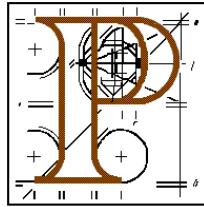


An Bord Pleanála



Inspector's Report

Proposed Development

Alterations to permitted Ringsend Wastewater Treatment Works Extension (SID ref.29N.YA0010), Poolbeg Peninsula, Dublin 4.

Applicant: Irish Water

Planning Authority: Dublin City Council

Type of Application: Request to amend the terms of an approved development under section 146B(1) of the Planning and Development Act, 2000, as amended

Inspector: John Desmond

Site inspection: 25th May 2016

1.0 INTRODUCTION

- 1.1 Irish Water requests that the Board exercises its powers under section 146B of the Planning and Development Act 2000, as amended, to alter the terms of approval for the development of the Ringsend Wastewater Treatment Works Extension, a scheme providing for additional secondary wastewater treatment capacity (400,000 P.E. extension), with c.9km sea outfall and road network improvement.

2.0 LEGISLATIVE PROVISIONS

- 2.1 Section 146B(1) of the Planning and Development Act 2000, as amended, provides that a person who is intending to carry out a strategic infrastructure development may request the Board to alter the terms of the subject approved development.
- 2.2 Section 146B(2) requires the Board to decide (under 146B(3)) whether or not the making of the said proposed alteration would constitute the making of a material alteration of the terms of the development concerned. The Board may invite submissions prior to making this decision (146B(2)(b)). If it decides under 146B(3)(a) that it would not be a material alteration, then it must alter the approval accordingly. If it determines under 146B(3)(b) that it would constitute a material alteration of the terms of the development, before making that determination the Board must first determine, under 146B(4) whether the requested alteration, or any alteration the Board may be considering under 3(b)(ii), would be likely to have significant effects on the environment. Under 143B(3)(b) the Board shall determine whether to (i) make the alteration, (ii) make a different alteration (not being one that would represent a more significant change to the terms of the development) or (iii) refuse to make the alteration. Public consultation procedures under 146B(8) apply in the case of 146B(3)(b) and 146B(4).
- 2.3 Where it is determined under 146B(4)(i) or (ii) that significant effects on the environment *are not likely*, the Board shall alter the approval accordingly. Where it is determined under 146B(4)(i) or (ii) that significant effects on the environment *are likely* the provisions of 146C apply and the Board shall require the requester to prepare an EIS and to publish notices regarding statutory public consultation, after which 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 RELEVANT PLANNING CASES

3.1 PLANNING HISTORY

3.1.1 An Bord Pleanála Ref. 29n.YA0010. Decision to GRANT approval for:

Ringsend Wastewater Treatment Works Extension Project, which will expand the existing wastewater treatment works at Pigeon House Road, Ringsend, Dublin to its ultimate capacity within the confines of its current site and achieve the required discharge standards. The proposed extension includes the following elements:

- Additional secondary wastewater treatment capacity at the wastewater treatment works site (c.400,000 P.E.) including associated solids handling and ancillary works.
- A 9km long sea outfall (in tunnel), commencing at an onshore inlet shaft approximately 350m east of the wastewater treatment works and terminating in an underwater outlet riser/diffuser in Dublin Bay.
- Road network improvements in the vicinity of the site (during the construction phase).

Conditions pertinent to this subject request are as follows:

Condition no.5 – A construction stage environmental management plan (CSEMP), including all construction method statements, shall be prepared by the developer and implemented by the contractor. The developer shall retain responsibility for overseeing, updating and enforcing the construction environmental management plan. The construction environmental management plan shall adhere to the following requirements:

- (a) All preventative and management measures to be applied throughout the construction phase shall be set out so that all potential impacts are minimised, mitigated, or avoided.
- (b) All measures to be employed in relation to spill contingencies, spoil disposal, management of contaminated soil, the selection of slurry additives and drilling fluids.
- (c) Measures set out in the Construction Industry Research and Information Association (CIRIA) on the control and management of water pollution from construction sites shall be adhered to.
- (d) All fuels or chemicals kept on the construction site shall be stored in bunded containers. All refuelling and maintenance of vehicles and equipment shall

be carried out in designated containment areas away from sensitive environments.

