

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Dublin City**

**Planning Register Reference Number: 2552/15**

An Bord Pleanála Reference Number: PL 29N.245738

**APPEAL** by David Ryan of 49 Copeland Avenue, Dublin and by others against the decision made on the 15<sup>th</sup> day of October, 2015 by Dublin City Council to grant subject to conditions a permission to Fingleton White of Bridge Street Centre, Portlaoise, County Laois in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** For development of an aviation fuel pipeline from Dublin Port, Dublin to Dublin Airport, County Dublin. The route of the pipeline is from proposed inlet station at Team CV Limited, Bond Drive, Dublin Port, Dublin and via Bond Drive, Tolka Quay Road, East Wall Road, under the Tolka River, Alfie Byrne Road, Clontarf Road, Howth Road, Copeland Avenue, Malahide Road (R107), and R139 (formerly N32). (It then enters Fingal County Council administrative area at Clonshaugh Road and routes via AUL/FAI sports ground, under the M1 motorway, via the DAA Long Term Red Car Park, adjacent to the Eastlands Car Hire Compound, ALSAA complex, under the Swords Road R132 and via Corballis Road to a reception station at Dublin Airport, County Dublin. (A separate application is being lodged concurrently with Fingal County Council in respect of the development proposed in its administrative area). The development will consist of (a) single storey Control Building, pumps and ancillary pipework in a fenced compound at Bond Drive, Dublin Port, Dublin, (b) a 200mm diameter continuously welded steel pipeline, laid generally in the public road, at a depth of circa 1.2 metres below surface level except where it will pass under the Tolka and Santry Rivers and culverted streams. The length of the pipeline in Dublin City Council administrative area will be circa 11.4 kilometres (total

length will be circa 14.4 kilometres), and (c) two number above-ground control boxes associated with emergency shut-down valves on the pipeline, at the junction of the Malahide Road R107 and Donnycarney Road and on the R139 (formerly N32) east of the junction with Clonsaugh Road South. The pipeline will be laid in the roadway under the Clontarf Bridge which is a protected structure.

## **DECISION**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions 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**

In coming to its decision, the Board had regard, inter alia, to the following:

- the nature and design of the proposed pipeline connection;
- the strategic importance of Dublin Airport to the national economy;
- the anticipated growth in demand for air travel via Dublin Airport in the short to medium term;
- the associated growth in requirement for aviation fuel at the airport;
- the avoided road tanker journeys facilitated by the proposed pipeline over its lifetime;
- the significantly lower level of hazard associated with pipeline delivery as compared with road transport;

- the established nature of aviation fuel pipeline technology and experience internationally;
- the submissions on file, including the views of the Health and Safety Authority; and
- the report of the Inspector.

#### Appropriate Assessment

Having regard to the nature, scale and extent of the proposed development, the Natura impact statement submitted with the application and the mitigation measures contained therein, the submissions on file and the Inspector's assessment, the Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment and completed an appropriate assessment of the impacts of the proposed development on nearby Natura 2000 sites and specifically on the following:

- South Dublin Bay and River Tolka Estuary Special Protection Area (site code 004024);
- South Dublin Bay Special Area of Conservation (site code 000210);
- North Dublin Bay Special Area of Conservation (site code 000206)
- Baldoyle Bay Special Protection Area (site code 004016);
- Baldoyle Bay Special Area of Conservation (site code 000199);
- Malahide Estuary Special Area of Conservation (site code 000205);  
and
- Rogerstown Estuary Special Area of Conservation (site code 000208).

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned Natura sites, having regard to the sites' conservation objectives.

The Board was satisfied that, subject to the implementation of the identified mitigation measures and on the basis of the information available, the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of any Natura site, having regard to the conservation objectives of those sites.

### Environmental Impact Assessment

The Board considered that the Environmental Impact Statement submitted with the application, supported by the further information submitted to the planning authority, the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, was adequate in identifying and describing the direct effects, indirect effects and cumulative effects of the proposed development. The Board completed an environmental impact assessment, and agreed with the Inspector in his assessment of the likely significant effects of the proposed development, and generally agreed with his conclusions on the acceptability of the mitigation measures proposed and residual effects. The Board generally adopted the report of the Inspector. The Board concluded that, subject to the implementation of the mitigation measures proposed, the proposed development would not be likely to have significant effects on the environment.

### Conclusion

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity of the route of the proposed pipeline, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars received by the planning authority on the 21<sup>st</sup> day of August 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. This permission shall apply for a period of 10 years from the date of this order.

**Reason:** In the interest of clarity.

3. The pipeline shall be used for the conveyance of Jet A1 aviation fuel only. The use of the pipeline for the conveyance of any other fuel or fluid shall be the subject of a separate planning application notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them.

