



An  
Bord  
Pleanála

## Inspector's Report 29N.YM0004

**Further Report following public notification and consultation on the Proposed Alteration in accordance with Section 146B(8) of the Planning and Development Act, 2000, as amended.**

**Development**

Approval sought to alter the terms of application previously approved under reg. ref. 29N.YA0010 pursuant to Section 146B of the Planning and Development Act, 2000, as amended. The proposed alterations sought involve the omission of 3 construction site compounds previously approved under 29N.YA0010 and provision of 3 new temporary construction site compounds at alternative locations as replacement facilities.

**Location**

Ringsend Wastewater Treatment Works, Poolbeg, Dublin 4

**Planning Authority**

Dublin City Council

**Applicant**

Irish Water

**Inspector**

Pauline Fitzpatrick

**Date of Site Inspection**

15/11/17

## 1.0 Introduction

- 1.1. This report relates to a request from Irish Water that the Board exercise its powers under section 146B of the Planning and Development Act 2000, as amended, to alter the terms of the application previously approved under reg. ref. 29N.YA0010 in relation to the Ringsend Wastewater Treatment Works extension.
- 1.2. The proposed alterations sought involve the omission of 3 construction site compounds previously approved under 29N.YA0010 and provision of 3 new temporary construction site compounds at alternative locations as replacement facilities.
- 1.3. On foot of an Inspector's report dated 9<sup>th</sup> August 2017 the Board informed the applicant in a letter dated 8<sup>th</sup> September 2017 that the proposed alterations would constitute a material alteration to the terms of the development. It invoked the provisions of section 146B(8) of the Act requiring the applicant to give public notice of the amendment and invite submissions from the public and certain prescribed bodies. The Board in its Direction had regard to:
  - The location of the proposed construction compounds which may generate a different set of interactions between works traffic and other road users (including the general public) in the vicinity of the existing wastewater treatment plant, including Pigeon House Road;
  - The scale of the proposed construction compounds;
  - The proximity of the proposed construction compounds to protected structures and interaction with these;
  - The potential visual impacts associated with the compounds including fencing and protective barriers;
  - The land-use zoning context of the sites concerned; and
  - The overall pattern of development in the area including interaction with other industrial projects.
- 1.4. The Board also invited the applicant to indicate the likely duration of the construction period.

- 1.5. Submissions have been received by the Board following the application of the said provisions.
- 1.6. This report will consider whether the proposed alterations would be likely to have significant effects on the environment as required pursuant to Section 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 Section 146B(3)(b).
- 1.7. I recommend that this report be read in conjunction with the Inspector's report referenced above which contains an overview of the location and description of the sites, details of the application made to the Board and the amendments sought, the policy planning framework, the planning history and the legislative context.

## **2.0 Submissions to An Bord Pleanala**

### **2.1 Applicant**

The likely duration of the construction period is three years.

### **2.2 Prescribed Bodies**

The submission from the Department of Culture, Heritage and the Gaeltacht can be summarised as follows:

- Compound C1 is adjacent to a field within the SPA used by Brent Geese for feeding. It is referred to as the 'goose compensation field'. It was a mitigation measure for loss of feeding for Brent Geese in a previous extension to the Poolbeg waste water treatment plant. This issue has not been discussed in the AA – Screening.
- As part of the Covanta development monitoring of Brent Geese in the goose compensation field is taking place and is to continue for another 3 years. This monitoring should be extended in the same format when Covanta ceases monitoring. Such monitoring should continue for 3 years after construction ceases.

- Condition 12 attached to the permission for the Poolbeg WWTP extension under ref. 29N.YA0010 required detailed monitoring of birds for six years from the date of the grant of approval. Should the alteration be approved a condition should be attached requiring the extension of the monitoring for six years from the date of the decision.

