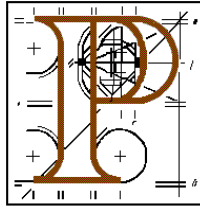


# **An Bord Pleanála**



## **Inspector's Report.**

**Case Ref. No:** ABP-315276-22

**Issue:** SID Pre-application – whether project is or is not strategic infrastructure development.

**Proposed Development:** Demolition of waste processing buildings and construction of a new multi-processing facility

**Location:** Panda Waste, Ballymount Road Upper, Ballymount, Dublin 24

**Applicants:** Starrus Eco Holdings Ltd.

**Planning Authority:** South Dublin County Council

**Inspector:** Kevin Moore

## **1.0. Introduction**

- 1.1. The Board received a request on 2<sup>nd</sup> December, 2022 from Starrus Eco Holdings Ltd. to enter into pre-application consultation under section 37B of the Planning and Development Act 2000, as amended, in relation to the demolition of waste processing buildings and the construction of a new multi-processing facility at Panda Waste, Ballymount Road Upper, Ballymount, Dublin 24.
- 1.2. A Pre-Application Consultation meeting took place between An Bord Pleanála (the Board) and the prospective applicant on 14<sup>th</sup> 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 within Ballymount Industrial Estate on Ballymount Road Upper, Dublin 24. It comprises a land area of 1.17 hectares. There is a single-storey waste processing building and a two-storey office building on the site. The facility is stated to process 150,000 tonnes of waste per annum and to operate 24 hours a day and 7 days a week as per its EPA Licence.
- 2.2. The existing development is accessed from Ballymount Road Upper. From there access is available to the M50 Motorway via Calmount Road to the south. It is

bounded by other premises that are primarily enterprise and employment uses, with the exception of fields to the east and north-east. The nearest residential developments are estates to the west and south-east of the industrial estate, the nearest being across the motorway.

2.3. The site is subject to EPA Waste Licence W0039-02.

### **3.0. The Proposed Development**

3.1. The proposed development provides for the redevelopment of the existing site and to increase the tonnage of waste processed on site from 150,000 tonnes per annum to 350,000 tonnes.

3.2. The existing processing shed and offices are proposed to be demolished and they would be replaced by a single-storey building with a floor area of 3,780 square metres to process 350,000 tonnes per annum of municipal solid waste (MSW). The facility would include staff welfare facilities, a small office, a weighbridge and surface car parking. All equipment would be contained within the building and the facility would incorporate negative air for dust and odour control. A modern fire detection and extinguishing system would be provided. Main office functions would be relocated to the company head office in County Wicklow. Deliveries would generally be by 25 tonne HGVs. Up to 80 people would be required to operate the facility, which would run on a three-shift basis, 24 hours a day and 7 days a week.

3.3. The proposal would also include roof-mounted solar panels, rainwater harvesting, bat and bird boxes, lighting, the retention of tree cover, and permeable paving under the car park

#### **4.0. Planning and Licensing History**

##### 4.1. P.A. Ref. YA.1638

Planning permission was granted in 1984 for the retention of a refuse transfer station.

##### 4.2. P.A. Ref. S94A/0203

Permission was granted in 1994 for an upgrade to the existing waste handling facility.

##### 4.3. P.A. Ref. S96A/0282

Permission was granted in 1996 for alterations to previously approved office accommodation to waste handling facility (Reg. Ref. S94/0203) involving replacement of proposed single storey office building with two storey office building.

##### 4.4. P.A. Ref. S98A/0288

Permission was granted in 1998 for a two-storey extension to office building and associated works.

##### 4.5. P.A. Ref. SD20A/0076

Permission was granted in 2020 for the installation of roof-mounted solar panels over the waste transfer/recycling building and associated site works and services.

#### 4.6. EPA IE Licence W0039-02

The Environmental Protection Agency granted a licence to Greenstar Environmental Services Limited on 4<sup>th</sup> September, 2000. The Licence was transferred to Starrus Eco Holdings Limited on 22<sup>nd</sup> June 2018. Conditions include:

- Condition 5.4: The quantity of waste to be accepted at the facility shall not exceed 150,000 tonnes.
- Condition 5.11 Hours of Operation. 5.11.1 Waste may be accepted 24 hours a day, 7 days a week. 5.11.2 Waste which is received at night-time, following its acceptance, shall only be deposited on the floor of the Transfer Station. Unless agreed otherwise by the Agency, cardboard baling and transferring of waste from the floor of the Transfer Station (unless it is unacceptable waste) or any other waste handling or processing shall be restricted to daytime hours.

#### 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 situated,*
  - (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 situated,*
  - (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 class 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:

*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:

- The proposed development comes within the scope of Environmental Infrastructure (Class 3) of the 7<sup>th</sup> Schedule of the Planning and Development Act 2000, as amended, namely an installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.
- The same principles apply as those that applied to a recent determination under ABP-314052-22 as the tonnage exceeds 100,000 tonnes.

