



An
Bord
Pleanála

Inspector's Report

15.PC0226

Issue:	SID Pre-application – whether project is or is not strategic infrastructure development.
Proposed Development:	Refurbishment of Berth No.2 in Greenore Port, Greenore, Co.Louth.
Location:	Greenore, Co. Louth
Applicants:	Greenore Port Ltd.
Planning Authority:	Louth County Council
Date of Site Inspection:	30 th September 2016
Inspector:	Patricia Calleary

1.0 Introduction

Greenore Port Ltd. has submitted a pre-application consultation seeking the Board's determination as to whether or not development which they describe as refurbishment and extension of a quay wall at Berth No.2 at Greenore Port in Co. Louth would constitute strategic infrastructure within the meaning of The Planning and Development Act 2000, as amended. One pre-application meeting was held with the Board on 27th September 2016 and a site visit was carried out on 30th September 2016. The documentation received by the prospective applicant includes a planning statement, maps and drawings, method statement and an Appropriate Assessment screening report.

2.0 Background

The prospective applicant operates Ireland's only privately owned commercial port at Greenore in County Louth. It has a long history, having been in operation for over 140 years. It is stated that Doyle Shipping group acquired the port in 2014 and are advancing a programme of improvement works at the facility. Two adjacent berths are in operation, Berth 1 which is 120m in length and Berth 2, the subject of this matter, which is c.137m in length. The prospective applicant stated that the quay wall at Berth 1 was refurbished in 2000/2001 on foot of a 1996 planning permission obtained from Louth County Council. It was stated that the current situation presents operational and safety issues as vessels docking at the port are in the region of 180 to 200 metres in length and cannot be efficiently operated because of the stepped arrangement between the two berths where Berth 2 is recessed back from Berth 1. This resultant overhang at the point where the two berths meet restricts the length of vessels which can be accommodated and / or the proportion of a vessel which can deliver cargo to the port. Figure 3 of the prospective applicant's submission on file presents an outline of the current (and future) scenarios.

3.0 Proposed Development

The prospective applicant stated that the proposed development would involve works to extend and refurbish the existing quay wall at Berth No.2 so that it would be brought forward into the harbour to align with the wall at Berth No.1. It is stated that it would involve widening the quay by c.4.9m along its length of c.137m and in doing so would remove the stepped arrangement between both quays. It is submitted that the surface would comprise a flat concrete finish which would integrate with the wider docks service area. It is stated that the works would be constructed using sheet piling which would be backfilled with deposited soil and rock fill and reinforced concrete capping/blocks. The prospective applicant stated that the development would likely involve a small level of excavation to facilitate

sheet piling. It was also stated that the construction period would take approximately five months and once complete, the development would primarily serve to improve the operation and safety of the port by removing the overhang. The prospective applicant submits that the development would not affect the throughput of the port and would not result in any change to the size or type of vessels which the port would handle which currently stands at 55,000 thousand tonne vessels.

4.0 Applicant's Case

The prospective applicant has submitted that the proposed development would not constitute strategic infrastructure development on the basis that the 137m quay at Berth 2 already exists, positioned in a stepped back arrangement from the previously extended wall at the adjacent Berth 1. They emphasised that, in their view, the proposed works are not to construct a quay, but rather to **realign/extend and refurbish the existing quay wall**. Referencing 37A(2) of the Planning and Development Act 2000, as amended, the prospective applicant stated its opinion that the proposed development would not fit under any of the categories (a, b or c) set out under transport infrastructure. It is of relevance to note that under Section 2 of the Appropriate Assessment screening report included as part of the prospective applicant's submission, reference is made to the **'construction of [a] new quay wall'** in the description of the project, albeit **'as an appendage of the existing quay wall'**. Within the same document (under sequence of works), reference is made to the **'infilling of void between old wall face and new wall'**. A brief description of works was also provided by Cronin Millar & Byrne Looby in a letter dated 19th August 2016 and received by the Board on 5th September 2016. It details the provision of a **'new combi wall in front of existing masonry wall'** and the **'filling of the void between the old wall and new wall'**.

