



An
Bord
Pleanála

Inspector's Report PM0009A

Second Report

Application under section 146B of the Planning & Development Act 2000 as amended.

Request to alter the terms of the previously permitted National Forensic Mental Health Hospital on lands at St. Ita's Hospital, Portrane, Co. Dublin (application ref: 06F.PA0037)

Planning Authority: Fingal County Council

Requester: Health Service Executive Estates

Observers Commission for Railway Regulation
Transport Infrastructure Ireland
Irish Water
Jim O'Donohoe & Breda Dockrell,
Cllr Paul Mulville, Fingal County Council

Location: Portrane, Co. Dublin

Inspector: Tom Rabbette

Site Inspection: 6th July 2016

1.0 INTRODUCTION

The Health Service Executive Estates obtained permission pursuant to section 37E of the Planning and Development Act 2000, as amended, for the construction of the National Forensic Mental Health Service Hospital (hereafter NFMHSH) at St. Ita's Hospital Demesne at Portrane in north County Dublin. A request is now being submitted by HSE Estates, under section 146B of the Planning and Development Act 2000, as amended, seeking to alter the terms of the development of the hospital. The applicant describes the alteration sought as follows:

1. Reduce the depth of excavation across the main campus area west of the Reception Building by one metre, with a consequent upward adjustment by the same amount of the finished floor and roof levels of (a) the Village Centre, (b) the Medium Secure Unit, (c) the high Secure Unit, (d) the MHID Unit, (e) the Female Unit and (f) the Pre-discharge Unit and the assessed ground levels;
2. Undertake re-contouring and infilling with soil of the permitted horticultural area, south of the previously permitted berm, to a maximum level as shown on the drawings with this application, to marry in with the revised levels of the campus;
3. Utilise soil on Compartment 20 East, by spreading to a depth not exceeding 300 mm settled depth, in order to improve its suitability for development of a natural grassland habitat on previously intensively farmed arable lands.

2.0 PLANNING HISTORY

- 2.1 06F.PA0037: The Board granted permission for a 170 bed NFMHSH at St. Ita's Hospital Demesne at Portrane in Co. Dublin. The facility is to replace the existing Central Mental Hospital located in Dundrum, Dublin. The NFMHSH will consist of 10 main buildings. The development included for extensive landscaping and earth works. Additional woodland planting formed part of the development and is to be in accordance with a Woodland Management Plan and a Biodiversity Management Plan. The permission was subject to 14 No. conditions. This parent permission file is attached to current request file.
- 2.2 06F.PF0001: This referral case related to a point of detail regarding compliance with condition 12(iii) of 06F.PA0037. The HSE and the p.a. failed

to agree on detailed proposals for the segregation of sports-related activity and construction traffic along part of the temporary construction access road as was required under condition 12(iii) of the parent permission. The Board determined that the proposals as submitted by the applicant were acceptable subject to some amendment. That referral case is attached to the current request case.

- 2.3 06F.PM0006: The Board granted a request under section 146B of the Planning and Development Act 2000, as amended, to alter the terms of the development that was subject of PA0037. The alteration related to a condition in respect of construction hours. That request file is attached to the current request file.

3.0 APPLICANT'S SUBMISSION

The contents of the report titled 'Planning and Environmental Report' can be summarised as follows:

- Overview of the planning permission as granted is provided.
- Following initiation of site development works, there has been a reassessment of the required excavation needs of the development.
- It has now been determined that there will be an excess of excavated fill material compared with the original assumption.
- As it is not permitted under the terms of the planning permission to remove excavated material from the site a modified approach to the balance of cut and fill across the development is required.
- A description of what is proposed across 3 areas is provided.
- In area 1 it is proposed to reduce the depth of excavation across the main campus area west of the Reception Building by 1 m with a consequent upward adjustment by the same amount of the ffl and roof levels of 6 buildings and the associated ground levels.
- In area 2 it is proposed to undertake re-contouring and infilling with soil of the permitted horticultural area.
- In area 3 it is proposed to utilise soil on Compartment 20 East, by spreading to a depth not exceeding 300 mm settled depth.
- The requester considers that it is open to the Board to make a decision that the proposed alteration is not material in terms of the development.

- The alteration to the ffls of the campus are relatively minor entailing a simple reduction in the depth of excavation of 1 m.
- The re-contouring of the horticultural area will take place behind the permitted berm and will reconcile the levels of this area with the increase in ffls on the main campus.
- The addition of 300 mm of soil to Compartment 20E is a continuation of a process already permitted in other parts of the site.
- If the Board decides that the proposed alteration is material, the requester's report sets out the main environmental issues in relation to the alteration.
- It is shown that the proposed alteration would not be such as to have any significant effects on the environment.
- The site of a church and St. Kenny's Well, in Compartment 20E, are Recorded Monuments (RMP DU012-009) but no trace of these remains above ground.
- It is noted that it is currently proposed by the p.a. to remove the church and well from the RPS (No. 538).
- Parts of St. Ita's demesne are also listed as Nature Development Areas within the CDP.
- The Donabate LAP 2016 does not encompass the lands of St. Ita's but adjoins these to the west.
- The boundary of Portrane Shore pNHA adjoins the lands of Compartment 20E from which it is separated by a footpath and a wall.
- The initial plan in the parent permission PA0037 was to remove excess topsoil, amounting to approx. 20,000 cu.m. and excess subsoil, amounting to approx. 6,000 cu.m. from the site.
- However, after public submissions, in order to reduce the traffic impact on the approach roads and on Donabate in particular, the applicant undertook to retain and reuse all excavated material on site, as stated in the additional information submitted to the Board on the 16/02/15 on the parent permission PA0037.

