



An  
Bord  
Pleanála

## Inspector's Report

**ABP-304437-19**

### **Development**

Proposed alteration to permitted Customs' Inspection Building to increase floor area from 324 square metres to 648 square metres at Ringaskiddy Port, County Cork (case reference number 04.PA0035).

### **Location**

Ringaskiddy Port, Co. Cork.

### **Planning Authority**

Cork County Council

### **Planning Authority Reg. Ref.**

### **Applicant(s)**

Port of Cork Company

### **Type of Application**

s.146B Alteration to SID Permission

### **Date of Site Inspection**

26<sup>th</sup> June, 2019

### **Inspector**

Stephen Kay

## 1.0 Introduction

1.1. This report relates to a request by the Port of Cork Company that the Board exercise its power under section 146B of the Planning and Development Acts, 2000 (as amended) to alter the terms of the permission granted to Port Company for the redevelopment of the port facilities at Ringaskiddy. The alteration which is the subject of this application is the second alteration sought to the original permission (Ref. 04.PA0035). The first (ABP Ref. 04.PM0010) comprised alterations to (lengthening) of the permitted main berth, the relocation of mooring dolphins, changes to the landside handling of containers and changes to the design and layout of ancillary buildings including the customs and maintenance buildings. The current alteration sought relates solely to the customs building as permitted under Ref. 04.PM0010. Details of the alterations sought are set out at section 5.0 of this report below.

## 2.0 Legislative Provisions

- 2.1. Section 146B of the Act provides for the alteration by the Board of a strategic infrastructure development in response to a request made of it. The Board should note that since the previous request for alterations under Section 146B on this SID permission that the *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018) has provided for a number of amendments to Section 146B of the Act and these amendments are reflected in the following outline of the legislative provisions.
- 2.2. Initially under the terms of section 146B(2)(a) the Board must decide as soon as practicable after the making of such a request, whether or not the making of a proposed alteration would constitute “*the making of a material alteration of the terms of the development concerned*”. Section 146B(2)(b) provides that “*before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation*”.
- 2.3. Alteration not a material alteration - Section 146B(3)(a) states that “*if the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall alter the*

*planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration”.*

2.4. Alteration is a material alteration - Section 146B(3)(b) provides that if the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall - *“(i) by notice in writing served on the requester, require the requester to submit to the Board the information specified in Schedule 7A to the Planning and Development Regulations 2001 in respect of that alteration, or in respect of the alternative alteration being considered by it under subparagraph (ii)(II), unless the requester has already provided such information, or an environmental impact assessment report on such alteration or alternative alteration, as the case may be, to the Board, and*

*(ii) following the receipt of such information or report, as the case may be, determine whether to —*

*(I) make the alteration,*

*(II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or*

*(III) refuse to make the alteration”.*

2.5. In respect of Section 146B(3)(b)(i), the Act states at subsection 3(A), (as amended by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018)), that *“where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information shall be accompanied by any further relevant information on the characteristics of the alteration under consideration and its likely significant effects on the environment including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account”.* Subsection (3B) as amended by same, states that *“where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information may be accompanied by a description of the features, if any, of the alteration under consideration and the*

*measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration”.*

2.6. Section 146B(4) provides that before making a determination under subsection (3)(b)(ii), the Board shall determine whether (a) the extent and character of the alteration requested under subsection (1), and (b) any alternative alteration under subsection (3)(b)(ii)(II), are such that the alteration, were it to be made, would be likely to have significant effects on the environment (and, for this purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative alteration the making of which it is so considering).

2.7. Section 146B(4A) states as follows:

(a) Subject to paragraph (b), within 8 weeks of receipt of the information referred to in subsection (3)(b)(i) , the Board shall make its determination under subsection (4) .

(b) Subject to paragraph (c), the Board shall not be required to comply with paragraph (a) within the period referred to in paragraph (a) where it appears to the Board that it would not be possible or appropriate, because of the exceptional circumstances of the alteration under consideration (including in relation to the nature, complexity, location or size of such alteration) to do so.