5.0 Planning History

Details of multiple planning applications which relate to Greenore Port are contained within Appendix A of the prospective applicant's written submission. The planning permission which is most relevant to this consultation is that of **96/509** under which **permission was granted** by Louth County Council for **the extension of the quay (Berths 1 and 2)**. It is stated and is evident on the ground that only works to the quay at Berth 1 were completed. Copies of planning documents are contained on the Board's file.

In addition, a pre-application consultation was entered into by a previous owner/prospective applicant under reference: **15.PC0011** for 'proposed roll-on/Roll-off and Lift-on/Lift-Off port development' for which the Board decided that

the proposed development **would be strategic infrastructure** within the meaning of Section 37E of the Planning and Development Act 2000, as amended.

6.0 Strategic Infrastructure - Legislative Provisions

Under Section 37A(1) of the Planning and Development Act 2000, as amended, an application for permission for any development specified in the Seventh Schedule shall, subject to Section 37A(2), be made to the Board under section 37E and not to a Planning Authority. The seventh schedule sets out Infrastructure developments for the purposes of sections 37A and 37B. Part 2 of the Seventh Schedule, **Transport Infrastructure**, includes the following with respect to harbours and ports.

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

—A harbour or port installation—

- (a) where the area or additional area of water enclosed would be 20 hectares or more, or
- (b) which would involve the reclamation of 5 hectares or more of land, or
- (c) which would involve the construction of **one or more quays** which or each of which would exceed 100 metres in length, or
- (d) which **would enable a vessel of over 1350 tonnes** to enter within it.

In addition, Section 37 of the Act, as amended, requires that development falling under the Seventh Schedule of the Act, in order to constitute strategic infrastructure, would meet **one or more** of the following criteria set out under section 37A(2)(a),(b) and (c), 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 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.

7.0 Planning Policy

EU Transport Infrastructure Policy

Trans-European Transport Network (TEN-T)

The Trans-European Transport Networks (TEN-T) are a planned set of road, rail, air and water transport networks in the European Union. Ireland has 1 core network crossing the country, the North Sea-Mediterranean Corridor which includes the ports of Belfast, Cork and Dublin. Greenore port is not included in the core network.

National

National Ports Policy 2013 (Department of Transport, Tourism and Sport) DTTS

- County Louth contains three commercial ports – Drogheda, Geenore and Dundalk and a major fishing port in Clogherhead;
- Within the 2013 National Ports Policy by DTTS, objectives aim to increase the contribution of the marine sector to the overall economy. The commercial ports of County Louth, including Greenore port are categorised as ports of 'regional significance'.

National Spatial Strategy for Ireland, 2002-2020 (NSS)

- Within the NSS, Greenore is identified as a 'transit port'. The Strategy includes general policy and objectives in support of Dundalk's status as a gateway as well as policy to enhance international transport to all parts of the country.

Regional

Border Regional Authority Planning Guidelines 2010-2022

- Greenore is identified as an excellent deep water port that may have future potential for increased commercial capacity;
- Ports Policy for the regions supports the provision of adequate port facilities for commercial, fishing and amenity purposes within the region subject to compliance with the Habitats Directive (INFP14).

Local

Louth County Development Plan 2015-2021

- The CDP identifies Louth's three commercial freight ports of Drogheda, Dundalk and Greenore as being among its main economic advantages.

- The site is zoned port/port related activities.
- Policy TC 41 - To support the development and expansion of the ports of Drogheda, Greenore, Dundalk and Clogherhead subject to the preparation of a masterplan and compliance with all relevant EU policies such as Water Framework, Habitats, SEA and EIA Directives.
- Policy TC 42 – To implement the recommendations contained within the National Ports Policy 2013 as they relate to the ports of County Louth.

8.0 Assessment

The question which arises is whether or not the development which is the subject of the pre-application consultation falls within the following category as set out in the seventh schedule:

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

—A harbour or port installation— *(which may include facilities in the form of loading or unloading areas, vehicle queuing and parking areas, ship repair areas, areas for berthing or dry docking of ships, areas for the weighing, handling or transport of goods or the movement or transport of passengers (including customs or passport control facilities), associated administrative offices or other similar facilities directly related to and forming an integral part of the installation)—*

(a) where the area or additional area of water enclosed would be 20 hectares or more, or

(b) which would involve the reclamation of 5 hectares or more of land, or

*(c) which would involve **the construction of one or more quays** which or each of which would exceed 100 metres in length, or*

*(d) which would **enable a vessel of over 1350 tonnes** to enter within it.*

At the outset, it is clear that (a) and (b) above do not apply in this instance.

