



An  
Bord  
Pleanála

## Inspector's Report ABP-307862-20

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<b>Development</b>	Extension and modification to the warehouse, formerly OpenHydro, and modification to another warehouse, and ancillary works.
<b>Location</b>	Greenore Port, Co. Louth.
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	20268.
<b>Applicant</b>	Greenore Port Unlimited.
<b>Type of Application</b>	Planning permission.
<b>Planning Authority Decision</b>	Grant permission subject to conditions.
<b>Type of Appeal</b>	Third parties vs. grant
<b>Appellants</b>	1. Greenore Residents Tidy Towns Ltd. 2. Michael O' Hara.
<b>Observers</b>	None.

**Date of Site Inspections**

14<sup>th</sup> November 2021

**Inspector**

Stephen J. O'Sullivan.

## 1.0 Site Location and Description

- 1.1. The site is in the area occupied by the port of Greenore, which lies on Carlingford Lough in the north of County Louth. The original port was constructed in 1867 encompassing an earlier lighthouse and keepers' cottage, which are protected structures, as is a water tower that stands on the port lands. The village of Greenore lies immediately to the south of the port and consists mainly of Victorian houses, streets and public spaces as well as a golf course. It is an Architectural Conservation Area.
- 1.2. The port of Greenore is privately owned and contains two berths with the capacity to handle c40,000 gross tonnes per annum. There are a number ancillary uses with the port including facilities for the storage of bulk animal feed, fertiliser, coal, steel, timber and general cargo and for maintenance. A ferry service over the lough to Greencastle Co. Down commenced in 2018 from a smaller additional berth on the promontory. The main access to the port and ferry service is from the R175 Shore Road, which has the characteristics of a rural road. There is another access to the port from Euston Street, one of the Victorian streets in Greenore village.
- 1.3. The stated area of the appeal site itself is 0.93ha. It has two distinct parts. One contains what is referred to as the former OpenHydro Building. It is a functional structure finished in render and metal cladding that lies along the southern boundary of the port's curtilage where it adjoins the golf course. It has a stated footprint of 1,686m<sup>2</sup> and a roof ridge height of 10.95m.
- 1.4. The other part of the site includes Store No. 0, another functional building finished in render and metal cladding that lies c.45m north of the boundary between the port lands and the village. Its footprint is stated as 1,645m<sup>2</sup> and it has a roof ridge height of 8.15m.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for:
  - An enlargement of the former OpenHydro building, used as a warehouse, that would increase its footprint by 1,499m<sup>2</sup> to 3,185m<sup>2</sup> and its maximum roof height by 1.36m to 12.31m over its floor level. This would include an extension of 747m<sup>2</sup> on its north-eastern side (proposed extension no. 1) that would have a

ridge height of 17.03m OD, to form proposed 'Store 1' with a total floor area of 1,816m<sup>2</sup>. There would also be an extension of a 752m<sup>2</sup> on its south western side (proposed extension no. 2) with a ridge height of 15.67m OD consistent with the existing building, to form proposed 'Store 2' with a total floor area of 1,369m<sup>2</sup>.

- Other alterations to the OpenHydro building including the removal of window openings on the south east elevation and the installation of 1 no. pedestrian access door (1m x 2.1m); the removal of a window opening on the north west elevation and the installation of 3 no. roller shutter doors (each 9.85m x 5.8m) and 2 no. pedestrian access doors (each 1m c 2.1m); and the removal of all openings on existing north east elevation.
- Modifications to the existing warehouse 'Store 0' including an increase in its roof height from by 2.4m to 10.55m; the installation of a roller shutter door (16.8m x 7.5m) on its north east elevation and another (7.4m x 7.5m) on its north west elevation; the installation of 1 no. pedestrian access door on south east elevation (1m x 2.1m); and the removal of openings on existing north west elevation.
- Ancillary site works including drainage and landscaping treatment to southern boundary wall.

2.2. This application is accompanied by:

- Cover Letter.
- Planning Statement.
- Services Design Report.
- Greenore Vision Document.
- Outline Construction Management Plan.
- Transport Statement.
- Heritage Impact Statement
- Stage 1 Appropriate Assessment Screening.
- A number of photomontages.

- 2.3. The cover letter indicates that the proposed works are planned with the view to increasing the storage capacity at the port and that, if permitted, would increase the ports on-site storage capabilities by approximately 5,000 tonnes to 16,900 tonnes. This in turn would also reduce the reliance on 3<sup>rd</sup> party warehousing and storage facilities.
- 2.4. The application form indicates that there is an existing connection to the public mains and the public sewer which would serve the proposed development sought. In relation to surface water disposal, it is indicated that this would be via a watercourse.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The Planning Authority decided to grant permission subject to 9 conditions, none of which substantially amended the proposed development.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. **Planning Reports**

The planner's report provides an overview of the planning history of the site and of the proposed development and its policy context. It acknowledges that the Council has a commitment to ensuring that the proposed development will not have an adverse impact on its historic setting, including the adjoining ACA. The port and port related storage are long established this site. This working port is of regional significance and its status is recognised at local through to national level. A grant of permission was recommended subject to conditions.

##### 3.2.2. **Other Technical Reports**

**Infrastructure:** No objections subject to conditions.

**Environment:** No objections subject to conditions.

#### 3.3. **Prescribed Bodies**

- 3.3.1. **Irish Water:** No objection subject to conditions.

### 3.4. Third Party Submissions/Observations

- 3.4.1. Several 3<sup>rd</sup> Party submissions were received by council. They objected to the development on grounds similar to those raised in the grounds of the subsequent appeals.

## 4.0 Planning History

### 4.1. ABP.310184.21 (P.A. Ref. No. 20543)

There is a concurrent appeal before the board against a decision by the council on 13<sup>th</sup> April 2021 to grant permission for the demolition of existing structures and the construction of 2 new stores and an ESB substation within Greenore Port.

