

S.37

File With

SECTION 131 FORM

Appeal No

ABP— 314485-22

Defer Re O/H

☐

Having considered the contents of the submission dated/received 12/12/2023
from Colm Ratcliffe I recommend that section 131 of the Planning
and Development Act, 2000 be/not be invoked at this stage for the following reason(s):

no new material issues

Section 131 not to be invoked at this stage.

☒

Section 131 to be invoked — allow 2/4 weeks for reply.

☐

Signed

Rat B

EO

Date

19/12/2023

Signed

SEO/SAO

Date

M

Please prepare BP — Section 131 notice enclosing a copy of the attached submission.

To

Task No

Allow 2/3/4 weeks

BP

Signed

EO

Date

Signed

AA

Date



Planning Appeal Online Observation

Online Reference
NPA-OBS-002899

Online Observation Details

Contact Name
Colm Ratcliffe

Lodgement Date
12/12/2023 19:40:44

Case Number / Description
314485

Payment Details

Payment Method
Online Payment

Cardholder Name
Eithna Ratcliffe

Payment Amount
€50.00

Processing Section

S.131 Consideration Required

☒ Yes — See attached 131 Form

☐ N/A — Invalid

Signed


EO

Date

19/12/2022

Fee Refund Requisition

Please Arrange a Refund of Fee of

€

Lodgement No

LDG— 068719-23.

Reason for Refund

Documents Returned to Observer

☐ Yes ☐ No

Request Emailed to Senior Executive Officer for Approval

☐ Yes ☐ No

Signed

EO

Date

Finance Section

Payment Reference

ch_30MbouB1CW0EN5FC1Eb1k1Yh

Checked Against Fee Income Online

EO/AA (Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board Member

Date

Date

Planning Authority: Fingal County Council

An Bord Pleanála appeal case number: PL06F.314485

Planning Authority register reference number: F20A/0668

Location of proposed development: Dublin Airport

My name and address: Colm Ratcliffe, Shallon, The Ward, Co. Dublin D11DD85

The Relevant Action application (RA) is seeking to remove night time restrictions entirely on use of the north runway and remove the limit on total number of night time flights on the south runway permitted under F04A/1755 / PL06F.217429 granted permission in 2007 (referred to as the 2007 permission below).

On the basis of the submissions made in connection with the planning application and appeal, it is evident that the proposed development relates to a site where the current operations do not have planning permission, namely the flight paths in operation do not comply with planning permission F04A/1755 / PL06F.217429, specifically non-compliance with condition 3 and is therefore unauthorised.

Condition 3 of F04A/1755 / PL06F.217429 states: 'On completion of construction of the runway hereby permitted, the runways at the airport shall be operated in accordance with the mode of operation – Option 7b – as detailed in the Environmental Impact Statement Addendum, Section 16 as received by the planning authority on the 9th day of August, 2005'. Mode of operation 7b extracted from the EIA is shown on the image below. Following complaints from residents across South Fingal and east Meath a warning letter was issued to daa relating to non-compliance with condition 3 outlined above. The warning letter relates to non-compliance with the permitted flight paths.

The EIS referred to in condition 3 above included the following map of flight paths showing 'straight in and straight out'.

The proposed development would facilitate the consolidation and intensification of this unauthorised use. Accordingly, it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances and the relevant action should therefore be refused.

Having regard to above, I consider it appropriate that An Bord Pleanála refuse permission under section 35 (1) of the Planning and Development Act for past failures to comply. Section 35 (2) states 'In forming its opinion under *subsection (1)*, the planning authority shall only consider those failures to comply with any previous permission, or with any condition to which that permission is subject, that are of a substantial nature'. I consider this relevant to daa's failure to comply with conditions 3 noting the impact this is having on residents.

I urge An Bord Pleanála to avail of noise experts to review the details submitted and for the planning inspector and noise experts to visit the communities of St Margarets, Kilsallaghan, and The Ward during various weather conditions so that they can experience the noise currently being experienced and that would be extended into night time hours if this RA is permitted.

The EIA report is flawed in that it assesses the impact based on unauthorised flight paths when comparing the EIS for the 2004 planning application with the subject EIAR.

In the EIAR supplement submitted with the further information, the methodology for assessment of impact in chapter 7 population and human health in Table 7.1 in Section 7.3.21 identifies the scale description associated with various decibel bands, noting the noise impact greater or equal 70 dB

Lden and greater or equal to 60dB Lden as very high impact. Section 7.3.22 refers to the scale description for changes in noise level.

Section 7.4.5 refers to the strong direct causal relationship between noise disturbance and health outcomes and quality of life effects, dependent on the level of disturbance. A number of key outcomes identified are noise annoyance, sleep disturbance, cardiovascular health, mental health and children's learning.

