



An
Bord
Pleanála

Inspector's Report ABP-313740-22.

Development	Construct a new liquid hydrogen storage tank and alterations as required to existing equipment etc.
Location	Ballynoe Road, Raheen Business Park, Raheen, Limerick.
Planning Authority	Limerick City & County Council.
Planning Authority Reg. Ref.	22/38.
Applicant(s)	Analog Devices International.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Thomas Ryan.
Observer(s)	None.
Date of Site Inspection	9 th January 2023.
Inspector	A. Considine.

1.0 Site Location and Description

1.1. The subject site lies within the established Raheen Business Park, located to the south of Limerick City. The subject site comprises part of the established Analog Devices site within the Park. The site has a stated area of 5.21ha and is occupied by the Analog Devices site. The wider AG site lies to either side of the Derrybeg Road within the Park and occupies a number of established units within the Business Park.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices, for the construction of a new liquid hydrogen storage tank and associated equipment, alterations as required to existing equipment, and removal of existing liquid hydrogen storage tank being made redundant, and all associated site works. This is an existing Lower Tier Seveso site, and the development consists of modifications to an establishment within the meaning of the European Communities Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations, all at Ballynoe Road, Raheen Business Park, Raheen, Limerick.
- 2.2. The application included a number of supporting documents including the relevant plans, particulars, completed planning application form and cover letter.
- 2.3. Further information was sought with regard to a number of issues including matters relating to AA.
- 2.4. Following the submission of the response, the development was readvertised, and the submission included the following documents:
- Screening for Appropriate Assessment
 - Planning Statement addressing issues raise
 - Response to third-party issues
 - Construction Environmental Management Outline.
- 2.5. Unsolicited information was submitted with an updated AA Screening Report after the response to the FI was received.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 4 conditions.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The initial Planning report considered the proposed development in the context of the details submitted with the application, internal technical report, third party submissions, planning history and the relevant Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The report notes no objection in principle to the development, but that further information was required with regard to matters relating to AA. A Planning Statement was also required to address a number of issues.

Following receipt of the response to the further information request, the Planning Officer concludes recommending that permission for the proposed development be granted. This Planning Report formed the basis of the Planning Authority's decision to grant permission.

3.2.2. **Other Technical Reports**

Fire Officer: No objection.

3.2.3. **Prescribed Bodies**

None.

3.2.4. **Third Party Submissions**

There are 3 no. third-party objections noted on the PAs file from Mr. Thomas Ryan, Ms. Sarah Mulcahy and Mr. Stephen Cleary.

The issues raised as summarised as follows:

- On public health grounds no further development can be permitted in the Raheen Industrial Estate.

- Stormwater outfall discharges into in the Loughmore Turlough SAC with the Loughmore Canal discharging into the Barnakyle River.
- Given the lack of controls in the discharge of stormwater no further development can take place in the Estate.
- Lands have been flooded due to the destruction of the Loughmore Turlough and livestock suffered unexplained physical distortions as seen with exposures to chemical pollution.
- There is no information regarding the methods/procedures to ensure no hydrogen/effluent from the tanks will enter the surface water drainage.

Following the submission of the response to the FI request, there were no further submissions from third parties.

4.0 Planning History

There is extensive planning history associated with the site and the wider Raheen Business Park development. The relevant history is summarised as follows:

PA ref: 15/283: 10-year permission granted by Limerick City & County Council for an extension of the manufacturing facility etc.

ABP ref: ABP-314692-22 (PA ref: 22/803): 10-year permission sought for the continuing regeneration and rejuvenation of the Campus and upgrade of facilities, including an extension to C1 R&D Pilot Line Building.

This is a current appeal with the Board.

5.0 Policy and Context

5.1. Development Plan

Limerick City & County Development Plan 2022

- 5.1.1. The Board will note that when the PA considered the proposed development, the previous 2016 Development Plan was in place. The new Limerick Development Plan 2022-2028 is the now the relevant policy document pertaining to the subject site. This Plan was adopted by the Elected Members of Limerick City & County Council

on the 17th of June 2022 and the Plan came into effect on the 29th of July 2022, six weeks after the date of adoption.

The Plan is set out over 6 Volumes with Volume 1 comprising the Written Statement and Volume 2 dealing with Settlements. The remaining volumes deal with Record of Protected Structures and ACAs, Environmental Reports, Designated Sites & RMPs and accompanying strategies such as the Housing Strategy, Retail Strategy etc.

The subject site lies at the south-western area of the Limerick City and Suburbs, on lands zoned High Tech / Manufacturing Campus. This zoning is afforded to the full Raheen Business Park. It is the stated objective of this zoning 'to provide for office, research and development, high technology, regional distribution/ logistics, manufacturing and processing type employment in a high quality built and landscaped campus style environment'.

