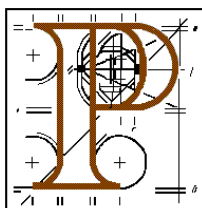


# An Bord Pleanála



## Inspector's Report

**17.PM0007;** Application under Section 146B of the Planning and Development Act 2000, as amended, for alterations to a previously approved planning permission 17.PA0026 for a Strategic Infrastructure Development.

Planning Authority: Meath County Council

Applicant: Indaver Ireland Ltd.

Location: Carranstown, Duleek, County Meath

Inspector: **Derek Daly**

## **1.0 INTRODUCTION.**

The applicant Indaver Ireland Ltd obtained permission from An Bord Pleanála in February 2013 (under reference no. 17.PA0026) for development comprising amendments to the existing waste to energy (WTE) incineration facility at Carranstown, in the environs of Duleek, south-west of Drogheda. The facility has been operational since 2011, under the aegis of permissions previously granted by An Bord Pleanála and by Meath County Council in 2007 and 2009 respectively. An alteration to PA0026 is now being sought by Indaver under Section 146B.

## **2.0 PLANNING HISTORY.**

### **2.1 PL17.126307 (P.A. Ref. 01/4014)**

Permission granted, upheld on appeal in 2003 by An Bord Pleanála subject to revised conditions, for a Waste to Energy (WTE) facility based on a throughput of 170,000 tpa of accepted waste. The development permitted at that time was described as a waste management facility, comprising a main process building process of 13,480m<sup>2</sup> with a 40 metre high stack, and ancillary structures and areas including a community recycling park.

Conditions of note.

Condition no. 3. The proposed community recycling park was omitted from the development, essentially for a traffic related reason.

Condition no. 4: waste for acceptance for incineration and recycling/treatment limited to 170,000 tpa and confined to waste generated and produced in the North-East Region area of counties Meath, Louth, Cavan and Monaghan, in the interest of development control and to ensure that the principles of regional waste management (as set out in the then prevailing Regional Plan) are adhered to;

Condition no. 11: required submission and agreement on a traffic management plan prohibiting traffic associated with the facility using a certain section of the R150 Regional Route (east of Kentstown in the direction of the N2 National Route), for reasons of traffic and pedestrian safety;

### **2.2 PL17.219721 (P.A. Ref. SA/60050)**

Permission granted upheld on appeal by An Bord Pleanála subject to revised conditions in 2007, for a 70 megawatt WTE facility based on a throughput of 200,000 tpa of accepted waste. The permitted development included a smaller main process building (7,218.23 square metres) than that previously permitted in 2003 but never developed; a higher flue stack (65 metres) than previously permitted was also proposed.

Condition of note.

Condition no. 3: waste for acceptance for thermal treatment limited to 200,000 tpa and confined to waste primarily generated and produced in the North-East Region area of counties Meath, Louth, Cavan and Monaghan waste accepted from outside that region to be done so only in accordance with the Proximity Principle and Ministerial Policy as set out in circular WIR:04/05, in order to ensure compliance with national waste management policy and the provisions of the North-East Regional Waste Management Plan.

### 2.3 P.A. Ref. SAC/901467

Permission granted subject to conditions in November 2009 for amendments and alterations to previously permitted development, under PL17.219721. It is understood the amendments were proposed in order to meet building specification and regulatory criteria arising from receipt of tenders and the issue of the relevant EPA licence. The decision of the Planning Authority in the case was not the subject of any appeal to An Bord Pleanála.

The following conditions may be noted in respect of this case, which is in essence the extant permission under the aegis of which the existing complex has been built and operates, subject also to the limitations imposed by the prevailing EPA licence reference W0167-02:

Condition no. 2: requires compliance with the planning conditions attached to PL17.219721, except where otherwise specified;

Condition no. 11: seeks to prohibit traffic, generated from the complex, from passing through the Bru na Boinne World Heritage Site.

