An Bord Pleanála

Inspector's Report.

Case Ref. No:	ABP-315084-22
Issue:	SID Pre-application – whether project is or is not strategic infrastructure development.
Proposed Development:	Modifications to Waste Treatment Facility
Location:	402 Grants Drive, Greenogue Business Park, Greenogue, Rathcoole, County Dublin
Applicants:	Enva Ireland Limited
Planning Authority:	South Dublin County Council
Inspector:	Kevin Moore

1.0 Introduction

1.1. The Board received a request on 11th November, 2022 from Enva Ireland Limited to enter into pre-application consultation under section 37B of the Planning and Development Act 2000, as amended, in relation to modifications to a waste treatment facility at 402 Grants Drive, Greenogue Business Park, Greenogue, Rathcoole, County Dublin.

1.2. A Pre-Application Consultation meeting took place between An Bord Pleanála (the Board) and the prospective applicant on 7th February, 2023.

1.3. This Report is prepared following the request by the prospective applicant to close the Pre-Application Consultations between the applicant and the Board. This Report provides an overview of the proposed project, details relevant legislative provisions, provides a summary of the meeting and the advice provided by the Board, makes a recommendation on whether the proposed development is or is not Strategic Infrastructure for the purposes of the Planning and Development Act, 2000, as amended, and recommends a list of Prescribed Bodies who should be forwarded copies of any future Strategic Infrastructure application to An Bord Pleanála.

2.0. Site Location

2.1. The site is located at 402 Grants Drive, Greenogue Business Park, Greenogue, Rathcoole, County Dublin. Greenogue Business Park is east of Newcastle and approximately 1.5km north of the village of Rathcoole. Access to the site is from the R120 Regional Road to the south. The regional road links with the N7 motorway at Rathcoole. The site is bounded to the north and west by roads serving the business park and there are adjoining commercial premises.

2.2. There is an existing hazardous waste transfer/recovery facility on the site which is authorised to process a throughput of 106,000 tonnes of hazardous waste per annum and 5,000 tonnes non-hazardous waste. The facility comprises two main buildings, housing three operations and an ancillary support office. Building 1 is a hazardous waste transfer structure divided into three, with separate operations within each – storage, bulking up and transfer of contaminated soil for disposal and recovery, storage, bulking up and transfer of hazardous waste including asbestos for disposal and recovery, and storage, bulking up and transfer of transformers. The main office structure adjoins Building 1. Building 2 is divided into two sections. One section houses a hydrocarbon waste treatment centre for treatment and recovery of hydrocarbon contaminated waste from bilge tanks of ships, petrol stations and oil spills. The process involves decanting water from the oil, filtering to remove suspended solids, chemical treatment, and heat treatment. Aqueous, hydrocarbon and sludge wastes are processed in the treatment centre. Waste oils that are processed are sent off-site for further recovery or disposal. The other section of Building 2 is a drum recovery centre for reconditioning or recycling of empty industrial packaging such as steel drums, plastic drums, and intermediate bulk containers.

2.3. There is an existing weighbridge, a marshalling yard providing storage and access to the buildings, a tank farm, and a car park with 32 parking spaces.

2.4. The site is subject to EPA Waste Licence W0192-03 (updated to an IED Licence), permitting a range of waste disposal activities and waste recovery activities. The licence limits the quantity of waste to 111,000 tonnes per annum accepted at the facility.

3.0. The Proposed Development

3.1. The proposed development would comprise modifications to the existing waste treatment and transfer facility to manage 24,000 tonnes per annum of Healthcare Risk Waste (HRW), prior to onward consignment to energy recovery treatment. There would be three processes undertaken:

- Reception and disinfection of HRW,
- Automated management, reusable sharps containers, and
- Bulking and transportation off-site (Transfer).

3.2. There would be no change in overall waste treated at the facility because an equivalent reduction of 24,000 tonnes per annum of existing waste types being treated is proposed. Therefore, the tonnage intake of 111,000 tonnes per annum would remain. The proposed development would primarily take place in that part of Building 1 housing the contaminated soil management operation. It would also incorporate the area occupied by the adjoining office. The HRW management facility would displace the existing contaminated soil recovery process. An amended IED Licence would be required from the EPA to operate the HRW management operation.