- (e) Any waste or hazardous waste residuals or potentially contaminated sludge from spill clean-up shall be stored in appropriate receptacles or containers, or in bunded storage areas prior to their removal by the developer or EPA licenced contractor.
- (f) Any discharges arising from the construction phase shall incorporate silt removal and hydrocarbon removal using a hydrocarbon interceptor.
- (g) Weekly monitoring of the water quality being discharged off the site shall take place during the construction phase.
- (h) Foul sewage shall be transported off site and disposed of by discharging to a licenced sewer network.
- (i) All marine vessel waste generated during the pipeline survey, and any maintenance vessels including marine rigs, shall accord with relevant guidelines including those guidelines from Annex V of the International Convention for the Prevention of Pollution from Ships, as amended. All hazardous waste stored on ships shall be contained in sealed labelled containers and stored in lockable container cabinets. A record of all types and quantities of waste arising on each vessel shall be kept.
- (j) The Guidelines entitled 'Requirements for the Protection of Fisheries Habitats during Construction and Development Works at River Sites' prepared by the Eastern Regional Fisheries Board shall be adhered to in full.
- (k) Management proposals and monitoring protocols for areas of ecology, archaeology, water quality management (both ground and surface), dust management, noise management, traffic management, sediment control, spoil disposal, general pollution control, community liaison, hazardous substance management, environmental training and supervision for personnel.
- (l) Details of the management of all landscaping within the sites and, where appropriate, in the vicinity of the site.
- (m) Details of site managers, contact numbers (including out of hours) and public information signs (including warning signs) at the entrance and, where appropriate, at the boundaries of the site.
- (n) Details of a pest control plan;
- (o) Staff parking shall not be permitted in the public car park in the vicinity of the site and suitable car parking places shall be provided elsewhere.

Upon the commencement of construction, the CSEMP will be reviewed according to a regular timeframe and will be updated if necessary.

Environmental auditing will be undertaken to ensure compliance with the CSEMP.

Condition no.9 – Appropriate reinstatement of all landscaping, earthworks, boundaries and access arrangements shall take place following construction phase and a landscaping scheme implemented in the first planting season following completion of works. Works shall include the dismantling of all temporary construction works and removal of all equipment and other temporary infrastructure on site.

Condition no.11 - All works to be undertaken within and adjacent to Natura 2000 sites within Dublin Bay will be undertaken in accordance with the requirements of a suitably qualified ecologist appointed following consultation with the National Parks and Wildlife Service.

Condition no.13 – A clearly demarcated pedestrian crossing on Pigeon House Road to the east of the wastewater treatment plant, together with the construction of a railing along the footpath on the northern side of the Pigeon House Road and a slip form kerb barrier, shall be provided along the southern side of Pigeon House Road and shall be constructed prior to the commencement of development. Access arrangements for pedestrians shall be monitored on a weekly basis throughout the construction period. Where it is decided that pedestrian access arrangements to South Bull Wall and surrounding amenity area are adversely affected during the construction period, appropriate measures shall be incorporated to minimize any impact on pedestrian access arrangements.

3.2 CURRENT RELEVANT PLANNING CASES

3.2.1 Ref.no.29SPC0203 – Current private consultation development concerning revisions to the Ringsend Wastewater Treatment Plant, granted approval under reg.ref.no.29N.YA0010, at Poolbeg Peninsula, Dublin 4. The 3 main elements of the revised proposal are:

- The employing of a new technology (aerobic granular sludge technology) in lieu of the permitted secondary treatment process which involved the modification of the existing SBR's on to carbonaceous mode only.
- The omission of the permitted long sea outfall tunnel.
- Use of the existing outfall at the Liffey Estuary.
- Ancillary and sundry works, including, inter alia, alterations to the entrance and circulation in and around the site.

4.0 THE PROPOSED ALTERATIONS

4.1 **Alteration 1** – Provision of temporary construction access onto Pigeon House Road, c.100m west of the main entrance to the Poolbeg Power Station.

Alteration 2 – Temporary removal of two small areas of landscaping bunds located on the WWTP property along its eastern perimeter.

Alteration 3 – Construction of a temporary ‘haul road’ (c.80m long) connecting the existing internal WWTP roads along the southern and eastern boundaries of the site.