All of the above application were accompanied by environmental impact statements.

### 2.4 PL17.PA0026.

Amendments to existing waste-to-energy plant at Carranstown, Duleek, County Meath

This was an application to An Bord Pleanála under Section 37(E) of the Planning and Development Act, 2000, as amended by Indaver Ireland Ltd. The development proposed comprised certain physical modifications to an existing, operational waste-to-energy (WTE) plant, and also sought amendments to the terms and conditions of the permission under which the plant operates. The existing plant as initially was designed to generate 70 megawatts of electricity through the recovery of energy by incineration of up to 200,000 tpa of residual municipal waste.

Permission granted by the Board on the 04/02/2013

2.5 17.PM0004.

This was a request received by An Bord Pleanála from Indaver Ireland Limited at Carranstown under section 146B of the Planning and Development Act, 2000, as amended for amendments to the existing development. The amendments provided for

- (a) To increase the intake tonnage of waste from 200,000 tonnes to 220,000 tonnes per annum.
- (b) To allow the acceptance of some additional types of waste defined as hazardous and non-hazardous in the European Waste Catalogue.
- (c) A number of amendments in respect of the buildings on the site, changes to parking and circulation and provision of additional storage tanks.

Having decided that the proposed alteration would be material and having required public consultation to be carried out, the Board decided to make the proposed alteration of Condition 3(1) of permission reference 17.PA0026 and granted the requested amendment on the 01/08/2014 and amended to condition to permit the increased intake.

2.6 This is an activity covered by a waste licence under prevailing waste management legislation.

### **3.0 LEGISLATIVE PROVISIONS.**

3.1 Section 146B of the Act provides alteration by the Board of strategic infrastructure development on request made of it. The procedures adopted are largely determined as to whether it is considered that the proposed alteration constitute a material alteration and may involve a two stage process.

3.2 Initially under the terms of section 146B(2)(a) the Board must decide as soon as possible, whether or not the making of a proposed alteration would constitute “the making of a material alteration of the terms of the development concerned”. Section 146B(2)(b) provides that “before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation”.

3.3 If the Board decides that the alteration proposed would not constitute a material alteration, the Board must proceed to alter the permission (Section 146B(3)(a)).

- 3.4 If, however, as provided for in section 146B(3)(b) the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall then determine whether to,
- (i) make the alteration,
  - (ii) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or
  - (iii) refuse to make the alteration.
- 3.5 Section 146B(4), however, provides that before making a determination under subsection (3)(b), the Board shall determine whether the extent and character of the alteration requested under subsection (1), and any alternative alteration under subsection (3)(b)(ii), are such that the alteration, were it to be made, would be likely to have significant effects on the environment.
- 3.6 Section 146B(5) provides that If the Board determines that the making of either kind of alteration referred to in subsection (3)(b) is not likely to have significant effects on the environment, it shall proceed to make a determination under subsection (3)(b), or is likely to have such effects, the provisions of section 146C shall apply.
- 3.7 Section 146C relates to the preparation of environmental impact statement for purposes of section 146B and applies to a case where the determination of the Board under section 146B(4) is that the making of either kind of alteration referred to in section 146B(3)(b) is likely to have significant effects on the environment.
- 3.8 The second stage therefore arises if the Board decides that the proposed alteration would constitute a material change. This decision determines a requirement for a formal consideration of environmental impact within which process there may be a need for the preparation of an environmental impact statement and public notification of same and of the alteration proposed.

#### **4.0 SCOPE OF REPORT.**

The main purpose of the report is to consider the initial requirement as set out in section 146B(2) in relation to a determination of the materiality of the proposed alteration.

#### **5.0 PROPOSED ALTERATION.**

- 5.1 The application for an alteration submitted by Indaver Ireland Limited on the 23<sup>rd</sup> of November 2015 involves two aspects.

