

Lauren Griffin

From: Lauren Griffin
Sent: Monday 2 December 2024 11:52
To: eamonos@tpa.ie
Subject: RE: Response to ABP Request 8/11/24 - Letter (ABP Ref. 318683)

A Chara,

The Board acknowledges receipt of your email, the contents are noted.

Kind regards,

Lauren

From: Eamon O'Sullivan <eamonos@tpa.ie>
Sent: Friday 29 November 2024 12:09
To: LAPS <laps@pleanala.ie>
Cc: Brian Minogue <brian@tpa.ie>; Hugh Kelly <hugh@tpa.ie>
Subject: Response to ABP Request 8/11/24 - Letter (ABP Ref. 318683)

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Good Afternoon,

Please see the attached *letter* (dated 29 November 2024) provided in response to an invitation from An Bord Pleanála on 8 November 2024 to comment on observations submitted on a Strategic Infrastructure Development application located at Panda Waste, Ballymount Road Upper, Ballymount, Dublin 24, D24 E097 (ABP Ref. 318683).

TPA would appreciate acknowledgement of receipt at your earliest convenience.

If you have any queries in relation to any aspect of the attached *letter*, please do not hesitate to contact.

Regards

Eamon O'Sullivan
Graduate Planner
Tom Phillips + Associates
Town Planning Consultants

 **TOM PHILLIPS**
+ ASSOCIATES
PLANNING FOR THE FUTURE

Contact

Dublin
80 Harcourt Street
Dublin 2
D02 F449
T +353 1 478 6055
M +353 83 372 9018

Cork
No 1 Horgan's Quay
Cork City
T23 PPT8
T +353 21 212 9840

w www.tpa.ie
e info@tpa.ie



Tom Phillips and Associates Limited: Dublin and Cork

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29 November 2024
[By email to laps@pleanala.ie]

ABP Ref. 318683

Dear Sir/Madam

Re: RESPONSE TO AN BORD PLEANALA REQUEST DATED 8 NOVEMBER 2024

1.0 Introduction

Starrus Eco Holdings Ltd (SEHL) has retained Tom Phillips + Associates (TPA) to prepare this First-Party Submission in response to a letter issued by An Bord Pleanála (ABP) inviting TPA to comment on observations submitted on a Strategic Infrastructure Development (SID) application located at Panda Waste, Ballymount Road Upper, Ballymount, Dublin 24, D24 E097.

On 15 December 2023, An Bord Pleanála invoked section 131 of the Planning and Development Act, 2000 (as amended) and requested 16 no. prescribed bodies to submit an observation on a Strategic Infrastructure Development application located at Panda Waste, Ballymount Road Upper, Ballymount, Dublin 24, D24 E097.

A total of 4 no. observations were made on the SID from the following prescribed bodies:

- Fingal County Council (FCC), dated 17 January 2024
- Transport Infrastructure Ireland (TII), dated 21 December 2023
- Environmental Protection Agency (EPA), dated 19 June 2024
- South Dublin County Council (SDCC), dated 28 May 2024

The observations made by FCC and TII were of no comment and as such are not to be addressed by this submission.

2.0 Submission by the Environmental Protection Agency

The observation made by the EPA addresses the history and status of the Waste Licence [Register] No: W0039-02 issued 4 September 2000 to IPODEC Ireland Ltd permitting operation an Integrated Waste Management Facility for activity classes 11.4(b)(ii) and 11.1 at Ballymount Cross, Tallaght, Dublin 24 (now the address of Ballymount Road Upper, Ballymount, Dublin 24, D24 E097).

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The EPA submission notes that the licence permits the following activities:

- 11.4(b)(ii) Recovery, or a mix of recovery and disposal, of non-hazardous waste with a capacity exceeding 75 tonnes per day involving one or more of the following activities, (other than activities to which the Urban Waste Water Treatment Regulations 2001 (S.I. No. 254 of 2001) apply): pre-treatment of waste for incineration or co-incineration;
- 11.1 The recovery or disposal of waste in a facility, within the meaning of the Act of 1996, which facility is connected or associated with another activity specified in this Schedule in respect of which a licence or revised licence under Part IV is in force or in respect of which a licence under the said Part is or will be required.