- 4.2. Greenore Port has an extensive planning history that includes -

**P.A. Reg. Ref. No. 19807:** The council granted permission in December 2019 for the change of use of the former 'OpenHydro' building (1,607sqm) from light engineering and office to storage for port commodities (agricultural feed, fertilizer, rock, and salt) and the removal and closing up of an existing vehicular access door on the northeast elevation and reinstatement and rendering of façade to match the existing.

**ABP-302841-18 (P.A. Reg. Ref. No. 18285):** In March 2019 the board granted permission for the provision of an open storage area of a given 1.4ha for steel and port related cargo and all associated site works and services.

**P.A. Reg. Ref. No. 17413:** the council granted permission in August 2017 for

(1) Dredging of harbour sediments to -7.5m Chart Datum to provide navigable water depths.

(2) Rehabilitation works to the quay wall at Berth No.2 by constructing a steel combi wall system of c.139m in length and extending c.5m out from the existing quay wall and will tie into existing wall.

(3) Placement of approximately 4,670m<sup>3</sup> of uncontaminated dredged material into the void between the existing and new quay wall.

- (4) Improvement works to the quay deck at Berth No.2 including the excavation of the existing concrete deck c.139m in length and c.37m width and surface water management system incorporating silt traps and a hydrocarbon interceptor; and,
- (5) Provision of berth infrastructure including bollards, fenders, ladders, lifesaving equipment, power outlets and fire hydrants and all associated site works.

**ABP PL15.246577 (P.A. Reg. Ref. No. 16/114):** in September 2016 the board granted permission for open storage (steel products/materials) on a c.1.94 ha site to S of the above site and associated works including top soil stripping and perimeter berms. Condition no. 2 restricted the use to the storage of steel products to a maximum height of 2.45m and Condition no. 5 required that lighting be directed to the surface of the storage area and away from houses on the public road, to safeguard the visual amenities of the area.

**P.A. Reg. Ref. No. 16842:** the council granted permission in May 2017 for the construction of:

- (1) 2 No. grain silos and all associated conveyor systems and associated works.
- (2) 1 No. bulk reception unit and all associated conveyor systems and associated works.
- (3) 1 No. grain removal building and all associated conveyor systems and associated works; and,
- (4) Ancillary site development works including extension to existing surface water management system.

**ABP PL15/246093 (P.A. Reg. Ref. No. 15/496):** the board granted permission in June 2016 for open storage of port cargoes (including reinforcing steel & mesh) on a c.2.0ha site to immediate S of appeal site and associated works including top soil stripping and perimeter berms. Condition nos. 2 & 3 restricted the use to the storage of steel products to a maximum height of 2.45m to safeguard the visual amenities of the area.

- **P.A. Reg. Ref. No. 15290:** the council granted permission in July 2015 for a development consisting of amendments to previous planning application P.A. Reg Ref. No. 15173 for change of use of part of existing ground floor building from light engineering and assemble building to open plan office accommodation. Also, the extension of the internal mezzanine floor directly above the ground floor offices and all associated and ancillary site work.
  
- **P.A. Reg. Ref. No. 15173:** the council granted permission in May 2015 for a development consisting of change of use of part of existing building from light engineering and assemble building approved under P.A. Reg. Ref No. 1339 to ancillary office accommodation. The works involve the following:
  - (1) Change of use of part of ground floor (470m<sup>2</sup>) to open plan office accommodation, including individual small offices, canteen, and toilet facilities.
  - (2) The construction of an internal mezzanine floor directly above the ground floor offices to include open plan office style accommodation and individual small offices.
  - (3) Revisions to the external elevations for the extent of the change of use only, to include the replacement of the existing side cladding with masonry and render finish, new external windows, main entrance door and external fire escape stairs to the east elevation.
  - (4) Revised car parking layout from that which received planning in Ref no. 1339.
  - (5) The removal of the existing shed to accommodate entrance to the car park and additional 29 no. car parking spaces together with all other site development works.

**P.A. Reg. Ref. No. 95136:** In August 1996 the council granted permission for the use of building referred to in this application as 'Store 0' from warehouse to a store.



## 5.0 Policy & Context

### 5.1. National Planning Policy Context

5.1.1. **National Ports Policy, 2013:** This document sets out Government policy in relation to the country's ports. It states that the core objective of national policy is to facilitate a competitive and effective market for maritime transport services.

5.1.2. **National Planning Framework, 2018-2040:** This document under Section 1.3 indicates that high-quality international connectivity is crucial for overall international competitiveness and addressing opportunities and challenges from Brexit. In relation to ports it highlights investment in them through the National Ports Policy.

Section 7.2 acknowledges that the maritime economy is a key enabler of effective regional development and has an important role to play as a gateway for the movement of people and freight. National Policy Objective 39 advocates the support of the sustainable growth and development of the maritime economy.

Section 7.3 also acknowledges that Ireland's port and shipping services play an important role as enablers of economic growth and that they are critical infrastructure for international trade with over 90% of international trade moving by sea. It further notes that ports also serve as logistic and distribution hubs. It states that: "*port infrastructure involves development on both land and the marine area (foreshore) and often in proximity to areas of environmental importance and protection, and diverse eco-systems*"; "*as an inland nation, we depend on the quality and efficiency of our ports*"; and "*to maintain economic growth, we must be capable of delivering additional port capacity in a timely and predictable manner*".

5.1.3. **Architectural Heritage Guidelines for Planning Authorities, 2005:** These Guidelines provide a practical guide in relation to the Record of Protected Structure, Architectural Conservation Areas, Declarations and Places of Worship as well as development control advice and detailed guidance notes on conservation principles.