**Reason:** In the interest of clarity and safety.

4. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Statement, the Natura impact statement, as revised, and other particulars submitted with the application and the further information submitted to the planning authority on the 21<sup>st</sup> day of August 2015 shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this permission.

**Reason:** In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

5. Prior to the commencement of operational usage of the pipeline and as part of the commissioning process, an independent and suitably qualified person to be agreed in writing with the planning authority shall be appointed at the developer's expense to carry out an assessment and report in respect of the structural integrity of the pipeline to be submitted to the planning authority. This exercise shall be repeated at intervals to be agreed in writing with the planning authority (minimum annually).

**Reason:** In the interest of environmental protection.

6. Prior to the commencement of development an independent and suitably qualified person to be agreed with the planning authority shall be appointed at the developer's expense to undertake the following:
  - (i) validate all design details,
  - (ii) validate accurate and detailed service drawings prepared by the applicant after consultation with all utility companies and relevant authorities, which will show all utilities underground in the vicinity of the pipeline,
  - (iii) validate a detailed geotechnical, topographical and utilities survey consisting of radar survey, manhole survey and topographical survey which shall be carried out and verified by boreholes, trial pits and slit trenches immediately prior to construction,
  - (iv) inspect and validate construction works and submit weekly reports to the planning authority which shall include the developer's detailed drawings of the pipeline as laid in addition to a detailed photographic survey of on-going works,
  - (v) validate the testing and commissioning of the pipeline and associated installations,
  - (vi) validate all operating and emergency plans/procedures in addition to procedures for on-going inspections and testing of the pipeline, and

- (vii) all validation pursuant to this condition shall be submitted to the planning authority for written agreement.

**Reason:** To ensure the structural integrity of the pipeline and general environmental protection.

- 7. The developer/operator shall submit details of a Major Accident Prevention Document (MAPD) to the planning authority prior to the commissioning of the pipeline which shall comply and be in accordance with the Dublin City Major Emergency Plan. Details of the Major Accident Prevention Document (MAPD) shall be subject of a written agreement with the planning authority prior to the commissioning of the pipeline.

**Reason:** In the interest of safety.

- 8. Prior to the commissioning of the proposed pipeline details of emergency response procedures in respect of any rupture, burst, crack or other type of damage or interference along the pipeline shall be submitted to, and agreed in writing with, the planning authority and shall include procedures for review and testing at yearly intervals.

**Reason:** In the interest of environmental protection.

- 9. The developer shall indemnify the planning authority against any incidence, accident, emergency or other event likely to cause or give rise to environmental pollution or damage to the environment arising from the construction, commissioning, operation, maintenance or decommissioning of the pipeline.

**Reason:** In the interest of environmental protection.

10. Any removal or relocation of the aviation fuel pipeline shall be carried out at the developer's expense where such is required for the purposes of road reconstruction and repair or for the repair, replacement and renewal of any service installed in the public road, at the request of the planning authority.

**Reason:** In the interest of orderly development.

11. Prior to the commencement of development, the developer shall carry out a proving survey demonstrating that there is an unobstructed route for the proposed pipeline having regard to a number of locations where heavily congested underground services exist.

**Reason:** In the interest of orderly development.

12. The developer shall meet the requirements of all statutory undertakers in respect of other underground utilities and services along the route of the proposed pipeline.

**Reason:** In the interest of orderly development.

13. Prior to commencement of development, the applicant shall submit a fully integrated Traffic Management Plan to the planning authority for agreement for each phase of the proposed development. The Traffic Management Plan must include details of required VMS signage, temporary signs, cones, bollards, barriers and any other temporary infrastructure associated with the development. A full safety plan and risk assessment for each phase of the required road works associated with this development must also be submitted to the planning authority for agreement prior to the commencement of development. Details of the various stages and phasing of the development shall also be submitted to and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of traffic safety.



14. A suitably experienced traffic management co-ordinator shall be appointed by the contractor employed by the developer to co-ordinate an overall approach to traffic and pedestrian management and to act as the main point of contact for the planning authority prior to and during the construction works. The traffic management co-ordinator to be appointed shall be agreed with the planning authority. The person appointed shall be a senior member of the contractor's team and shall have the authority to act on behalf of the contractor in respect of traffic management issues associated with the overall project.

**Reason:** In the interest of traffic safety.

15. Prior to the commencement of development, the developer shall apply for a road opening licence and pay associated licence fees and other associated charges for the area of excavation for the proposed pipeline. The developer's contractor shall adhere to any conditions set out by the planning authority on all such licences. All road works within the planning authority's functional area shall, unless otherwise agreed, comply with the requirements of the directions for the control and management of road works and no works shall take place without the necessary directions/permits/consents and road opening licences being in place.

