



Development

Minor modifications to the previously permitted applications An Bord Pleanála Ref. PL09.304672 (Kildare County Council Ref. 19/91) and An Bord Pleanála Ref. PL09.248582 (Kildare County Council Ref. 16/1229). The proposed minor modifications and reconfigurations comprise: (1) Alterations and reconfigurations to roof-mounted. (2) The addition of a steel framed service platform to allow access to 2no. previously permitted flue stacks to the roof of the Waste Water Treatment Building, The application also includes a proposed alteration to the existing Silane Pad, to replace exiting pad-mounted gas cylinders with removable gas trailer. This application consists of a variation to a previously permitted development for an activity for which a license under Part IV of the Environmental Protection Agency Act 1992 (as amended by the Protection of the Environment Act, 2003) is required.

Location	Collinstown Leixlip , Blakestown Kellystown , Collinstown Industrial Park
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	20333
Applicant(s)	Intel Ireland Limited.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Thomas Reid
Observer(s)	none
Date of Site Inspection	21 st October, 2020.
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on the Intel site in the Collinstown Industrial Park approximately 2.5 kilometres west of the town of Leixlip in north-east Kildare and approximately 18 kilometres west of Dublin City Centre. The Collinstown Industrial Park is located on the northern side of the R148 (Leixlip to Maynooth Road) and the Intel facility has a direct link onto the M4 Motorway at Junction 6 via the R449 which runs southwards from the facility. Louisa Bridge Railway Station is located to the east of the Intel site and the railway line runs in an east - west direction to the south of the site. To the west, the Intel site is bounded by Kellystown Lane, (L-1014) which links the R148 with the Confey Road, which runs in an east - west direction to the north of the site. The northern boundary of the Intel site runs adjacent to the River Rye which is a designated Natura 2000 site in the vicinity of the site.
- 1.2. The Intel site houses a number of manufacturing buildings (referred to in the documentation as FAB buildings) generally located centrally within the site. The site also accommodates an internal road hierarchy, surface car parking, water retention ponds, energy plant and control buildings, boiler rooms, chiller room and staff ancillary facilities. Three existing FAB buildings are present on site, FAB 10, 14 and 24, and construction has commenced on a new FAB building that was permitted under planning Refs. ABP-304672-19 (Kildare Co. Co. Ref. 19/91) and PL09.248582 (Kildare Co. Co. 16/1229).
- 1.3. The area of the existing Intel site which is the subject of the current application is that at the western and north western end of the site and the application site has a stated area of 1.4 ha. It comprises part of the permitted manufacturing building currently under construction with a connection to the permitted waste water treatment building located to the north and to the silane storage area located approximately 200 metres to the east of the permitted manufacturing building.

2.0 Proposed Development

2.1. The proposed development comprises the following elements which comprise modifications to development permitted under An Bord Pleanála Refs. ABP-.304672-19 and PL09.248582 and incorporate the following specific elements:

- Alterations and reconfigurations to the roof mounted service ducting on the permitted manufacturing building. These alterations would result in the overall height of the buildings increasing by between 3 and 6 metres.
- The addition of steel framed service platform to allow access to the 2 no. previously permitted flue stacks to the roof of the permitted waste water treatment building. These platforms are proposed to measure c. 6.6 metres wide, 11.5 metres in length and to be approximately 8.6 metres in height above the finished roof level.
- Alterations to the existing silane pad comprising the replacement of the existing pad mounted gas cylinders with a removable gas trailer.

2.2. The rationale for the proposed development as set out in the application documentation states that the modifications to the FAB building currently under construction and to the wastewater treatment building have arisen on foot of the detailed design work undertaken for the project in the period since An Bord Pleanála granted permission. The detailed design changes to the roof of the manufacturing building are stated to be necessary for the manufacturing process and arise from detailed design changes since the original applications were lodged, and the service platform to the flue stacks on the wastewater treatment building are stated to be required for maintenance access and also for health and safety purposes. The modifications at the silane pad are stated to be to ensure resilience in supply.

2.3. The application documents indicate that the proposed development will not result in any additional production capacity or floor area and that there will not be any additional emissions generated by the proposed alterations.

2.4. While the development which is proposed to be modified on foot of the current application was the subject of EIA, the current application is not accompanied by an EIAR. The application is however accompanied by a number of specific reports as follows:

- Planning Report, prepared by AOS Planning, dated March, 2020. This report includes consideration of issues related to surface water drainage, noise, air quality, waste management and landscape and visual impact. Photomontages of the proposed development are included.
- Appropriate Assessment Screening Report, prepared by Scott Cawley, dated 27th March, 2020.
- Comah Land Use Planning Assessment of Additional Silane Tube Trailer at Intel Ireland Ltd, prepared by awn Consulting, dated 13th March, 2020.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 3 no. conditions that can be summarised as follows:

Condition No.1 requires that the development shall be carried out *'in accordance with the plans, particulars and mitigation measures included in the Natura Impact Statement received by the Planning Authority on 31st March, 2020'*.

It should be noted that the document submitted with the application is an Appropriate Assessment Screening Report and not a Natura Impact Assessment as referred to in Condition No.1.

Condition No.2 states that the permission shall expire at the same date as the parent permission for the development of the development of this part of the site (Ref. ABP-304672-19 is referred to). i.e. 20th November, 2029.

