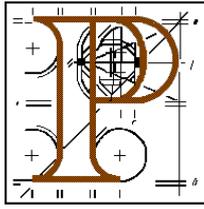


# An Bord Pleanála



## Inspector's Report

**An Bord Pleanála Reference 04.PC0151**

**DEVELOPMENT:** Construction of a Waste-to-Energy Facility at Ringaskiddy. Co Cork

**Planning Authority:** Cork County Council

**Applicant:** Indaver

**Nature of proposed development:** Seventh Schedule

**Date of Inspection:** March 1<sup>st</sup>, 2013

**Inspector:** Breda Gannon

**Appendix 1:** Extracts from Policy Documents

## **INTRODUCTION**

On 30<sup>th</sup> August 2012, a request was received by the Board seeking a determination in relation to the Strategic Infrastructure Development status or otherwise of a proposed waste management facility under Section 37B of the Planning and Development Act, 2000 as amended.

## **SITE LOCATION AND DESCRIPTION**

The site of the proposed development is located at the north-eastern end of Ringaskiddy Peninsula in Co Cork. The site which is rectangular in shape is located on the northern slopes of a local hill, which is punctuated by a Martello tower at its apex. The site wraps itself around an existing scrap metal facility, the "Hammond Lane Metal Company" and is accessed by a local road (L-2545) that extends eastwards from the N28 and continues towards Halbowline Island.

Ringaskiddy village and access to the car ferry are located approximately 1 kilometre west of the site. There is a car park and access to the beach to the east. Spike Island lies a short distance off-shore to the east.

The existing land uses in the area include the National Maritime College located opposite the site with industrial complexes most notably Pfizer, on large campus further west.

## **PROPOSED DEVELOPMENT**

The proposal is to develop a waste management facility comprising a waste-to-energy facility designed to process 240,000 tonnes per annum of hazardous and non-hazardous industrial and municipal waste using moving grate technology. The waste would be processed in one line with one furnace. It will generate 21 megawatts of electrical power from steam driven turbines of which 18.5 megawatts will be exported to the national grid.

## **PLANNING HISTORY**

1. **04.131196** – Permission granted to Indaver Ireland for a waste management facility comprising a waste-to-energy facility, waste transfer station, community recycling park and on-site services on the site. The permission restricted the development to the treatment of hazardous and non-hazardous industrial/ trade waste of 100,000 tpa capacity.
2. **04.PA0010** - Permission refused for a waste-to-energy facility for hazardous and non-hazardous waste and a waste transfer station on the site. The Board cited four reasons for refusal.

*Reason No 1* – The Board was not satisfied that the provision of incinerator capacity to deal with residual municipal waste, in addition to hazardous waste, was appropriate having regard to the layout and

limited size of the site and the current strategy for waste management in the area.

*Reason No 2* – The proposal which includes facilities to treat municipal waste would constitute overdevelopment of the site, which would seriously injure the amenities of the area and of property in the vicinity.

*Reason No 3* – Related to the risk of flooding along the access road to the site and the lack of certainty in terms of the implementation and responsibility for the measures put forward to address same.

*Reason No 4* – Related to the risk posed by coastal erosion and the inadequacy of the proposed coastal protection measures and impacts on nearby property.

## **PLANNING POLICY CONTEXT**

National policy on waste management is set out in '***A Resource Opportunity-Waste Management Policy in Ireland***' published by the Department of the Environment, Community and Local Government in July 2012. The policy document sets out a series of measures which aim to move Ireland away from dependence on landfill for treatment of municipal waste, by putting in place the most appropriate technologies and approaches to reduce waste, while at the same time maximising the resources that can be recovered

The revised **National Hazardous Waste Management Plan 2014-2020** (EPA 2014) sets out the priorities to be pursued over the lifetime of the plan to continuously improve the management of the country's hazardous waste. One of its objectives is to strive for increased self sufficiency in the management of this waste so as to minimise hazardous waste export. To achieve this suitable hazardous waste treatment options would be required.

The **Southern Regional Waste Management Plan** (2015) was adopted on May 14<sup>th</sup>, 2015. Relevant policies include the following

**E15** - The waste plan supports the development of up to 300,000 tonnes of additional thermal recovery capacity for the treatment of non-hazardous waste nationally to ensure that there is adequate active and competitive treatment in the market and the state's self sufficiency requirements for the recovery of municipals waste are met. The capacity is a national treatment need and is not specific to the region.

**E 16** – The waste plan supports the development of up to 50,000 tonnes of additional thermal recovery capacity for the treatment of hazardous wastes nationally to ensure that there is adequate active and competitive treatment in the market to facilitate self sufficiency needs where it is technically, economically and environmentally feasible. This capacity is a national treatment need and is not specific to the region.

