

EIA Pre-screening - EIAR Not Submitted

An Bord Pleanála Case Reference	ABP-305458-19		
Development Summary	Referral - Dublin Airport.		
1. Does the proposed development constitute an EIA project? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	/
2. If YES, does the proposed development, or any part of it, fall within a class of development set out in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations?			
Tick	Threshold	Comment (if relevant)	Conclusion
No	N/A		No EIAR or Preliminary Examination required
Yes	If YES, tick one of the following:		
	Exceeds / Is equal to / No Threshold		EIAR required
	Sub threshold		Preliminary Examination required (Issue letter to EPA if IED/ IPC/ Waste licence)
3. If Preliminary Examination is required, has Schedule 7A information been submitted?			Yes No N/A

EO/ SEO _____ Date: _____

daa cuideachta phoiblí theoranta
Príomhoifig: Aerfort Átha Cliath,
Co. Bhaile Átha Cliath, Éire

T: 353-1-814-1111
F: 353-1-814-4120
www.daa.ie

daa public limited company
Head Office: Dublin Airport,
Co. Dublin, Ireland



AN BORD PLEANÁLA

21 OCT 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

21st October 2019

Re: ABP-305458-19 - Request for a declaration under Section 5 of the Planning and Development Acts 2000-2019 relating to connecting passengers at Dublin Airport, Co. Dublin

Dear Sir / Madam,

We, daa plc (Head Office, Dublin Airport) write in response to correspondence received from An Bord Pleanála dated the 24th September 2019.

We welcome the opportunity to make this submission and we wish to reaffirm our position as set out in the documents submitted to Fingal County Council under Reg. Ref. FS5/036/19.

Condition no. 3 of An Bord Pleanála Reference PL06F.220670 (Multiple Infrastructure Permission) states that *'the combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission'*.

It is clear that the Environmental Impact Assessment undertaken by An Bord Pleanála under Reference PL06F.220670 assessed the environmental impact of 35 million passengers per annum (mppa) and sought to reduce only the terminals component of the permission through the imposition of Condition no. 3. This is clearly due to the fact that the terminals facilitate origin destination passengers accessing the airport. No other piece of infrastructure was so constrained within this permission. Neither did the condition seek to extend beyond Terminal 1 or Terminal 2.

The context of airport development must be considered, more specifically the context of the decision of PL 06F.220670 and the policy and objectives of the Dublin Airport Local Area Plan. The decision of An Bord Pleanála was to permit the construction

An Bord Stiúrthóirí | Board of Directors Basil Geoghegan - Cathaoirleach/Chairman, Niall Greene, Patricia King, Colm McCarthy, Paul Mehlhorn, Barry Nevin, Eric Nolan, Risteard Sheridan, Denis Smyth, Gerry Walsh, Dalton Philips -
Príomhfhéidhmeannach/Chief Executive

Oifig Chláraithe: Aerfort Bhaile Átha Cliath, Co. Bhaile Átha Cliath, Uimhir Chláraithe: 9401 Éire
Registered Office: Dublin Airport, Co. Dublin, Registered Number: 9401 Ireland

and use of Terminal 2 but to restrict passenger numbers using terminals Terminal 1 and Terminal 2 of those who have an impact on the local road system. This impact is controlled by the imposition of Condition 3. The reason for the condition is clearly relevant to its meaning, to control surface access transportation impacts at the eastern campus and in the context of the policies and objectives of the Local Area Plan.

It would not be appropriate, or permissible to seek to expand the purpose, intent and restriction of Condition 3 more broadly, for example to seek to cause the condition to restrict other passengers who either do not use Terminal 1 or Terminal 2 or who would have no, or a trivial impact on the local road system

It is concluded that the condition relates to the control of terminal capacity by placing a limit on the capacity in the form of annual passenger numbers. The condition refers to terminal capacity only, not runway, or airport, or other forms of infrastructure. Passengers who do not use the terminals are not restricted by the condition.

It is our firm opinion that the use of the 'airport' (as opposed to the Terminal buildings) by more than 32mppa, outside of Terminals 1 and 2 is not development, as it does not constitute a material intensification of the permitted use having regard to the scope of permitted development. It is also our firm opinion that the double counting of a connecting passenger as both an arriving and departing passenger is not development for the purpose of the Planning and Development Acts 2000-2019.

As set out within the submitted documents and taking into account the provisions of the Acts it is submitted that:

- the use of the 'airport' in excess of 32 million passengers per annum (mppa) constitute 'development', if the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa is not development; and
- the use of the 'airport' by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa) is not development if those connecting passengers are facilitated by the separately permitted transfer facility and the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32mppa; and
- when a connecting passenger is counted singly for the purposes of planning this is not development.

It is respectfully suggested that sufficient information has been furnished within the original documents submitted to Fingal County Council on 3rd September 2019.

It should be noted that this request for a declaration under Section 5 of the Planning Acts does not propose a change to any existing or permitted operations and is sought to confirm the limited spatial scope of Condition no. 3 of An Bord Pleanála Reference PL06F.220670. The activity of transfer passengers has in any event been permitted under An Bord Pleanála Reference No. PL06F.247135.

The distinction between this Section 5 Referral and the previous Section 146A Request made to the Board is also noted. The previous Section 146A Referral related to the profile of passengers counted with the 32 million number as specified. This Section 5 Request seeks to confirm the spatial extent of the condition applied as no other aspect of the permission granted (such as Pier E/4 for example) was subject to such restriction.

AN BORD PLEANÁLA

21 OCT 2019

FROM

LTR DATED

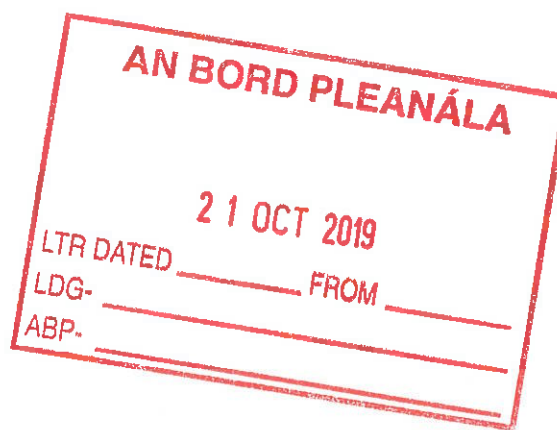
ING.

Should you have any queries please do contact us.

Yours faithfully,

Gerard Brennan

Gerard Brennan
Senior Planner



2

Section 5 submission dated 14/10/19 to An Bord Pleanála (Board reference no. PL 06F. 305458)

by Douglas Hyde, Town Planner, 134 Georgian Village, Castleknock, Dublin 15 on behalf of

**OMEGA AIR SERVICES, Omega House, Collinstown Cross, Swords Road,
Dublin**

in relation to

Section 5 request by daa for declaration to Fingal County and referral by Fingal County Council to An Bord Pleanála. Fingal County Council register reference FS5/036/19 02001019

The three questions

AN BORD PLEANÁLA	
14 OCT 2019	
Fee: € <u>50.</u>	Type: <u>Chagne</u>
Time: <u>16.12.</u>	By: <u>Hand</u>

daa submitted a request for a declaration under s 5, Planning & Development Act 2000, as amended, to Fingal County Council in relation to three questions related to 'the use by passengers of the airport in excess of 32 million passengers per annum'. The three questions are

- (a) Is the use of the 'airport' in excess of 32 million passengers per annum (mppa) constitute 'development', if the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa and if so, is it exempted development?
- (b) Is the use of the 'airport' by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa) constitute 'development' if those connecting passengers are facilitated by the separately permitted transfer facility and the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa?
- (c) Currently a connecting passenger using Dublin Airport is double counted as both arriving and department (sic) passenger (for the purpose of aviation security measures). If a connecting passenger is counted singly for the purposes of planning, is this development, and if so, is it exempt development?

Background/context - the conditions which imposed the "cap" of 32 mppa

1. The "three questions" referred to An Bord Pleanála fundamentally arise from the daa's legal requirement to comply with planning conditions which impose a "cap" of 32 million passengers per annum (mppa) on the combined capacity of terminal 2 (T2) as permitted together with terminal 1 (T1), as extended by the extension permitted by permission 223469.

The conditions which imposed the "cap" are condition 3 of permission 220670 for Phase 1 of T2 and condition 2 of permission 223469, and both these permissions were granted by An Bord Pleanála in 2008.

2. Permission 220670, condition 3:

Condition 3 of the permission 220670 requires that:

3. The combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission.

Reason: Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) of the eastern campus.

3. Permission 223469, condition 2:

Condition 2 in permission 223469. This permission was for an extension to T1, and the development was described as

Construct extension (7427 sq.m) to north of existing main terminal building and west of existing link building which extends from main terminal to Piers A and D and build temporary compound (emphasis added).

In this permission, the wording of the condition is as follows:

2. The combined capacity of Terminal 1 (including the extension authorised by this grant of permission) and Terminal 2 granted permission under planning register reference number F06A/1248 (An Bord Pleanála appeal reference number PL 06F.220670) shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission.

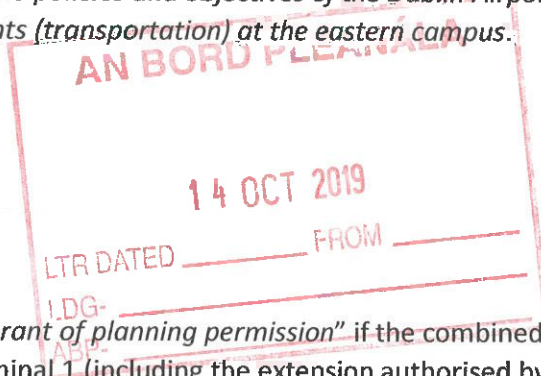
Reason: Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.

The effect of the "cap" conditions

4. The "cap" conditions require a "further grant of planning permission" if the combined capacity of Terminal 2 as permitted together with Terminal 1 (including the extension authorised by permission 223469) is to exceed 32 mppa. (The "cap" conditions do not require that a Declaration under section 5 be sought.)

5. The Board's imposition the "cap" conditions which require that a "further grant of permission" be sought and obtained (if the 32 mppa threshold is exceeded) has the effect of changing the planning status of **"the use of T1 and T2 with an intensity in excess 32 mppa"**. Because it requires authorisation by a further grant of planning permission, such use is now *ipso facto* 'development which is not exempted development'.

Legislative underpinning of this is found in sections 3 and 32 of the Planning and Development Act 2000, as amended.



- Section 3 includes a definition of “development”. The definition states that “except where the context otherwise requires”, development is “the carrying on of any works on, in, over or under land” or “the making of any material change of use in any structures or other lands”.

The present case is one “where the context (does) require” that, once the 32mppa is reached, the use of the terminals is ‘development which is not exempted development’ (and accordingly requires a grant of planning permission).

Thus, by virtue of its imposition of the “cap” conditions, the planning status of ‘use of T1 and T2 at an intensity above 32 mppa’ has been changed to that of ‘development which is not exempted development’.

- Section 32 of the Act states that planning permission is required for any development of lands, unless it is exempted development. Exempted development is development which does not require planning permission.

6. In addition, from the case law it is seen that a *material* change in use (and thus development requiring planning permission) can result from an increase in *the intensity of use of the activities carried out on the land*. Whether the use of the structure or land has changed in a way that is *material for planning purposes* is a question of fact and degree to be determined in the circumstances of the case. In determining whether a material change in use the ‘planning unit’ must be considered. On this instance, the relevant planning unit is as determined by the Board in its wording of the cap conditions.

In the present case, by virtue of its imposition of the “cap” conditions, the Board determined that triggering the “32 mppa threshold” would mean that the use of the relevant Dublin Airport lands would be changed in a way that is material for planning purposes. The appropriate ‘planning unit’ employed /determined by the Board in its decisions is T1 and T2, and not “the airport”.

Interpretation of (or ‘construction of’) conditions in planning permissions

7. The legal principles applicable to interpretation of planning documents and planning conditions in permissions have been considered by the Supreme Court. In particular, The interpretation (or ‘construction’) of conditions in planning permissions has been considered in a number of Supreme Court judgments. In XJS Investments Limited v. Dun Laoghaire Corporation, the Supreme Court held that:

Certain principles may be stated in respect of the true construction of planning documents:...

(b) they are to be construed in their ordinary meaning as would be understood by members of the public ...unless such documents read as a whole necessarily indicate some other meaning.”

In Kenny V. Dublin City Council, the Supreme Court stated that:

A court, in interpreting a planning permission, may need to go no further than the planning document itself or even than the words of a condition in issue within the context of the permission. The words may be clear enough. However, it will still need to interpret according to context.



In *Lanigan and Ors. V. Barry and Ors*, the Supreme Court in 2016 affirmed the dicta in *XJS Investments Limited* and pointed out that the *XJS* approach was an early example of the move towards “a text in context” method of construction (or interpretation) appropriate to the determination of the meaning of all documents potentially affecting legal rights and obligations. The text in context approach requires the court to consider the text in the context of the circumstances in which the document concerned was produced including the nature of the document itself.

Preliminary contextual points relevant to the text of the “three questions”

7. The wording of “the three questions” raises issues which are somewhat analogous to the requirements of the conditions which imposed the 32mppa “cap”.

In the “three questions”, it could be said that the word ‘airport’ is ‘substituted’ for “Terminal 1 (including the extension authorised by permission 223469) and Terminal 2”. This ‘substitution’ could be seen as a kind of retrospective re-framing of the context of the text of the “cap” conditions, especially since the Board has already determined the appropriate ‘planning unit’.

The context of the text of the “cap” conditions

8. The context of the conditions which imposed the 32 mppa cap can be seen from the reasons given by An Bord for imposition of the conditions and from the planning application documents, including the environmental impact statements (EISs).

The reasons for imposition of the “cap” conditions: These are

‘having regard to the policies and objectives of the Dublin Airport Local Area Plan (LAP) and capacity constraints (transportation) at the eastern campus’.

9. The context of the text can be seen in the various volumes of the Board’s Inspector’s reports, including appeal 220670 including Volume 3, Assessment and Volume 5 – Appendix, Report on Transportation Aspects of Planning Appeal for Second Terminal & Associated Works at Dublin Airport, Jerry Barnes, Town Planner, for An Bord Pleanála (Appendix to the Board’s Inspector’s Report on appeal 220670 into the proposed T2).

In the Barnes report, it is noted that the Dublin Airport Local Area Plan (LAP) was adopted as a statutory plan in August 2006. It provided a comprehensive framework for the development of the Airport and surrounding lands. The Plan established the concept of an Airport complex, served by two parallel runways and an eastern and western campus for terminal facilities. The landside transportation requirements for the developed airport consist principally of an ‘Airport Box’ with a road system designed and constructed to dual carriageway standard. This road box would be connected to the external national road network by the western access linking it to the N2 and an upgraded R108 connecting it with the M50 at the Ballymun interchange. There would also be a connection between the R132 and Baldoy and between St. Margarets and Swords. Metro North would significantly enhance public transport accessibility to the Airport and the GTC would be centrally located within the complex.

Reference to the 30 mppa figure for the eastern campus is made on page 3 of the Executive Summary of the (Dublin Airport Local Area) Plan 2006 and in section 4.2 of the main body of the text. The concept of the western campus is firmly established in Chapter 4 of the LAP. The following objective confirms its status:

TP10 -To reserve lands to the west of the north-south runway 16/34 between the two parallel runways for the future expansion of the airport to the full potential of the twin parallel runway system, and to define a development box in which the appropriate terminal, pier and apron facilities can be provided.

Ultimately the runway system will determine the full capacity of the Airport. At the oral hearing which considered appeal 220670, the inspector's report noted (at page 36, Appendix) that Sean O' Faircheallaigh, Senior Planner, Fingal County Council, explained to the hearing the rationale for the figure of 30 mppa on the eastern campus. (emphasis added)

He (Mr. Faircheallaigh) indicated that a figure of 60 mppa was assumed for the capacity of a parallel runway system, although it was emphasised that this was a very approximate figure. It was on this basis that a figure of 30 mppa for the eastern campus was included in the LAP as representing a balanced development of the whole complex. The figure of 30 mppa also appears to reflect the understanding in the NDP of T1 and T2 terminal capacity.

This balanced development of the Airport could then be served by surface access proposals included in the Plan and "...Direct surface access to the western N2 will be provided as an integral part of any development provided on the Western Campus" (p19 of LAP). The following surface access objectives are also relevant in the balanced development of the Airport.

EA2 – To implement a programme of road development on the external road network to ensure that a balanced response to the expansion of Dublin Airport occurs.

EA3 - To ensure that the road infrastructure has the capacity to better arrange traffic in the vicinity of Dublin Airport and to cater for the estimated growth in traffic in the future.

EA4 – To develop the external road network on a phased and planned basis."

The remaining external road objectives EA5 to EA15 detail the various elements of the road infrastructure.

The Report prepared by Jerry Barnes for the Board continues:

3.3.7 The provisions of the LAP therefore seek to ensure that an over-developed eastern campus does not prejudice the development of T3 on the western campus, which would be served by the western access link to the N2. The Aviation Action Plan also highlights the need to consider, at an early stage, the development of T3. It is not therefore considered that the 30 mppa figure represents a cap, but any figure over this needs to be carefully considered with due regard to the need to ensure that the development of the western campus is not prejudiced and the provision of terminal facilities are coordinated with the landside infrastructure.

10. The above series of extracts from the Barnes report for the Board describe the 'context of the text' of the conditions in the planning permissions which imposed the "cap" of 32 mppa on T1 and T2 combined.

AN BORD PLEANÁLA
14 OCT 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

- In summary, the “cap” conditions were imposed to facilitate balanced development of Dublin Airport which could then be served by the surface access proposals included in the Dublin Airport Local Area Plan 2006.

Brief comment on the “three questions”

11. In the first of the “three questions”, reference is made to “the use of ‘Dublin Airport’ as opposed to the combined capacity of terminals T1 and T2”.

In 2008 when the “cap” conditions were imposed, the ‘capacity of terminals T1 and T2’ was seen as synonymous with the capacity of Dublin Airport and this is seen in the Inspector’s reports; there were lengthy discussions at the Oral Hearing into 220670 and 223670 into the appropriate methodology for calculating capacity. The Inspector’s Report in 220670, at page 130 of Volume 3 said:

I consider the issue of capacity relevant mainly in the context of compliance with the policies and objectives of the LAP, in particular, whether it would undermine achieving its objectives.