The EPA's Licence Enforcement Access Portal (LEAP) registry records, and observation submitted 19 June 2024 show a first instance transfer of the waste licence no. W0039-02 to Nurendale Ltd (trading as Panda Waste Services) on 10 July 2012. The licence was then transferred in the second instance of so to SEHL (the current site operator) on 22 June 2018.

The applicant has no further submission to make in relation to this observation.

3.0 Submission by South Dublin County Council

3.1 View on the Development Proposal in relation to the decision to be made by ABP

*"South Dublin County Council recognizes that the proposed development would facilitate an expansion of the recycling/recovery capacity of the existing facility, required to satisfy the growing demand for South Dublin and the surrounding area, and **do not oppose the principle of the proposed development.**"*

[Our emphasis.]

3.2 Summary of Proposed Conditions recommended to be attached to any Grant of Permission for Development if ABP to grant permission

The observation in the form of a *report* made by South Dublin County Council considers the following technical and operational issues to be addressed further by attachment of conditions relating to, for any grant for permission for development.

- *City Edge Strategic Framework*
- *Sustainable Transport*
- *Population and Human Health*
- *Water and Wastewater Services and Supply*
- *Traffic and Transport*
- *Landscape*
- *Biodiversity*

The *report* references the SDCC Development Plan 2022 – 2028 (SDCCDP) as the prevailing statutory plan for the area.



3.3 City Edge – Delivery Team

Recommends 1 no. condition be attached to any grant for permission for development, for the applicant to investigate the possibility of green roof; green wall, and street tree provision at the subject site to provide for an enhanced public realm, in addition to other landscape/Green Infrastructure (GI) related issues discussed in the report.

Applicant Comments

The City Edge Delivery Team recommends a condition be attached to any grant for permission for development, to investigate the possibility of a 'green roof' and / or a 'green wall' provision upon the proposed development (section 3.3 of this *letter*). This request was previously made known to the applicant during the pre-planning consultation stage with SDCC, citing the *City Edge Strategic Framework* (2022) for the basis of such recommendation.

The *City Edge Strategic Framework* is non-statutory, being a joint initiative between SDCC and DCC aimed at providing a trajectory for sustainable transformation and regeneration of urban landscapes throughout the two councils.

Furthermore, it is noted that Overarching Policy GI5, Objective 7 of the SDCCDP 2022-2028 states the following:

"To require the provision of green roofs and green walls, providing benefits for biodiversity and as an integrated part of Sustainable Drainage Systems (SuDS) and Green Infrastructure, in apartment, commercial, leisure and educational buildings, wherever possible and develop an evidence base for specific green roof requirements as part of the Council's ongoing SuDS strategy development.

[Our emphasis.]

In response to this objective, we emphasize the existing and intended use of the site as a waste recovery facility, not subject to the commercial or 'wherever possible' clause. We note on page 23 of the Planning Report submitted by Tom Phillips + Associates on 11 December 2024 that:

'buildings require significant reinforcing due to the weight of soil and water associated with green roof installation.' and;

'This was made clear in the adjacent Reg. Ref. SD22A/0099 and was accepted by SDCC as a valid reason for omitting green roofs from the scheme design.'

This sets a precedent for valid green roof omissions in certain circumstances which TPA now cites as reasoning for the same to occur for ABP Ref. 318683.

However, notwithstanding this, SDCC requested during pre-planning consultation for the installation of a green roof to be considered. At this stage TPA provided a response to this request in final application submitted, prepared by David Tobin (Director of Sustainability), Beauparc Utilities Limited and Dixon Brosnan (Ecologist of 25+ years), Brosnan Environmental Consultants. This is included in the *Note on SEHL's Sustainability Commitments* letter of the submitted application documents.