5.0 APPLICANT’S SUBMISSION

5.1 The applicant is of the opinion that the requested alterations are non-material, i.e. the provisions under section 146(B)(3)(a) apply, for the following reasons:

- The alterations are exclusively for temporary works during construction and are located almost exclusively within the existing treatment works site footprint itself.
- They increase the overall level of excavation on the project by less than 0.5%, with negligible increase in new construction work (i.e. non-excavation work) associated with the alterations.
- The AA screening report concludes that there will be no impact on a Natura 2000 Site, either individually or in-combination with other projects, with similar conclusions in respect of environmental impacts other than on Natura sites.
- But for the proposed temporary construction entrance giving access to a public road (the surfaced carriageway of which exceeds 4m in width), it is Irish Water’s view that all of the proposed temporary works could reasonably have been considered to be within the scope of project consent ref.29.YA0010.
- The visibility splay at the entrance fully complies with NRA/DMURS design standards. No hazard, delay or obstruction to traffic will arise as a result of the new entrance and traffic management (and health and safety) both within and without the site will be improved.

5.2 **Project Report** – The main conclusions can be summarized as follows:

- No impacts are envisaged on human beings, flora and fauna, soil, water, air, landscape, material assets and the cultural heritage factors of the environment.

- In particular, the report explains why no landscape and visual impacts, no traffic impacts on archaeology and cultural heritage or on material assets are anticipated.
- Engineering review – No concerns.
- Appropriate Assessment – No significant direct or indirect effects.

6.0 ASSESSMENT

6.1 *Materiality of the Requested Alterations*

6.1.1 The main considerations as to whether the requested alterations may be considered material or not relate to:

- the nature and extent of the development granted approval under the application 29N4.YA0010,
- the extent and character of the alteration requested, which is of temporary duration for the purposes of construction of the approved development
- the principle impacts that would potentially arise from same, being traffic impacts.

6.1.2 Approval 29N4.YA0010 is for a major industrial development, principally comprising an extension of the secondary wastewater treatment capacity at the wastewater treatment works site by c.400,000 P.E, with c.9km outfall to sea and ancillary road improvement works.

6.1.3 The requested alterations, comprising a new entrance, an internal haul road of c.80m in length and removal of two landscaped berms totaling c.2000-sq.m, for a temporary period during construction of the approved development, are relatively minor in character and extent.

6.1.4 I consider the principle planning considerations to concern *Road design and traffic issues*. In my opinion there is no issue, in principle, with the proposed opening of a temporary entrance on this industrial road where the 50kph speed limit applies. The entrance is proposed to reduce the traffic using the existing main entrance (to the west) and the additional entrance and access road permitted to the southeast (now in situ), segregating the traffic from HGV / deliveries using the southeast entrance and from Operators traffic using the west entrance. Site offices and welfare facilities will be installed off the proposed entrance / access route. I consider this to be reasonable and acceptable in principle.

6.1.5 The applicant submits that the sightlines achieve visibility of 70m from a 2.4m setback, commensurate with a 50kph design speed in TII TD 41-42/11, and in excess of the 45m visibility required in DMURS for 50kph speed limit currently in place on Pigeon House Road comply with NRA DMRB and with the Departments DMURS standards. The visibility splays are shown on drawing no.15/086/00/0815 (horizontal) and 15/086/00/0816 (vertical). The visibility splays on drawing no.15/086/00/0815 are not shown as per TD 41-42, are incorrect and should be shown to the nearside edge of the carriageway, not the middle of the carriageway. However, the DMURS standards are the applicable standards in this instance, being an urban area where the speed limit is at or less

than 60kph. The required sight distance is 45m, corresponding with the safe stopping distance, which can be easily achieved at the proposed location.