- As the design was developed further during the tender period, following the grant of permission, it became apparent that the volume of excavated material that would be generated by the project was in fact greater than allowed for at planning stage.
- The requester refers to alternatives considered to address the issue of an increased volume.
- The buildings and associated landscape, west of the Reception Building, are to be raised by 1 m. This has the effect of requiring less cut along the southern edge of this part of the development but it also has the effect of considerably increasing the proposed use of fill along the northern edge by 1 m.
- Raising the finished level of the main campus entails a minor change to visual impact, but has little other effect.
- The changes to the horticultural area improve the orientation of this facility, but generally remain below the level of the permitted berm. There would be some increase in the visibility of the security fencing and lighting around the area.
- The changes proposed for Compartment 20E will be of benefit to the proposals to develop species rich natural grassland in this area, which will enhance the biodiversity of the area.
- These lands (Compartment 20E) have been managed intensively for farming purposes.
- Soil spread will be kept back 5 m from boundaries.
- In terms of a determination on materiality, the principle change sought is a relatively small increase of 1 m in finished levels of the main campus.
- In the context of the location of the site, in a secluded rural area, well removed from the public realm, this is a minor change.
- Much of the site is screened from view by existing trees and further tree planting is proposed.
- If the Board decides that the proposed alteration is material, it must also determine whether the extent and character of the alteration requested would be likely to have significant effects on the environment.

- The requester considers with reference to information submitted that it is sufficient for the Board to determine that the proposed alteration would not be likely to have significant effects on the environment.
- Each chapter of the EIS has been reassessed by the relevant professional in relation to the proposed alteration, the contents of the significant FI submitted to the Board on the parent permission PA0037 have been taken into account.
- Consultations in respect of the proposed alteration have been held with the p.a., the National Monuments Service and Irish Water.
- The Appendix 1 to the report contains a detailed visual impact assessment.
- Requester's submission also includes a 'Landscape Report' by Mitchell & Associates and a 'Report for Screening for Appropriate Assessment' by Faith Wilson Ecological Consultant

4.0 LEGISLATIVE PROVISIONS

- 4.1 Section 146B of the Act provides alteration by the Board of strategic infrastructure development on request made of it.
- 4.2 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".
- 4.3 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)).
- 4.4 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.

4.5 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.

4.6 Under section 146B(8) before the Board makes a determination under sections 146B(3)(b) or 146B(4), it is required to make, or require the requester to make, information relating to the request available for inspection to certain persons and/or the public. Submissions and observations are to be invited and the Board is required to have regard to any such submissions or observations received.

4.7 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.

4.8 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.

5.0 SUBMISSION MADE PERSUANT TO S.146B(8)

In its Direction dated 12th July 2016 the Board determined, pursuant to s.146B(2)(a), that the proposed alteration would constitute a material alteration. The Board subsequently invoked the provisions of s.146B(8) and the submissions hereunder were received.

Fingal County Council

The contents of the submission from the planning authority can be summarised as follows:

- Compliance submissions pursuant to conditions attached to PA0037 submitted to and agreed with the planning authority.
- Refers to associated planning histories PF0001 and PM0006.
- PA0037 provided for the retention of almost 39,000 cu.m. of excess soil within the application site.
- Under the current application 147,720 cu.m. more than originally provided for in PA0037 is to be retained within the site.
- This is significantly higher than that originally proposed and provided for under PA0037.
- Transport Planning Section (report dated 08/08/16):
 - In terms of construction traffic the proposed amendment would have no effect as soil is not to be transported from the site.
 - Additional traffic movements within the site would be subject to the approved Construction Traffic Management Plan and the various health and safety management measures, and would be safe, provided it does not interact with the traffic, especially pedestrian traffic, going to and from the sports grounds at the western end of the site.
 - The Transport Planning Section has no objection subject to condition.
- Water Services Section (report dated 18/08/16):
 - No objection.
- Heritage Officer (report dated 17/08/16):
 - The HO is satisfied that given the location and nature of the proposed development there will be no adverse impacts to European sites either alone or in combination with other plans and projects.
 - The HO is in agreement with the conclusions reached by the applicant's agent that full AA is not required in this case.
 - The HO has concerns in relation to the proposal to add 300 mm of soil to Compartment 20 east given the archaeological potential of this area.
 - The HO is of the view that the impact of the proposal to add soil in this compartment has not been adequately assessed from an archaeological perspective despite indications of the presence of archaeological features in this area.
 - The location and nature of archaeological sites and features in Compartment 20 east needs to be established through appropriate archaeological investigation prior to any decision by the Board.
 - This will allow the impact of the proposed addition of soil in this area to be fully assessed and any necessary avoidance and mitigation measures to be proposed by the applicant prior to any decision by the Board.
- Conservation Officer (report dated 15/08/16):

- In relation to the changes proposed in the western area of the NFMHS site, the scale of the new build within this section of the site is single-storey and so the CO does not perceive that the proposed increase in ridge heights will have a significant or detrimental impact on the protected structures of the historic hospital buildings from what has already been granted.
- In relation to works proposed in the horticulture area, this area borders with the historic farm building complex, the grade of the change to the proposed ground level decreases as it nears the farm complex so that it does not have a significant or detrimental impact on the buildings.
- In relation to Compartment 20E, these lands are marked as containing archaeological sites. No archaeological assessment/investigation report has been provided in relation to the potential impact of the re-contouring and filling of soil of these lands on archaeological remains. No evidence has been provided to indicate that the proposed re-contouring of these lands is acceptable in relation to the archaeological sites and it would be important that this is resolved prior to issuing any approval for the proposed development.
- Parks Planning Section - Biodiversity Officer:
 - The Parks Planning Section is satisfied that the proposed changes will not have a major detrimental impact on the landscape, trees and general biodiversity of the site.
 - Details on the works proposed in Compartment 20 are not entirely clear.
 - Concerns raised about damage to soil structure in this area.
 - It is recommended that a condition be included in the permission for the applicant to submit prior to the commencement of earthworks, the grassland establishment report for Compartment 20 East. This report should include details on the earthworks methodology for Compartment 20 East.
- Environmental & Water Services Department (report dated 23/08/16):
 - The Environment Department does not have any objections regarding the proposed works.
 - It is noted that a topsoil and subsoil handling and spreading specification (LNFM001 – dated 6th June, 2016) has been submitted with the Landscape Report submitted by Mitchell & Associates. The document prepared in relation to soil placement in Compartment 20 East lands has not identified the storage location of temporary stockpiles. It is further noted in the Report for Screening for Appropriate Assessment submitted that detailed measures will be provided in the Construction Environmental Management Plan which is proposed to be produced by the main works contractor once appointed and this will address all soil storage at the site.