## **7.0. Outline of Pre-Application Consultation**

- 7.1. At the meeting held on 14<sup>th</sup> February, 2023, the prospective applicant gave a summary of the proposed development and provided details on the purpose and need for the proposed development, alluding to the loss of waste processing sites in the Dublin area and the increased need for increased capacity. Traffic, air, noise and visual impact were acknowledged as being the principal environmental concerns relating to a proposal of this nature. It was reiterated that the proposed development was within Class 3 of the Seventh Schedule of the Planning and Development Act, 2000, as amended.
- 7.2. The discussion included clarity on the processes that would occur on the site, inclusive of the introduction of a baling station. It was further clarified that at a meeting with South Dublin County Council no objection was raised to the proposal relating to the zoning provisions for the site or to the intended 24-hour operations. It was referenced that the management of traffic volumes would be clearly set out in an EIAR. The prospective applicant indicated that the need for an NIS had been screened out. It was noted that a review of the existing EPA licence would be required. Finally, the prospective applicant indicated how the proposed development would comply with the provisions of section 37A(2) of the

Planning and Development Act, referring to how it met with the three criteria specified in the section.

## **8.0. Assessment**

### **8.1. Compliance with the Seventh Schedule**

The proposed development seeks to increase the annual intake at the existing waste facility by 200,000 tonnes to a total annual intake of 350,000 tonnes. This exceeds the following threshold set out under Class 3 (Environmental Infrastructure) of the Seventh Schedule:

Development comprising of 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.*

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 as it exceeds the applicable threshold of 100,000 tonnes per annum.

### **8.2. Section 37A (2) Act criteria**

Section 37 of the Act, as amended, requires that development falling under the Seventh Schedule of the Act, in order to constitute Strategic Infrastructure Development must fall within one or more of the three criteria set out in Section 37A(2)(a), (b) and (c). These are considered below:

***Section 37A(2)(a) - Development would be of strategic economic or social importance to the State or the region in which it would be situate.***

The prospective applicant's submission refers to waste management capacity deficits in the Greater Dublin Area, exacerbated by the loss of existing capacity



arising from regeneration proposals in Ballymount (City Edge Project) and Cookstown.

The proposal would seek to increase the volume of intake and maximise the use of the existing facility. The proposal, which would increase the volume of waste accepted at the facility by 200,000 tonnes of waste per annum, would address some of the capacity issues arising and would, therefore, be of strategic economic importance to both the State and the Dublin region. I accept that the proposed development constitutes strategic infrastructure by reference to section 37A(2)(a) of the Act, as amended.

***Section 37A(2)(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 to the area or areas in which it would be situate.***

The proposed development is supported by various objectives of the National Planning Framework. National Strategic Outcome (NSO) 9 supports the sustainable management of waste and the provision of adequate capacity to manage waste in a sustainable way. It supports circular economy principles and investment in different types of waste treatment, prioritising prevention, re-use, recycling and recovery to support a healthy environment, economy and society (National Strategic Objective 56).

The objectives of the *Regional Spatial and Economic Strategy for the Eastern and Midlands Region (2019-2031)* also support sustainable waste management and the circular economy. The RSES includes 16 Regional Strategic Outcomes which includes ‘*Sustainable Management of Water, Waste and other Environmental Resources*’ in support of the NSO’s of the National Planning Framework.

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 driving higher levels of waste segregation.

I consider, therefore, that the proposed development accords with national and regional objectives to manage waste sustainably and support the principles of the circular economy.

I accept that the proposed development constitutes strategic infrastructure by reference to section 37A(2)(b) of the Act, as amended.

***Section 37A(2)(c) – The development would have a significant effect on the area of more than one planning authority.***

The site is strategically located close to the M7 and M50 Motorway and, while the facility is located within the administrative area of South Dublin County Council, it lies proximate to other planning authority areas including Dublin City, Dun Laoghaire-Rathdown, Fingal, and Kildare.

Due to the nature of the development, being a waste facility for the reception and processing of waste from beyond the administrative area of South Dublin County Council, I consider that the proposed development would have a significant effect on the area of more than one planning authority.

I accept that the proposed development constitutes strategic infrastructure by reference to section 37A(2)(c) of the Act, as amended.

## **9.0. Recommendation**

- 9.1. Having regard to the foregoing, I recommend that the Board serve a notice on the prospective applicant, pursuant to section 37(B)(4) of Planning and Development Act, as amended, stating that it is the opinion of the Board that the proposed development constitutes a strategic infrastructure development within the meaning of section 37A(1) of the Act and that an application should be made directly to An Bord Pleanála, for the following reasons and considerations.

## **10.0. Reasons and Consideration**

- 10.1. Having regard to the nature and scale of the proposed waste development which is for an increase in annual intake of waste by 200,000 tonnes to a total annual waste intake of 350,000 tonnes, it is considered to fall within Class 3 (Environmental Infrastructure) of the Seventh Schedule and, therefore, satisfies section 37A(1) of the Act.
- 10.2. It also falls within the terms of section 37A paragraphs (2)(a), (b) and (c) of the Planning and Development Act, 2000, as amended. It is considered that the proposed 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 of the National Planning Framework and the Regional Spatial & Economic Strategy 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. Accordingly, an application should be made directly to An Bord Pleanála.
- 10.3. A list of the prescribed bodies considered relevant is set out in Appendix 1

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Kevin Moore  
Senior Planning Inspector  
22<sup>nd</sup> February, 2023

## **Appendix 1 - List of Prescribed Bodies**

- Minister for Housing Local Government and Heritage
- Minister for the Environment, Climate Action and Communications.
- Fingal Co. Council
- South Dublin Co. Council
- Dublin City Council
- Dún Laoghaire Rathdown Co. Council
- Eastern Midlands Waste Regional Office
- Irish Water
- Transport Infrastructure Ireland
- Environmental Protection Agency
- The Heritage Council
- An Taisce
- An Chomhairle Ealaíon
- Fáilte Ireland
- Irish Aviation Authority
- Health Service Executive