### 2.3. Observers

A submission has been received from Sandymount and Merrion Residents Association on 09/10/17 with additional photographs received 17/10/17. The submission can be summarised as follows:

#### *Compound 1*

- There are serious reservations regarding the use of any part of compound C1 which was used during the construction of the waste to energy facility.
- A larger area than that which secured permission has been used.
- There appear to be permanent changes including tarmacadam and palisade fencing which alter the use and access to these lands in contravention of the temporary use and methods of habitat protection proposals which were part of the application and permission.
- If a temporary permission and site restoration commitment is to have any real meaning, then the site should be reinstated to the condition which prevailed immediately prior to the construction of the waste to energy facility. Another temporary use would undermine same.
- The area has been an essential ancillary habitat for several protected species from the adjoining designated SPA and SAC. It has also been the habitat of various species of flora and fauna.

#### *Compounds 2 and 3*

- The proposals to protect archaeology are noted. Provided an archaeologist oversees the protection of the sites the association trusts that there will be no adverse impacts.

### 3.0 Assessment

I consider that the issues arising can be assessed under the following headings:

- Whether the proposed alterations would be likely to have significant effects on the environment.
- Appropriate Assessment - Screening
- Other Issues

#### 3.1. Whether the proposed alterations would be likely to have significant effects on the environment

- 3.1.1. At the outset I note that the parent approval under reg. ref. YA0010 was accompanied by an EIS. The EIS assessed the impact of the proposed development on the environment. The assessment not only included the WWTP extension but also the construction of 6 no. construction compounds. An EIA was undertaken by the Board which concluded that subject to the mitigation measures set out in the EIS, as amended, and the conditions attached, the proposed development would not adversely impact on the environment.
- 3.1.2. In relation to the thresholds that trigger the need for an EIS I have had regard to 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 same.
- 3.1.3. In assessing whether the proposed alterations would be likely to have significant effects on the environment Section 146B(7) requires that regard is had to the criteria for determining whether a development would or would not be likely to have significant effects on the environment as set out in Schedule 7 of the Planning and Development Regulations, 2001 as amended, as set out below.

#### 3.2. Characteristics of the Proposed Development

- 3.2.1. In the context of what was sought and granted under YA0010 I do not consider the proposed omission of three of the previously identified compounds and their replacement with three alternative locations in the immediate vicinity of the WWTP

when assessed against the relevant criteria under this heading to be significant. The three sites to be omitted are all located to the west of the WWTP on the northern side of the Southbank Road and equate to 1.256 hectares. The said sites are no longer available due to the operational requirements of the owners (ESB). The three alternative locations to the south-west and north of the WWTP equate to 4.49 hectares. Whilst larger in area I submit that it is not significant in context, within an industrial environment, and would not give rise to cumulative impacts as to warrant EIA. The compounds are temporary in nature serving the construction phase of the approved development, only, which is envisaged to be 3 years in duration.

- 3.2.2. Compound C1 corresponds with an existing construction compound used for the construction of the waste to energy facility and already accommodates a car park, storage area and temporary site offices in the form of portacabins. It is accessed from both South Bank Road and Shellybanks Road. The continued use of this facility for the WWTP construction works will entail a new palisade fence and screening to be installed. Compound C2 accessed immediately to the north of the WWTP from Pigeon House Road will require a new temporary access with hard surface and palisade fence to separate it from the adjacent storm water tanks associated with the WWTP. Concrete barriers are also proposed along the boundary abutting Pigeon House Fort protected structure to the south. Compound C3 will require minimal intervention save for concrete barriers to be erected alongside the Pigeon House Power Station protected structure immediately to the west.
- 3.2.3. I submit that the interventions in themselves are minor. I would not envisage any additional use of natural resources, production of waste, pollution and nuisances and risk of accidents over the original construction compounds subject to assessment.
- 3.2.4. The alterations sought will not result in any change on the overall traffic volumes associated with construction traffic but will result in changes in the routes a portion of the said traffic will follow in the immediate vicinity of the WWTP. Compound C1 is accessed from both the South Bank Road and Shellybanks Road with compounds C2 and C3 accessed from Pigeon House Road. Originally 5 out of the 6 compounds would have been accessed from the South Bank Road with the 6<sup>th</sup> accessed from Pigeon House Road. As noted on day of inspection both South Bank Road and Pigeon House Road are relatively wide with vehicular movements

noted to be light. I consider that they are capable of accommodating the volumes of traffic arising.