Section 7.8 states that air noise and vibration impacts associated with the proposed RA that a package of existing and proposed sound insulation schemes is offered and will continue to be offered to deliver noise improvements in internal noise levels. The assessment in the EIAR considers the residual significant effects of air noise and vibration after allowing for the benefit of existing and proposed sound insulation schemes.

I consider the methodology used and outlined above is flawed as it is based either on permitted flight paths which are not actually being used, or is based on unauthorised flight paths which are currently in use. I ask An Bord Pleanála to fully assess the methodology used in the EIAR for assessing noise impact and satisfy themselves that the EIAR adequately considers the impact on the receiving environment and that this is correctly measured and assessed.

Chapter 13 of the EIAR supplement outlines that the assessment of air noise for the purposes of the methodology used measurements recorded by Dublin Airports Noise and Flight Track Monitoring System.

Section 13.3.24 states that 'if a receptor experiences a high absolute noise level but no change due to the proposed Relevant Action then this is not a significant effect'. This statement is based on the methodology referred to above which is based on unauthorised flight paths. Section 13.3.26 outlines that the change in noise level is used for the purposes of air noise impact criteria (relative) as shown in Table 13-3. This is flawed as it is measuring the change in noise level from the current unauthorised flight paths and not from the permitted flight paths under condition 3 of permission reference F04A/1755 / PL06F.217429, which explicitly states mode of operation option 7b shall be used. Therefore a resident currently experiencing a high decibel may be identified as having a low impact due to the change in noise level. If aircraft were flying on the permitted mode of operation 7b (straight out) the residents in St. Margarets, Kilsallaghan and The Ward would not currently be experiencing a high noise impact and as such the noise impact of the relevant action based on Table 13-3 would be different.

Table 13-10 illustrates noise levels at representative locations (Lden) in 2018 and shows St. Margarets as recorded 62 Lden and 54 Lnight. Table 13-19 indicates the noise at St. Margarets in 2025 permitted will be 63Lden and in 2035 will be 60Lden.

Section 13.5.5 states St Margaret's in 2025 will be exposed to noise levels associated with a medium impact.

Figure 13-6 refers to 65dB Lden noise contours for 2018, 2025 Permitted and 2035 Permitted. However, the actual current use of the north runway is not reflected in these contours. I have measured aircraft noise at The Ward well in excess of 65dB outside of the contours shown on map 13-6 in the EIAR. I consider the EIAR is flawed in its portrayal of predicted noise contours and resulting impact of the RA.

Noise modelling for Lnight metric in section 13.5.26 notes a medium impact for St Margarets with a change from 54dB Lnight in 2018 to 53 in 2025 and 50 in 2035. How can this be accurate when there was very limited aircraft noise at night time in 2018 in St. Margarets prior to the north runway opening compared to the noise now experienced.

I request An Bord Pleanála to fully consider the noise contours used in the EIAR to determine predicted noise impact. Are these the option 7b noise contours permitted in condition 3 of the permission for the north runway granted in 2007? If so then the EIAR is flawed as it is not assessing the actual locations that will experience noise as a result of the changes. Do the noise contours which predicted noise impact is based on show the current flight paths in use which are substantially different from those permitted under condition 3? If so then the assessment of impact is inaccurate. In this case it would appear that the information contained in the EIAR does not identify the significant effects that may arise from the RA or the extent of population that will be impacted and does not adequately assess the likely significant effects as required by the Planning and Development Regulations, 2001 (as amended).

Noting the permanent nature of the proposed RA it will have a considerable adverse environmental effect. The impact will be on highly sensitive receptors (human beings in their homes during the early morning and late evening).

This impact will be felt across large areas of south Fingal, including areas zoned RU, RV and RS. I note that the zoning objectives RS seeks to protect and improve residential amenity and RV seeks to promote the character of the rural village and promote a vibrant community. I consider the noise impact of the proposed amendment to operating restrictions will materially contravene these zoning objectives having regard to the impact of noise on residential amenity and on communities.

Huge attention is being placed on the economic impact of not permitting the RA. I note the report included in the further information by InterVISTAS relating to the economic impact of operating restrictions and numerous recent media reports in this regard. The economic impact should not be used to facilitate a significant negative impact on human population.

A full and proper assessment cannot be made without considering balanced regional development and the use of regional airports. The National Planning Framework and subsequent Regional Spatial and Economic Strategies seek to support growth of Ireland's main cities including Cork, Galway and Limerick. Facilitating the growth of key infrastructure serving these regional cities, including Cork and Shannon airport needs to be considered in making any decision on operations at Dublin Airport.

Please consider how extending the hours of operation will result in further negative impacts on populations surrounding the airport, including in St Margarets and The Ward.

Thanking you,

Colm Ratcliffe