CONCLUSION - RESPONDING TO THE THREE QUESTIONS:

12. It is respectfully submitted to the Board that the appropriate answers to the “three questions” should be informed by all of the points made in this submission. If the Board considers that the questions are worded in a manner appropriate to a Request for a Declaration under section 5, which seems doubtful, it is submitted that the appropriate Declarations are:

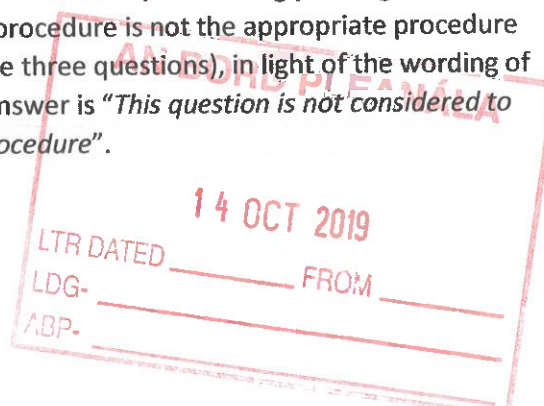
In relation to question a, the recommended Declaration/answer is “*The use is development and it is not exempted development*”, for the reasons in paragraphs 4, 5 and 6 above in particular.

In relation to question b, since many transit/connecting passengers are likely generate the need for additional staff for security, cleaning, food services, waste disposal, and as servicing these needs requires additional staff traffic movements, service providers’ traffic movements, food, drink, consumables service provider traffic movements, it is submitted the use of the airport by transit/connecting passengers should be counted in determining if the threshold figure of 32 mppa is reached. Consequently, the recommended Declaration/answer is: “*The use is development and it is not exempted development*”.

In relation to question c, while it may seem reasonable that a transit/connecting passenger should be counted singly, it appears that the section 5 request procedure is not the appropriate procedure for obtaining an answer to this question, (or to any of the three questions), in light of the wording of the “cap” conditions. The Recommended Declaration/ answer is “*This question is not considered to be a valid question for determination by the section 5 procedure*”.

Douglas Hyde, Town Planner,

on behalf of Omega Air Services, 14/10/2019





The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

17th September 2019

3

AN BORD PLEANÁLA	
LDG-	019221-19
ABP-	
17 SEP 2019	
Fee: €	110
Type:	card
Time:	11:50
By:	hand

Re: Referral under Section 5(4) of the Planning and Development Act 2000, as amended regarding a Section 5 declaration for lands at Dublin Airport.

Dear Sir/ Madam,

The following is an application to An Bord Pleanála by Fingal County Council under Section 5(4) of the Planning and Development Act 2000, as amended, seeking a referral on whether development is or is not exempted development.

The Section 5 declaration (Fingal County Register Reference FS5/036/19) relates to lands located at Dublin Airport. The applicant for this Section 5 declaration is the daa (Dublin Airport Authority).

The description of the proposed development as contained in the Application Form and to which this Declaration relates, reads as follows:

"Three questions in relation to the use by passengers of the airport in excess of 32 million passengers per annum.

(a) Is the use of the 'airport' in excess of 32 million passengers per annum (mppa) constitute 'development', if the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa and if so, is it exempt development?

(b) Is the use of the 'airport' by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa) constitute 'development' if those connecting passengers are facilitated by the separately permitted transfer facility and the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa?

(c) Currently a connecting passenger using Dublin Airport is double counted, as both an arriving and department passenger (for the purpose of aviation security measures). If a connecting passenger is counted singly for the purposes of planning, is this development, and if so, is it exempt development?"

Yours faithfully,

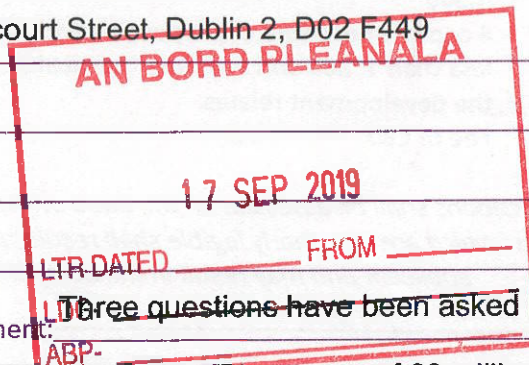
Peter Byrne



fs 5/036/19

**Application Form for Declaration Under
Section 5 of the Planning & Development Act 2000**
Declaration on Development and Exempted Development

1. Applicants' Name: daa
2. Location of Proposed Development: Dublin Airport, Co. Dublin
3. Agents' Name: Gavin Lawlor, Tom Phillips + Associates (TPA)
4. Correspondence Address: 80 Harcourt Street, Dublin 2, D02 F449
5. Description of Proposed Development: Three questions have been asked in relation to the use by passengers of the airport in excess of 32 million passengers per annum. Please refer to Section 1.2 of accompanying Planning Report Prepared by TPA for specific details.
6. Is the Proposed Development Situated in a Special Amenity Area? No
7. Is this a Protected Structure, Proposed Protected Structure or within the Curtilage of a Protected Structure? No



8. If yes to 6 above, has a Declaration Under Section 57 (works affecting character of a Protected Structure(s) or Proposed Protected Structure(s)) of the Planning & Development Act 2000 (as amended) been Requested or issued for the property by the Planning Authority?

N/A

9. Documents Submitted with this Application are as Follows: _____

Please refer to Section 1.2 of accompanying Planning Report prepared by

TPA for all documents submitted.

(See confidential Details, Page 3)

Please Note:

Documents to submit include:

- Completed application form
- 4 copies of site location map with site clearly outlined in red
- 4 copies of site plan/block plan/site layout plan, drawn to a scale of not less than 1:500
- 4 copies of drawing of proposed development, preferably drawn to a scale of not less than 1: 200 and any other particulars required to describe the works to which the development relates.
- Fee of €80

Applications shall be assessed on the basis of the drawings and plans submitted. Drawings/ Plans which are not clearly legible shall result in the referral of the application back to the applicant and may result in the delay of the processing of the application.

Send Application to:

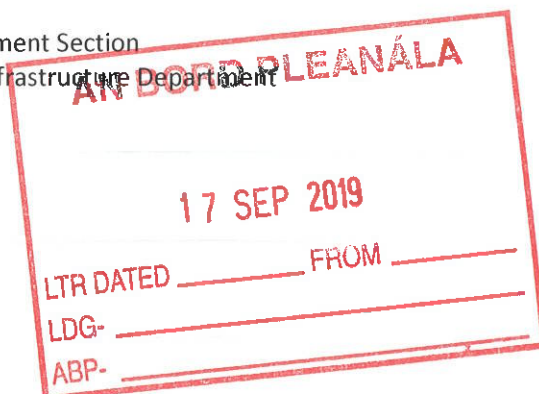
Development Management Section
Planning & Strategic
Infrastructure Department
Fingal County Council
County Hall
Swords
Co. Dublin
K67 X8Y2

For Dublin 15 Area Send to:

Development Management Section
Planning & Strategic
Infrastructure Department
Fingal County Council
Grove Road
Blanchardstown
Dublin 15
D15 W638



Development Management Section
Planning & Strategic Infrastructure Department
Fingal County Council
County Hall
Swords
Co. Dublin



3rd September, 2019
[By Hand]

Dear Sir/Madam,

RE: REQUEST FOR A DECLARATION UNDER SECTION 5 OF THE *PLANNING AND DEVELOPMENT ACTS 2000-2019* RELATING TO CONNECTING PASSENGERS, AT DUBLIN AIRPORT, CO. DUBLIN.

1.0 INTRODUCTION

1.1 Purpose of this Referral

Tom Phillips + Associates (Town Planning Consultants),¹ has been commissioned by Arup, upon the instruction of daa plc ("daa"), Old Central Terminal Building, Dublin Airport, Co. Dublin to request a Declaration under Section 5 of the *Planning and Development Act 2000-2019* ("the Acts") with respect to a number of questions concerning 'Connecting Passengers' at Dublin Airport.

1.2 The Relevant Development

daa, is seeking a declaration, from Fingal County Council regarding a question of 'development' in accordance with Section 5 of the Acts for the following questions:

- (a) Is the use of the 'airport' in excess of 32 million passengers per annum (mppa) constitute 'development', if the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa and if so, is it exempt development?
- (b) Is the use of the 'airport' by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa) constitute 'development' if those connecting passengers are facilitated by the separately permitted transfer facility and the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa?
- (c) Currently a connecting passenger using Dublin Airport is double counted, as both an arriving and departing passenger (for the purpose of aviation security measures). If a connecting passenger is counted singly for the purposes of planning, is this development, and if so, is it exempt development?

¹ 80 Harcourt Street, Dublin 2, D02 F449.



In our professional opinion, the use of the 'airport' (as opposed to the Terminal buildings) by more than 32mppa, outside of Terminals 1 and 2 is not development, as it does not constitute a material intensification of the permitted use having regard to the scope of permitted development.

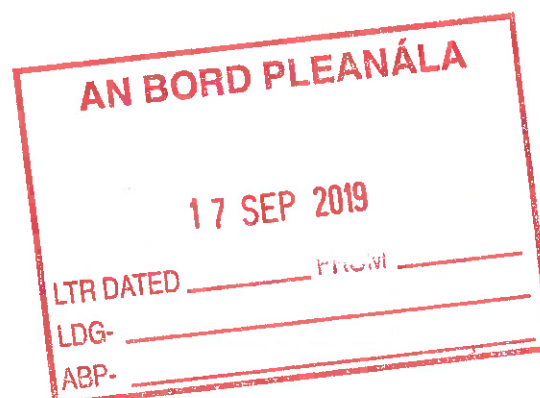
In addition, it is our professional opinion that the double counting of a connecting passenger as both an arriving and departing passenger is not development for the purpose of the Planning Acts. Such persons should be enumerated having regard to the ordinary meaning of a passenger which would be a single person travelling through the airport.

1.3 Documents Enclosed

The following documents are enclosed with this Section 5 Referral:

- A completed Fingal County Council Section 5 Application Form;
- A cheque for €80.00, representing the appropriate Statutory Fee;
- 6 No. copies of the following documents:
 - Planning Report, prepared by Tom Phillips + Associates, dated 3rd September 2019, including all relevant permissions appended as Appendix 1.
- 6 No. copies of the following drawings, prepared by ARUP.

Drawing No.	Drawing Title	Scale
T0200-01	Site Context Plan	1:10,000 at A1
T0200-02	Site Location Map, Key Plan	1:2500 @ A1
T0200-03	Site Location Map, Sheet 1 of 2	1:1000 @ A0
T0200-04	Site Location Map, Sheet 2 of 2	1:1000 @ A0





2.0 CONTEXT

We have set out the following context prior to assessing the queries raised above:

- 2.1 Airport Definitions.
- 2.2 Description of Buildings at Dublin Airport.
- 2.3 Passenger Types.
- 2.4 Historical Development at Dublin Airport.
- 2.5 An Bord Pleanála Reference PL06F.220670 (Multiple Infrastructure Permission which includes for T2).
- 2.6 An Bord Pleanála Reference PL06F.247135 (Passenger Transfer Facility Permission).
- 2.7 An Bord Pleanála (ABP) Section 146A Request Relating to PL06F.220670 (Multiple Infrastructure Permission which includes for T2).

2.1 Airport Definitions

For the purpose of clarity, Part 2 of the Planning and Development Regulations 2001-2019 (*"the Regulations"*) sets out the following definitions in respect of airports/aerodromes:

"aerodrome" means any definitive and limited area (including water) intended to be used, either wholly or in part, for or in connection with the landing or departure of aircraft;

"airport" means an area of land comprising an aerodrome and any buildings, roads and car parks connected to the aerodrome and use by the airport authority in connection with the operation thereof;

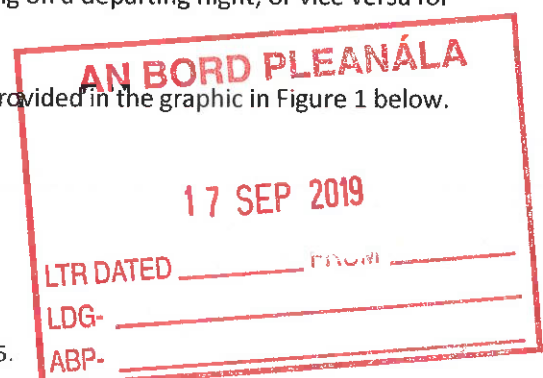
"airport operational building" means a building other than a hotel, required in connection with the movement or maintenance of aircraft, or with the embarking, disembarking, loading, discharge or transport of passengers, livestock or goods at an airport.²

2.1 Description of Buildings at Dublin Airport

An airport comprises a host of activities and buildings/structures primarily used in connection with the movement or maintenance of aircraft, or with the embarking, disembarking, loading, discharge or transport of passengers, livestock or goods. One such type of building within an airport is a terminal building. Passengers transfer from the landside (road) environment to the security-controlled airside environment prior to leaving on a departing flight, or vice versa for an arriving flight.

The different functional areas within the airport are provided in the graphic in Figure 1 below.

² *Planning and Development Regulations 2001-2019*, Part 2, Article 5.



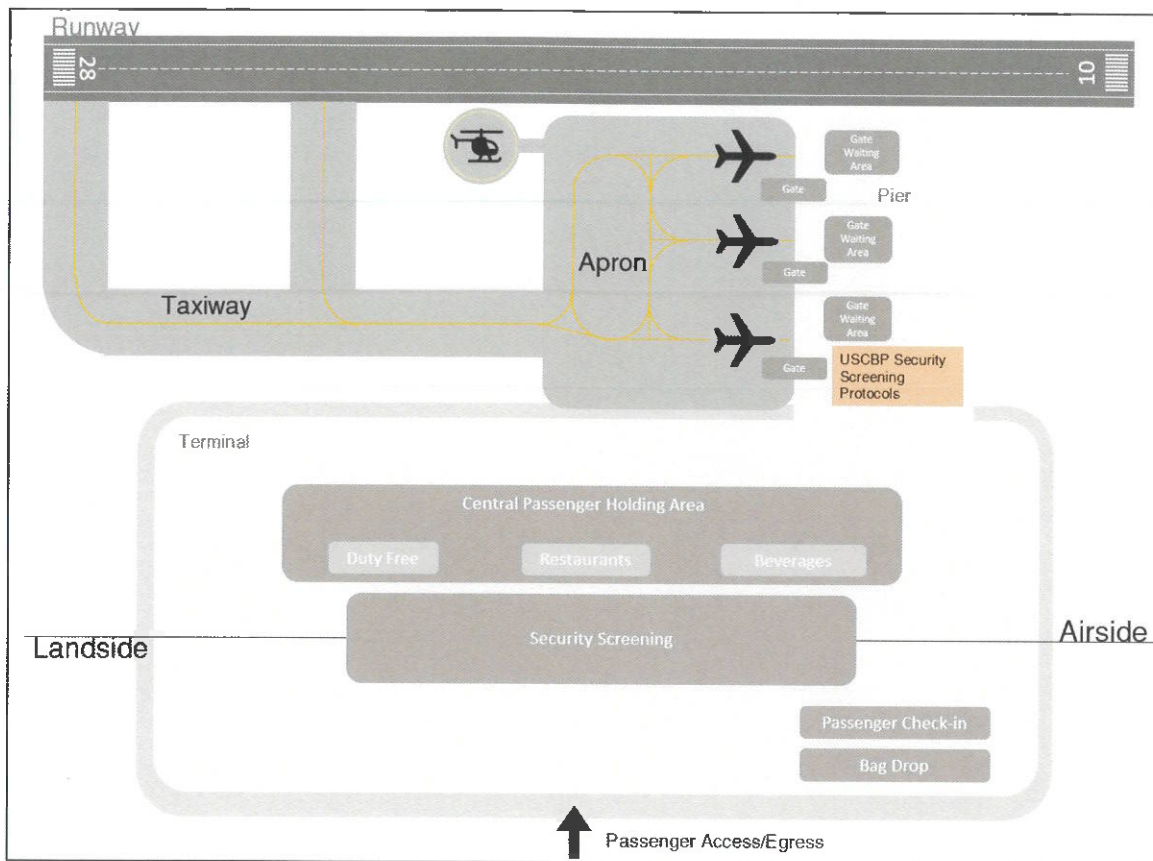
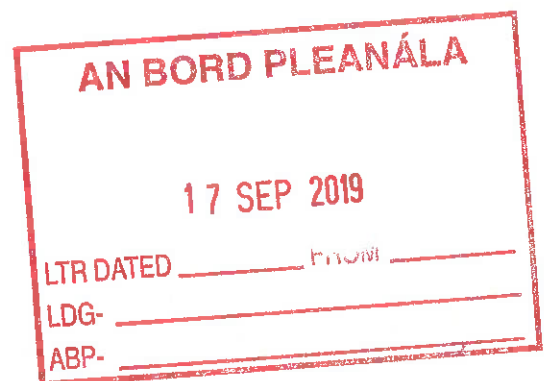


Figure 1: Functional Areas Dublin Airport



The following section provides a description of key operational buildings located at Dublin Airport. These operational buildings are illustrated in Figure 2 below.

Terminal 1 and Terminal 2 Buildings.

An airport terminal building is one to which passengers arrive typically from a landside environment to clear the necessary checks in order to progress onward to board a flight. This may also happen in reverse in the case of an arriving flight. Dublin Airport has two main terminal buildings - Terminal 1 (T1) and Terminal 2 (T2).

Pier 1, Pier 2, Pier 3 and Pier 4

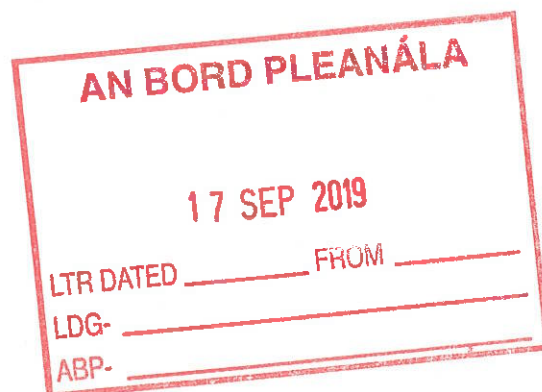
A pier building is one which incorporates departure gates and arrivals gates. Passengers typically congregate in these areas prior to embarking on, or disembarking from a flight. They are typically long narrow buildings, although earlier piers constructed at Dublin Airport (such as piers 2 and 3) were constructed in a hexagonal format. They are the key interface buildings between an aircraft and a passenger.