- The excess of cut over fill volumes was seriously underestimated by the HSE in the SID application for the NFMHSH.
- Given the amount of excess soil, compared to the amount originally proposed and provided for in the approved development, the p.a. concurs with the decision of the ABP that the making of the alteration to which the request relates, would constitute the making of a material alteration of the terms of the development concerned.
- The p.a. identify and summarise the changes and the likely issues arising from the proposed alteration.
- The p.a. provides a Planning Assessment in relation to the alteration.
- In relation to visual impact, the assessment concludes that the submitted photomontages satisfactorily demonstrate that the visual impact of the proposed amendments is not considered to be significant in terms of either the close up/short distance views or the longer and more distant views of the development.
- In relation to traffic movements, the proposed alteration is to retain and reuse all excavated soil on the lands at St. Ita's Hospital and therefore there will be no additional truck haulage movements generated on the roads within Donabate and Portrane as a result of the amendment proposed to the permitted development. The p.a. is seeking a condition prohibiting construction traffic associated with the amended earthworks from passing the access to the sports grounds at the western end of the site.
- In relation to water based services, there is no objection to the request to alter the terms of the permitted development.
- In relation to architectural heritage, it is the view of the p.a. that the proposed changes in ground levels will not adversely impact on the protected structures within St. Ita's Demesne, it is also considered that the proposed changes in ground levels will not adversely impact on the character of the St. Ita's Hospital and Portrane Demesne ACA.
- In relation to archaeology, both the Heritage Officer and the Conservation Officer have concerns in relation to the proposal to add 300 mm of soil to Compartment 20 East given the archaeological potential of this area.
- In relation to ecology, the p.a. is seeking a condition requiring the applicant to submit the grassland establishment report for Compartment 20 East prior to commencement of the earthworks, this report should include details on the earthworks methodology for Compartment 20 East.
- In relation to Appropriate Assessment, the Heritage Officer is satisfied that there will be no adverse impacts to European sites either alone or in combination with other plans and projects.
- The planning authority fully supports the development of the proposed NFMHSH on lands at St. Ita's.
- It is the opinion of the p.a. that having regard to the extent and character of the alteration requested, that the proposed alteration to the

terms of the development of the NFMHSH on lands at St. Ita's would not be likely to have significant effects on the environment in relation to: visual impact; traffic; water services; ecology, and architectural heritage.

- Subject to the satisfactory resolution of archaeological issues raised by both the Heritage Officer and the Conservation Officer, the p.a. has no objection to the Board making the alterations to the terms of the development of the NFMHSH subject to all the conditions of the permission (PA0037) being retained.
- Two no. conditions recommended.

Commission for Railway Regulation submission dated 25/07/16

The submission from the above can be summarised as follows:

- Notification of the Board's decision is required to the railway undertaking.
- Iarnród Éireann should be consulted to ensure that risks associated with railway trespass are not increased in the vicinity of the development.
- The party undertaking the construction should ensure future works which may affect the safe operation of the railway are undertaken with the consultation of Iarnród Éireann and in accordance with RSC Guideline RSC-G-010-A.
- Particular care should be taken with works near the railway boundary that may increase loading on cuttings, affect stability of embankments or change the water table/drainage.
- The party undertaking the works should consult with Iarnród Éireann regarding road rail interfaces, such as railway overbridges and level crossings, on access routes which may have increased flow or abnormal loads during the construction phase.

Transport Infrastructure Ireland submission dated 29/07/16

The submission from the above can be summarised as follows:

- TII have no specific observation to make.

Irish Water submission dated 08/08/16

The submission from the above can be summarised as follows:

- Irish Water note the proposed alterations and in particular alterations in areas over or adjacent to Irish Water infrastructure i.e. the re-contouring and infilling with soil of the permitted horticultural area and the utilisation of soil on Compartment 20 East, by spreading to a depth not exceeding 300 mm settled depth.
- Irish Water understands that these alterations have been discussed in detail with the water services department of Fingal County Council who are managing this water service infrastructure on behalf of Irish Water.
- Irish Water note a reference on Drg. 122103-1285 Rev1 in relation to storage of soil contaminate with Japanese Knotweed.

- Such soil should not be stored in the vicinity of Irish Water infrastructure.
- Irish Water understands from the developer's consultant engineer that the proposed storage area is in the northern section of Compartment 20 East and is not near any Irish Water infrastructure.
- Irish Water has no objection to the proposed alterations.