Condition No.3 requires that the development shall be carried out in accordance with the conditions of the parent permissions issued by An Bord Pleanala, namely Refs. ABP-304672-19 and PL09.248582.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning officer notes the internal reports and third party submission received. The planning officer's assessment states that the alterations are considered to be consistent with the zoning objective of the site and to have a minor impact that would not result in any significant new visual impacts. The development is considered to be acceptable from a noise and surface water perspective and that the proposed development would not adversely affect the integrity of any European site, (it is noted that the wording for a Stage 2 appropriate assessment is used). A grant of permission consistent with the Notification of Decision to Grant Permission which issued is recommended.

3.2.2. Other Technical Reports

Fire Officer – No objections.

Environmental Health Officer – No objections subject to conditions.

Area Engineer – No objections subject to conditions.

Water Services – No objection.

3.3. Prescribed Bodies

Health and Safety Authority – Report states that, on the basis of the information supplied, the Authority does not advise against the granting of planning permission.

Irish Water – No objection.

It is noted that the Planning Authority referred the application to the following bodies / organisations but no response was received:

- Development Applications Unit - The Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.
- Environmental Protection Agency,

- Fingal County Council,
- Health Service Executive,
- Inland Fisheries Ireland.

3.4. **Third Party Observations**

A single third party observation was received by the Planning Authority which, in summary, raised the following issues:

- Development contrary to the Habitats Directive and Seveso Directive.
- That there would be potential significant impacts on the Rye Water Carton SAC,
- Potential impact on protected structures,
- Emissions from the development to air,
- Negative impacts on health and safety.

4.0 **Planning History**

The following planning history is noted and considered to be of relevance to the assessment of this case:

Kildare Co. Co. Ref. 19/1339 – Permission granted by the Planning Authority for modifications to the permitted ASU's (Air Separation Units) tank and equipment installations permitted under An Bord Pleanala Ref. ABP-304672-19 (Kildare Co. Co. Ref. 19/91). .

Kildare Co. Co. Ref. 19/1054 – Permission granted by the Planning Authority for development including the removal of an existing earth and stone mound (measuring approximately 300m by 150m by 18 m) and comprising 380,000 cubic metres of inert waste located between Fabs 10, 14 and 24 and the River Rye Water. The construction of a new yard area in this location for site support systems including stacks, tanks, electrical buildings and support structures, with a maximum height of 43 metres (air separation unit).

Kildare Co. Co. Ref. 19/91; An Bord Pleanála Ref. ABP-304672-19; Permission granted by the Planning Authority and decision upheld on appeal to the Board for the development of an extended and revised manufacturing facility (Granted previously under Reg. Ref. PL09.248582) including reconfigured and extended buildings, water tanks, manufacturing utility support buildings, building links and yard equipment, road works and new mobility centre building, new air separation units and other ancillary works. This is one of the permissions for which alterations to the design is sought in the current application and construction on foot of this permission is currently being undertaken on site.

Kildare Co. Co. Ref. 16/1229; An Bord Pleanála Ref. PL09.248582 – Permission granted by the Planning Authority and decision upheld by the Board for development comprising the following:

- Revised design and configuration of previously permitted manufacturing building over four levels with a total floor area of 88,740 square metres.
- A revised design and configuration of previously permitted utility support buildings consisting of:
 - Two-level boiler and chiller building and associated roof mounting cooling towers.
 - A two-level water treatment building.
 - A two-level wastewater treatment building.
 - Single-storey electrical support buildings.
 - A two-level air compressor building.
 - A previously permitted multi-storey car park providing space for 2,200 cars.
 - Previously permitted chemical store and five water tanks 7 metres in height and 32 metres in diameter.
 - Other ancillary works including new underground utilities, landscaping, fencing, screening berms etc.

An Bord Pleanála Ref. ABP-304862-19 – Permission granted by the Board to Eirgrid for the construction of a 220kv gas insulated switchgear substation, 2 no. 220kv underground circuits forming a loop in / loop out connection to the existing Maynooth to Woodland 220 kv overhead line and 6 no. 220kv underground circuits and associated low voltage cabling connecting the proposed substation to transformers within the Intel Ireland facility. This permission was granted under the SID legislation.

A complete planning history of the site is given in Appendix 3 of the Planning Report submitted with the application.

5.0 Policy Context

5.1. Development Plan

Kildare County Development Plan, 2017-2023

Leixlip is identified as a Large Growth Town II in the *Kildare County Development Plan, 2017-2023*. The town is therefore envisaged as acting as an important regional economic driver. The Economic Strategy for County Kildare identifies Leixlip as a primary growth town to promote regional enterprise and it forms part of an economic cluster in north east Kildare with Maynooth, Celbridge and Kilcock.

It is the policy of the council to support the development of the identified strategic growth centres, including Maynooth and Leixlip as regional employment growth centres (Policy CS5), to encourage and facilitate new employment opportunities within economic clusters (Policy CS6), to promote and attract economic activity at appropriate locations throughout the county (Policy CS8) and to develop north Kildare as a digital economic hub and employment hub (Policy EO4).

The County Development Plan also contains relevant policies and objectives with regard to the following:

- Landscape Character Areas (section 14),
- Protection of Natura sites (Policy NH4 – NH6) and Natural Heritage Areas (Policies NH7-NH9),
- Protection of scenic routes and views (Section 14.6) and Policies regarding Major Accident Hazards and SEVESO sites (Policies ECD21 and ECD22).

