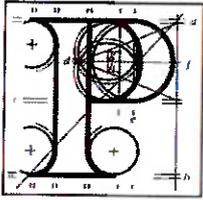


14/3/24



An
Bord
Pleanála

AN BORD PLEANÁLA
LDG- 070654-24
ABP- 319281-24
14 MAR 2024
Fee: € 220.00 Type: card
Time: 16:53 By: hand
Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Killineer and District Residents Association

(b) Address

Annaghvale, Rosehall, Killineer, Drogheda, Co
Louth

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

FP Logue LLP

(b) Agent's address

8/10 Coke Lane, Smithfield, Dublin 7

Postal address for letters

3. During the appeal we will post information and items to you or to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1

The agent at the address in Part 2

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Louth County Council

(b) Planning authority register reference number

(for example: 18/0123)

2360115

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Mell, Drogheda, Co Louth

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

The grounds of appeal are set out in the attached

The acknowledgment of the appellant's prior submission to the planning authority is also included in the attached

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

No, I do not wish to request an oral hearing

NALA has awarded this document its Plain English Mark

Last updated: April 2019.



14 March 2024

By hand

The Secretary
An Bord Pleanála
Dublin 1

Re: Third Party appeal against decision of Louth County Council

Planning Authority Ref 23/60115

Applicants for permission: Hibernia Steel (Manufacturing) Limited

Proposed Development: Permission for development including: 1) Construction of approx. 5,719 sq.m. gross floor area (GFA) main building, to house hot dip metal galvanising plant, machinery and associated works and containing materials loading and unloading areas, chemicals storage areas, and staff welfare facilities. The main building will be in two main sections, both single storey, consisting of a northern section of approx. 2,636 sq.m. GFA and a southern section of approx. 2,404 sq.m. GFA, with maximum heights above finished ground levels of 17.30m and 14.55m, respectively, together with an approx. 679 sq.m. GFA two storey over basement section with a maximum height above finished ground level of 8.90m, adjoining the east of the northern section. The main building will include 4 no. emissions stacks located on the roof of the northern section of the building, each rising to a height of 2.7m above the maximum height of the northern section, and 1 no. emission vent located on the western side of the northern section of the building, at a height of 7.2m above finished ground level. 2) Construction of approx. 298 sq.m. GFA two storey office building to be located to north of main building, containing main reception area and general offices. 3) Provision of hardstanding area, processed and unprocessed materials storage areas and HGV/trailer parking spaces. 4) Provision of vehicular and pedestrian entrance. 5) Provision of 110 car parking spaces, including 7 EV charging points, and 20 bicycle spaces. 6) Provision of internal access road. 7) Provision of 2 no. weighbridges 8) Installation of 2 no. LPG tanks, 9) Construction of ESB substation within the main building. 10) Provision of bunded fuel storage area. 11) Provision of stormwater drainage and treatment infrastructure, including permeable paving,

8/10 Coke Lane
Smithfield, Dublin 7
Ireland

p: +353 (0)1 531 3510
e: info@fplogue.com

Partners Fred Logue, Eoin Brady
Consultant: TJ McIntyre

www.fplogue.com

attenuation unit, infiltration area, rainwater harvesting tanks and ass. works. 12) Site landscaping works, including raised soil berm on part of the western boundary of the site with a max. ht. of approx. 3m above finished ground level. 13) Firewater retention infrastructure. 14) Provision of site security fencing and entrance walls and gates. 15) Provision of signage. 16) Provision of site lighting. 17) And all ancillary site development works. An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) will be submitted with the application. The proposed development will require an Industrial Emissions (IE) Licence, under the EPA Act 1992, as amended

Development address: Mell, Drogheda, Co Louth

Date of decision 19 February 2024 (Grant Permission)

Name of Appellant: Killineer and District Residents Association

Address of Appellants: Annaghvale, Rosehall Lane, Killineer, Drogheda, Co. Louth

Name of Agent FP Logue LLP

Address of Agent 8/10 Coke Lane, Smithfield, Dublin 7 D07 EN2Y

A Chara

Introduction

1. On behalf of Killineer and District Residents Association we wish to lodge an appeal against the decision of Louth County Council as described above. The decision was made on 19 February 2024 and therefore the appeal deadline is 19 March 2024, taking into account that the offices of An Bord Pleanála are closed on Monday 18 March 2024.
2. The appeal is accompanied by:
 - a. Appeal Form
 - b. Copies of the Appellant's submissions and observations to the planning authority dated 22 June 2023 (appendices omitted) and 26 January 2024
 - c. Confirmation of submission to Louth County Council
 - d. Fee of €220
3. The grounds of appeal are set out below.
4. In our client's view the planning authority has not dealt with issues of real concern raised by it and other members of the public in their submissions and observations. The Board is referred to our client's submissions to the planning authority, including the app as well as those of other members of the public concerned with the decision.
5. Louth County Council is in long-term default of its obligation to prepare a Local Area Plan for Drogheda and/or a Joint Urban Area Plan as envisaged by RPO 4.11 of the EMRA RSES and/or section 19(1)(b) of the Planning and Development Act 2000. While we understand that the preparation of this plan has now commenced, it would be premature for the Board to grant permission in advance of its adoption, given that this is the statutory plan that will set out detailed planning policies for Drogheda and involves specific environmental assessments under the Strategic Environmental Assessment Directive and the Habitats Directive.
6. It is clear to our client that the Louth County Development Plan 2021 to 2027 ("CDP") did not set specific policies for the location of heavy industry at Mell and that this is an element that was generally left over to the Local Area Plan.
7. In any event, as already explained in our client's earlier submission, the location of heavy industry at this site would materially contravene the CDP including in relation to zoning which does not envisage heavy industry at this location outside the built-up area of the town.
8. There remain numerous defects in the EIA procedure.
9. There is project splitting as set out at paragraphs 15 to 17 of our client's submission dated 22 June 2023. In its response to the request for further information the developer also revealed for the first time that the project also involves activities at another of its locations in Slane where preparatory steps in the industrial process will take place. This aspect of the project has also been omitted from the EIAR.
10. The EIAR is inadequate, despite it being supplemented with an addendum at further information stage.