Dublin Airport South Gates Passenger Zone

The South Gates Passenger Zone is a remote departures and arrivals gate which provides access to and from aircraft. This is accessed via a shuttle bus service for both arriving and departing passengers.

Passenger Transfer Facility

The Passenger Transfer facility enables passengers who arrive into Dublin on an inbound flight to connect to an onward flight and complete their journey in an efficient manner. The dedicated transfer facility in Pier 4 at Dublin Airport provides immigration and boarding card checks for inbound passengers, so that once cleared they may proceed directly to their onward flight.



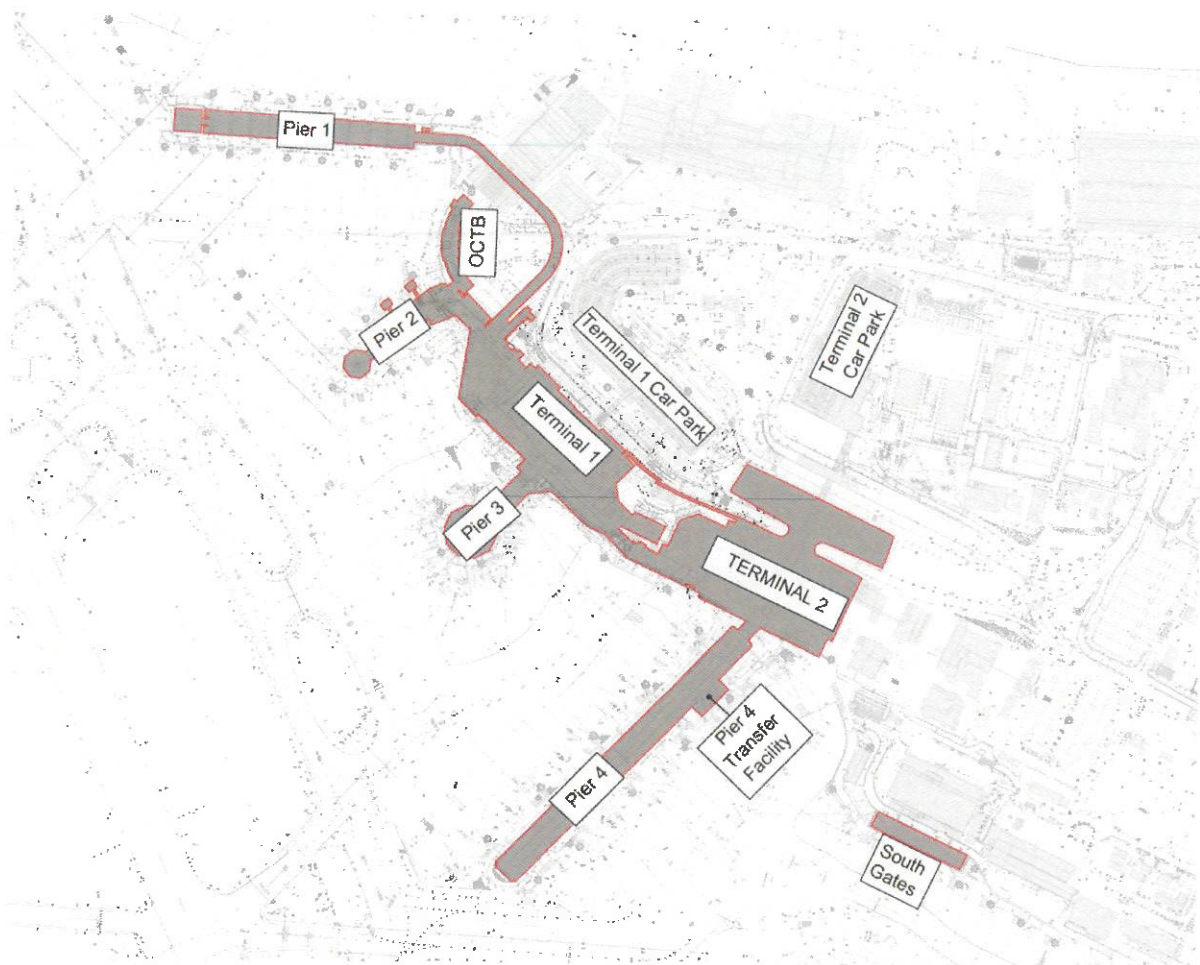


Figure 2 : Site Location

Source: Extract from Site Location Map (Drawing No: T0200-02 prepared by Arup).

AN BORD PLEANÁLA

17 SEP 2019

ENTER DATED _____ FROM _____
LDG- _____
ABP- _____

2.2 Passenger Types

There are two key types of passenger at Dublin Airport

Origin Destination (OD) Passenger

An Origin Destination (OD) passenger is one which starts or finishes their journey at Dublin Airport. They arrive at the airport having travelled on the landside (road) network to commence their aircraft journey. Equally returning passengers arrive into Dublin via an aircraft and travel home on the landside (road) network. These passengers arrive and are processed at Dublin Airports Terminal 1 or Terminal 2.

Connecting Passenger

A connecting passenger is one which arrives into Dublin Airport on an inbound flight specifically to make a direct connection to a second outbound departing flight. These passengers are known as transfer passengers. A second type of connecting passenger is a transit passenger. Transit passengers may remain on an aircraft while it makes a technical stop (such as for re-fuelling). Collectively transfer and transit passengers are known as



Connecting Passengers. These passengers remain airside for the duration of their stay at Dublin Airport and do not impact the landside road network in any way.

2.4 Historical Development at Dublin Airport

Dublin Airport has grown and developed at its present site since it first opened its doors in 1940. Much of the airport as it exists today was developed in the latter half of the last century. Until 1993 development at the airport took place following consultation with the then Minister for Local Government (Section 84 Consultation). Notably by that time, key pieces of infrastructure had already been delivered at the airport including the runway system, the Old Central Terminal Building (OCTB), T1 and what are known today as Piers 2 and 3. (Pier 1 was subsequently granted under a separate permission; ABP Planning Appeal No. PL06F.200940, and further extended in 2016 under Planning Register No. F16A/0121.)

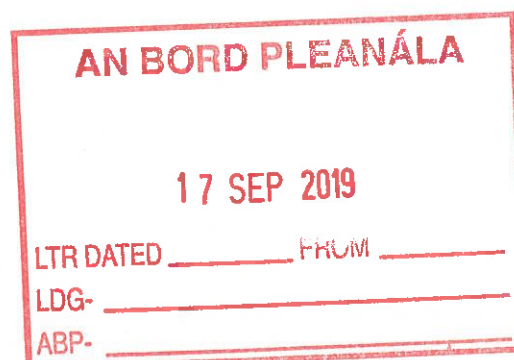
The Local Government (Planning and Development) Act 1993 confirmed that for development undertaken by the State up to that point:

*4. – (1) **Permission** under Part IV of the Principal Act **shall not be**, and shall be deemed never to have been, **required** for development carried out or commenced by or on behalf of a State authority before the commencement of this section (hereafter in this subsection referred to as “State development”):*

The airport includes a runway network, buildings and infrastructure, across which airport activities take place. The broad range of these activities are outlined in the Regulations as referenced heretofore.

It is clear from the Local Government (Planning and Development) Act 1993 that any pre-existing development (which includes use) at the airport was deemed exempt from the requirement to secure planning permission. Having regard to the above, the airport infrastructure that existed in 1993 was not restricted.

Planning permissions were subsequently sought and obtained after this time for the development of the airport. Significant permissions included developments such as the North Runway permission (Planning Appeal No. PL06F.217429), Terminal 1 Expansion (Planning Appeal Reference No. PL 06F.223469), Pier 1 (Planning Appeal Reference No. PL06F.200940) and a Multiple Infrastructure Permission which included Terminal 2 (Planning Appeal No. PL06F.220670).³



³ It is noteworthy that Piers 1-4 were re-named in 2012. Pier 1 was known as Pier D, Pier 2 was known as Pier A, Pier 3 was known as Pier B, and Pier 4 was known as Pier E. The pier known as Pier C was subsumed into the development of Terminal 2 and Pier 4 and therefore no longer exists.

Capacity restrictions only arose in subsequent applications related to the terminals, notably An Bord Pleanála Reference No.'s PL 06F.220670 and PL 06F.223469.

Condition No. 3 of PL06F.220670 states:

The combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32million passengers per annum unless otherwise authorised by a further grant of planning permission.

Reason: *Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.*

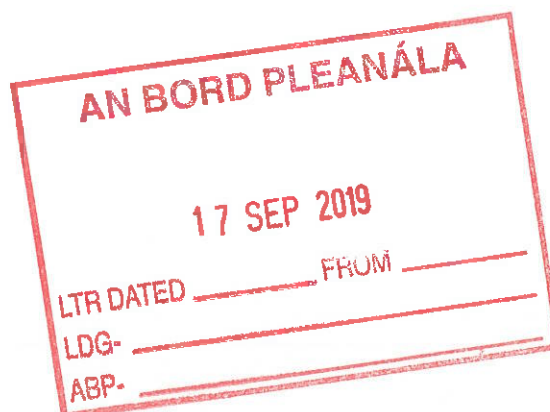
Condition No. 2 of PL06F.223469 contains a similar condition as follows:

The combined capacity of Terminal 1 (including the extension authorised by this grant of permission) and terminal 2 granted permission under planning register reference number F06A/1248 (An Bord Pleanála appeal reference number PL 06F.220670) shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission.

Reason: *Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.*

This is of note as both of these permissions include the Terminal 1 and Terminal 2 buildings only. Both of these permissions specifically constrain the Terminal 1 and Terminal 2 buildings; and do not seek to constrain other development within the airport.

It is of note that permissions granted at the airport after Planning Appeal Reference No. PL 06F.223469 do not contain capacity restrictions. Of particular note in this regard is the Passenger Transfer Facility permitted in 2016 (An Bord Pleanála Reference PL06F.247135).





2.5 An Bord Pleanála Reference PL06F.220670 (Multiple Infrastructure Permission)

In 2007 the then Dublin Airport Authority applied for the following developments under a single planning application:

- (1) *A passenger terminal (which will be built in two phases) of circa 92,049 square metres in four number interconnecting blocks ranging in height from two to four stories with an overall height of 35 metres, which partially bridges the access road to the existing passenger terminal building;*
- (2) *A three-storey Pier building with an overall height of 18 metres (circa 24,052 square metres) complete with 19 number air bridges and associated fixed links;*
- (3) *A two-storey over basement energy centre containing water storage and plant for power supply, heating and cooling systems (circa 5,049 square metres with a total height of 11 metres and a chimney stack of 38 metres);*
- (4) *External service yard;*
- (5) *Realignment of existing internal access road infrastructure and provision of new access roads, including pedestrian and cycle routes, all contained within the existing airport campus;*
- (6) *Rearrangement of the existing coach park adjacent to the north of the existing terminal building;*
- (7) *Separate car, taxi and bus set-down areas;*
- (8) *Associated services connections, site development and landscaping works, including a feature access area;*
- (9) *Refurbishment of the existing Pier C; and*
- (10) *Demolition of the following – Corballis House (a two-storey protected structure with an area of circa 482 square metres), a single storey storage building (circa 1,295 square metres), three number single and two-storey car hire buildings (circa 280 square metres, 690 square metres and 1,925 square metres), a single storey boiler house building (circa 373 square metres), a mainly single storey hangar building (circa 2,165 square metres) and fixed links to Pier C (circa 380 square metres), all on an application site of circa 32,646 hectares.*

The Environmental Impact Statement (EIS) submitted with the application outlines the components included within the proposed terminal building, and within the pier then known as Pier E (known today as Pier 4):

Phase 1 construction includes:

- *Terminal 2 encompasses the arrivals and departures forecourts, the Check In Hall, linkbridge, and Arrivals and Departures Areas. This will incorporate check in facilities; retail outlets including duty free; catering facilities; arrivals waiting area; departures lounge, toilet facilities; transfer corridor from the existing terminal; security, Garda Immigration, Customs, and Department of Agricultural*

AN BORD PLEANALA
17 SEP 2010
LTR DATED _____ FROM _____
LDG- _____
ABP



and Food checking and screening areas; baggage handling and reclaim; building mechanical and electrical support areas and plant including the Central Plant Building; and staff facilities and areas to support the terminal functions.

- Pier E incorporates departure gates and waiting areas; arrivals gates and corridor; immigration facilities for passengers departing to the United States of America; and staff facilities and areas to support the pier functions.⁴

All of the elements listed in the application, save for the Phase 2 element of the Terminal 2 building are permitted. ABP issued a split decision in respect of the development outlined as follows:

GRANT permission for Phase 1 of the passenger terminal and all other elements of the proposed development in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. **REFUSE** permission for Phase 2 of the passenger terminal based on the reasons and considerations marked (2) under. Emphasis Added.

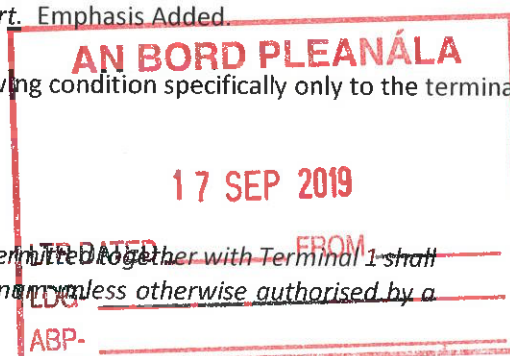
REASONS AND CONSIDERATIONS (2)

The proposed development of Phase 2 of the terminal building would be premature pending the determination by the road authority of the detailed road network to serve the area and the commitment by the planning authority to design and fund all the external transport elements detailed in the Environmental Impact Statement to facilitate Phase 2. In these circumstances, to expand further the terminal capacity at this location would contravene the objectives EA2, EA3 and TP10 of the Dublin Airport Local Area Plan which seek to provide balanced road infrastructure to manage traffic and to cater for the comprehensive development of the airport. Emphasis Added.

In so doing, An Bord Pleanála applied the following condition specifically only to the terminal buildings:

Capacity

3. The combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission.



Reason: Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.

It is clear in the **Reasons and Considerations (2)** that the Board's primary concern in making the decision to refuse permission for Phase 2 related to transportation capacity constraints and in particular the uncertainty around the delivery of external transport infrastructure considered in the EIS. The transport impacts that were predicted to arise on foot of the

⁴ Dublin Airport – Terminal 2, Environmental Impact Statement (August 2006), Non-Technical Summary, p.3.



development as proposed were based on the planned 35mppa. The Inspector confirms this in her assessment:

As the ultimate capacity specified in the EIS is 35mppa the impact of the proposed development has only been examined up to 35mppa. Therefore any exceedance of 35mppa, would constitute material intensification and would require further planning permission and associated assessment of its impacts.⁵

It is clear that the Environmental Impact Assessment undertaken by the Board assessed the environmental impact of 35 mppa and sought to reduce only the terminals component of the permission through the imposition of Condition 3.

In her consideration of capacity at Dublin Airport, the inspector noted the following:

It was also stated that the terminal capacity was related to processing of passengers prior to departure. As such, increases in pier capacity (such as a new Pier D) did not lead to an increase in terminal capacity. Emphasis Added.

During the hearing (and responding to the inspector's questions) the planning authority explained that environmental constraints or the capacity of the roads did not play a role in determining the 30mppa figure referred to in the LAP. Their overall vision was to ensure the airport realised its 'full potential' and the development moved into western campus following reaching capacity in the eastern campus. The reference in the LAP to 30mppa was an approximate figure, and there was no cap in the objectives⁶ Emphasis Added.

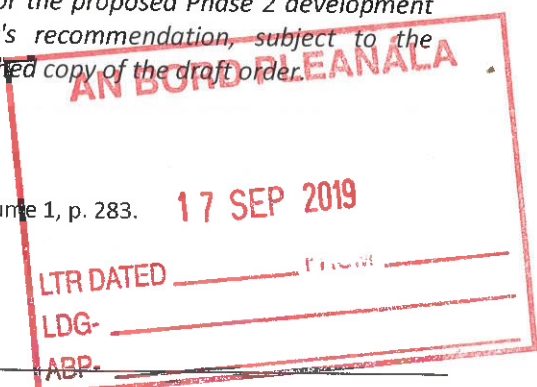
Notwithstanding the remaining multiple developments granted under the planning permission, or the wider operations at the airport, the scope of Condition no. 3 is limited to the capacity of the Terminal 1 and Terminal 2 buildings respectively. No such restriction was placed on the pier element for example, which was proposed and assessed at 35mppa in line with all other elements of the development as listed in the development description for EIA purposes. Clearly this is related to the fact that the terminals control the OD passengers accessing the airport.

As outlined, Condition no. 3 is limited to the terminals only and operations up to 35mppa have been fully assessed. An Bord Pleanála furthermore considered the development in conjunction with the permission which was granted for the new North Runway (10L/28R) and considered the cumulative impacts of the two developments:

The submissions on this file and the Inspector's report were further considered in conjunction with the file on 06F.217429 (New Runway 10L/28R) at a Board meeting held on 23rd August 2007. The Board decided, unanimously, to make a split decision in this case i.e. to grant permission for the proposed Phase1 Terminal Building and all associated facilities and to refuse permission for the proposed Phase 2 development generally in accordance with the Inspector's recommendation, subject to the amendments shown in manuscript on the attached copy of the draft order.

⁵ An Bord Pleanála Reference PL06F.220670, Inspectors Report; Volume 1, p. 283.

⁶ Ibid, p.132.



Note: The Board considered both this application and the application for the new parallel runway together and took account of the cumulative impacts of the proposed developments.⁷

2.6 An Bord Pleanála Reference PL06F.247135 (Passenger Transfer Facility)

The Department of Transport, Tourism and Sport adopted 'A National Aviation Policy for Ireland' in 2015 which states that Dublin Airport will be promoted as a secondary hub airport. Since the adoption of the policy, connecting passengers at Dublin Airport have grown from being negligible to 6.6% of total traffic or 2.1m passengers in 2018. A key part of this growth has been the development of the Passenger Transfer Facility. Permission was granted in December 2016 for the development of the airside Passenger Transfer Facility, comprising a three-storey extension on the south eastern elevation of Pier 4. See Figure 2.