(c) Where paragraph (b) applies, the Board shall, by notice in writing served on the requester before the expiration of the period referred to in paragraph (a) , inform him or her of the reasons why it would not be possible or appropriate to comply with paragraph (a) within that period and shall specify the date before which the Board intends that the determination concerned shall be made

2.8. Section 146B(5) states that “*if the Board determines that the making of either kind of alteration referred to in subsection (3)(b)(ii) —*

*(a) is not likely to have significant effects on the environment, it shall proceed to make a determination under subsection (3)(b)(ii), or*

*(b) is likely to have such effects, the provisions of section 146C shall apply”.*

2.9. Section 146B(6) states that “*if, in a case to which subsection (5)(a) applies, the Board makes a determination to make an alteration of either kind referred to in subsection (3)(b)(ii), it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration”.*

2.10. Section 146B(7)(a) states that “*in making a determination under subsection (4) , the Board shall have regard to —*

*(i) the criteria for the purposes of determining which classes of development are likely to have significant effects on the environment set out in any regulations made under section 176,*

*(ii) the criteria set out in Schedule 7 to the Planning and Development Regulations 2001,*

*(iii) the information submitted pursuant to Schedule 7A to the Planning and Development Regulations 2001,*

*(iv) the further relevant information, if any, referred to in subsection (3A) and the description, if any, referred to in subsection (3B) ,*

*(v) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and*

*(vi) in respect of an alteration under consideration which would be located on, or in, or have the potential to impact on —*

*(I) a European site,*

*(II) an area the subject of a notice under section 16 (2)( b ) of the Wildlife (Amendment) Act 2000 (No. 38 of 2000),*

*(III) an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000 ,*

*(IV) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act 1976 (No. 39 of 1976),*

*(V) land designated as a refuge for flora or a refuge for fauna under section 17 of the Wildlife Act 1976 ,*

*(VI) a place, site or feature of ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan, draft development plan or draft local area plan, or proposed variation of a development plan, for the area in which the development is proposed, or*

*(VII) a place or site which has been included by the Minister for Culture, Heritage and the Gaeltacht in a list of proposed Natural Heritage Areas published on the National Parks and Wildlife Service website,*

*the likely significant effects of such alteration on such site, area, land, place or feature, as appropriate”.*

- 2.11. Subsection (b) states that “*the Board shall include, or refer to, in its determination under subsection (4) the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7 to the Planning and Development Regulations 2001, on which the determination is based”.*
- 2.12. Section 146B(7A) states that “*where the determination of the Board under subsection (4) is that the alteration under consideration would not be likely to have significant effects on the environment and the applicant has, under subsection (3B) , provided a description of the features, if any, of the alteration concerned and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration concerned, the Board shall specify such features, if any, and such measures, if any, in the determination.*
- 2.13. Under section 146B(8) before the Board makes a determination under sections 146B(3)(b)(ii) or 146B(4), it is required to make, or require the requester to make, information relating to the request available for inspection to certain persons and/or the public. Submissions and observations are to be invited and the Board is required to have regard to any such submissions or observations received.
- 2.14. Section 146C relates to the preparation of environmental impact statement for purposes of section 146B and applies to a case where the determination of the Board under section 146B(4) is that the making of either kind of alteration referred to in section 146B(3)(b)(ii) is likely to have significant effects on the environment.

### 3.0 Planning History

The following planning history relates to the site and environs and is considered relevant to the current application.

**ABP Ref. 04.PM0010** – Permission granted by the Board for amendments to the original grant of permission for the re development of the port. The amendments were permitted following the invoking by the Board of s.146C of the Act and the submission of a revised EIS by the Port of Cork Company. The alterations permitted under this application were extensive and can be summarised as follows:

- The omission of the proposed RoRo ramp to Berth 1 and revisions to the southern end of Berth 1 design of the southern end of the berth resulting in the length of permitted Berth 1 increasing by 16 metres from 314 metres to 330 metres and that the length of berth which would be usable would be increased by c. 46 metres together with associated increase in length of dredging pocket and alterations to mooring dolphin layout.
- Amendments to the method of landside container handling are proposed with the original proposal for the use of rubber tyre gantry cranes (RTG's) now to be replaced with the use of straddle carriers with resulting changes to the layout of container storage areas.
- Revisions to the container storage areas require the provision of a new maintenance shed (higher) and a new two storey maintenance and office building would be provided, to be located immediately to the south east of the container storage area and to the south east of the ferry access road within the port area. The previously proposed maintenance building is now proposed to be a customs inspection building.
- The proposed amendments would not result in an increase in capacity of the permitted development and that the overall capacity would continue to be restricted to an overall maximum of 330,000 TEU's.

**ABP Ref. 04.PC0216** – Pre application consultation in respect of amendments to the redevelopment of the port at Ringaskiddy as permitted under Ref. 04.PA0035. This pre application consultation related to proposed alterations to the permitted scheme.

**ABP Ref. 04.PA0035** – Permission granted by the Board for development which comprised the following:

- Berth 1, a new 314m Container / Multipurpose Berth to the north of the existing ferry berth, to accommodate vessels carrying different cargoes.
- Berth 2, a new 200m Container Berth to the north of berth 1.
- Reclamation of approx. 2.4ha to facilitate the new berths.
- Installation of a new link-span comprising a floating pontoon and access bridge at Berth 1 to facilitate ro-ro operations.
- Surfacing of existing port lands to provide an operational area for container and cargo storage.
- Dredging of the seabed to a level of -13.0m Chart Datum (CD).
- Removal of an existing link-span, to the south of the ferry terminal.
- Installation of container handling cranes and terminal transport equipment.
- Maintenance building, administrative buildings and entrance kiosks.
- Two Ship to Shore Gantry Cranes (SSG) to lift containers to / from vessels onto trailers/tractor units, for transport to the container stacks. The containers are then to be stacked by electrically operated Rubber Tyre Gantry (RTG) cranes (7 no.), up to 5 containers high, equivalent to an approximate height of 12.8m.
- Ancillary car parking, lighting and fencing, including closure of existing public access to Ringaskiddy Pier.

The grant of permission was for a period of 10 years and subject to 18 conditions.

## **4.0 Location and Description of Site**

- 4.1. The request refers to the site of permission Ref. 04.PA0035. The site is located to the north of Ringaskiddy village and on the existing port company lands adjoining the frontage to the lower part of Cork harbour. The site as set out in Ref. 04.PA0035 comprises three main elements, namely Ringaskiddy west which is the location of the existing deepwater berth at Ringaskiddy Port, Ringaskiddy East, which comprises the existing ferry terminal and infill area a significant part of which is



currently undeveloped and Paddy's point an area to the east of the port adjacent to the access to Haulbowline Island.

- 4.2. The existing port facility at Ringaskiddy handles bulk cargo at Ringaskiddy West and passenger ferry and other Ro Ro traffic at Ringaskiddy east. The facility currently complements the Port of Cork operation at Tivoli upstream on the River Lee which handles container traffic.
- 4.3. The site is currently the subject of redevelopment on foot of the permission granted under Ref. 04.PA0035 as altered by Ref. 04.PM0010. These works are concentrated in the Ringaskiddy East area and involve the construction of the new container berth at Ringaskiddy East. The current main works area is located to the north west of the site of the current proposed amendment which is the permitted customs building located immediately to the north of the internal port access road that leads to the ferry terminal. The location of the proposed customs building is located within an area fenced off from public access to the north of the access road.

## 5.0 The Request

### *Proposed Alteration*

The alteration which is the subject of the current application comprises works in the area of the existing permitted customs inspection building as permitted under Ref. 04.PA0035 and altered by Ref. 04.PM0010. This building is located at the southern end of the Ringaskiddy East part of the site and is located a short distance, c.15 metres to the north of the internal port access road that provides access to the ferry terminal.

The existing permitted layout incorporates three inspection bays with access from the west via the container yard, all having at grade access from the container yard. The permitted building has an overall height of 7.628 metres above ground level and dimensions of approximately 18 by 18 metres.