- 3.2.5. I would concur with the applicant's view that any impacts as a result in the changes will be localised to the peninsula and that the operation of any junctions in the wider network will not experience any impacts. As noted above the construction period for which the compounds are required is for a defined period in the region of three years, only.

### **3.3. Location of Proposed Development**

- 3.3.1. I submit that the proposed alternative locations would have no significant impact in terms of the sensitivity of area taking into consideration the existing industrial land uses that prevail in the vicinity.
- 3.3.2. In terms of visual impact, the compounds are located within the said industrial environment and will have no discernible impact. Views of compound C1 from the south at Sandymount are screened by existing mounds.
- 3.3.3. As noted by the Inspector in the 1<sup>st</sup> report, there is no identifiable conflict with the local planning policies for the area as set out in the Dublin City Development Plan. I would concur with his assessment in terms of the acceptability of the proposed temporary facilities within the three zoning objectives Z7, Z9 and Z14. Due cognisance is also had to the Poolbeg West SDZ which was made by the Council on the 02/10/17 and which is now with the Board for decision (ZD2017). Again I would concur with the Inspector's conclusion that whilst part of compound C1 is located in an area designated as mixed use (B2), its temporary use as a construction compound would not conflict with the longer term provisions of the planning scheme should it be adopted.
- 3.3.4. None of the sites are within Natura 2000 sites with Compound C1 immediately to the west of South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. I propose to address this matter further in section 3.5 below. With the application of best environmental practices during the construction period it is my opinion that potential effects on the conservation objectives of the designated sites would be unlikely to arise.

- 3.3.5. In terms of cultural heritage compound C2 adjoins Pigeon House Fort (RPS 6794) with the north wall of the Fort adjacent to the southern boundary of the compound. As per Appendix 4 of the project report mitigation measures will include the protection of the remnants of the wall and power plant from vehicles and machinery using the compound by concrete traffic barriers.
- 3.3.6. Similarly concrete barriers are to be used along the west boundary of compound C3 to the Pigeon House Power Station (RPS 6796) protected structure, again as measure to protect against any impact from vehicles and machinery.
- 3.3.7. In view of the existing context and setting of the protected structures and the temporary nature of the proposed compounds I consider the mitigation measures to prevent impacts from vehicles and machinery to be adequate and that the impact on same would not be material.
- 3.3.8. As noted in the archaeologist's assessment provided in Appendix 4 of the Project Report works within compound C2 in proximity to Pigeon House Fort should be monitored by a suitably qualified archaeologist. He also notes that where works are taking place in made ground in compound areas C1 and C2 and do not penetrate to a depth greater than 5 metres no archaeological monitoring will be required. Notwithstanding I note that condition 14(b) of the approval granted under YM0010 requires the applicant to employ a suitably qualified archaeologist who shall monitor site investigations and other excavation works. I therefore accept that there would be no significant effects on cultural heritage.

#### **3.4. Characteristics of Potential Impacts**

- 3.4.1. From the assessment above, it is my opinion that the extent of the impact in terms of geographical area impacted is very limited. The development is within an industrial landscape and in the context of the existing development will not have any visual impact.
- 3.4.2. The principal aspects of the environment that would potentially be impacted by the proposed development would be traffic and cultural heritage. Based on the assessment above it is my opinion that the overall magnitude of the main impacts as assessed under the above headings would be localised and minor.



3.4.3. A number of the potential effects identified above are considered to have a high degree of probability however the extent of impacts will not be significant and the overall magnitude is at worst likely to be low. The proposed alterations in terms of construction compounds will be both temporary and reversible.

### 3.5. **Appropriate Assessment Screening**

3.5.1. I note that the Board undertook an Appropriate Assessment in relation to the effects of the development proposed under YA0010. 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 European Sites in view of their conservation objectives.

3.5.2. An appropriate assessment screening report accompanies this request for amendments (Appendix 3 of the Project Report) which concludes that the proposed works would not have a significant effect on European sites either individually or in combination with other plans or projects. I also note the submission from the Department of Culture, Heritage and the Gaeltacht.