The **Cork County Council Development Plan** came into effect on January 15 2015. It facilitates large scale waste-to-energy facilities in Strategic Employment Areas, such as Ringaskiddy.

Relevant objective:

### **ZU 3-7: Appropriate Uses in Industrial Areas**

*a) The provision of strategic large scale waste treatment facilities, including waste to energy recovery operations, will be considered in 'Industrial Areas' designated as Strategic Employment Areas in the local area plans subject to the requirements of, National Policy, future Regional Waste Management Plans and the objectives set out in the local area plans.*

*b) The provision of strategic large scale waste treatment facilities including waste to energy recovery facilities will be considered in 'Industrial Areas' designated as Strategic Employment Areas in the local area plans subject to the requirements of, National Policy, future Regional Waste Management Plans and the objectives set out in local area plans.*

Under the provisions of the **Carrigaline Local Area Plan 2011** Ringaskiddy is designated as a Strategic Employment Centre.

The site is located within the area covered by Strategic Objective 1-15

*'Suitable for large stand along industry with suitable provision for appropriate landscaping and access points and provision for open space buffer to the Martello Tower and its associated pedestrian access. This area may be used as a feeding ground by bird species for which Cork Harbour SPA is designated. Any development proposals on this land are likely to require the provision of an ecological impact assessment report to determine the importance of the area for such species and the potential for impacts on these.'*

### **CONSULTATIONS-SUMMARY OF KEY ISSUES AND ADVICE**

Representatives of the Board met with the prospective applicant on six occasions, November 12<sup>th</sup>, 2012, June 12<sup>th</sup>, 2013, March 3<sup>rd</sup>, 2015, July 16<sup>th</sup>, 2015, September 11<sup>th</sup>, 2015 and November 23<sup>rd</sup>, 2015.

Meetings were also held with Cork Co Council on March 1<sup>st</sup>, 2013 and July 10<sup>th</sup>, 2015. One meeting was held with representatives from the Southern Region Waste Management Office on May 27<sup>th</sup>, 2015.

Issues discussed at the meetings and documented in both the record of the meetings and documents provided by the prospective applicant include the following:

- Prospective applicant's re-evaluation of the original proposal on the site. The Board's representatives indicated that the Board's previous refusal would be a material consideration.
- The role of National, Regional and Local policy, the changes in waste policy that have occurred since the previous application and the implications for the proposed development.
- The necessity for clarity on how the previous reasons for refusal cited by the Board would be overcome in the proposed application.

- The previous decision by the Board raised issues regarding the overall size of the site and its capacity to accommodate the development proposed. The current proposal provides for a reduced footprint and increased set back from the cliff. The prospective applicant is satisfied that that the subject site can accommodate the proposed development and ancillary elements such as administration building, car parking and proposed walkway. Both municipal and hazardous waste will be processed in a single line with one furnace, as opposed to the two lines previously proposed. The revised arrangement requires less space.
- The prospective applicant was informed that information on site selection criteria and alternatives must be clear and robust.
- The Board's representatives stressed the need for robust information on coastal erosion, coastal protection measures etc and that it would be desirable to engage expert assistance to enable these issues to be fully and adequately addressed. The Board having itself engaged a marine hydrodynamics consultant provided clarification on the type and nature of the technical data required to accompany an application.
- The prospective applicant stated that beach protection measures would take place above the foreshore on land owned by Indaver and that a foreshore licence would not be required.
- The local road at the front of the site floods after heavy rain. As part of the proposal the surface water drainage system would be improved with additional storage provided in oversized pipes.
- The road and parts of the site are below the 1: 200 year design tidal flood level. Both will be raised above the 1:200 tidal flood level, with allowance made for climate change and freeboard.
- Traffic consideration arising from local road deficiencies and additional volumes generated by the development on the already congested N28 National Primary Route. Traffic Impact Assessment and Mobility Management Plan would be required to manage traffic associated with the proposal. Cork Co Council stated that traffic will need to be managed by some form of booking system, charter or agreed routing in order to avoid peak times.
- Cork Co Council noted that the upgrade of the N28 is a priority in the development plan and that pre-application consultation for the M28 Cork to Ringaskiddy Motorway Scheme had been requested with the Board. Traffic assessment should consider implications of development on road network with/without upgrade in place.
- Impacts on birds arising from the proximity to Cork Harbour SPA. The representatives from Cork Co Council noted that the site, which was scrub encroached was unlikely to be suitable as a feeding area for birds associated with the SPA. It was noted by the prospective applicant that the site consists mainly of scrub or sand and shingle on the beach, which is of little interest to the wader birds that might feed on the nearby mudflats. It was confirmed that winter and summer birds surveys had been carried out and that an NIS would accompany an application.
- Implications of the proposal on the development of Spike Island as a tourist destination. A master plan was prepared in 2012 and whilst not a statutory plan in accordance with the planning acts, it was adopted by members of Cork Co Council in November 2012.
- Implications for Haulbowline Island Remediation Project.
- Visual impact on Martello Tower, which is a protected structure.

