



An
Bord
Pleanála

Inspector's Report

Ref. 04.PM0010

Development: Proposed amendments to the redevelopment of the Port of Cork facility at Ringaskiddy permitted under Ref. 04.PA0035.

Site Address: Ringaskiddy, County Cork. .

Applicant: Port of Cork Company

Planning Authority: Cork County Council

Type of Application: Request for the board to amend the terms of an approved development under section 146B of the Planning and Development Acts 2000-2011

Inspector: Stephen Kay

1.0 Introduction

- 1.1 This report deals with a request from the Cork Port Company that the board exercise its power under section 146B of the Planning and Development Acts 2000 (as amended) to alter the terms of the permission granted to the authority for the redevelopment of the port facilities at Ringaskiddy, County Cork. The alteration sought comprises alterations to (lengthening) of the permitted main berth, the relocation of mooring dolphins, changes to the landside handling of containers and changes to the design and layout of ancillary buildings including some of which are located outside of the boundary of the application site as submitted for approval under Ref. 04.PA0035.

2.0 Legislative Provisions – S.146 of the Planning and Development Acts

- 2.1 Section 146B (1) of the acts allows a person who intends to carry out a strategic infrastructure development to request the board to alter the terms of that approved development. Under sub-section 2 the board must then decide, as soon as is practicable, whether to do so would constitute a material alteration in the terms of the development. If it decides that it would not be material, then under section 146B (3)(a) it must alter the approval accordingly. If the board decides that it would constitute a material alteration of the terms of the development, then under 146B (4) it must determine whether the alteration would be likely to have significant effects on the environment. If the board determines that the alteration would be likely to have significant effects on the environment then section 146C applies. If not, then under section 146B (3)(b) the board may make the requested alteration, make a different but no more significant alteration or refuse to make the alteration, but under section 146B (8) it must ensure the information associated with the request is made available for inspection and to ensure that appropriate persons are notified of the request and that submissions are sought from them.
- 2.2 Where section 146C applies the board must require the person making the request to prepare an environmental impact statement and submit it to the board and the local authority, and to publish a notice stating that this statement has been submitted and that the submissions or observations upon it may be made to the board within a specified period of not less than 4 weeks. After that period that board may determine the matter under section 146B (3)(b) having regard to various matters set out in section 146C (6).

3.0 Planning History

3.1 The following planning history relates to the site and environs.

ABP Ref. 04.PC0216 – Pre application consultation in respect of amendments to the redevelopment of the port at Ringaskiddy as permitted under Ref. 04.PA0035. This pre application consultation related to proposed alterations to the permitted scheme.

ABP Ref. 04.PA0035 – Permission granted by the Board for development which comprised the following:

- Berth 1, a new 314m Container / Multipurpose Berth to the north of the existing ferry berth, to accommodate vessels carrying different cargoes.
- Berth 2, a new 200m Container Berth to the north of berth 1.
- Reclamation of approx. 2.4ha to facilitate the new berths.
- Installation of a new link-span comprising a floating pontoon and access bridge at Berth 1 to facilitate ro-ro operations.
- Surfacing of existing port lands to provide an operational area for container and cargo storage.
- Dredging of the seabed to a level of -13.0m Chart Datum (CD).
- Removal of an existing link-span, to the south of the ferry terminal.
- Installation of container handling cranes and terminal transport equipment.
- Maintenance building, administrative buildings and entrance kiosks.
- Two Ship to Shore Gantry Cranes (SSG) to lift containers to / from vessels onto trailers/tractor units, for transport to the container stacks. The containers are then to be stacked by electrically operated Rubber Tyre Gantry (RTG) cranes (7 no.), up to 5 containers high, equivalent to an approximate height of 12.8m.
- Ancillary car parking, lighting and fencing, including closure of existing public access to Ringaskiddy Pier.

The grant of permission is for a period of 10 years and is subject to 18 conditions.