### 5.2. Development Plan

5.2.1. The Louth County Development Plan 2021-2027 came into effect on 11<sup>th</sup> November 2021. The site is within the settlement boundary designated for Greenore.

- 5.2.2. Section 5.10 of the plan refers to Marine Opportunities including Ports. Policy objective EE 26 is to recognise that the port facilities at Drogheda, Greenore, Dundalk, and Clogherhead are an important economic resource and to support any improvements or expansion to these Port facilities at Drogheda, Greenore and Clogherhead and the consolidation of Dundalk Port, subject to the preparation of a Master Plan and appropriate environmental considerations.
- 5.2.3. The Water Tower in the port is a protected structure, LHS-009-001. The Lighthouse in the port is also a protected structure, LHS009-043, as is the keeper's cottage LHS-009-044. Most of the structures in the village also appear on the record of protected structures. The development plan designates an Architectural Conservation Area at Greenore. It includes the Victorian streets in the village and extends into the port lands to include the water tower. The eastern part of the current appeal site is c6m north of the boundary of the ACA. The objectives of the ACA refer to the view north along Euston Street to the Mournes.
- 5.2.4. It is noted that the application for permission to the council, the appeal to the board and the submissions from all the parties were made while the previous development plan was in force.

### 5.3. **Natural Heritage Designations**

- 5.3.1. The appeal site does not form part of a European site. It is close to the Special Protection Areas (SPA) at Carlingford Lough (Site Code: 004078) and the Special Area of Conservation at Carlingford Shore SAC which are situated at their nearest point c9meters to the north. Further removed from the site are Special Area of Conservation: Carlingford Mountain SAC (Site Code: 000453) which is located c3.7km to the west; Special Area of Conservation: Dundalk Bay SAC (Site Code: 000455) which is located c7.5km and Special Protection Areas: Dundalk Bay SPA (Site Code: 004026) which is located c7.7Km, both to the south west.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The 3<sup>rd</sup> Party Appeal submitted by Greenore Residents & Tidy Towns Ltd can be summarised as follows:

- Concerns are raised that the applicant failed to display the site notice in a conspicuous position on or near the main entrance to the land or structure concerned from a public road and instead the site notice was erected at the secluded entrance adjacent to the Port Offices at the northern end of Euston Street which is contended to be only used by port-authorized personnel and can be easily obscured or concealed by parked port associated vehicles.
- The scale of the development sought, and the operations of the extensions would be detrimental to and incongruous with the ACA of Greenore which is an objective of the County Development Plan to protect.
- The monolith-like warehousing structure as is proposed for 'Store 1' could not be considered to compliment the character of Greenore village. It is contended that there is nothing distinctive in a positive sense about it and it is a concern that this village will be ring fenced and overshadowed by industrial warehousing, grain silos and open steel storage yards.
- The site lies less than 100m from residences on Anglesey Terrace and Euston Street which contains properties that are listed for protection as Protected Structures in the RPS. The proposed development would cause detrimental harm to their setting.
- The bringing of port activities of this nature closer to residents' homes is objected too.
- There have been a significant number of complaints from residents of Greenore village with regard to the activities at the port ranging from frequent disturbances of noise, airborne contaminants, and the like.
- There has been little tangible emphasis on environmental sustainability and residential amenity.

- This development would obliterate views to the north and west of the village towards Carlingford Lough and the Mourne Mountains.
- The aspect and height of the western shed would obscure views to Slieve Foy and the setting sun when viewed from Anglesey Terrace.
- The residents of Greenore have endured enough right to enjoy their homes while the applicant operates all hours and is permitted to develop *ad infinitum*.
- The valuable scenic glimpses should not also be taken from us and in their place ugly industrial warehousing.
- The extension of the two sheds would have permanent, direct, and deleterious effect on the public realm as well as visual amenity of Greenore and the ACA.
- There was no report from the Louth County Councils Heritage Officer and the absence of the same is not in the interests of proper planning for such a large-scale development at a site sensitive location.
- The Heritage Assessment on file has been prepared on behalf of the applicant.
- Reference is made to the Development Plan 2015-2021. In particular this plan requires Industrial and Commercial developments to be guided by a Masterplan under policy provisions EDE14 and TC41.
- There is no masterplan prepared for the port area and what is provided is a vision document.
- The Planning Officer refers to the fact that the applicant relies on bank finances and can only plan ahead for 5 years; notwithstanding, these developments are for much longer than 5 years and have impacts on their setting.
- There is also no public domain masterplan.
- Many other port facilities in the country submit clear masterplans to open time to public consultation in a timely manner.
- This development has been deemed to be of a scale that does not warrant an EIA; however, the warehouse development forms part of a larger berth expansion and warehouse complex that is being slowly revealed in a series of small planning applications, e.g., P.A. Ref. No. 16842; 17413; and, 19807 to the present application.

- These developments have had a cumulative heritage, public realm, environmental and traffic impacts which have not been subject to any full scrutiny.
- TC41 of the (2015-2021)Development Plan indicates that the development and expansion of ports like Greenore will be supported subject to the preparation of a masterplan and compliance with all relevant EU policies.
- The planning applications P.A. Reg. Ref. No. 15496, 16114 and 18285 has resulted in c9ha of steel storage area with permission for access onto the R175 in the P.A. Reg. Ref. No. 18285 application.
- The applicant through a series of applications has sought to intensify tonnage throughout of imports at the quayside and this in turn has resulted in an intensification of traffic including heavy vehicles both within the port owned lands and on the R175.
- Increase in storage capacity inevitably has resulted in increased traffic and associated issues including has deteriorated the public realm for pedestrians and cyclists as well as the enjoyment of the coastal amenities of the area.
- The construction of a footpath along the section of the R175 from the entrance onto Euston Street to the shore front remains outstanding from a previous grant of permission.
- The applicant should be required to provide further traffic management and road safety measures as well as to provide sufficient parking within the port for personnel and agents. There is an issue with parking outside of the port but relating to the port including parking on double yellow lines.
- The screen planting proposed will not conceal the large brown western shed structure proposed.
- There is no assurance of any maintenance for the landscaping proposed.
- The planting proposed under previous applications such as P.A. Reg. Ref. No. 15496, 16114 and 18285 have not been provided. Nor has the planted topsoiled berm.
- The information publicly made available in relation to this application was limited.