**Reason:** In the interest of orderly development.

16. Any amended location for the pipeline in the vicinity of the Eastern Bypass shall be agreed in writing with the planning authority prior to the commencement of development. In the event that the route of the pipeline is required to be located outside the planning application boundary as indicated in the drawings attached, a separate application for planning permission shall be required.

**Reason:** In the interest of orderly development.

17. Prior to the commencement of development, the developer shall prepare and agree with the planning authority a Construction Management Strategy in the vicinity of Dublin Port Tunnel. All works subject to the grant of permission shall be undertaken in accordance with Dublin Port Tunnel Guidance Notes for Developers.

**Reason:** In the interest of orderly development.

18. The depth from the road surface to the top of the proposed pipeline shall be a minimum of 1.5 metres along the Malahide Road to provide for the potential of a future light rail scheme being routed along the Malahide Road. In the event that the aviation fuel pipeline is required to be relocated along any section of the road to facilitate any future light rail scheme, the developer shall be responsible for all costs associated with the necessary relocation.

**Reason:** In the interest of orderly development.

19. Prior to any excavation of the carriageway for the proposed pipeline along the Alfie Byrne Road, the developer shall be required to demonstrate and obtain the agreement of the planning authority as to how the integrity of the road can be maintained following the installation of the pipeline including repairs to any membrane structures which are damaged during the course of the works. All costs associated with the reconstruction of the road including repairs to the stress relieving membranes shall be borne by the developer. The developer shall also pay for the attendance and monitoring of the works by Dublin City Council engineers or agents working on its behalf.

**Reason:** In the interest of traffic safety.

20. All costs occurred by the planning authority including any repairs to the public road and services necessary as a result of the laying of the proposed pipeline shall be at the expense of the developer.

**Reason:** It is considered reasonable that the developer pay for any repairs to the public road necessitated as a result of the proposed development.

21. A decommissioning plan shall be submitted for the written agreement of the planning authority prior to any long-term discontinuance of the pipeline for the conveyance of aviation fuel and prior to any revalidation of the pipeline.

**Reason:** In the interest of public health and safety.

22. Prior to the commencement of development, a Construction Management Plan (incorporating a plan for the management of construction waste including contaminated soil), Emergency Response Plan and an Operational/Maintenance Plan shall be submitted to and agreed in writing with, the planning authority.

**Reason:** In the interest of traffic safety, public health and safety and orderly development.

23. All drainage arrangements shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

24. (1) The construction of the proposed pipeline at Belcamp and other grassland sections of the route shall be limited to the period between April and August to ensure compliance with the Birds Directive regarding preventing disturbance of feeding grounds.
- (2) The Invasive Species Management Plan contained in Appendix 11.5 of the Environmental Impact Statement shall be adhered to. All records of any invasive alien species shall be submitted to the National Biodiversity Data Centre for future monitoring use.

**Reason:** In the interest of the protection of natural heritage.

25. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the boundary of the pipeline route. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

26. Copies of all reports detailing site investigations carried out along the route as part of proposed development shall be forwarded to the Geological Survey of Ireland.

**Reason:** In the interest of orderly development.

27. Prior to the commencement of the development, the developer shall submit to, and agree in writing with, the planning authority a noise management plan relating to the construction and decommissioning phases of the project.

**Reason:** In the interest of orderly development.

28. Construction works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

29. The developer shall incorporate adequate measures to ensure that all trees and shrubs along the alignment of the proposed pipeline route are adequately protected from damage during the construction phase.

**Reason:** In the interest of residential and visual amenity.

30. Prior to the commencement of development, the developer shall submit a tree survey by a qualified arborist detailing the conditions of all trees and shrubs located within ten metres of the proposed pipeline route. Subsequent to the completion of the development, a similar survey shall be undertaken one year after the completion of the development and again three years and five years after the completion of the development. Any plants which die are removed or become seriously damaged or diseased subsequent to the completion of the development shall be replaced within the next planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

31. Prior to the commencement of development the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or other security to secure environmental restoration in the event of a leak of the pipeline or in the event of the need for decommissioning coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory restoration of the environment. The form and amount of the security shall be as agreed between the planning authority and the developer or in default of an agreement shall be determined by An Bord Pleanála.

**Reason:** In the interest of environmental protection.

32. The developer shall pay to the planning authority a financial contribution of €3,293 (three thousand, two hundred and ninety-three euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

33. The developer shall pay to the planning authority a financial contribution of €1,786 (one thousand seven hundred and eighty six euro) in respect of the Luas C1 Line Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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

**Dated this            day of            2016.**