ABP Ref. 04.PC0131 – Notice served under Section 37B(4)(a), that it was considered that the proposed development falls within the scope of paragraphs 37A(2)(a), (b) and (c) of the Act. It was accordingly decided that the proposed development would comprise strategic infrastructure within the meaning of Section 37A. Application Ref. 04.PA0035 was lodged on foot of that notice.

ABP Ref. PL04.PA0003 - Permission refused by the Board to the Port of Cork Co. for the redevelopment of Ringaskiddy Port, including the construction of a container terminal and a multi-purpose ro-ro berth, comprising approx. 480m of new berths and a Ro-Ro berth of 182m, along with 18ha of reclamation and replacement of the public pier and slipway to the east of the site. The reason for refusal related to the location of the site without connection to the rail network and reliant on the road network such that it would adversely affect the carrying capacity of the strategic road network and exacerbate serious existing congestion and be unable to utilise rail based freight in the future. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.0 Location and Description of Site

- 4.1 The request refers to the site of the permission 04.PA0035. The site is located to the north of Ringaskiddy village and on the existing port company lands adjoining the frontage to the lower part of Cork harbour. The site as set out in Ref. 04.PA0035 comprises three main elements, namely Ringaskiddy west which is the location of the existing deepwater berth at Ringaskiddy Port, Ringaskiddy East, which comprises the existing ferry terminal and infill area a significant part of which is currently undeveloped and Paddy's point an area to the east of the port adjacent to the access to Haulbowline Island.
- 4.2 The existing port facility at Ringaskiddy handles bulk cargo at Ringaskiddy West and passenger ferry and other Ro Ro traffic at Ringaskiddy east. The facility currently complements the Port of Cork operation at Tivoli upstream on the River Lee which handles container traffic.

5.0 The Request

The Proposed Alterations

- 5.1 The request from the applicant seeks that a number of amendments to the port development plan as approved under Ref. 04.PA0035 would be undertaken. These works relate to the permitted Multipurpose berth / Container Berth 1, revised operation of the container movements within the area to the east of permitted container berth 1 and amendments to the road layout at the access to the site. The following is a summary of the main alterations sought:
- 5.2 Regarding the permitted multipurpose berth 1 at Ringaskiddy East, it is stated that due to the restriction on the operation of the RoRo element of the development until after the Ringaskiddy N28 road and the Dunkettle interchange upgrades are completed. The effect of this is that the permitted link-span bridge to be used by RoRo traffic will not be required for the foreseeable future and it is now proposed that this element would be provided at a later date. It is proposed that some slight changes in the design of the southern end of the berth would be undertaken but such changes would not result in any extension of the permitted length of quay wall or in the extent of infill behind the quay wall. The omission of the link –span structure in the short term together with the changes in the geometry of the end of the berth means that the length of permitted Berth 1 would increase by 16 metres from 314 metres to 330 metres and that the length of berth which would be usable would be increased by c. 46 metres. It is proposed that the dredge pocket would be extended to the full length of the quay and that such increased dredging would result in a total additional 15,000 metres cubed of material to be dredged.
- 5.3 As part of the changes to the design of the container / multipurpose berth 1 it is also proposed that alterations to some of the existing mooring dolphins in this area would be undertaken. The modifications proposed involve the removal of one mooring point on the quay which would free up the area for more efficient usage and also the removal of two existing mooring dolphins located in the water immediately to the south of the existing permitted line of berth 1 and which would be filled in by the proposed realignment of the southern end of the berth and their replacement with a total of three new mooring dolphins to be located in a north west to south east alignment further to the south. These three proposed additional dolphins would form an extension of the existing linked dolphin structures in this location, it is stated by the applicant, would

serve to better separate the container and ferry terminal operations as well as facilitating the future installation of a link-span structure to serve berth 1.