- This development will create increased noise and traffic to the residential ACA as well as the Protected Structures therein.
- The Councils own heritage development principles for Protected Structures work against the provision of double glazing and noise-proofing original windows.
- These developments result in further devaluation of residential properties in this area.
- There is no indication given on what the applicant is seeking to store in relation to this application.
- The intended hours of operations are a concern as they will be audible and visible from residents in the immediate vicinity.
- There is an absence to date on the management of the port activities, including environmental management.
- It is feared that the proposed development could give rise to further light, noise, airborne and particulate matter pollution.
- Stability concerns are raised in relation to the ground at this location with previous works bring issues of movement from heavy machinery, piling etc. It is further noted that on this issue the Enforcement Section of the Council are aware, particularly as a result of works carried out on foot of grant of permission P.A. Reg. Ref. No. 17/413, that ground stability is an issue at the port site.

6.1.2. The 3<sup>rd</sup> Party Appeal submitted by Dr. Michael Steven O’Hora, includes many of the same concerns raised by Greenore Residents & Tidy Towns Ltd in their appeal submission to the Board. In order to avoid repetition and for clarity purposes the following is a summary of additional concerns raised:

- This application does nothing to mitigate HGV movement, to reduce the impact of Port/HGV noise, dust fall mitigation, odour, or road infrastructure along the R175.
- Greenore is a difficult maritime environment for plant growth.

## 6.2. Applicant Response

6.2.1. The applicant’s response can be summarised as follows:

- The concerns raised by the appellants are similar to those they have already raised to the Planning Authority. The applicant welcomed the decision of the Planning Authority to grant planning permission subject to conditions.
- The concentration of existing activities within the wider port has evolved over many years; however, major improvement works have been undertaken since 2014 with several other improvement projects planned over the coming years.
- There are two decisions that are directly relevant to this application, i.e., P.A. Reg. Ref. No. 19807 and 95136. These applications effectively confirm that port related storage is an acceptable use at Greenore Port and is consistent with the proper planning and sustainable development of the area.
- In addition, the recent grant of permission under P.A. Reg. Ref. No. 19807 also confirms that port related commodities storage complies with Policy TC 41 of the Development Plan.
- Whilst Policy TC 41 of the (2015-2021) Development Plan supports the preparation of Masterplans for ports, the applicant is not obliged to prepare one. There is a 'Greenore Port Vision' document that has been presented to Louth County Council. It is also contended that it was presented to a number of Greenore residents and the 'Tidy Towns' committee members at an event hosted by Greenore Port Unlimited in August, 2019. This document was provided with this application and all planning documentation is required to be made publicly available at the Planning Authority's public counter.
- The applicant is entitled to submit individual applications for development of and within the port.
- This application has been determined by the Planning Authority on its merits whilst considering the cumulative effects of developments at the port site.
- The appellants have incorrectly submitted that this application forms part of a larger warehousing and berth expansion. To date the proposal for the expansion of the berth by way of a multi-purpose berth for vessel unloading and discharging of dry bulk, break bulk, containers, and project cargo at the port of Greenore has not yet advanced further than a Strategic Infrastructure Development pre-application consultation meeting with the Board. Should this proposal advance, it will be

subject to EIA and an EIAR will be submitted with the application addressing the cumulative effects of permitted and under consideration proposed developments as is required by the EIA Directive.

- The warehousing subject of this application will be used to store commodities that are currently arriving at the port and from their transferred to 3<sup>rd</sup> Party warehousing for storage and on-ward distribution.
- To improve efficiencies this proposal seeks to maximise infrastructure available on site.
- Store 0 is no longer fit for purpose and rather than demolishing this structure this application seeks to retain the building and modify it in order to allow its continued use.
- The former OpenHydro building was initially developed as a research and development facility. It is not configured in a manner for the storage of port related commodities. This application seeks to retain this building and modify it in order to allow for its continued use.
- Whether an environmental impact assessment is required was considered at planning application stage. The council concluded that the proposed development does not come within the classes of development requiring EIA as it is subthreshold, and no project splitting arises.
- The proposed development would not impact designated view VP5: Carlingford Lough as it is not within its zone of visual influence or on the scenic route from Greenore to Carlingford .
- This development is within an active working port facility.
- The scope of landscaping is constrained by existing infrastructural development in close proximity to the boundary wall. Despite the constraints of the site softening at the boundary will improve the situation.
- During the construction phases there is potential for noise issues to arise for nearest noise sensitive receptors. Notwithstanding, it is not considered this would have a significant impact given the existing noise generated from the typical day to day port operations. In addition, the construction phase is temporary in duration and standard good site practice construction methods would be implemented.



Moreover, the grant of permission by the Planning Authority restricted hours of construction.

- Current operational practices are that when ships dock the material is discharged and removed to off-site storage and this requires a period of high intensity traffic movements on site and associated noise. The increase in on-site storage will reduce the need to use 3<sup>rd</sup> party warehousing facilities and this would result in an improved noise environment for this locality.
- Dust mitigation measures would be employed during construction phase and warehouses would be fitted with roller shutter doors to prevent escape of fugitive dust. In addition, all commodities transported would be done under cover.
- The new lighting would consist of downward directional lighting.
- The R175 Shore Road is not under the applicant's control.
- Reference is made to the conclusions set out in the Heritage Assessment provided with the application.
- The site notices were erected at similar locations to previous applications and no validation issues were raised by the Planning Authority.
- The application was made fully available as is required during the course of the Planning Authority's determination and there was an increased timeframe due to Covid 19 changes to government legislation governing planning applications.
- This development would be in keeping with the proper planning and sustainable development of the area.
- The concerns raised by the appellants do not warrant a refusal of planning permission.

