



Application Type: Permission

Planning description: A proposed development comprising the taking of a 'relevant action' only within the meaning of Section 34C of the Planning and Development Act 2000, as amended, at Dublin Airport, Co. Dublin, in the townlands of Collinstown, Toberbunny, Commons, Cloghran, Corballis, Coultry, Portmellick, Harristown, Shanganhill, Sandyhill, Huntstown, Pickardstown, Dunbro, Millhead, Kingstown, Barberstown, Forrest Great, Forrest Little and Rock on a site of c. 580 ha.

The proposed relevant action relates to the night-time use of the runway system at Dublin Airport. It involves the amendment of the operating restriction set out in condition no. 3(d) and the replacement of the operating restriction in condition no. 5 of the North Runway Planning Permission (Fingal County Council Reg. Ref. No. F04A/1755; ABP Ref. No. PL06F.217429 as amended by Fingal County Council F19A/0023, ABP Ref. No. ABP-305289-19), as well as proposing new noise mitigation measures. Conditions no. 3(d) and 5 have not yet come into effect or operation, as the construction of the North Runway on foot of the North Runway Planning Permission is ongoing. The proposed relevant action, if permitted, would be to remove the numerical cap on the number of flights permitted between the hours of 11pm and 7am daily that is due to come into effect in accordance with the North Runway Planning Permission and to replace it with an annual night-time noise quota between the hours of 11.30pm and 6am and also to allow flights to take off from and/or land on the North Runway (Runway 10L 28R) for an additional 2 hours i.e. 2300 hrs to 2400hrs and 0600 hrs to 0700 hrs. Overall, this would allow for an increase in the number of flights taking off and/or landing at Dublin Airport between 2300 hrs and 0700 hrs over and above the number stipulated in condition no. 5 of the North Runway Planning Permission, in accordance with the annual night time noise quota.

The relevant action pursuant to Section 34C (1) (a) is: To amend condition no. 3(d) of the North Runway Planning Permission (Fingal County Council Reg. Ref. No. F04A/1755; ABP Ref. No.: PL06F.217429 as amended by Fingal County Council F19A/0023, ABP Ref. No. ABP-305289-19). Condition 3(d) and the exceptions at the end of Condition 3 state the following: '3(d). Runway 10L-28R shall not be used for take-off or landing between 2300 hours and 0700 hours except in cases of safety, maintenance considerations, exceptional air traffic conditions, adverse weather, technical faults in air traffic control systems or declared emergencies at other airports.' Permission is being sought to amend the above condition so that it reads: 'Runway 10L-28R shall not be used for take-off or landing between 0000 hours and 0559 hours except in cases of safety, maintenance considerations, exceptional air traffic conditions, adverse weather, technical faults in air traffic control systems or declared emergencies at other airports or where Runway 10L-28R length is required for a specific aircraft type.' The net effect of the proposed change, if permitted, would change the normal operating hours of the North Runway from the 0700hrs to 2300 hrs to 0600 hrs to 0000 hrs. The relevant action also is: To replace condition no. 5 of the North Runway Planning Permission (Fingal County Council Reg. Ref. No. F04A/1755; ABP Ref. No.: PL06F.217429 as amended by Fingal County Council F19A/0023, ABP Ref. No. ABP-305289-19) which provides as follows: 5. On completion of construction of the runway hereby permitted, the average number of night time aircraft movements at the airport shall not exceed 65/night (between 2300 hours and 0700 hours) when measured over the 92 day modelling period as set out in the reply to the further information request received by An Bord Pleanála on the 5th day of March, 2007. Reason: To control the frequency of night flights at the airport so as to protect residential amenity having regard to the information submitted concerning future night time use of the existing parallel runway'. With the following: A noise quota system is proposed for night time noise at the airport. The airport shall be subject to an annual noise quota of 7990 between the hours of 2330hrs and 0600hrs. In addition to the proposed night time noise quota, the relevant action also proposes the following noise mitigation measures: - A noise insulation grant scheme for eligible dwellings within specific night noise contours; - A detailed Noise Monitoring Framework to monitor the noise performance with results to be reported annually to the Aircraft Noise Competent Authority (ANCA), in compliance with the Aircraft Noise (Dublin Airport) Regulation Act 2019. The proposed relevant action does not seek any amendment of conditions of the North Runway Planning Permission governing the general operation of the runway system (i.e., conditions which are not specific to nighttime use, namely conditions no. 3 (a), 3(b), 3(c) and 4 of the North Runway Planning Permission) or any amendment of permitted annual passenger capacity of the Terminals at Dublin Airport. Condition no. 3 of the Terminal 2 Planning Permission (Fingal County Council Reg. Ref. No. F04A/1755; ABP Ref. No. PL06F.220670) and condition no. 2 of the Terminal 1 Extension Planning Permission (Fingal County Council Reg. Ref. No. F06A/1843; ABP Ref. No. PL06F.223469) provide that the combined capacity of Terminal 1 and Terminal 2 together shall not exceed 32 million passengers per annum. The planning application will be subject to an assessment by the Aircraft Noise Competent Authority in accordance with the Aircraft Noise (Dublin Airport) Regulations Act 2019 and Regulation (EU) No 598/2014. The planning application is accompanied by information provided for the purposes of such assessment. An Environmental Impact Assessment