11. There is a lack of baseline information in the EIAR in a number of areas:
- a. The scoping was completely inadequate and therefore the views of statutory consultees have not been properly canvassed. The public concerned was not involved at all in the scoping.
 - b. The HSA's position appears to have changed since scoping and it now says that there is insufficient information for it to provide comments within its area of responsibility. For reasons that are not clear, the planning authority dismissed the most up to date comments from the HSA in preference for the HSAs contribution at scoping stage.
 - c. The process has not been described in detail, including the volume, duration and types of chemicals and fuels that will be stored and used on site and the volume of dangerous substances to be used and stored on site.
 - d. There is no survey of third party wells, which are sensitive receptors in light of the potential for groundwater pollution and the vulnerability of groundwater.
 - e. As our client pointed out there is no landscape or visual impact assessment of the 3m berm and 1m fence along the western boundary. In that regard it is noted that the Louth Landscape Character Assessment ("LLCA") was carried out in 2002. This predates the ratification and coming into force of the European Landscape Convention ("ELC") in Ireland and the adoption of the third edition of GLVIA which radically redefined the concept of landscape, including for the purpose of EIA. For example the LLCA defines landscape as "*all that is visible when one looks across an area of land*" whereas the ELC defines it as "*an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors.*" The EIAR does not demonstrate awareness of this lacuna in the baseline. It is impossible to apply the various assessment criteria set out in the EIAR and/or deploy the GLVIA3 methodology in the absence of a Landscape Character Assessment that itself meets these requirements.
 - f. As pointed out by our client and others there is no baseline characterisation of the bodies of groundwater and surface water which are hydrologically connected with the project. There is no hydrological conceptual model or receptor sensitivity analysis. The various quality elements of the potentially affected water bodies are not identified and no analysis has been provided to demonstrate compliance with Article 4 of the Water Framework Directive. Similarly the specific measures in the water framework programme of measures have not been identified even though the planning process is part of making operational those measures.
12. The EIAR deals inadequately with storm water management on the site. It is proposed to manage storm water by infiltration to ground in the northern portion of the site and to use a concrete attenuation tank with a controlled discharge to the drain.
13. No mitigation is proposed for uncontrolled discharges or incidental spillages in the northern portion of the site. It is also not clear if the entire site is to be covered with impermeable surfaces and how storm water is to be managed at permeable locations.
14. No infiltration to ground should be allowed given the high vulnerability of the location.

15. The proposed shut off valve is critically important, yet no detail is provided. For example, will it be automatic or manual, what happens when there is an uncontrolled spillage, particularly when the site is not in operation.
16. No details have been provided of mitigation against releases of vapours and dust to air, e.g. details of the scrubber and/or filters and their reliability and maintenance and monitoring have not been provided.
17. As pointed out by another observer, the project involves works below the measured groundwater level, yet no mitigation measures have been provided for construction works within saturated ground.
18. The Board is asked to read closely the other observations in relation to groundwater which set out detailed concerns which have not been addressed by the planning authority in its decision.
19. Our client and others raised concerns about the treatment of alternatives in the EIAR. These concerns prompted the planning authority to seek further information on alternatives. The further information provided by the developer did not address these concerns. In fact the updated information relating to alternatives undermines the function played by the consideration of alternatives in the EIA procedure.
20. The Board is respectfully reminded of Article 5(3)(b) of the EIA Directive which provides that the competent authority shall ensure that it has or has access to sufficient expertise to examine the EIAR. In this instance, given the nature of the project involving heavy industry with the potential for significant pollution, the vulnerability of the groundwater and the waterbodies that are hydrologically connected, this is an instance where the Board should commission an independent expert review of the EIAR in relation to at least water quality.
21. Finally, our client wishes to comment on condition 19(a) of the decision of the Planning Authority. This requires the developer to submit a "Site Layout Map" to the Planning Authority for agreement prior to commencement of development displaying minimum visibility sightlines in compliance with Table 13.13 of the CDP.
22. This condition is highly irregular. There is no provision to require updated plans and particulars of material elements of a project by way of condition in this way. Conditions are generally aimed at regulating the development or for agreeing points of detail. Conditions are not appropriate for establishing critical parameters which should inform the decision. It is highly irregular for a physical parameter that can be easily measured to be left over for a pre-commencement submission and agreement. Either the development complies with the parameter or it does not. This parameter is one that is required to be established in advance of the grant of permission for so that road safety aspects can be assessed.
23. There are three scenarios possible with this condition none of which are acceptable from the perspective of proper planning and sustainable development.
 - a. the sightlines are adequate and comply with the CDP standard. This then begs the question as to why this hasn't been established in advance of the grant of permission. The permission has been granted and the EIA conducted in the absence of confirmation of a critical parameter relating to road safety;
 - b. The sightlines may be achievable in principle but works outside the blue line would be required to achieve them. This is irregular because it would involve works on land that is owned by third parties. In this scenario permission would be granted without

knowing if adequate sightlines can be provided and it may well be the case that they can't be provided by the developer without third party consent which may not be forthcoming. In that case permission should have been refused; or

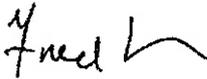
- c. It is physically impossible to achieve compliant sightlines. In this scenario permission has been granted for development for which it is impossible to have safe vehicular access, there is a material contravention of the CDP, and ought not to have been granted.

24. In particular the last two scenarios are ones that cannot be agreed by the Planning Authority which is bound to comply with its own development plan and/or should have been identified as a material contravention of the CDP. The Planning Authority cannot lawfully agree a "Site Layout Map" which shows sightlines of a materially lower standard than that provided in the CDP.