### **6.3. Planning Authority's Response**

6.3.1. The Planning Authority's response can be summarised as follows:

- The site notice was fully visible to members of the public at both locations they were provided from the public road.
- The Greenore ACA does not include the port area.

- The essence and character of the village derives from its rich tapestry of port related activities and buildings associated with the port.
- The development is confined within the port itself and does not extend out of the envelope of its traditional port activity.
- The addition of a warehouse extension to serve the port does not diminish the characteristics of this area.
- At this time there is no conservation officer employed by the Council.
- The overall height of the building would increase from 8.5m to 10.55m and the presence of existing port structures significantly impacts on the sites ability to absorb the additional bulk and mass associated with the development sought under this application. As such no concern is raised in relation to the visual impact.
- The principle of the port and port related storage is long established on site.
- The port is an active port and since taken over by Doyle Shipping Group in 2014 a programme of improvement works for the delivery of better operational practices has been underway.
- Reference is made to the planning history of the port going back to 2011.
- There is nothing in the planning legislation that restricts the lodgement of an application, and it is understandable due to the nature of port business and its requirements that there will be changing needs for the port and occupants thereof.
- A planning application for improvement works was recently lodged under P.A. Reg. Ref. No. 20/543.
- This port is a regional port and does give rise to traffic. In order to reduce traffic movements, the Planning Authority it is important that cargo be managed on site.
- The applicant has demonstrated that there is a deficit of storage facilities on site for dry bulk commodities that are currently being imported to this port.
- At times that the port has been inspected it has been observed that the car park has never been full or near capacity. It is not anticipated that this development would give rise to any intensification of car parking demand.

- The purpose of the screen planting was for aesthetics and the softening of the existing boundary wall acts as a visual barrier when viewed from the village. This screening was requested by the Planning Authority during pre-planning. It is accepted that it will not conceal the warehouse.
- It is not accepted that the screening has the potential to become unsightly than the shed.
- All information was made available on iplan in relation to this application from the time the application was deemed to be valid.
- Mitigation conditions to deal with noise have been imposed.
- Warehouses are a building for the storing of goods and the nature of ports is such that different commodities are taken in or exported. Would not be appropriate in this context to define in a narrow sense the type of commodities that can be stored as this may impact on the ability of the Port to manage.
- A number of complaints have been made to enforcement relating to ground stability, noise, dust, traffic, and these have been investigated. There are no live planning enforcement action pending and should any breaches of planning or otherwise the Planning Authority will take the appropriate action.
- It is requested that the Board uphold its decision.

## 7.0 Screening

### 7.1. Appropriate Assessment

- 7.1.1. The appeal site is not in any Natura 2000 site. It is, however close to the Special Protection Area (SPA) at Carlingford Lough 004078 and the Special Area of Conservation (SAC) at Carlingford Shore 002306, the nearest boundaries of which are within 10m of the appeal site. The possibility that works on the appeal site might have an effect on the adjacent Natura 2000 sites therefore needs to be examined to determine whether the proposed development would be likely to have significant effects on those Natura 2000 sites, and so whether an appropriate assessment is required.

7.1.2. There are no ecological connections between the appeal site and any other Natura 2000 sites that could form a pathway by which the proposed development could be likely have significant effects exists on the conservation objectives of those Natura 2000 sites. In particular the SAC at Carlingford Mountain 000453 is 3.7km from the site and upstream of water flows; while the SAC 000455 and the SPA 004026 at Dundalk Bay are more than 7.5km from the appeal site and marine dilution means that that it would not be possible for the proposed development to have a likely significant effect of the waters in Dundalk Bay if it had not previously had one in Carlingford Lough. The appeal site does not contain habitats that would provide ex situ support to species that are the subject of the conservation objectives of any other Natura 2000 site. It can therefore be concluded that the proposed development would not have the potential to have likely significant effects on any Natura 2000 sites other than those at Carlingford Lough.

7.1.3. The conservation objectives of the relevant sites are as follows-

European Sites	Site Code	Qualifying Interests (QI's) /Conservation Objectives (CO)	Distance to the appeal site
<b>Carlingford Lough SPA</b>	004078	<p><b>QI's:</b></p> <p>A046 Brent Goose <i>Branta bernicla hrota</i></p> <p>A999 Wetlands</p> <p><b>CO:</b></p> <p>To maintain the favourable conservation condition of the species and habitat listed in the Qualifying Interests in Carlingford Lough SPA</p>	<p>9meters</p> <p>Note:</p> <p>Distance to existing 'Open Hydro' (Store 1): 37.6m at nearest point).</p>

			Distance to 'Store 0': 100.6m.
<b>Carlingford Shore SAC</b>	002306	<p><b>QI's:</b></p> <p>1210 Annual vegetation of drift lines</p> <p>1220 Perennial vegetation of stony banks</p> <p><b>CO:</b></p> <p>To maintain the favourable conservation condition of Annual vegetation of drift lines in Carlingford Shore SAC.</p> <p>To maintain the favourable conservation condition of Annual vegetation of drift lines in Carlingford Shore SAC,</p>	<p>9meters</p> <p>Note:</p> <p>Distance to existing 'Open Hydro' (Store 1): 37.6m at nearest point).</p> <p>Distance to 'Store 0': 43.5m.</p>

7.1.4. The appeal site does not provide any wetlands or other habitats that would support the population of Brent Geese. Nor does it contain drift line or stony banks. So the proposed development could not have a direct effect on the achievement of the conservation objectives of the SPA and SAC at Carlingford Lough.

