



An  
Bord  
Pleanála

## Inspector's Report ABP-305576-19

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<b>Development</b>	Amalgamation of Units 14A and 14B to create a single waste processing facility.
<b>Location</b>	Units 14A & 14B, Greenogue Industrial Estate, Rathcoole, Co. Dublin
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD19A/0234
<b>Applicant(s)</b>	Starrus Eco Holdings Limited
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Starrus Eco Holdings Limited
<b>Observer(s)</b>	none.
<b>Date of Site Inspection</b>	8 <sup>th</sup> May, 2020.
<b>Inspector</b>	Stephen Kay

## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated area of 1.04 ha. is located in the Greenogue Industrial Estate in Rathcoole, Co. Dublin. The site comprises two existing lots within the industrial estate. The first, located on the eastern side of the overall plot, is currently occupied by Starrus Eco Holdings and operates as a waste recovery facility. This facility operates under an Industrial Emissions Activity Licence granted by the Environmental Protection Agency (EPA). Under this licence, the site is licenced to accept up to 95,000 tonnes per annum of non hazardous waste material.
- 1.2. The western side of the site is located outside of the existing licenced waste recovery facility and previously operated as a timber recycling facility which operated under a waste permit issued by South Dublin County Council.
- 1.3. The closest residential properties to the appeal site are located on Aylmer Road, c.420 metres to the north west of the site.

## **2.0 Proposed Development**

- 2.1. The development comprises the amalgamation of Units Nos. 14A and 14B in the Greenogue Industrial Estate to create a single waste processing facility and the transition of the existing waste management facility from the processing of non hazardous waste to the processing of hazardous material. The existing use of Unit A on the site for the recycling of timber is proposed to be replaced with the processing of hazardous waste (floor area 1,831 sq. metres) and the undertaking of hazardous waste processing within Unit B together with the construction of an extension to unit B comprising a main floor area of 1,000 sq. metres and ancillary office accommodation over two storeys with a floor area of 288 sq. metres.
- 2.2. The overall volume of waste accepted at the facility is not proposed to change from the existing permitted 95,000 tonnes per annum and the existing Industrial Emissions Activity Licence (IEAL) will require revision on foot of the proposed development. The transition from conventional to hazardous waste processing is stated to be undertaken on a phased basis with a period where both waste streams would be accepted at the site.

- 2.3. The main elements of the proposed development are set out in Chapter 5 of the submitted EIAR and states that the proposed development will comprise two construction phases and four operational phases. These phases are indicated on Drg No.3DA-132.
- 2.4. Phase 1 will involve the construction of a new dedicated hazardous waste building (Building A) located on the western lot with a floor area of 1,831 sq .metres and the construction of a new site office of floor area 288 sq. metres in the north eastern corner of the eastern lot and removal of the existing temporary offices. The existing wall 60 metre long by 6 metre high internal partition wall separating the two lots is proposed to be demolished. A new access road is proposed to be constructed on the northern side of the existing waste processing building (Building B) to allow for internal traffic movements around the site. A new weighbridge and weighbridge office with a floor area of 40 sq. metres is proposed to be installed on the access road to the western lot and the existing weighbridge located on the eastern lot is proposed to be relocated to facilitate the new traffic circulation route. Alterations to the existing site layout are proposed to provide 25 no. car parking spaces and 4 no. HGV spaces together with 24 no. bicycle stands as well as alterations to the surface water drainage system,
- 2.5. It is proposed that Building A (the new building) would be divided into three separate bays as follows:
- Bay 1 will be used for the repackaging and bulking up of compatible chemicals and contaminated packaging.
  - Bay 2 is proposed to be used for the storage of asbestos containing material and the treatment and storage of lead acid batteries.
  - Bay 3 is proposed to be used for aqueous waste treatment and a connection provided to the foul sewer to facilitate discharge of the treated effluent.

- 2.6. Building B (the existing building) will be modified with the construction of an internal wall that will create two bays. The first (Bay 4) will be used for the storage of contaminated soils and the second (Bay 5) is proposed to be used for the MRF related activities.
- 2.7. Phase 2 of the overall development is proposed to be implemented as the commercial hazardous waste part of the business develops and is proposed to involve the expansion of hazardous waste activity into Building B and the transfer of the existing non hazardous MRF activity to other sites. Phase 2 is proposed to comprise the extension of Building B by the addition of an extension of c.1,000 sq. metres in area and the alteration of the internal layout to expand the area of Bays 4 and 5 and construct a new Bay 6. The new bay 6 is proposed to be used for the treatment of sewage sludge in a process involving the mixing of the sludge with cement kiln dust and subsequent blending with compost / clean soils. The application documentation proposes that a negative air extraction and odour control unit would be used to treat the air in Bay 6 and that this unit would be installed at the north west elevation of Building B. This unit would have a 75kw fan and emit via a stack that would be 18 metres above ground level.
- 2.8. Phase 3 of the development is stated to comprise the relocation of the MRF non hazardous waste activity to other SEHL facilities and for the installation of a waste oil recovery plant in Bay 5. This waste oil recovery operation will involve the installation of a natural gas boiler fitted with a 16 metre high stack at the western end of Building B.
- 2.9. Phase 4 is stated to be dependant on market conditions and is proposed to comprise the installation of an oil refining plant in Bay 5. The equipment proposed to be installed comprises a flash distillation unit and a de asphaltting column and fractionating column to be installed on the western side of Building B. These columns are proposed to be 16 metres in height. It is proposed that a wet scrubber system would be installed in Bay 5 to treat emissions from the flash distillation unit and from the fractionating and de-asphaltting columns with the treated air being ducted to Bay 6.

- 2.10. It should be noted that at the time of inspection of the site the facility was closed and proposals for the phased transition from use for the processing of non hazardous waste to use for the processing of hazardous waste had been superseded as a result of the refusal of permission which issued. The non hazardous waste activity which had been undertaken at the site has been relocated to other Starrus Eco Holdings sites and were permission to be granted it is now envisaged that the site would be redeveloped for the processing of hazardous waste material.
- 2.11. The application is accompanied by an EIAR. The existing facility on the site is the subject of an industrial emissions licence from the Environmental Protection Agency and it is stated that a revised licence will be sought from the agency for the proposed new activities.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority issued a Notification of Decision to Refuse Permission for five reasons that can be summarised as follows:

- That the planning authority is not satisfied on the basis of the information submitted that the proposed development would not be at risk of flooding, would not displace flood risk to other sites and would not lead to significant adverse effects on the environment.
- That the Planning Authority is not satisfied on the basis of the EIAR submitted that the proposed development would not give rise to significant adverse effects on the environment having regard to the fact that the EIAR has not assessed the likely significant effects on the environment resulting from cumulative effects with other existing or proposed developments, particularly with regard to noise, air and odour impacts; that the scale of the night time disturbances have not been adequately assessed and potential impacts on water quality including in the event of flooding have not been adequately addressed.

- That the planning authority is not satisfied on the basis of the information submitted that the proposed measures to manage surface waters are adequate. In particular, it is noted that no surface water attenuation calculations or design of surface water system presented and no details of SuDS and no proposal to serve the eastern lot of the development with a petrol interceptor.
- That the planning authority has concerns regarding the access and parking arrangements at the site including level of parking proposed, internal HGV circulation within the site and particularly between building B and the northern site boundary, arrangements for unloading of waste at bays and that in the absence of these details the planning authority cannot be satisfied that the proposed development would not result in the creation of a traffic hazard.
- That the planning authority is not satisfied, on the basis of the information submitted, that the proposed development would not be likely to have significant effects on the European sites.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The report of the Planning Officer notes the location and planning history of the site. The location of the site in an area that is at a 1:100 year risk of flooding is noted as is the content of the water services report that identifies the details provided with regard to surface water attenuation as requiring further details. Issues regarding the circulation of traffic within the site, in particular to the north of the buildings are noted as is the extent of car parking proposed. Refusal of permission consistent with the notification of decision which issued is recommended.

### 3.2.2. Other Technical Reports

Water Services – Recommends further information relating to surface water attenuation, SuDS measures, and a report analysing the impact of the development on flood risk given that the site is at risk in a 1:100 year flood event. All FFLs should be a minimum of 500mm not 300mm above the highest known flood level.

Environmental Health – Notes the nature of the proposed activity at the site and the fact that it is currently subject to licence. Implications for noise and odours raised. Conditions to be attached to a grant of permission are recommended.

Roads – further information recommended relating to the provision for HGV and car parking on the site and justification for why it is below the development plan standard and also a drawing showing the circulatory road to the north of Building B.

Parks and Landscape Department – Inadequate landscaping plan submitted, no arborist report and potential conflicts between existing / proposed planting and the proposed services on site. Conditions recommended in the event of a grant of permission including a tree bond and requirement for the retention of an arborist, landscape architect / landscape designer and submission of a landscape design rationale.

### 3.3. **Prescribed Bodies**

Department of Defence – that the use of cranes at the site should be co ordinated with the Air Corps prior to use.

Irish Aviation Authority – that the applicant should engage with the property management branch of the Department of Defence to ensure that crane operations do not adversely impact on the operation of aircraft.

Health and Safety Authority – stated that the development / site is covered by the Major Accident Hazards Regulations and that on the basis of the information provided that the Authority does not advise against the granting of planning permission.

Irish Water – No objection.

### 3.4. **Third Party Observations**

None.

## 4.0 Planning History

There is a significant planning history relating to the appeal site. The following planning history is specifically noted:

South Dublin County Council Ref. SD16A/0184; ABP Ref. PL06S.247096 –

Retention permission and permission refused by South Dublin County Council and decision upheld on appeal for the retention of 3 no. free standing single storey pre-fabricated offices with a floor area of 162 sq. metres and permission for revisions to the elevational treatment and external cladding of the pre-fabricated structures , revised car parking and all associated works.