Report will be submitted with the planning application. The planning application and Environmental Impact Assessment Report may be inspected or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of the Planning Authority during its public opening hours of 9.30 - 16.30 (Monday – Friday) at Fingal County Council, Fingal County Hall, Main Street, Swords, Fingal, Co. Dublin.

AI received 13/09/21

AI deemed significant

Revised public notices(SAI) received 21/09/21

Additional Submission by  
Sabrina Joyce-Kemper  
23 Portmarnock Crescent  
Portmarnock  
Co Dublin.

Date: 26<sup>th</sup> October 2021

I wish to make the following observations on the above application for permission which are in support of my original and continuing objection to this application. I have been informed that due to a bank holiday I must submit this observation before midnight October 26<sup>th</sup> 2021.

### 1. Fuel Dumping.

In relation to the Fingal CC request for additional information 2b in regard to fuel dumping the applicant answered at 2.16 as per below. When unscheduled and emergency landings occur in order to ensure that the structural landing weight limits are not breached upon landing (which may cause structural damage to an aircraft) planes particularly if they have a pan pan emergency on take off, must jettison or dump fuel before landing to avoid structural damage or increasing the risk of explosion upon crash landing. For example a number of bird strikes have happened over the years causing flames out in engines, damage to aircraft which require the aircraft to lower altitude, dump fuel before returning for unscheduled landing (referred to as a Go-Around).

Air ops personnel calculate aircraft operating empty weight, payload and fuel load and reserves in an exact manner, against fuel burn in flight so that the aircraft are within their landing weight limits are safe. I believe in 2018 there were 70 unscheduled landings a rate of almost 1.35 per week. Depending on the approach of the aircraft, while some may have been within safe weight limits for aircraft model it seems that 1 fuel dump for all scheduled and unscheduled landings since 2014 seems very low. Perhaps the use of “emergency fuel dumping” is too prohibitive and does not reflect the scale of fuel dumping of aircraft approaching Dublin airport. A request from the IAA of all reports of fuel jettison events relating to Dublin airport as reported by IAA to EASA should be requested in order to have complete and definitive findings capable of removing all reasonable scientific doubt, in relation to fuel dumping overland or at sea and its impacts on SACs and SPAs and receptor pathways such as rivers.

#### 2.16 Item 2 b)

*The AA Screening report should be revised to take account of statements within Chapter 8 of the EIAR regarding potential impacts on European-sites caused by emergency fuel dumping from the Relevant Action application, should this take place.*

#### **Applicant's Response**

The AA Screening Report has been revised as requested above. It is noted that emergency fuel dumping has only happened once since 2014 and that no effects on European sites are identified.

It is submitted that AA Screening report now submitted suitably responds to item 2 b) of FCC's request for FI.

**2. Bird Strikes :** The number of bird strikes involving aircraft reported should also be assessed.

### 3. Carbon Emission and Climate Change impacts:

In January 2021 I received the below information when I requested information relating to Dublin Airports carbon neutral accreditation.