The following is a summary of the main changes proposed from the previously permitted layout:

- The relocation of the building such that it is located approximately 7 metres from the southern site boundary rather than the previous approximately 15 metres.

- The doubling of the size of the previously permitted customs building from the permitted 324 sq. metres to 648 sq. metres. This is to be achieved by the effective mirroring of the previously permitted floorplan to the west with the addition of a further three inspection bays. Access to the bays in the customs building would therefore be from both the east and west.
- There is no change to the overall height of the building proposed or to the basic design and materials. The altered design would have a footprint of c18 metres by 36 metres.
- The floor levels of the inspection bays is proposed to be altered with the larger bays 1 and 4 located on the northern side of the building proposed to have approximately the same level as the surrounding yard area and the smaller bays 2, 3, 5 and 6 having a floor level that is approximately 1.2 metres higher. At grade access to these bays and to the ancillary WC, changing rooms and small inspection rooms at this level is proposed to be provided via an external walkway on the southern side of the building. This walkway would be accessible via a ramp along the full length of the southern side of the walkway or via an external staircase at the southern end.

### *Supporting Arguments*

The application is accompanied by a covering letter and the following documents:

- Alterations Report prepared by McCutcheon Halley Planning Consultants
- EIA Screening Report prepared by McCutcheon Halley Planning Consultants
- Stage I Appropriate Assessment Screening Report prepared by McCutcheon Halley Planning Consultants

The requester make the case that the proposed alterations would not be material in planning terms. It is stated that there would be no changes to the operational practices or staff numbers involved in the inspection process on foot of the proposed alterations and that the proposed changes are minor in the context of the scale of development already permitted and will not result in any change to environmental impacts or potential impacts on Natura 2000 sites. It is also contended that the proposed alterations could not have been foreseen at the time of the original SID application in 2014 or the 146B application for alterations submitted in 2016.

The following is a summary of the detailed case made in the submitted documents to support the contention of the requester that the alterations proposed are not material in nature:

- That the site at 0.1 ha. covers a tiny part of the overall c.54.6 ha. port lands.
- That the building is set in the middle of an industrial site, c.250 metres from the nearest public road and behind visual and acoustic barriers that have been erected as part of the development.
- That the building is minor in scale relative to the permitted maintenance building and container storage stacks on adjoining lands. It will not be visible from outside of the port lands.
- That the altered building is proposed provides for a larger building for customs and department of agriculture checks, facilitating more holding areas, however it is not envisaged that any additional staff will be involved in the process. Depending on the outcome of Brexit the revenue and Department of Agriculture presence at the port may increase, however this will not be directly related to the proposed alterations to the customs building.
- That the overall throughput of cargo at the port will not increase as a result of the alteration and will remain capped at 330,000 TEU per annum. There will not therefore be any traffic implications of the development.
- There are no material noise or air quality impacts arising from the inspection process and any impacts would be imperceptible in the context of the permitted port activities.
- That a screening for Appropriate Assessment has been undertaken and concludes that the proposed alterations either alone or in combination with other plans and projects poses no risk of likely significant effects on any European sites.
- That the proposed extension to the customs building is not a project as set out at Parts 1 or 2 of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended) and that the nature of the potential environmental impacts arising are such that a sub threshold EIA in accordance with Article 103 of the Regulations is not warranted.

## 6.0 Assessment

6.1. With regard to the materiality of the proposed alteration, I consider that the issue should be addressed under the following headings which reflects the information submitted by the requester:

- Scale, Nature and Context
- Planning Implications
- Appropriate Assessment
- Environmental Impact Assessment

### Scale, Nature and Context

6.2. The scale of the proposed additional development at 324 sq. metres is relatively minor at an individual level and insignificant when taken in the context of the overall port development. Similarly, the extent of site impacted at c.0.1 ha. is inconsequential in the context of an overall port redevelopment site of c.54.6 ha. .

6.3. The form of the proposed extension to the customs building is such that it is not proposed to exceed the existing permitted height and the basic design and finishes would match the existing building. The visual appearance of the customs building with the proposed alterations would not therefore in my opinion be materially different to that currently permitted.