South Dublin County Council Ref. SD13A/0237; ABP Ref. PL06S.243024 –

Permission granted by the Board, overturning the council decision to refuse, for the retention of development of temporary offices comprising 162 sq. metres.

South Dublin County Council Ref. SD03/0607 – Permission granted for an increase in the volume of waste accepted at the facility to 95,000 tonnes per annum. The facility is subject to an application for a waste licence and the application was accompanied by an EIS.

South Dublin County Council Ref. SD01/0868 – Permission granted for the development of a waste transfer and recycling facility Including the erection and use of a 1,729 sq. metre warehouse building including 233 sq. metres of ancillary office accommodation on three floors

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The site is located on lands zoned Objective EE ‘*to provide for Enterprise and employment uses*’ under the provisions of the South Dublin County Development Plan, 2016-2022.



- 5.1.2. Car parking requirements are detailed at Table 11.23 of the development plan. This identifies that the car parking requirement for a warehouse use is 1 space per 100 sq. metres of gross floor area.
- 5.1.3. Paragraph 11.4.5 of the Plan requires that Traffic Impact Statements will be required for all major traffic generating development as defined by Transport Assessment Guidelines (2014) published by the National Roads Authority. Paragraph 11.4.6 requires the submission of a Workplace Travel Plan Statement for developments in excess of 2,500 sq. metres and 25-100 staff.
- 5.1.4. It is noted that the site overlaps with the Flood Zones A and B as identified in the South Dublin County Council Strategic Flood Risk Mapping prepared for the Development Plan.

## **5.2. Waste Management Plan for the Eastern and Midlands Region**

- 5.2.1. The plan promotes the promotion of opportunities for the growth of existing waste operations. Specific locations are not identified, however it is stated that the proper siting of facilities and the expansion of existing facilities is the most appropriate approach.

## **5.3. National Hazardous Waste Management Plan**

- 5.3.1. That national Hazardous Waste Management Plan 2014-2020 was prepared by the EPA and sets out actions to be undertaken in relation to the prevention of hazardous waste and the improvement of Ireland's self-sufficiency in terms of the management of such wastes. It is an objective of the plan to maximise the collection of hazardous waste and it is a target to increase the collection of such waste at civic amenity sites.

## **5.4. Natural Heritage Designations**

The site is not located in or close to any European sites. The closest European sites are the Rye Water / Carton SAC which is located c.6km to the north of the site, the Glennasmole Valley SAC which is located c.8km from the site to the south east and the Wicklow Mountains SAC which is located c. 9.5km to the south east of the site.

The site is located such that the Griffeen River is located c.140 metres to the south of the site and the Baldonnell Stream is located c. 110 metres to the east. Both of these watercourses are tributaries of the River Liffey which discharges to Dublin Bay within a number of European sites.

## 5.5. EIA Screening

The development proposed comprises a class of development for which an EIAR is required to be submitted. The application is accompanied by an EIAR prepared by O'Callaghan, Moran and Associates.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- That the issue of flooding was not raised with the first party at the pre application consultation held. It was not stated that as the site was in an area at risk of flooding that the proposed development would be contrary to the flood risk management guidelines.
- That the existing site is developed. The proposed development will not therefore result in any increase in run off from the site. The existing two flood attenuation tanks that are on site will be retained.
- That the site lies within both Flood zone A and B and the development was considered to be highly vulnerable and the justification test set out in the guidelines was applied.
- That the site was referred in the Site Specific Flood Risk Assessment (SSFRA) as '*highly vulnerable development*' however there was also a typographical error where it stated that it was a '*less vulnerable development*'. This does not invalidate the results of the assessment. That the SSFRA does

identify volumes of flood waters that may be displaced, however this had not been fully quantified and could have been the subject of a request for further information.

- That the report of the water services section states that further information should be requested on the increased flood risk off site arising, if any. The report is not against the proposed development in principle and the wording of the reasons for refusal regarding flood risk does not accurately reflect the content of the Water Services report.
- That the potential impacts of the flood risk on the site in terms of hazardous waste contamination was not addressed in the EIAR on the basis that the flood mitigation measures recommended would prevent this occurring.
- Regarding the reason for refusal relating to cumulative impacts on the environment, particularly in the areas of noise, air and odour impacts, the EIAR addressed the impact of the proposed development on the ambient environment and relevant quality standards and comply with the emission limit values specified in the EPA licence.
- That cumulative impacts are generally relevant to ground water, the accumulation of substances in toxic sediments, fragmentation and damage to habitats and not relevant to emissions that can be quantified and assessed against ambient quality standards, for example air quality, odours or, as in the case of noise, impacts that do not have a cumulative effect.
- That an odour impact assessment of the proposed sludge treatment activity was completed and discussed in Chapter 11 of the EIAR.
- That the EIAR is clear that the site will operate 24 hours and the impacts are assessed on this basis.
- A noise assessment was undertaken that predicts that the development would not result in exceedances of the day and night time emission limit values at noise sensitive locations.
- That the issue of potential fire water run off from the site and mitigation measures proposed for the containment of fire water within the site was considered in Appendix 4 of the submitted EIAR.

- Regarding surface water, a report relating to the calculations of surface water attenuation was prepared but was unintentionally omitted from the application. This could have been provided as part of the response to further information.
- That the nature of the site and the requirement of the EPA licence that the site be impermeably paved and therefore the site is not suitable for SuDS measures. Flow attenuation measures are incorporated.
- That the access and parking arrangements at the site was not the basis of refusal recommendation in the report of the roads section.
- Information on the number of employees on the site was not submitted with the application, however this is as discussed at the pre application meeting.
- That the HGV parking spaces were based on the current authorised waste acceptance rate of 95,000 tonnes per annum which will not change.
- The internal one way HGV system will be controlled by a yard marshaller and there is sufficient space (80 metres) to avoid HGV queuing outside the site entrance. Again, this could have been clarified by way of further information.
- That the decision states that the screening report does not adequately address the potential impacts on the Natura 2000 sites and therefore cannot rule out likely significant effects and that therefore a Stage 2 assessment is required. The concerns of the planning authority relate to a potential hydrological connection to Dublin Bay via the River Liffey.
- Submitted that the order does not set out a rationale for not requesting a Stage 2 Appropriate Assessment and that the decision is contrary to Circular NPW1/10 and SSP 2/10 which states that in relation to requests for the carrying out of screening, the consent authority may need to seek additional information from the applicant and that the consent authority will inform the applicant if an AA will be necessary.
- The appeal is accompanied by micro drainage calculations around surface water on the site, and the following reports:
  - Construction and demolition waste management plan,
  - Design Statement,

- AA screening report.

## 6.2. Planning Authority Response

The following is a summary of the main points raised in the response of the Planning Authority to the grounds of appeal:

- That opinions offered in pre applications are in good faith and cannot prejudice the decision issued.
- That the mitigation measures proposed in the site specific flood risk assessment were not implemented particularly regarding floor levels.
- That the planning authority was not satisfied that the development was in accordance with the proper planning and sustainable development of the area or that the request for further information would alleviate the issues raised.

## 6.3. Submission From the Environmental Protection Agency

In response to a referral from the Board, a submission was received from the Environmental Protection Agency, dated 6<sup>th</sup> March, 2020. The following is a summary of the main points made in the submission.

- That a licence was issued to Greenstar in 2004 and this licence was subsequently transferred to Starrus Eco Holdings in March 2014. Ref Waste Licence W0188-01.
- That the licence related to the recovery or a mix or recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day.
- That the licence was amended in November, 2015 to reflect the requirements of an Industrial Emissions Activity Licence.
- Noted that the application is accompanied by an EIAR and that the agency as part of its consideration of any licence review will ensure that the licence review is subject to an EIA and that consultation on the licence application and EIAR shall be undertaken with the Board under s.87 of the EPA Act and that the Board will be requested to provide the documentation relating to the EIA undertaken.

- That should a licence review be received by the Agency, all matters to do with emissions to the environment, the licence review and the EIAR will be considered by the agency.
- Noted that the agency cannot issue a proposed determination on a licence until a planning decision has been made.

## 7.0 **Assessment**

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development and Zoning
- Issues of Amenity,
- Traffic and Access
- Site Drainage and Flooding Issues,
- Other Issues
- EIA
- Appropriate Assessment

### 7.2. **Principle of Development and Zoning**

7.2.1. The site is located on lands zoned Objective EE ‘*to provide for Enterprise and employment uses*’ under the provisions of the South Dublin County Development Plan, 2016-2022. Both a recycling facility and a refuse transfer station are identified as uses that are normally permissible on lands zoned for enterprise and employment uses.

7.2.2. The form of development proposed is set out at section 5.2 of the submitted EIAR which indicates that the materials to be accepted at the facility would include spend chemicals and packaging waste (bay 1), asbestos and batteries (bay 2), aqueous waste (bay 3) contaminated soil, sludge sewage (bay 6), waste oil recovery (bay 5). These wastes are proposed to be discharged to sewer, forwarded onwards for export / disposal or shipped to other recycling plants. The proposed development of

a waste transfer and recycling facility is considered to be consistent with the zoning of the site and the form of development proposed is therefore acceptable in principle.

7.2.3. The nature of the proposed development comprising additional facilities for the treatment and transfer of a range of hazardous wastes and the development of an existing waste facility located within an industrial area is, in my opinion consistent with the basic principles for siting as set out in both the *Waste Management Plan for the Eastern and Midlands Region* and the *National Hazardous Waste Management Plan, 2014-2020* which promotes the development of self sufficiency in this area. The basic form and location of the proposed development is therefore in my opinion consistent with relevant national waste policy.