In summary, with current stress on the national electricity grid, and company-wide



sustainability commitments, SEHL considers the benefits to the environment resulting from the proposed roof mounted solar panels outweigh any associated with a Green Roof.

Furthermore, development of on-site solar panels is supported by SDCCDP 2022-2028 Chapter 10 – Energy, Objective 1:

“To encourage and support the development of solar energy infrastructure for on-site energy use at appropriate locations in the County.”

Notwithstanding the above, we reiterate the detailed grounds made in the Planning Report (*Green Infrastructure* section, pg. 23) that a green roof on the proposed development should not be required by the Applicant and that instead any grant of permission for the development includes for roof mounted solar panels. It is noted that the use of green roof was also considered in Chapter 4 (Alternatives) of the EIA but ruled out for similar reasons.

3.4 Sustainable Transport – Roads Department

Recommends 5 no. conditions be attached to any grant for permission for development. Additionally requests 3 no. further information points of matter be submitted.

Conditions

1. *Any gates shall open inwards towards and not out over the public domain. The pedestrian access shall be wide enough to accommodate cyclists.*
2. *Prior to commencement of development, the applicant shall submit a developed Construction & Demolition Waste Management Plan (C&DWMP) for the written agreement of the Planning Authority.*
3. *Prior to commencement of development, the applicant shall submit a developed Construction Traffic Management Plan for the written agreement of the Planning Authority.*
4. *A Mobility Management Plan is to be completed within six months of opening of the proposed development. The Mobility Management Plan shall be submitted for the written agreement of the Planning Authority.*
5. *All bicycle parking spaces must be covered and shall be constructed in line with National Cycle Manual Standards.*

Further Information Requests

1. *A layout of not less than 1:200 scale, showing the pedestrian footpaths on both sides of the vehicle access point.*
2. *The applicant shall submit a Stage 1 Road Safety Audit*
3. *The applicant shall submit a revised layout of not less than 1:200 scale showing the location and reduction in the number of parking spaces to be provided at the development. This should be inline with the submitted mobility management plan.*

Applicant Comments

Should the Board be of mind to grant permission for the development the applicant would have no objection to the above referenced proposed conditions and requested information being imposed as conditions. We note that sufficient information is before the Board to enable a full assessment of the application and the request for additional detail and Stage 1 RSA can



be facilitated through compliance.

3.5 Demolition and Construction Phase – Environmental Health Department

Recommends 7 no. conditions be attached to any grant for permission for development.

Conditions

Noise

1. *To control, limit and prevent the generation of Environmental Noise Pollution from occurring to adjacent and surrounding neighbours. The Environmental Health Department of South Dublin County Council, hereby informs you that:*

The use of machinery, plant, or equipment (which includes pneumatic drills, generators, and the movement on and off the site of construction vehicles) is NOT PERMITTED outside the following hours:

- *Before 07:00 hours on weekdays, Monday to Friday.*
- *Before 09:00 hours on Saturday.*
- *After 19:00 hours on weekdays, Monday to Friday.*
- *After 13:00 hours on Saturdays.*
- *Not permitted at any time on Sundays, Bank Holidays or Public Holidays.*

Reason: In the interest of public health by the prevention of unacceptable levels of noise pollution which could interfere with normal sleep and rest patterns and/or when people could reasonably expect a level of quietness, the proper planning and sustainable development of the area and to uphold the Council's amenity policies set out in the South Dublin County Council Development Plan.

2. *Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch occurring at such times as to give reasonable cause for annoyance to a person in any residence, adjoining premises, or public places in the vicinity.*

Reason: In the interest of public health.

3. *Noise levels due to the normal operation of the proposed development, expressed as L_{Aeq} over 15 minutes at the façade of a noise sensitive location, shall not exceed the daytime background level by more than 10 dB(A) and shall not exceed the background level for evening and night time. Clearly audible and impulsive tones at noise sensitive locations during evening and night shall be avoided irrespective of the noise level.*

Reason: In the interest of public health.