Jim O'Donohoe & Breda Dockrell, Turvey Green, Donabate, Co. Dublin dated 24/08/16

The submission from the above can be summarised as follows:

- The Portland Cliff Walk is currently closed due to landslide, the observers understand that the planning authority is undertaking repairs and negotiating with adjacent land owners, including the HSE, to facilitate its safe re-routing.
- The applicant should be conditioned to provide the required land and/or financial contribution towards the works needed to re-open the cliff walk.
- The current proposal should give further consideration to the previously suggested construction stage haul road via Ballymastone.
- The observers question as to why a condition can not be attached to the current proposal requiring the construction stage haul road via Ballymastone to be built.
- The local community has requested that the public access be provided to all construction traffic management plan monitoring documentation, so that the community can be fully satisfied that the planning conditions as laid down by the Board are complied with.
- There is an urgent need to carry out the road widening works before Donabate railway bridge.
- Directional signage should be provided at the entrance to the construction access road off the Portrane Road.
- The Board should condition the applicant to put in place a comprehensive traffic management plan for the whole of St. Ita's Demesne.
- This current application will mean more construction traffic journeys within St. Ita's.
- In the interests of the health and safety of residents and staff of St. Ita's, St. Joseph's, Crannóg Nua and other HSE staff, as well as the wider community using the campus for sports and recreation, and given that a public bus service is routed through the campus, a comprehensive traffic management plan must be immediately put in place by the HSE.
- The HSE should provide an update as to plans for the future maintenance and use of the protected structures in St. Ita's.
- The HSE should continue to work with local sports clubs to ensure all their concerns are met around construction traffic safety issues, given

the great many adults and young people who use the sports pitches in Ballymastone.

- The Portrane Walled Garden could be brought back into use to the benefit of the local community and St. Ita's residents.
- The new section of public access pathway completed to date has been greatly welcomed by the local community and the HSE project team is to be commended for the work on this.
- The Board should provide clarification on the extinguishment the public right-of-way through the site and ensure that the HSE complies with the legal process to extinguish a right-of-way as set out in the Roads Act.
- A condition should be included requiring detailed survey and assessment of the archaeological sites contained in the subject lands, namely St. Kenny's Well and the chapel site.

Cllr Paul Mulville, Fingal County Council

The submission from the above can be summarised as follows:

- The Portrane Cliff Walk is heavily used by local residents, visitors and by residents and staff of St. Ita's and St. Josephs.
- The cliff walk is currently closed due to some soil slippage following heavy rainfall.
- Some of the land required to move the cliff walk inwards and re-open it is part of the subject land in the application.
- The applicant should work with the council and the local community in order to finalise negotiations regarding the cliff walk and ensure that it is re-opened as a matter of urgency.
- The applicant should also be conditioned to provide a financial contribution towards the works.
- The current proposal should give further consideration to the previously suggested construction stage haul road via Ballymastone.
- The local community has requested that the public access be provided to all construction traffic management plan monitoring documentation, so that the community can be fully satisfied that the planning conditions as laid down by the Board are complied with.
- There is an urgent need to carry out the road widening works before Donabate railway bridge.
- Directional signage should be provided at the entrance to the construction access road off the Portrane Road.
- This current application will mean more construction traffic journeys within St. Ita's.
- In the interests of the health and safety of residents and staff of St. Ita's, St. Joseph's, Crannóg Nua and other HSE staff, as well as the wider community using the campus for sports and recreation, and given that a public bus service is routed through the campus, a comprehensive traffic management plan must be immediately put in place by the HSE.

- The HSE should provide an update as to plans for the future maintenance and use of the protected structures in St. Ita's.
- The HSE should continue to work with local sports clubs to ensure all their concerns are met around construction traffic safety issues, given the great many adults and young people who use the sports pitches in Ballymastone.
- The Portrane Walled Garden could be brought back into use to the benefit of the local community and St. Ita's residents.
- The new section of public access pathway completed to date has been greatly welcomed by the local community and the HSE project team is to be commended for the work on this.
- The Board should provide clarification on the extinguishment the public right-of-way through the site and ensure that the HSE complies with the legal process to extinguish a right-of-way as set out in the Roads Act.
- A condition should be included requiring detailed survey and assessment of the archaeological sites contained in the subject lands, namely St. Kenny's Well and the chapel site.
- Councillor Mulville outlines the current position regarding the proposed Donabate distributor road.
- It is clear from all the various reports and studies carried out for this application and the wider NFMHS planning process that a huge amount of work has gone into ensuring protection of the natural environment in Portrane, in particular biodiversity and woodland management plans.
- The HSE should give consideration to working with the local community and the council to arrange a series of public lectures in the Donabate Portrane area to inform and engage with the local community and wider environmental groups around the biodiversity and woodland management plans, so that all are better informed as to the various plans, actions and timeframes involved.
- The local community liaison committee is working well to date and has met a number of times to discuss various matters.
- The community liaison officer and the HSE projects team have worked well with the local community and the council to try and address various matters of concern.
- This process should continue into the future.

8.0 ASSESSMENT

8.1 Scope of this report

8.1.1 The undersigned previously prepared a report for the Board in relation to the request to alter the terms of the permitted NFMHSH, report dated 6th July 2016. The scope of that previous report related to a recommendation on whether the proposed alteration would constitute 'the making of a material

alteration of the terms of the development concerned' as referred to in s.146B(2)(a) of the Act.

8.1.2 Having considered the material on file and the above mentioned report, the Board decided, in its Direction dated 12th July 2016, that the proposed alteration would constitute a material alteration.

8.1.3 This report will now consider whether the alteration would be likely to have significant effects on the environment as required pursuant to s.146B(4) of the Act and make a recommendation to the Board on the matter. It will further make a recommendation to the Board as to whether the alteration should be made or not having regard to the provisions of s.146B(3)(b).

8.2 Clarification

8.2.1 Under PA0037 in order to reduce the traffic impact on the approach roads the applicant proposed, following submissions from the public during the application stage, to retain and reuse all excavated material on site. As per Punch Consulting Engineers Drg. No. 122103-1285 on PA0037 it was proposed, and granted subject to conditions, to spread both excavated topsoil and subsoil at four identified locations across the overall site. The quantum of soil indicated in the aforementioned drawing amount to a total of 38,600 cu.m.