3.3. The HRW would be solid or liquid waste arising from medical activities. Table 4-1 of the prospective applicant's submission to the Board details the waste proposed for acceptance and whether it is to be disinfected on site or stored prior to transfer off-site.

3.4. The construction works would include demolition of the existing office space and replacement by a steel-clad enclosure providing space for two bulk trailers. The trailers would be parked and loaded, via a conveyor system, with treated material for removal off site. A new weighbridge office would be built west of the main entrance. A new roofed enclosure would be built to the west of Building 1 for

storage of clean bins. An air emission stack would be added. Various internal works would take place within Building 1, including the installation of plant.

3.5. There are no works proposed within existing Building 2 as part of the proposed development.

4.0. Planning and Licensing History

4.1. P.A. Ref. SD09A/0050

Planning permission was granted in 2009 for an extension to the oil recovery activities at the integrated waste management facility. This included permission for 24-hour operations at the facility for activities within the existing solid shed relating to drill cutting waste processing and recovery.

4.2. P.A. Ref. SD07A/0260

Planning permission was granted in 2007 for an increase in the annual waste throughput at the integrated waste management facility from 62,500 tonnes to 111,000 tonnes per annum.

4.3. P.A. Ref. SD02A/0313

Planning permission was granted in 2003 for an integrated waste management facility comprising a hydrocarbon waste treatment centre, a drum recovery centre, a hazardous waste transfer station, and a non-hazardous waste recycling centre.

4.4. EPA IED Licence W0192-03

A waste licence was granted by EPA in February 2010. This was updated to an IED Licence. It authorises Enva to carry out a schedule of waste activities subject to conditions.

5.0. Legislative Provisions.

5.1. *Planning and Development Act, 2000, as amended*

Section 37A

Section 37A refers to the Board's jurisdiction in relation to certain planning applications and refers as follows:

> *(1) An application for permission for any development specified in the Seventh Schedule (inserted by the Planning and Development (Strategic Infrastructure) Act 2006) shall, if the following condition is satisfied, be made to the Board under section 37E and not to a planning authority.*
> *(2) That condition is that, following consultation under section 37B, the Board serves on the prospective applicant a notice in writing under that section stating 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 Spatial Strategy or in any*

regional planning guidelines 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.

Seventh Schedule – Infrastructure Developments for the Purposes of Sections 37A and 37B

The following classes of development in the Seventh Schedule, under *Environmental Infrastructure*, is inserted into the Planning and Development Act 2000 by section 5 of the Planning and Development (Strategic Infrastructure) Act 2006:

3. Development comprising or for the purposes of any of the following:

- *A waste disposal installation for -*
  (a) The incineration, or
  (b) The chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9), or
  (c) The landfill,
  of hazardous waste to which Council Directive 91/689/EEC applies (other than an industrial waste disposal installation integrated into a larger industrial facility).

- *A waste disposal installation for -*
  (a) The incineration, or
  (b) The chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/.EEC under heading D9),

of non-hazardous waste with a capacity for an annual intake greater than 100,000 tonnes.

- *An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.*

6.0. Applicant's Submission

6.1. The Prospective Applicant considers that the proposed development should be regarded as Strategic Infrastructure Development. It is submitted:

Seventh Schedule

- The proposed development may come within the scope of a waste disposal installation for the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9) of hazardous waste to which Council Directive 91/689/EEC applies (other than an industrial waste disposal installation integrated into a larger industrial facility). It is submitted that the proposal would provide for the interim treatment (disinfection) of hazardous HRW. The prospective applicant's understanding is based on the EPA description and examples of Disposal Code D9 in "Guidance on use of Disposal and Recovery Codes" and the transcription of the Directive 91/156/EEC into the Third Schedule of the Waste Management Acts 1996 to 2005, including:

  Class 7. Physico-chemical treatment not referred to elsewhere in this Schedule which results in final compounds or mixtures which are disposed of by means of any activity referred to in paragraphs 1 to 5 or paragraphs 8 to 10 of this Schedule (including evaporation, drying and calcination).

It is noted that Class 7 is the principal activity licensed by EPA at two facilities that operate a HRW management operation similar to that proposed. The prospective applicant states that all the HRW treated in the process proposed would be managed by a physical treatment (shredding followed by steam disinfection) and that there would be no chemical element.