Leixlip Local Area Plan, 2020-2023

The appeal site is located on lands that are zoned Objective H (Industry and Warehousing) under the provisions of the LAP with the stated Objective ‘*to provide for industry, manufacturing, distribution and warehousing*’.

Policy EDT1 states it is the policy of the Council to support the development of Leixlip as an enterprise and employment hub for north-east Kildare.

Objective EDT01.3 seeks to facilitate the expansion of industries in Leixlip, taking full account of the obligation under the Habitats and Birds Directive and to the sensitivities of the receiving environment, including ensuring that proposals for development that could potentially affect the integrity of the Natura 2000 network, will only be approved if it can be ascertained by means of an appropriate assessment or other ecological assessment that the integrity of these sites will not be adversely affected.

Policy EDT01.5 seeks to have regard to the following in assessing applications for development (including extensions in the vicinity of the Intel Seveso site).

- (a) Major Accidents Directive (Seveso III Directive 2012/18/EU).
- (b) The potential effects on public health and safety.
- (c) The need to ensure adequate distances between such developments and residential areas, areas of public use and other areas of sensitivity.
- (d) The advice of the Health and Safety Authority.

In terms of energy supply and communications the Plan notes that transmission lines in the area are double circuited 110 kV lines including associated loops serving Hewlett Packard and Intel. Upgrades to the transmission network to serve these major industrial connections are planned.

Section 11.2 of the local area plan relates to green infrastructure. It notes that, in addition to the Rye Water Valley/Carton SAC, Liffey Valley and Royal Canal, woodlands, hedgerows, treelines, watercourses and extensive areas of grassland within the farmlands of Collinstown and Confey, in Saint Catherine's Park, Leixlip Manor, Leixlip Castle, Barnhall and the surroundings of the commercial grounds of Intel and Hewlett Packard all provide excellent habitats which are interlinked and support widespread habitat connectivity across the study area and contribute to the green infrastructure network of Leixlip.

5.2. **Natural Heritage Designations**

The site is not located within any European sites. The closest European site to the appeal site is the Rye Water Valley / Carton SAC which is located to the immediate north of the Intel site. This SAC is located within c.100 metres of the appeal site at the closest point. There are no other European sites within a 15km radius of the appeal site.

5.3. **EIA Screening**

The form of development proposed, which comprises modifications to a permitted facility for the manufacture of integrated circuits and circuit boards, does not fall within any of the classes of development specified under Part 10 of the Planning and Development Regulations 2001 (as amended). The proposed development is not therefore of a class and does not therefore require EIA. Notwithstanding this, the form of development proposed is minor with no additional production floor area or capacity proposed and is not therefore such that it would meet the provisions of Class 13 of Part 2 of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended).

It is noted that in the case of Ref. ABP-304672-19 for the expansion of the previously permitted FAB building, that, notwithstanding the fact that the development proposed was not considered to be of a class for the purposes of EIA, an EIAR was submitted and the proposed development was the subject of EIA on the basis that the nature and scale of the proposal were considered to be such that it would have potentially significant impacts on the environment.

In the case of the subject proposal, having regard to the limited scale and nature of the proposed development which would not result in the addition of any productive floorspace or increase in capacity or output from the development, the fact that there would not be any appreciable change in emissions from the development and to the nature of the receiving environment and separation from the nearest sensitive receptors there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

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

- That there are a number of EU directives that override the Kildare County Development plan and other national planning policy.
- That the current application is part of a modification of 19/91 which also includes 16/1229 and that 19/91 is currently under judicial review.
- That 16/1229 was formally a project splitting of 19/91 along with application ABP-304862-19 by Eirgrid.
- That oral hearings have been requested in all three cases (304672, 248582 and 304862) but have not been granted.

- That the Environmental Assessment and reports in connection with the following cases have been the subject of '*rigging and massaging*'. KCC 19/1054, KCC 19/91 ABP 304672-19, (Eirgrid), ABP 304862-19, KCC 16/1229 ABP PL09246905, KCC 12/406 ABP PL09.246905, KCC 12/435 ABP PL09.241071 and KCC 20/333 are all relevant under this planning application KCC 20/333.
- That the proposed development has impacts on the Rye Water Valley Carton SAC.
- That all documents have not been made available by the applicant.
- That there would be major impacts on the landscape, architectural and cultural heritage and protected structures in the area.
- That there is a major risk to health and safety.
- That there would be major impacts on air from chemical processing.
- That there would be major impacts on European sites, NHA and SAC.
- Major impacts on roads.
- Project splitting.
- That the constructors and suppliers to the developments on site should be made liable.
- A number of documents submitted with the appeal:
 - Newspaper article from Irish Independent June 20, 2020, '*Intelligence Report Russia Paid Taliban to Attack Troops 'not credible – Trump*'. Intel quoted as the source for the statement that the involvement of Russia was not credible.
 - Online article titled '*Amazon, Microsoft and Intel may be putting world at risk through killer robot developments*'.
 - Article from Liffey Champion relating to sculpture commissioned by Intel to celebrate 30 years in Leixlip that is currently in a car park in the town. Associated photographs from the paper also submitted.