The Raheen Business Park, together with the National Technology Park and the proposed Northside Business Campus are identified as Strategic Employment Locations under the Limerick Shannon Metropolitan Area Strategic Plan (MASP).

The following policy objectives are relevant:

- **Objective ECON O17 Strategic Employment Locations City and Suburbs (in Limerick), Mungret and Annacotty:** Seeks to facilitate and support the Raheen Business Park (and others) as strategic employment locations in accordance with MASP.

Having regard to the issues raised in the third-party submission and noting that the site lies approximately 1.2kmm to the west of the nearest area identified as having a high potential for flooding by rivers and coastal flooding, I also consider the following policy objective to be relevant:

- **Objective CAF O21 Identified Flood Risk:** It is an objective of the Council to: a) Ensure that no development shall commence on the lands identified as being at flood risk adjacent to the Raheen Business Park in the townlands of Ballycummin/ Rootiagh, zoned for High Tech/ Manufacturing, until a Site-specific Flood Risk Assessment, including hydraulic model has been prepared for the lands, which demonstrates that the flood risk for the lands can be mitigated or that a less vulnerable use can be accommodated on site.

5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 2km to the north of the site and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077).

5.3. EIA Screening

5.3.1. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. Class 10 Infrastructure Projects and Class 13 Changes, Extensions, Development and Testing of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) are considered to be relevant:

- 10(a) Industrial estate development projects, where the area would exceed 15 hectares.
- 10(b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. Due to the site's location in a built-up area 10 hectares is the relevant threshold in this case.
- 13(a)(ii) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:
 - result in an increase in size greater than:
 - 25 per cent, or
 - An amount equal to 50 per cent of appropriate threshold,Whichever is greater.

5.3.2. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR, comprising the construction of a new liquid hydrogen storage tank and associated equipment, alterations as required to existing equipment, and removal of existing liquid hydrogen storage tank being made redundant, and all associated site works, on a site covering 5.21ha, all within the existing Raheen

Business Park. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.

5.3.3. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.3.4. Having regard to:

- (a) the nature and scale of the development, and
- (b) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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

This is a third-party appeal, from Mr. Tom Ryan, against the decision of the Planning Authority to grant planning permission for the proposed development within the industrial building in the Raheen Business Park. The issues raised reflect those made to the Planning Authority during its assessment of the proposed development and are summarised as follows:

- The contractual agreements between the local authority and the landowners in relation to the Loughmore Canal have not been complied with and the watercourse has not been maintained.
- Capacity of the outfall concerns were raised in 1999 by the Local Authority's planning and environment sections yet permissions have been granted without control measures or flood risk assessments. This has led to extensive flooding of lands.
- Expansion of the Raheen Industrial Estate has resulted in misconnections in the foul and storm water network and there are on-going investigations into discharges which are not storm water. No further development can be permitted in the Estate on public health grounds.
- Storm water discharges through an SAC.
- Lands have been flooded and livestock suffered unexplained physical distortions as seen with exposure to chemical pollution. The Local Authority has a responsibility for animal welfare.

The appeal includes details of a Loughmore Canal Stakeholder Meeting dated 21st April 2022.

6.2. Planning Authority Response

None.

6.3. First Party Response to Third Party Appeal

The first party, through their agent, submitted a response to the third-party appeal. The issues raised are summarised as follows:

- The issues raised are outside the control of the applicant and any suggestions that ADIs activities have in anyway affected lands, livestock or surrounding lands are refuted.
- The activities of Analog Devices International are carried out under strict controls laid down in the IPC licence and are subject to stringent EPA monitoring.

- It is submitted that the true effect of the appeal is to frustrate and delay the infrastructure upgrades proposed.
- There is no foul water loading associated with the proposed development and the proposed tank is to be located on an existing impermeable area. The replacement of the liquid hydrogen tank will not contribute to any additional surface water to the Barnkyle Stream.

6.4. Further Responses

EPA: Following a request for comment by the Board to the EPA submitted a report which noted that the subject site was issued an IPC licence on the 13th of January 2022. Details of the proposed activity is not listed in Schedule 5 of the P&D Regulations and as such, EIA may not be required.