In deciding to grant planning permission for the transfer facility, An Bord Pleanála confirmed, in its Order, that the transfer facility would not negatively impact the existing Terminal operation:

REASONS AND CONSIDERATIONS

Having regard to the provisions of the Fingal Development Plan 2011-2017, it is considered that, subject to compliance with the conditions set out below, that the proposed development would not negatively impact on the design, amenity or operation of the existing Terminal and therefore would accord with the proper planning and sustainable development of the area.⁸ (Emphasis added).

The transfer facility was specifically permitted and developed to provide for the transfer market at Dublin Airport. No restriction was placed on the operation in the transfer facility although it is envisaged that initially Dublin Airport would operate the facility up to 3mppa transfer passengers in line with the 35mppa assessment initially in the multiple infrastructure assessment and permission which included Terminal 2. This is due to the fact that both the EIS and subsequent EIA were undertaken on a 35mppa airport and it was solely the terminal element of that capacity which was restricted. No such restriction was placed on the airport more generally. The transfer facility was furthermore assessed, permitted, constructed and became operational in 2018.

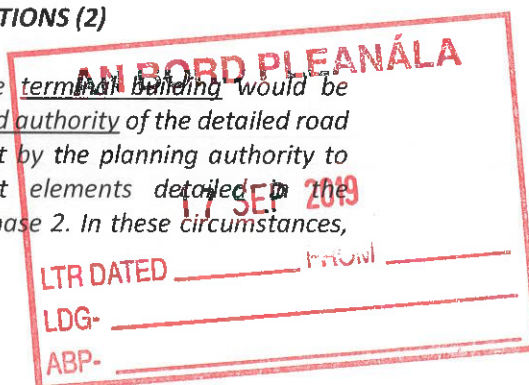
It is not considered reasonable that a condition placed on the earlier permission (PL 06.220670) could now be construed as applying to a subsequently permitted transfer facility. The transfer facility did not seek to change the permitted capacity of the terminal buildings at the Airport. An examination of the reasons for Condition No. 3 of PL 06.220670 highlights why it could not be applicable to the passenger transfer facility. The reasons for the capacity restrictions are outlined in the Board's decision as follows:

REASONS AND CONSIDERATIONS (2)

The proposed development of Phase 2 of the terminal building would be premature pending the determination by the road authority of the detailed road network to serve the area and the commitment by the planning authority to design and fund all the external transport elements detailed in the Environmental Impact Statement to facilitate Phase 2. In these circumstances,

⁷ ABP Reference PL06F. 220670/Board Direction No. 4.

⁸ ABP Planning Appeal Order No. PL 06F.247135.





to expand further the terminal capacity at this location would contravene the objectives EA2, EA3 and TP10 of the Dublin Airport Local Area Plan which seek to provide balanced road infrastructure to manage traffic and to cater for the comprehensive development of the airport. Emphasis Added.

Capacity

3. *The combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission.*

Reason: *Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.*

Reasons and Considerations

As highlighted above, the Board highlights in its Reasons and Considerations paragraph that it is Phase 2 of the terminal 'building' which is not permitted pending a determination by the road authority of the detailed road network to serve the area. The Board's wording goes on to state 'in these circumstances ...' making it clear that any subsequent reference to the Local Area Plan (LAP) was on foot of this consideration.

The specific objectives of the LAP to which the Board refers include EA2, EA3 and TP10. These are dealt with below.

External Access Objectives

EA2 *To implement a programme of road development on the external road network to ensure that a balanced response to the expansion of Dublin Airport occurs.*

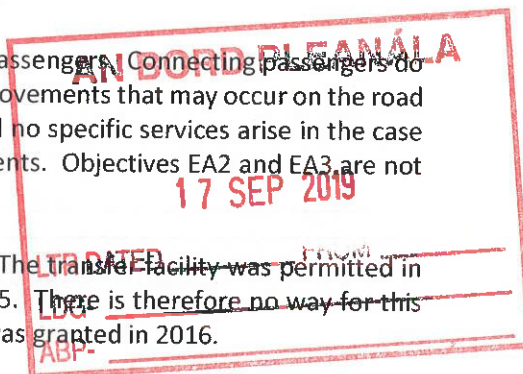
EA3 *To ensure that the road infrastructure has the capacity to better arrange traffic in the vicinity of Dublin Airport and to cater for the estimated growth in traffic into the future.*

Terminal and Piers Objectives

TP 10 *To reserve lands to the west of the north-south runway 16/34, between the two parallel runways for the future expansion of the airport to the full potential of the twin parallel runway system, and to define a development box in which the appropriate terminal, pier and apron facilities can be provided.*

The first two objectives are not relevant to connecting passengers. Connecting passengers do not impact the road network in any way. Any logistics movements that may occur on the road network occur as a result of scheduled OD services, and no specific services arise in the case of connecting flights which would add to those movements. Objectives EA2 and EA3 are not therefore relevant to transfer passengers.

Objective TP10 could not apply to the transfer facility. The transfer facility was permitted in 2016 whereas the LAP expired the previous year in 2015. There is therefore no way for this lapsed Objective to pertain to the transfer facility that was granted in 2016.





It is therefore clear upon examination of the reasons and considerations given by An Bord Pleanála for both the decision and subsequent limit on capacity within the terminals, that they are primarily motivated by transport concerns, and a desire to have a 'balanced' airport both east and west of runway 16/34. Notwithstanding that connecting passengers do not generate impacts on the road network that would necessitate such a condition, the transfer facility was subsequently permitted on the existing campus (east of runway 16/34) and therefore whilst the LAP has expired; such conditions have in any event been superseded by the subsequent grant of permission by An Bord Pleanála for the transfer facility.

2.7 An Bord Pleanála (ABP) Section 146A Relating to PL06F.220670

A request was made by daa, to An Bord Pleanála under Section 146A of the Acts to amend Condition 3 of PL06F.220670 (Terminal 2 Permission) in 2018.⁹ The daa sought an amendment by way of insertion as follows (proposed insertion highlighted in bold):

*'The combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million **origin-destination** passengers per annum unless otherwise authorised by a further grant of planning permission.'*

In responding to this request the Board's Inspector noted of the original assessment:

I would therefore consider it reasonable to infer that the proposal and capacity was assessed primarily in terms of origin-destination passenger numbers and that the extent of transfer passenger numbers was not envisaged or accounted for.¹⁰

The inspector appears to have overlooked that development permitted subsequent to this permission (Transfer Facility) did make provision for such transfer passengers and confirmed that it would not negatively impact the operation of the existing Terminal:

Having regard to the provisions of the Fingal Development Plan 2011-2017, it is considered that, subject to compliance with the conditions set out below, that the proposed development would not negatively impact on the design, amenity or operation of the existing Terminal and therefore would accord with the proper planning and sustainable development of the area.

The Board declined daa's request to amend Condition 3 on the basis that:

- the amendment as proposed to condition 3 entails an amendment which would not have been contemplated and provided for in the permission, therefore subsection (1)(a)(ii) is not applicable;
- it would not facilitate the operation of the permission in that the terminal has been constructed and is operating, therefore subsection (1)(a)(iii) is not applicable; and
- the amendment as proposed would materially alter the terms of the development as permitted and is therefore precluded by subsection (2).

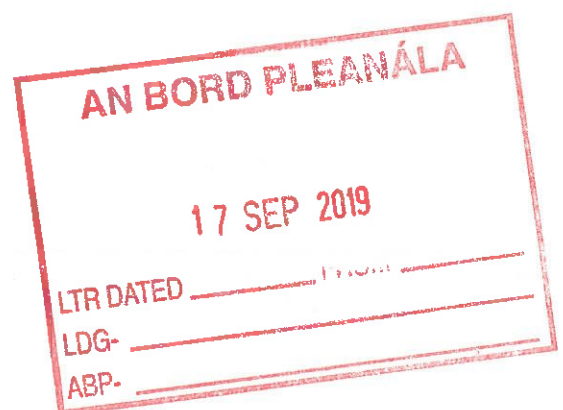
This earlier submission to the Board is highlighted for the purposes of clarity. The Section 146A request sought to confirm that 32mppa related only to OD passengers. The Board

⁹ Section 146 (A) Request in respect of PL06F.220670, daa, 2018.

¹⁰ An Bord Pleanála Reference No. PL06F.220670 (Section 146A), Inspectors Report, p.6



declined to make such an amendment. This present Section 5 Request considers the status of passengers where the capacity of T1 and T2 does not exceed 32mppa, specifically in relation to transfer passengers that may not use the terminal buildings. It seeks confirmation on the geographic scope of the condition, rather than the make-up of 32mppa which has been clarified.





3 LEGISLATIVE PROVISIONS AND ASSESSMENT

3.1 Introduction

This section sets out the provisions of the Acts as they apply in the context of this Section 5 request.

3.2 Legislative Context

3.2.1 Relevant Definitions

Section 3(1) of the Acts sets out that,

"Development"

"development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

Works is defined in Section 2(1) of the Acts as follows:

"Works"

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure."

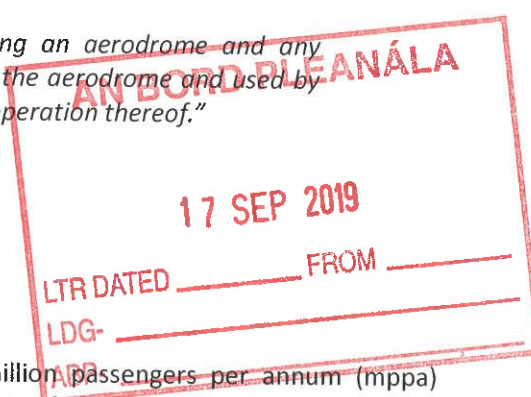
Airport is defined under Article 5(1) of the Regulations as follows:

"airport" means an area of land comprising an aerodrome and any buildings, roads and car parks connected to the aerodrome and used by the airport authority in connection with the operation thereof."

3.3 Assessment of the Questions

The three questions being asked are as follows:

- (a) Is the use of the 'airport' in excess of 32 million passengers per annum (mppa) constitute 'development', if the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa and if so, is it exempt development?
- (b) Is the use of the 'airport' by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa) constitute 'development' if those connecting passengers are facilitated by the separately permitted transfer facility and the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa?





- (c) Currently a connecting passenger using Dublin Airport is double counted, as both an arriving and departing passenger (for the purpose of aviation security measures). If a connecting passenger is counted singly for the purposes of planning, is this development, and if so, is it exempt development?

It is clearly evident, from the queries above, none involve the carrying out of work. Airport operations do however occur outside these terminals, broadly in line with the descriptions of aerodrome, airport, and airport operational buildings outlined in Section 2.1 of this submission.

As such the key test is whether or not the activity envisaged in each question would constitute a material change in the use of a structure or land.

In order for the proposed development to comprise a 'material change in use', there are two conditions to be satisfied. Firstly, there must be an actual change in use (the *change*, rather than the *use*, being the act of development); and secondly the change must be *material*.

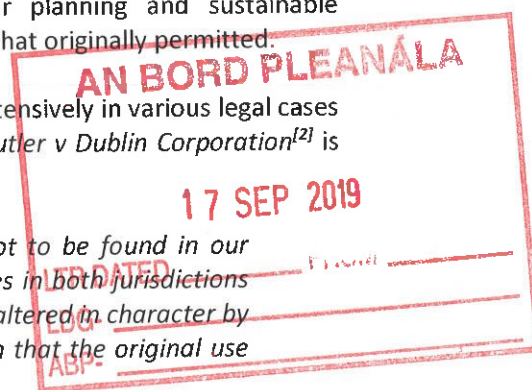
There is no new or changed use associated with this query. All queries relate to permitted development (and the processing of both Origin Destination and Connecting passengers). The question that then must be examined is if the nature of the use proposed would result in a material intensification of use. The development up to 35mppa has already been assessed:

As the ultimate capacity specified in the EIS is 35mppa the impact of the proposed development has only been examined up to 35mppa. Therefore any exceedance of 35mppa, would constitute material intensification and would require further planning permission and associated assessment of its impacts.¹¹

In determining whether an 'intensification of use' would occur, the question of degree is important. Intensification *per se* is not necessarily a 'material change in use'; it must be established that the intensification will affect the proper planning and sustainable development of the area in a material fashion over and above that originally permitted.

'Intensification of use' is a concept that has been dealt with extensively in various legal cases over the last number of years. The judgment of Keane J. in *Butler v Dublin Corporation*^[2] is particularly instructive. It determined the following:

"Although the expression 'intensification of use' is not to be found in our planning code or its English equivalent, the legislatures in both jurisdictions must have envisaged that a particular use could be so altered in character by the volume of activities or operations being carried on that the original use must be regarded as having been materially changed."



It is clear that the volume of activities being carried on is consistent with both the multiple infrastructure permission (PL06F.220670 refers) and also the transfer facility permission (PL06F.247135). There is no alteration in character to these activities such that the original use could be regarded as having materially changed.

¹¹ An Bord Pleanála Reference No. PL06F.220670, Inspectors Report, Volume 1, (Inspectors 'findings'), p.141

^[2] [1999] 1 I.R. 565; [1999] 1 I.L.R.M. 481.



- a) *Is the use of the 'airport' in excess of 32 million passengers per annum (mppa) constitute 'development', if the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa and if so, is it exempt development?*

As no works are involved, the key question that must be asked in order to determine materiality is what is the permitted development.

Passenger operations are permitted within the terminal buildings up to a combined capacity of 32mppa. The decision of An Bord Pleanála in the case of it's recent response on daa's Section 146(A) request confirms that this applies to any type of passenger within the terminal building. It has been established that passenger operations take place within the airport in a much wider context than just the terminal buildings. Such other passenger areas are clearly envisaged under the Planning Acts, for example as was set out in the Seventh Schedule of the Act:

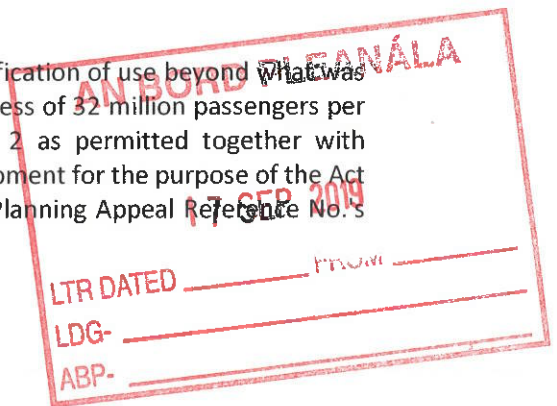
An airport (with not less than 2 million instances of passenger use per annum) or any runway, taxiway, pier, car park, terminal or other facility or installation related to it (whether as regards passenger traffic or cargo traffic).¹²

The question of whether passenger operations beyond the terminal buildings, notably connecting passengers (i.e. transfer and transit) constitutes a material intensification of use over that permitted in Condition No. 3 of PL06F.220670 must be determined. It is not considered that such passengers constitute development for the purpose of this condition. In the first instance, the Inspector has clearly noted that 35mppa was envisaged and assessed as part of Planning Appeal Reference PL06F.220670:

As the ultimate capacity specified in the EIS is 35mppa the impact of the proposed development has only been examined up to 35mppa. Therefore any exceedance of 35mppa, would constitute material intensification and would require further planning permission and associated assessment of its impacts.¹³

The permission granted ultimately constrained only the terminal capacity, but not the wider passenger capacity of 35mppa. Furthermore in 2016 An Bord Pleanála expressly granted permission for a transfer facility (Planning Appeal Reference No. PL06F.247135). There is no limit on capacity within the transfer permission; however it is envisaged that it would operate up to a maximum of 3mppa in line with the 35mppa assessment contained in Planning Appeal Reference No. PL06F.220670.

It is therefore clear that there is no change of use, or intensification of use beyond what was envisaged in either permission. The use of the airport in excess of 32 million passengers per annum (mppa) when the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32mppa is therefore not development for the purpose of the Act having regard to the planning consents issued for both Planning Appeal Reference No.s PL06F.220670 and PL06F.247135.



¹² *Planning and Development (Strategic Infrastructure) Act, 2006, Seventh Schedule.*

¹³ An Bord Pleanála Reference PL06F.220670, Inspectors Report; Volume 1, p. 283.



- b) Is the use of the 'airport' by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa) constitute 'development' if those connecting passengers are facilitated by the separately permitted transfer facility and the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32mppa?**

As no works are involved, the key question that must be asked in order to determine materiality is what is the permitted development. If the proposed activity falls within the scope of what is permitted then it cannot be a material change in use and therefore would not be development.

As noted above, it is clear that passenger activity takes place at Dublin Airport outside of Terminals 1 and 2. The question arises as to what extent these operations are permitted. As noted in previous sections, key reference points to these activities include the Local Government Act 1993, An Bord Pleanála Reference PL06F.220670 (multiple infrastructure development) and An Bord Pleanála Reference PL06F.247135 (Passenger Transfer Facility).

An Bord Pleanála Reference PL06F.220670 permitted both T2 and Pier 4 amongst other items and contained an EIS for passenger activity up to 35 million passengers per annum. Whilst capacity of the terminals was limited to 32mppa by way of Condition 3, there is no limit on passengers within the airport more generally up to 35mppa. This is consistent with the Inspectors finding that *'any exceedance of 35mppa, would constitute material intensification and would require further planning permission and associated assessment of its impacts.'*¹⁴ The limit imposed is applied to the capacity of the terminal buildings. No such restriction was placed on the airport more generally.

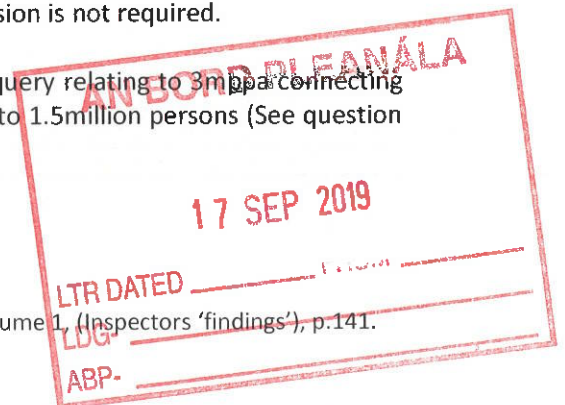
The Passenger Transfer Facility was furthermore specifically permitted and developed to provide capacity for the transfer market at Dublin Airport. This permission exists in addition to the earlier permission.