7.2.4. It is noted that the existing authorised use of the site is as a waste transfer facility, and that this authorised use of the site comprises waste acceptance and transfer relating to non hazardous waste streams and the transfer of mixed municipal waste and dry recyclables to other plants. As set out in the site description above, on inspection of the site it is evident that it has been effectively closed with the non hazardous waste that was previously accepted at the facility now being diverted to other Starrus Eco Holdings sites. The fact that the site is not currently operational, or that the phased transfer of use of the site as set out in the submitted EIAR is not likely to occur as indicated, is not in my opinion a critical factor in the assessment. While the process for the development of the proposed uses on the site will not be as indicated, the end use and environmental impacts arising will be the same.

### 7.3. **Issues of Amenity**

7.3.1. The proposed use raises a number of issues with regard to amenity. In particular, the nature of the material that is proposed to be accepted at the site is such that it would have the potential to result in emissions to the air and the generation of odours. The proposed operation of the facility is stated to be 24 hours a day 7 days a week and therefore noise emissions from the site would also be relevant considerations in terms of the impact on amenity.

7.3.2. In undertaking an assessment of amenity issues, regard needs to be had to the fact that the site and the operation on site currently operates under licence obtained from the EPA and that the proposed development would also require a licence from the

EPA. It is therefore the case that the assessment of emissions to the environment would be undertaken under the licencing process and that the Board is precluded from attaching conditions that relate to the control of emissions or mitigate the impact on the environment. The Planning Authority or the Board is, however authorised to refuse permission on the basis of environmental considerations and this was reflected in one of the reasons for refusal included in the Notification of Decision issued by the Planning Authority.

7.3.3. It is noted that the application is accompanied by an EIAR that includes a number of appendices that are relevant to consideration of the amenity impacts of the proposed development. These include the following:

Appendix 1 Odour Management System, and

Appendix 8 Odour Impact Assessment Report

Appendix 9 Noise Impact Assessment.

7.3.4. Consideration of impacts relating to amenity arising from emissions from the development are considered in more detail in the sections below under the heading of EIA, and particularly under the headings of Population and Human Health and Air, and this assessment should be read in conjunction with this section.

7.3.5. Firstly, regarding the reason for refusal (No.2 in the Notification of Decision to refuse Permission) relating to the absence of an assessment in the EIAR of cumulative impacts on the environment, particularly in the areas of noise, air and odour impacts, I note the response contained in the first party appeal. This states that the submitted EIAR addressed the impact of the proposed development on the ambient environment and relevant quality standards and comply with the emission limit values specified in the EPA licence and that cumulative impacts are generally relevant to ground water, the accumulation of substances in toxic sediments, fragmentation and damage to habitats and are not relevant to emissions that can be quantified and assessed against ambient quality standards, for example air quality, odours or noise. I appreciate the point that the first party is raising on this issue, namely that for a facility that will be the subject of a licence such as that proposed for the appeal site, the operation will have to comply with emission limit values set out in any licence granted by the EPA and that the majority of these limits will be measured on site or at the point of discharge / emission from the site. I also appreciate that in



the case of some emissions, notably noise, the nature and calculation of cumulative impacts is such that it is unlikely that significant cumulative issues would arise at noise sensitive locations which are located well outside of the site boundaries (nearest residential property is c.380 metres from the site). Notwithstanding this however, I consider that it is appropriate that specific consideration would be given to potential cumulative issues arising, particularly given the industrial character and nature of development on the surrounding sites. In the assessment in the sections below I will undertake the best assessment of cumulative effects on the basis of the information presented and this issue will be considered further regarding the compatibility of the approach used under the heading of EIA.

7.3.6. The **location of receptors** in the vicinity of the site and which could be impacted by the proposed development comprise commercial and industrial sites that bound the appeal site, industrial and commercial sites located within the wider business park campus within which the appeal site is located and residential properties the closest of which are located to the north west and west of the site at a distance of c.380 metres at the closest point. The commercial site which most closely adjoin the appeal site include a recently completed distribution facility which occupies a large site to the north and equipment / vehicle storage / hire to the south east. Uses within the wider business park area comprise a mixture of warehousing, transport / distribution and generally light industrial uses.

7.3.7. The nature of the waste materials proposed to be accepted at the site and the activities proposed to be undertaken on site are such that there is significant potential for the release of **odours**. In particular, the proposed de asphaltting and fractionising columns proposed to be installed have the potential to result in odours. A new odour control system is proposed to be installed at the site and this system which would serve Bays 5 and 6 is detailed at Appendix 1 of the submitted EIAR. The system proposes the maintenance of a negative air pressure in these bays and is stated to be designed to deal with an odour concentration of 600 odour units per cubic metre. Bay 6 (sludge treatment) and Bay 5 (oil tank farm) are proposed to be served with extractor fans and discharged via a new 18 metre high stack at the western end of the existing building. Odour dispersion modelling from this proposed stack has been undertaken and this indicates that the maximum odour impact will be at location R4 where the predicted odour level would be approximately half the

normal EPA limit of 1.50 QueM-3. The analysis presented does not make any reference to cumulative odour impacts, however there are no existing operations in the vicinity of the site that have a significant odour impact. On the basis of the information presented, the likelihood of the proposed development having a significant negative impact in terms of odour levels at adjacent commercial / industrial sites or at residential receptors is considered to be limited. Odour emissions will in any event be specified in the licence that will be required to be obtained from the EPA and, given the licensable nature of the activity I do not consider that there is any clear basis relating to odours on which permission should be refused by the Board.

- 7.3.8. With regard to the impact of **noise emissions** from the proposed operation on amenity, the site is the subject of existing noise limits on foot of its licence with the EPA and noise monitoring has been undertaken at three locations at the site boundary and one off site in the vicinity of the closest residence to the north west of the site at a distance of c.380 metres from the site boundary (NSL1). Chapter 12 and Appendix 9 of the submitted EIAR sets out the likely noise impact of the proposed development and includes new noise survey data from two off site locations to the north (NSL2) and south west (NSL3) of the site. The assessment presented in Appendix 9 does however indicate that a full assessment of the noise impact arising from the proposed development is not possible as there is uncertainty with regard to the specification of some of the equipment to be used on the site, notably the modular units as well as the final building layout. What is presented is an assessment of the impact of the noisiest operations proposed which are the aqueous waste processing and oil treatment process (Bays 5 and 6) which are indicated as having a maximum output of 75 dB(A). This is predicted to reduce to c.65 dB(A) at the site boundary and then to c.45dB(A) at 100 metres from the boundary without attenuation. With attenuation due to buildings it is estimated that the proposed development would not be audible at the fringes of the business park and inaudible at the closest residential noise sensitive locations. While not precise in terms of noise generating equipment or plant, I consider that the basic analysis presented is consistent with normal noise propagation. No specific account has been made for cumulative noise impacts and this issue is addressed in the section relating to EIA, however the nature of surrounding uses is such that cumulative noise is not likely to

be a significant element in the overall noise impacts and certainly not at the closest residential NSLs identified. The predicted 65dB(A) noise level at the site boundary has the potential to impact negatively on occupants of these premises, however the site boundaries and layout of surrounding developments is such that such impacts are not considered likely to be significantly negative. As with odour, noise emissions will be specified in the Industrial Emissions licence that will be required to be obtained from the EPA and while there are some issues arising with regard to the assessment of noise presented in the EIAR, given the licensable nature of the activity I do not consider that there is any clear basis relating to noise on which permission should be refused by the Board.

7.3.9. Also under the heading of amenity impacts, the information presented in Chapter 11 of the EIAR indicates that existing dust monitoring on the existing site (eastern lot) shows that the highest reading recorded at DS-04 (227ug/m<sup>2</sup>/day) is well below the normal EPA limit of 350 ug/m<sup>2</sup>/day with the levels recorded at the other three monitoring locations significantly lower than DS-04. The new development on site, and particularly the boiler stack connected with the flash distillation, de asphaltting operation and fractionating columns will result in new emissions and potentially increased dust deposition and these impacts are not specifically assessed in the EIAR. Such new operations may have an impact on dust emissions to the adjoining site to the north, however any activity permitted on the site would have to meet the 350 ug/m<sup>2</sup>/day limit at the site boundaries that would likely be specified in any EPA licence issued. On the basis of the information presented it is not possible to clearly determine whether or how easily this standard could be met.

7.3.10. The proposed development will give rise to lighting particularly in the traffic circulation areas within the site which may impact on existing surrounding site. Given the nature of the existing surrounding uses and the existing developed nature of the appeal site it is not considered that any such impacts would likely be significant.

## 7.4. Traffic and Access

- 7.4.1. The basis for the refusal of permission relating to traffic and access relates to concerns of the Planning Authority regarding the access and parking arrangements at the site including level of parking proposed, internal HGV circulation within the site and particularly between building B and the northern site boundary, arrangements for unloading of waste at bays and that in the absence of these details the planning authority cannot be satisfied that the proposed development would not result in the creation of a traffic hazard.
- 7.4.2. Traffic and transport is addressed at section 7 of the submitted EIAR and there is Traffic Statement which is included at Appendix 5 of the EIAR. A detailed Traffic and Transportation Assessment is stated not to be required on the basis of there not being any increase in traffic movements to the site. Section 7.2 of the EIAR, under the heading of traffic, also states that there is not proposed to be any increase in staff on the site.
- 7.4.3. The access to the site from the wider road network is proposed to be via the R120 which runs from Rathcoole and accessing the N7 at J4, (Rathcoole). At a wider roads level therefore, I do not consider that the nature and volume of the traffic predicted to be generated by the proposed development is such that I do not consider that there would be any likely significant effects on the wider road network surrounding the site. The absence of a detailed traffic and transportation assessment is not therefore in my opinion a significant or critical omission.
- 7.4.4. Tables 7.1 and 7.2 in the submitted EIAR set out the current monthly and daily average HGV trips to and from the site with an average weekday level of 74 trips (64 incoming 10 outgoing) and average of 20 trips on Saturdays. Average monthly trips is stated to be 1,652 comprising 1,481 inbound and 171 outbound. Table 7.2 contained at 7.4.2 of the EIAR sets out the estimated annual HGV trips broken down per waste type post completion of the proposed development. This shows a total number of HGV trip[s] estimated at 12,181 which is approximately two thirds of the existing HGV trip number of 18,840 (Table 7.1).

