



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308740-20

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<b>Development</b>	Extension to operational hours and increase in waste intake at an existing waste facility.
<b>Location</b>	Cappagh Road, Dublin 15
<b>Planning Authority</b>	Fingal County Council
<b>Type of Application</b>	SID Pre-application
<b>Date of Site Inspection</b>	19 <sup>th</sup> April 2021.
<b>Inspector</b>	Patricia Calleary

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## 1.0 Introduction

- 1.1. This assessment relates to a request received by the Board from Starrus Eco Holdings Limited represented by Tom Phillips & Associates to enter into pre-application consultations in relation to the proposed development at an existing waste facility at Cappagh Road, Dublin 15. On the 20<sup>th</sup> November 2020, the Board's representatives met with the prospective applicant for one meeting, following which the prospective applicant requested closure of the consultations. Further correspondence was received from Beauparc on behalf of its subsidiary, Starrus Eco Holdings Limited following the pre-application meeting.

## 2.0 Site Location

- 2.1. The subject site, approximately 2.5 hectares in size, is located in an industrial/commercial area to the west of Cappagh Road in Ballycoolin within the Dublin 15 Enterprise zone. There are three waste handling buildings and ancillary infrastructure on the site.
- 2.2. Stadium Business park is location to the south of the site, Hunstown Business Park is located to the north west and there are industrial/logistics yards located to the south east. The Huntstown quarry is located to the north/north east of the site and there are undeveloped lands that are zoned for commercial uses to the south west. There are ten houses located c.400 to the south east.
- 2.3. With respect to the existing facility on the site, the extant planning permission and Environmental Protection Agency (EPA) Industrial Emissions (IE) Licence provide for the acceptance of 250,000 tonnes per annum of non-hazardous household, commercial, industrial and construction and demolition wastes. The facility operates on a 24/7 basis on foot of a temporary permission and the breakdown of wastes currently accepted comprise mixed dry recyclables, processed mixed solid wastes, food waste, mixed household waste and packaged food waste.

## 3.0 Existing and Proposed Development

- 3.1.1. The **existing development** on site is that of a waste processing facility that allows for segregation of recyclable material as part of the chain of waste recovery. The

facility provides for the acceptance of 250,000 tonnes per annum of non-hazardous household, commercial, industrial and construction and demolition wastes.

- 3.1.2. It is also stated that the facility acts as a national reverse logistics hub for major retailers where distribution trucks are backloaded with recyclable packaging (cardboard, plastic and wood) and clothes hangers for processing at the Cappagh facility. It is further stated that the facility is currently at capacity, handling c.50,000 tonnes of this waste stream per annum. Reverse logistics operations have recently been extended to food waste from major retailers, where food waste is backhauled at the facility for de-packing and is sent to a nearby Anaerobic Digestion (AD) plant for conversion into renewable energy. The existing facility is currently handling 5,000 tonnes of food waste and the proposed development would enable this element to increase. Supplies in excess of 100,000 tonnes of Solid Recovered Fuel (SRF) are also provided to cement producers in the Eastern Region.
- 3.1.3. The **proposed development** is that of increasing the acceptance of waste to 450,000 tonnes per annum. It appears that the existing facility is permitted to operate on a 24/7 basis for a temporary period and the current proposal also entails seeking permissions to operate as such on a permanent basis.

#### 4.0 **Legislative Provisions**

- 4.1. The Board is asked to decide if the proposal as outlined is or is not Strategic Infrastructure Development as defined by Section 37A of the Planning and Development Planning Act 2000, as amended (hereinafter referred to as 'the Act').
- 4.2. The Seventh Schedule of the Act includes Class 3 (Environmental Infrastructure) providing for the following category of development: 'Development comprising or for the purposes of any of the following: —An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes'.
- 4.3. Section 37A(1) sets out that an application for permission for any development specified in the Seventh Schedule shall, if the following condition is satisfied, be made to the Board under section 37E and not to a planning authority. Section 37A (2) sets out that:

-That condition is that, following consultation under section 37B, the Board serves on the prospective applicant a notice in writing that, in the opinion of the Board, the proposed development would, if carried out, fall within one or more of the following paragraphs, namely -

(a) the development would be of strategic economic or social importance to the State or the region in which it would be situate,

(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate,

(c) the development would have a significant effect on the area of more than one planning authority’.

