

SECTION 131 FORM

File With E.P. S. 37

Appeal NO: ABP 319281-24

Defer Re O/H

Having considered the contents of the submission dated/ received 21/05/2024
from

Charles Carroll 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

E.O.: Pat B

Date: 28/05/2024

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage.

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

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached
submission

to: _____ Task No: _____

Allow 2/3/4 weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 319281-24

M _____

Please treat correspondence received on 21/05/2024 as follows:

1. Update database with new agent for Applicant/Appellant _____	1. RETURN TO SENDER with BP _____
2. Acknowledge with BP <u>23</u>	2. Keep Envelope: <input type="checkbox"/>
3. Keep copy of Board's Letter <input type="checkbox"/>	3. Keep Copy of Board's letter <input type="checkbox"/>

Amendments/Comments Charles Carroll response to S.181

01/05/24: 21/05/24 ✓

<p>4. Attach to file</p> <p>(a) R/S <input type="checkbox"/> (d) Screening <input type="checkbox"/></p> <p>(b) GIS Processing <input type="checkbox"/> (e) Inspectorate <input checked="" type="checkbox"/></p> <p>(c) Processing <input type="checkbox"/></p>	RETURN TO EO <input type="checkbox"/>
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	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>Pat B</u>	AA: <u>Anthony McNally</u>
Date: <u>28/05/2024</u>	Date: <u>30/05/2024</u>

Kare **lickey**

From: KOM.ie | Raymond O'Malley <raymond@kom.ie>
Sent: Tuesday 21 May 2024 09:26
To: Appeals2
Subject: ABP-319281-24
Attachments: Section 133 Response 21.05.2024.pdf

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.

Dear Sir or Madam,

Please see attached response to ABP letter dated 1st May 2024 in respect of planning appeal ABP-319281-24.

Please acknowledge receipt in due course.

Regards,

Raymond O'Malley, Director
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21st May 2024

The Secretary (by e-mail: appeals@pleanala.ie)

An Bord Pleanála

64 Marlborough Street

Dublin 1

ABP Ref.: 319281-24

File Number: 23/60115

Proposal: 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. 2) Construction of approx. 298 sq.m. GFA two storey office building 3) Provision of hardstanding area, 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) 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

ABP Letter: 1st May 2024

Respond By: 21st May 2024

Re: SECTION 133 RESPONSE TO APPLICANT SUBMISSION ON THIRD PARTY PLANNING APPEALS

Dear Sir or Madam,

The Board's letter dated 1st May 2024 in respect of the above refers. This is a section 133 submission on behalf of our client, **Mr. Charles Carroll, Killineer House & Gardens, Killineer, Drogheda, Co. Louth**. For ease of reference, we will use the headings and or numbering used in the response document dated 17th April 2024 prepared by Stephen Peck on behalf of the applicant.

Topic 1 – Zoning Matters

There can be no misunderstanding or mis-classification of the proposed development as anything other than heavy industry. The application required a mandatory Environmental Impact Assessment Report on that basis of Class 4 Production and Processing of Metals which is an heavy industrial process. Further in the second paragraph on page 34 of the planning officer's report dated 5th July 2023, when assessing the development plan zoning **Industry Heavy*** is highlighted. This heavy industry designation is also consistent with the pre-planning direction on 20th July 2022 to the applicant's design team.

It is evident to us and we invite the Board to agree that the qualified zoning designation "as deemed appropriate to a specific location" is ambiguous and or an unclear objective because it fails to state any criteria from which to assess the appropriateness or otherwise of a specific location for heavy industry. No where in the environmental contract that is the development plan does it envisage or contemplate heavy industrial development at the appeal site or anywhere within the North Drogheda Business Park.

Finally the provision of a heavy industrial use at this prominent location within North Drogheda Business Park would have undesirable impacts on the generally permitted uses. Who would want to develop a childcare facility, education facility or hotel/hostel/aparthotel beside a heavy industrial plant?

Topic 5 – Alternative Locations

The applicant's response is disingenuous as our grounds are based on the information provided in the planning application and further information response. The consideration of alternative locations has been conducted post site selection and subsequent to the Council's decision, the applicant has confirmed in the local newspaper that this location was selected basis on familial ties to Drogheda as opposed to any planning and or environmental considerations.