7.1.5. There is the possibility that increased activity on the appeal site could disturb Brent Geese in the SPA. However the proposed development would not intensify the activity in the port to an extent that would be significant in this regard. It would facilitate the storage of cargo in the port, and so would allow it to operate somewhat more efficiently. But the proposed development would not extend the area of the port or increase the capacity to take or dispatch cargo. It would not have the potential to increase the noise

and activity in the vicinity of the SPA over that to which the population of Brent Geese have been habituated. Therefore it would not be likely to have a significant effect on the achievement of the conservation objectives of the SPA in this regard.

- 7.1.6. The potential impact of the development on water quality in the SPA and SAC needs to be addressed. The proposed works would provide additional storage for the port which would be ancillary to and consistent with the established use of the port. The development would not introduce or facilitate any industrial processes on the site. No such activity would be authorised by a grant of permission on foot of the current application. The occupation of the proposed development would not generate additional pollutants or foul effluent that could significantly affect water quality in the adjacent Natura 2000 sites. The raising of the roof level over Store 0 would not have the potential to affect the drainage from the septic tank there or the quality or quantity of the effluent at its outfall to the lough. The extended footprint of the storage buildings would occupy made ground that has previously been subject to works and from which surface water runoff is directed to the existing drainage system serving the port, which drains to the lough via an interceptor. The proposed development would not, therefore, change the volume or quality of the surface water runoff the bay. The occupation of the proposed development would not, therefore, be likely to have a significant effect on the quality of waters in the bay.
- 7.1.7. The scale and extent of the building works that are proposed in this application are small relative to the extent of the port. As stated above, they would occur on ground that has already been subject to works and is an artificial habitat that is served by an artificial drainage system. The construction works would largely consist of the installation of metal frames and panels with a limited use of concrete and cement, so it would not generate a substantial risk of the release of pollutants to water. The preparation works prior to building would require the breaking of some existing ground, but the physical extent and temporal duration of those works would be restricted and they would be carried out within existing footprint of the port and its drainage system. Their potential for the release of effluent or airborne pollution would be correspondingly limited and would not give rise to likely significant effects adjacent Natura 2000 sites.
- 7.1.8. Having regard to the foregoing, it is evident that the proposed development would not have the potential to have any significant direct effect on any Natura 2000 site, nor would it be likely to have any significant indirect effect on the SAC or SPA at

Carlingford Lough through interference with ex situ habitats, disturbance to species within the Natura 2000 site, the release of dust or pollutants to air, downstream impact on water quality or any other pathway. This conclusion is consistent with the conclusions of the AA screening report submitted by the applicant. No scientific evidence was submitted by any party in the course of the application or appeal that would support an alternative conclusion as to the likelihood of significant effects on the Natura 2000 sites. There is no potential effect that the proposed development could have on the Natura 2000 sites that could be rendered a likely significant effect by a cumulation of an impact from another plan or project, including the concurrent proposal which is before the board under ABP-310184-21.

- 7.1.9. It is therefore concluded on the basis on the information was submitted in connection with the application and appeals, which is adequate to allow a screening exercise to be completed, that the proposed development, by virtue of its nature, limited scale and location within the existing area of Greenore Port, would not be likely to have a significant effect on the Special Protection Area 004708, the Special Area of Conservation 002306 or any other Natura 2000 site, either in itself or in combination with any other plan or project and so a Stage 2 appropriate assessment and the submission of the Natura Impact Statement is not required.

## 7.2. Environmental Impact Assessment

- 7.2.1. The proposed development consists of alterations to warehouses that would increase their floor area by 1,499m<sup>2</sup> and their roof height by up to 2.4m. Therefore it would not come within Class 8 (b) of part 1 of schedule 5 to the planning regulations refers to *Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes*. Nor would it result in the Greenore Port coming within the class, so the proposed development would not come within Class 21 of the part 1 of schedule 5 either.
- 7.2.2. The proposed development would be part of port installation and so it could be considered to come within Class 10(e) of part 2 of schedule 5 which refers to
- *New or extended harbours and port installations, including fishing harbours, not included in Part 1 of this Schedule, where the area, or additional area, of water enclosed would be 20 hectares or more, or which would involve the*

*reclamation of 5 hectares or more of land, or which would involve the construction of additional quays exceeding 500 metres in length.*

- 7.2.3. However the proposed development would not result in any enclosure of water or reclamation of land or the construction of additional quays, so it would not alter the extent to which Greenore Port approached the thresholds set out in that class. It would therefore be a sub-threshold development in relation to that class. It would not come within Class 13 of part 2 of schedule 5 either. The application was not accompanied by a formal EIA screening report, so a preliminary examination of the nature, size and location of the proposed should be carried out under article 109 of the planning regulations to determine whether an EIA is required.
- 7.2.4. The proposed development would increase the available indoor storage in the port by 1,499m<sup>2</sup> while increasing the height of the structures by 2.4m. It would increase the capacity of the storage in the port by c5,000 tonnes to 17,000 tonnes, which a relatively small change compared to the 1,128,000 tonnes that the port handled in 2020. The proposed development would not introduce new activities or processes to the port. It would not extend the area of the port to the landward or seaward side. The works would be outside the areas designated for the protection of natural and architectural heritage. It can therefore be concluded on the basis of a preliminary examination of the nature, size and location of the proposed development that there is no real likelihood of significant effects on the environment arising from it.
- 7.2.5. It is noted that there have been previous works at Greenore Port and that there is a concurrent proposal for other works to construct warehousing under appeal ABP-310184-21. The two current proposals taken together would still not contribute anything towards the threshold for the class of port installations that require EIA under either part 1 or part 2 of schedule 5 to the planning regulations. It is therefore concluded that those other projects would not give rise to cumulative effects in conjunction with the one under consideration in this appeal that would alter the fact the size, nature and location of the current proposal means that there is no real likelihood of significant effects on the environment arising from it.
- 7.2.6. It is therefore concluded after a preliminary examination that an Environmental Impact Assessment is not required for the present appeal.