In addition to the above, it is worth noting that Condition 3 of the Terminal 2 permission also notes that the capacity of T1 and T2 is limited to 32mppa *'unless otherwise authorised by a further grant of planning permission'*. Even if it were now to be construed that Condition 3 of PL06F.220670 applies to the transfer facility (which was not in existence at the time the condition was imposed and could not have been envisaged); it has in fact been superseded by the granting of permission for the Passenger Transfer Facility. The application as applied for was clear that the transfer facility was proposed specifically to cater for such passengers, and not capacity within the terminal buildings. As noted above, this facility was granted without restriction.

Having regard to the above, it is clear, that use of the airport by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa), outside of the Terminals 1 and 2 buildings, is not a material change and is within the scope of the permitted developments at the airport. Therefore, planning permission is not required.

It is noteworthy, that for an abundance of caution, this query relating to 3mppa connecting passengers is submitted on the premise that this relates to 1.5million persons (See question 3 below).

¹⁴ An Bord Pleanála Reference No. PL06F.220670, Inspectors Report, Volume 1, (Inspectors 'findings'), p.141.





- (c) *Currently a connecting passenger using Dublin Airport is double counted, as both an arriving and departing passenger (for the purpose of aviation security measures). If a connecting passenger is counted singly for the purposes of planning, is this development, and if so, is it exempt development?*

No works are involved with this query.

No change of use, material or otherwise is involved with this query.

The manner in which passenger numbers are enumerated at Dublin Airport is a manner of international convention and is required to ensure proper and full accounting of all persons for the purpose of security checks and aircraft manifests.

In this regard, one person who flies into Dublin Airport and connects to a second outbound flight is classed as 'two passengers'. In the ordinary course of events, a single person would be equivalent to a single passenger, however in aviation terms a person which transfers at an airport is counted as two passengers (i.e. an arriving passenger and a departing passenger) in line with aircraft manifests for travel.

A total of 31.5m persons were facilitated through Dublin Airport in 2018. Of these, just 29.4m were processed through Terminal 1 and Terminal 2. Notwithstanding that any passengers using the airport over 29.4m (i.e. connecting passengers) would not come within the scope of Condition No. 3 of PL06F.220670, it is necessary to understand how the planning authority considers the mandatory security related double-count of transfer persons at Dublin Airport in planning terms.

The number of transfer passengers at Dublin Airport was 1.8m for 2018. This equates to 0.9m persons transferring at Dublin Airport. These 0.9m passengers are enumerated as both an arriving and a departing passenger under the international enumeration convention. They are effectively double counted.

Dublin Airport 2018	
Total Dublin Airport Person Count	31.5m
Origin-Destination Passengers Passengers who either originate in Dublin, or who's final destination is Dublin (i.e. they use the road network to travel to/from Dublin Airport Terminals)	29.4m
Connecting Passengers	
Transfer Passengers 1 Person Travelling = 2 Transfer Passengers	1.8m
Transfer Persons	0.9m
Transit Passengers These passengers transit through Dublin while their aircraft makes a technical stop. Such passengers are counted only once.	0.3m





In the event that Dublin Airport were to reach 32.9mppa, and 0.9m were to arise solely as a result of the second count of persons transferring at Dublin Airport is this development for the purpose of the Acts?

As no works are involved in this query, a material change of use would have to take place in order for development to occur. This query arises only because of a discrepancy in how persons are counted for the purpose of aviation versus the ordinary meaning of a passenger which would be one person. The question of change of use does not occur as the passenger activity is permitted and unrestricted. The question therefore only arises in the case of 'intensification' of use. No intensification can occur due to enumeration purposes. Such passengers are counted on arrival; no additional impact can arise as a result of their departure. If passenger numbers were to exceed 32mppa solely as a result of a double count of transfer passengers, it is considered that this is de minimis having regard to a counting requirement.

In the event that Dublin Airport exceeds 32mppa arising solely as a result of mandatory double-count of persons transferring at Dublin Airport; no development occurs. No change of use, material or otherwise can occur as a result solely of an immaterial deviation to Condition No. 3 of PL06F.220670 arising from the double counting of persons transferring at Dublin Airport.

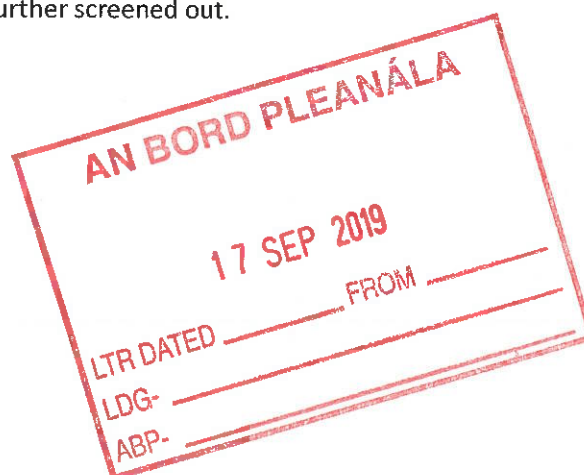
Due to the uncertainty surrounding this issue, Dublin Airport has taken a cautious approach in seeking a Section 5 declaration for transfer passengers in (b) above. The 3mppa passengers in b above includes the double-count and relates to 1.5m persons for an abundance of caution.

Therefore, passenger numbers arising solely as a result of double-counting transfer persons as both an arriving and departing passenger is not development for the purpose of the Act.

4 ENVIRONMENTAL IMPACT ASSESSMENT, APPROPRIATE ASSESSMENT AND CUMULATIVE IMPACTS ASSESSMENT

Given that none of these queries involve development, there is no requirement to consider the need for an environmental impact assessment, appropriate assessment or cumulative impact assessment with regard to EIA or AA screening.

Notwithstanding this, 35mppa has previously been assessed in conjunction with the North Runway (Planning Appeal Reference No. PL06F.217429). Furthermore, when the transfer facility was granted, both EIA and AA were further screened out.





5 CONCLUSION

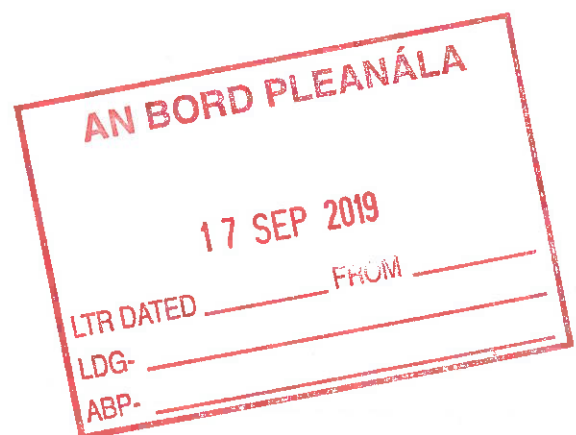
Having regard to the above and taking into account the provisions of the Acts it is submitted that:

- a) the use of the 'airport' in excess of 32 million passengers per annum (mppa) constitute 'development', if the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa is not development; and
- b) the use of the 'airport' by up to 3 million connecting passengers in excess of 32 million passengers per annum (mppa) is not development if those connecting passengers are facilitated by the separately permitted transfer facility and the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32mppa; and
- c) when a connecting passenger is counted singly for the purposes of planning this is not development.

We look forward to a positive Declaration on this case from Fingal County Council in the near future.

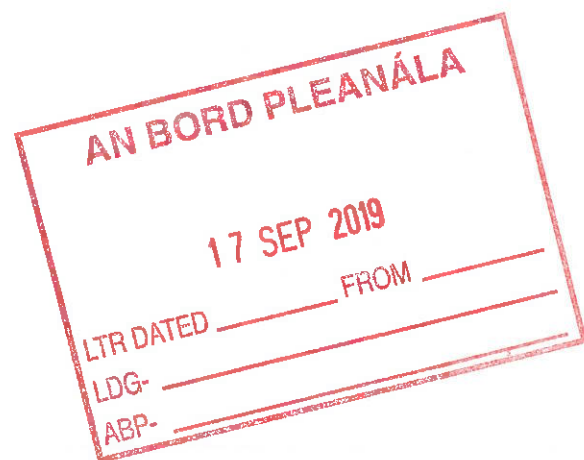
Yours sincerely

Gavin Lawlor
Director
Tom Phillips + Associates

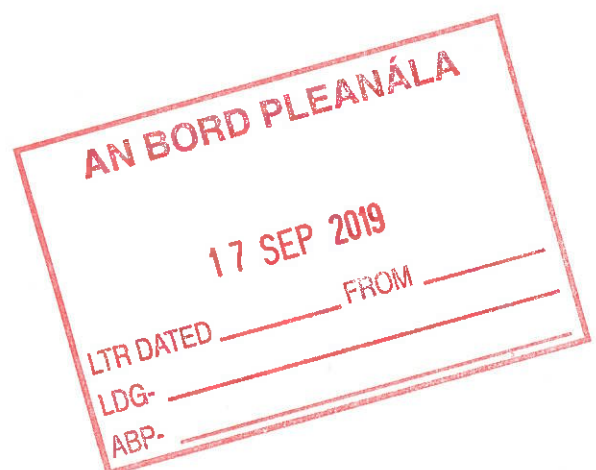




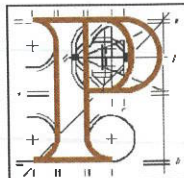
Appendix 1: Copies of the Relevant Planning Permissions referred to in this Section 5 Request.



An Bord Pleanála Reference PL06F.220670 (Multiple Infrastructure Permission which includes for T2)	Page 2
An Bord Pleanála Reference PL 06F.223469 (Terminal 1 Expansion)	Page 17
An Bord Pleanála Reference PL06F.200940 (Pier 1)	Page 22
Fingal County Council Reference F16A/0121 (Pier 1 Extension, Pre-Boarding Zone)	Page 26
An Bord Pleanála Reference PL06F.247135 (Passenger Transfer Facility)	Page 35
An Bord Pleanála Section 146A Request Relating to PL06F.220670 (Multiple Infrastructure Permission which includes for T2)	Page 38



An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2006

Fingal County

Planning Register Reference Number: F06A/1248

An Bord Pleanála Reference Number: PL 06F.220670

APPEAL by Angela Lawton of 14 Tailte na Coille, Portmearnóg, Contae Átha Cliath and by the Dublin Airport Authority plc care of Tíros Resources of Armitage House, 10 Hatch Street Lower, Dublin and by others against the decision made on the 25th day of October, 2006 by Fingal County Council to grant subject to conditions a permission to the said Dublin Airport Authority plc for development comprising a 10 year planning permission for development at Dublin Airport, east of the existing terminal building adjoining Pier C. The development will consist of the construction of (1) a passenger terminal (which will be built in two phases) of circa 92,049 square metres in four number interconnecting blocks ranging in height from two to four stories with an overall height of 35 metres, which partially bridges the access road to the existing passenger terminal building; (2) a three-storey Pier building with an overall height of 18 metres (circa 24,052 square metres) complete with 19 number air bridges and associated fixed links; (3) a two-storey over basement energy centre containing water storage and plant for power supply, heating and cooling systems (circa 5,049 square metres with a total height of 11 metres and a chimney stack of 38 metres); (4) external service yard; (5) realignment of existing internal access road infrastructure and provision of new access roads, including pedestrian and cycle routes, all contained within the existing airport campus; (6) Rearrangement of the existing coach park adjacent to the north of the existing terminal building; (7) separate car, taxi and bus set-down areas; (8) associated services connections, site development and landscaping works, including a feature access area; (9) refurbishment of the existing Pier C; and (10) demolition of the following – Corballis House (a two-storey protected structure with an area of circa 482 square metres), a single storey storage building (circa 1,295 square metres), three number single and two-storey car hire buildings (circa 280 square metres, 690 square metres and 1,925 square metres), a single storey boiler house building (circa 373 square metres), single and two-storey Dublin Airport Authority maintenance offices (circa 1,290 square metres), a mainly single storey hangar building (circa 2,165 square metres) and fixed links to Pier C (circa 380 square metres), all on an application site of circa 32,646 hectares.

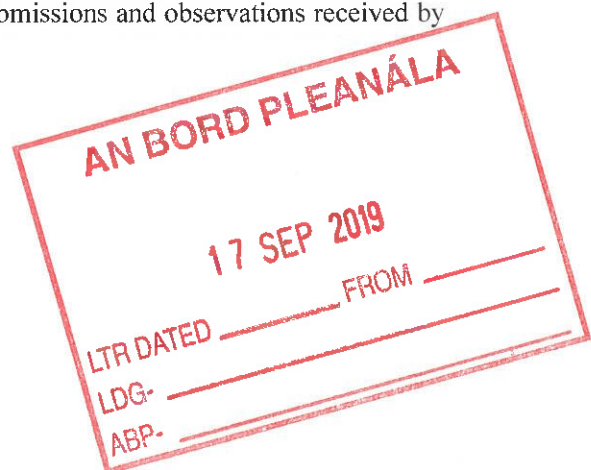
The following will be included within the passenger terminal and pier – check-in areas including 58 number manned desks and 24 number self-service facilities, passenger services and associated terminal support facilities, departure lounge, baggage processing hall, baggage reclaim area, circa 5,813 square metres of retail (circa 840 square metres landside, circa 4,973 square metres airside) circa 2,730 square metres of catering facilities (circa 643 square metres landside, circa 2,087 square metres airside); two number public houses totalling circa 1,278 square metres (one number landside of circa 491 square metres, one number airside of circa 787 square metres); airline security, immigration and customs offices (circa 4,625 square metres airside); links to a future multi-storey car park and the existing passenger terminal; security check-in and arrival areas, associated plant, circulation and toilet space, all in the townlands of Collinstown, Rock and Corballis, Barony of Coolock, County Dublin in accordance with the plans and particulars lodged with the said Council.

DECISION

GRANT permission for Phase 1 of the passenger terminal and all other elements of the proposed development in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for Phase 2 of the passenger terminal based on the reasons and considerations marked (2) under.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



REASONS AND CONSIDERATIONS (1)

Having regard to National Policy as set out in -

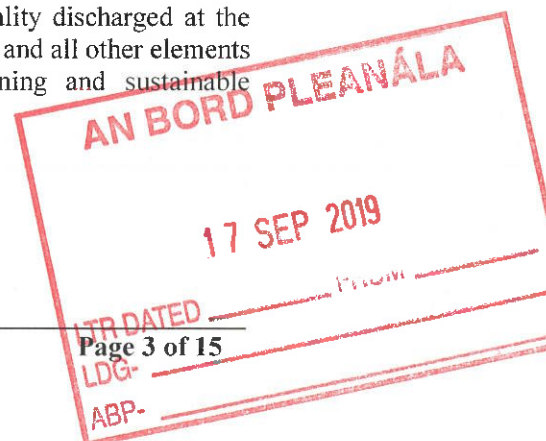
- (a) The National Development Plan (2007 to 2011),
- (b) The National Spatial Strategy (2002 to 2020), and
- (c) Transport 21 (2006 to 2015),

which provide for expansion of infrastructural capacity and enhancement of the level of service at Dublin Airport because of its international gateway status, and provide for investment priority for an upgraded public transport system and improved road network to serve Dublin Airport,

and also having regard to

- (d) The Regional Planning Guidelines for the Greater Dublin Area (2004 to 2016),
- (e) the Dublin Transport Office Strategy, A Platform for Change (2000 to 2016),
- (f) the Fingal County Development Plan (2005 to 2011),
- (g) the Dublin Airport Local Area Plan (2006),
- (h) the Aviation Action Plan (2005),
- (i) the provisions of section 57 of the Planning and Development Act, 2000, and
- (j) the current congestion and level of service at Dublin Airport,

it is considered that the proposed development (excluding Phase 2 of the terminal building), subject to compliance with the conditions set out below, would provide an appropriate response to existing deficiencies at Dublin Airport and would be in accordance with the policies and objectives of the current Fingal County Development Plan and Dublin Airport Local Area Plan. Furthermore, it is considered the proposed development would not result in an unacceptable increase in air emissions and noise over and above the levels that would otherwise occur, would not seriously injure the amenities of the area or of property in the vicinity, would constitute exceptional circumstances so as to allow for the demolition of Corballis House, a protected structure, would be acceptable in terms of traffic safety and convenience and would provide for improved surface water attenuation and water quality discharged at the eastern campus of the airport. Phase 1 of the passenger terminal and all other elements would, therefore, be in accordance with the proper planning and sustainable development of the area.



CONDITIONS

General

1. The proposed development (excluding Phase 2 of the terminal building) shall be carried out in accordance with the plans and particulars, including the mitigation measures outlined in the Environmental Impact Statement lodged with the application, and as amended by the revised further plans and particulars submitted during the oral hearing, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. This permission is for a period of five years from the date of this order.

Reason: In the interest of clarity.

Capacity

3. The combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission.

Reason: Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.

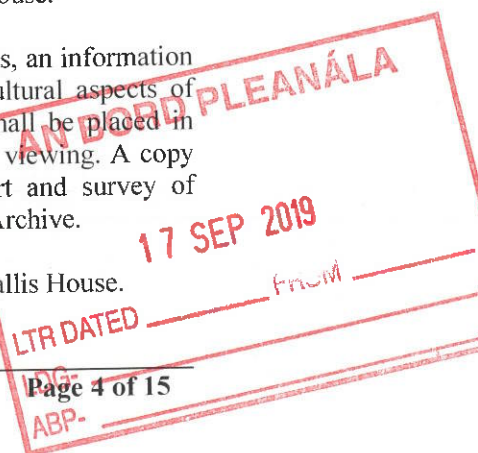
Architectural and Archaeological Heritage

4. Prior to commencement of development, the developer in consultation with the Architectural Heritage Advisory Service of the Department of the Environment, Heritage, and Local Government and the planning authority shall carry out further evaluation of the features and fixtures of Corballis House and prepare a list of items to be salvaged. Each item shall be photographed and documented, including its exact location in Corballis House. A copy of this record shall be sent to the Irish Architectural Archive, and a plan to be agreed with the planning authority shall be formulated for the re-use of these items in appropriate locations. All items shall be removed under professional supervision to the satisfaction of the planning authority.

Reason: To ensure satisfactory documentation of Corballis House.

5. Prior to its demolition and the removal of fixtures and fittings, an information video (or a similar medium) highlighting historical and cultural aspects of Corballis House shall be prepared by the developer and shall be placed in appropriate locations within the terminal building for public viewing. A copy of this information and a copy of the conservation report and survey of Corballis House shall be lodged with the Irish Architectural Archive.