- 5.4 Amendments to the method of landside container handling are proposed with the original proposal for the use of rubber tyre gantry cranes (RTG's) now to be replaced with the use of straddle carriers. The revised method of handling containers would have a number of knock on impacts to the layout of the development as permitted. Firstly, the straddle carriers would mean that the configuration of container storage would have to change with the stacks being a maximum of three high rather than the five previously proposed. This reduction in height would mean that the area of the container storage would have to increase and the submitted plans show the container stacking moving into an area further to the south of that permitted. The change to the method of container movement also means that the permitted maintenance shed is not fit to accommodate straddle carriers and it is therefore proposed that a new two storey maintenance and office building would be provided. This building is proposed to be located immediately to the south east of the container storage area. It should be noted that this maintenance building as well as revised access to the container storage and handling area are located on lands that are outside of the area included within the red line boundary in application Ref. 04.PA0035. The previously proposed maintenance building is now proposed to be a customs inspection building.
- 5.5 The applicant has stated that the proposed amendments would not result in an increase in capacity of the permitted development and that the overall capacity would continue to be restricted to an overall maximum of 330,000 TEU's.
- 5.6 As part of the application, the applicant has requested that the proposed alterations would necessitate amendments to conditions Nos. 1 and 4 attached to the decision of the Board on Ref. 04.PA0035. Suggested revised wordings for these conditions are submitted.

The Supporting Arguments

- 5.7 It is submitted by Port of Cork Company that the proposed alterations are not such that they would comprise a material alteration of the terms of the permitted development and also that, in the event that the Board considered that the development did comprise a material alteration, that the alteration would not be likely to have a significant effect on the environment.

5.8 A number of documents have been submitted by the applicant in support of the case summarised above. These are as follows:

- A letter from McCutcheon Halley Walsh Planning Consultants which sets out the content of the application, the alterations proposed and sets the context and rationale for the alterations sought.
- An Alterations Report prepared by RPS Group, dated 18th July, 2016 which details the changes to the project description which are proposed.
- An Environmental report prepared by RPS Group, dated July 2016 which sets out the need for the proposed development, the permitted development under Ref. 04.PA0035, the rationale for the alterations sought, the planning policy context, the predicted impact on the environment (assessed under the headings as set out in the EIS). The report also contains a screening for appropriate assessment at Appendix A.
- The application is accompanied by drawings detailing the proposed amendments.

The following paragraphs summarise the main points made by the applicant in support of the proposed alteration:

5.9 That the Ringaskiddy Mobility Management Plan (RMMP) required under Condition No. 5 requires the use of a vehicle booking system and agreement with the Planning Authority. It is submitted by the applicant that detailed analysis of the operational requirements on site to achieve compliance with the requirements of the RMMP show that it is not feasible to achieve the required efficiency of operation with the use of rubber tyre gantry cranes and that the use of straddle carriers offers greater flexibility to operate the RMMP in a flexible and efficient manner. It is also stated that the Port of Cork currently have straddle carriers which could be utilised. In future years, RTGs could be used.

5.10 The proposed changes to the handling of containers on shore means that the requirements for maintenance has changed and a larger maintenance shed is therefore proposed.

5.11 The requirement of Condition No.4 regarding the use of the links pan and RoRo traffic and the restriction on such operations pending the upgrading of the N28 and the Dunkettle interchange means that there is an opportunity for the more efficient provision of this infrastructure. Rather than being an up front development it is proposed that the provision of the link span would be postponed to a later stage of the development. This would enable the southern end of Berth 1 to be reconfigured in a way that would facilitate more efficient use of the berth. It is stressed by the applicant that there would be no additional quay length created however the realignment means that the usable length of quay would increase. The RoRo links pan could be retrofitted at a later date.

6.0 Assessment

Materiality of the proposed alteration

6.1 Regarding materiality, the applicant makes the case that the appropriate tests are whether the alterations could be considered to be

- (a) Minor in the context of a major industrial complex,
- (b) Of a technical nature,
- (c) Without planning consequences.

I would accept that the criteria cited by the applicant are relevant to the determination of the materiality of the amendments proposed. I would also consider that the question of whether the alterations would impact on the proper planning and sustainable development of the area and whether they would give rise to new or additional planning issues from those assessed prior to the grant of permission by the Board are relevant to a decision regarding materiality.