6.4. Most significantly, the context of the location of the proposed customs building is such that it is significantly removed from the public road in Ringaskiddy village and screened by intervening development and by the recently erected visual and acoustic barriers located at the southern end of the Port Company lands to the north of the N28. The separation between the public road on the N28 and the site of the customs building is approximately 270 metres and the customs building would not be visible from any location on the N28. In addition, the backdrop to the customs building is provided by the container storage yard area to the north of the customs building and by the permitted maintenance building to the south east on the opposite side of the internal access road. This maintenance building is c.22.5 metres in height and the adjacent reefer container stacks are permitted to be up to 5 high or approximately 14 metres. This backdrop is such that even if there were locations higher up in the village where the customs building was visible, the additional

building would be set in a visual context where it would be imperceptible relative to the overall port facility.

- 6.5. At a more local level, the customs building would be clearly visible from the port access road within the port lands and this road is and will continue to be used by traffic accessing the ferry terminal to the west of the customs building site. Traffic or persons using this road are however within the port lands and, while the extended building would be clearly visible from this internal road, it would be seen in the context of a large port operation including container storage area to the north that is within 20 metres of the customs building. Given this context, and the fact that this is an internal access road, I do not consider that the scale and nature of the proposed alteration can be considered to have a material impact on the overall site context.

#### Specific Planning Implications

- 6.6. The potential planning implications of the proposed alterations are specifically addressed in section 2.2 of the cover letter prepared by McCutcheon Halley Planning Consultants which accompanied the application to the Board. This addresses the potential implications of the alteration under the headings of Visual Impacts, Operational and Staff impacts, Throughput and Traffic impacts and Noise and Air Quality impacts. I consider that all potential planning impacts that impact on the materiality of the proposed alteration are covered by these headings.

The **visual impact** of the proposed alteration has been addressed in the sections above. The context of the customs building site is such that it would not be visible from the public road. In longer range views from higher points within the village, the customs building would remain largely blocked from view. Where views may be available, the building at c7.6 metres high has to be seen in the context of the c.14 metre high height of the adjacent reefer storage stacks and the c22.5 metre high maintenance building. The alteration would have some impact on short term views from the access road within the port lands that adjoins the building to the south however the change in view from this location has to be set in the context of the overall port and the container handling area adjoining the custom building. In conclusion therefore I do not consider that the proposed alteration is such that the Board would have considered other issues or considered the matter differently in any material respect given that the proposed alteration would have a material impact on

the visual amenity or character of the area and would be imperceptible in the context of the overall permitted port development.

- 6.7. With regard to **operational and staff impacts**, the referrer states that the alteration would provide for a larger facility for the customs and Department of Agriculture checks to be undertaken and how additional holding areas would be facilitated. It is stated that it is not envisaged that additional staff from these agencies / departments would be involved in the process however at other sections in the submitted documentation (Alterations Report Section 2) it is stated that the alteration has been triggered by clarification of requirements from Revenue and the Department of Agriculture and is set in the context of the Brexit negotiations.
- 6.8. It would appear unlikely that the additional capacity to accommodate goods for inspection would not result in additional staff being present on site, however the scale of this proposed increased accommodation is such that any such increase in staff numbers on site would not appear likely to be significant and would not, in my opinion be significant in the context of the overall number of employees and visitors to the site.
- 6.9. In conclusion, on the basis of the information presented and the information contained on files Refs. 04.PA0035 and 04.PM0010, I do not consider that the proposed alteration is such that the Board would have considered other issues or considered the matter differently in any material respect given that the proposed alteration would not have any material impacts in terms of staff numbers at the site or resulting impacts on traffic or access.
- 6.10. With regard to issues relating to **throughput and traffic impacts**, the referrer has set out how the proposed alteration would not result in any increase in the volume of freight passing through the port. This volume is set in the original permission at a maximum of 330,000 TEUs per annum and while the proposed alteration may facilitate the more efficient inspection of freight passing through the port by customs and Department of Agriculture staff, there is no potential for it to result in additional traffic volumes.
- 6.11. The release of traffic from the port onto the surrounding road network is also governed by the parent permission and will be subject to a vehicle booking system. No aspect of the proposed alteration to the customs building would alter the arrangements for the controlled flow of vehicles to and from the site via the vehicle booking system. For these reasons, I do not consider that the proposed alteration is

such that the Board would have considered other issues or considered the matter differently in any material respect given that the proposed alteration would have any potential impacts on traffic conditions in the surrounding public road network.