- Cumulative impacts with wind turbines in the area.
- In terms of community gain the prospective applicant was advised that they may wish to examine physical measures that could be considered to compliment measures required as part of Port of Cork development.
- Transboundary impacts arising from shipment of hazardous waste abroad/transport to N. Ireland.
- The potential for applications of a similar nature being lodged simultaneously (such as Bottlehill) with the Board and over-capacity considerations. The representatives from the South Regional Waste Management Office noted that if permission is granted to multiple waste facilities, it would result in over capacity.

## **STRATEGIC INFRASTRUCTURE-LEGAL PROVISIONS**

The Board is asked to decide if the proposal is or in not Strategic Infrastructure Development as defined by Section 37A of the Planning and Development Act 2000, as amended by Section 5 of the Strategic Infrastructure Act 2006 and by Section 78 of the Planning and Development (Amendment Act) 2010.

Strategic Infrastructure is defined in the Seventh Schedule of the 2006 Act and under Environmental Infrastructure as:

- A waste installation for –
  - (a) the incineration, or
  - (b) the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9), or
  - (c) the landfill,

of hazardous waste to which Council Directive 91/689/EEC applies (other than an industrial waste disposal installation integrated into a larger industrial facility).

- A waste disposal installation for –
  - (a) the incineration
  - (b) the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9),
 of non-hazardous waste with a capacity for an annual intake greater than 100,000 tonnes.

- An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.

Section 37A of the Planning and Development Act, 2000, as amended by the Planning and Development (Strategic Infrastructure) Act sets out the conditions under which Seventh Schedule development is considered to constitute strategic infrastructure for the purposes of the Act,

- (a) the development would be of strategic economic or social importance to the State or the region in which it would be situate,

- (b) the development would contribute substantially to the fulfilment of any of the objectives of the National Spatial Strategy or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate.
- (c) the development would have a significant effect on the area of more than one planning authority.

## **ASSESSMENT**

### **Seventh Schedule Development**

The applicants case for the designation of the proposal as strategic infrastructure is that it constitutes a waste disposal installation for the incineration of hazardous waste and the incineration of non-hazardous waste with an annual intake capacity of greater than 100,000 tonnes.

Whilst the concepts and meaning given to the terms 'waste disposal installation' and 'waste recovery installation', can give rise to confusion, I note that the Board concluded (PC0130) that a similar installation operated by Indaver at Carranstown was a waste disposal installation for the purposes of planning, notwithstanding its function as a recovery facility in terms of waste management policy. The Board in its findings drew on the findings of the ECJ in case C-486/04 where for the purposes of the EIA Directive, the term 'disposal' has been interpreted to include 'recovery'.

The proposal is to accept both hazardous and non hazardous waste at the proposed facility for incineration. The quantity of waste excepted will exceed the threshold of 100,000 tonnes annual intake capacity and is above the threshold required to determine the proposal strategic infrastructure under the Seventh Schedule.

### **SID Qualifications under Section 37A(2)**

Section 37 of the Act, as amended requires that development falling under the Seventh Schedule of the Act, as amended, in order to constitute strategic infrastructure should comply with one or more of the three conditions set out under section 37A(2)(a)(b)(c).

### ***Section 37A(2)(a) - Development would be of strategic economic or social importance to the State or the region in which it is situate.***

For the purposes of waste management planning Ireland is now divided into three regions. Waste management plans for the regions were published in May 2015. Each of the plans identified a need for the development of up to 300,000 tpa of additional thermal recovery capacity nationally for the treatment of non-hazardous waste nationally. A need for the development of up to 50,000 tonnes of additional thermal recovery capacity for the treatment of hazardous waste nationally was also identified. These figures are not specific to the regions and are the identified predicted needs for the State.

The current proposal will have a capacity to treat 240,000 tpa of both hazardous and non-hazardous waste. It would make a significant contribution to meeting the State's identified requirements for additional thermal recovery capacity for both waste streams. It will facilitate increased diversion of waste from landfill and the development of higher quality waste treatment infrastructure with energy production in accordance with the overarching strategy of the waste plans for the regions within the State. It will improve self-sufficiency in the management of hazardous waste in accordance with the stated objectives of the National Hazardous Waste Management Plan 2014-2020 by providing an alternative to the export of residual wastes for treatment abroad. This will have ancillary cost and environmental benefits such as minimising international transport costs, associated risks and reducing transport generated greenhouse gas emissions.

I consider that the development is of strategic importance by reference to the requirements of condition (a) of section 37A(2).