Reason: To ensure a satisfactory record is preserved of Corballis House.



6. The developer shall facilitate the planning authority in the archaeological appraisal of the site and in preserving and recording or otherwise protecting archaeological materials or features which may exist within the site. In this regard, the developer shall:-
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation airside or landside (including the demolition of Corballis House) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

Prior to commencement of development, a report containing the results of the assessment shall be submitted to the planning authority. Arising from this assessment, the developer shall agree with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

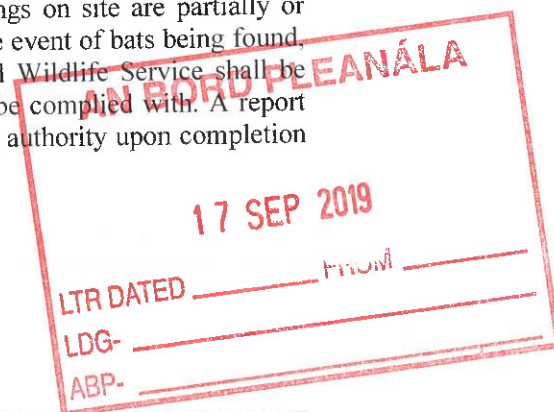
In default of agreement on any of these requirements, the matter shall be referred to the Board for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site, including any potential remains of the castle site.

Natural Heritage/Ecology

7. A bat specialist shall be present when any buildings on site are partially or fully demolished, or when trees are removed. In the event of bats being found, the planning authority and the National Parks and Wildlife Service shall be notified immediately and their requirements shall be complied with. A report by the specialist shall be submitted to the planning authority upon completion of demolition and tree removal works.

Reason: To protect natural heritage.



Drainage

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

9. The developer shall carry out monthly sampling at the point of discharge from the airside surface water drainage network to the Cuckoo Stream. The sampling results shall be forwarded to the planning authority on a quarterly basis and shall be provided on the Dublin Airport Authority website.

Reason: In the interest of public health, to ensure a proper standard of development, and to ensure continuous monitoring of the quality of surface water discharged to the Cuckoo Stream which is a Salmonid River and which discharges to a European Site.

Contaminated Soil/Aquifer protection

10. Prior to commencement of development, the developer shall submit to the planning authority for written agreement, details of proposals for excavation and containment of contaminated soil during site works together with measures necessary for aquifer protection.

Reason: To ensure satisfactory handling of contaminated soil and to provide precautionary measures for aquifer protection.

Air Quality/Emissions

11. The Dublin Airport Authority shall monitor air pollutant concentrations within the environs of Dublin Airport at locations to be agreed with the planning authority. The pollutants to be measured shall include nitrogen dioxide, sulphur dioxide, benzene, carbon monoxide, particulates PM₁₀ and ozone. The measurements shall be undertaken so that concentrations can be compared with compliance of the appropriate National Air Quality Standards. The monitoring network shall include both continuous sampling equipment and passive sampling methods for monitoring the air pollutant parameters. Results obtained from the air quality monitoring network shall be submitted to the planning authority on a quarterly basis, and displayed on the Dublin Airport Authority website. The frequency and pollutant parameters shall be reviewed on a yearly basis to ensure adequate monitoring.

Reason: To ensure adequate monitoring of emissions and air quality.



Traffic and Transport

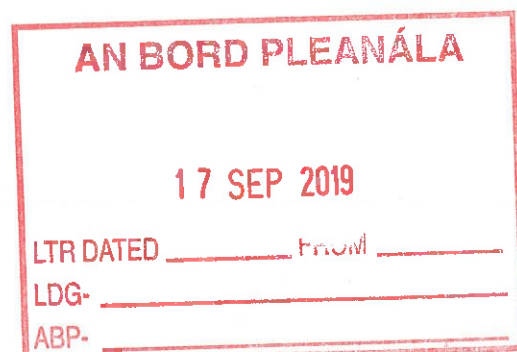
12. The Mobility Management Plan (MMP) submitted as part of the planning application shall be complied with in full and all costs shall be borne by the developer. In addition, the following associated measures shall be undertaken:

- (a) Specific mode share targets shall be set and made publicly available on a website or similar public forum.
- (b) Baseline surveys shall be undertaken, as soon as practicable, to establish the following:
 - (i) travel habit surveys, and
 - (ii) parking surveys, including accumulation and duration surveys,
 - (iii) traffic counts of motorised and non-motorised modes to indicate mode share,
 - (iv) queue length, and
 - (v) kerbside surveys.

This information shall be updated on a regular basis.

- (c) A suitably qualified Mobility Manager shall be appointed upon commencement of development.
- (d) Annual monitoring reports shall be prepared and made publicly available on a website or similar public forum.
- (e) The Mobility Management Plan shall be reviewed every two years and the reviewed plan shall be made publicly available on a website or similar public forum.

Reason: In the interest of proper planning and sustainable development, to secure sustainable travel patterns and to accord with the requirements of the Local Area Plan.



13. A dedicated bus service for employees living within the catchment of the Airport shall be provided by the developer. Details of this service shall be submitted to and agreed with the planning authority prior to the occupation of the development and shall include:
- (a) a definition of the catchment area,
 - (b) the route(s) of the service, and
 - (c) a schedule of the service, which shall include services when other public transport bus operators are not operating a service.

Reason: To secure the most sustainable travel patterns appropriate to the development.

14. The accommodation of bus services accessing the arrivals and departures kerbs and the coach park shall be based upon the principle that those services delivering and collecting the greatest number of passengers shall have priority at the arrivals/departures kerbs. Details of these access and priority arrangements for public and private coach/bus services shall be submitted to the planning authority for written agreement prior to the occupation of the building.

Reason: In order to maximise public transport accessibility to the terminal building.

15. Additional bus priority measures within the campus shall be introduced, if the surveys required as part of the Mobility Management Plan illustrate congestion at the kerbside or on the internal road network. Details of these additional measures shall be agreed with the planning authority, as required.

Reason: To avoid traffic congestion and to secure the free flow of buses.

16. The developer shall liaise with the Railway Procurement Agency (RPA) on an ongoing basis and shall ensure that the Metro North tunnel alignment and station box is preserved and made available when required. Details of the foundations and subterranean works associated with the subject development in the vicinity of the preferred alignment shall, along with correspondence demonstrating compliance with the RPA's requirements, be submitted to the planning authority for agreement prior to commencement of development.

Reason: In the interest of the proper planning and sustainable development of the area.

AN BORD PLEANÁLA

17 SEP 2019

LTR DATED _____ From _____

LDG- _____

ABP- _____

17. The following junction improvements shall be completed prior to the occupation of the development. Details in this regard shall be submitted to and agreed with the planning authority prior to commencement of development:
- (a) The junction of the R132 and Corballis Road South shall have dedicated left and right turning traffic lanes and pedestrian and cycle crossing facilities. The revised junction shall have regard to the design of the proposed upgrade of the R132.
 - (b) The junction of the R132 and the Southern Parallel Road shall have a free-flow slip road from the Southern Parallel Road onto the R132 (that is, from west to north). The revised junction layout shall have regard to the provision of the proposed East-West Distributor Road.
 - (c) The junction of the South Parallel Road and the Ballymun-Naul Road (R108) shall have a left turn free flow slip road from Dardistown to Ballymun (that is, from east to south). The revised junction shall have regard to the proposed East West Distributor Road.
 - (d) The junction of the Naul Road and the Forest Road shall be replaced by an at-grade roundabout.
 - (e) The junction of the R132 Swords Road, the realigned Stockhole Lane and the Naul Road (Cloghran Roundabout) shall be replaced by an at-grade signalised junction.

Reason: To avoid traffic congestion, in the interest of traffic safety and convenience.

18. Details of the following shall be submitted to and agreed in writing with the planning authority prior to commencement of development:
- (a) pedestrian crossovers of the internal roads between the proposed short-term car park and Terminal 2.
 - (b) tactile paving, which shall be in accordance with "Guidance on the Use of Tactile Paving Surfaces".
 - (c) the layout of the internal road alignments and cross-sections. Corballis Road North, Corballis Road South, the East Link Road and the West Link Road shall have design speeds of either 60 km/h or 50 km/h. All other roads shall have a design speed of 50 km/h or 30 km/h.
 - (d) the layout of the two proposed major signalised junctions within the campus - the Corballis Road South/East Link Road junction and the Corballis Road North/West Link Road - shall be analysed using OSCADY, TRANSYT, LINSIG or other similar software for the AM peak, the midday period and the PM peak, in the years 2012 and 2024.

- (e) details of cycle parking.
- (f) cycle lanes additional to those illustrated in the application shall be provided between the proposed terminal and the Old Central Terminal Building, on the new West Link Road and on the northern side of Corballis Road South.

Reason: In the interest of traffic safety and the convenience of all road users.

19. The following Intelligent Traffic Management measures shall be implemented by the developer:

- (a) The three sets of traffic signals on the R132 at Collinstown Cross, South Corballis Road and the Airport roundabout, and the two sets of signals at the major junctions within the Airport campus, shall be linked and shall be under the control of Fingal County Council's and/or Dublin City Council's Traffic Management Centre.
- (b) CCTV cameras shall be provided at the same three junctions. The cameras shall be compatible with Fingal County Council's and Dublin City Council's CCTV monitoring systems.
- (c) Variable Message Signs (VMSs) shall be provided to serve the functions of parking guidance and emergency incident management. The VMSs shall be compatible with the proposed Fingal County Council Parking Guidance System and with Dublin City Council's Regional Traffic Management Centre.
- (d) Ducting for fibre-optic cables shall be provided to facilitate communications with CCTV cameras and VMS signs, and the conversion of traffic signals to SCATS.

Reason: In the interest of traffic safety and convenience.

20. Full staged Road Safety Audits shall be carried out for all road infrastructure works and submitted to the planning authority for agreement. The Road Safety Audits shall be in compliance with the NRA Road Safety Audit Guidelines (DMRB Volume 5 – Section 2) and shall be submitted to the planning authority for agreement at the appropriate stages of development.

Reason: In the interest of traffic safety.

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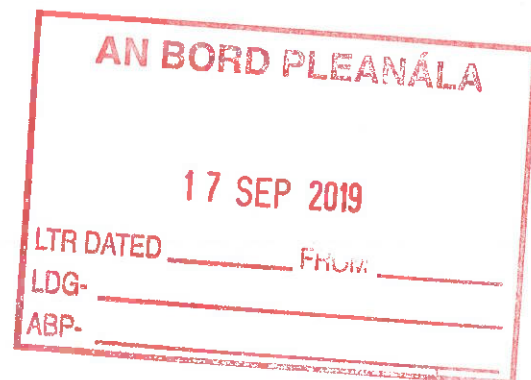
21. The developer shall produce an Emergency Incident Traffic Management Plan (Emergency Incident TMP) in agreement with the Transportation Department. The Emergency Incident TMP shall consider the traffic implications of blockages at different locations in the Dublin Port Tunnel, the M1, the M50, the N2, the R132 and the R108. In each case, it shall identify alternative access routes to/from the Airport and set out procedures to manage traffic and inform motorists and public transport operators.

Reason: In the interest of traffic safety.

22. Prior to commencement of development, the developer shall submit to the planning authority for written agreement a comprehensive environmental protection plan to minimise the impacts of the construction processes. The plan shall provide for,

- (a) provision for loading and unloading of materials,
- (b) storage of plant, materials and operatives' vehicles,
- (c) provision of temporary offices and car parking,
- (d) temporary site access,
- (e) identification of the main routes to be used by construction traffic, having regard to the location of residences in the area and the standard of roads to be used,
- (f) a survey of the road and pavement conditions affected by the construction route,
- (g) measures to minimise dust and spillages or deposits of clay or other materials along the route. Such measures shall include wheel washes and other cleaning mechanisms,
- (h) a waste management plan to ensure the minimisation of waste, re-use or recycling of materials, and
- (i) access to the site, minimising construction access during the AM and PM peak periods.

Reason: In the interest of traffic safety and amenity.



23. Provision of parking to serve the development hereby permitted shall be the subject of separate planning applications, as required. Any additional parking provided shall have regard to the mode share targets established by the Mobility Management Plan and the growth of passenger numbers using the Airport. Having regard to the assumptions underpinning the Environmental Impact Statement submitted with the subject application, the submitted Mobility Management Plan and the capacity of Phase 1 of the development, the following restrictions to car parking, which are a direct result of the proposed development, shall apply:

- (a) The total number of long-term public car parking spaces serving the Airport shall not exceed 26,800.
- (b) The total number of short-term public car parking spaces shall not exceed 4,000.
- (c) There shall be no material increase in the number of employee car parking spaces at the airport.

Reason: In the interest of the free-flow of traffic and the proper planning and sustainable development of the area.

24. The charges for all public car parking serving the development shall, following consultation with the Dublin Transportation Office (or its successor), be agreed by the planning authority prior to the occupation of this element of the proposed development. The charges shall be set having regard to the mode share targets established in the Mobility Management Plan, the availability of parking and the ongoing implementation of public transport services and infrastructure. The charges shall be displayed on a website, or similar public forum, and shall be reviewed every two years. In default of agreement, the matter shall be referred to the Board for determination.

Reason: To control the use of parking, reduce car dependency, ensure an appropriate public transport mode share and avoid traffic congestion on the surrounding road network.

25. Prior to the occupation of the development, the following shall be submitted to and agreed with the planning authority:

- (a) details of all external (traffic) and internal wayfinding for the public,
- (b) details of a public transport help desk in the arrivals hall, and
- (c) identification of a liaison person to consult with the planning authority.

Reason: In the interest of traffic safety and convenience.

AN BORD PLEANÁLA

17 SEP 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Miscellaneous

26. All service cables associated with the proposed development shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

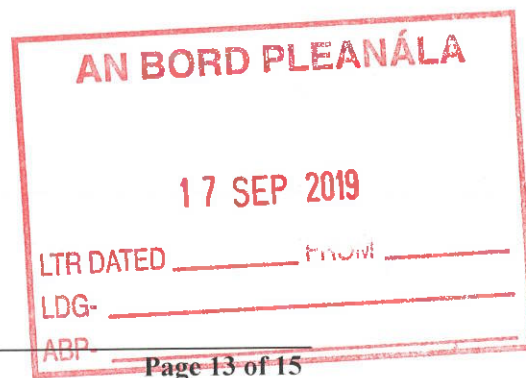
27. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

Contributions

28. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



29. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of:

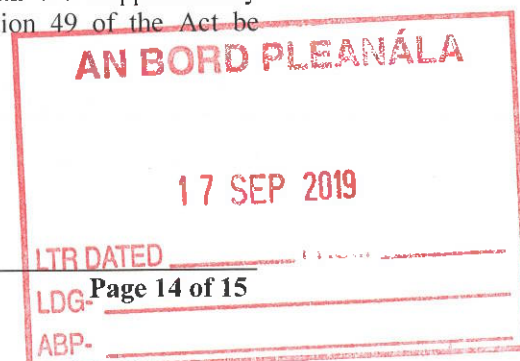
- (a) the upgrading of the R132 between Collinstown Cross and the Airport Roundabout to two lanes and one bus lane in each direction,
- (b) the provision of the East-West Distributor Road between the South Parallel Road/R108 junction and Collinstown Cross,
- (c) Variable Message Signage outside the Airport complex, and
- (d) extension of the existing 900 millimetres diameter branch foul sewer at the hotel at Kittyhawks to Collinstown Cross.

The amount of the contribution shall be agreed between the planning authority and the developer, or, in default of agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index - Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered by the Development Contribution Scheme and which will benefit the proposed development.

30. The developer shall pay to the planning authority a financial contribution in respect of the Fingal County Council Supplementary Development Contribution Scheme for Metro North - Lissenhall North to Fingal County Boundary at Ballymun in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under Section 49 of the Act be applied to the permission.



REASONS AND CONSIDERATIONS (2)

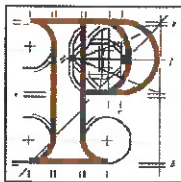
The proposed development of Phase 2 of the terminal building would be premature pending the determination by the road authority of the detailed road network to serve the area and the commitment by the planning authority to design and fund all the external transport elements detailed in the Environmental Impact Statement to facilitate Phase 2. In these circumstances, to expand further the terminal capacity at this location would contravene the objectives EA2, EA3 and TP10 of the Dublin Airport Local Area Plan which seek to provide balanced road infrastructure to manage traffic and to cater for the comprehensive development of the airport.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2007.



An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2006

Fingal County

Planning Register Reference Number: F06A/1843

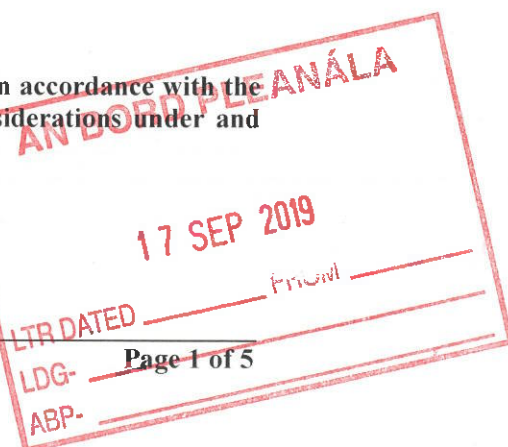
An Bord Pleanála Reference Number: PL 06F.223469

APPEAL by Portmarnock Community Association care of Joe Fitzmaurice, 150 Heather Walk, Portmarnock, County Dublin and by others against the decision made on the 19th day of April, 2007 by Fingal County Council to grant subject to conditions a permission to Dublin Airport Authority care of Stephen Byrne, T1X Project Manager, 2nd Floor Cloughran House, Corballis Way, Dublin Airport, County Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: The construction of an extension to the existing main terminal building at Dublin Airport in the Townland of Collinstown, in the Barony of Coolock, County Dublin. Permission is also sought for the establishment of a temporary construction compound associated with the above works to the north of the proposed development, within the airport complex in the Townland of Collinstown, in the Barony of Coolock, County Dublin. The development with a gross floor area of 7,472 square metres, will consist of a two-storey plus mezzanine and part third storey extension to the north of the existing main terminal building and west side of existing link building which extends from the main terminal building to Pier A and Pier D (under construction). The development will include works integrating with the existing main terminal building and with the link building. The development will consist of arrivals and departures facilities on two levels, with ancillary support accommodation including additional check-in desks, retail, restaurant/bar on mezzanine level with external smoking area, catering, storage, service and plant utilities.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.