- 7.4.5. The assessment of the impact of the development on traffic in the vicinity of the site focusses on the fact that the nature of the proposed hazardous waste process operation will result in an increase in the payloads of the incoming HGV vehicles to the site and that this factor, together with the fact that the site is currently operating at slightly less than half of the permitted / licenced capacity (c.45,000 tonnes per annum as against 95,000 tonnes) means that the daily traffic movements will be c.66 % of the existing level. The average payload of incoming vehicles is currently c.2.4 tonnes while that exiting the site is c.20.1 tonnes. Post development, these figures are anticipated to increase to c.11 tonnes inbound and c. 26 tonnes outbound.
- 7.4.6. On the basis of the information presented, the level of trips to and from the site is anticipated to be c.66 percent of the existing volumes and c.33 percent of the authorised capacity at the site. It should however be noted that while the overall number of trips would be reduced, the average payload and therefore size of vehicle (in particular delivering to the site) would likely significantly increase. It should also be noted that the post development traffic assessment is based on the overall impact of the development across sites 14A and 14B and that the previous use of Site 14A as a timber yard would have generated additional traffic which is not quantified in the application. Finally, it should be noted that the development is proposed to operate on a 24 hour seven day a week basis and this would potentially alter traffic impacts.
- 7.4.7. Overall, when these factors are taken into account I don't consider that there is a clear basis to support the contention that the proposed development would result in an ongoing significant positive impact on traffic and the local road network within the industrial estate. On the basis of the information available, I consider that the overall effect is likely to be positive and that the proposed development would likely not have any additional adverse impact on traffic congestion in the immediate vicinity of the site or on the main route between the site and the N7.
- 7.4.8. The basis for the refusal of permission relating to traffic and access relates to concerns of the Planning Authority regarding the access and parking arrangements at the site including level of parking proposed, internal HGV circulation within the site and particularly between building B and the northern site boundary, arrangements for unloading of waste at bays and that in the absence of these details the planning authority cannot be satisfied that the proposed development would not result in the creation of a traffic hazard.

- 7.4.9. The issue of **internal circulation** within the site is addressed at 7.4.2 of the EIAR and states that a comprehensive assessment of the vehicle turning, circulating and servicing movements has been undertaken using autotrack. It is stated that such analysis has been undertaken for Freight Transport Association Design articulated vehicles which is the largest vehicle generated by the existing and proposed facility. The outputs of this assessment is illustrated on Drg. 3DA-109. It is contended that this assessment indicates that the circulation regime is satisfactory for access, egress, access to weighbridges, circulation around the site and manoeuvring of vehicles to and from the buildings without impeding circulation around the site. I note the results of this assessment and agree with the first party that the layout indicated shows that sufficient circulation space and access to the bays can be provided. The main area of concern, and that which is identified in the report of the Roads Department, is the available circulation at the northern side of the existing and proposed buildings on site. These distances equate to c.6.0 metres at the narrowest point which is at the north east corner of the existing building. The northern boundary in this location comprises a metal fence and there is a planted area enclosed between this fence and another fence located on the property to the north. The separation distance in this location is in my opinion adequate for the proposed one way circulation system around the site and the scale of vehicles proposed to be used, albeit that some pruning of the trees that are located on the third party lands to the north will likely be required.
- 7.4.10. With regard to **parking**, the report of the Roads Department questions the level of parking which is proposed to be provided on the site and notes that the level proposed is less than that set out in Table 11.23 of the development plan. The submitted EIAR does not present a specific breakdown with regard to car parking and the number of employees on site was not specifically stated in the EIAR, either in the Description of Proposed Development (Chapter 5), in the Traffic section (Chapter 7) or in Appendix 5 relating to traffic. The appeal submission as it relates to traffic merely states that the parking issue was not recommended by the Roads Department as a basis for refusal and clarifies that information on the number of employees on the site was not submitted with the application, but is as discussed at the pre application meeting. The appeal does not clarify the number of employees on site, however I note from the pre application consultation that there is reference to

the number of employees increasing from c.12 previously to c.25 on completion of the development. On the basis of the development plan standard as set out at Table 11.23 of the plan the number of car parking spaces required is c.48 comprising 43 no. spaces for the warehousing use at 1 space per 100 sq. metres GFA and 5 no. spaces for the office accommodation at a rate of 1 space per 50 sq. metres. The proposed 26 car and 5 HGV spaces therefore falls far short of the development plan (maximum) standard. The 25 employees on site figure stated in the pre application consultation would however appear to reflect the c.14 seats provided for in the office layout with an additional 11 staff working in the two warehouse buildings. HGV drivers accessing the site are likely to be primarily contractors and not to travel to the site to pick up their vehicles. Overall therefore, it would appear that the proposed 25 no. parking spaces proposed on site is likely to be sufficient, however the provision of further clarity on this issue by the first party would have been welcome.

- 7.4.11. With regard to HGV parking and queuing at the entrance to the site, I note the comment of the first party appeal that the the HGV parking spaces were based on the current authorised waste acceptance rate of 95,000 tonnes per annum which will not change. I also note the layout of the site and the submitted autotrack layout that shows that there is significant space on the route into the site which allows for some queuing of HGVs without impacting on the public road.
- 7.4.12. Overall therefore, while there is some lack of clarity with regard to the adequacy of the parking provision on the site and the area to the north of the existing warehouse building would be relatively tight, on the basis of the information presented therefore, I do not consider that there is a clear basis for refusal of permission on the basis of access or circulation issues within the site.

## **7.5. Site Drainage and Flooding Issues,**

- 7.5.1. Reason for Refusal No.1 attached to the Notification of Decision to Refuse Permission relates to flooding and flood risk and states that the planning authority is not satisfied on the basis of the information submitted that the proposed development would not be at risk of flooding, would not displace flood risk to other sites and would not lead to significant adverse effects on the environment.

- 7.5.2. Appendix 6 of the submitted EIAR provides a Flood Risk Assessment and the first party appeal sets out the basis for refuting this reason for refusal. The main issues raised in this submission include that the issue of flooding was not raised with the first party at the pre application consultation held, nor was the fact that the development may be contrary to the flood risk management guidelines. The appeal also notes that the site was referred in the Site Specific Flood Risk Assessment (SSFRA) as 'highly vulnerable development' however there was also a typographical error where it stated that it was a 'less vulnerable development' and that this does not invalidate the results of the assessment. It is contended that further information should have been requested on the flood risk arising as per the recommendation of the Water Services Section of the council.
- 7.5.3. With regard to flood risk, the appeal site is located partially in Flood Zone A and partially in flood zone B as per the Flood Risk Management Guidelines on the basis of the Strategic Flood Risk mapping undertaken for South Dublin County Council and the Eastern Region CFRAM study also indicates part of the site as being within the 1 in 100 year flood risk zone for fluvial flooding. The analysis presented in the submitted Site Specific Flood Risk Assessment uses flood heights predicted at points on the Griffeen River and the Baldonnell Stream, which are the two watercourses in closest proximity to the appeal site, to uses a site specific digital terrain map to map flood risk at the site. This model correlates relatively closely with the output of the CFRAM study in terms of the 1 in 100 year flood extent. Predicted flood depths at the general location of the appeal site are predicted to be c.86.3 metres OD Malin for the 1 in 100 year flood and 56.4 metres OD Malin for the 1 in 1000 year flood.
- 7.5.4. The 86.3 metre OD flood level is above the proposed finished floor level (FFL) of the extended existing warehousing building and only c.0.2 metre below the FFL of the proposed new building. As per section 7.1 of the submitted Site Specific Flood Risk Assessment, the FFLs of the warehouse buildings on site are recommended to be constructed a minimum of 0.3 metres above the 1 in 100 year flood predicted level of 86.3 metres OD '*if feasible from a planning and construction perspective*'. It is noted that the report of the Water Services Section of the council recommends that this headroom should be increased to 0.5 metre and that this would result in a recommended minimum FFL on site of 86.8 metres. The floor level of the existing



and proposed buildings on site would be below this recommended minimum by 1.4 and 0.3 metres respectively. Given the nature of the proposed activities and materials on site this extent of flood risk is clearly a serious issue in terms of the potential mobilisation of contaminants. The alternative flood resistance measures set out at 7.1 of the Flood Risk Assessment refer to the alternative use of movable flood gates or sand bags as protection. Given the nature of the proposed use and the extent to which the existing building on the eastern lot is below the flood level, I am not convinced that such an approach is appropriate.