The prospective applicant has made a case that the proposed development does not fall within category (c) as they contend the development would not consist of the construction of a quay but rather an extension and refurbishment of an existing quay [wall] and that it would in itself not result in any change to the vessels it can already accommodate which currently stand well in excess of the 1350 tonnes set out under (d) above. Reference is made to the works involving a new combi wall and the infilling of a void between the new and existing wall in the prospective applicants accompany documents.

I have considered each of (c) and (d) as set out respectively below:

—A harbour or port installation —

(c) which would involve the construction of one or more quays which or each of which would exceed 100 metres in length,

It is not immediately evident whether or not the proposed development falls within category (c) of harbour or port installation strategic transport infrastructure. There are two possible options available for consideration, both which I outline below.

Option 1: The development is not strategic infrastructure:

Having read the contents of the file and having inspected the site, I consider it could be reasonably argued that the quay at berth No.2 is already in place and the works proposed are merely its widening and refurbishment so that it aligns seamlessly with the quay at Berth 1. In that instance, the proposed works as described would not constitute the construction of a quay but rather the widening and refurbishment/upgrade of an existing quay. No change is proposed to the length of the quay at berth no.2 which is stated as 137m. Therefore, it could reasonably be concluded that the works proposed would not fall within this category (c) which could be considered as being reserved for the construction of a quay rather than the extension or refurbishment of an existing quay.

Option 2: The development is strategic infrastructure:

In considering this option, it could be equally argued that the works would involve the construction of a quay directly abutting the existing quay structure at Berth 2. This argument would be supported by Point (c) not distinguishing between **new** and **extension** (of a quay). This argument would also be supported by the fact that the works would consist of a significant quay structure which would be c.4.9m wide. The sequence of works presented by the prospective applicant indicates that a new quay wall structure would be built first followed by the infilling of the void between the new and existing wall faces. In that context, it could be concluded that the proposed works would fall within the Seventh Schedule description of **'the construction of one or more quays which or each of which would exceed 100 metres in length'** as the proposed structure would involve the construction of a quay and would be c.137m in length which exceeds the stipulated 100m threshold. If implemented, the constructed works would tie in seamlessly with the existing 120m length quay at Berth No.1 and together could in fact be read as one combined quay of 257m in length spanning both berths.

Conclusion on 2 (c) of the Seventh schedule

Having reviewed the information on file and based on the information which I have gathered on site, I have formed the view that the works would constitute **‘the construction of a quay’** notwithstanding that it would mirror the existing structure at berth no.2 and serve to remove the stepped arrangement which currently exists between the quay at berth no.s 1 and 2. Whether or not the completed quay would abut the existing quay structure or read as an extension is not in my view a reason to exclude it as being the construction of a quay. This is particularly so having regard to the outline of the sequence of works, whereby a new wall structure would be built first followed by the infilling of the void between the new structure and the existing quay. Accordingly, I recommend that the Board should determine that the proposed development would involve the construction of a quay which would be greater in length than the 100m and accordingly would come within the scope of Section 2 (c) of the Seventh Schedule of the Planning and Development Act 2000, as amended.

—A harbour or port installation—

(d) which would enable a vessel of over 1350 tonnes to enter it.

The prospective applicant states that the port and its berths 1 and 2 are currently used for vessels up to 55,000 dead weight tonnes. They contend that the quay development would not by itself change that. Accepting that the port can currently handle significantly larger vessels than 1350 tonnes, I consider that if the works were implemented, it would also enable those vessels which are over 1350 tonnes to enter or continue to enter it.

In conclusion, I recommend that the Board should determine that the proposed development comes within the scope of Section 2 (d) of the Seventh Schedule of the Planning and Development Act 2000, as amended.