## 5.0 Prospective Applicant’s Case

- 5.1. At the pre-application meeting, the prospective applicant provided an outline of the proposal which is for a permanent extension to operational hours beyond that permitted under it’s previous permission and an increase in waste intake.
- 5.2. With regard to the **proposed permanent extension of operational hours**, the prospective applicant stated that this would be subject to ongoing detailed monitoring of noise emission levels and that no negative impacts to the amenities of the area have been recorded to date.
- 5.3. With regard to the **proposed increased waste intake**, the prospective applicant stated that this would provide for an increase from the current 250,000 tonnes to 450,000 tonnes per annum. It added that the proposed waste increase can be facilitated within the existing infrastructure on site and that no significant impacts have been identified in the Environmental Impact Assessment (EIA) undertaken. The prospective applicant also said that there is sufficient capacity on surrounding access roads to serve the proposed development.
- 5.4. At the meeting, it was the prospective applicant’s case that having regard to the fact that the parent permission and subsequent permissions were granted under Section 34 of the Act, the proposed development does not constitute strategic infrastructure

and the planning application should be made to the planning authority in the first instance. In support of its case at this point, the prospective applicant referred to a direction issued by the Board in 2007 under File Ref: 16.GC0001 (Proposed amendments to the permitted Bellanaboy Bridge Gas Terminal in County Mayo).

- 5.5. Following the meeting, it is evident that the prospective applicant's case was revisited. In their letter received by the Board dated 13<sup>th</sup> April 2021 seeking closure of the pre-application consultations, it is submitted that the prospective applicant is of the view that the proposed development would fit the Seventh Schedule. A subsequent written submission followed, dated 21<sup>st</sup> April 2021, setting out the prospective applicant's view that the proposal would also meet criteria (a), (b) and (c) of Section 37A(2) of the Act.

## 6.0 Pre-Application Consultations

- 6.1. One pre-application meeting was held between the prospective applicant and the Board's representatives on the 25<sup>th</sup> January 2021. The details of the meeting are set out in the written record contained on the Board's file. The prospective applicant outlined their case in support of their view that the proposed development did not constitute SID and also referred to a previous case decided by the Board (ABP File Ref: 16.GC0001), which they stated supports their case. It also stated that no new infrastructure was required to facilitate the development and that the facility on site had sufficient headroom to deal with 500,000 tonnes of waste per annum.
- 6.2. At the meeting, the Board's representatives set out their **preliminary** view that the proposed development would fit within the Seventh Schedule in terms of both exceeding the 100,000 tonnes per annum threshold under Environmental Infrastructure (waste disposal) and having regard to the overall cumulative development, which would result on the subject site and would exceed the threshold of 100,000 tonnes per annum. It was stated that a decision on this matter would ultimately be made by the Board and the preliminary view should be taken in that context.
- 6.3. In relation to the prospective applicant's case whereby an initial application was decided under Section 34 of the Act and submitted to the local planning authority, the Board noted the prospective applicant's reference to File Ref: 16.GC0001. The

Board's representatives set out the context that this decision was made some time ago (2007), being an early decision following the coming into force of the Strategic Infrastructure Act and the amendments proposed in that application related to the re-routing of onshore upstream gas pipeline relating to Corrib Gas Field Project, Co. Mayo. It was the Board's representatives view that such a decision could not be viewed as a precedent for the current waste proposal as there are clear differences.

- 6.4. The Board's representatives referred to more recent and relevant cases in support of its view, including those set out under the heading of 'Relevant Planning History' (Section 7.0) below. In the three cases referenced, the Board determined each to constitute Strategic Infrastructure Development.
- 6.5. It was agreed at the meeting that the prospective applicant would forward a further submission on its view on whether the development would meet the criteria set out in Section 37A(2) of the Act. At the point of requesting closure of the consultations, no such information had been furnished to the Board by the prospective applicant on this matter. However, the Board requested this information, and it was received by the Board on 28<sup>th</sup> April 2021. I refer the Board to Section 5.5 of my report above where I have detailed the prospective applicant's revised position as set out in this written correspondence received. In effect, it is the prospective applicant's updated and current position that the development constitutes Strategic Infrastructure within the meaning of Section 37A of the Act.