#### *Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives*

3.5.3. There are 19 European Sites within an 15km radius of the subject site (see Figure 3.2 of the said report) with their qualifying interests set out in Table 1.0. In view of the separation distance, absence of any direct pathway and the qualifying interests I consider there is no potential for significant effects on 17 no.

3.5.4. There are two designated sites in proximity to the site, details of which are shown on Figure 3.3 of the AA- Screening Report. They are:

- South Dublin Bay SAC (site code 000210), the qualifying interests being mudflats and sandflats not covered by sea water at low tide, annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand and embryonic shifting dunes.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024), the qualifying interests being Light Bellied Brent Goose, Oyster Catcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar Tailed Godwit, Redshank,

Black Headed Gull, Roseate Tern, Common Tern, Artic Tern and wetland and water birds.

3.5.5. Detailed conservation objectives have been prepared for both sites the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest.

3.5.6. The SPA immediately adjoins the site to the east. As noted in the submission from the Department of Culture, Heritage and the Gaeltacht this section of the SPA is known as the 'goose compensation field' as it was a mitigation measure for loss of feeding for Brent Geese in a previous extension of the WWTP. In terms of the SAC there is a separation distance of approx. 90 metres to the nearest site – Compound C1 (north of designated site).

*Assessment of likely effects*

3.5.7. None of the construction compound sites are within the designated sites. Therefore no direct impacts would arise.

3.5.8. The amendments proposed entail provision of 3 no. construction compounds allowing for the temporary storage of parking of plant and equipment for a period of in the region of 3 years. It is not proposed to carry out any construction activity and the sites in question are, for the most, part brownfield sites on manmade ground with artificial surfaces within an established industrial area. The proposal involves the continuation of the use of lands for storage in the case of compound C1 with the change of use of vacant lands or derelict lands in the case of compounds C2 and C3. Conditions 5 and 11 of the approval under ref. YM0010 which address the construction phase and works undertaken within/adjacent to Natura 2000 sites will apply. It is therefore reasonable to conclude that any impact on European Sites in the vicinity would be negligible.

3.5.9. In the context of the nature of the alterations, namely omission of three construction compounds and their replacement with alternative facilities in close proximity, cumulative effects will not result. As noted above appropriate assessment has been undertaken by the Board on YA0010 which included the provision of 6 compounds.

*Screening Statement and Conclusions*

3.5.10. It is therefore reasonable to conclude on the basis of the information contained 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. 00210 (South Dublin Bay SAC) or would be likely to have a significant effect on European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA) or any other European Site in view of the site's conservation objectives and therefore a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

### 3.6. Other Issues

- 3.6.1. The Department of Culture, Heritage and the Gaeltacht in its submission to the Board requests that the monitoring of Brent Geese in the lands to the east of compound C1 known as the 'goose compensation field', required as part of the Covanta waste to energy development which is to continue for another three years, be extended in the same format, thereby it would continue for 3 years after construction on the WWTP extension is completed. I consider that this is outside the scope of the current alteration request. The requirements pertain to a separate development not covered by approval under YA0010.
- 3.6.2. Whilst the Department notes that the issue of the 'goose compensation field' was not discussed in the AA- Screening report I note that it forms part of the SPA to which regard is had in the said report and is clearly shown in Figure 3.3 therein.
- 3.6.3. The Department also recommends that the requirements of condition 12 attached to the permission for the Poolbeg WWTP under ref. 29N.YA0010 be extended for a further six years should the alteration be approved. The said condition covers monitoring of bird species and numbers together with their distribution within the Dublin Bay Area for a period of 6 years from the date of the order. The date of Board's decision was 16/11/12. As noted above the proposed alternations sought would not have significant effects on the environment with any impacts localised. As to how the relocation of the 3 of the 6 compounds subject of the approval would raise concerns to form the basis or justify such an amendment to condition 12 has not been provided.

3.6.4. The Sandymount and Merrion Residents association express concern that a further extension of the use of construction compound C1 would be at variance with the temporary nature of the use of the lands. Whilst I note that the lands in question have been used for a period to facilitate the construction of the waste to energy facility I consider that the extension of the use of the lands for such purposes for a further 3 years would not undermine its temporary nature. On completion of the WWTP works it would be required to be removed and reinstated. The fact that a hard surface has been laid with the area enclosed by palisade fencing does not alter the purpose and temporary nature of the activity.