- Article from the Guardian Newspaper 1 August, 2019 '*Tsunami of Data could consume one fifth of global electricity by 2025*'. Appellant contends that first party is a demanding customer who uses significant amount of electricity. Call for Ref. ABP-304862-19 to be annulled as no oral hearing took place. Ref. 20/333 should be refused and Ref. 19/91 which includes Ref. 16/1229 should be annulled. The EPA licence should be withdrawn and the site closed.
- That the site is '*an environmental disaster site*' and permission should be refused.

6.2. Applicant Response

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

- That the appeal comprises generalised allegations regarding non planning matters as well as a statement that the proposed development will affect the environment. The response addresses the issue of the impact on the environment, it is for the Board to determine that acceptability of the other issues raised regarding the behaviour and character of the applicant.
- That the proposed development would not give rise to any material additional effects or emissions that could affect any aspect of the environment during either the construction or operation of the development.
- That the development would not include any additional operational or usable floorspace and consists of minor modifications of previously permitted work.
- That the other complaints made are non-specific and are grossly generalised, vague and so lacking in detail or evidence that they are very difficult if not impossible to respond to.
- It is further submitted that much of the appeal is vexatious and should be dismissed by the Board under s.138(1) of the Act.

- That the development is in accordance with the policies and objectives of the area.
- Compliance with EU Directives is an issue for consideration by the Board.
- That the application is a modification of two previous permissions (Refs. ABP-304672-19 and PL09.248582. Both of these permissions are valid and operative.
- That the application relates to minor modifications of permissions that were the subject of EIA. The proposed modifications are so minor that EIA was screened out. The issue of project splitting does not therefore arise.
- Regarding impacts on the Rye Water Valley / Carton SAC, the proposed development gives rise to no additional effects or emissions that could affect the SAC. This is addressed in the submitted AA Screening Report.
- Contrary to the statement of the appellant, the proposed development gives rise to no additional visual effects on protected structures or the landscape. This issue is addressed in section 5.8 and Appendix 4 of the Planning Report submitted with the application.
- Contrary to the statement of the appellant, the development would not give rise to any additional effects or emissions other than what is already permitted. This is specifically addressed in the submitted Land Use Planning Assessment (Seveso Report). The HSA did not object to the proposed development.
- That the appellant is incorrect to state that the proposed development would give rise to additional emissions to air from chemical process activity. No additional emissions over and above those previously permitted would arise.
- That the proposed development would give rise to any additional impacts on roads.
- That the application is for modification of permissions which were the subject of EIA. The proposed modifications are minor and such that the requirement for EIA was screened out.
- That the request for the withdrawal of the EPA licence is ultra vires the Board.

6.3. **Planning Authority Response**

The response received from the Planning Authority states that the council have reviewed the contents of the third party appeal and have no further comments to make. The Board is requested to uphold the decision of the Planning Authority.

6.4. **Further Responses**

Details of the application were referred by the Board to the following bodies:

- The Heritage Council,
- An taisce,

No responses to these referrals were received by the Board.

7.0 **Assessment**

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

- Principle of Development and Procedural Issues Raised
- Visual Impact and Impact on Protected Structures,
- Impact on the Environment and on Ecology
- Other Issues
- Appropriate Assessment

7.2. **Principle of Development and Procedural Issues Raised**

7.2.1. The appeal site is located on lands that are zoned Objective H (Industry and warehousing) under the provisions of the LAP with the stated Objective '*to provide for industry, manufacturing, distribution and warehousing*'. The nature of the proposed development which comprises a modification to a permitted industrial development on a site where there is an established industrial use is consistent with this zoning objective.

- 7.2.2. There are a significant number of policies, objectives and provisions of both the *Kildare County Development Plan, 2017-2023* and the Leixlip LAP that are supportive of the principle of the proposed development. The County Plan identifies Leixlip as a Large Growth Town II which is envisaged as acting as an important regional economic driver. It is the policy of the council to support the development of the identified strategic growth centres, including Maynooth and Leixlip as regional employment growth centres (Policy CS5), to encourage and facilitate new employment opportunities within economic clusters (Policy CS6), to promote and attract economic activity at appropriate locations throughout the county (Policy CS8) and to develop north Kildare as a digital economic hub and employment hub (Policy EO4). The proposed development, comprising modifications to a permitted industrial development at a significant employment and economic hub in the region is considered to be consistent with these provisions of the plan.
- 7.2.3. Similarly, it is considered that the principle of the proposed development is consistent with the provisions of the Leixlip LAP. Specifically, **Policy EDT1** states it is the policy of the Council to support the development of Leixlip as an enterprise and employment hub for north-east Kildare and **Objective EDT01.3** seeks ‘*to facilitate the expansion of industries in Leixlip, taking full account of the obligation under the Habitats and Birds Directive and to the sensitivities of the receiving environment*’. Subject to other relevant plan requirements including compliance with the Birds and Habitats Directives, it is considered that the proposed development is consistent with these provisions of the LAP.
- 7.2.4. Finally, it is noted that the principle of a new manufacturing building in the area of the appeal site and to which the proposed modifications relate has been accepted by the Board under Refs. ABP-304672-19 and PL09.248582 and that the form of development proposed is modifications of a permitted development within an existing industrial facility.
- 7.2.5. The third party appeal submitted by Mr Reid, raises a number of issues regarding the principle and context of the proposed development. I note the request by the first party that a number of these issues are general in nature, relate to non-planning matters and are such that they are very difficult to respond to. It is further submitted by the first party that much of the appeal is vexatious and that it should therefore be dismissed by the Board under s.138(1) of the Act. These comments of the first party

are noted, however I consider that the appeal raises a number of general issues that are valid grounds of appeal and are addressed in the sections below.