- 6.1.6 There is no pedestrian footpath on the nearside of the road (there is a footpath on the far side) and therefore I do not consider it necessary to design the junction to accommodate pedestrian movements across the junction. The radius to the left hand corner of the junction measures c.9m and accords with that allowed for under DMURS for junctions frequented by larger vehicles.
- 6.1.7 In terms of traffic generation, it is submitted that the proposal will result in 0.5% increase in total number of construction trips due to an increase of 0.5% in excavation works required under the requested alterations. The purpose and proposed sequencing of the requested alterations (to be undertaken in advance of the main design-build contract for the WWTP extension), the alteration works will not coincide with the main extension works and therefore there will be no change in peak AM and PM traffic volumes previously assessed by the Board.
- 6.1.8 The applicant submits that the requested alterations will result in construction traffic no longer needing to enter the main operational entrance and that it is envisaged that a significant volume of extension works traffic will also pass through the WWTP site rather than continuing along the Pigeon House road to use the east entrance. Although this has not been quantified, the applicant submits that this will enhance the protection and safety of public road users and works staff during the construction period.
- 6.1.9 Pre-planning correspondence (23/02/15) from Eoghan Madden C.Eng, Roads and Traffic Planning Division of DCC, appended (4) to the Project Report, indicates that there was no objection in principle and that the proposed entrance did not constitute a traffic hazard.
- 6.1.10 I have reviewed the contents of the traffic assessment forming part (chapter 12) of the EIS attached to permitted development YA0010, noted the content of observations to that file pertaining to traffic and transport issues on that case and the report of assessment of the Planning Inspector, in addition to the decision of the Board and conditions attaching thereto.
- 6.1.11 Having regard to the foregoing, I consider there to be no material traffic and road safety impacts arising from the requested alterations.
- 6.1.12 Therefore, having regard to:
- the nature and extent of the development approved under the application 29N4.YA0010,
 - the extent and character of the alteration requested, which is of temporary duration for the purposes of construction of the approved development,

- the absence of material planning impacts, in particular in respect of traffic and road safety,

it is considered the alteration requested would not constitute the making of a material alteration of the terms of the development concerned within the meaning of section 146B(2)(a) of the Planning and Development Act 2000, as amended. The Board should, therefore, make its decision in accordance with section 146B(3)(a) and there is no requirement for the Board to consider the significance of environmental effects.

6.1.13 However, I would alert the Board that, in advance of making a decision on this matter under section 146(3), it may invite submissions from Dublin City Council, (or from other such persons or class of persons, which class may comprise the public if the Board so determines) under section 146(2)(b) as whether the alteration requested constitutes the making of a material alteration.

6.2 *Appropriate Assessment*

6.2.1 In the making of the current request to the Board and in support of same, the applicant has submitted an Appropriate Assessment – Stage 1 Screening report in Appendix 3 of the Project Report.

6.2.2 The Stage 1 AA Screening Report considered 19no. European Sites within 15km. Having regard to the qualifying interests of the European Sites, the Stage 1 Screening assessment concluded that, without any scientific doubt, the proposed works would not have significant negative effects (direct or indirect), on their own or taken in-combination, on the Natura 2000 network. Based on the Stage 1 appropriate assessment, a Stage 2 ‘Appropriate Assessment’ under Article 6(3) of the Habitats Directive 92/43/EEC is not warranted.

6.2.3 The Stage 1 AA considers the Qualifying Interests of the Natura 2000 sites concerned, but has had no regard to the Conservation Objectives which is contrary to the requirements of the Habitats Directive (92/43/EEC) and to Departmental guidance and to the Board’s Advice Note 1.

6.2.4 I consider only two sites to be of concern in this instance, by virtue of their proximity and therefore the possibility of source-receptor pathways to exist.

1 Dublin Bay Special Area of Conservation site no.000210

The Conservation Objectives for the site are:

To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in South Dublin Bay SAC, which is defined by the following list of attributes and targets:

- Habitat area - The permanent habitat area is stable or increasing, subject to natural processes.

- Community extent - Maintain the extent of the *Zostera*-dominated community, subject to natural processes.
- Community structure *Zostera* density - Conserve the high quality of the *Zostera*-dominated community, subject to natural processes
- Community distribution - Conserve the following community type in a natural condition: Fine sands with *Angulus tenuis* community complex.

2 South Dublin Bay and River Tolka Special Area of Conservation Site no.004024

The Conservation Objectives for the site are:

To maintain the favourable conservation condition of 12 of the 13 species Special Conservation Interest (Annex I species) (Grey Plover is proposed to be removed as a SCI) in South Dublin Bay and River Tolka Estuary SPA, which is defined by the following list of attributes and targets:

For 9no. of the species of Special Interest – Light bellied brent goose, oystercatcher, ringed plover, knot, sanderling, dunlin, bar-tailed godwit, redshank and black-headed gull:

- Population trend – Long term population trend stable or increasing for).
- Distribution – No significant decrease in range, timing or intensity of use of areas by 9no. of the species of Special Interest.