Conclusion

25. The appeal should be allowed and permission refused.

Yours sincerely



Fred Logue BSc, PhD, MInstP, MIEMA, CEnv
On behalf of Killineer and District Residents Association

Encl

Appendix 1 – Copy of receipt of submission to Louth County Council dated 22 June 2023



LOUTH COUNTY COUNCIL

Town Hall, Crowe Street, Dundalk, County Louth A91 W20C
Tel: 042/9335457

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

Date: 28/06/2023

TO: [E] Killineer and District Residents Association
c/o Fred Logue
8/10 Coke Lane
Smithfield, Dublin 7
D07EN2Y

ACKNOWLEDGEMENT OF SUBMISSION

Applicant: Hibernia Steel (Manufacturing) Limited

Description of Development: Permission for development including:
1) Construction of approx. 5,719 sq.m. gross floor area (GFA) main building, to house hot dip metal galvanising plant, machinery and associated works and containing materials loading and unloading areas, chemicals storage areas, and staff welfare facilities. The main building will be in two main sections, both single storey, consisting of a northern section of approx. 2,636 sq.m. GFA and a southern section of approx. 2,404 sq.m. GFA, with maximum heights above finished ground levels of 17.30m and 14.55m, respectively, together with an approx. 679 sq.m. GFA two storey over basement section with a maximum height above finished ground level of 8.90m, adjoining the east of the northern section. The main building will include 4 no. emissions stacks located on the roof of the northern section of the building, each rising to a height of 2.7m above the maximum height of the northern section, and 1 no. emission vent located on the western side of the northern section of the building, at a height of 7.2m above finished ground level. 2) Construction of approx. 298 sq.m. GFA two storey office building to be located to north of main building, containing main reception area and general offices. 3) Provision of hardstanding area, processed and unprocessed materials storage areas and HGV/trailer parking spaces. 4) Provision of vehicular and pedestrian entrance. 5) Provision of 110 car parking spaces, including 7 EV charging points, and 20 bicycle spaces. 6) Provision of internal access road. 7) Provision of 2 no. weighbridges 8) Installation of 2 no. LPG tanks, 9) Construction of ESB substation within the main building. 10) Provision of bunded fuel storage area. 11) Provision of stormwater drainage and treatment infrastructure, including permeable paving, attenuation unit, infiltration area, rainwater harvesting tanks and ass. works. 12) Site landscaping works, including raised soil berm on part of the western boundary of the site with a max. ht. of approx. 3m above finished ground level. 13) Firewater retention infrastructure. 14) Provision of site security fencing and entrance walls and gates. 15) Provision of signage. 16) Provision of site lighting. 17) And all ancillary site development works.

An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) will be submitted with the application.

The proposed development will require an Industrial Emissions (IE) Licence, under the EPA Act 1992, as amended

Location of Development: Mell Drogheda Co. Louth.

Date Application Received: 22/05/2023

Type of Application: PERMISSION

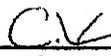
A Chara

I wish to acknowledge receipt of your written submission/observation in relation to the above application.

The Planning Authority will take this submission/observation into consideration before a decision is made on the application. You will be notified of the decision as soon as it is made together with details of your right of appeal to An Bord Pleanala.

The application and all plans, etc. submitted with it are available for inspection at this office from 9 a.m. to 5 p.m. Monday to Friday. Please quote the planning reference number (2360115) in any future correspondence or enquiry.

Mise, le meas



Conor Kerrigan
Planning Office

PLANNING AND DEVELOPMENT REGULATIONS, 2006 (as amended)

**ACKNOWLEDGEMENT OF RECEIPT OF SUBMISSION OR OBSERVATION
ON A PLANNING APPLICATION**

THIS IS AN IMPORTANT DOCUMENT!

**KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO
PRODUCE THIS ACKNOWLEDGEMENT TO AN BORD PLEANALA IF
YOU WISH TO APPEAL THE DECISION OF THE PLANNING
AUTHORITY.**

OUTH COUNTY COUNCIL

PLANNING APPLICATION REFERENCE NO. 23/60115

Hibernia Steel (Manufacturing) Limited., Permission for development including:

1) Construction of approx. 5,719 sq.m. gross floor area (GFA) main building, to house hot dip metal galvanising plant, machinery and associated works and containing materials loading and unloading areas, chemicals storage areas, and staff welfare facilities. The main building will be in two main sections, both single storey, consisting of a northern section of approx. 2,636 sq.m. GFA and a southern section of approx. 2,404 sq.m. GFA, with maximum heights above finished ground levels of 17.30m and 14.55m, respectively, together with an approx. 679 sq.m. GFA two storey over basement section with a maximum height above finished ground level of 8.90m, adjoining the east of the northern section. The main building will include 4 no. emissions stacks located on the roof of the northern section of the building, each rising to a height of 2.7m above the maximum height of the northern section, and 1 no. emission vent located on the western side of the northern section of the building, at a height of 7.2m above finished ground level. 2) Construction of approx. 298 sq.m. GFA two storey office building to be located to north of main building, containing main reception area and general offices. 3) Provision of hardstanding area, processed and unprocessed materials storage areas and HGV/trailer parking spaces. 4) Provision of vehicular and pedestrian entrance. 5) Provision of 110 car parking spaces, including 7 EV charging points, and 20 bicycle spaces. 6) Provision of internal access road. 7) Provision of 2 no. weighbridges 8) Installation of 2 no. LPG tanks, 9) Construction of ESB substation within the main building. 10) Provision of bunded fuel storage area. 11) Provision of stormwater drainage and treatment infrastructure, including permeable paving, attenuation unit, infiltration area, rainwater harvesting tanks and ass. works. 12) Site landscaping works, including raised soil berm on part of the western boundary of the site with a max. ht. of approx. 3m above finished ground level. 13) Firewater retention infrastructure. 14) Provision of site security fencing and entrance walls and gates. 15) Provision of signage. 16) Provision of site lighting. 17) And all ancillary site development works.

An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) will be submitted with the application. The proposed development will require an Industrial Emissions (IE) Licence, under the EPA Act 1992, as amended at Mell, Drogheda, Co. Louth.

A submission/observation in writing has been received from:

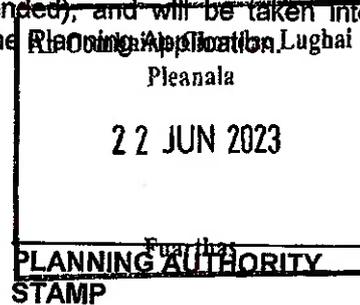
[E] Killineer and District Residents Association, c/o Fred Logue, 8/10 Coke Lane,
Smithfield, Dublin 7, D07EN2Y

on 22nd June, 2023 in relation to the above application.

The submission/observation is in accordance with the appropriate provisions of the
Planning and Development Regulations, 2006 (as amended), and will be taken into
account by the Planning Authority in its determination of the Planning Application Lughai
Pleanala

The appropriate fee of €20.00 has been paid.