*Dublin Airport has participated in the Airport Carbon Accreditation program (<https://www.airportcarbonaccreditation.org/>) since 2011. Airport Carbon Accreditation (ACA) is an institutionally endorsed, global carbon management certification programme for airports. It independently assesses and recognises the efforts of airports to manage and reduce their carbon emissions and is the only global, airport-specific carbon standard which relies on internationally recognised methodologies. It provides airports with a common framework for active carbon management with measurable goalposts.*

*As part of daa's Sustainability Strategy, we made the commitment in 2017 to move from ACA Level 2 (reduction), which had helped daa reduce its emissions by 25% compared to 2013 emission levels to ACA Level 3+ Carbon Neutral by 2020. This involved Dublin Airport not only reporting our own direct emissions (scope 1 and 2) but it also included expanding our emission scope to contain the associated emissions (scope 3) of the airport operators such as airlines, ground handlers, transport operators and our concessionaires.*

*Additionally, we had to undertake ongoing engagement with these operators and have our calculations independently verified to ensure that the highest standards were adhered to in our reporting. As some of the information included in our calculations is from our third party operators and was provided to us on a confidential basis, we are unable to release the data to you.*

*In order to reach carbon neutrality for 2020 we worked with UK-based carbon neutrality specialist Natural Capital Partners to purchase carbon credits from an improved water infrastructure project in East Africa, which is run by the Irish NGO Vita. The credits that we purchased provide essential funds to restore community water points and enable easy access to clean water for rural families in Ethiopia and Eritrea.*

*Dublin Airport is now one of 52 carbon neutral airports in Europe under the ACA scheme. Achieving carbon neutrality is part of our journey to become Net Zero for our carbon emissions by 2050 at the latest and we intend to reduce our overall energy consumption by a further 30% by 2030.*

*Across the aviation sector globally airports are managing and reducing their carbon emissions. Aircraft emission are being dealt with separately through the global Carbon Off-Setting and Reduction Scheme for International Aviation (CORSIA) scheme, which was adopted by ICAO in 2016. (<https://www.icao.int/environmental-protection/CORSIA/Pages/default.aspx>) Ireland, as one of the 44 member states of the European Civil Aviation Conference, has made a declaration to adhere to the international scheme from its first implementation phase from 2021 which will enable carbon neutral growth from 2020 and, as such, will result in airlines paying to off-set their additional carbon emissions through the purchase of carbon credits.*

I requested further information regarding the breakdown of the figures under AIE and received the following reply.

*Dear Mrs Joyce-Kemper,*

*I refer to your e-mail correspondence dated the 12<sup>th</sup> January 2021, requesting access to environmental information under the Access to Information on the Environment (AIE) Regulations 2007. A response to your request is set out below:*

*"I would like to make an AIE request for the report which supports Dublin Airports - Airport Carbon Accreditation (ACA) certification, together with the independent accreditation of any calculations in the report, and any underlying / supporting raw data."*

*There is no formal report, daa submits figures that are independently verified and accredited by ACA.*

*The figures are audited by a 3<sup>rd</sup> party consultancy and we enclose a copy of the verified figures.*

*The raw data comprises a large volume of records, accordingly, daa is granting you access to consolidated figures from scope 1 & 2 & 3 as provided for by Article 7 (3) (a) (ii). daa believes it is reasonable for daa to grant access in this form or manner because (i) of the large volume of data; (ii) disclosure of the non-consolidated raw data would adversely impact (a) commercial or industrial confidentiality, where such confidentiality is provided for in national or Community law to protect a legitimate economic interest, or (b) intellectual property rights.*

### **Scope 1**

Scope	Total	Metric
Natural Gas	44,964,132	kWh
Kerosene	31,734	Litres
Diesel	326,518	Litres
Green Diesel	11,920	Litres
LPG	17,715	Litres
Gas Oil	129,511	Litres
Petrol	1,542	Litres

### **Scope 2**

	kWh
Electricity	42,995,732

### **Scope 3**

Scope 3	tCO <sub>2</sub>
daa travel	2,609
3 <sup>rd</sup> Party emissions	21,925
Surface access emissions	80,818
Aircraft emissions	282,501

The difficulty with the lack of transparency is that it is impossible to ascertain if the non aircraft related CO2 emissions fall in line with the **Climate Action and Low Carbon Development (Amendment) Act 2021** and the draft emission targets released by the climate committee yesterday. It is also apparent that the above breakdown only relates to current operations and that there should be an appropriate calculation of CO2 emissions for the traffic and associated increase in cargo, passenger numbers and knock on emissions that will relate to the additional runway and increase in flights.