## 8.0 Planning Assessment

### 8.1. Introduction

8.1.1. The planning issues that arise in relation to the proposed development can be addressed under the following headings:

- Policy
- Built Heritage
- Residential Amenity
- Roads and Traffic
- Other Matters

### 8.2. Policy

8.2.1. The proposed development would augment, to a modest degree, the ancillary storage facilities available at Greenore port and so would support the operation of the port. As such it would be in keeping with the national policy, as set out in the section 7.3 of the National Planning Framework and the National Ports Policy to facilitate the development of ports and marine infrastructure.

8.2.2. The current development plan was adopted in November 2021. The application, the council's decision and the subsequent appeals were made under the previous development plan and refer to its provisions. However after comparison of the two plans I do not consider that council's policy in relation to ports in general and Greenore in particular were substantially changed by the adoption new plan. The main policy of the current plan in relation to ports is objective EE 26 which recognises that the Port facilities at Drogheda, Greenore, Dundalk, and Clogherhead are an important economic resource and to support any improvements or expansion to these Port facilities at Drogheda, Greenore and Clogherhead and the consolidation of Dundalk Port, subject to the preparation of a Master Plan and appropriate environmental considerations. This provision has the same effect as the main policy on ports set out at TC41 of the previous plan that was cited in the appeals. It is not considered, therefore, that the recent change of plan would prevent the board considering the current application and appeals on the basis of the submissions which it has already received. It would not prejudice the position of any of the parties to proceed at this

stage, nor would it otherwise be required by the proper planning or sustainable development of the area to further delay of the current application and appeals.

- 8.2.3. The proposed development would improve the facilities at Greenore Port. Policy EE26 supports such development subject to environmental considerations (which are considered in the section 7 of the report above and the sub-sections below). The works would be carried out within the existing footprint of the port which itself is within the settlement boundary of Greenore designated in the development plan. These facts would indicate that the proposed development would be supported by local planning policy as well as national policy.
- 8.2.4. However the relevant provision of the development plan also refers to preparation of masterplans for various ports. The question therefore arises as to whether the current application should be refused on the basis that no masterplan is in place for Greenore Port. On this point I would note that 'masterplans' are not statutory plans and are not material considerations for planning applications under section 34(2)(a) of the planning act. Although there could be planning issues that would justify a refusal of permission which could be best addressed by an informal masterplan, the absence of such a non-statutory document would not be sufficient grounds *ipso facto* to refuse to consider a grant of permission for a development that was otherwise in accordance with the provisions of statutory plans and the with proper planning and development of the area.
- 8.2.5. The applicant states that the rationale for this proposal is borne out of the need to provide additional storage capacity at the port in order to allow it to move away from the existing arrangement whereby the majority of incoming dry bulk commodities are temporarily stored in 3<sup>rd</sup> party warehouses at a location remote from the port. This proposal, if permitted, would increase the ports on site storage by approximately 5,000 tonnes. This would give rise to an increased capacity for the port to store between 16,900 to 17,000 tonnes of port commodities based on the various documentation provided with this application. This appears represent a small proportion of the total annual tonnage that this port appears to cater for, which CSO recorded as 1,128,000 in 2020. The proposed development would not extend the area occupied by the port. It would increase the footprint of the structures on the site by 1,499m<sup>2</sup>, a relatively modest amount. The limited scale and ancillary nature of the proposed development mean that its planning implications can be properly assessed without needing a

masterplan for the entire port. The proposed development would therefore be in keeping with policy objective EE 26 of the development plan.

- 8.2.6. There is a concurrent appeal before the board under ABP-310184-21 for development on another site within the port beside the site covered by this application. However the development proposed in this application is not dependent on works on the other site. The board can consider separately whether permission should be granted for the current application without predetermining any of the issues associated with the other application, including whether the other application raises matters that should be determined by an informal masterplan for the port.
- 8.2.7. As the proposed development would be in keeping with national and local planning policy, the principle of development is acceptable. Its particular impacts are considered below.

### **8.3. Impact on Built Heritage**

- 8.3.1. There are protected structures and an Architectural Conservation Area at Greenore, outside of but close to the appeal site. The potential for an impact on built heritage is therefore relevant to the present case.
- 8.3.2. The proposed development does not involve works to the protected structures at Greenore. It would not directly affect the built heritage that is designated for protection at Greenore.
- 8.3.3. As stated above, the proposed development would not extend the area of the working port or alter or significantly intensify its established use. So it would not affect the landuse character of the area in a manner or extent that would affect the setting of the ACA or protected structures at Greenore.
- 8.3.4. The proposed extension to the former Open Hydro Building would be situated at some distance from boundaries of the ACA and the protected structures at the Water Tower, Lighthouse and Keeper's Cottage. This element of the proposed works would not affect the setting of the protected structures or the ACA, therefore.
- 8.3.5. The proposed development would also involve raising the roof over Store 0 within 15m of the protected water tower and the ACA. It would be in the line of the view north along Euston Street to the Mournes cited in the objectives of the ACA as set out in the

development plan. There are, therefore, reasonable grounds to argue that this element of the proposed development would have a negative impact on the built heritage, as set out in the appeals. Nevertheless I would not agree with this position. The water tower is of historical and architectural interest. However its function in supporting a railway with steam engines has long since ceased and it is now an historical remnant in a modern port with no railway. The character of its setting would not be changed by the proposed development. Neither would the proposed works obstruct views between the water tower and the rest of the ACA and the buildings of a similar architectural character there. In relation to the view north along Euston Street, Store 0 is 50m from the near end of the street and c180m from its far end. It is proposed to raise the roof over the store by 2.4m. It is evident from those dimensions that the works would have only a minimal impact on the view north along the street, and it is not one that would have a significant effect on the character of the ACA.