C.K.
Conor Kerrigan
Planning Office



DATE: 22/06/2023

Appendix 2 – Copy of submission to planning authority dated 22 June 2023 (without appendices)

22 June 2023

To: Louth County Council

Re: Observation on Planning Application No 2360115

Applicant: Hibernia Steel (Manufacturing) Limited

Proposed Development: Permission for development including: 1) Construction of approx. 5,719 sq.m. gross floor area (GFA) main building, to house hot dip metal galvanising plant, machinery and associated works and containing materials loading and unloading areas, chemicals storage areas, and staff welfare facilities. The main building will be in two main sections, both single storey, consisting of a northern section of approx. 2,636 sq.m. GFA and a southern section of approx. 2,404 sq.m. GFA, with maximum heights above finished ground levels of 17.30m and 14.55m, respectively, together with an approx. 679 sq.m. GFA two storey over basement section with a maximum height above finished ground level of 8.90m, adjoining the east of the northern section. The main building will include 4 no. emissions stacks located on the roof of the northern section of the building, each rising to a height of 2.7m above the maximum height of the northern section, and 1 no. emission vent located on the western side of the northern section of the building, at a height of 7.2m above finished ground level. 2) Construction of approx. 298 sq.m. GFA two storey office building to be located to north of main building, containing main reception area and general offices. 3) Provision of hardstanding area, processed and unprocessed materials storage areas and HGV/trailer parking spaces. 4) Provision of vehicular and pedestrian entrance. 5) Provision of 110 car parking spaces, including 7 EV charging points, and 20 bicycle spaces. 6) Provision of internal access road. 7) Provision of 2 no. weighbridges 8) Installation of 2 no. LPG tanks, 9) Construction of ESB substation within the main building. 10) Provision of banded fuel storage area. 11) Provision of stormwater drainage and treatment infrastructure, including permeable paving, attenuation unit, infiltration area, rainwater harvesting tanks and ass. works. 12) Site landscaping works, including raised soil berm on part of the western boundary of the site with a max. ht. of approx. 3m above finished ground level. 13) Firewater retention infrastructure. 14) Provision of site security fencing and entrance walls and gates. 15) Provision of signage. 16) Provision of site lighting. 17) And all

FP Logue LLP
8/10 Coke Lane
Smithfield, Dublin 7
Ireland

Partners: Fred Logue, Eoin Brady
Consultant: TJ McIntyre

p: +353 (0)1 531 3510
e: info@fplogue.com

www.fplogue.com

ancillary site development works. An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) will be submitted with the application. The proposed development will require an Industrial Emissions (IE) Licence, under the EPA Act 1992, as amended

Development address: Mell, Drogheda, Co Louth
Date of Application: 22 May 2023
Name of Observer: Killineer and District Residents Association
Address of Observer Annaghvale, Rosehall Lane, Killineer, Drogheda, Co. Louth
Name of Agent FP Logue LLP
Address of Agent 8/10 Coke Lane, Smithfield, Dublin 7 D07 EN2Y

Dear Sir or Madam

1. We are instructed by Killineer and District Residents Association to make this observation. The time limit is 25 June 2023 and therefore the observation is made in time. The submission is made by FP Logue LLP acting as agent using ePlanning and the fee is paid online using this system.
2. Our client strongly object to the proposal to construct the project on what is essentially a greenfield site located in a rural location outside of the built-up area of Drogheda. In our client's view the proposal represents a material contravention of the zoning since the proposed operation is clearly not appropriate for this location. In addition, hot dip galvanising plants are invariably characterized by significant emissions into the environment including zinc contamination of groundwater and nitrogen in the form of ammonia.
3. In our client's view the proposed use is to be characterized as "heavy industry". While the development plan does not define this concept, it is commonly understood to include capital intensive manufacturing, manufacturing of heavy items, and industry that is liable to cause emissions such as noise, dust and contaminants. The proposed facility, if built, would be Ireland's largest galvanising operation with a zinc bath length of 14.5m which is 20% larger than the current largest bath of 12m at Shannonside¹.
4. In the present case the proposal is to construct a hot-dip galvanising plant which will process 36,000 tonnes of steel annually at a rate exceeding 2 tonnes of crude steel per hour² and requiring 8 arrival and departure HGV movements daily. In addition, the proposed facility requires mandatory EIA and IED indicating the likelihood of significant effects on the environment due to its scale.

¹ <https://galv.ie/galvanizing>

² Based on the proposed operating hours and stated annual throughput a processing rate in the region of 13 tonnes per hour is proposed, which is more than 6 times the threshold for mandatory EIA under the Industrial Emissions Directive.

5. We identified six other similar facilities which are licensed by the EPA, namely the Galco plants in Galway³, Dublin 12⁴, Waterford⁵ and Cork⁶, IPW in Cork⁷ and the Shannonside operation in Limerick⁸. Each one of these sites shows significant Zinc contamination of the as well as several showing significant iron and ammonia emissions to groundwater groundwater (see attached most recent groundwater monitoring reports, appendices omitted, for each of these six sites^{9, 10, 11, 12, 13, 14}).

Material Contravention of the Louth County Development Plan 2021 to 2027

6. The subject site is zoned E1 – General Employment in the Louth County Development Plan 2021 to 2027 (the **CDP**). The CDP describes this zoning as:

“This zoning is the primary location for employment generating activities. It will facilitate the improvement and expansion of existing employment areas and the investment and development of new employment areas. A wide range of uses will be facilitated on these lands including small, indigenous enterprises, general industry, manufacturing, food production, logistics, and warehousing. The compatibility of a particular use or operation will be dependent on the nature of the use/operations and surrounding uses in the area in which the development will be located. This zoning also facilitates opportunities for uses that are deemed permissible under the “Business and Technology” zoning category.”

7. The CDP indicates that heavy industry is not permitted in principle on E1 land but is only open for consideration with a footnote to limit this use to specific locations “as deemed appropriate”. The CDP does not identify which locations are deemed appropriate (via e.g. spot objectives) nor does it provide criteria for determining on a case-by-case basis whether a particular E1 location is appropriate for heavy industry.
8. Therefore, the informed reader of the development plan would understand it to mean that in Drogheda none of the E1 land has been identified as appropriate for heavy industry and therefore the proposal constitutes a material contravention of the CDP. The location of heavy industry in a town is something that would be of wide concern to the public and the lack of identification of specific locations or criteria for the selection of locations was not part of the public consultation on the plan or of the Strategic Environmental Assessment. It is clear that the intention of the Council was that appropriate locations or criteria to select such locations would be developed through either amendment of the CDP or through Local Area Plans, for example the Joint Urban Area Plan for Drogheda. This would then give the public the opportunity to participate in the decision-making around where and to what extent heavy industry would be located in their area.