4. In relation to the increase in night-time movements, I wish to draw attention to a scientific paper from 2006, The impact of diurnal variations of air traffic on contrail radiative forcing N. Stuber<sup>1</sup> and P. Forster<sup>2</sup> <sup>1</sup>Department of Meteorology, The University of Reading, Earley Gate, P.O. Box 243, Reading, Berkshire, RG6 6BB, UK <sup>2</sup>School of Earth and Environment, University of Leeds, Leeds, LS2 9JT, UK

The pdf of the paper can be found here.

[https://www.researchgate.net/publication/26634389\\_The\\_impact\\_of\\_diurnal\\_variations\\_of\\_air\\_traffic\\_on\\_contrail\\_radiative\\_forcing/link/542d1c180cf277d58e8cad0f/download](https://www.researchgate.net/publication/26634389_The_impact_of_diurnal_variations_of_air_traffic_on_contrail_radiative_forcing/link/542d1c180cf277d58e8cad0f/download)

A newspaper article summarising the paper can be found here

<https://www.theguardian.com/science/2006/jun/15/theairlineindustry.ethicaliving> but for convenience I have reproduced from the guardian below. However it does raise the question in relation to are night flights too damaging in terms of carbon emissions and should the substantial additional contribution to warming that they make as opposed to day flights deter the council and competent noise authority from allowing any amendment to the planning conditions.

### **Night flights twice as bad for environment - study**

**David Adam, *environment correspondent***

A nationwide ban on night flights would significantly reduce the aviation industry's impact on the climate, a new study shows. Scientists have found that the warming effect of aircraft is much greater when they fly in the dark, because of the effects of the condensation trails (contrails) they leave.

Piers Forster, an environmental scientist at the University of Leeds who led the project, said: "Night flights are twice as bad for the environment. If the government wanted to reduce the likely impact of aviation on climate then it could ensure that more flew during the day."

Writing in the journal *Nature* today, Dr Forster and his colleagues say aircraft contrails enhance the greenhouse effect because they trap heat in the same way as clouds. During the day, their warming effect is not as pronounced because contrails reflect sunlight back into space, which helps to keep the planet cool. This means contrails are responsible for about half of the aviation industry's impact on climate.

Dr Forster added: "Aircraft currently only have a small effect on climate. However, the fact that the volume of air traffic is set to grow rapidly in coming years makes it important to investigate the effects of contrails on our climate."

Shifting all UK night flights to the daytime would save the equivalent of 2.5% of the UK's annual carbon dioxide emissions, he said.

The team studied flights crossing the UK at night, not takeoffs and landings from its airports, but campaigners say both will increase as air traffic increases. The number of overnight takeoffs and landings at so-called designated airports - Heathrow, Gatwick and Stansted - are currently restricted, but flights into other airports face few controls.

The scientists monitored air traffic over the UK and worked out that, although one in four flights occurred between 6pm and 6am, they contributed 60-80% of the warming that could be attributed to contrails. Winter flights had more effect than those in the summer, contributing 50% of the warming despite providing only 22% of traffic.

Nicola Stuber, a meteorologist at Reading University, said the warming effect of contrails was roughly the same as that caused by the carbon dioxide emitted from an aircraft's engines.

The team looked at contrails that lasted for an hour or more over south-east England, passed by aircraft heading for the north Atlantic. They combined flight data with measurements from weather balloons to predict whether flights would form contrails or not. They found that contrails formed more easily when conditions high in the atmosphere are very humid, as they are during the winter

## 5. requirement for EIA and AA assment of the whole north runway project.

In 2017 Judge Max Barrett ruled in a case taken by local residents that a fresh environmental impact assessment (EIA) and/or a first appropriate assessment (AA) under the EU Habitats Directive were not required as part of any decision to extend permission. That judgment has since been superseded by a judgment which can be found here. <https://curia.europa.eu/juris/liste.jsf?language=en&td=ALL&num=C-254/19>

On 9 September 2020, the Court of Justice of the European Union ("CJEU") pronounced Judgment in *Friends of the Irish Environment v An Bord Pleanála (Shannon LNG)* Case C-254/19.