Topic 7 – Prematurity in Respect of Infrastructure Delivery

The applicant's response confirms that the necessary infrastructure is not in place to support the proposed development. It references a further information request in respect of another planning application; ref. 23/60388 that inter alia includes the following items:

4. (a) *The applicant is requested to submit plans and specifications for the development of a right turning lane facility off the R132 into the development site and the continuation of the footpath, public lighting, and drainage from the IDA development junction southward up to the Rosehall Roundabout.*
- (b) *Please submit details of the proposed rates of surface water discharge into the stream.*
- (c) *The applicant is requested to clarify what is regarded as "Grey" water and that there is no combined sewer present and submit a proposal for the discharge of grey water separately as the discharge of grey water into the attenuation tank is not acceptable.*
- (d) *The applicant is requested to submit plans for the extension of the existing cycle path.*
5. *To assess the feasibility of a connection to public water/wastewater infrastructure, the applicant is required to engage with Uisce Éireann through the submission of a Pre-Connection Enquiry (PCE) in order to determine the feasibility of connection to the public water/wastewater infrastructure. The Confirmation of Feasibility (COF) must be submitted to the Planning Department as the response to this further information request.*

To date, there has been no response to the Council's request for ref. 23/60388. The applicant in this proposal, Hibernia Steel (Manufacturing) Limited, has no involvement or interest in planning application Ref. 23/60388. It follows that neither Louth County Council nor An Bord Pleanála can comply Hibernia Steel to implement any works, which may or may not be approved under a separate and unrelated planning application Ref. 23/60388, in order to address the known infrastructure deficiencies relating to Hibernia Steel's heavy industry proposal. Therefore, this proposal is premature pending the delivery of critical infrastructure required to support the proposed development.

Topic 8 – Transport and Access

Based on the Council's request for a dedicated right turning lane under further information item 4(a) in Ref. 23/60388, it has obviously now been accepted by the local road engineer that the proposed access to North Drogheda Business Park is not suitable or safe for the quantum, frequency, and type of vehicular movements associated with the current proposed developments. The applicant's response is reliant on works that are not subject of this application and the works required to provide the sightlines and forward visibility are not included within the scope of infrastructure works by the IDA – see https://irl.eu-supply.com/ctm/Supplier/PublicPurchase/241620/0/0?returnUrl=ctm/Supplier/publictenders&b=ETENDERS_SIMPLE that contain full details of the works.

A site inspection will confirm no work is being undertaken on the eastern side of the R132 which is heavily landscaped. Further, it is unrealistic to rely on the local authority to trim by trees and hedgerow on the eastern side of the road to maintain sightlines especially when it is contrary to the Wildlife Act to do so between 1st March and 31st August.

Topic 9 – Sustainable Transport

Again, the applicant's response is reliant on a response to a further information request that hasn't been submitted or approved, the applicant has no control over the said works even if they are approved, and there is no legal provision for the Board or the Local Authority to link the respective proposals by way of a planning condition. The appeal site is only accessible by private car and the proposal providing 1 car parking spaces per employee actively promotes unsustainable private car use.

Topic 10 – Water Environment

From enquiries to Uisce Eireann, it has been confirmed that the Rosehall, Kilineer and Barnattin raw water reservoirs have not been decommissioned. It is acknowledged that they are currently not in use but that status can be considered subject to change. Envirologic, in Appendix A, erroneously stated the Rosehall reservoir has been decommissioned. There remains serious concerns about the potential impact on groundwater from the proposed development, which is one of the most likely significant impacts on the receiving environment from this galvanising facility.

Topic 16 – Other Matters

From the applicant's response in respect of the HSA submission, it appears that there has been no consultation with the HSA, which raised concerns about the types and quantities of dangerous and hazardous chemicals that would be stored on site. Perhaps the Board should invite commentary from the HAS prior to its determination of the appeals?

Summary and Conclusion

The applicant's response to our client's appeal is entirely reliant on the content of a further information request on an unrelated planning application, which remains outstanding. In any event, the material infrastructural works being sought cannot be implemented by Hibernia Steel as they are not party to application ref. 23/60388.

Our client's position as set out in his third party planning appeal remains unchanged. The appeal site is not an appropriate location for the proposed development, which would be an incompatible, toxic, and polluting heavy industrial development adjacent to existing residential properties. The proposal is premature pending the delivery of essential infrastructure relating to drainage and sustainable transport. Finally, the proposal would create a traffic hazard at the R132.

The Board is requested to reject the applicant's response and refuse planning permission.

Please acknowledge receipt of this response and direct all future correspondence to this office.

Regards,



Raymond O'Malley
Kieran O'Malley & Co. Ltd.

ROM: rom