8.2.2 In the report on the consideration of the materiality of the current proposed alteration by the undersigned dated 6th July 2016, at paragraph 6.9 it was indicated that an additional 40,550 cu.m. of topsoil and subsoil is to be retained and reused on the site. However, that figure of 40,550 cu.m. only refers to the total quantum to be deposited in the horticultural area (22,200 cu.m.) and Compartment 20 East (18,350 cu.m.), it was not proposed to deposit soil in these two areas under PA0037. However, it should be noted that the changes in ground levels proposed in the western part of the site will significantly increase the quantum of fill in this area. The total quantum of topsoil and subsoil to be used in this area is 102,502 cu.m. with reference to "reused under site" on Punch Consulting Engineers Drg. No. 122103-1285 Rev. PL1 in the current request application. This is a significant quantum of soil to be reused on site, however, it does not alter the previous determination on the materiality of the proposed alteration, in fact it strengthens the Board's decision in that regard.

8.2.3 In the interests of clarity, the quantum of excess of cut over fill in PA 0037 was given as 38,600 cu.m. The quantum of cut over fill as indicated in the current alteration request is 186,720 cu.m. with reference to Punch Consulting Engineers Drg. No. 122103-1285 Rev. PL1 in the current request application. This is significantly higher than originally indicated in PA0037.

8.3. Effects on the Environment

As required under s.146B(4), the Board, having previously determined that the proposed alteration does constitute a material alteration of the terms of the development granted under PA0037, must determine whether the extent and character of the alteration now sought would be likely to have significant effects on the environment. This question will be assessed hereunder with reference to Schedule 7 '*Criteria for determining whether a development would or would not be likely to have significant effects on the environment*', of the Planning & Development Regulations.

8.3.1 Schedule 7 paragraph 1 of the Planning & Development Regulations indicates that the first criteria to be considered is the 'Characteristics of the proposed development'. In the context of what was sought and granted under PA0037 I do not consider the proposed alteration, in terms of the relevant criteria listed under the said paragraph 1, to be significant. The size of the alteration with reference to the increased finished levels, is not significant in context and would be barely noticeable. There are no additional demolition works sought above those previously granted. Waste quantities for concrete, bricks, tiles, ceramics, plasterboard, asphalt, tar, metals and other such waste will not change from that previously granted. There will be no additional trip generation on the public roads approaching the site. In relation to the thresholds that trigger the need for an EIS, I have considered the contents of the Planning & Development Regulations, Schedule 5 '*Development for the Purposes of Part 10*', Parts 1 and 2. I am of the opinion that the works proposed pursuant to the alteration sought do not fall within any of the developments listed in that Schedule 5.

8.3.2 Schedule 7 paragraph 2 of the Planning & Development Regulations indicates that the second criteria to be considered is the 'Location of proposed development'. I concur with the applicant's submission on the location of the proposed development as contained on page 7 of the 'Planning and Environment Report' submitted with the request. The proposed alteration would have no significant impact in terms of the sensitivity of the coastal location of the St. Ita's Demesne landscape. The buildings subject of the level changes are located at a remove from the coast. Compartment 20 East is located adjacent the coastline but the alteration proposed would have only a slight impact on this area in terms of its coastal location. Likewise for the historical significance of the receiving landscape, this will not be altered above that previously granted. The applicant's 'Planning and Environmental Report' at page 21 confirms that there will be no further impacts on retained trees, hedgerows or woodland hedges. In the applicant's 'Landscape Report Supporting 146B Submission' (Mitchell & Associates), at paragraph 2.1 it is further stated that the landscape design intent remains unaltered from that permitted under PA0037.

8.3.3 Schedule 7 paragraph 3 of the Planning & Development Regulations indicates that the third criteria to be considered is the 'Characteristics of potential impacts'. Given the nature and specifics of the alteration sought, I am of the opinion that the potential impacts to be considered are:

- Traffic Impact
- Visual Impact
- Architectural Heritage Impact
- Impact on Water Services
- Ecological Impact
- Archaeological Heritage Impact

8.3.3.1 Traffic Impact

During the application stage for PA0037 a significant issue of concern was the potential of traffic impacts arising, particularly at construction stage. In response to those concerns the applicant proposed to reduce the traffic impact on the approach roads by retaining and reusing all excavated material on site.

The applicant states that the entire reason for the proposed changes to the site is as a direct result of the requirement to avoid disposing of subsoil and topsoil from the site during the construction process thereby reducing the quantity of haulage trucks on the roads in and around Donabate and Portrane.

The p.a. Transportation Planning Section Report on file (dated 08/08/16) states that, in terms of construction traffic, the proposed amendment would have no effect. It goes on to state that the proposed alteration to the granted permission would involve no additional traffic movements outside the site. Additional traffic movements within the site would be subject to the approved Construction Traffic Management Plan (subject of Condition No. 12 on PA0037) and the various health and safety management measures, and would be safe, provided it does not interact with the traffic, especially pedestrian traffic, going to and from the sports grounds at the western end of the site. The Transport Planning Section has no objection subject to a condition prohibiting the earthworks traffic from passing the access to the sports grounds to the west of the site. I consider such a condition reasonable. I would also recommend that the Board condition for an amended Construction Traffic Management Plan that reduces as far as practicable the earthworks traffic from passing by the residential buildings located around the historic St. Ita's complex. As pointed out by two of the observers to the current proposed alteration, in addition to those who reside in buildings adjacent St. Ita's, there is a public bus service through the campus. (There are a number of possible routes from the western part of the site where the cut and fill is taking place to Compartment 20 East, one such route is possibly skirting completely to the south of the historic St. Ita's complex and thus avoiding through traffic.)

The impacts arising from the additional earthworks construction traffic on foot of the alteration will be confined to within the applicant's landholding, will involve short trips, will be subject of the Construction Traffic Management Plan and will be of limited duration.

Having regard to the foregoing I am of the opinion that the proposed alteration would not be likely to have significant effects on the environment arising from the traffic generated.