- Regarding the class *a waste disposal installation for the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9) of non-hazardous waste with a capacity for an annual intake greater than 100,000 tonnes*, the prospective applicant notes that the large majority of the waste intake is hazardous and, as a result, the criteria regarding non-hazardous waste are not considered to be applicable. Therefore, it is considered that the proposed development does not fall within this class.

- Should the Board agree the total overall tonnage of waste to be treated at the site is the key determinant then it may consider the proposed development to be an installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.

Section 37A(2) Criteria

- The proposed development is considered to be of strategic economic or social importance to the State or the region, having regard to:
    - The pressures in the existing HRW management system,
    - The addition of significant capacity and the strengthening of the resilience and preparedness to the State's HRW treatment sector by expanding management capacity,

- The addition of a second supplier in the State to the existing HRW management system,
- The resulting reduction in the reliance on exported HRW that has not been processed, and
- The addition to capacity to allow for rapid growth of HRW arisings.

- The proposal accords with National Strategic Outcome 9 of the National Planning Framework as it provides necessary and appropriate hazardous waste management facilities to avoid the need for treatment elsewhere. It also accords with National Policy Objective 56 which seeks to sustainably manage waste generation and to invest in different types of waste treatment.

- The Eastern and Midlands Regional Spatial & Economic Strategy includes '*Sustainable Management of Water, Waste and other Environmental Resources*' as one of 16 Regional Strategic Outcomes in support of NSO 9 of the NPF. It also supports the circular economy. In terms of waste management, it defers to the strategic objectives, targets and goals of the Eastern and Midlands Region Waste Management Plan. Reference is made to Regional Policy Objective 10.25 of that Plan, which refers to reduction in waste, in line with the principles of the circular economy, and managing the remaining quantum of waste. Reference is also made to the National Hazardous Waste Management Plan and its acknowledgement of the increase in the production of HRW during the Covid-19 pandemic.

- The proposed development would process healthcare risk waste that is generated nationally. Any potential significant effects would be localised and temporary and would be mitigated through the requirements of the IED Licence and standard planning conditions. No significant effects are predicted in any other planning authority.

7.0. Outline of Pre-Application Consultation

7.1. At the meeting held on 7th February, 2023, the prospective applicant provided an overview of the activities on the site and provided general details on the proposed development, with clarity on what is intended for the existing structures on the site. The prospective applicant also presented its opinion on how the proposed development came within the scope of the Seventh Schedule of the Planning and Development Act, 2000, as amended, and how it met with the provisions of section 37A(2) of the Act.

7.2. The discussion following the prospective applicant's presentation focused on whether the proposed development would fall within a class of development under the Seventh Schedule of the Planning and Development Act. It was recognised that that the existing facility is an approved installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes and that the volumes of waste proposed to be handled at the facility would not alter. The matter of whether the proposed development would constitute a waste disposal installation for chemical treatment was also queried as no chemical treatment was stated to be proposed. It was recommended that a preliminary view would be sought from the Board as to whether the proposed development is or is not Strategic Infrastructure Development.

7.3 Following this meeting, correspondence was received from the prospective applicant which requested that the Board would not further progress consideration of the proposed development because the prospective applicant wished to submit further information regarding the proposal and the treatment processes involved. It was submitted that this additional information would include further consideration of the Seventh Schedule of the Planning and Development Act 2000 (as amended) and if the proposed development is "*A*

waste disposal installation for – … (b) the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9)".

8.0. Further Information

Further information was received by the Board on 29th March, 2023.

8.1. *The Process*

8.1.1 The prospective applicant referred to the nature and extent of the proposed development. It was noted that there would be no change in overall tonnage of waste treated at the facility as existing waste types at the facility would be reduced by an equivalent to remain compliant with the current authorised intake limit. It was stated that EPA will require Enva to secure agreement via amended IED Licence to run the HRW management operation. Three processes are proposed as follows:

- Process 1 – Reception and disinfection of HRW. HRW would be emptied from reusable bins/containers and would continue to shredding and then to treatment in thermal screws. The treated HRW would then be bulked up and consigned offsite for recovery/disposal. The empty contaminated bins would require disinfection before reuse at healthcare facilities.
- Process 2 – Automated emptying and disinfection of reusable sharps containers. HRW would then be consigned into Process 2 for shredding and treatment in thermal screws. The empty contaminated containers would require disinfection before reuse at healthcare facilities.
- Process 3 – Bulking and transportation offsite (transfer). HRW would be bulked up and transported offsite for recovery/disposal.