- 7.2.6. The appellant **states** that there are a number of EU directives that override the Kildare County Development Plan and other national planning policy. The implication, though not specifically stated, is that the proposed development may be consistent with provisions contained in the county development plan and the Leixlip LAP, but that it is inconsistent with EU Directives. No specific EU directives are referenced in respect of this statement by the third party appellant, however given the content of the rest of the appeal and the nature of the proposed development it is considered that relevant directives relating to the development are the EIA Directive, the Habitats and the Seveso III (Control of Major Accident Hazards Directive).
- 7.2.7. Compliance with the **Seveso III Directive** is referenced below under the heading of Impact on the Environment and Ecology. As set out in that section of the report, the potential impact of the proposed development on the scope of the directive lies in the addition of a silane tube trailer on the site and it is this modification to the permitted development which triggers the need to refer the project to the Health and Safety Authority (HSA) as the competent authority under the Seveso Directive. The proposed modification to be undertaken comprises the replacement of the existing fixed saline containers that can be seen in the photographs attached with this report, with a larger mobile container and the risk profile of the site would potentially change. There is a submission on file from the HSA stating that they '*do not advise against*' the proposed development. The response of the HSA therefore supports the conclusions of the COMAH Land Use Planning Assessment submitted by the first party as part of the application which concludes that the risk based land use planning zones are confined within the site boundary and that the level of individual risk of fatality on site and off site is acceptable. On the basis of the information available therefore I consider that the proposed development is consistent with the requirements of the Seveso III Directive.
- 7.2.8. With regard to the **Habitats Directive**, Section 7.6 of this report below sets out a Screening Assessment for AA. This assessment concludes that the proposed development is not likely to have significant effects on any European sites, and specifically the River Rye Water Carton SAC site, in light of their conservation objectives. I do not therefore accept the contention of the third party appellant that

the proposed development would have significant effects of the River Rye Water SAC site or that the development would be contrary to the provisions of the Habitats Directive. The existing permissions on the site were also the subject of screening assessments and Stage 2 Appropriate Assessment and these assessments concluded that the proposed development would not have an adverse effect on the integrity of the River Rye Water Carton SAC site in light of its conservation objectives.

- 7.2.9. With regard to **EIA**, the appellant contends that the proposed development constitutes project splitting. As set out at section 5.3 of this report above under the heading of EIA Screening, the proposed development is not clearly of a class such that EIA is required. Even if it was considered to be of a class for the purposes of EIA, the nature of the proposed development is a modification to an existing permitted development which is such that it would not meet the threshold set out in Class 13 of Part 2 of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended) relating to Changes and Extensions not being a change in an increase in size greater than 25 per cent, or an amount equal to 50 per cent of the appropriate threshold, whichever is the greater. Also as set out at section 5.3 above, a preliminary assessment of the proposal has concluded that the nature of the proposed development comprising a minor modification to the existing permitted development is such that there is no real likelihood of significant effects on the environment arising and that the submission of an EIAR is not therefore required. The requirement for EIA was therefore screened out at a preliminary stage and it is not considered that any issues of project splitting for the purposes of EIA arise.
- 7.2.10. It should also be noted that the existing permissions on site to which the current application for modifications relates were the subject of EIA and the relevant applications (Refs. ABP-.304672-19 and PL09.248582) were accompanied by an EIAR and EIS respectively. In both cases the Board as the competent authority determined that the likely significant impacts on the environment arising from these development were acceptable.
- 7.2.11. The appellant contends that '*Ref. 16/1229 was formally a project splitting of 19/91 along with application ABP-304862-19 by Eirgrid*'. This assertion relates to the validity of extant permissions which have already been assessed and granted permission by the Board and which included consideration of EIA in the case of the

two applications on the Intel campus and screening for EIA in the case of the Eirgrid application. No clear information as to how the issue of 'project splitting' arose in these cases has been provided by the third party and the validity of these permissions on the basis of project splitting is not considered to be clearly relevant to the assessment of this appeal. On a related issue, the appellant notes that the current application is part of a modification of 19/91 which also includes 16/1229 and that 19/91 is currently under judicial review. The fact that Ref 19/91 (ABP-304672-19) is currently the subject of judicial review is noted but is not considered to be a reason not to consider the current application or to refuse permission. In the event that permission Ref. ABP-304672-19 is deemed unlawful, the current application, being for modifications of this permission, would not be capable of implementation.

7.2.12. I note that the appellant questions the impartiality of the information contained in Environmental Assessments and reports submitted with a series of applications relating to the site. These applications have however been determined by the Planning Authority or the Board, and the content of the applications accepted, as evidenced by the granting of permission in these cases. No clear basis for the contention of the appellant in this regard is presented with the appeal.

7.2.13. The appellant contends that not all documents have been made available by the applicant. Again, no detail is provided as to what information is not considered to be provided with the application or made available by the first party. The application was accepted as valid by the Planning Authority which considered that all required and relevant information was submitted.