- 7.5.5. In terms of the development in the context of the flooding guidelines '*Planning System and Flood Risk Management Guidelines for Planning Authorities*', 2009, the site is partially located within Flood Risk Zone A which is identified as areas at a high risk of flooding. As per the guidelines, most forms of development are not considered suitable within such areas unless the justification test set out in the Guidelines is satisfied. In addition, as per the definitions set out in the Guidelines, the form of development proposed on the appeal site is 'Highly Vulnerable Development' and therefore the application of the justification test is required.
- 7.5.6. The relevant development management justification test is set out at Section 5 of the guidelines and specifically Box 5.1. Before this, the sequential approach to development as set out in Section 3 is also relevant. This sequential approach sets out how there is a hierarchy of Avoidance and Substitution and that these steps should be explored first before an assessment moves onto the justification test and issues of mitigation and management of risks on site. In the case of the appeal site, the site is located within an existing developed area and is currently occupied. The use of the site for non hazardous waste material processing is however clearly of a level that is less vulnerable to flooding than is the case with the proposed hazardous waste facility. My interpretation therefore of the application of the sequential approach to the proposed development and the appeal site is that notwithstanding its current developed status, the principles of avoidance and substitution point to the proposed change of use of this site that is at flood risk from a use that is 'less vulnerable development' (waste treatment as per Table 3.1 of the Guidelines) to 'Highly Vulnerable Development' (significant sources of pollution), being contrary to the provisions of the Guidelines. In this regard I also note the provisions of paragraph 3.5 of the Guidelines under the heading of the planning implications for

each category of flood zone where it states that in areas with a high probability of flooding, development at risk of flooding should be avoided and, if this is not possible, consideration given to substituting a land use that is less vulnerable. Paragraph 3.5 also clearly states that '*inappropriate types of development that would create unacceptable risks from flooding should not be planned for or permitted*'. The development proposed at the appeal site would appear to propose a change of use in the opposite direction with an increased vulnerability to flooding in an area that has a high probability of flooding and as such would be contrary to the sequential test.

- 7.5.7. Notwithstanding the above, the Site Specific Flood Risk Assessment (SSFRA) submitted by the first party in Appendix 6 of the EIAR, the first party proceeds at section 9 to undertake a justification test of the proposal. This assessment is undertaken as per the criteria set out at Box 5.1 of the Guidelines and identifies that the appeal site is located on lands zoned for industrial and employment use. Regarding flood risk and the minimisation of flood risk to people, property, the environment as far as reasonably practicable, the assessment details how the digital terrain model of the site indicates that the flood waters within the site are not considered to form part of the natural flood plain or provide flood routing for the area. On the basis of the analysis presented this would appear to be correct and while the exact volume of flood waters that might theoretically be displaced by the development has not been quantified, the extent of new buildings on the site extends to c.3,000 sq. metres which at a mean flood depth of c.0.5 metre as per Table 3 of the SSFRA equates to c.1,500 cubic metres of storage. Existing ground conditions in terms of permeability will not change on foot of the proposed development and therefore while the exact impact of the development on properties up and downstream / flow of the site are not quantified in the SSFRA the effect is not considered likely to be significant. Items 2(ii) and (iii) of the justification test relate to measures to minimise the risk to people, property, the economy and the environment and that residual risks can be managed to an acceptable level. As set out in 7.5.4 above, the floor level of the existing and proposed buildings on site would be below the recommended minimum predicted 1 in 100 year flood level plus 0.5 metre climate change factor by 1.4 metres in the case of the existing building and 0.3 metres for the proposed new warehouse building. Given the nature of the proposed

activities and materials on site this extent of flood risk is clearly a serious issue and the proposed finished floor levels do not meet the recommended minimums set out in the SSFRA. Given the nature of the proposed use and the extent to which the existing building on the eastern lot is below the flood level, I am not convinced that the use of mitigation in the form of flood barriers and sand bags is appropriate to ensure the protection of the environment as far as reasonably possible. In my opinion, the only viable solution to ensure environmental protection would be the raising of the floor level of the buildings, however it is not clear from the information provided that the level of increase required could be incorporated into the design or that the proposed activities on site and deposition and collection of materials could be successfully undertaken with this increased floor level. For this reason, I do not consider that the proposed development has clearly demonstrated that the justification test as set out in the Flood Risk Management Guidelines has been met and, on the basis of the information available, I do not consider that the reason for refusal relating to flood risk has not been satisfactorily addressed.

- 7.5.8. On the issue of **site drainage**, Reason for Refusal No.3 attached to the Notification of Decision to Refuse Permission issued by the Planning Authority relates to the proposals for surface water attenuation and discharge from the site and specifically notes the absence of surface water attenuation calculations and lack of a surface water attenuation design or SuDS. In response to this reason for refusal, the first party states that a report relating to the calculations of surface water attenuation was prepared but was unintentionally omitted from the application and that this could have been provided as part of the response to further information. As part of the appeal response, the Micro Drainage calculations for the surface water system were submitted. These calculations were not the subject of any specific comment in the response of the Planning Authority to the grounds of appeal. This report identifies the drainage calculations relating to the surface water pipe infrastructure and a proposed Drainage Layout Drawing is provided at Drg.3DA-107 Proposed Drainage Layout and Drg. IE1546-005 Proposed Stormwater Drainage Layout. From the Fire Water Risk Assessment provided at Appendix A4 of the EIAR it is stated that the existing attenuation capacity on the western part of the site is 150 cubic metres and that this is proposed to be converted to fire water attenuation as the gullies serving this tank are located such that they will be within the proposed new building. A new

attenuation tank to serve the western part of the site with a volume of 166 cubic metres is proposed. The eastern part of the site is currently served by an attenuation tank with a capacity of 283 cubic metres and this is proposed to be retained. From the information available on file, no clear justification for the capacity or design of these attenuation structures as requested in the report of the Water Services Section have been provided.

- 7.5.9. Appendix A4 of the EIAR relates to **fire attenuation** and the assessment identifies the main areas of fire risk as Bays 1 (brokerage waste comprising solvents, acids and chemicals) and bay 5 in Bay 5 in the existing building (waste oils). The capacity of the existing underground attenuation in the western area proposed to be converted to fire water retention is considered to be appropriate pivot barriers to control the discharge of fire water from within the buildings is proposed to be used. It's not clear how these barriers would operate or be fitted relative to the openings to adjoining bays.
- 7.5.10. Given the nature of the uses on the site and the fact that it is required to be impermeably paved, the site does not appear to be suitable to incorporate SuDS measures. Flow attenuation measures on the discharge from the underground attenuation areas are proposed to be incorporated.
- 7.5.11. In **conclusion on the subject of surface water** layout, attenuation and fire water, I note that the overall volume of surface water attenuation proposed equates to c.450 cubic metres. Notwithstanding the submission of the micro drainage calculations with the first party appeal, I do not consider that a clear basis for the proposed attenuation volume has been put forward and no detailed design of the storage areas as requested by the Water Services Section of the council has been submitted. Both of these issues are such that they could potentially be addressed by way of further information however it would be preferable that they would be addressed in advance of a decision being made. Regarding fire water and fire water retention, it is noted that the development will require a fire safety certificate from South Dublin County Council. The main issue arising therefore relates to the capacity for the retention of contaminated fire water on site in the event of an incident. This is significantly achieved in the case of Bay 1 in the western lot with the use of the existing surface water attenuation area as fire water storage however the position in the eastern lot is that water retention barriers to the entrances of the units

would be required. On the basis of the information presented, I am not clear how these would operate satisfactorily.

## 7.6. **Other Issues**

7.6.1. **Landscaping** of the site in the vicinity of the car parking area is proposed and is illustrated on the Site Layout Plan. The report of the Parks and Landscape Department considers that the landscaping proposals submitted are inadequate and recommends that in the event of a grant of permission conditions including a tree bond and requirement for the retention of an arborist, landscape architect / landscape designer and submission of a landscape design rationale would be attached. It should be noted that there are no existing mature trees located on the appeal site and the trees that are adjacent to the site boundary to the north are on third party lands. In the event of a grant of permission a condition requiring the submission of a more detailed landscaping plan for the eastern part of the site in the vicinity of the offices and parking could be attached. Given the nature of the use and the character of the site with very limited soft surfaces it is not considered that the retention of an arborist or a landscape architect / designer is appropriate.

## 7.7. **EIA**

### 7.7.1. **Introduction**

7.7.1.1 The application for permission is accompanied by an EIAR that is prepared under the provisions of the 2014 EIA Directive. The application does not specify what class of development for the purposes of Part X of the Planning and Development Regulations are applicable and which form the basis of the preparation and submission of the EIAR. Notwithstanding this, the nature of the application is such that it requires a licence from the EPA and given the fact that an EIAR has been submitted, it is a requirement that the Board consider the content of this document and make an assessment of the potential direct and indirect effects of the project under each of the individual factors of the environment and make a reasoned conclusion regarding these effects.

7.7.1.2 I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the appeal. A summary of the results of the submissions made by the Planning Authority, prescribed bodies and appellants has been set out at Section 6 of this report. The main issues raised specific to EIA can be summarised as follows:

- That the cumulative impacts of the proposed development, particularly with regard to noise and odours are not adequately addressed in the submitted EIAR.
- That the proposed development would be at risk of flooding and that this flood risk would have negative impacts on water quality given the hazardous nature of the material that is proposed to be accommodated on the site.
- That the design and layout of the surface water attenuation system on the site is inadequate and that there is therefore a risk of surface water flooding.
- That the nature of the proposed use and the potential for flooding is such that there is a risk of the release of contaminants into surface waters and potential adverse effects on the qualifying interests of European sites.
- That the provision for parking and circulation of vehicles within the site is inadequate.

These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation. I am satisfied that the EIAR has been prepared by competent experts.