³ EPA Licence No P0658-01 <https://leap.epa.ie/licence-profile/P0658>

⁴ EPA Licence No P0284-02 <https://leap.epa.ie/licence-profile/P0284>

⁵ EPA Licence No P0385-01 <https://leap.epa.ie/licence-profile/P0385>

⁶ EPA Licence No P0391-01 <https://leap.epa.ie/licence-profile/P0391>

⁷ EPA Licence No P0407-01 <https://leap.epa.ie/licence-profile/P0407>

⁸ EPA Licence No P0650-03 <https://leap.epa.ie/licence-profile/P0650>

⁹ Galco (Sperrin) <https://leap.epa.ie/docs/b3626992-da02-41f6-b2e7-b596576e3088.pdf>

¹⁰ Galco (Dublin) <https://leap.epa.ie/docs/4e0d9c88-143c-4167-be60-8da8abd66261.pdf>

¹¹ Galco (Waterford) <https://leap.epa.ie/docs/37b3fdbbc-8906-4f57-ach1-9b986ec27341.pdf>

¹² Galco (Cork) <https://leap.epa.ie/docs/b4c636d7-bbcf-4dd1-968a-c16c6049293d.pdf>

¹³ IPW (Cork) <https://leap.epa.ie/docs/9dd22921-3c52-460f-ab69-f1b9779518b6.pdf>

¹⁴ Shannonside <https://leap.epa.ie/docs/5600ce7e-0699-40a3-9e42-cc4fe3d91495.pdf>

9. In the absence of the identification of specific areas for new heavy industry in Drogheda or even criteria to select areas on a case-by-case basis then the proposal constitutes a material contravention. By way of cross check, the lack of funding or other proposals for supporting infrastructure identified by the applicant is reflective of the fact that the planning authority has yet to determine locations for new heavy industry in Drogheda.
10. By way of a further cross-check neither the SEA Statement nor the SEA Environmental Report deal with heavy industry. In particular the monitoring program proposed in the SEA statement does not identify groundwater status as a target. This is further confirmation that this would be something that would have to be decided either by way of amendment or via a lower-tier plan with the attendant environmental assessment and monitoring program.
11. The planning authority is asked to deal specifically with the material contravention point in its decision and make a reasoned determination on this issue given that it is a relevant factor concerning the jurisdiction of the Board under Section 37 of the Planning and Development Act 2000 on appeal.

Environmental Impact - Scoping

12. The applicant did not seek a formal scoping opinion from the competent authority. While the EIAR states that various public authorities were contacted as part of an alleged scoping exercise, the letters attached at appendix 3A show that the applicant did not ask for input on the contents of the EIAR but rather said the applicant was available to "address any queries that you may have in relation to the proposed site activities." This is not scoping.
13. The consultation letters provide no real details of the proposed development and naturally enough elucidated vague and generic responses reflective of the lack of detail provided. This is to be contrasted with the requirement of Article 5(2) of the EIA Directive concerning scoping for the developer to provide information "*in particular on the specific characteristics of the project, including its location and technical capacity, and its likely impact on the environment*". None of this was provided to the public authorities consulted for the alleged scoping. In addition to this the public concerned was not consulted for the purpose of scoping.
14. The upshot of this is that issues with the content of the EIAR that could have been addressed at scoping stage will now have to be addressed during the planning permission procedure as set out in more detail below.

Project Splitting

15. The developer confirms that the application site does not have road access and is 1.4km from the nearest connection point to Uisce Éireann's wastewater network. It also appears that the R132 requires upgrade to enable adequate site access, particularly for large HGVs¹⁵. None of the works needed to provide these services to the site are proposed or included in the EIAR even though the proposed facility cannot be operated without them.
16. All of these works are to be included within the definition of "project" for the purposes of the EIA Directive. Before development consent is given there must be an EIA of all of the environmental effects of the entire project. It is impermissible to split a project in the way proposed, see by analogy *Ó Grianna v An Bord Pleanála* [2014] IEHC 632 where the construction of wind turbines

¹⁵ See further below about lack of clarity of the size of HGV that may be required to serve the proposed development.

and the grid connection were held to be a single project because the windfarm could not be operated without the grid connection, which the developer had not sought permission for.

17. In this instance the proposed facility cannot be operated without the infrastructure upgrades stated to be proposed by the IDA or the wastewater upgrade which Uisce Éireann says is needed, and which it says it has no plans to build.

Quality of the EIAR

18. Article 3(1) of the EIA Directive requires that the environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case, the direct and indirect significant effects on the environment of a project. As explained in more detail in the Commission Guidance on the Environmental Impact Assessment Report¹⁶, the aim of this report is to provide prudent information for both decision-makers and for people affected by the project. The EIAR must therefore communicate effectively with these audiences.
19. In this case the EIAR runs to 387 pages not including appendices, but despite its length fails to give any impression of the environmental impacts that are likely to arise, how they are proposed to be mitigated and an objective or scientific evaluation of the efficacy of the mitigation. Overall the EIAR lacks detail on the types of environmental impacts from this type of facility, fails to provide quantitative details of the likely emissions and impacts and tacitly assumes that all mitigation is 100% effective without providing an objective basis for this assumption. Despite its length, if there is core information on environmental impacts, it is buried in the report.
20. Despite the fact that there is extensive information published on the emission characteristics of various types of ferrous metals processing facilities throughout Europe, the characteristics of various processes and the best available techniques in this industry to protect the environment, none of this is referenced in the EIAR¹⁷. Despite the ready availability of up-to-date scientific information about hot dip galvanising processes throughout Europe, the EIAR does not use this information to provide a realistic characterisation of the emissions and other environmental impacts.
21. Closer to home, the EPA licenses several hot dip galvanising plants in Ireland. The EIAR has no information on the characteristics of these plants (which presumably deploy mitigation measures equivalent to those proposed). As we have identified, each of the six licensed hot dip galvanising plants in Ireland is characterised by elevated zinc contamination of the groundwater to levels sometimes several orders of magnitude greater than the GLVs permitted under the Water Framework Directive. There is also ammonia and iron contamination from these plants.
22. In terms of more local impacts, there is no meaningful information about the localised visual impacts on nearby dwellings with no CGIs or contextual information presented to show how a 17m building with stacks up to 20m would visually impact the locality and in particular the two dwellings located directly to the west of the site which is in a rural area.
23. There is virtually no information on the process that will be used in what is proposed to be the largest galvanising facility in Ireland based on bath size. For a bath of 14.5m pieces up to around

¹⁶ European Commission, 2017

¹⁷ See, for example, Ries, E., Gómez Benavides, J., Mavromatis, S., Klein, G., Chronopoulos, G. and Roudier, S., Best Available Techniques (BAT) Reference Document for the Ferrous Metals Processing Industry, Publications Office of the European Union, Luxembourg, 2022, doi:10.2760/196475, JRC131649.