8.3.6. It is therefore concluded that the proposed development would not injure the built heritage of Greenore.

#### **8.4. Impact of the Proposed Development on Residential Amenities**

8.4.1. The appellants in this appeal case raise several concerns in relation to the diminishment of their residential amenities that have occurred from the intensification of the port activities at this site and their concerns with regards to grants of permission in the past where conditions attached to the grants of permission have not been adhered to. They raise concerns that, if the proposed development were permitted, their already deteriorated residential amenities would be further adversely eroded by further compounding noise, vibrations dust, odours, deteriorated visual through to environmental setting in which they reside as well as increased traffic related nuisances arising associated with the additional movements associated with moving items on site to increased warehousing facilities in close proximity to their homes.

8.4.2. Whether the conditions of previous permissions on the site have been observed is a matter for control by the council and the courts under part 8 of the planning act. The board does not have a role in such enforcement. It would be wrong to use the powers to consider applications for permissions for proposed development under part 3 of the act to circumvent the provisions of part 8 of the act. The basis for the determination of the current application and appeals is whether the specific development that is

actually proposed in this application is in keeping with the proper planning and sustainable development of the area having regard to the material considerations set out in section 34(2) of the planning act. Similarly the consideration of the current application cannot predetermine whether future proposals for the development that the port's owners might putatively make would be in keeping with the proper planning or sustainable development of the area.

- 8.4.3. The development that is actually proposed in this application involves relatively small extensions to existing sheds there to provide additional covered storage space. It would not extend the area of the port, nor would it introduce different types of activity or process to the port, nor would it increase the capacity of the port to receive or dispatch cargo. It would not give rise to a change or intensification of the uses established in the port that could disturb the residential amenities of adjacent homes due to emissions of noise or dust or light or otherwise. This is evident from the nature and scale of the proposed development. This conclusion does not rely on any presumption about the impact of the existing activity in the port on the residential amenity in Greenore or the potential impact of future proposals that might be made in the future. The proposed works to the former OpenHydro building would be situated at some remove from the houses in the village. As stated above, the raising of the roof over Store 0 would not have a significant visual impact on Euston Street. The proposed development would not affect the residential amenities of homes in the village by reason of overbearing or overshadowing, therefore.
- 8.4.4. It is therefore concluded that the development proposed in this application would not seriously injure the amenities of property in the vicinity of the site.

## 8.5. **Roads and Traffic**

- 8.5.1. The proposed development would not change the capacity of port to send or receive cargo because it would not increase the capacity of its berthage. It would increase the covered storage available in the port to a certain extent. This would allow the port operator to exercise more control over the movement of cargo to and from the port on the landward side and so manage the movement of goods vehicles on the road network in the area. The impact of the proposed development on traffic would therefore be marginally positive.

8.5.2. The proposed development would increase the floor area of warehousing on the site by 1,499m<sup>2</sup>. This would require 15 parking spaces in accordance with the standards set out in table 13.11 of the development plan. No additional parking is proposed in this application. However, given that the development would not increase the capacity of the port and would facilitate the management of its existing handling of cargo, it is not considered that this issue would justify refusing the application.

## 8.6. Other issues

8.6.1. The proposed development consists of extensions to existing warehouses. The works would not involve operations that would give rise to a significant risk of causing ground instability that would affect other structures outside the port.

8.6.2. The period in which it was required to display a site notice was finished before the appeals were made. There are no grounds to demonstrate that any party did not have sufficient notice of the application or that their opportunity to make an appeal was prejudiced by the manner in which the site notice displayed.

## 9.0 Recommendation

9.1. I recommend that planning permission be granted subject to the conditions set out below.

## 10.0 Reasons and Considerations

Having regard to the limited scale of the proposed development and its conformity with the established use of the port lands at Greenore, and to the provisions of the Louth County Development Plan 2021-2027 including policy objective EE 26 to facilitate the operation of ports including Greenore, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity of the site or the natural or built heritage of the area and would be acceptable in terms of the safety and convenience of road users. It would therefore be in keeping with the proper planning and sustainable development of the area.

## 11.0 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. The landscaping set out on the site layout plans shall be carried out in the first planting season following commencement of building operations and shall be permanently retained thereafter. Any plant which fails in the first planting season shall be replaced.

In particular the planting of evergreen climbers on the former OpenHydro building shown on landscape drawing No. 660576737-SHT-01-000-L-6031 shall be carried prior to the occupation of the authorised extension of that building.

**Reason:** In the interests of visual amenity.

3. During the operational phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed an Leq,1h value of 55 dB(A) between the hours of 0800 and 2200, or an Leq, 15 min value of 45 dB(A) at any other time. Night time emissions shall have no tonal component. Dust levels at the site's boundaries with properties outside the port shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days. Prior to the commencement of development the developer shall agree with the planning authority a system for monitoring, recording and reporting of noise and dust emissions from the site.

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

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 8000 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Eastern and Midland Region.

**Reason:** In the interest of sustainable waste management.

6. The construction of the development shall be managed in accordance with a final Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be consistent with the draft management plan submitted with the application and shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse;

- (b) Location of areas for construction site offices and staff facilities;

- (c) Details of site security fencing and hoardings;



(d) Details of on-site car parking facilities for site workers during the course of construction;

(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

(f) Measures to obviate queuing of construction traffic on the adjoining road network;

(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such

phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

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

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Stephen J. O'Sullivan

Planning Inspector

16<sup>th</sup> November 2021