7.3. Visual Impact and Impact on Protected Structures,

7.3.1. With regard to the visual impacts arising from the proposed development, Appendix 4 of the submitted Planning Report contains a Landscape and Visual Impact Assessment. The form of development proposed is for relatively minor changes in the roof plant to the permitted Fab building currently under construction where changes to the permitted ducting layout are proposed. The extent of the changes are clearly indicated at Drg. No. 584-FAB-A-022 (Production Building Permitted and Proposed Section NS) and Drgs. 584-FAB-A-001 and 584-FAB-A-006 (Permitted and Proposed Roof Plans. While the extent of changes as per the roof plans is

relatively significant in extent, the changes proposed are generally to existing plant runs / locations rather than the addition of new plant. The degree of change in the height of this plant is also limited in the context of the overall scale of the permitted buildings (c.45 metres above ground level), with the additional height of the ductwork varying between 3 and 6 metres and a maximum of 3 metres above the existing permitted ductwork.

- 7.3.2. The changes proposed to the permitted waste water treatment building comprise the addition of steel framed service platform would be c.23 metres above ground level and c.8.6 metres in height above the finished roof level in this location. The maximum permitted chimney height in this location is c.30 metres above ground level. The proposed works to the permitted water treatment building would therefore be significantly lower in height than the manufacturing building to the south and these elements of the works would not therefore be visible from locations to the south the south east.
- 7.3.3. Alterations to the existing silane pad comprising the replacement of the existing pad mounted gas cylinders with a removable gas trailer. These works are at a low level, and their location within the wider site is such that there would be no visual impact from these works outside of the immediate environs within the Intel facility.
- 7.3.4. Any assessment of impacts of the proposed development on landscape character and views has to be undertaken in the context of the fact that, as detailed in the sections above, the current application is for minor modifications to an existing permitted manufacturing facility. It also has to be undertaken having regard to the fact that the Intel campus accommodates a range of buildings and structures of significant scale and that it is against this backdrop that the proposed development would be viewed.
- 7.3.5. The assessment submitted in Appendix 4 of the Planning Report sets out how the worst case impacts were used and that locations for views were selected using experience from previous applications and from site visits. Photomontages from 8 no. representative locations are submitted and attached as Appendix A of the Planning Report. The location of views and the reason for selection is given in Table 1 of the Landscape and Visual assessment. View locations are numbered to reflect the numbering scheme used in the originally submitted EIAR for the manufacturing

building and view locations are indicated in Appendix A. The locations of the viewpoints chosen for the photomontages are in my opinion appropriate and representative of the main views and landscape impacts arising from the proposed development. I also note the reference at Section 3 of the assessment to the full scale calibration work that has been undertaken as part of previous landscape and visual assessments at the Intel site and which have been used to verify the accuracy of the photomontages. In my opinion therefore the methodology used in the landscape and visual impact assessment submitted is robust.

- 7.3.6. The outcome of the submitted landscape and visual assessment indicates that no aspect of the proposed development alters any aspects of the description of the landscape and visual impact relative to those that have previously been permitted. From a review of the submitted photomontages contained at Appendix A of the Planning Report I would agree with this assessment. Only in the case of View 4 (view from R.148 looking north east) is there any appreciable difference between the as permitted and proposed views and, even in this case, I do not consider that the impact on views or landscape character arising would be materially different to those already permitted. For these reasons, I do not consider that the proposed development would have any significant adverse impact on landscape character or on views in the area over and above those arising from the already permitted development.
- 7.3.7. The impact of the proposed development on the setting and character of protected structures and on architectural and cultural heritage is raised as a concern by the third party appellant. There are a number of protected structures in the vicinity of the subject site including Hedsor House (the resident of the third-party appellant), Ravensdale House and Gate lodge, Carton House and associated outbuildings and Deeley Bridge an 18th century stone bridge that traverses the Royal Canal to the south of the site. None of these sites are located contiguous to or immediately adjacent to the Intel lands.
- 7.3.8. Deeley Bridge is located in closest proximity to the proposed development c.200 metres south of the main area where the extension is proposed. This structure is physically separated from the subject site by the R148 and, given the minor visual impact of the proposed works and the separation distance, the setting and context of the bridge will not be altered by the proposed development.

7.3.9. The closest above ground structure is Hedsor House which is located c.630 metres to the west of the proposed development and in a location that approximates to View 5 in the submitted photomontages. Given the limited visual impact of the proposed modifications, and the separation distance I do not consider that the proposed development would have any impact on the setting and context of Hedsor House over and above that which will arise from existing permitted development. All other protected structures in the wider area are located in excess of a kilometre from the area from the proposed development and given this separation and the limited visual impact from the proposed modifications I do not consider that the proposed development would have any impact on the integrity or setting of the protected structures in the wider area.

7.4. Impact on the Environment and on Ecology

- 7.4.1. The drawings submitted with the application and the description of the proposed development as set out in the public notices and the detailed description of the nature and need for the proposed development as set out in the Planning Report submitted with the application clearly indicates that there would be no increase in productive floor area or on output from the facility on foot of the proposed modifications which are the subject of the current application. The rationale for the development is set out at 1.2 and indicates that the changes to the rooftop plant to the manufacturing building are to ensure that they align with shafts and risers and on foot of additional support steels being added to the roof at detailed design stage. The application states that the modifications to roof mounted plant will not result in any changes to the manufacturing techniques and that the underlying processes and materials will not be different to those that are currently licenced and used at the site. In terms of emissions from the manufacturing process there is not therefore proposed to be any change from what was previously permitted.
- 7.4.2. Section 5.6 of the Planning Report sets out how the ***dispersal of air*** from the permitted stacks and vents could be altered by the revised layout and states that this was the subject of an air dispersion modelling exercise undertaken by awn Consulting. The results of this assessment are not presented in detail, however it is stated that the results of the modelling indicate that the new structures proposed in

the subject application would not significantly affect the dispersion of the licenced air emissions from the facility and that the ambient air environment in the vicinity of the site remains essentially unchanged from that previously reported.