8.1.2. The prospective applicant's submission refers to two disinfection processes. The first is shredding followed by steam treatment. Steam would be applied to kill bacteria, viruses and other pathogens. This would facilitate chemical changes to enhance the disinfection process, resulting in a chemical breakdown of the HRW. It is submitted that water, even in the form of steam, constitutes a chemical and, as such, steam must be regarded as physico-chemical treatment. The second form of disinfection refers to chemical disinfection of contaminated reusable containers. For Process 1, the empty reusable wheeled bins and sharps containers may contain residual traces of HRW and, therefore, require treatment. The bins would be cleaned by removing visible residue followed by disinfection using a suitable chemical disinfectant solution. Disinfectant solution would be rinsed off using clean water, followed by drying and storage. A similar but physically separate container disinfection process would be applied to the Process 2 sharps reusable containers. Decontamination would be conducted in an automated emptying and cleaning unit. The disinfectant solution again would be rinsed off using clean water, followed by container drying and storage.

8.2. *Seventh Schedule - Strategic Infrastructure*

8.2.1. It is submitted that the proposed development falls under the Seventh Schedule, meeting the following:

Environmental Infrastructure

3.- Development comprising or for the purposes of any of the following:

- *A waste disposal installation for -*

(a) The chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9), … of hazardous waste to which Council Directive 91/689/EEC applies (other than an industrial waste disposal installation integrated into a larger industrial facility).

8.2.2. It is further submitted:

- The HRW management facility would apply chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9, physico-chemical treatment) as part of the HRW treatment process;
- The healthcare risk waste feedstock would meet the H9 '*Infectious*' definition of hazardous waste; and
- The HRW management facility would not be integrated into a larger industrial facility.

8.2.3. European legislation and guidance are referenced in relation to the sources for the terms '*Chemical treatment*' and '*Physico-chemical treatment*'. Licensing and guidance provisions relating to '*Physico-chemical treatment*' are also alluded to, along with identification of HRW facilities subject to EPA licensing.

9.0. Assessment

9.1. Seventh Schedule

9.1.1. I first note the provisions relating to Environmental Infrastructure under the Seventh Schedule in the Planning and Development Act, 2000, as amended. Having regard to:

- the nature and extent of the proposed development (treatment of hazardous waste), and

- the established facility being an installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes (i.e. there would be no change in overall tonnage of waste treated at the facility),

it is reasonable to determine that the proposed development would not constitute:

Development comprising or for the purposes of any of the following:

- *A waste disposal installation for -*
  (a) The incineration, or
  (b) The chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9), of non-hazardous waste with a capacity for an annual intake greater than 100,000 tonnes.

or

- *An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.*

9.1.2. The applicant has provided clarity to the Board in relation to the volumes of hazardous waste that would be handled at the facility and the processes involved. The proposed development would:

- Receive and disinfect HRW, which would include shredding followed by steam treatment, in order to kill bacteria, viruses and other pathogens. This would facilitate chemical changes to enhance the disinfection process and would result in a chemical breakdown of the HRW. Thus, there would be physico-chemical treatment.

- Contaminated containers and bins would be chemically disinfected.

9.1.3. Heading D9 of Annex IIA to Council Directive 75/442/EEC is as follows:

ANNEX IIA

DISPOSAL OPERATIONS

NB: This Annex is intended to list disposal operations such as they occur in practice. In accordance with Article 4 waste must be disposed of without endangering human health and without the use of processes or methods likely to harm the environment …

"D 9 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 12 (e.g. evaporation, drying, calcination, etc.)"