7.7.1.3 The information contained in the EIAR and supplementary information generally adequately identifies and describes the direct and indirect effects of the proposed development on the environment. As will be outlined in the sections below, I note that there is no specific assessment of cumulative impacts of the proposed development and as discussed above at 7.3.5, while I note the comments made by the first party regarding the fact that the operation of the site will be the subject of licence which will set emission limit values, this does not in my opinion mean that some form of cumulative assessment would not be beneficial. I note the provisions of Article 94 of the Planning and Development Regulations which states that the EIAR shall contain the information specified at Paragraph 1 of Schedule 6 and ‘any

*specific information specified at Paragraph 2 of schedule 6 relevant to the specific characteristics of the development or type of development concerned and to the environmental features likely to be affected and methods of assessment*'. The information specified at Paragraph 2 includes at 2(e)(v) 'the Cumulation of effects with other existing or approved developments, or both, taking into account any existing environmental problems...'. In the circumstances of the appeal site and the proposed development, it is noted that the activity will need to be the subject of a licence by the EPA and that the relevant emission limit values will be set and enforced as part of any such licence. I also note the fact that the particular circumstances of the site, the proposed activity and its location are such that the potential cumulative impacts arising on sensitive residential receptors located outside of the business park lands can be adequately assessed. It is therefore my opinion that a cumulative assessment of impacts under each of the listed factors of the environment is not essential and that the omission of such an assessment does not mean that the submitted EIAR does not meet the requirements of the EIA Directive or Article 94 of the *Planning and Development Regulations, 2001*, as amended.

## **7.7.2. Assessment of Effects**

### **7.7.2.1 Population and Human Health**

The location of the site and nature of the proposed development is such that there are potential impacts for population and human health during the construction phase of the development due to noise and other emissions to air and more significantly during the operational phase where emissions to air, in particular noise and odours have the potential to impact negatively on surrounding populations and human health. In addition, the nature of the proposed use is such that there is a risk of fire that would potentially adversely impact on surrounding populations and property and discharges from the site on food of fire fighting water or flooding would also have potential negative impacts on human health arising from pollution of ground and surface waters.

Receptors for potential impacts on population and human health comprise surrounding commercial and industrial properties within the Greenogue Industrial

Estate and at a wider level the population centres of Rathcoole 2km to the south of the site and Newcastle c.1.5km to the west. The closest residential properties to the site are located c.420 metres to the west of the site on Aylmer Road.

Construction phase impacts on population and human health would arise from construction noise and dust primarily. The nature of the construction activity is such that subject to mitigation in the form of a construction and environment management plan it is considered that construction phase impacts on population and human health would be temporary moderate negative.

Regarding operational phase impacts, as detailed at section 7.7.2.3 of this report below under the heading of Land, Soil, Water, Air and Climate, the proposed activity on the appeal site will be the subject of a licence from the EPA which will contain emission limits in relation to noise, dust and odours which must be complied with in the development. As noted in 7.7.1 and 7.5 above, the submitted EIAR does not specifically address the issue of cumulative impacts under the heading of noise, dust and odours, however given the licenced nature of the activity proposed on site and the location of the site and relationship to sensitive receptors, an accurate assessment of the potential cumulative impacts on the environment and the resulting likely impact on population and human health can be undertaken.

On the basis of the information presented, it is not considered likely that the proposed development would have any significant impact in terms of noise, dust or odours on the main population centres of Rathcoole and Newcastle or on closer residential properties to the appeal site. Impacts arising at the site boundaries and the potential impact on the premises bounding and in close proximity to the site are not detailed in the assessment undertaken in the EIAR, and I do note that with specific regard to noise, the assessment presented indicates that it is not possible to provide detailed noise output data due to a remaining level of uncertainty regarding the exact specification of equipment proposed to be installed on the site and the final building layout, (see paragraph 7.2 of EIAR). A general assessment undertaken indicates a noise level of 65 dB LAeqT maximum is predicted for site boundaries at 10 metres from the noise source.

Fire risk and the management of this risk in terms of danger to surrounding properties and the retention of fire water on site is addressed in the EIAR



(Appendices A3 and A4). As discussed at section 7.7.2.3 of this report below under the heading of Land, Soil, Water, Air and Climate, in my opinion some uncertainty regarding the retention of fire water on site remains and the measures for protecting the site and activities on site from flood risk are also in my opinion a concern. Both of these issues have potential to impact negatively on surrounding populations arising from contaminated fire or flood waters.

Overall, on the basis of the information presented therefore, I do not consider it likely that there could be a significant permanent negative impact on population and human health arising from the proposed development, however there remains some uncertainty with regard to the vulnerability of the site to discharges of fire water and to the risk of flooding which has the potential to impact negatively on surrounding populations.

#### **7.7.2.2 Biodiversity**

Chapter 10 of the EIAR relates to Biodiversity. The bulk of the existing site is categorised as BL3 (Buildings and Artificial Surfaces) and are covered in hard surfaces in the form of buildings, roads / circulation or concrete aprons / yard areas. Other than a thin strip of re colonising bare ground that runs around the south east, east and north east boundary of the site and a scrub area between the existing building and the northern boundary of the site there is no habitat of any significance within the site. There are trees comprising ash and beach located on lands immediately adjoining the site to the south east, east and north. The EIAR indicates that there are no invasive species within the site and none were observed at the time of inspection of the site. No survey of species is detailed in the EIAR however given the nature of the site and from observations at the time of inspection I would agree with the comment at 10.3.4 of the EIAR that '*the likelihood of protected species within the site is very low*'. The proposed development will result in the removal of small areas of the existing vegetation on site and the area of scrub to the north of the existing building. The impact of the proposed development in terms of loss of species and habitats on site is considered likely to be very limited and I therefore agree with the conclusion of the EIAR that the overall impact on biodiversity within

the site arising from the proposed development would be a permanent imperceptible negative impact.

Chapter 10 of the EIAR makes reference to the Screening Assessment for Appropriate Assessment that was submitted with the application (Appendix 7) and to the conclusions of this assessment that the proposed development is not likely to have a significant effect on the conservation objectives of the Rye Water / Carton SAC, the Glenasmole Valley SAC or the Wicklow Mountains SAC. As discussed in more detail in section 7.8 of this report below, I would accept the conclusions reached in the screening assessment with regard to the likely significant impacts on the above three identified sites by virtue of their not being a clear pathway between the appeal site and these sites. I note and agree with the comments of the Planning Authority that the possibility of the development having an impact on the conservation objectives of a number of European sites in Dublin Bay, specifically the north and south Dublin Bay SAC sites, the North Bull Island SPA and the South Dublin Bay and River Tolka Estuary SPA sites should have been the subject of specific examination in the appropriate assessment screening undertaken. As set out in 7.8 below under the heading of Appropriate Assessment and 7.5 relating to Site Drainage and Flooding, the appeal site is located within the 1 in 100 year fluvial flood risk zone and by virtue of its proximity to and location within the catchment of the Griffeen River which is a tributary of the River Liffey, has a direct hydrological connection to Dublin Bay. On the basis of the information presented it is not considered possible to conclude that the proposed development would not have potentially significant effects on the above referenced European sites located in and around Dublin Bay and such that a Stage 2 Appropriate Assessment is considered necessary.

### **7.7.2.3 Land, Soil, Water, Air and Climate**

#### ***Land and Soils***

No additional lands are required to accommodate the proposed development and there will be minimal impact on soils or sub soils arising only from the excavation of the site for the construction of the new buildings and extension to the existing building. On completion of the development, the site will be impermeable and there

will be no emissions to the ground either from direct or indirect sources. There is however some potential for leakage of materials stored on site or contaminated fire water to seep into the ground in the event of an incident on site. Construction phase mitigation in the form of a Construction and Environmental Management Plan is proposed and operational phase mitigation in the form of impermeable surfaces, maintenance of these surfaces and an emergency response plan are also proposed. The conclusion of the EIAR that the proposed development would have a permanent slight negative impact on soils and no impact on bedrock is considered to be appropriate.

### ***Water***

The nature of the proposed development is such that during operation there is a risk of any flooding on the site having a significant negative impact on water quality due to the mobilisation of material stored at the site. The nature of the development is also such that there is a potential fire risk and the use of water to fight any fire would also result in potential water pollution. The nature of the use is such that the bulk of the site is hard surfaced and there are therefore issues of surface water management that arise. During construction, any emissions from construction equipment could have an impact on surface or ground water quality.

The appeal site is located within the catchment of the Griffeen River which is a tributary of the River Liffey and the closest watercourses to the appeal site are the Griffeen River which is located c. 140 metres to the south at the closest point, and the Baldonnell Stream which is located c.110 metres to the south and which flows into the Griffeen River.

As set out in section 7.5 of this report above under the heading of surface water and flooding, the appeal site is located such that part of the site is within the 1:100 year flood zone for fluvial flood risk. Chapter 9 of the submitted EIAR relates to water and Appendix 6 contains a Site Specific Flood Risk Assessment. This assessment identifies that the fluvial flood levels in a 1 in 100 year flood event are expected to be c.86.4 metres OD Malin and that with account of 0.3 metres for climate change factors, there is a requirement to design to a level of 86.7 metres OD. This compares to existing and proposed FFLs respectively on site of 85.4 and 86.5

metres OD and are such that there is a significant risk of the proposed hazardous waste bays being inundated in the event of a flood event. I note the concerns expressed by the Planning Authority with regard to flood risk at this site and the fact that it is considered appropriate that an excess of 500mm above the predicted flood level would be required. On the basis of the information presented, and having regard to the nature of the proposed use of the site, I consider that this is an appropriate requirement. I also note the fact that the Planning Authority identify that the floor levels of the proposed development do not meet the predicted flood levels on site with account for headroom as recommended in the Site Specific Flood Risk Assessment. As discussed in Section 7.5 above, I do not consider that the alternatives proposed in the form of flood gates and / or the use of sand bags are clearly sufficiently robust to result in adequate protection from flooding and flood risk.

With regard to surface water drainage, the application details did not include details of the surface water drainage capacity and requirements for attenuation. Some additional detail has been submitted as part of the first party appeal, however I do not consider that the design and capacity of the surface water attenuation proposals have been sufficiently justified in the information presented.