***Section 37A(b) – Contribution to the achievement of the objectives of the National Spatial Strategy or any regional spatial and economic strategy in force in respect of the area or areas in which it would be situated.***

The National Spatial Strategy 2002-2020 ( DoELG 2002) is a 20 year planning framework designed to deliver more balanced social, economic and physical development between regions across the State. It recognises Dublin's pivotal role in national economic success and the need to strengthen the critical mass of the strategically located Gateways, such as Cork, which have potential for further development and expansion to achieve more balanced regional development.

In order to improve the role of the Gateways and the regions, it is recognised that critical mass will need to be expanded and this must be supported by the development and improvements in key infrastructure such as roads, public transport, energy and communications. In terms of economic infrastructure such as waste, it recognises (section 3.7) that *'efficient, effective and cost competitive waste management facilities are essential if industrial and enterprise activity is to thrive and develop in a balanced way across Ireland'*.

The Regional Planning Guidelines-South West 2010-2022 is a strategic policy document designed to steer the future growth of the region. It sets out high level strategies, in line with the NSS and promotes the overall sustainability and growth of the region. Chapter 5 sets out the key physical infrastructural needs for the region to ensure its sustainable development.

Whilst the guidelines predate the publication of the revised National Hazardous Waste Management Plan and the current South West Region Waste Management Plan under Objective RTS-08 it seeks to encourage the delivery of an effective and efficient waste management service in line with the waste Management Acts and promote local authorities to review their respective Waste Management Plan during the lifetime of the guidelines. It also supports the recommendations of the National Hazardous Waste Management Plan.

I consider that the development is of strategic importance by reference to the requirements of condition (b) of section 37A(2).

### **Section 37A(2)(c) – Significant effects on the area of more than one planning authority**

As noted in the Southern Regional Waste Management Plan (16.4.5) the *‘development of future thermal recovery facilities will be viewed as national facilities addressing the needs of the State and will not be defined by regional markets alone’*. The facility will draw waste from outside the region and consequently will have significant effects on the area of more than one planning authority.

I consider that the development is of strategic importance by reference to the requirements of condition (c) of section 37A(2).

### **Significant Effects on the environment in a transboundary state**

It is expected that the boiler ash and flue gas cleaning residues, which are classified as hazardous waste, will be similar to those produced at the existing Carranstown waste-to-energy facility. The residues will take the same route to Germany (road and sea transport) where they will be used to backfill an existing salt mine. The impervious nature of the salt rock ensures that the residues are permanently isolated from the environment.

Having regard to the control on the quality of containers used during transport, the licencing system (TFS licence) in operation to chart the origin, transit and acceptance of the waste by the relevant authorities and the approval of the German authorities for the use of the salt mine for that purpose, I do not consider that the potential for significant effects on the environment in a transboundary state arises.

The transport of such residues poses less risk to the environment than the current practice of exporting hazardous waste. It was confirmed by Indaver that in the unlikely event of the material coming in contact with water arising from a shipping accident (the occurrence of which is considered to be rare) it would immediately solidify and would not be toxic to the water environment.

### **RECOMMENDATION**

I recommend that the Board serve a notice on the prospective applicant, pursuant to section 37(B)(4) of the Planning and Development Act 2000, as amended, stating that it is of the opinion that the proposed development constitutes strategic infrastructure development for the following reason.

### **REASONS AND CONSIDERATIONS**

Having regard to the capacity of the proposed waste-to-energy facility to accept hazardous and non-hazardous waste in excess of the stated thresholds, it is considered that the proposed development constitutes development that falls within the definition of environmental infrastructure in the Seventh Schedule and is considered to be of strategic importance by reference to the requirements of section 37A(2) (a)(b) and (c) of the Act. An application for the proposed

development must therefore be made directly to An Bord Pleanála under section 37 E of the Act. It is considered that the proposed development does not constitute development that would be likely to cause significant effects on the environment of a transboundary state.

### **Prescribed Bodies**

The following is a schedule of prescribed bodies considered relevant for the purposes of section 37E(3)(c) of the Principal Act:

- (a) Minister for the Environment, Community and Local Government
- (b) Minister for Arts, Heritage and the Gaeltacht
- (c) Minister for Defence
- (d) Minister for Communications, Energy and Natural Resources
- (e) Cork County Council
- (f) Cork City Council
- (g) Environmental Protection Agency
- (h) Transport Infrastructure Ireland
- (i) Irish Aviation Authority
- (j) An Chomhairle Ealaíon
- (k) An Taisce
- (l) Irish Water
- (m) Fáilte Ireland
- (n) Heritage Council
- (o) Health Service Executive
- (p) Health and Safety Authority
- (q) Minister for Tourism Transport and Sport
- (r) South West Regional Authority

And

- Southern Region Waste Management Office

Breda Gannon  
Inspectorate  
December 10<sup>th</sup>, 2015.