9.1.4. Council Directive 91/689/EEC defines hazardous waste as follows:

Section 4

For the purpose of this Directive 'hazardous waste' means:

— wastes featuring on a list to be drawn up in accordance with the 'procedure laid down in Article 18 of Directive 75 /442 /EEC on the basis of Annexes I and II to this Directive, not later than six months before the date of implementation of this Directive. These wastes must have one or more of the properties listed in Annex III. The list shall take into account the origin and composition of the waste and, where necessary, limit values of concentration. This list shall be periodically reviewed and if necessary by the same procedure,

— any other waste which is considered by a Member State to display any of the properties listed in Annex III. Such cases shall be notified to the Commission and

reviewed in accordance with the procedure laid down in Article 18 of Directive 75 /442 /EEC with a view to adaptation of the list.

9.1.5. Annex III includes the following:

Annex III

PROPERTIES OF WASTES WHICH RENDER THEM HAZARDOUS

H9 'Infectious': *substances containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms.*

9.1.6. It is noted that:

- the proposed facility would apply physico-chemical treatment within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9;
- the HRW feedstock would meet the H9 '*Infectious*' definition of hazardous waste; and
- the facility would not be integrated into a larger industrial facility.

9.1.7. Having regard to the nature and extent of the proposed development, it may reasonably be determined that it falls under the Seventh Schedule, constituting development as follows:

Environmental Infrastructure

3.- Development comprising or for the purposes of any of the following:

- *A waste disposal installation for - …*

(b) The chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9),

... of hazardous waste to which Council Directive 91/689/EEC applies (other than an industrial waste disposal installation integrated into a larger industrial facility).

9.2. *Section 37A(2) Criteria*

9.2.1. Having regard to the provisions of section 37A(2) of the Planning and Development Act, my considerations are as follows:

- The proposed waste facility would provide waste management capacity for the Greater Dublin Area and beyond, ensuring compliance with EU and national targets and obligations for waste separation and recovery, for handling of hazardous wastes. It is, therefore, recognised that a development of the nature proposed, i.e. one which would expand hazardous waste management infrastructure within the State to assist in meeting EU and national obligations, would be of strategic economic importance to the State. The proposed development would strengthen the State's HRW treatment capacity and would reduce the reliance on exported unprocessed HRW.

- The development of a waste management facility is consistent with national and regional policy. The proposed development could reasonably be viewed as contributing to the fulfilment of the policies and provisions of the National Planning Framework (NPF), the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Region, and the Eastern and Midlands Region Waste Management Plan 2015 – 2021, including the following:

(a) National Policy Objective 56 of the NPF, which seeks sustainable management of waste generation, investment in different types of waste treatment and supporting circular economy principles, and prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society;

(b) Section 10.4 of the RSES, which promotes local authorities achieving waste reduction, increases in material re-use and recycling, and reductions in waste going for disposal by complying with the strategic objectives, targets and goals set out in the Eastern and Midlands Region Waste Management Plan 2015 – 2021 and any subsequent waste management plans and promoting a more circular economy;

(c) Regional Policy Objective 10.25 of the RSES, which requires development plans to identify how waste will be reduced, in line with the principles of the circular economy, and to take account of the requirements of the Eastern and Midlands Region Waste Management Plan; and

(d) The key objectives of the Eastern and Midlands Region Waste Management Plan 2015-2021, including the following:

- Further reduce landfill: eliminate all unprocessed waste going to landfill from 2016.

- The proposed waste management facility is intended to serve the Greater Dublin Area and beyond and would, therefore, have a significant effect on the area of more than one planning authority.

10.0. Conclusion

10.1. Having regard to the above considerations, I am satisfied that the proposed development falls within the class of environmental infrastructure relating to a waste installation as set out in the Seventh Schedule of the Planning and Development Act 2000, as amended. Furthermore, I am of the opinion that the proposed development would satisfy the conditions contained in section 37A (2) (a), (b) and (c) of the Planning and Development Act, 2000, as amended. Therefore, I conclude that the proposed development constitutes a strategic infrastructure development for the purposes of the Planning and Development Act.

10.2. The Board may consider recommending to the prospective applicant a list of Prescribed Bodies who should be forwarded copies of the application documentation. A recommended list is as follows:

An Taisce
Department of the Environment, Climate and Communications
Eastern and Midland Regional Assembly
Environmental Protection Agency
Health Service Executive
Irish Water
Transport Infrastructure Ireland
Dublin City Council
Dún Laoghaire-Rathdown County Council
Fingal County Council
South Dublin County Council

Kevin Moore
Senior Planning Inspector
10th May, 2023.