The storage of fire water on the site is referenced in Chapter 9 of the EIAR and in Appendices A3 and A4 which comprises a Fire Risk Assessment and a Fire Water Risk Assessment. This assessment indicates that the conversion of the existing surface water attenuation tank in the western part of the site to provide for fire water attenuation within the new building, combined with a 350mm high pivot barrier at the entrance to Bay 1 is adequate to meet fire water attenuation requirements. On the eastern side of the site, a 550mm high pivot barrier is proposed to be installed to Bay 5 in the extended existing building to mitigate the potential impact of fire water in this location. Any excess not capable of being retained by this barrier would flow into the surface water attenuation system in the eastern yard. As stated in Section 7.5 of this report above, I do not consider that adequate detail regarding the design, layout and operation of these pivot barriers has been submitted such as to clearly indicate how they would successfully operate to mitigate the contamination of surface and ground waters in the event of a fire incident.

On the basis of the information presented, I consider that the operational phase of the proposed development has the potential to have a significant negative impact on water quality arising from potential flooding and the potential for fire water to be discharged from the site in the event of an incident.

### ***Air***

The nature of the proposed development with the storage of hazardous material on site and the activities proposed, including the oil refining plant and treatment of sewage sludge is such that emissions to air in the form of noise, dust and odours are potentially significant impacts arising.

An issue arising in the assessment of all three impacts on air is that which forms the basis of Reason for Refusal No.2 issued by the Planning Authority is the absence of a clear cumulative assessment of impacts within the EIAR and particularly with regard to cumulative noise, and odour impacts.

I recognise the fact that the activity proposed on site will require a licence from the EPA and that therefore issues relating to the control of emissions from the development by way of condition are not a consideration for the Board. The Board is however required to consider whether refusal of permission on the basis of the potentially significant negative impact on the environment is justified.

In the case of the proposed development, the existing facility of the subject of sampling for noise and dust and the results of the noise surveys recorded for existing locations N1, N2, N3 and NSL1 which is the closest residential receptor to the appeal site. I note that no specific assessment or modelling of the likely future noise impacts has been undertaken and that, as stated at 7.2 of the submitted EIAR, there is some uncertainty regarding the modular units proposed to be used in the development and with regard to the final building layout and that as a result it is '*not possible at this stage to present detailed noise output data*'. A basic analysis of the impact of the noisiest operations proposed which are the aqueous waste processing and oil treatment process (Bays 5 and 6) is presented in the EIAR which are indicated as having a maximum output of 75 dB(A). This is predicted to reduce to c.65 dB(A) at the site boundary and then to c.45dB(A) at 100 metres from the boundary without attenuation. With attenuation due to buildings, it is estimated that

the proposed development would not be audible at the fringes of the business park and inaudible at the closest residential noise sensitive locations. While not precise in terms of noise generating equipment or plant, or making specific account for cumulative noise impacts, I consider that the basic analysis presented is consistent with normal noise propagation. The nature of surrounding uses is such that cumulative noise is not likely to be a significant element in the overall noise impacts and certainly not at the closest residential NSLs identified. A potential operational phase noise level of 65 dB(A) at the site boundary as cited in the submitted noise assessment would not likely impact significantly on adjoining premises given the layout of the surrounding sites and nature of these adjoining uses although it is noted that the distribution facility located immediately to the north of the site also operates on a 24 hour basis. As with odour, noise emissions will be specified in the Industrial Emissions licence that will be required to be obtained from the EPA and, given the licensable nature of the activity, I do not consider that there is any clear basis relating to noise on which permission should be refused by the Board.

- 7.7.3. The nature of the waste materials proposed to be accepted at the site and the activities proposed to be undertaken on site are such that there is significant potential for the release of **odours**. In particular, the proposed de asphaltting and fractionising columns proposed to be installed have the potential to result in odours. A new odour control system is proposed to be installed at the site and this system, which would serve Bays 5 and 6, is detailed at Appendix 1 of the submitted EIAR. The system proposes the maintenance of a negative air pressure in these bays and is stated to be designed to deal with an odour concentration of 600 odour units per cubic metre. Odour dispersion modelling from this proposed stack has been undertaken, and this indicates that the maximum odour impact will be at location R4 where the predicted odour level would be approximately half the normal EPA limit of 1.50 QueM-3. The analysis presented does not make any reference to cumulative odour impacts, however there are no existing operations in the vicinity of the site that have a significant odour impact. On the basis of the information presented, the likelihood of the proposed development having a significant negative impact in terms of odour levels at adjacent commercial / industrial sites or at residential receptors is considered to be limited and I do not consider that there is any clear basis relating to odours on which permission should be refused by the Board.

The information presented in Chapter 11 of the EIAR indicates that existing **dust** monitoring on the existing site (eastern lot) shows that the highest reading recorded at DS-04 (227ug/m<sup>2</sup>/day) is well below the normal EPA limit of 350 ug/m<sup>2</sup>/day with the levels recorded at the other three monitoring locations significantly lower than DS-04. The new development on site, and particularly the boiler stack connected with the flash distillation, de asphaltting operation and fractionating columns will result in new emissions and potentially increased dust deposition and these impacts are not specifically assessed in the EIAR. Such new operations may have an impact on dust emissions to the adjoining site to the north, however any activity permitted on the site would have to meet the 350 ug/m<sup>2</sup>/day limit at the site boundaries that would likely be specified in any EPA licence issued. On the basis of the information presented it is not possible to clearly determine whether or how easily this standard could be met.

### ***Climate***

The proposed development would have an impact on climate arising from direct impacts due to emissions from the gas fired boiler on site and the increased energy demand arising from the new operations on the site including the waste oil recovery and oil refining. Against this, the increased capacity and volumes of materials / deliveries imported into the facility will result in a reduction in traffic volumes, albeit that the size of vehicle will increase. Overall, it is considered that the proposed development would have a slight negative impact on climate.

## **7.7.2.4 Material Assets, Cultural Heritage and the Landscape**

### ***Material Assets***

The proposed development would have the potential to result in increased **traffic** flows to the site as the existing facility is operating at significantly below the 95,000 tonnes per annum limit specified in the existing licence for the facility. The application states that the proposed development will not accept in excess of the 95,000 tonnes per annum figure however, on the basis of the information presented,

the level of trips to and from the site is anticipated to be c.66 percent of the existing volumes and c.33 percent of the authorised capacity at the site. It should however be noted that while the overall number of trips would be reduced, the average payload and therefore size of vehicle (in particular delivering to the site) would likely significantly increase. The construction phase of the development will result in some increase in traffic however the volume of construction traffic movements is not quantified in the EIAR. On the basis of the information available, it is considered that the impact of the development in terms of traffic will be slight negative during the construction phase and slight positive during the operational phase.

The nature of the proposed development may be considered to have potential impacts on the ***use and value of surrounding sites*** and lands, however as detailed under the heading of Air, the proposed development is not considered to be a clear source of nuisance to local amenities, would be subject of licence from the EPA and is not therefore considered likely to have significant negative impacts on the surrounding properties.

Some additional ***employment*** would potentially be generated at the site on foot of the proposed development. As set out under the heading of Traffic, no clear numbers of persons based at the site is presented in the application documentation / EIAR, however information presented at pre application stage indicates that the numbers employed on site would increased from c.12 currently to c.25. The proposed development would therefore have a permanent slight positive impact on socio economic activity and employment.

### ***Cultural Heritage***

The proposed development requires the excavation of foundations for the construction of the proposed new buildings and extension of existing buildings and the installation of a new / extended surface water attenuation system. There is therefore the potential to impact on any ***archaeological material*** that may be present on the site.

There is no record of any monuments or archaeological features within or in close proximity to the site and the closest recorded monument to the site is c.1km from the site boundary. No protected structures or other features are located on or in close



proximity to the site and no significant cultural heritage associations with the site are apparent. Regard also needs to be had to the existing developed nature of the site and surrounding lands which may have disturbed any features where historically may have been present.

No specific mitigation measures relating to cultural heritage or archaeology are proposed to be implemented, however on the basis of the information available and having regard to specifically to the location of the site and the nature of the proposed development, it is not considered likely that the proposed development would have any impact on archaeological, architectural or other cultural heritage features.

### ***Landscape***

The site is located within an existing developed industrial area and is surrounded on all sides by existing developments. The scale of the proposed new development on the site is such that the buildings would not be visible from a wider area however there may be some local landscape and visual impacts arising.

The appeal site is located within the Newcastle Lowlands however the nature and location of the site and the scale of development proposed is such that there would be no clear views of the development from the wider area outside of the Greenogue Industrial Estate and therefore material impact on the landscape character of the area. At a local level, the new building in the western part of the site would have some potential impact on surrounding sites, however the high boundary walls and nature and layout of the surrounding developments are such that no significant visual impacts would arise. The de-asphalting and fractionating columns and odour control unit on the western elevation of the existing building would have some potential additional visual impact, however the height of these structures at c.16 -17.4 metres above ground level is only a maximum of 3 metres above the maximum height of the building and not therefore such as to have a significant visual impact. These structures would also be screened further reducing their visual prominence. The new office building and car parking area would not be significant visual features in the context of the existing environment.

Overall, I agree with the conclusion reached at section 13.8 of the submitted EIAR that the proposed development would have a permanent neutral impact on the existing landscape character of the area.

#### 7.7.4. Reasoned Conclusion

7.7.5. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submission from the Planning Authority, prescribed bodies and appellants in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are and will be mitigated as follows:

- Emission of **dust and odours** from the development that will be mitigated by the installation of an odour abatement system within bays 5 and 6 and a silo control system in bay 6.
- Emission of **noise** that will be mitigated by the undertaking of activities within the buildings with the exception of the operation of the de asphaltting and fractionating columns, by the significant separation between the site and the nearest noise sensitive locations (c.380 metres at the closest point) and by the attenuation resulting from the nature of the site boundaries and surrounding buildings.
- The liability of the site to **fluvial flooding** and the resulting risk of mobilisation of hazardous products stored on site and resulting contamination of ground and particularly surface waters which will not be adequately avoided, mitigated or otherwise addressed by means of condition.