## **7.0 Relevant Planning History**

- 7.1. Permission for the existing facility on site was granted by Fingal County Council under File Ref: F05A/1156, which allowed a materials recycling facility. Subsequent applications granted permission by Fingal County Council, in 2007 and 2013, permitted the facility's expansion and allowed an increase in waste accepted from 200,000 to 250,000 tonnes per annum. Further applications granted permission in 2018 and 2019 by Fingal County Council permitted extensions to the hours of operation on a temporary basis. Specifically, the 2019 grant of permission allowed the facility to operate on a 24/7 basis for a period of three years.

## 8.0 Assessment

### 8.1. Does the development fall within the Seventh Schedule?

- 8.1.1. For the purposes of consideration of the Seventh Schedule, the proposed development is an increase of the annual waste intake by 200,000 tonnes per annum. This alone or in combination with the existing development which permits 250,000 tonnes per annum, would both exceed the threshold set out under Class 3 (Environmental) of the Seventh Schedule, specifically under the category of development: 'Development comprising or for the purposes of any of the following: —An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes'.
- 8.1.2. In previous cases, the Board have consistently taken the view that it is the resultant development, comprising the existing and proposed development (or extension) combined, that requires consideration. Cases of relevance include An Bord Pleanála references: PC0018 (Proposed intensification and extension of the permitted landfill at Parsonstown, Loughnacush, Kilkeaskin, Timahoe West, Drummond, Coolcarigan, Killinagh Upper and Killinagh Lower near Drehid), PC0221 (further replacement of fossil fuels with alternative fuels at Platin, Cement Plant, Duleek, Co. Meath) and ABP-305252-19 (Waste-to-Energy Facility, Carranstown, Duleek, Co. Meath). The Board considered each to fall within the Seventh Schedule in the first instance, and ultimately determined that each constituted Strategic Infrastructure.
- 8.1.3. As the annual waste intake would exceed the threshold of 100,000 tonnes, I recommend that the Board determine that the development falls within Class 3 (Environmental Infrastructure) of the Seventh Schedule of the Act in the first instance and exceeds the applicable threshold of 100,000 tonnes. The issue of increasing the operating hours is not a material consideration for the purpose of determining whether or not the proposed development is of a class within the seventh schedule.

### 8.2. Does the development meet the conditions of Section 37A(2)?

- 8.2.1. Having considered that the development falls within the Seventh Schedule of the Act, it is then necessary to consider whether the proposed development meets the conditions (a), (b) and/or (c) of Section 37A(2). These are considered in order below.



**(a) the development would be of strategic economic or social importance to the State or the region in which it would be situated**

- 8.2.2. Having regard to the above and the provisions of Section 37A(2)(a) of the Act, it is evident that the development would be of strategic economic importance to the State, having regard to its function as a national waste facility in terms of a 'reverse logistics hub' for certain major retailers at a national level. It is also clearly of strategic economic importance to the Eastern Region, for similar reasons and because of its supply of SRF as an alternative fuel for the cement production industry in the region. In conclusion on this matter, the proposed development would meet condition (a) of Section 37(2) of the Act.

**(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situated**

- 8.2.3. In correspondence to the Board, the prospective applicant stated that the proposed development is supported by National Strategic Outcome (NSO) 9 (sustainable management of water, waste and other resources) and NSO 8 (transition to a low Carbon and Climate resilient society) of the **National Planning Framework-Ireland 2040 Our Plan (NPF) (2018)**. The prospective applicant also stated that the proposed development would also meet objectives of the **Waste Action Plan for a Circular Economy (2020-2025)** and that the proposed development would lead to increased capacity at the existing facility, which in turn would be of strategic importance in meeting the target to reduce the disposal of waste to landfill to 10% in 2035 and in driving higher levels of waste segregation.
- 8.2.4. The prospective applicant also stated that the proposal to increase capacity at the facility would meet the strategic vision of the **Eastern-Midlands Region Waste Management Plan (2015-2021)**. For example, it is submitted that the expansion of processing capacity would contribute to national recycling targets by processing more waste and extracting more recycle and resources for the circular economy, as well as ensuring more waste is diverted away from landfill.
- 8.2.5. In addition to the prospective applicant's referenced policy documents, the provisions of the **Regional Spatial & Economic Strategy (RSES) 2019-2031** for the Eastern

Region is of relevance in the assessment of whether the proposed development would meet Section 37A(2)(b) of the Act. The RSES includes 'Sustainable Management of Water, Waste and other Environmental Resources' as one of 16 Regional Strategic Outcomes, in support of NSO 8 and NSO 9 of the NPF.