- 5.2 The first is for physical alterations to the plant building by providing for an extension to an existing building and construction of an additional building. The proposal provides for an extension to an existing loading bay building by 9.94 metres and construction of a pre-treatment process plant enclosure approximately 120m<sup>2</sup> in area with a height slightly in excess of 12 metres. The 2 existing conveyor systems will be by extended by approximately 8m.
- 5.3 The second is the amendment of the current process requiring the construction of a pre-treatment process plant see drawing No 25053/PL001 within a new building for the treatment of the flue residues generated (APC residues). Essentially the changes are to alter a specific aspect of the current process where flue residues generated (APC residues) are collected and exported untreated for treatment and disposal in Germany. It is now proposed that the APC residues will be treated on site prior to removal from the site.
- 5.4 In relation to the actual proposed process to be carried out on the site essentially it is to pre-treat APC residues by mixing them with water by placing them in flexible intermediate bulk container bags thereby solidifying the residues. This solidification process is currently applied to the residue of the Carranstown plant in Germany. There are no other significant changes to process or waste handling procedures.

The two existing conveyor systems will be used and the systems will meet above a residue buffer vessel which will accept deposited residue. This material will be entered into a mixer where water is added. The mix is then deposited into flexible intermediate bulk container bags which will be in a mould and which are then filled assisted with air to ensure the bag fills to the full shape of the mould. The displaced air will then pass through a filter. A curing period is provided for. The bags after curing are removed on the site. In effect it is a solidisation process of the residue flue material.

- 5.5 In relation to the disposal of the treated bagged APC residues it is the intention is to export this material to a salt mine in Kilroot, County Antrim, Northern Ireland. Kilroot is currently preparing an EIS in relation to seeking a permit to extend its activities to accept APC residues and currently the Kilroot mine is used as a depository for a cement mix containing pulverised fly ash. Salt mines are considered highly suitable for containing the APC residues and APC residues arising in Carranstown are currently deposited in a similar mine facility in Germany.
- 5.6 In overall terms the documentation submitted includes a review of the 2012 EIS findings submitted with 17.PA0026. The plant generates 10,000 tonnes of APC residues. The submitted documentation also indicates that there is uncertainty in relation to the future use of the German salt mine and there are ongoing costs in exporting the APC residues.

5.7 Such a facility on the island of Ireland it is indicated will contribute to self-sufficiency and it is also indicated that the Carranstown site is ideally suited to pre-treatment rather than Kilroot and carrying out of the proposal would be in line with IED Licence. In this regard I would refer to Appendix A of the applicant's submission and the letter from the EPA dated the 10<sup>th</sup> of September 2015 that the operation of a waste residue solidification plant is catered for within licence no. W0167-03.

## **6.0 APPLICANT'S SUBMISSION.**

6.1 Accompanying documentation includes a summary of the EIS review of the EIS prepared for PL17.PA0026. In the cover letter with the application it is indicated that this review has been shown to have no additional impact on the environment. The submission takes the format of a review of the various chapters of the EIS and also a number of appendices which include an air quality assessment, a traffic assessment and a landscape assessment.

6.2 In relation to the proposed alterations it is indicated that no additional input of material is proposed or an increase in waste acceptance over what is currently permitted on the site. Essentially the changes are to amend a specific aspect of the current process where flue residues generated (APC residues) will be treated on site prior to removal from the site rather than the current practice of exporting these residues untreated and to extend and add on additional floorspace to accommodate this.

6.3 In relation to human beings other than short term construction impacts no impacts were identified. Other potential impacts in relation to air quality were considered under a different heading.

6.4 Specifically in relation to air quality a review of air assessment was carried out as outlined in appendix C assessing possible impacts from dust and particulate emissions arising from the new process using the existing environment as a baseline as the plant has a single process emission point which is the stack at the plant. Cumulative impacts were also considered. No additional impact is identified arising from the new process.