8.3.3.2 Visual Impact

Permission was granted for 10 buildings on the site under PA0037. That permission, as per the plans and particulars, specified ground levels, finished floor levels and roof levels across the development. Under Part 1 of the request it is proposed to reduce the depth of excavation on the western part of the campus as granted and this has consequences for the finished floor levels and roof levels of 6 of the 10 buildings on the campus. These 6 buildings will be 1 m higher than originally proposed and the grounds levels will also be raised.

The site context here is rural, the site is well landscaped and the development site is a remove from other developments and the public realm. The development as granted also includes for a considerable amount of further tree planting. In terms of visual assessment and impact, the critical views into the site are the medium to long-distant views. In that regard raising the grounds levels and the levels of the 6 buildings affected by 1 m would be imperceptible. The applicant submitted a detailed visual impact assessment, it is contained within Appendix 1 of the submitted 'Planning and Environment Report' and it analysed photomontages also submitted with the request application. That visual impact assessment concluded that the impacts brought about by the proposed amendments in the 146B application will be imperceptible, I concur with that conclusion. Even after the 6 buildings on the affected part of the site are raised by 1 m, they will still have lower floor levels than the ICRU and CAMH buildings on the eastern unaffected part of the site. The works will entail the construction of a c. 1 m high retaining wall along the northern boundary. This wall will wrap around to the western boundary and will gradually reduce to meet existing ground levels. Additional native woodland planting is proposed to screen the wall and it will be rendered with a dark colour to reduce its visual impact.

The p.a. Planning Assessment submitted to the Board concludes in relation to visual impact that the applicant's submitted photomontages satisfactorily

demonstrate that the visual impact of the proposed amendments is not considered to be significant in terms of either the close up/short distance views or the longer and more distant views, I concur with that assessment.

Having regard to the above I am satisfied that the visual impact arising from the alteration would not be likely to have a significant effect on the environment.

8.3.3.3 Architectural Heritage Impact

As indicated in the Inspector's Report on PA0037, the RPS lists the following structures in the grounds of St. Ita's: St. Ita's Hospital Complex itself (ref: RPS No. 536), Memorial Round Tower (ref: RPS 537) and Church & St. Kenny's Well (ref: RPS 538). Furthermore, the entire St. Ita's Hospital site is located within an ACA – 'St. Ita's Hospital and Portrane Demesne ACA'. A copy of the '*St. Ita's Hospital and Portrane Demesne ACA – Statement Of Character*' is in the appendix attached to the Inspector's Report on PA0037.

As per Part 1 of the current proposed alteration, the ground to be raised in the western area of the site and the 6 buildings affected are located on the opposite end of the development site from the complex of protected structures that form the red-brick St. Ita's Hospital complex. Given the separation distances involved, and the limited extent of the changes to ground and building levels, I do not consider that the proposed alteration as per Part 1 of the request would adversely impact on the character or setting of those protected structures. The p.a. Conservation Officer's Report (dated 15/08/16) on the current file indicates no specific requirements or concerns in relation to the proposed works in the western area of the site that are subject of Part 1.

The infilling proposed under Part 2 of the request in the horticultural area is adjacent a historic farm building complex associated with the St. Ita's Hospital. The proposed ground levels here are decreased as they approach the farm buildings (ref: drg. no. 11217-PLA-0145 Rev. P02 and drg. no. 11217-PLA-0146 Rev. P02). The Conservation Officer's Report states that the works here do not have a significant or detrimental impact on those farm buildings, I concur.

Part 3 of the alteration sought relates to Compartment 20 East. There is a protected structure recorded in this field - Church & St. Kenny's Well (ref: RPS 538). However, there is no trace above ground of either the chapel or the well. On page 10 of the applicant's 'Planning and Environment Report' it is stated that it is currently proposed by the Council to remove the church and well from the RPS. In any event, the soil spreading in this area will be to a maximum depth of 300 mm and the spreading is kept back from the identified location of the chapel and well as per drg. no. 122103-1285 Rev. PL. While the Conservation Officer has raised issues in relation to the spreading of the

soil in this field, the concerns relate to archaeological heritage and not architectural heritage. In the circumstances, I am satisfied that the proposed spreading of the soil in Compartment 20 East will not adversely impact on the character or setting of RPS No. 538. The former Isolation Hospital is located to the north-west of Compartment 20 East. The Isolation Hospital forms parts of the protected St. Ita's Hospital Complex. It is stated on page 36 of the applicant's 'Planning and Environment Report' that the regrading of the ground surface will commence 5 m from the fence which bounds the immediate site of the Isolation Hospital. At a maximum depth of 300 mm I am satisfied that there will be no adverse impact on the character or setting of the Isolation Hospital, views to and from the building will be unaffected.

Having regard to the foregoing I would conclude that the proposed alteration would have no significant effect on the architectural heritage of the protected structures or the ACA.

8.3.3.4 Impact on Water Services

In relation to the foul sewer, the increase in site levels on the western portion of the site will result in the foul sewer network rising in line with the general ground levels of the site. There will be no increase in volume or rate of sewage collected and discharged, or the routes of the sewers. I concur with the applicant when this is described as a neutral impact.

In relation to the surface water drainage, again the increase in ground levels in the western part of the site will result in the surface water drainage network rising in line with the general ground levels. However, rate of water collected, volumes involved, proposed discharge, routes of sewers and proposed attenuation remain as previously granted. I concur with the applicant when this is described as a neutral impact.

In relation to water supply, an increase in pump pressure for fire-fighting will be required, this is described by the applicant as a very minor adjustment to the pumps (ref: page 24 of the 'Planning and Environmental Report'). The impact again here is best described as neutral.