28m could be galvanised using double dip processing. The current maximum length of a regulation HGV semi-trailer is 12m with a 3m overhang¹⁸. Therefore there is a real possibility that exceptionally long HGVs may be needed which are far too large for this rural site. The transport assessment on the file and in the EIAR does not assess the possibility of oversized vehicles (which also require special permitting to use the public road). There are similar restrictions on the weight that can be carried by a regulation HGV. At the very least the EIAR should identify the maximum size and weight of piece that can be processed and assess the transport and other impacts from the transport of oversized loads too and from the facility.

24. In reality the decision-maker has no idea reading the EIAR as to what the likely significant effects are, either quantitatively or qualitatively and whether and to what extent the mitigation is effective. In fact it seems to be a tacit assumption that all proposed mitigation is 100% effective but this cannot be the case based on the information referred to above. In its current form, the contents of the EIAR cannot form the basis of a lawful EIA or decision to grant planning permission.

Alternatives

25. EIA requires the mandatory assessment of alternatives which is aimed at providing a concrete opportunity in order to minimize the Project's environmental impact. The Commission's 2017 Guidance summarises the obligation as follows:

- The EIA Directive requires Developers to describe the reasonable Alternatives that have been identified and studied and to compare their environmental impacts against the Project option chosen. This is an important aspect of the EIA Report and one that often challenges practitioners and Developers. Alternatives have to be 'reasonable', meaning that feasible Project options meet the Project's objectives.
- The 2014 amendments to the Directive now require the EIA Report to include a description of the reasonable Alternatives (as opposed to an 'outline') studied by the developer who holds the pen. They also suggest types of Alternatives, such as Project design, technology, location, size, and scale.
- The approach to identifying Alternatives is highly Project-specific. Some Alternatives are overarching and may be identified in plans and programmes (e.g. transport plans or regional development programmes) or by the Competent Authority at the EIA Scoping stage. Others might concern the technical design and are identified by the Developer. In cases, EIA practitioners may identify Alternatives and propose them to the Developer. The process of identifying and assessing Alternatives is iterative and requires some flexibility and good communication between all parties.
- Consultation with the public is usually very important both for identifying and assessing Alternatives. A clear presentation of Alternatives, and how they have been assessed, also lends transparency to the process and can improve public acceptance and support for Projects.
- The environmental assessment of Alternatives should be targeted and focused on the comparison of impacts between several options and presented as such in the EIA Report.

¹⁸ RSA 2023 https://www.rsa.ie/docs/default-source/road-safety/r1.5-professional-drivers/weights-and-dimensions-leaflet---march-2022218d3edc-2d2f-45f3-bf53-fc0e90f6a054.pdf?sfvrsn=d4b567a1_10

26. The purpose of the identification of alternatives is to minimize the environmental impact and logically therefore requires alternatives that reduce the need for mitigation as far as possible. The developer's superficial treatment of alternatives complies with neither the letter nor the spirit of Article 5(1) of the EIA Directive.
27. The Developer doesn't explain why this site, which has no or no adequate road services or wastewater connection, is feasible whereas sites near its existing facility in Slane or other E1 locations in Drogheda which are equally unserved are not feasible. In particular the Developer has not given reasons or taken into account the effects on the environment relating to alternative locations where heavy industry already exists, in the dockland areas to the North of the Boyne or at Platin. An important environmental consideration in this regard would be the groundwater issues described above, given that other locations may have greater capacity for pollution compared with the poor-status groundwater at the chosen location or that there would be fewer sensitive receptors in these industrial areas compared with the proposed rural location.
28. The developer does not compare alternative locations within the IDA site. It is clear that any location could be chosen within the site but for reasons that are not explained the developer has chosen to locate the Project proposal in an area that is the closest to two residences which are identified as sensitive receptors. The justification for locating the project as close as possible to sensitive receptors within a large industrial park has not been explained or analysed.
29. The developer misunderstands the concepts of alternative processes. It is clear that it needs to build a galvanising plant but there is no description of the actual alternative types of process that can be used, in fact section 3.2 of the EIAR indicates that the developer has yet to actually decide what process it will use on the site¹⁹. The document referenced at footnote [17] provides extensive detail of various galvanising processes and their environmental characteristics yet despite this the developer hasn't even identified the preferred process, let alone alternative processes. Even something as basic as whether double dipping will be used (which would mean pieces 2x longer could be processed) is not identified.
30. Finally the Developer chose not to consult with the public on alternatives, therefore the planning authority will have to require the submission of a revised EIAR taking account of the public input on alternatives before it can make a decision. As the Commission states in its guidance, *"Ensuring early participation with the public concerned on Alternatives is a good practice that could not only save resources, but also reduce delays as a result of challenges arising from the public or other organisations/authorities."*
31. The Developer's failure to comply with Article 5(1) of the EIA Directive is therefore rather unfortunate but will need to be rectified by the planning authority.

Water Framework Directive

32. EU law requires the EIAR to contain the data that are necessary in order to assess the effects of a project on the status of the bodies of water concerned in the light of the criteria and requirements laid down in, inter alia, Article 4(1) of the Water Framework Directive (Case C-535/18 *IL*).