Air Quality

4. *During the demolition/construction phase of the development, Best Practicable Means shall be employed to minimize air blown dust being emitted from the site. This shall include covering skips and slack-heaps, netting of scaffolding, daily washing down of pavements or other public areas, and any other precautions necessary to prevent dust nuisances.*

Reason: To contain dust arising from construction in the interests of public health and

to prevent nuisance being caused to occupiers of buildings in the vicinity.

General Impact

5. *The development shall be so operated that there will be no emissions of malodours, gas, dust, fumes or other deleterious materials, no noise or noise vibration on site as would give reasonable cause for annoyance to any person in any residence, adjoining premises, or public place in the vicinity.*

Reason: In the interests of public health and to contain dust arising from demolition/construction and to prevent nuisance being caused to occupiers of buildings in the vicinity.

External Lighting

- 6a *Any external lighting system shall be designed to minimize potential glare and light spillage that would cause a nuisance to other commercial businesses nearby.*
- 6b *All external lighting shall be of a type that ensures deflection of lighting downwards. All external lighting shall be cowled and directed away from other businesses in the locality.*

Reason: To prevent light pollution and the creation of a nuisance, in the interests of residential amenity and the proper planning and sustainable development of the area.

ESB Substation

7. *This permission is for a period of 5 years from the date of this grant of planning permission. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period by the Planning Authority or by An Bord Pleanála on appeal.*

Reason(a): To enable the impact of the development to be reassessed, having regard to advances in technology and design of radio equipment and antennae, changes in the design of support structures, more stringent or other standards, if considered more appropriate, during the period of five years and to circumstances then prevailing. Monitoring to determine the adherence to the guidelines of the International Non-ionising Radiation Committee of the International Radiological Protection Association, under the auspices of the WHO and the European Pre standard RNV 50166-2 Human Exposure to Magnetic Fields-High Frequency (10KHz to 300GHz) promulgated by CENELEC, the European Committee for Electro technical standardization shall be made immediately before the site is brought into commission and thereafter at yearly intervals by a competent authority, using up-to-date monitoring equipment. The results of all monitoring shall be available for inspection by the Planning Authority and/or other appropriate body.

Reason(b): In the interests of public health.

Applicant Comments

We note that SDCC propose a condition requiring the substation to be temporary in nature. We consider this proposed condition to be overly onerous and has the potential to impact on the future operation of the business. There should be no need to re-apply for the permitted infrastructure after a period of five years. The proposed condition is not justified nor is it



warranted. Furthermore, the condition suggests that the applicant will need to apply for 'retention permission', suggesting that the applicant will be seeking to carry out unlawful development. This is not the case.

The condition as worded would require a further grant of planning permission to be made to extend the life of the substation. This timeframe would start from the decision date of a grant of permission. If the permission takes 18 months to build, there would only be 3 ½ years operational value with the substation. Let alone the cost to build the structure for this 'temporary' period, should the applicant wish to extend the life of the substation they would need to apply for a new permission within 12 months of the structure being completed to allow time for planning authority review and potential appeal timeframe.

This proposed condition should not be imposed.

3.6 Water and Wastewater – Uisce Éireann

Recommends 3 no. conditions be attached to any grant for permission for development.

Conditions

1. *The applicant shall sign a connection agreement with Uisce Éireann prior to any works commencing and connecting to the Irish Water network.*
2. *Uisce Éireann does not permit any build over of its assets and separation distances as per Irish Waters Standards Codes and Practices shall be achieved. Any proposals by the applicant to build over/near or divert existing water or wastewater services subsequently occurs, the applicant shall submit details to Uisce Éireann for assessment of feasibility and have written confirmation of feasibility of diversion(s) from Irish Water prior to connection agreement.*
3. *All developments shall be carried out in compliance with Irish Water Standards codes and practices.*

Applicant Comments

No comments.