The Board will note that a similar request of the HSA was not responded to within the statutory timeframe.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Third Party Issues
3. Other Issues
4. Appropriate Assessment

7.1. Principle of the development

- 7.1.1. The proposed development seeks essentially to replace a liquid hydrogen tank within the Analog Devices International (ADI) Campus within the Raheen Business Park in Limerick. The existing tank rises to a height of 8.415m while the proposed replacement tank will rise to 13.24m. The Board will note that the tank to be replaced is not the largest tank within the site, with the tank to the north of the proposed location rising to +24m in height. The subject site lies within the fenced site and all services to support the proposed development are in place in terms of access road and utilities. The site is located on lands zoned for a High Tech / Manufacturing Campus. This zoning is afforded to the full Raheen Business Park, and it is the stated objective of this zoning 'to provide for office, research and development, high technology, regional distribution/ logistics, manufacturing and processing type employment in a high quality built and landscaped campus style environment'.
- 7.1.2. The Board will note that there is a valid planning permission for the construction an extension of the manufacturing facility etc at the site, which is underway at present. The current proposal constitutes a minor development in the context of the wider permitted development at this site, being the replacement of an existing liquid hydrogen tank, albeit with a larger tank. As such, I am generally satisfied that the principle of the current proposed development can be considered acceptable.

7.2. Third Party Issues

- 7.2.1. While the third-party appeal raises concerns in terms of the proposed development, it is clear that Mr. Ryan's concerns extend beyond the subject site. The appellant raises concerns with regard to the development of the wider area, and the impact this has had on his landholding in terms of storm water discharges, flooding and the impact of flooding, and suggested chemical pollution, on livestock. Having regard to the planning history of the wider site, and previous submission by the appellant, I would note it is Mr. Ryans experience that previous engineering solutions proposed to attenuate water across the wider Business Park have not worked to date, and it is submitted that development at Raheen Business Park impacts and exacerbates flooding on his, and other peoples, land. It is requested that permission for any further development within the Raheen Business Park be refused in the absence of

controls in the discharge of stormwater from the estate to waterways. The Board will also note the minutes of the Loughmore Canal Stakeholder meeting dated 21st April 2022 submitted by the appellant as part of the appeal documentation.

- 7.2.2. The Board will note that the applicant has submitted that the proposed development will have no impact on or contribute to any additional surface water to the Barnakyle Stream. There is no foul water loading associated with the proposed development and the proposed tank is to be located on an existing impermeable area.
- 7.2.3. In response to the third-party appeal, the applicant submitted that the issues raised are outside of the control of the applicant. In addition, I would note that the subject proposed development comprises essentially a replacement tank on an area of the ADI Campus which is already built on, and therefore, will not result in any additional impacts to the surface water regime of the wider Park.
- 7.2.4. I would note that the appellants land lies within an area adjacent to the Barnakyle River which has an extensive network of drains in place. This area lies approximately 2km to the west of the subject site. Having consulted the Flood Maps website, I would note that this area, immediately adjacent to the river, is noted to be at risk of river flood events and coastal flood events, but no past flood event is noted within the immediate area or extending into the adjacent farmland. The area where the appellant land is located, lies within the Barnakyle Drainage District under the Local Authority, and the Maigne Arterial Drainage Scheme, under the OPW. I would note that such designations do not indicate a flood hazard or flood event, with both carried out essentially to improve land for agriculture and to mitigate flooding.
- 7.2.5. While I would acknowledge the concerns raised by the appellant, I do not consider that a grant of planning permission in this instance will exacerbate any potential risk of flooding. Overall, and having regard to the planning history of the subject site, I am satisfied that the proposed replacement of a liquid hydrogen tank at this location within the Raheen Business Park is acceptable and would accord with the proper planning and sustainable development of the area.

7.3. Other Issues

7.3.1. Visual Impacts

The Board will note that the existing tank rises to a height of 8.415m and the proposed replacement tank will rise to 13.24m. While this increase in height might represent a visual impact, having regard to the proximity of a further existing tank which rises to +24m, and having regard to the context of the subject site, I am generally satisfied that the proposed development will not give rise to any significant visual impacts within the Business Park.

7.3.2. Roads, Traffic & Servicing

The proposed development seeks to replace an existing liquid hydrogen tank within the Analog Devices International Campus in Raheen Business Park. I am satisfied that there are no issues arising with regard to roads, traffic or servicing.

7.3.3. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.4. Appropriate Assessment

The Board will note that the applicant submitted a Screening for Appropriate Assessment Report following a request for further information from the planning authority. The report concludes that the proposed development is not likely to have a significant effect on any European Site and as such, AA is not required.

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 2km to the north of the site and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077). There is no obvious hydrological connection between the site and this Natura 2000 site. I am therefore satisfied that the proposed development would be unlikely to have any significant effect on the Conservation Objectives of this or any other European site in the wider area.

Having regard to the nature, scale and location of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. It is recommended that the proposed replacement liquid hydrogen tank be granted for the following stated reasons and considerations.

9.0 Reasons and Considerations

Having regard to the planning history and the zoning objective of the subject site, its location within the existing Raheen Business Park and the nature and scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the area. 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 as amended by the further plans and particulars submitted on the 21st day of April 2022 and 16th day of May 2022, 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 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

A. Considine
Planning Inspector
9th January 2023