- 7.4.3. It would have been useful if more detail on the comparative air dispersal modelling work undertaken had been presented with the appeal, however given the nature and the scale of the proposed alterations it is accepted that the impact of the changes on air quality would likely be minimal and confined to a very localised area around the site. It is also noted that the site is the subject of a licence from the EPA and that all emissions to air will be the subject of control under this licence. The application was referred to the EPA for comment by the Planning Authority however no response was received. The proposed development would not give rise to any material additional effects or emissions that could affect any aspect of the environment during either the construction or operation of the development.
- 7.4.4. On the basis of the information available with regard to the nature of the works proposed and the fact that the basic processes on site, types of materials used and output are not proposed to change from that previously permitted, it is considered reasonable to conclude that the proposed development would not have a significant impact in terms of air quality relative to the existing permitted layout on site.
- 7.4.5. The submitted Planning Report also states that the proposed modifications were the subject of a **noise assessment** also undertaken by awn Consulting. Again, given that the modifications to roof mounted plant and other changes proposed will not result in any changes to the manufacturing techniques and that the underlying processes and materials will not be different to those that are currently licenced and used at the site it is considered that the potential for significant noise impacts to arise are very limited. This view is supported by the results of the noise assessment referenced in the Planning Report which states that a comparison of the outputs with the previously submitted conclusions indicates that the original conclusions remain unchanged. Having regard to these factors, and to the significant separation between the proposed development and the closest off site noise sensitive locations, it is not considered that significant additional noise impacts would arise.

- 7.4.6. With regard to the requirements of the **Seveso III Directive**, the relevant part of the proposed development comprises the addition of the silane tube trailer on the site and it is this modification to the permitted development which triggers the need to refer the project to the Health and Safety Authority (HSA) as the competent authority under the Seveso Directive. There is a submission on file from the HSA stating that they '*do not advise against*' the proposed development. The response of the HSA therefore supports the conclusions of the COMAH Land Use Planning Assessment submitted by the first party as part of the application which concludes that the risk based land use planning zones are confined within the site boundary and that the level of individual risk of fatality on site and off site is acceptable. On the basis of the information available therefore I consider that the proposed development is consistent with the requirements of the Seveso III Directive.
- 7.4.7. Given the fact that the proposed modifications are to be within an existing developed area of the Intel campus and that additional emissions over and above those arising from the previous permitted development are predicted to be insignificant, it is considered that there is no potential for negative impacts on ecology, flora and fauna to arise.

7.5. Other Issues

- 7.5.1. No changes to the **drainage layout** of the development are proposed. There is a submission on file from Irish Water stating that there is no objection to the proposed development and the Water Services section of the council also have no objection to the proposed development. The proposed development is therefore considered to be acceptable with regards to water supply and waste water.
- 7.5.2. The footprint of the proposed development is proposed to remain the same and no additional impermeable surface area within the overall Intel campus would be generated on foot of the proposed modifications. It is therefore considered that the proposed development would not have any impact on **surface water** disposal or **flood risk** at the site relative to the permitted developments on site.

7.5.3. Given that the permitted processes and volume of output would not materially change on foot of the proposed modifications the subject of this appeal, it is not considered that there would be any change in **traffic** flows to and from the site relative to those already permitted. It is not therefore considered that the proposed development would have any negative impact in terms of traffic or traffic safety.

7.6. **Appropriate Assessment Screening**

Scope of Project

7.6.1. The site is located within the Intel Ireland campus at Collinstown Industrial park c.2km to the west of Leixlip in County Kildare. The site which is the subject of this assessment comprises an area at the western side of the campus which is currently undergoing construction work for the development of a new manufacturing plant (Fab) at the site which was permitted under ABP Refs. ABP- 304672-19 and PL09.248582. The proposed development comprises modifications to development permitted under An Bord Pleanala Refs. ABP- 304672-19 and PL09.248582 and incorporate the following specific elements:

- Alterations and reconfigurations to the roof mounted service ducting on the permitted manufacturing building. These alterations would result in the overall height of the buildings increasing by between 3 and 6 metres.
- The addition of steel framed service platform to allow access to the 2 no. previously permitted flue stacks to the roof of the permitted waste water treatment building. These platforms are proposed to measure c. 6.6 metres wide, 11.5 metres in length and to be approximately 8.6 metres in height above the finished roof level.
- Alterations to the existing silane pad comprising the replacement of the existing pad mounted gas cylinders with a removable gas trailer.

Identification of Relevant European Sites

7.6.2. The site is not located within any European sites. The following European sites are located such that they may be affected having regard to the source-pathway-receptor model:

- The Rye Water Valley / Carton SAC (site code 001398) which is located to the immediate north of the Intel site. This SAC is located within c.100 metres of the appeal site at the closest point.