Section 37A(2)(a)

Having arrived at the conclusion that the proposed development would fall within the scope of Section 2 (c) and (d) of the Seventh Schedule, I have also considered items a,b and c of Section 37(A)(2) as set out under, noting that in order to constitute strategic infrastructure, the development would need to meet **one or more** of these three criteria. Each of the criteria are considered under.

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

The National Ports Policy (NPP) sets out three tiers of ports, Ports of National significance (Tier 1), Ports of National Significance (Tier 2) and a third tier, ports of

regional significance. Greenore Port is one of 14 ports within the 'ports of regional significance' tier. Regional policy set out in the Border Regional Authority Planning Guidelines 2010-2022 advocates for the appropriate development of ports through provisions in development plans.

The prospective applicant puts forward their view that the specific development would not by itself give rise to any increase in movement of goods through the port. Points are made that the National Ports Policy (NPP) promotes the continued development of all ports and that Greenore port is not handling the same level of cargo as it did in pre-recession times.

Having considered this matter, I would form the view that while the port may well increase its output in line with an improving economy and is regarded in policy as being of regional significance, the specific development would not by itself be of strategic economic or social importance to the State or the region (now the Eastern and Midland region) within which it is situated. In arriving at this view, I have taken into account the prospective applicants point that the non-development of the proposal would not preclude larger cargo ships from using the port and that the proposal would serve to improve operations and safety. I also consider that the scale of the proposed development is modest when taken in the context of the existing port.

Accordingly, I recommend that the Board should determine that the proposed development does not come within the scope of Section 37A(2)(a).

2. Section 37A(2)(b) - Contribution to the achievement of the objectives of the National Spatial Strategy or any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate.

Within the NSS, Greenore is identified as a 'transit port'. The strategy includes general policy and objectives in support of Dundalk's status as a gateway as well as policy to enhance international transport to all parts of the country. As there are no specific policies or objectives in relation to Greenore port within the NSS, I do not consider the specific development would substantially contribute to the fulfilment of any of the objectives of the NSS. County Louth falls within the Eastern and Midland Regional Assembly area since the coming into force of the Local Government Reform Act 2014. However, the Regional Authority Planning Guidelines (RPGs) for the Border area continue to apply until the Guidelines are superseded by the planned Regional Spatial and Economic Strategies. Within the RPGs for the Border area, Greenore is identified as an '*excellent deep water port that may have future potential for increased commercial activity*'. The RPGs make reference to national Ports Policy which sets out support for the provision of adequate port facilities within the region. I do not consider that the proposed development of a quay where a quay already exists, would substantially contribute

to the achievement of any of the objectives of the RPGs. This is particularly so given the modest nature and scale of the proposed development which is intended to serve improved operations and safety measures at the port.

Overall, it cannot be said that the specific development proposed would contribute to the achievement of the objectives of the National Spatial Strategy or any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate in this instance. Accordingly, I recommend that the Board should determine that the proposed development does not come within the scope of Section 37A(2)(b).

3. Section 37A(2)(c) - the development would have a significant effect on the area of more than one local authority.

With regard to the third test set out under S37A(2)(c), it is noted that while the port is physically located in the administrative area of one Local Authority (Louth), cargo received at the port is transported onwards to serve customers and economies within other Local Authority areas. However, the specific development of the construction of a quay would not change the status of the port or have any significant effect on the area of more than one local authority in my view. I note the prospective applicant's submission in which it is stated that the works would facilitate improved operations and safety at the port but would not by itself increase the quantum of cargo throughput. Accordingly, I recommend that the Board should determine that the proposed development does not come within the scope of Section 37A(2)(c).

9.0 Conclusion and Recommendation

Arising out of my assessment above, I consider that, given the modest scale of the development which would not by itself change the cargo arriving at the port, that the Strategic Infrastructure status would not be triggered in this instance.

I recommend that Greenore Port Ltd. be informed that the proposal falls within the scope of the type of development specified in Part 2 of the Seventh Schedule, Transport Infrastructure, but does not come within the scope of Section 37A(2) (a), (b) or (c) of the Planning and Development Act 2000, as amended by the Planning and Development (Strategic Infrastructure) Act, 2006. and that a planning application should be made in the first instance to Louth County Council.

Patricia Calleary
Senior Planning Inspector

11 November 2016

Appendix: Photographs