MATTERS ONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to National Policy as set out in –

- (a) The National Development Plan, 2007-2011,
- (b) The National Spatial Strategy, 2002-2020,
- (c) Transport 21, 2006-2015,

which provide for expansion of infrastructural capacity and enhancement of the level of service at Dublin Airport because of its international gateway status, and which provide for investment priority for an upgraded public transport system and an improved road network to serve Dublin Airport, and

also having regard to –

- (a) The Regional Planning Guidelines for the Greater Dublin Area, 2004-2016,
- (b) Dublin Transportation Office Strategy, Platform for Change, 2000-2016,
- (c) Fingal County Development Plan 2005-2011,
- (d) Dublin Airport Local Area Plan, 2006,
- (e) Aviation Action Plan 2005,
- (f) National Climate Strategy,

it is considered that, subject to compliance with the conditions set out below, the proposed development would provide an appropriate response to existing deficiencies at Dublin Airport and would be in accordance with the policies and objectives of the current Fingal County Development Plan and Dublin Airport Local Area Plan. Furthermore, it is considered that the proposed development would not result in an increase in air emissions and noise over and above the levels that would otherwise occur, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed Terminal 1 extension would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars received by the planning authority on the 23rd day of February, 2007 and the 26th day of March, 2007, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The combined capacity of Terminal 1 (including the extension authorised by this grant of permission) and Terminal 2 granted permission under planning register reference number F06A/1248 (An Bord Pleanála appeal reference number PL 06F.220670) shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission.

Reason: Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.

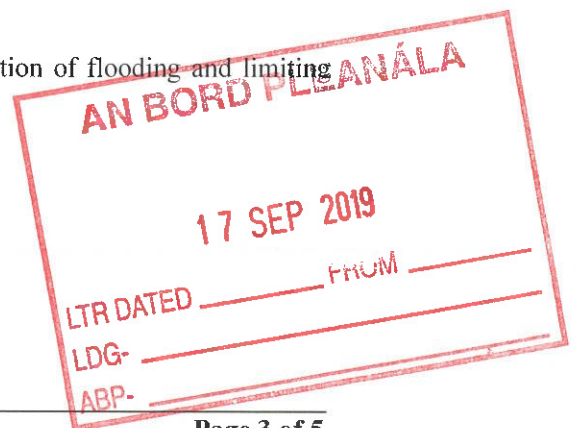
3. Details of the measures to protect the trees adjacent to the temporary construction compound shall be submitted to the planning for agreement prior to commencement of development.

Reason: In the interest of visual amenity.

4. (a) Water supply and drainage arrangements, shall comply with the requirements of the planning authority for such works and services.

(b) Surface water from the proposed development shall be drained in accordance with the proposals outlined in the planning application. Details of the design, construction, operation and monitoring of the surface water attenuation, treatment and disposal system shall be agreed in writing with the planning authority in consultation with the Eastern Regional Fisheries Board prior to commencement of development.

Reason: In the interest of public health, prevention of flooding and limiting the risk of pollution of receiving waters.



5. Prior to commencement of development, the developer shall submit to the planning authority for written agreement a comprehensive environmental protection plan to minimise the impacts of the construction processes. The plan shall provide for:
- (a) adequate visibility at vehicular access to temporary construction compound,
 - (b) identification of the main routes to be used by construction traffic, having regard to the location of residences in the area and the standard of roads to be used,
 - (c) a survey of the road and pavement conditions affected by the construction route,
 - (d) measures to minimise dust and spillages or deposits of clay or other materials along the route. Such measures shall include wheel washes and other cleaning mechanisms,
 - (e) a waste management plan to ensure the minimisation of waste, re-use or recycling of materials, and
 - (f) access to the site, minimising construction access during the AM and PM peak periods.

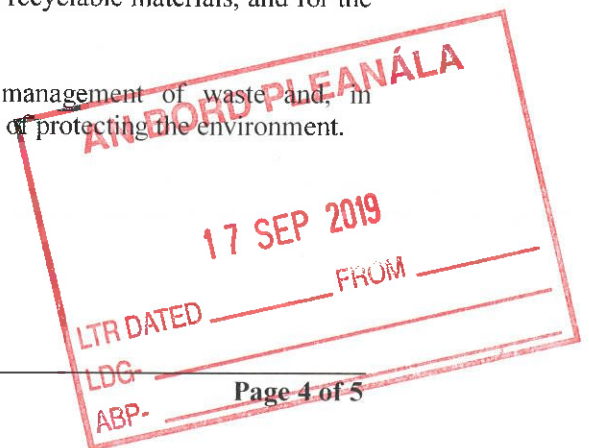
Reason: In the interest of traffic safety and amenity.

6. All service cables associated with the proposed development shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

7. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular, recyclable materials, in the interest of protecting the environment.



8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

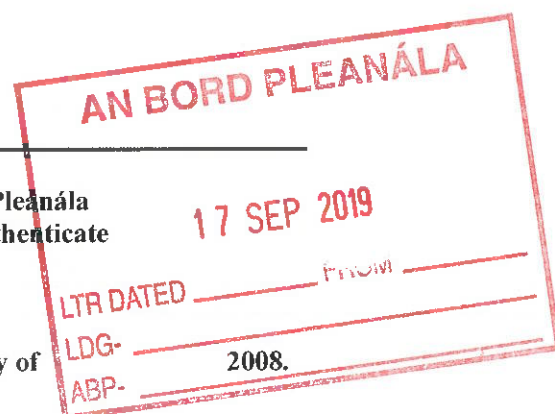
Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

9. The developer shall pay to the planning authority a financial contribution in respect of Metro North-Lissenhall, Swords to Fingal County Boundary at Ballymun in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

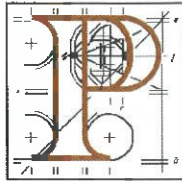
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of



2008.

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS, 2000 TO 2002

Fingal County

Planning Register Reference Number: F02A/1046

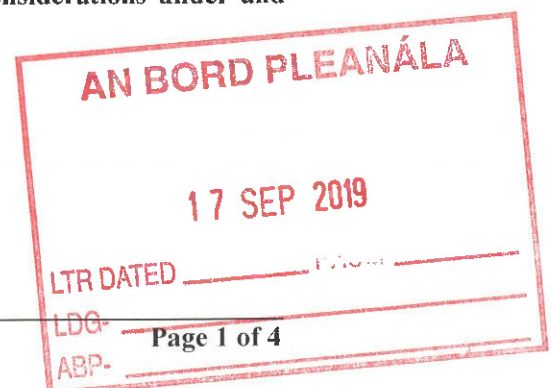
An Bord Pleanála Reference Number: PL 06F.200940

APPEAL by Ryanair Limited care of Tom Phillips and Associates Limited of Hainault House, 69-71 Saint Stephen's Green, Dublin and by Portmarnock Community Association care of O'Neill Town Planning of Harbour Road, Howth, County Dublin against the decision made on the 7th day of October, 2002 by Fingal County Council to grant subject to conditions a permission to Aer Rianta CPT care of Project Management Limited of Killakee House, Belgard Square, Tallaght, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction and operation of an additional passenger aircraft pier and associated services. The site of the proposed pier is north of the Old Central Terminal Building which is a protected structure. The development will consist of a two-storey pier building with optional fixed bridges on the airfield with a gross floor area of 15,800 square metres and elevated access corridor from the main Terminal Building on the on the landside with a gross floor area of 4,400 square metres. The pier will serve 12 aircraft parking stands and will consist of departures and arrivals facilities on two levels, with ancillary support accommodation including immigration, catering, retail facilities and plant utilities. The elevated access corridor will consist of segregated corridors for departing and arriving passengers and will be provided with moving walkways. The site of the proposed development is the airfield at Dublin Airport, in the townland of Collinstown, in the barony of Coolock, County Dublin.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.



REASONS AND CONSIDERATIONS

Having regard particularly to

- (a) the established use of Dublin Airport,
- (b) the recent and projected growth in air traffic at the Airport,
- (c) the need to provide adequate facilities to meet this growth, and
- (d) national policy, as set out in the National Spatial Strategy, which supports the continued development of Dublin Airport,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would not seriously injure the visual integrity of the Old Central Terminal Building and would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission for the elevated access corridor, the Board concurred with the decision of the planning authority and considered that the proposed access corridor by reason of its location and design would define the formal open space in front of the Old Central Terminal Building and, subject to appropriate conditions, provide an opportunity to upgrade this area and reinstate its design as originally intended.

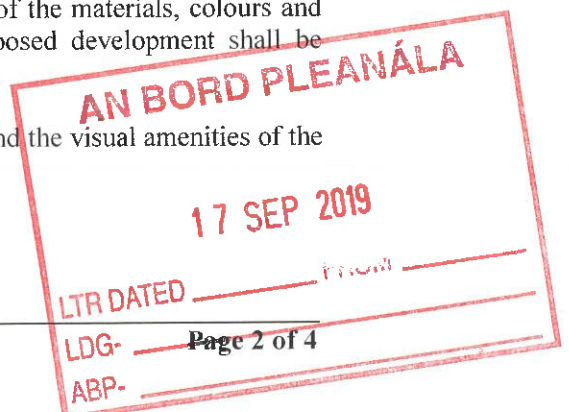
CONDITIONS

1. All existing car parking in the area between the front of the Old Central Terminal Building and the proposed elevated access corridor shall be removed completely and relocated and the resultant free area shall be suitably landscaped as an airport public amenity facility. In this regard, a detailed hard and soft landscaping scheme, which may include a small amount of car parking space allocated to disabled drivers and VIPs, shall be submitted to the planning authority for agreement prior to commencement of development.

Reason: In the interest of visual amenity and to enhance the setting of the protected structure.

2. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.



3. The planning authority shall be notified in writing, prior to commencement of development, as to which option the developer proposes to take in relation to the final design of the west end of the proposed pier. In the event that the developer opts for a reduced length and arrangement (as indicated in the outline specification at paragraph 2.3.2), details of the design, including revised plans and elevations, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of clarity and proper development.

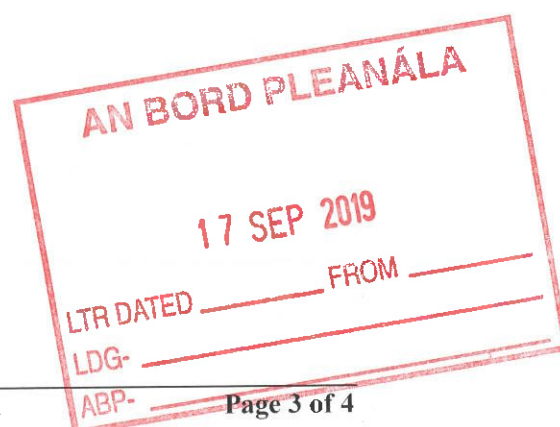
4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

5. The developer shall pay a sum of money to the planning authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of the cost of provision of public services in the area facilitating the proposed development. The amount of the contribution and the arrangements for payment shall be agreed between the developer and the planning authority or, in default of agreement, shall be determined by An Bord Pleanála.

In the case of expenditure that is proposed to be incurred, the requirement to pay this contribution is subject to the provisions of section 26(2)(h) of the Local Government (Planning and Development) Act, 1963 generally, and in particular, the specified period for the purposes of paragraph (h) shall be the period of seven years from the date of this order.

Reason: It is considered reasonable that the developer should contribute towards the expenditure that was and/or that is proposed to be incurred by the planning authority in respect of works facilitating the proposed development.



6. The developer shall pay a sum of money to the planning authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of the provision of the North Fringe Sewer facilitating the proposed development. The amount of the contribution and the arrangements for payment shall be agreed between the developer and the planning authority or, in default of agreement, shall be determined by An Bord Pleanála.

In the case of expenditure that is proposed to be incurred, the requirement to pay this contribution is subject to the provisions of section 26(2)(h) of the Local Government (Planning and Development) Act, 1963 generally, and in particular, the specified period for the purposes of paragraph (h) shall be the period of seven years from the date of this order.

Reason: It is considered reasonable that the developer should contribute towards the expenditure that was and/or that is proposed to be incurred by the planning authority in respect of works facilitating the proposed development.

7. The developer shall pay a sum of money to the planning authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of improved roads infrastructure and traffic management and to provide adequate access to the airport, in particular from a western direction facilitating the proposed development. The amount of the contribution and the arrangements for payment shall be agreed between the developer and the planning authority or, in default of agreement, shall be determined by An Bord Pleanála.

In the case of expenditure that is proposed to be incurred, the requirement to pay this contribution is subject to the provisions of section 26(2)(h) of the Local Government (Planning and Development) Act, 1963 generally, and in particular, the specified period for the purposes of paragraph (h) shall be the period of seven years from the date of this order.

Reason: It is considered reasonable that the developer should contribute towards the expenditure that was and/or that is proposed to be incurred by the planning authority in respect of works facilitating the proposed development.

AN BORD PLEANÁLA
17 SEP 2019
LIR DATED _____ FROM _____
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2003.



Gavin Lawlor,
Tom Phillips & Associates
80 Harcourt Street
Dublin 2.

Notification of Grant of Permission
PLANNING & DEVELOPMENT ACTS 2000 - 2015 AND REGULATIONS MADE THEREUNDER

Final Grant Order No.: PF/0854/16	Date of Final Grant : 21-Jun-2016
Decision Order No. : PF/0657/16	Date of Decision: 16-May-2016
Register Reference: F16A/0121	Registration Date : 24-Mar-2016

Applicant: DAA plc

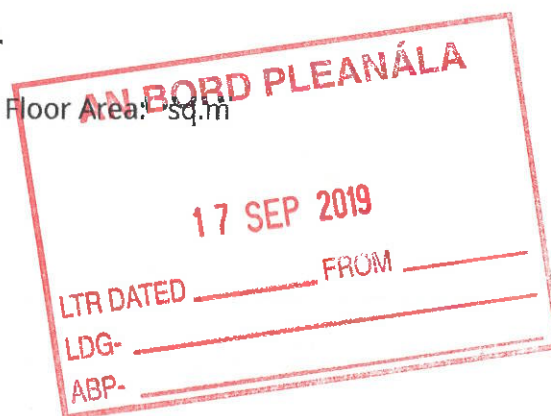
Development: The construction of a Pre-Boarding Zone for passengers at the western end of Pier 1. This will comprise the removal of an existing equipment set-down area and staircore to the west of Pier 1; the construction of a single storey extension (c. 7.8m high) with a part mezzanine level plant room, linked to the existing west elevation of Pier 1 with a c. 7.75m. long linked corridor; and localised alterations to the glazing on the west elevation of Pier 1 to facilitate linkages with the proposed Pre-Boarding Zone. The proposed development will result in additional gross floor area of c. 1,066 sq.m. and includes all other ancillary site development works above and below ground. The application site comprises an area of c. 0.22 hectares.

Location: Pier 1, Dublin Airport, Co. Dublin.

Floor Area: 1066 sq.m. **Permitted Floor Area:** 1066 sq.m.

Time extension(s) up to and including

Additional Information Requested / Received /

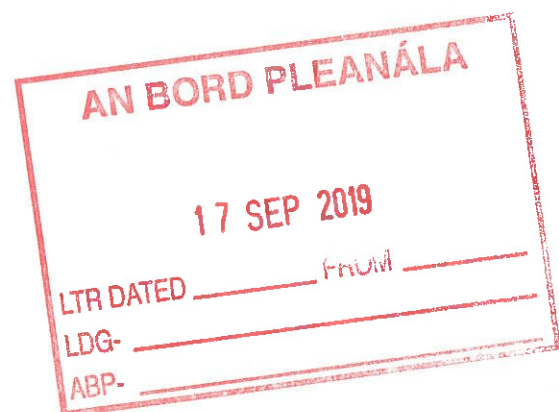


A Permission has been granted for the development described above, subject to the (11) condition(s) on the attached pages.

Signed on behalf of the Fingal County Council

W. de la S. R.
for Senior Executive Officer

21-Jun-2016



Conditions and Reasons

1. The development shall be carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the other conditions attached hereto.

REASON: To ensure that the development shall be in accordance with the permission and that effective control be maintained.

2. This permission relates solely to that detailed in the statutory public notices and does not refer to any other aspects of the development that may be shown in the lodged plans.

REASON: In the interest of clarity.

3. Prior to the commencement of development, the Developer shall submit for the written agreement of the Planning Authority, full details of the revised vehicular traffic layout in proximity to the proposed development.

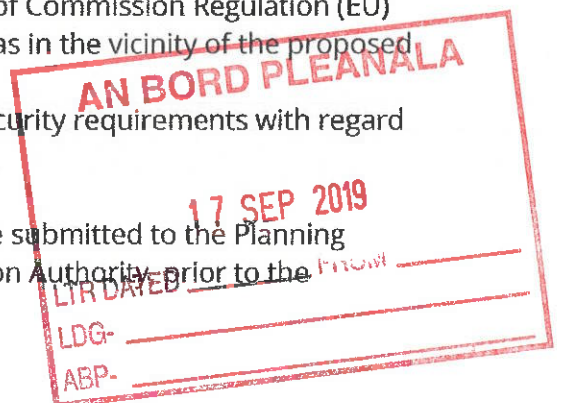
REASON: In the interest of traffic safety.

4. The following requirements shall be complied with in full:
 - a) No surface water/ rainwater shall discharge into the foul sewer system under any circumstances.
 - b) The surface water drainage shall be in compliance with the 'Greater Dublin Regional Code of Practice for Drainage Works Version 6.0' FCC April 2006.

REASON: In the interest of adequate drainage provision.

5. Prior to the commencement of development, the Developer shall comply in full with the following requirements of the Irish Aviation Authority. In this regard, the Developer shall:
 - (a) carry out and submit an appropriate study to demonstrate that the proposed extension will not cause interference to the navigation systems in use at Dublin Airport.
 - (b) ensure full compliance with the standards of the ICAO Annex14 and the Implementing Rules and Certification Specifications of Commission Regulation (EU) No. 139/2014 in respect of aircraft manoeuvring areas in the vicinity of the proposed development.
 - (c) demonstrate compliance with the relevant IAA security requirements with regard to passenger segregation.

A full and detailed response to the foregoing shall be submitted to the Planning Authority following consultation with the Irish Aviation Authority prior to the commencement of development on site.



REASON: In the interest of Aviation Safety.