#### 4.0 Recommendation

With reference to the assessment above I consider it reasonable to conclude that the proposed alterations as requested would not be likely to have a significant effect on the receiving environment. I recommend that the Board make the alteration as sought pursuant to section 146B(3)(b) of the Planning and Development Act, 2000, amended in accordance with the draft order attached.

**WHEREAS** The Board issued a decision to approve subject to conditions the development under Reg. Ref. 29N.YA0010 by order dated 5<sup>th</sup> day of November, 2012.

**AND WHEREAS** the Board has received a request to alter the terms of the development the subject of the approval.

**AND WHEREAS** the proposed alteration is described as follows:

Omission of three construction compounds previously approved under Reg. Ref. 29N.YA0010 and the provision of three temporary construction site compounds at alternative locations as replacement facilities.

**AND WHEREAS** the Board considered that the alteration would result in a material alteration to the terms of the development, the subject of the permission,

**AND WHEREAS** having regard to the nature of the issues involved, the Board invoked the provisions of section 146B(8)(a) of the Planning and Development Act, 2000, as amended, to invite submissions or observations in relation to the matter from members of the public,

**AND WHEREAS** having considered all of the submissions/observations and documents on file and the Inspectors' reports, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

**NOW THEREFORE** in accordance with section 146B(3)(b) of the Planning and Development Act, 2000, as amended, the Board hereby alters the abovementioned decision so that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 21<sup>st</sup> day of July, 2017.

### **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. Such matters included the submissions and observations received by it in accordance with statutory provisions.

### **REASONS AND CONSIDERATIONS**

In coming to its decision, the Board had regard to the following:

- (a) the planning history of the overall development, including the scope and nature of the Ringsend Wastewater Treatment Works extension approved under 29N.YA0010.
- (b) the nature, scale and purpose of the proposed alteration,
- (c) the documentation and submissions on file, including the submissions received in response to the Board's request in accordance with Section 146B(8) of the Planning and Development Act, 2000, as, amended,
- (d) the reports of the Inspectors.

The Board was satisfied that the information before it was adequate to undertake a screening for appropriate assessment and a screening for environmental impact assessment in respect of the proposed alteration.

### **Appropriate Assessment Screening**

In conducting a screening exercise for appropriate assessment, the Board considered the nature, scale and location of the proposed alteration, the documentation and submissions on file, including the Appropriate Assessment screening report submitted in support of the proposal and the assessment of the Inspector in relation to the potential for effects on European Sites. In undertaking the screening exercise, the Board accepted the analysis and conclusions of the Inspectors. The Board concluded that, by itself and in combination with other development in the vicinity, the alteration would not be likely to have significant effects on any European Site in view of their conservation objectives.

### **Environmental Impact Assessment Screening**

Under file reference YA0010 approval was granted for the Ringsend Wastewater Treatment Plant extension, entailing a significant construction project. The proposed alteration seeks to omit 3 no. construction compounds as approved and provision of 3 no. construction compounds at alternative locations as replacement facilities. The Board considered the potential environmental impacts that might arise due to the proposed alteration, both by itself and in cumulation with other development in the vicinity.

Having regard to the characteristics of the receiving environment, the planning history of the site, the characteristics of the proposed alteration and the submissions on file, the Board is satisfied that the proposed alteration would not be likely to have significant effects on the environment. The Board concurred with the analysis and conclusions of the Inspector in this matter. The Board, therefore, concluded that the preparation of an environmental impact statement is not required, either by means of any mandatory requirement or following sub-threshold analysis.

## **Conclusions on Proper Planning and Sustainable Development**

It is considered that the alteration:

- would not have a significant effect on the landscape or upon the archaeological or cultural heritage of the area,
- would not give rise to any significant impact on the natural heritage of the area, and
- would be acceptable in terms of traffic safety and convenience.

The Board concluded that making the proposed alteration would be in accordance with the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**November 2017**