6.5 In relation to noise it is indicated that there are noise limits conditioned by previous permissions. The impact of noise specific to the new plant is outlined within one metre of the plant and then in the context of nearest noise sensitive receptors and also cumulatively with the overall plant. The level of impact is determined as insignificant and will not alter the noise emissions from the plant. Noise emissions in the construction phase will adhere to conditions applied for previous construction works at the plant in terms of values and hours of operation.

6.6 In relation to soils and geology there are no additional discharges to ground and the amount of ground disturbance and removal is minimal in comparison to other phases of construction carried out on the site. Mitigation measures

will be carried out in the construction phase in accordance with good construction practice.

- 6.7 In relation to hydrogeology there is no direct discharge to groundwater and the process area is within an internal area with control of any flows and there is provision for containment for subsequent reuse. The site obtains its water supply from an on-site well and additional water demand from the new process is very low anticipated as between 2,750m<sup>3</sup> to 4,400m<sup>3</sup> per annum which will not impact other water sources in the area. The existing plant operates an overall water management system where excess water and runoff is recycled for reuse.
- 6.8 There is no planned discharge to surface water and any accidental discharge will be contained within the existing surface water system which has sufficient surplus capacity in the attenuation ponds which have been constructed with a sealing membrane should any uncontrolled discharge arise.
- 6.9 In relation to ecology the review has been carried out in the context of the assessment to air and water already referred to and as in the 2012 EIS findings there is no change in the position in relation to direct and indirect impacts on ecology or on protected sites.
- 6.10 In relation to traffic an assessment was prepared which is outlined in appendix D and which takes into consideration the pre-treatment process. It is indicated that the proposed treatment process will give rise to an additional 265 trucks per annum, which equates an additional daily rate of 1 additional truck accessing the site and that the road network in the immediate area has sufficient capacity to cater for this increase. The additional traffic will if going to Kilroot have a different end destination point but the route near the site remains unaltered.
- 6.11 In relation to visual impact a landscape assessment was submitted and included in the documentation as appendix E. A number of photomontages are submitted with the assessment focussing on impact from the R152 Drogheda to Duleek road. In relation to the actual development it is within the envelope of the buildings of the existing plant and largely screened by these buildings. In relation to visual impact the overall impact in the context of cumulative is indicated as imperceptible/irrelevant given the height, scale and location of the additional buildings.
- 6.12 The site is located in close proximity to a landscape of important archaeological importance the overall site has been the subject of archaeological monitoring and no impact in relation to archaeology is identified.
- 6.13 In relation to interactions there is an overall management system in place for the plant which is monitored in accordance with licencing requirements. Any



additional impact can be addressed within the current monitoring and mitigation measures required under existing conditions of licencing.

- 6.14 The overall view expressed in relation to the applicant's review of the proposed development is that no significant impact or effects arise and concludes no additional impact on the environment during operation other than currently occurs for the facility will arise. Existing mitigation measures currently operative are more than adequate.

## **7.0 ASSESSMENT**

### **Consideration of materiality.**

- 7.1 Under the terms of section 146B(2)(a) the Board must decide as soon as possible, whether or not the making of a proposed alteration would constitute "the making of a material alteration of the terms of the development concerned". In relation to materiality as indicated previously the alteration proposed involves two aspects which are interrelated.
- 7.2 The issue of materiality is related to '*the terms of the development concerned*' which would imply that what is envisaged to be considered is whether there is a material change in the nature or terms of the development approved. In the case of the subject application, it is my opinion, although the additional extension of building floorspace is relatively small 120m<sup>2</sup> in an approved development with a floorspace of 7,218.23m<sup>2</sup>, the development provides for an additional process, which was not part of the permitted terms of a permission on the site. It is not an alteration of an existing permitted process it is an additional process which was not permitted under any grant of permission and for the treatment of a process residue material not included in a previous permission. Therefore notwithstanding the nature and scale the alteration is, I consider, a material change in the terms of the development.
- 7.3 In these circumstances the proposed alteration, I consider, should therefore be regarded as material within the meaning of section 146B(2)(a) of the act. The board should therefore decide the making of the alteration or otherwise under section 146B(3)(b).
- 7.4 Section 146B(4), however, provides that before making a determination under subsection (3)(b), the Board shall determine whether the extent and character of the alteration requested under subsection (1), and any alternative alteration under subsection (3)(b)(ii), are such that the alteration, were it to be made, would be likely to have significant effects on the environment.