¹⁹ This also introduces a lacuna in the information provided

33. The documents in the file that are made available to the public must make it possible for that public to obtain an accurate impression of the impact that the project at issue will have on the status of the bodies of water concerned in order for it to be able to verify compliance with the obligations arising from, inter alia, Article 4 of the Water Framework Directive. In particular, the data provided must be such as to show whether, having regard to the criteria established by that directive, the project at issue is liable to result in a deterioration of a body of water.
34. An incomplete file or data that are scattered, incoherently, across a multitude of documents are not such as to make it possible for the public concerned to participate effectively in the decision-making process and, therefore, do not satisfy the requirements stemming from Article 6 of the EIA Directive.
35. It is for the developer to draw up a 'non-technical summary' of the information referred to in Article 5(3)(a) to (d) of the EIA Directive, which includes the data required to identify and assess the main effects which the project is likely to have on the environment.
36. The developer in this case has not complied with the mandatory requirements of the EIA Directive in relation to the Water Framework Directive and therefore the application file cannot form the basis of a grant of planning permission or a lawful EIA.
37. As can be seen in the monitoring of the other licensed plants in Ireland, it is highly likely that high levels of zinc will enter the groundwater. It is also likely that zinc will enter surface waters which are hydrologically connected to groundwater and/or the site. It is unclear what other contaminants are likely to enter the groundwater notwithstanding mitigation and the application of BAT since these have not been identified by the developer but can be inferred by reference to the document cited at footnote [17] above.
38. The application site is located over the Wilkinstown ground waterbody. This waterbody is at "Poor" chemical status and poor status overall. This waterbody also fails the Drinking Water Protected Area Test. For ground waterbodies, poor is the lowest status. The proposed facility would therefore introduce further pollution into an already polluted ground waterbody in breach of Article 4(1)(b) of the Water Framework Directive. The planning authority is therefore required to refuse permission (by analogy with the *Weser* judgment C-461/13)
39. For surface waterbodies, there is a hydrological connection identified with the Mell Stream (Tullyeskar_010), the hydrological connections between waterbodies and the proposed IDA works and the required wastewater network upgrade are not identified and therefore cannot be assessed.
40. For Tullyeskar_010 the EPA status of moderate is not assigned based on monitoring of individual Quality Elements as required by the Water Framework Directive, therefore the planning authority lacks the required information to carry out an assessment of the compatibility of the proposed development with Article 4(1)(a) of the Water Framework Directive since per *Weser* this assessment must be carried out at the level of individual quality elements and these have not been provided by the EPA.

Conclusion

41. Based on the discussion above, permission should be refused.

Yours sincerely



Fred Logue BSc, PhD, MInstP, MIEMA, CEnv
On behalf of Killineer and District Residents Association

Appendices

Most recent groundwater monitoring results of the following galvanising plants (appendices omitted)

1. Galco (Dublin)
2. Galco (Waterford)
3. Galco (Cork)
4. Galco (Galway)
5. IPW (Cork)
6. Shannonside (Limerick)

Appendix 3 – Copy of submission to planning authority of 26 January 2024

FPLOGUE SOLICITORS

26 January 2024

To: Louth County Council

Re: Observation on Further Information on Planning Application No 2360115

Applicant: Hibernia Steel (Manufacturing) Limited

Proposed Development: Permission for development including: 1) Construction of approx. 5,719 sq.m. gross floor area (GFA) main building, to house hot dip metal galvanising plant, machinery and associated works and containing materials loading and unloading areas, chemicals storage areas, and staff welfare facilities. The main building will be in two main sections, both single storey, consisting of a northern section of approx. 2,636 sq.m. GFA and a southern section of approx. 2,404 sq.m. GFA, with maximum heights above finished ground levels of 17.30m and 14.55m, respectively, together with an approx. 679 sq.m. GFA two storey over basement section with a maximum height above finished ground level of 8.90m, adjoining the east of the northern section. The main building will include 4 no. emissions stacks located on the roof of the northern section of the building, each rising to a height of 2.7m above the maximum height of the northern section, and 1 no. emission vent located on the western side of the northern section of the building, at a height of 7.2m above finished ground level. 2) Construction of approx. 298 sq.m. GFA two storey office building to be located to north of main building, containing main reception area and general offices. 3) Provision of hardstanding area, processed and unprocessed materials storage areas and HGV/trailer parking spaces. 4) Provision of vehicular and pedestrian entrance. 5) Provision of 110 car parking spaces, including 7 EV charging points, and 20 bicycle spaces. 6) Provision of internal access road. 7) Provision of 2 no. weighbridges 8) Installation of 2 no. LPG tanks, 9) Construction of ESB substation within the main building. 10) Provision of bunded fuel storage area. 11) Provision of stormwater drainage and treatment infrastructure, including permeable paving, attenuation unit, infiltration area, rainwater harvesting tanks and ass. works. 12) Site landscaping works, including raised soil berm on part of the western boundary of the site with a max. ht. of approx. 3m above finished ground level. 13) Firewater retention infrastructure. 14) Provision of site security fencing and entrance walls and gates.

FP Logue LLP
8/10 Coke Lane
Smithfield, Dublin 7
Ireland

p: +353 (0)1 531 3510
e: info@fplogue.com

Partners: Fred Logue, Eoin Brady
Consultant: TJ McIntyre

www.fplogue.com

15) Provision of signage. 16) Provision of site lighting. 17) And all ancillary site development works. An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) will be submitted with the application. The proposed development will require an Industrial Emissions (IE) Licence, under the EPA Act 1992, as amended

Development address: Mell, Drogheda, Co Louth
Date of Application: 22 May 2023
Date of Further Information 19 December 2024
Name of Observer: Killineer and District Residents Association
Address of Observer Annaghvale, Rosehall Lane, Killineer, Drogheda, Co. Louth
Name of Agent FP Logue LLP
Address of Agent 8/10 Coke Lane, Smithfield, Dublin 7 D07 EN2Y