For roseate tern, common tern and arctic tern:

- Passage population – no significant decline.
- Distribution of roosting areas – no significant decline.
- Prey biomass – no significant decline.
- Barriers to connectivity – no significant increase.
- Disturbance at roosting site – human activities should occur at levels that do not adversely affect the numbers of the species of Special Interest.

For common tern:

- Breeding population – no significant decline.
- Productivity rate – no significant decline.
- Distribution breeding colonies – no significant decline.
- Disturbance at breeding site – human activities should occur at levels that do not adversely affect the breeding common tern population.

For wetlands (A999):

To maintain the favourable conservation condition of the wetland habitat ... as a resource for the regularly occurring migratory waterbirds that utilize it, as defined by the following attribute and target:

- Habitat area – The permanent area occupied by wetland habitat should be stable and not significantly less than that occurring from natural patterns of variation.

6.2.5 The requested alteration, in itself or taken in combination, will likely have no significant direct effect on the Conservation Objectives of either aforementioned European Site, as defined by the aforementioned attributes and targets as the project is not located within but adjacent to the European Sites, and the site subject of the request for alteration is brownfield site, on made ground, with artificial surfaces and recently constructed berms (c.2003) covered in young mixed woodland species that do not form habitat to the species of Species Concerned.

6.2.6 The proposed works will entail an increase of 0.5% in excavation works and corresponding traffic, which reasonably be regarded as negligible in terms of potential to disturb species concerned. In addition, the Stage 1 AA notes that the requested alteration works will incorporate the necessary avoidance measures as identified in the EIS and NIS and the in the Board's conditions attaching to Grant of Approval ref.29N.YA0010, in particular conditions nos.5 and 11, to ensure the avoidance of any polluting substances from entering the adjacent Natura 2000 sites (South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC). It therefore is not anticipated that the requested alterations will have a significant effect on the said adjacent Natura 2000 sites.

6.2.7 It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site no.000210 (Dublin Bay Special Area of Conservation) and would not be likely to have a significant effect on European Site no.004024 (South Dublin Bay and River Tolka Estuary Special Protection Area), or on any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.0 RECOMMENDATION

7.1 I recommend that the Board –

- (a) makes a determination under section 146B(3)(a) of the Planning and

Development Acts 2000-2011 that the making of the alterations to which this request relates would **NOT** constitute a material alteration to the terms of the development concerned,

(b) should alter planning permission ABP Ref. 29N.YA0010 as requested and in accordance with the following draft order:

Request received by An Bord Pleanála on 19th April 2016 from Irish Water under Section 146B, Planning and Development Act, 2000, as amended, in respect of a strategic infrastructure development described as the Ringsend Wastewater Treatment Works Extension Project, which will expand the existing wastewater treatment works at Pigeon House Road, Ringsend, Dublin.

Proposed Alterations comprise:

Alteration 1 – Provision of temporary construction access onto Pigeon House Road, c.100m west of the main entrance to the Poolbeg Power Station.

Alteration 2 – Temporary removal of two small areas of landscaping bunds located on the WWTP property along its eastern perimeter.

Alteration 3 – Construction of a temporary ‘haul road’ (c.80m long) connecting the existing internal WWTP roads along the southern and eastern boundaries of the site.:

WHEREAS the board made a decision to grant approval for the Ringsend Wastewater Treatment Works Extension Project, subject to conditions, by order dated 16th November 2012,

AND WHEREAS the Board considered that the requested alterations, either alone or in combination, would not result in a material alteration to the terms of the development, the subject of the grant of approval.

NOW THEREFORE in accordance with Section 146B(3)(a), Planning and Development Act, 2000, as amended, the Board hereby makes the alteration requested.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

REASONS AND CONSIDERATIONS

In relation to the requested alterations the Board considered these to be of a minor nature, by reason of their nature, extent and temporary duration in the context of the development as a whole, being a major industrial development.

The Board carried out a screening for appropriate assessment. It concluded that, on the basis of the information submitted, the proposed alterations, in themselves, or in combination, or in combination with other plans and projects, would not be likely to have significant effects on any European Sites.

John Desmond

Senior Planning Inspector

17th June 2016