### **Likelihood of significant effects on the environment.**

- 7.5 I propose to make some initial comment in relation to likelihood of significant effects on the environment based on the information submitted and a review of development permitted on the site.

- 7.6 In relation to the additional building floorspace the buildings are approximately 12 metres in height and for the purpose of carrying on, and for the purposes of an industrial process and are for the installation of additional plant. The buildings are approximately 120m<sup>2</sup> in area within an overall approved development with a floorspace of 7,218.23m<sup>2</sup>. The additional buildings, which are generally screened from view and are of a relatively minor scale in the context of the overall plant, will not I consider materially alter the external appearance of the premises of the current undertaking. I would agree with the applicant's conclusion that any visual impact will be imperceptible. This is of importance given its location in the Boyne Valley and the historical context of its location.
- 7.7 Aside from the issue of visual impact the physical addition of the buildings would not, I consider, be likely to have significant effects on the environment.
- 7.8 In relation to the alteration sought the proposal also involves an amendment to the current operation of the plant where flue residues generated (APC residues) will be treated on site prior to removal from the site rather than the current practice of exporting these residues untreated. Given the nature of the alteration this section of the assessment will focus on issues on whether it would be likely to have significant effects on the environment.
- 7.9 The process is in effect for the solidification of the residues by adding water and placing the mix in flexible intermediate bulk container bags which will be in a mould and which are then filled assisted with air to ensure the bag fills to the full shape of the mould.
- 7.10 The development does not involve any additional intake of waste or feedstock or amend the nature of waste accepted at the site. The proposal does not alter the process of thermal treatment on the site as it relates to residues arising from existing processes. The proposal does not based on the information submitted involve additional discharges/emissions to ground, water or air. A minimal increase in traffic movements it is indicated in the order of an additional single HGV movement per day will arise. The site and plant is the subject of a current licence and mitigation measures are in place and ongoing monitoring is required and occurs.
- 7.11 No additional combustion or chemical process is indicated other than the addition of water to the flue residue for the purpose of mixing. Subject to proper containment and the application of current measures no additional escape of fugitive particular matter will occur. The excess air arising from the bagging process passes through existing filters. It is also noted that the terms of the existing IE licence for the plant it would appear caters for the operation of a waste residue solidification plant.

- 7.12 It is contended and concluded in the applicant's submission and review of the EIS that there are no significant impacts individually and cumulatively arising from the carrying out of the process.
- 7.13 I would agree with the overall conclusion of the EIS review that there are no impacts arising from the additional process and/or as a consequence be likely to have significant effects on the environment. The development will also not impact on any Natura 2000 in light of any conservation objectives.
- 7.14 In relation to transportation of the material the alteration in this regard would involve is the removal of treated material rather than untreated material off site and out of the state for secure disposal. As it is the current practice the APC residues material will therefore be exported. In relation to the treated material it is proposed to transport the material to Kilroot salt mine rather than the current practice of exporting to Germany where the residues material is deposited in a salt mine after treatment in a similar method to what is proposed on the site. Both current and proposed modes therefore have potential for transboundary environmental effects but in such a case the matter to consider as referred to the Planning and Development Regulations is whether the proposed development to which the application, appeal or application for approval relates would be likely to have significant effects on the environment in a transboundary state within consideration of EIA.
- 7.15 In relation to Kilroot it is indicated that the licence for this mine is currently being reviewed to permit acceptance of APC residues and that an EIS is being prepared as part of this process. The issue of likely to have significant effects on the environment in the transboundary state which in this case would be the United Kingdom would be addressed in the EIS as part of the licence review.
- 7.16 The new development will, it would appear, to be largely contingent on the Kilroot salt mine being granted the necessary amendment to its current licence to accept the treated APC residues. It is unclear if the development would proceed if this does not occur i.e. whether it would be feasible for the material to be treated and then exported to Germany. Irrespective the APC residues will be transported off the site and out of the state as they are currently.