6.2 The cover letter submitted by the applicant sets out the case regarding materiality of the alterations. This submission addresses each of the main elements proposed to be the subject of change and contend that they are not significant in the context of the overall port operations. It is submitted that the changes sought do not have any significant planning consequences. Specifically it is contended that the revised layout for the maintenance building would not have a significant visual impact and that the amendments to the handling of containers would have no planning consequences as it would result

in a reduced visual impact from the containers and would also improve the mobility management of the container terminal.

- 6.3 Regarding the scale and gross level impact on the operation of the development permitted on site the proposed amendments are not especially significant. There will not be any increase in the volume of goods which is to be catered for and the number of TEU's which would pass through the development would not increase on foot of the proposal. The volume of traffic would not therefore increase on the local road network and it is stated by the applicant that the primary purpose of the alterations are to facilitate changes to the handling of containers which are required in order that the requirements of the Ringaskiddy Mobility Management Plan (RMMP) would be met.
- 6.4 While the alterations propose revisions to the southern end of Berth 1 which would result in an increase in the usable length of berth the increase arising at 46 metres is not very significant in the context of a proposed overall length of 330 metres. It is however unclear from the information presented whether the increase in length would facilitate a different class of ship from utilising the berth that would otherwise be the case. There is no increase in dredging depth proposed however and so the potential for increased scale of ship would likely be limited.
- 6.5 While the overall scale of the development in terms of ship and traffic movements would not change on foot of the proposed amendments I would have some concerns with regard to the changes to the layout of the landside operations proposed and the potential for these changes to have a material impact on other planning considerations. In particular I note the fact that the proposed alteration to the movement of containers on the shore side and the proposed use of straddle carriers means that the area of container stacks would have to increase. From the information submitted it is evident that the revised layout of container storage / stacks is such that the containers would be located closer to a significant number of noise sensitive receptors located within the village. The applicant has submitted as part of the application an Environmental Report which details the predicted impact of the proposed amendments and I note that under the heading of Noise and Vibration (section 9, pg.19) that this report includes a revised noise assessment / modelling exercise. This revised assessment indicates that there are implications for surrounding properties in terms of construction phase noise due to the proposed amended layout of mooring dolphins and also from the new

maintenance building proposed. No assessment of the potential operational phase impact of the proposed amendments, and specifically the amendment to the layout of the container area, is given in the information submitted. It is my opinion that the proposed amendments to the container layout and handling system are such that it would have a potentially material impact on the noise environment during the operational phase of the development.

6.6 I also note the fact that the proposed new maintenance building, as well as parts of the access to the container compound, are indicated as being on lands that are outside of the red line boundary as indicated in the application documents which accompanied Ref. 04.PA0035. The scale of the proposed maintenance building is not very significant in the context of the overall port development, however the information submitted by the applicant in section 9 of the Environmental Report indicates that it would have an impact on construction noise. Given this, and in particular given that this aspect of the proposed amendments involves works outside of the original site boundary I am of the opinion that this aspect of the proposal would constitute a material alteration to the terms of the development.

6.7 In conclusion therefore, it is my opinion that on the basis of the potential impacts of the amendments in terms of construction and operational noise and the fact that the amendments sought involve works which are outside of the red line boundary as identified in the original application (Ref. 04.PA0035) I the proposed alterations should be regarded as material within the meaning of section 146B(2)(a) of the act.

Preliminary Comments on the likelihood of significant effects on the environment

6.8 In the event that the Board was to determine that the proposed amendments constitute a material alteration to the terms of the permission then, in advance of deciding whether to make or refuse to make the alteration or to permit the making of a different alteration, it is required under 146B(8) to invite submissions from the public and any other class of persons which the board considers appropriate and to then determine whether the proposed alterations would be likely to have significant effects on the environment.