3.7 Traffic and Transport – Construction and Operational Phase Considerations

SDCC recommends 1 no. conditions be attached to any grant for permission for development.

Conditions

1. *Having regard to the above, in the event of a grant of permission, it is recommended that conditions be attached requiring the submission of a Construction Waste and Demolition Management Plan, and a Construction Traffic Management Plan should apply in the interest of residential amenity, public safety, and compliance with Development Plan policy.*

Applicant Comments

No comments.

3.8 Landscape – Minimum Green Space Factor (GSF) Requirements Considerations

SDCC recommends 1 no. condition be attached to any grant for permission for development.

Condition

1. *In the event that An Bord Pleanála is minded to grant permission, it is recommended that a condition be applied to require applicant to submit revised plans and particulars to ensure compliance with the GSF on site in accordance with GI5 Objective 4 which seeks to implement the Green Space Factor (GSF) for all qualifying development comprising 2 or more residential units and any development with a floor area in excess of 500 sq m.*

Applicant Comments

Due to the substantial increase in tree cover proposed, Beauparc's ongoing organizational-wide efforts towards its wider sustainability commitments, and strict EPA requirements for the facility, it is considered that the current GSF is appropriate as all reasonable measures have been proposed.

The Green Infrastructure Plan submitted with the application includes the Landscape Plans prepared by Hayes Ryan Landscape Architects, which accompany this application. The Landscape Architect has surveyed the site and identified the existing trees to the front of the site as the only GI assets of the site. As per the Landscape Plan, the proposed development includes a c. 63% increase in the number of trees on site: some 14 No. trees are required to be removed; some 25 No. are being retained; and some 37 No. are proposed to be planted as well as significant amount of planting.

3.9 Biodiversity – Construction and Operational Phase Considerations

SDCC recommends 6 no. conditions be attached to any grant for permission for development.

Conditions

1. *Site lighting will be at the lowest level needed for safety and security purposes and wherever possible will be restricted to the working area and set up to avoid overspill and shadows on sensitive habitats outside the construction area;*
2. *Where possible trees will not be removed between the bird breeding season of 1st March and 31st August;*
3. *Trees will be protected in accordance with BS: 5837:2012 Trees in relation to design, demolition, and construction recommendations and any further agreed procedures. The reinstatement of trees and vegetation will be undertaken by a suitable qualified landscape contractor.*
4. *As a biodiversity enhancement measure four bat boxes will be put up within the site boundary. The location will be specified by an ecologist taking into account landscape plans, vehicle movements and lighting.*
5. *As noted above vegetation will be removed outside of the breeding season where possible and in particular, removal during the peak-breeding season (April-June inclusive) will be avoided. This will also minimize the potential disturbance of breeding birds outside of the study area boundary. The buddleia will be treated.*
6. *Site lighting will typically be provided by tower mounted temporary portable construction floodlights. The floodlights will be cowled and angled downwards to minimize spillage to surrounding properties.*



Applicant Comments

No comments.

4.0 Conclusion

TPA, on behalf of the applicant (SEHL), have reviewed the above submissions and accept the recommended conditions by SDCC and commentary from EPA with the exception of the above referenced conditions.

We wish to reiterate SEHL's commitments to wider sustainability initiatives across the country. This commitment is set out in the already submitted note by Mr. David Tobin, Sustainability Director, Beauparc and the accompanying independent opinion by Dixon Brosnan Environmental Consultants.

In summary, with current stress on the national electricity grid, and company-wide sustainability commitments, SEHL considers the benefits to the environment resulting from the proposed roof mounted solar panels outweigh any associated with a Green Roof.

Further to the above, the proposed condition to limit the proposed substation to a temporary structure is both onerous and not justified as set out above and should not be imposed.

If you have any queries in relation to any aspect of this letter, please do not hesitate to contact me.

Brian Minogue
Associate
Tom Phillips + Associates