The River Rye Water is a tributary of the River Liffey, joining the Liffey c.2km downstream of the appeal site, and the following sites are located c.25km downstream from the appeal site:

- North Dublin Bay SAC (site code 000206)
- South Dublin Bay SAC (site code 000210)
- North Bull Island SPA (site code 004006) and
- South Dublin Bay and River Tolka Estuary SPA (site code 004024)

7.6.3. The following are the generic qualifying interests and conservation objectives of the Rye Water Valley / Carton SAC site:

- Petrifying springs with tufa formation (Cratoneurion)
- *Vertigo angustior* (Narrow-mouthed Whorl Snail)
- *Vertigo moulinsiana* (Desmoulin's Whorl Snail)

The stated conservation objective is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Likely Significant Effects

- 7.6.4. The proposed development comprises a modification to an existing permitted development (ABP Refs. ABP-304672-19 and PL09.248582) which includes for the construction of a new wafer manufacturing facility at the Intel campus. The proposed modifications comprise additional rooftop plant with no changes in the on site processes, increase in production capacity or significant changes in emissions.
- 7.6.5. The proposed development would have no direct impact on the area of the Rye Water Valley / Carton SAC or any other European site. The proposed development would not therefore result in any habitat loss or direct effects on any European site.
- 7.6.6. Emissions to surface waters during construction or operation could have potential impacts on water quality downstream in the River Rye Water and downstream in the Dublin Bay SAC and SPA sites. Regarding the potential for the proposed development to have effects on European sites by virtue of hydrological impacts, the nature of the works proposed are such that there would be no additional impact on local hydrology or foul or surface water discharges from the site over and above those that are already permitted under ABP Refs. ABP-304672-19 and PL09.248582. The proposed development does not therefore have the potential to impacts on water quality or discharges to water that could have effects on any European site.
- 7.6.7. With regard to the potential for emissions to air and impacts on air quality that would have effects on identified European sites, the proposed development will not result in any material change to emissions to air from the development or air dispersal relative to those already permitted on site under Refs. ABP-304672-19 and PL09.248582. The development has been the subject of a Risk Assessment with respect to major accident hazard risk, the need for which is due to changes to the silane storage arrangements on site. This assessment concludes that the risk based land use planning zones are confined within the site boundary and that the level of individual risk of fatality on site and off site is acceptable and this view is supported by submission from the HSA which is on file. In view of the above, the proposed development does not therefore have the potential to lead to air quality impacts that could have effects on any European site.

- 7.6.8. The Rye Water Valley / Carton SAC site is characterised by petrifying spring habitats which could potentially be impacted by impacts on groundwater and geology. There is however no aspect of the proposed development that would lead to such impacts and no additional groundworks over and above those already permitted under ABP Refs. ABP-304672-19 and PL09.248582 are proposed. The proposed development does not therefore have the potential to lead to groundwater or hydrogeological impacts that could have effects on any European site.
- 7.6.9. With regard to the potential for general disturbance or displacement impacts, the nature of the proposed development and its nature relative to that permitted under Refs. ABP-304672-19 and PL09.248582 is such that no additional disturbance or displacement issues arise over and above those that would result from the already permitted development under ABP Refs. ABP-304672-19 and PL09.248582.

In Combination Effects

- 7.6.10. There is potential for other proposed, pending and permitted developments in the vicinity to have impacts on the River Rye Water / Carton SAC and the Rye water and River Liffey catchments such that they could result in in combination effects on the European sites.
- 7.6.11. The principal potential such developments are those currently under construction of the Intel campus and in respect of which the current application proposes minor modifications. These development permitted under ABP Refs. ABP-304672-19 and PL09.248582 have themselves been the subject of screening for appropriate assessment and subsequently Stage 2 Appropriate Assessment. In both cases An Bord Pleanala as the competed authority determined that, subject to mitigation measures, the proposed developments would not have an adverse effect on the integrity of any European sites.
- 7.6.12. As per the above assessment, the proposed development the subject of this appeal comprising modifications to roof top plant, the addition of framed service platform to allow access to 2 no. previously permitted flue stacks to the roof of the Waste Water Treatment Building and the modifications to the silane storage area will not have any effects on the receiving environment. Therefore, there is no potential for in combination effects on the receiving environment with the existing and proposed

operation of the Intel facility. For these reasons it is considered that there is no possibility of other plans and projects acting in combination with the proposed modifications to the permitted layout that are the subject of this application to have significant effects on the conservation objectives of any identified European site.

Conclusion

In conclusion, having regard to the above, the proposed development is not likely to have significant effects on the River Rye Water / Carton SAC or any other European sites in light of the conservation objectives for these sites.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions:

9.0 Reasons and Considerations

Having regard to the Industry and Warehousing zoning objective for the area and the pattern of development in the area including on the wider Intel campus, to the extant permissions for development on the site and the nature of the current proposal that comprises minor changes to these permitted layouts which would not result in any material changes to the permitted processes, use of materials or output at the site it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would not impact negatively on ecology or designated sites in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Unless otherwise extended, this permission shall expire on 20th November, 2029.

Reason: In the interests of clarity and to ensure that the period of permission matches that of the parent permissions.

3. All relevant conditions attached to parent permissions Refs. ABP-304672-19 and PL09.248582 shall be complied with in the development.

Reason: In the interest of clarity.

Stephen Kay
Planning Inspector

30th October, 2020