6. Adequate provision shall be made to facilitate access to and use of the development of buildings, facilities and services by people with disabilities. A minimum requirement shall be as set out in Part M of the Building Regulations and the Guidelines by the National Rehabilitation Board.

REASON: In the interest of safety and amenity.

7. Prior to the commencement of development, the written agreement of the Planning Authority shall be obtained in respect of all external and roof finishes for the proposed development.

REASON: In the interest of visual amenity.

8. That all necessary measures be taken by the contractor including wheel wash facilities, to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

REASON: To protect the amenities of the area.

9. That all public services to the proposed development, including electrical, telephone cables and associated equipment be located underground throughout the entire site.

REASON: In the interest of amenity.

10. The developer shall pay the sum of €63,384.00 to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments and the provision of security to ensure payment shall be agreed in writing with the planning authority prior to the commencement of development.

REASON: It is considered reasonable that the payment of a contribution be required in respect of the public infrastructure and facilities benefiting development in the area of the Planning Authority and which is provided, or which is intended to be provided by, or on behalf of the Local Authority.

Note on above Condition:

Please note that with effect from 1st January 2014, Irish Water are now the Statutory Body responsible for both water and waste water services (excluding surface water). Accordingly, the contribution payable has been reduced by the amount of the contribution associated with these services. A separate charge will be levied by Irish Water in relation to the provision of water and/or wastewater treatment infrastructure and connections to same. Further details are available on the Irish Water website www.water.ie, Tel. (01) 6021000.

AN BORD PLEANÁLA

17 SEP 2019

LTR DATED _____

LDG- _____

ABP- _____

11. That the developer shall pay the sum of €21,320.00 to the Planning Authority in respect of the proposed Metro North Scheme. This contribution shall be paid prior to the commencement of development or in such a manner as may otherwise be agreed in writing with The Planning Authority. The rate of contribution payable shall be that pertaining to the particular year in which implementation of the planning permission is commenced. The Supplementary Development Contribution Scheme provides for an annual increase in the level of contribution payable, as outlined in the Scheme, by a factor of 5% compound interest per annum. The levels of contribution will be reviewed annually on the 1st of January of each year during which the Scheme is in force, to take account of the aforementioned increase.

REASON: To part finance the proposed Metro North Scheme as provided for in the Supplementary Development Contribution Scheme made for the area of the proposed development under Section 49 of the Planning and Development Act, 2000.

Note 1: The applicant is advised that under the provisions of Section 34(13) of the Planning and Development Act 2000 a person shall not be entitled solely by reason of a permission to carry out any development.

NOTE:

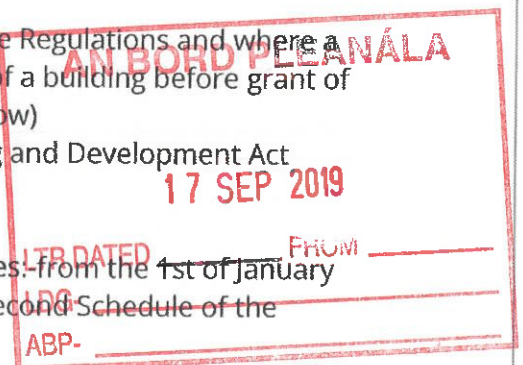
All buildings must now be designed and constructed in accordance with the Building Regulations. The Building Control (Amendment) Regulations, 2009 came into effect on 1st October 2009.

With the exception of houses and certain agricultural buildings, a Fire Safety Certificate/Revised FSC (please refer to Regs) is required for all buildings (including apartments and flats), extensions and alterations and changes of use which are covered by the Building Regulations.

A Commencement Notice (Building Control Regulations 1997 to 2009) must be submitted to the Building Control Authority (not less than 14 days and not more than 28 days before development commences) in respect of all buildings other than

- Buildings which require a Fire Safety Certificate under the Regulations and where a person intends to commence work on the construction of a building before grant of the relevant Fire Safety Certificate. (See 7 Day Notice below)
- Exempted development for the purposes of the Planning and Development Act 2000 and the Regulations made thereunder.

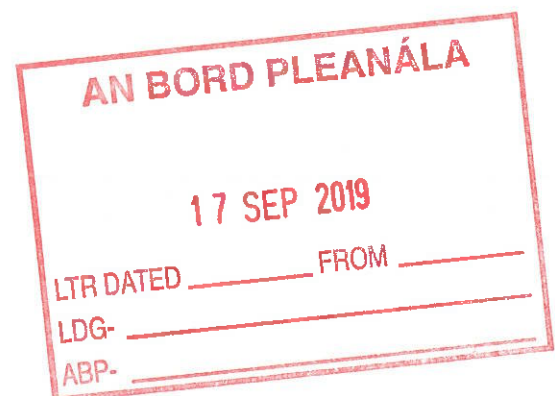
Disability Access Certificates/Revised Disability Access Certificates: from the 1st of January 2010, a certificate of compliance with respect to Part M of the Second Schedule of the



Building Regulations (Disability Access Certificate) shall be required in respect of all works or a building to which Part III (Fire Safety Certificates) refers.

A 7 Day Notice is required where a person intends to commence work on the construction of a building before grant of the relevant Fire Safety Certificate. The Notice must be submitted not less than 7 days in advance of commencement of work and must be in accordance with the requirements of Article 20A(2) of the Regulations.

A number of the conditions attached to the planning permission may need compliance submissions to be lodged and agreed prior to commencement of development. Please submit 5 copies of all documentation in relation to compliance submissions. Failure to comply with a condition of the planning permission is an offence under Section 151 of the Planning and Development Act 2000.



Information Note - Public Water and Waste Water Networks

Connections

On the 1st of January 2014 Irish Water became the statutory body with the responsibility for all water services, both water and waste water. The provision of a water services connection will be carried out by Irish Water in partnership with each Local Authority.

Any persons seeking a connection to any of Irish Water's networks should make an application in the first instance to their Local Authority who will act on behalf of Irish Water in processing the application.

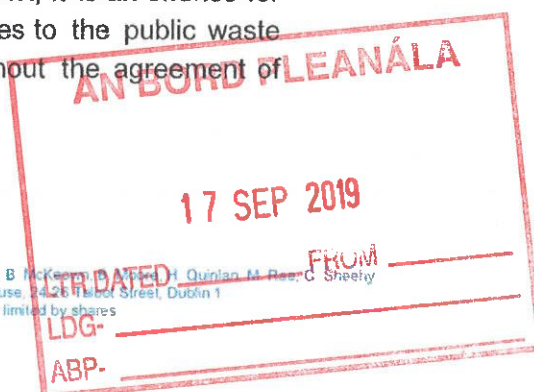
A Connection Agreement between Irish Water and the applicant will be required, prior to any connection being agreed, and will set out the conditions and charges to be applied to the connection. Details, including availability of application forms, are to be found on each Local Authority website.

It should be noted that Planning Authorities can no longer levy water and wastewater development charges and that these will now be incurred as part of the connection charge, if applicable.

Under the provisions of Section 55(1)(a) of the Water Services Act 2007 (the Act) it is an offence for a person to cause or permit the connection of a premises to the public water supply network, either directly or indirectly, or to otherwise take a water supply without the agreement of Irish Water.

Similarly under the provisions of Section 61(1) (a) of the Act, it is an offence for a person to cause or permit the connection of a premises to the public waste water collection network, either directly or indirectly, without the agreement of Irish Water.

Stiúrthóirí / Directors: R. Hynes (Chairman), M. McNicholas, J. Tierney, R. Finn, J. Hall, S. Kelly, P. Lee, B. McKee, D. Moran, H. Quinlan, M. Rees, C. Sheehy
 Oifig Chláraithe / Registered Office: Teach Colvill, 24-26 Sráid Thailbóid, Baile Átha Cliath 1 / Colvill House, 24-26 Talbot Street, Dublin 1
 Is cuideachta phríobháideach / UISCE Éireann faoi líonraínn scaiteanna / Irish Water is a private company limited by shares
 Uimhir Chláraithe in Éirinn / Registered in Ireland No.: 530363



INFORMATION for the purposes of Building Control:-

- IMPORTANT NOTE NOW THAT YOU HAVE RECEIVED PLANNING PERMISSION or ARE INTENDING TO CARRY OUT BUILDING WORKS.

BEFORE ANY BUILDING WORKS TAKES PLACE ON YOUR SITE YOU WILL NEED TO CHECK THE FOLLOWING Pre-Development Planning Conditions, Commencement Notice, Construction Products Regulations (CPR) (Regulation (EU) No. 305/2011) .

- IF SOME OR ANY OF THESE ARE OMITTED YOUR BUILDING MAY BE AN UNAUTHORISED BUILDING AND YOU MAY BE GUILTY OF AN OFFENCE AND/OR YOU MAY BE SUBJECT TO PENALTIES.
- YOU SHOULD ALSO BE AWARE THAT IF YOU OMIT TO SUBMIT A VALID COMMENCEMENT NOTICE TO YOUR LOCAL AUTHORITY YOU MAY BE UNABLE TO GET A COMPLETION CERTIFICATE AND THIS MAY HAVE SERIOUS LONG TERM CONSEQUENCES.

(The information is for guidance purposes only and does not purport to be a legal interpretation or constitute legal or professional advice.)

1. Pre-Development Planning Conditions;

1. If there are any Pre-Development conditions on the schedule of conditions attached to your planning permission you should give your immediate attention to them prior to the commencement of your development.

Note: All conditions must be complied with in full as failure to do so will render your permission invalid and may result in the initiation of enforcement proceedings for compliance with same

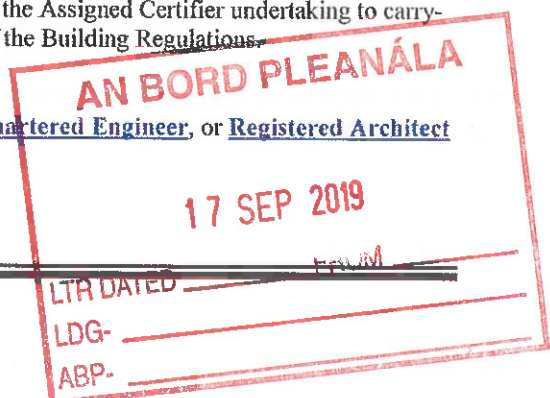
2. Commencement Notice; www.localgov.ie

In accordance with the Building Control Regulations you are obliged to submit a Commencement Notice prior to commencement of the development and it must be received by the BCA not less than 14 days and not more than 28 days before you wish to commence. Commencement Notice forms may be downloaded from www.localgov.ie, @ BCMS. Please complete same and submit on-line to BCMS.

- (a) A completed copy of the commencement notice which must be signed by the owner of the works and must (refer to section 9 S.I. No 9 of 2014) be to be accompanied by the following;
 - a. General Arrangement Drawings
 - b. A schedule of design documents as are currently prepared or to be prepared
 - c. An online- assessment via the Building Control Management System of the proposed approach to compliance with the requirements of the Building Regulations 1997 to 2014;
 - d. The preliminary inspection plan
 - e. A Certificate of Compliance (Design)
 - f. Notices of Assignment in respect of the Builder who will carry out the works and of the Assigned Certifier who will inspect and certify the works, and
 - g. Certificates of Compliance signed by the Builder and the Assigned Certifier undertaking to carry-out their roles in accordance with the requirements of the Building Regulations.

With regard to the above, please note that:

1. The Designer and the Assigned Certifier must be a Chartered Engineer, or Registered Architect or Registered Surveyor
1. A Competent Builder must execute the work



2. Your drawings must show details of how your Building will comply with the Building Regulations - drawings submitted for planning permission purposes are not typically building control compliance drawings.
3. The commencement notice and accompanying documentation must be filed electronically via the online Building Control Management System. Where notices and documentation are submitted in written format, the building control authority will arrange for scanning and uploading of same for which an administrative charge will apply and statutory deadlines relating to such notices may be delayed by up to seven days.

(Note: Statutory approvals relating to fire safety and disabled access continue to apply where relevant and are not affected by the above changes).

For more information; <http://www.environ.ie/en/DevelopmentHousing/BuildingStandards/>

3. Construction Products Regulations (CPR) (Regulation (EU) No. 305/2011)

CE MARKING of construction products covered by harmonised European Standards is mandatory, when the construction product is placed on the market.

You need to ensure that you appoint competent professionals.

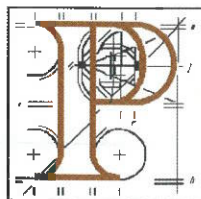
Whilst the CPR concerns itself with the conditions which apply when placing a construction product on the market, clients, specifiers, designers and builders etc. should be aware of the following when incorporating construction products into building works:

1. When drawing up specifications, refer to the harmonized technical specifications and specifically to the performance requirements of individual characteristics when necessary,
1. When choosing the products most suitable for their intended use in construction works, review the manufacturer's Declaration of Performance,
2. Check National Annexes or Standard Recommendations which give guidance on appropriate minimum performance levels for specific intended uses of the product in Ireland. NSAI host this information at www.nsai.ie, and

NOTE; All works should be carried out using "proper materials...which are fit for the use for which they are intended and for the conditions in which they are to be used" to ensure compliance with the Building Regulations. For further information on the Building Regulations see <http://www.environ.ie/en/DevelopmentHousing/BuildingStandards/>



An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

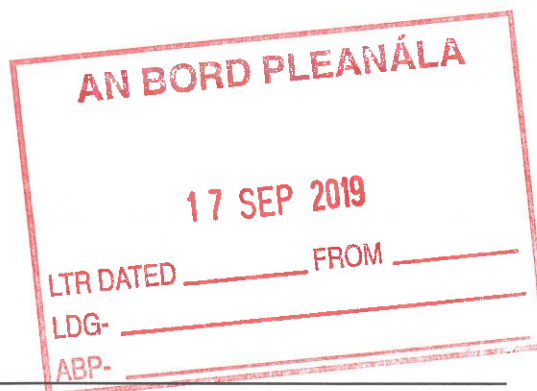
Fingal County

Planning Register Reference Number: F16A/0200

An Bord Pleanála Reference Number: PL 06F.247135

APPEAL by The Irish Airline Pilots Association of Corballis Park, Dublin Airport against the decision made on the 27th day of July, 2016 by Fingal County Council to grant subject to conditions a permission to the Dublin Airport Authority Public Limited Company care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Passenger Transfer Facility, comprising a three-storey extension on the south-eastern elevation of Pier 4 (that is, Airside) with two number circa 10.2 metre long internal link bridges over existing void space within the Pier. The proposed development will have a gross floor area of circa 1,772 square metres and will include facilities for security screening, passenger processing, circulation, plant and other services. The proposed development also includes all other ancillary site development works above and below ground at Pier 4, Dublin Airport, Corballis, County Dublin.



DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

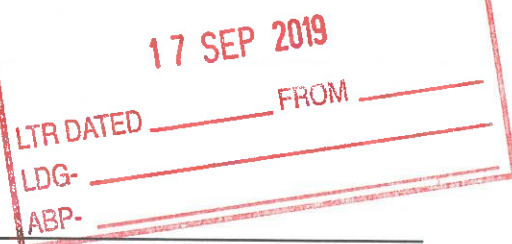
REASONS AND CONSIDERATIONS

Having regard to the provisions of the Fingal Development Plan 2011-2017, it is considered that, subject to compliance with the conditions set out below, that the proposed development would not negatively impact on the design, amenity or operation of the existing Terminal and therefore would accord with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 4th day of July 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.



2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

AN BORD PLEANÁLA

17 SEP 2019

LTR DATED _____ FROM _____

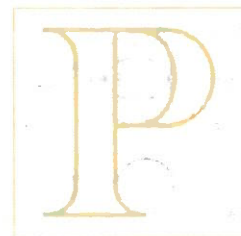
LDG-

ABP-

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.

Our Ref: PL 06F.220670
P.A. Ref: F06A/1248
Your Ref: D17226/3/1/1/2/ABP/001



An
Bord
Pleanála

Yvonne Dalton,
Group Head of Planning,
Dublin Airport Authority,
Head Office,
Old Central Terminal Building,
Dublin Airport,
Co. Dublin.

9th August, 2018

Appeal re: New Airport Terminal.
Dublin Airport, Townlands of Collinstown, Rock and Corballis, Barony of Coolock,
Co. Dublin.

Dear Ms. Dalton,


I have been asked by An Bord Pleanála to refer further to your letter received on the 29th June, 2018.

By way of reply I am to inform you that the Board does not consider it necessary to invoke the provisions of Section 146A of the Planning and Development Act, 2000, as amended.

It is considered that the alteration sought would be material in planning terms, and cannot, therefore, be considered under Section 146A of the Act. The Board considered that the proposed alteration would enable greater throughput of overall passenger numbers through the airport. This greater level of activity would have material planning consequences (in terms of movement and access to the airport, airport capacity, and also in relation to planning policy relating to the airport), and would go beyond what was permitted in the permission granted.

A copy of the Board Direction is enclosed for your information.

Yours sincerely,


Brid McManus
Executive Officer
c.c. Fingal Co. Co.

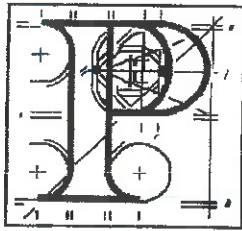
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64 Marlborough Street
Dublin 1
D01 V902

An Bord Pleanála



Board Direction

Ref: 06F.220670

The request by Dublin Airport Authority in their letter received on 29th June 2018 – to alter condition No.3 of the permission under the provisions of section 146A of the Planning and Development Act 2000 (as amended) – was considered at a Board meeting held on 26th July 2018.

The file was considered at the same time as the pre-application case lodged with ABP in January 2018 (reference ABP-300785-18).

The Board considered the Inspector's report (July 2018) dealing with the subject request.

The Board did not consider it necessary to invite submissions from other parties, having regard to the nature of the alteration sought.

The Board decided, generally in accordance with the recommendation of the reporting inspector, not to make the alteration.

Reasons and Considerations

It is considered that the alteration sought would be material in planning terms, and cannot therefore be considered under section 146A of the Act. The Board considered that the proposed alteration would enable greater throughput of overall passenger numbers through the airport. This greater level of activity would have material planning consequences (in terms of movement and access to the airport, airport capacity, and also in relation to planning policy relating to the airport), and would go beyond what was permitted in the permission granted.

Board Member:


Conall Boland

Date: 27th July 2018

AN BORD PLEANÁLA

17 SEP 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