- 6.12. In terms of **noise and air quality**, the referrer makes the case as to how there are no inherent noise implications from the customs inspection process. Having regard to a number of factors I would agree that this would be the case. Specifically I note the nature of the inspection process which is to be undertaken within the confines of the customs building, the separation of the site from the nearest noise sensitive locations with the nearest dwellings in excess of 270 metres from the customs building, the noise mitigation measures implemented including noise barrier and the fact that any noise would be in the context of a large industrial complex with significant noise generation inherent in the permitted activity. For these reasons, I do not consider that the proposed alteration is such that the Board would have considered other issues or considered the matter differently in any material respect given that the proposed alteration to the customs building would have any material implications in terms of noise generation or impact on air quality.
- 6.13. In **conclusion**, having regard to the nature of the proposed alteration and the context of the site, I do not consider that the Board would have considered other issues or determined PA0035 differently in any material respect had the alterations to the customs building as now proposed in the requested alterations formed part of PA0035 at that application stage. On this basis I consider it reasonable to conclude that the proposed requested alterations to the customs building the subject of this request do not constitute the making of a material alteration of the development as granted under PA0035. I therefore consider that the Board can determine under Section 146B(3)(a) that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned and in that it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.
- 6.14. I have considered the provisions of s.146B(2)(b) which provides for, at the Board's discretion, the inviting of submissions from persons, including the public. Having considered: the nature, scale and extent of the alteration; the information on file; the nature, scale and extent of the development granted under Ref. 04.PA0035 as amended by Ref. 04.PM0010, and the information on Ref. 04.PA0035 including the submissions from the public and information obtained at the original Oral Hearing

held in 2014, I am of the opinion that the inviting of submissions from the public in this instance is not necessary and is not required for the purposes of the Board determining the matter.

### Environmental Impact Assessment

- 6.15. The referrer has submitted an EIA Screening Report prepared by McCutcheon Halley Planning Consultants which concludes that having regard to the nature, extent and characteristics of the proposed alteration and the lack of significant impacts and effects, that the proposed extension of the permitted customs inspection building is not a project defined by part 1 or part 2 of the Fifth Schedule of the Regulations meaning that an EIA is not required and that the proposed alteration would not warrant a sub threshold EIA as provided for by Article 103 of the Regulations.
- 6.16. In my opinion, the proposed alteration is not in itself of a type that comes within the scope of project set out in Part 1 or Part 2 of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended). The development does comprise works to a port that would come within the scope of Class 8(b) of Part 1 of the Fifth Schedule being a *'trading port, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes'*. This relates to the development of a new such facility rather than an extension as proposed in the current request. The provisions contained in Schedule 5 relating to changes and extensions of EIA are provided at Class 21 of Part 1 and Class 13 of Part 2 are not applicable in this case given the limited scale of the proposed alteration, and I do not therefore consider that the proposed alteration is subject to a mandatory requirement for EIA.
- 6.17. As I outline above, I consider that the proposed alterations do not constitute the making of a material alteration of the development concerned and in this regard the provisions of Section 146B(3)(a) apply. Should the Board be of the opinion that the proposed alterations would constitute a material alteration the provisions of Section 146B(b) apply which require that the requester submit to the Board the information specified in Schedule 7A of the *Planning and Development Regulations 2001* (as amended) unless the information has already been provided. Section 2 of the EIA Screening Report submitted with the request outlines the likely significant effects on the environment and outlines Schedule 7 of the Regulations and details the



characteristics of the proposed alterations, the location of same and the characteristic of potential impacts of the alterations. It is concluded that the proposed alterations would not have any significant effects on the environment. I would concur with this opinion and consider the requester's review of the potential impact arising from the alterations proposed to be reasonable and robust.