There is a foul rising mains with an associated wayleave running from the north through the site down to the new w.w.t.p. located to the south of the site. There is a report on file from Irish Water dated 08/08/16. That reports notes that the re-contouring and infilling with soil in the horticultural area entails works in the area of the wayleave over the foul rising main (Part 2 of the proposed alteration). In addition, soil is to be spread over an area where the outfall pipe from the new w.w.t.p. is located in Compartment 20 East (Part 3 of the proposed alteration). The Irish Water report states that it is their understanding that these alterations have been discussed in detail with the Water Services Department of the p.a. who are managing this water services infrastructure on behalf of Irish Water. The Irish Water Report concludes

stating that, in the circumstances, they have no objection to the proposed alterations.

There is a report on file from the Water Services Section of the p.a. dated 18/08/16 indicating no objection in relation to surface water, there are no concerns raised in relation to other aspects of the proposal in that report.

I am of the opinion that it is reasonable to conclude that there will be no significant effects arising in relation to water services.

8.3.3.5 Ecological Impact

In the applicant's submitted 'Planning and Environmental Report' each chapter of the EIS as submitted under PA0037 is reassessed by the relevant professional in relation to the proposed alteration. Under ecology the potential impacts on: Rogerstown Estuary SAC/SPA; Portrane Shore pNHA; flora and habitats within St. Ita's Demesne, and fauna are assessed. All assessed impacts are either neutral or positive.

Under Part 3 of the alteration it is proposed to spread 300 mm of sub-soil over a field referred to in the documentation as Compartment 20 East. To date this field has been in agricultural use (arable), it is proposed to convert it into a coastal grassland habitat. A 5 m wide perimeter to this area will be retained as per the original ground levels. The submitted 'Landscape Report Supporting 146B Submission' by Mitchell & Associates, contains 'LNFM001 Topsoil and Subsoil Handling and Spreading Specification'. In a report dated 23/08/2016 the p.a. Environment Department indicates no objection regarding the proposed works. The p.a. Biodiversity Officer states that the Parks Planning Section is satisfied that the proposed changes will not have a major detrimental impact on the landscape, trees and general biodiversity of the site. The Biodiversity Officer goes on to recommend a condition seeking the submission of the grassland establishment report referred to on page 22 of the applicant's 'Planning and Environmental Report'.

I am of the opinion that it is reasonable to conclude that there will be no significant effects on the ecology of the receiving environment. All impacts arising in relation to the ecology will be neutral or positive.

8.3.3.6 Archaeological Heritage Impact

The main issue arising in relation to archaeological heritage relates to the proposed spreading of soil in Compartment 20 East under Part 3 of the alteration. There is a possible location of a Recorded Monument in this field – RMP DU012-009: church site/holy well.

Both the p.a. Conservation Officer and Heritage Officer have raised concerns in relation to this part of the alteration. The HO in his report of the 22/07/16

holds that the location and nature of archaeological sites and features in Compartment 20 East needs to be established through appropriate archaeological investigation prior to any decision being made by the Board. The HO in her report of the 15/08/16 holds a similar view as the CO on the matter.

The applicant has stated at page 33 of the 'Planning and Environmental Report' that areas subject of the proposed alteration were again examined and the National Monuments Service consulted. It is stated on page 34 of the 'Planning and Environment Report' that further testing, including any necessary test trenching, will be undertaken under the direction of the National Monuments Service and any mitigation measures required will be undertaken, in consultation with NMS and subject to agreement with the p.a. The Department of Arts, Heritage, Regional, Rural and Gaeltacht were notified of the alteration request, the Board did not receive any submission on the alteration from the Department.

The chapel and well are indicated on drg. no. 122103-1285 Rev. PL. That drawing indicates that the soil spreading will be not take place over those sites. A buffer area of some 30 to 50 metres is created between the potential historic sites and the area where the spreading is to take place. Notwithstanding the CO and HO concerns, I am of the opinion that the applicant's proposals are reasonable and any archaeological heritage can be appropriately protected. The spreading is not to take place over the sites once the locations have been confirmed. In any event the spreading here is only to a maximum depth of 300 mm and, in a worst case scenario, even if archaeology was to be covered the potential of damage (i.e. an adverse impact) would appear low, this field has been in arable agricultural use for decades, ploughing/the sowing of crops, arguably, would have caused greater damage than the spreading of 300 mm of soil as now proposed. The Board applied a condition on PA0037 to protect the archaeological heritage of the site (ref: Condition 10). That condition would be applicable also now in Compartment 20 East should the Board confirm the alteration. That condition allows for the preservation of the archaeological heritage either in-situ or by record. Given the nature of the work proposed here i.e. spreading, both options of either preservation by record or in-situ are viable (the applicant has indicated that the proposed re-contouring and filling will not result in the removal of archaeological deposits from the areas in question). A grassland is to be established and hence the ploughing/sowing of crops will cease which must be considered at least a neutral, if not positive, impact in relation to the potential of archaeological heritage on the site.

Having regard to the above, I am of the opinion that the archaeological heritage of the site will not be significantly effect by the proposed alteration. Condition No. 10 of PA0037 provides for the archaeological heritage protection for the site, including Compartment 20 East.

8.4 Appropriate Assessment

The Board undertook an Appropriate Assessment in relation to the effects of the development proposed under PA0037 on the Rogerstown Estuary Special Area of Conservation and on the Rogerstown Estuary Special Protection Area. The Board concluded that the proposed development, by itself, or in combination with other plans or projects, would not be likely to adversely affect the integrity of these European Sites in view of their conservation objectives.

The current alteration request was accompanied by a 'Report for Screening for Appropriate Assessment – Final Report' by Faith Wilson Ecological Consultant. That report concludes that the proposed amendments to PA0037 within the 146B application are not likely to have significant effects on a European site, either individually or in combination with the other identified plans or projects.

The p.a. Heritage Officer is satisfied that given the location and nature of the proposed alterations "*there will be no adverse impacts to European sites either alone or in combination with other plans and projects*" (ref: report dated 17/08/16). The Heritage Officer is in agreement with the conclusions reached by Faith Wilson that full AA is not required in this case.