8.2.6. Other policies are set out including supporting the transition to a Low Carbon, Circular and Climate Resilient Region with a priority to minimise waste and the use of waste as a fuel resource in the energy sector.

8.2.7. Section 10.4 (Waste Management) sets out that the Waste Management Policy for the Region is contained in the Eastern and Midlands Region Waste Management Plan 2015-2021, which I have considered above. The RSES also includes a Regional Policy Objective, RPO 10.25, setting out the requirement for Development plans to identify how waste will be reduced in line with the principles of the circular economy.

8.2.8. Having regard to the above, the development would contribute substantially to the fulfilment of objectives NSO8 and NSO9 of the NPF. It would also contribute to the fulfilment of objectives set out in the RSES for the Eastern region in which it is and would be situate.

8.2.9. In conclusion on this matter, the proposed development would meet condition (b) of Section 37(2) of the Act.

**(c) the development would have a significant effect on the area of more than one planning authority.**

8.2.10. The prospective applicant sets out that the facility provides a resource recovery and processing service for wastes generated across the country in respect of certain major retailers and at a regional level in respect of supplying SRF to cement plants in the region.

8.2.11. In this regard, while the development would be physically located in the functional area of one planning authority, Fingal County Council, it would provide a waste processing service for the recovery of dry recyclables and food for major retailers at a national level and would also provide a service for the processing of SRF for cement plants in the region. It would have a significant effect on the area of more than one planning authority.

8.3. In conclusion on this matter, the proposed development would meet condition (c) of Section 37(2) of the Act.

## 9.0 Recommendation

9.1. Having regard to the above I recommend that the prospective applicant be informed that the proposed development constitutes strategic infrastructure within the meaning of Section 37 of the Planning and Development Act, 2000, as amended, and in accordance with Section 37A(1) of the Act, an application is required to be made direct to An Bord Pleanála, for the following reasons and considerations.

## 10.0 Reasons and Considerations

10.1. Having regard to the nature and scale of the proposed waste development for the increase in the annual intake of waste by 200,000 tonnes to a total annual waste intake of 450,000 tonnes and the increase in operating hours to continuous 24 hours across seven days a week on a permanent basis, it is considered to fall within Class 3 - Environmental Infrastructure, Seventh Schedule and within the terms of Section 37A(2) paragraphs (a), (b) and (c) Planning and Development Act 2000, as amended. It is the opinion of the Board that the development would be of strategic importance to the State and the Eastern and Midlands region within which it would be situate, would contribute substantially to the fulfilment of the objectives within the National Planning Framework and the Regional Spatial & Economic Strategy (RSES) 2019-2031 for the Eastern and Midland Region in force in respect of the area in which it would be situate, and would have a significant effect on the area of more than one planning authority.

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Patricia Calleary  
Senior Planning Inspector

06<sup>th</sup> May 2021

**Appendix 1** - The following is a schedule of prescribed bodies considered relevant:

- Minister for Housing, Planning, Community and Local Government
- Minister for Communications, Climate Action and the Environment
- Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs
- Fingal County Council
- Dublin City Council
- South Dublin County Council
- Dun Laoghaire Rathdown County Council
- Louth County Council
- Meath County Council
- Kildare County Council
- Wicklow County Council
- Longford County Council
- Westmeath County Council
- Offaly County Council
- Laois County Council
- Eastern and Midlands Regional Assembly
- Eastern Midlands Waste Regional Office
- Irish Water
- Transport Infrastructure Ireland
- An Chomhairle Ealaíon
- An Taisce
- Fáilte Ireland
- Heritage Council
- Inland Fisheries Ireland
- Environmental Protection Agency
- Health Service Executive
- Geological Survey Ireland