### Appropriate Assessment

- 6.18. Under Ref. 04.PA0035 the Board completed an Appropriate Assessment Screening exercise. The Board then undertook an Appropriate Assessment in relation to the effects of the development proposed under 04.PA0035 on the 3 sites that were not screened out:
- Great Island Channel SAC, (Site Code 001058)
  - Cork Harbour SPA (Site Code 04030)
  - Ballycotton Bay SPA (Site Code 004022)
- 6.19. An NIS was prepared and submitted as part of the application in relation to 04.PA0035. The Board concluded that the proposed development, by itself, or in combination with other plans or projects, would not be likely to adversely affect the integrity of these European Sites in view of the sites' conservation objectives.
- 6.20. The requester has submitted an 'AA Screening Report' in relation to the alterations that are the subject of this s.146B request (prepared by McCutcheon Halley Planning Consultants and dated 15 May 2019). The report describes the receiving environment, the permitted development and the amendments proposed. The European sites considered relevant for the consideration are outlined in section 4.2 of the statement and the nature of the proposed amendments are such that only Cork Harbour SPA has the potential to be impacted. Given the separation of the site from the other two European sites, the nature of the development and the limited impacts as set out in the sections above, I would agree with this screening assessment that the only site where potential impacts may arise is the Cork Harbour SPA site.
- 6.21. The AA Screening report states that the proposed amendments are minor changes to the permitted port re development and are all within the existing enclosing perimeter for impacts of the permitted project. As set out in the screening report

submitted there will be no increase in hard surfacing and no changes to the drainage design are proposed. Any potential pathways for impacts of the permitted port re development project have already been assessed under an Appropriate Assessment of that application and the proposed amendments do not give rise to any new or different issues or impact pathways that would now need to be assessed. It is considered that the possibility that the proposed development will have significant effect on any European site may therefore be excluded.

- 6.22. Having considered the Board's determination on Appropriate Assessment on 04.PA0035, including the specific report prepared in relation to appropriate assessment, to the nature, scale and extent of the alteration relative to the permitted development 04. PA0035, and the information on file (which I consider adequate to carry out AA Screening), I consider it reasonable to conclude that the alterations proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site.

## 7.0 Recommendation

Having regard to the above, I recommend that the Board decides that the making of the alterations subject of this request do not constitute the making of a material alteration to the terms of the development as granted permission under 04.PA0035.

### ***DRAFT ORDER***

REQUEST received by An Bord Pleanála on the 14th day of May 2019 from the Port of Cork Company care of McCutcheon Halley Planning Consultants, Ballincollig, Co. Cork, under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the redevelopment of Ringaskiddy port, a strategic infrastructure development the subject of a permission granted under An Bord Pleanála reference number 04.PA0035.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 26th day of May, 2015,

AND WHEREAS the Board has received a request to alter the terms of the development, the subject of the permission,

AND WHEREAS the proposed alteration is described as follows:

- The doubling of the size of the previously permitted customs building from the permitted 324 sq. metres to 648 sq. metres. This is to be achieved by the effective mirroring of the previously permitted floorplan to the west with the addition of a further three inspection bays. Access to the bays in the customs building would therefore be from both the east and west.
- The relocation of the building such that it is located approximately 7 metres further to the south than the previously permitted location.
- The alteration of floor levels of the inspection bays with the bays 1 and 4 located on the northern side of the building proposed to have approximately the same level as the surrounding yard area and the smaller bays 2, 3, 5 and 6 having a floor level that is approximately 1.2 metres higher. At grade access to these bays and to the ancillary accommodation to be provided via an external walkway on the southern side of the building.

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration would not result in a material alteration to the terms of the development, the subject of the permission,

AND WHEREAS having considered all of the documents on file and the Inspector's report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the above-mentioned decision so that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 14th day of May, 2019.

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Stephen Kay  
Planning Inspector

11<sup>th</sup> July, 2019