I am satisfied that there is sufficient information on file to allow the Board to carry out Screening for AA. There are 17 Natura 2000 sites identified within a 15 km radius of the subject site. They are: Rogerstown Estuary SAC 000208; Rogerstown Estuary SPA 004015; Howth Head Coast SPA 004113; Howth Head SAC 000202; North Bull Island SPA 00406; North Dublin Bay SAC 000206; Rockabill SPA 004014; Skerries Islands SPA 004122; Baldoyle Bay SAC 000199; Baldoyle Bay SPA 004016; Ireland's Eye SPA 004117; Ireland's Eye SAC 002193; Lambay Island SPA 004069; Lambay Island SAC 000204; Rockabill to Dalkey Islands SAC 003000; Malahide Estuary SPA 004025, and Malahide Estuary SAC 00205. The qualifying interests and conservation objectives for all 17 Natura 2000 sites are contained in the applicant's 'Report for Screening for Appropriate Assessment – Final Report'. I have had full regard to both the qualifying interests and the conservation objectives for all of those sites. The two Natura 2000 sites that are in close proximity to the subject site are: Rogerstown Estuary SAC 000208 and Rogerstown Estuary SPA 004015. I have read 'Rogerstown Estuary SAC 000208' and 'Rogerstown Estuary SPA 004015' as published by the NPWS, indicating the qualifying interests and conservation objectives of the sites. Copies of both documents are in the appendix attached to the Inspector's Report on PA0037 which is travelling with the current request file. The SAC and SPA overlap to some degree, but neither site immediately abuts or adjoins the application site.

To assess the potential impacts of the proposed development on the 17 sites, I consider it reasonable to apply the following factors, taking into account, *inter alia*, the 'source-pathway-receptor' model: size and scale; land-take; distance from Natura 2000 site; resource requirements; emissions; excavation requirements; transportation requirements; duration of construction, operation, decommissioning; reduction of habitat area; disturbance to key species; habitat or species fragmentation; reduction in species density; changes in key indicators of conservation value; climate change; key relationships that define the structure of the sites, and key relationship that define the function of the sites.

In terms of size and scale, the application site does not contain any designated nature conservation sites of European importance. There is no land-take proposed within any of the Natura 2000 sites. The closest Natura 2000 sites are Rogerstown SAC and Rogerstown SPA at c. 0.01 km away. In terms of resource requirements there are no requirements for water abstraction or discharge of contaminated waters, silts or sediments to surface water arising from the works that are subject of the request. In relation to emissions, standard best practice management during the construction and operational phases as indicated on file documentation and subject of condition on PA0037 will ensure no likely and significant effects arising in relation to the hydrological link (source-pathway-receptor model) between the site and the Rogerstown SAC and SPA. There is no excavation proposed in any of the Natura 2000 sites of foot of the alteration sought. The transportation requirements for the project will have no impacts on any of the 17 Natura 2000 sites. The duration of construction works at some 3 years will have no impact on the Natura 2000 sites. There is no evidence that any qualifying interest habitat or species will be significantly effected by the proposed alteration. The areas where the soil is to be spread have been in use for arable farming for decades and are not located within any Natura 2000 site. There is no reduction of habitat area in any of the sites. No key species will be disturbed and no fragmentation of habitats or species will arise as a result of the proposed works. No reduction in species density is expected. Best practice on site regarding sediment control will minimise risk to water quality during the construction phase having regard again to the source-pathway-receptor model. In terms of key relationships that define the structures and functions of the sites, there are no likely significant effects arising from the proposed alteration to the development permitted under PA0037.

I consider it reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed alteration, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, including the nearby Rogerstown Estuary Special Area of Conservation and the Rogerstown Estuary Special Protection Area, in view of the sites'

Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

8.5 Determination under s.146B(4)

With reference to sections 8.3 and 8.4 above, I consider it reasonable to conclude that the proposed alteration as requested would not be likely to have a significant effect on the receiving environment and would recommend accordingly to the Board.

I further recommend that the Board make the alteration as sought pursuant to s.146B(3)(b). I would recommend amendments to two conditions on PA0037, these amendments are primarily in the interests of clarity.

8.6 Other Issues

There is a walk along the coast adjacent Compartment 20 East. It appears that this cliff walk which is used by local residents, visitors and staff has suffered damage due to soil slippage following heavy rain. Part of the walk is closed adjacent Compartment 20 East. Some observers note that the land required to move the cliff walk inwards and re-open it, is part of the land subject of the alteration request. They are seeking conditions in relation to this matter. This is outside the scope of the current alteration request in my opinion. It is a civil matter in the first instance. Even if the alteration is made by the Board as requested, it would not prohibit the relocation of the cliff walk, as sought by the observers, at some stage in the future.

9.0 **CONCLUSIONS AND RECOMMENDATION**

The Board has previously determined that the alteration sought is a material alteration of the terms of the development subject of PA0037.

I consider it reasonable for the Board to determine that the alteration being sought would not be likely to have significant effects on the receiving environment.

I recommend the Board make the alteration. I further recommend that condition nos. 12 and 13 of PA0037 be expanded in the interests of clarity.

ALTERED CONDITIONS

Add Condition 12(v):

The construction traffic generated by the alteration made under 06F.PM0009 shall be routed away from the access to the sports grounds to the south-west of the site and shall be routed, as far as is practicable (to the satisfaction of the planning authority), away from occupied residential buildings located in and around the existing St. Ita's Hospital. A construction traffic route shall be

submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Add Condition 13(b):

The Construction-Stage Environmental Management Plan shall include the grassland establishment report for Compartment 20 East as referred to in the 'Planning and Environmental Report' (by Doyle Kent Planning Partnership Ltd., received by the Board on the 10th day of June 2016) for the alteration made under 06F.PM0009.

Tom Rabbette
Senior Planning Inspector
9th September 2016