The case arose from a preliminary reference made by the Irish High Court (Mr. Justice Simons) as to inter alia whether or not an extension of duration consent was an "agreement" that triggered the Habitats Directive. The CJEU found, in circumstances where the original consent had expired, that an extension of duration consent did indeed require Appropriate Assessment ("AA") under the Habitats Directive.

As a result of this Judgment, decision-makers should be aware that decisions to extend the duration of consents that have not been carried out or completed within the timeframe envisaged in the original application, are capable of triggering Article 6(3) of the Habitats Directive. The Judgment is clear that on the facts of this case the original consent had expired and therefore the extension of duration consent was considered a new consent. In those circumstances, and where an AA had not been carried out before granting the original consent (although an EIA had been carried out), the result was that the extension of duration consent should have been subject to an AA.

As in this case the original runway extension was granted without any AA which has been identified as contrary to the habitats directive, and the conditions of that planning application are now subject of an application to amend the planning application, this application can no longer proceed unless a full appropriate assessment of the ENTIRE project as granted (By way of Planning Permission (Fingal County Council Reg. Ref. No. F04A/1755; ABP Ref. No.: PL06F.217429 as amended by Fingal County Council F19A/0023, ABP Ref. No. ABP-305289-19) is carried out. This means that an NIS must be produced that assesses the impact of the **full** construction of the North Runway (albeit a retrospective one) in addition to impact of the amendments to the conditions of the original grant of planning.

## 6. Substitute Consent:

In light of the legal issue at no 5 in relation to this project not being subject at any stage of planning to an Appropriate assessment or an updated EIA assessment at extension stage and a judgement from the CJEU which confirms that it should have been, the North runway development **could** now be considered as requiring substitute consent as the effect of the CJEU's judgment would be to set aside the original grant of planning.

177B.— (1) Where a planning authority becomes aware in relation to a development in its administrative area for which permission was granted by the planning authority or the Board, and for which—

(a) an environmental impact assessment,

(b) a determination in relation to whether an environmental impact assessment is required, or

(c) an appropriate assessment,

was or is required, that a final judgment of a court of competent jurisdiction in the State or the Court of Justice of the European Union has been made that the permission was in breach of law, invalid or otherwise defective in a material respect because of—

(i) any matter contained in or omitted from the application for permission including omission of an environmental impact statement or a Natura impact statement or both of those statements, as the case may be, or inadequacy of an environmental impact statement or

a Natura impact statement or both of those statements, as the case may be, or

(ii) any error of fact or law or procedural error,

it shall give a notice in writing to the person who carried out the development or the owner or occupier of the land as appropriate.

(2) The notice referred to in subsection (1) shall—

(a) inform the person to whom it is given of the proceedings and findings referred to in subsection (1),

(b) direct the person concerned to apply to the Board for substitute consent no later than 12 weeks from the date of the notice,

(c) direct the person concerned to furnish with his or her application a remedial environmental impact statement or remedial Natura impact statement or both of those statements, as the case may be,

(d) advise the person concerned that he or she may make submissions or observations in writing to the planning authority no later than 4 weeks from the date of the notice.

It could also require a full updated EIA assessment and updated EIAR of the full project in order to potentially be granted substitute consent.

On a personal note, there are no mitigation measures in terms of sleep disturbance to protected bird species (which have not been fully and cumulatively appropriately assessed, bird strike on the new inbound and outbound pathways .

There is also no mitigation possible for the impacts on public health. I have personally suffered from sleep deprivation and while I did what i was asked in reporting the noise and vibration disturbance the complaints were dutifully logged but absolutely no action or mitigation has n=been taken or can be taken to my knowledge other than total avoidance by not having further night flights. I find that the flights in and around 1 am am and 3am are particularly disruptive to my family's sleep. I wish to include my three children Lucas, Amelia and Benjamin in my objection.

I believe that in the interests of public health, for the protection of protected species and for climate change reasons in addition to the fact that due to the the Court of Justice of the European Union ("CJEU") pronounced Judgment in *Friends of the Irish Environment v An Bord Pleanála (Shannon LNG)* Case C-254/19 invalidating the original grant of permission and extension that the board must refuse permission and possibly refuse to accept the application and refer the applicant to An Bord Pleanála for substitute consent although the case may not actually fit the strict requirements of the sub consent procedure.

Yours Sincerely  
Sabrina Joyce-Kemper  
Lucas Kemper  
Amelia Kemper  
Benjamin Kemper