Dear Sir or Madam

1. We are instructed by Killineer and District Residents Association to make this observation on the significant further information provided by the applicant. The time limit is 1 February 2024, therefore the observation is made in time. The submission is made by FP Logue LLP acting as agent using ePlanning a fee is not due since this is the second observation.
2. These observations are naturally to be read with my client's first observations dated 22 June 2023.
3. My client notes that the planning authority shared its concerns about the treatment of reasonable alternatives in the EIAR which were considered to be too narrow and selective. Unfortunately the Environmental Impact Assessment Report Addendum Document (**EIAR Addendum**) which purports to address these concerns, although providing further alternatives, remains narrow and selective. In my client's view, the treatment of alternatives remains superficial and one dimensional and is presented in such a way as to frustrate the objective of Article 5(1)(d) and Annex IV(2) of the EIA Directive. A brief explanation is outlined below.
4. My client's first submission set out in summary the rationale behind Article 5(1)(d) of the EIA Directive. This is explained in more detail in the Commission Guidance on the contents of the EIAR (section 1.5).
5. The updated treatment of alternatives in the EIAR Addendum addresses location only, whereas the EIA Directive envisages consideration of a range of alternatives including project design, technology, size and scale (as set out in Annex IV(2) of the EIA Directive). None of these has been addressed, despite the concerns expressed by my client.
6. In terms of location, it seems that the criteria imposing a requirement for the project to be within a 20-minute drive of the existing facility at Grangegeeth is merely one of convenience which is not appropriate to use in selecting reasonable alternatives. This constraint has the effect of ruling out any other large town other than Drogheda (and indeed some parts of Drogheda itself are excluded on this basis), in particular Dundalk and Dublin which also have capacity for heavy

industry with good connectivity to the M1 corridor. In my client's view this constraint has been imposed without justification and is self-serving rather than serving the purpose envisaged by Article 5(1)(d) of the EIA Directive.

7. It should also be noted in that regard that no alternative process has been proposed whereby the ancillary activities in Grangegeeth are co-located with the proposed plant thereby allowing for a larger geographic range of alternative locations for a project that aims to serve the entire island of Ireland.
8. Furthermore, the late introduction of a requirement of proximity between Grangegeeth and the project reveals that this is an aspect of the project which has not been identified, described and assessed in an appropriate manner in the EIA report. Given that this location is rural and served only by L-roads, there could be very severe environmental impacts at this location from the proposed project which have not been addressed in the EIAR.
9. In terms of the 12 alternatives that are actually considered in the EIAR Addendum there are glaring anomalies, a lack of proper consideration of the effects of the project on the environment, and no comparison of environmental effects.
10. For example, there is no explanation as to why absence of masterplans at other locations is a red flag but an absence of a statutory local area plan in Drogheda does not present a similar concern in terms of development plan constraints.
11. Equally, there is inconsistency in relation to the lack of services. The lack of road and wastewater services at the proposed location is not raised as an issue, but a similar lack of services at other locations is an issue, particularly for AL15 where infrastructure is the only identified constraint.
12. In terms of costs, bald statements that a requirement for the developer to pay for infrastructure "could harm the viability of the project" are quite inappropriate. There is precisely no evidence that this is the case and moreover no discussion of the actual costs and how that would impair the viability. Indeed, if this were true, it seems that this project, a proposal to build Ireland's largest galvanising plant, is of marginal viability to the extent that it is uneconomic for it to pay for infrastructure upgrades. This would tend to show that the do-nothing alternative is the most reasonable. In reality, this bald statement is yet another self-serving comment aimed at justifying the only real alternative in the developer's mind and thereby obscuring a genuine comparison of the environmental effects of reasonable alternatives, undermining the environmental assessment.
13. In relation to reasons relating to the environmental impact, the developer shows an unusual concern for flood risk and built heritage at other locations which elevate environmental impacts to yellow in its assessment. There is absolutely no discussion of what kind of impacts are envisaged, whether they are significant and/or can be mitigated making a comparison impossible. If the developer were to be believed, then none of these large areas of zoned land can ever be used for industrial development. This seems improbable. In particular all of this land has been zoned in compliance with the Flood Risk Guidelines and with a Strategic Flood Risk Assessment, so it seems very surprising that flooding would be a realistic constraint to development.
14. This can be verified by looking at the actual flood risk maps. For alternative AL14, only a tiny part of the site at the extreme south east corner of the site is in Flood Zone A or B, yet this has been presented as an "environmental constraint" (The developer didn't actually reproduce the correct map in the EIA Addendum, see Figure 1 below). Similarly, with AL5, AL9, and AL11, the areas

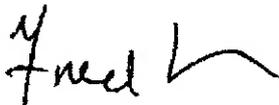
(marked with blue or red dots) in a Flood Zone are negligible yet this has been presented as an environmental constraint.

15. The monument at location AL4 is very close to the N33 and in no way constrains the use of this large plot of zoned land having regard to national guidelines on protected monuments.
16. For AL8, the developer asserts that there is a property listed on the NIAH at this location. However, an NIAH listing has no legal significance and therefore is not an environmental constraint, which only comes into effect if the planning authority enters the structure on the register of protected structures, which in this case it clearly decided not to do.
17. This lack of rigour really calls into question the competency of those who prepared the EIA Addendum and reveals that they have exaggerated environmental constraints at other locations which undermines the environmental assessment, and prevents a comparison of the environmental effects, to the extent that such a comparison cannot be carried out.
18. Turning to what is missing, the consideration of alternatives completely ignores the elephant in the room which is water quality as set out in some detail in my client's first submission. As we have already pointed out every licensed galvanising plant in Ireland shows elevated zinc in the groundwater. There is also a high risk of nitrogen and iron pollution to the groundwater. None of the alternative locations have been examined in relation to water pollution. Equally no alternatives have been considered in terms of process, size, scale etc in relation to water pollution.
19. The groundwater at the proposed location is already classified as poor with poor chemical groundwater status and poor drinking water protected area test. Therefore any further pollution of the ground water would be contrary to Article 4(1)(b) of the Water Framework Directive. In the absence of a derogation, the planning authority is precluded from granting permission. It seems that this constraint has been completely overlooked by the developer even though they considered the prospects of getting a grant of planning permission as one of the factors to be used to select reasonable alternatives. Similar considerations were not addressed at all in the consideration of alternatives.

Conclusion

20. Based on the discussion above, the EIAR (as updated) fails to comply with Article 5(1)(d) and Annex IV(2) of the EIAR Directive. This lacuna in the information makes it impossible for the competent authority to make a comparison of the environmental effects of the reasonable alternatives considered and therefore it cannot carry out a lawful EIA. Taking this into account, as well as my client's earlier observations, permission should be refused.

Yours sincerely



Fred Logue BSc, PhD, MInstP, MIEMA, CEnv
On behalf of Killineer and District Residents Association

Figure 1 – Extract from Meath County Council Strategic Flood Risk Assessment for location AL14