6.9 In advance of the determination by the Board as to whether the proposed alterations are considered to be material and the consequent invitation to the public and other classes of persons to make submissions there are in my opinion a number of points which are of relevance to the assessment of significant effects on the environment. In summary, these are as follows:

- The proposed amendments involve works comprising the removal of existing mooring dolphins which are adjacent to the southern end of Berth 1 as permitted and the construction of three new linked mooring dolphins which would extend north westwards from the existing line of dolphins which run from a point on the shore immediately to the north of the ferry access ramp. The existing dolphins in this location were of specific interest during the course of the assessment of Ref. 04.PA0035 as they were term nesting and breeding sites with the common tern being one of the qualifying interests of the nearby Cork Harbour SPA. The applicant has submitted a screening for appropriate assessment which comprises Appendix A of the Environment Report and this indicates that the proposed amendments would not have a disturbance impact on the terns as construction activities would be undertaken outside of the breeding season (April to September). This is noted, however there are in my opinion other relevant issues for consideration including the impact on the tern feeding areas, disturbance issues from the extension of the southern end of Berth 1 and the future construction of the RoRo link span structure. It would in my opinion be appropriate that the comments of the NPWS would be sought in advance of an assessment and determination by the Board of the potential for likely significant effects on Natura 2000 sites.
- It is noted that the proposed amendments would bring the container stacking and storage areas in closer proximity to existing residential properties and other noise sensitive receptors. The applicant has provided an assessment of the potential noise impacts during the construction phase of the amendments to the layout of the mooring dolphins and the revised location and design of maintenance structure. An assessment of the potential impact on operational noise would also have to be made including the potential impact arising from the change to the layout of the container storage area and an assessment made as to whether noise impacts (both construction and operational noise) arising from proposed amendments would result in a significant effect on

the environment.

- Under the headings set out in the Seventh Schedule I would note the following:

Characteristics and Scale - That the scale of the development in terms of the volume of throughput (TEU's) and associated traffic volumes is stated to be no larger than what was permitted under ref. 04.PA0035. No significant additional effects arising from demolition, or use of natural resources would appear likely. Against this there is some potential for the creation of changed noise impact and additional waste in the form of additional dredging material (additional 15,000 cubic metres) would be generated.

Location – That the proposed alterations would not result in a change in the permitted use however the extent of the permitted use would expand slightly. The permitted development and the proposed amendments would require assessment of the impact on a European site in light of its conservation objectives given that the amendments propose works in the vicinity of breeding tern colony within the port. The location of some aspects of the proposed amendments are also outside of the original site / red line boundary and are therefore outside of the area covered by the development previously the subject of an EIS and on which an EIA was undertaken.

Characteristics of Potential Impacts – The magnitude and complexity of the impacts arising are generally likely to be similar to those of the permitted development especially regarding impacts directly attributable to road and shipping traffic. No trans frontier impacts would arise.

Consultation

6.10 The proposed amendments are in my opinion such that there are potential impacts in terms of construction and operational noise and the location of development means that the proposed amendments should be regarded as a material alteration in the terms of the development by virtue of their potential impact on planning criteria and the proper planning and sustainable development of the area. I am also of the opinion that the changes proposed with regard to the mooring dolphins are such that the assessment of the potential impact on qualifying interests and associated conservation objectives of Natura 2000 sites in the vicinity require assessment and that the comments of NPWS would be beneficial in that assessment. Given the fact that the amendments are a material alteration and the fact that the amendments involve works which are outside of the application boundary of the parent permission (Ref. 04.PA0035) I am also of the opinion that it is appropriate that the public should be afforded the opportunity to comment. It would also be prudent to seek the opinions of the prescribed bodies who were invited to comment on the original application, including the NPWS, TII, and the Planning Authority before the board decides whether to make the requested alteration or one similar to it.

7.0 RECOMMENDATION

7.1 In view of the above, I recommend that the board –

- 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, 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 04.PA0035, 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.

REASONS AND CONSIDERATIONS

The alterations which are the subject of this request would result in alterations to the operation and layout of the shore side container handling including the location of such activities closer to residential properties and other sensitive receptors located outside of the site, would result in works outside of the original site boundary and would introduce structures and revised working layout that would have potential impacts on ecology in the area of the site. It would therefore constitute a material alteration to the terms of the permitted development and the public and certain prescribed bodies should be afforded the opportunity to make submissions before the board decides whether the amendments sought would be likely to have significant effects on the environment and whether to make the alteration sought.

Stephen Kay

12th August, 2016