#### **Appropriate Assessment.**

- 7.17 The site is not within or immediately adjacent to any Natura 2000 sites. Section 2.11 of the review of the EIS includes reference to screening and the Appropriate Assessment Statement carried out in the 2012 submission which concluded no direct effects arising and the overall conclusion is that the modifications and alteration proposed will not result in any additional direct effects.

- 7.18 I note the contents of the screening assessment submitted by the first party with the application and the conclusions of that assessment and that there are no direct connections in relation to groundwater and surface water arising from the development in relation to European site.
- 7.19 The making of the alteration would not, therefore, in my opinion be likely to have significant effect on any designated Natura 2000 site in the light of the conservation objectives of the site.

### **Consultation.**

- 7.20 In relation to making a decision as to whether the making of the alteration would constitute the making of a material alteration, section 146B(2)(b) provides that the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate and shall have regard to any submissions made to it on foot of that invitation.
- 7.21 Given the overall nature of the development and the level of interest and scale of observations submitted in respect of the previous application 17.PA.0026 and also submissions made by proscribed bodies the Board may, however, reasonably conclude that the public should be afforded the opportunity to make comment on the proposed alteration.

## **8.0 CONCLUSION.**

- 8.1 The proposed alteration should be regarded as material within the meaning of section 146B(2)(a) of the act in the terms of the development on the basis that it introduces a new additional process not previously permitted and therefore would represent a material alteration of the terms of the development concerned.
- 8.2 In relation to characteristics and scale, the scale of the development proposed is relatively small in the context of what was permitted under previous permissions on the site and the scale of building works is very limited.
- 8.3 The nature of the works as a waste residue solidification plant would appear to be provided for within the terms of the current IE licence.
- 8.4 In relation to location the proposed alteration arising from the physical works proposed and the additional process would as an initial assessment not have any additional environmental impacts over and above those arising on foot of the permitted development and that the proposed development would not have a significant adverse impact on any European site.
- 8.5 In relation to the characteristics of potential impacts the magnitude and complexity of any impacts arising are likely to be limited to the site and the immediate and geographical area.

- 8.6 Having considered the alteration proposed, based on the documentation submitted and a review of this documentation, notwithstanding the materiality of the alteration it is not likely to have significant effects on the environment.
- 8.7 The making of the alteration would not, be likely to have significant effect on any designated Natura 2000 site in the light of the conservation objectives of any site.
- 8.8 The alteration proposed will, it would appear, to be largely contingent on the Kilroot salt mine being granted the necessary amendment to its current licence to accept the treated APC residues.

## **9.0 RECOMMENDATION.**

In view of the above, I recommend that the board is therefore advised–

- make a determination under section 146B(2) of the Planning and Development Acts 2000-2011 that the making of the alteration to which this request relates would constitute a material alteration to the terms of the development concerned,
- make a determination under section 146B(4) of the acts that the making of the alteration to which this request relates would not be likely to have significant effects on the environment, and
- require under section 146B(8), in the manner that the Board considers appropriate, the person who made this request to make accompanying information available to the public and the consultees that were prescribed for the application 17.PA.0026, and to notify them that the information is available and that submissions on the request may be made to the board within a stated period of time.

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**Derek Daly**

**Senior Planning Inspector.**

**23<sup>rd</sup> December, 2015.**