It is considered that the inability of the proposed measures to fully mitigate the impact of flooding are such that, notwithstanding the benefits of the proposed development, refusal of permission is justified.

## 7.8. Appropriate Assessment

### ***Appropriate Assessment - Screening***

- 7.8.1. The appeal site is located within an existing industrial estate and the activity currently undertaken at the site (Nos. 14A and 14B) comprises the processing of non hazardous waste in the existing building located on the eastern side of the site (eastern lot) with the western side of the site currently used for storage purposes. The proposed development comprises the construction of a new waste processing facility for the handling of hazardous wastes on the western side of the site and the conversion and expansion of the existing non hazardous waste facility on the eastern side of the site for the handling of hazardous wastes. The nature of wastes proposed to be accepted at the site comprise a range of household and commercial hazardous wastes up to a maximum of 95,000 tonnes per annum. Materials to be accepted include chemicals / packaging waste, asbestos, batteries, aqueous wastes, contaminated soil, sewage sludge, waste oil and oil refining. A de asphaltting plant is proposed as part of the redevelopment, fitted with an 18 metre high stack. The facility is proposed to operate 24 hours a day seven days a week.
- 7.8.2. The site is not located in or close to any European sites. The closest European sites are the Rye Water / Carton SAC which is located c.6km to the north of the site, the Glennasmole Valley SAC which is located c.8km from the site to the south east and the Wicklow Mountains SAC which is located c. 9.5km to the south east of the site. These three sites and a description of their qualifying interests and conservation objectives are set out in the Appropriate Assessment Screening Report submitted with the application.
- 7.8.3. The nature of the proposed development is such that the operations of the site could lead to emissions to the foul and surface water drainage systems or in the case of fire and the introduction of fire water or in an instance of flooding at the site, there could be potential for the mobilisation of hazardous waste material stored at the site and its discharge off site in surface water or overland surface water flows. The nature of the material to be processed at the site is such that there is an element of fire risk which would result in emissions of potentially polluting material to the air and in the normal operation of the plant, there is potential for there to be emissions of odours and contaminants to the atmosphere and for the generation of noise.

- 7.8.4. The Screening Report submitted identifies that there are no clear pathway between the appeal site and the above three identified sites, namely the Rye Water / Carton SAC, the Glenasmole Valley SAC and the Wicklow Mountains SAC and I would agree with this assessment. Having regard to the location of the site, the nature of the proposed development and likely emissions, the separation of the appeal site from the above identified European sites, the qualifying interests and conservation objectives for these sites and the lack of clear ground, surface or airborne pathways to the sites, I do not consider that the proposed development is likely to have a significant effect on the Rye Water / Carton SAC, the Glenasmole Valley SAC or the Wicklow Mountains SAC European sites having regard to their conservation objectives
- 7.8.5. I note that the decision issued by the Planning Authority states that the screening report does not adequately address the potential impacts on all Natura 2000 sites and therefore cannot rule out likely significant effects and that therefore a Stage 2 assessment is required. The concerns of the planning authority relate to a potential hydrological connection to Dublin Bay via the River Liffey and tributaries. In this regard, the site is located such that the Griffeen River is located c.140 metres to the south of the site and the Baldonnell Stream is located c. 110 metres to the east. Both of these watercourses are tributaries of the River Liffey which discharges to Dublin Bay within a number of European sites. As set out at section 7.5 of this report above under the heading of Site Drainage and Flooding, the appeal site is located within the 1 in 100 year flood zone, and the nature of the flood risk as per the modelling exercise undertaken and submitted as Appendix 6 of the EIAR is such that there is potential for the water level on site in such a flood event to reach 86.4 metres OD Malin. This flood level is c.1 metre above the floor level of Unit 14A and allows only a 0.1mm headroom to the floor level of the proposed Unit 14B. In view of the potential for the development to be inundated in 1:100 year flood events, to the nature of the material proposed to be accepted and processed at the site, to the consideration of the potential effects in the absence of mitigation and to the potential for flood waters to reach the Griffeen River and Baldonnell Stream in such flood events, it is my opinion that there is a potential hydrological connection between the appeal site and the European sites within Dublin Bay. These sites and their conservation objectives are as follows:

### ***South Dublin Bay and River Tolka Estuary SPA (site code 004024)***

The conservation objectives for this site are to maintain the favourable conservation condition of the following species and habitats (qualifying interests):

- Light bellied Brent Goose
- Oystercatcher
- Ringed Plover
- Grey Plover
- Knot
- Sanderling
- Dunlin
- Bar-tailed Godwit
- Redshank
- Black-headed Gull
- Roseate Tern
- Common Tern
- Arctic Tern
- Wetland and Waterbirds

### ***South Dublin Bay SAC (site code 000210)***

The conservation objectives for this site are to maintain the favourable conservation condition of the following species and habitats (qualifying interests):

- Mudflats and sandflats not covered by sea water at low tide,
- Annual vegetation of drift lines,
- Salicornia and other annuals colonising mud and sand,
- Embryonic shifting dunes.

***North Bull Island SPA (site code 004006)***

The conservation objectives for this site are to maintain the favourable conservation condition of the following species and habitats (qualifying interests):

- Light-bellied Brent Goose
- Shelduck
- Teal
- Pintail
- Shoveler
- Oystercatcher
- Golden Plover
- Grey Plover
- Knot
- Sanderling
- Dunlin
- Black-tailed Godwit
- Bar-tailed Godwit
- Curlew
- Redshank
- Turnstone
- Black-headed Gull
- Wetland and Waterbirds

***North Dublin Bay SAC (site code 000206)***

The conservation objectives for this site are to maintain the favourable conservation condition of the following species and habitats (qualifying interests):

- Mudflats and sandflats not covered by seawater at low tide

- Annual vegetation of drift lines
- Salicornia and other annuals colonising mud and sand
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
- Mediterranean salt meadows (*Juncetalia maritimi*)
- Embryonic shifting dunes
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)
- Fixed coastal dunes with herbaceous vegetation (grey dunes)
- Humid dune slacks
- *Petalophyllum ralfsii*

Given the nature of the flood risk on the appeal site, the materials proposed to be accepted and processed at the site and the presence of a surface water pathway between the appeal site and these sites, on the basis of the information presented which does not include a Stage 2 appropriate assessment and in the absence of mitigation, it is not possible to conclude that the proposed development would not have potential significant effects on the above European sites, having regard to their conservation objectives. In such circumstances the Board is precluded from granting permission.

In particular, I note the potential impact of contaminants originating on the appeal site being mobilised by flooding of the site contaminating feeding sites within the two SPA sites (South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA) and vulnerable habitats within the North and South Dublin Bay SAC sites.

- 7.8.6. On the issue of a Stage 2 Appropriate Assessment I note the comments of the first party appellant contained in the appeal and specifically the case that the order does not set out a rationale for not requesting a Stage 2 Appropriate Assessment and that the decision is contrary to Circular NPW1/10 and SSP 2/10 which states that in relation to requests for the carrying out of screening, the consent authority may need to seek additional information from the applicant and that the consent authority will inform the applicant if an AA will be necessary. These comments are noted however the first party did not avail of the opportunity presented by the appeal to prepare and

submit a Stage 2 Appropriate Assessment to address the issues arising. In view of the other reasons for refusal relating to flood risk and drainage, I do not consider it appropriate that the first party be afforded the opportunity to prepare and submit a Stage 2 AA by way of further information, however, in the event that the Board do not accept the recommendation for refusal of permission for the substantive reasons relating to flood risk and surface water drainage, it may consider it appropriate to invite the first party to prepare a Stage 2 Appropriate Assessment which addresses the impacts on the proposed development on the above sites.

## **8.0 Recommendation**

8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. Having regard to the location of the site within the 1 in 100 year fluvial flood risk zone and Zone A as defined in the Flood Risk Management Guidelines for Planning Authorities, 2009, to the nature of the proposed use on the site which constitutes 'vulnerable development' as defined in the same guidelines, to the information submitted regarding potential flood levels on the site submitted as part of the Site Specific Flood Risk Assessment and design of the proposed development including finished floor levels which are significantly below predicted flood levels, it is considered that the nature of the proposed use is inappropriate for a location such as the appeal site and is such that it is contrary to the principle set out in the guidance not to increase the level of vulnerability of use within flood risk areas and if possible to substitute uses that are less vulnerable within such locations. The proposed development would therefore be contrary to the justification test set out in the Planning System and Flood Risk Management Guidelines for Planning Authorities, would pose an unacceptable risk of environmental pollution which has not been adequately addressed in the submitted EIAR and would be contrary to the proper planning and sustainable development of the area.



2. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the South Dublin Bay and River Tolka Estuary SPA (site code 004024), the South Dublin Bay SAC (site code 000210), the North Dublin Bay SAC (site code 000206) and the North Bull Island SPA (site code 004006) in view of the conservation objectives of these sites and the hydrological pathway between the appeal site and these identified European sites. In such circumstances, the Board is precluded from granting permission.
  
3. On the basis of the information submitted with the application, (including absence of attenuation area design and calculations) the planning is not satisfied that the proposed surface water drainage and attenuation system proposed is adequate to manage surface water on the site and to protect and enhance surface water quality. In the absence of such information, the proposed development is considered to be contrary to Policy IE2 of the South Dublin County Development Plan, 2016-2022, and contrary to the proper planning and sustainable development of the area.

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**Stephen Kay**  
Planning Inspector

21th May, 2020