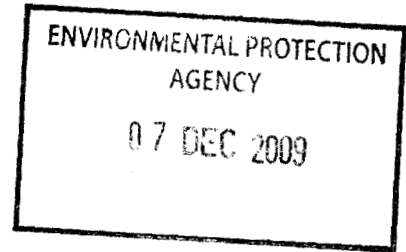


Submission # 4

Dr. Daniel M.
Foyres
to Limerick
4-12-09



Administration Office of Climate
& Resource Use,
Environmental Protection Agency,
Headquarters,
P.O. Box 3000,
Johnstown Castle Estate
to Wickford.

Dear Sir/Madam.

Re Waste Licence Application No W0271-01
Dear Aish, Foyres, to Limerick.

I refer to above and thank you for recent correspondence regarding the application.

I am enclosing a copy of submissions made by me on behalf of Foyres District Community Council regarding appeal to An Bord Pleanála over the grant of planning permission by Limerick County Council to Greenport Environmental LTD in respect of Planning Application No 09/137. I believe that these submissions have relevance in connection Licence Application No W0271-01 and consequently I request that they be entered as submissions in this application. I apologise for the delay in making these

these submissions, all I can say is that I was extremely busy in dealing with the County Council appeal.

Foynes & District Community Council have limited funds, hence the absence of professional expertise.

I would appreciate if you could give me some idea of the time factor available to me to make detailed submissions.

again I apologise for the protracted offering and thank you for your assistance to date

Yours faithfully
Michael F Carey
(MICHAEL F CAREY) Chairman.

FOYNES & DISTRICT
COMMUNITY COUNCIL,
ARDINEER
FOYNES,
COUNTY LIMERICK.

01 December 2009

REGISTERED POST.
AN BORD PLEANALA,
64, MARLBOROUGH STREET,
DUBLIN 1.

RE: PLANNING REFERENCE NUMBER – 09/737 – GREENPORT
ENVIRONMENTAL LIMITED
PERMISSION FOR CHANGE OF USE OF EXISTING WAREHOUSE
BULIDING FROM A TIMBER FRAME CONSTRUCTION FACILITY AND
FOR PERMISSION TO EXTEND THE EXISTING STRUCTURE TO
ACCOMMODATE A BIOGAS/COMPOSTING FACILITY .
THE PROPOSED DEVELOPMENT INCLUDES DEMOLITION OF
ANCILLARY STORAGE STRUCTURES, CHANGES TO AN EXISTING
ENTRANCE TO THE SITE AND FOR THE UPGRADE OF EXISTING
SERVICES AND WASTE WATER TREATMENT SYSTEM. THE PROPOSED
DEVELOPMENT INCLUDES OF GAS/WATER STORAGE STRUCTURES AND
BIO FILTERS (AN EIS IS BEING LODGED WITH THIS APPLICATION. A
WASTE LICENSE WILL BE REQUIRED AND SEPERATELY APPLIED FOR
IN RESPECT OF THIS DEVELOPMENT) AT DURNISH, FOYNES, COUNTY
LIMERICK.

Dear Sirs,

Foynes & District Community Council have the following objections to the proposed Development.

- (1) No alternatives have been considered in the Environmental Impact Statement in contravention of Paragraph Section 1(d) of Schedule 6 of S.I. 600 of 2001.

Therefore we believe the EIS is inadequate;

- (2) Locating this type of industry within the port area of Foynes is contrary to policy

SE.2: (The Council will support efforts to expand and upgrade the Port facilities available in the Foynes Harbour). See Policy Number SE.2.3.4. and 5 County Development Plan. Locating this type of facility within the Port area reduces the land available to port Authorities by 17.24 Acres including warehousing. This is not a port related activity and is not concurrent with sustainable development in this valuable commercial property. It is assumed that grant aid of 75 per cent will be available for this project. In these circumstances there was a priority to look at alternative sites, this apparently was not done?

- (3) The Community Council has concerns over the proposed Development due to the proximity of the Atlantic Fuel Supply Company's Oil Terminal (nearing completion) and the major accidents directive (Sefeso 11) 96/2/EC.

The proposed Bio Gas facility is 70 metres east of the AFSC terminal. This Oil terminal will be an Upper Tier Sefeso Site. The recommendation for the UK Health and Safety Executive (HSE) under Land Use Planning Advice Document SPC38 is that an exclusive zone of 150 metres for site in close proximity containing class 1 Fuels. This document also contains consultation distances and Land Use Planning Zones for Vapour Cloud Explosions.

As the by product of Greenport Environmental's facility would be Methane Gas, we feel Limerick County council did not consider the full ramifications of this. When granting permission for such a facility in such close proximity to an Upper Tier Seveso site. We have lodged our concerns with the Health & Safety Authority (HAS) receipt of which has been acknowledged and we await their report. Policy Number ED29 and ED30 County Development Plan;

- (4) In Environmental Law public participation is a mandatory substantive requirement and is a pre-condition of the Grant of Planning Permission. There was no public participation or consultation concerning this Application 09/737 to date. The Community Council felt obliged to call a public meeting to inform residents and the Wider Community of current developments. Principle 10 of Rio Declaration. (see attached document 1 at A as particular reference.
- (5) The proposed facility is not the best available technology in that the entire process "from the cradle to the grave". The end result is still waste, there is no evidence that the Department of Agriculture will sanction the necessary license to distribute class 1 Compost for Horticultural purposes. The consequence of the product getting into the food chain could be dire. Class 3 on the other hand is declared suitable for landfill and road remediation. As the proposed plant does not contain a bagging facility in Class 3 Compost, the intended end product? And if so where is its final destination? Gortnadruma, Landfill, County Limerick: Policy Number IN114 proposed waste disposal Limerick County Development Plan.
- (6) The EIS does not adequately address the direct and indirect effect of the project on the following factors human beings, fauna, flora, soil, water, air and landscape.

The interaction between the factors mentioned in the first and second indents material assets and cultural heritage in that no indication of the present quality of air water sold of the area is shown. How can the community be satisfied that threshold levels are maintained when there is no knowledge of the present levels. Environmental Assessment 85/337/EEC. Article 3.

- (7) It is our contention that Limerick County Council Planning Section were wrong in assessing Planning Application 09/737. On the face of it 09/737 contains two Planning Applications, one for Bio Gas and the second for Composting. In the circumstances Limerick County Council should have declared the 09/ 73 7 to be invalid. By not withdrawing 08/1633, Greenport Environmental Limited effectively forced An Bord Pleanala "to look beyond what was applied for" to make the decision they made i.e. granting Planning Permission, because if Planning permission was refused on 08/1633 they would have no option but to refuse Planning Application 09/737 as it contained two Applications and they would have already refused the Composting Application. In the interest of justice and fair procedure this must be considered.
- (8) On the 11th July 2006 the Chairman of our Community Council at the time Mr. Eugene McSweeney was obliged to take issue with Limerick Council through a letter to Ms. Ann Hough regarding serious breaches of the Waste Management Acts by Mr. Binman Limited. There are No Recorded Prosecutions but Mr. Binman was obliged to relocate to a modern warehouse for his Waste Management Business. Mr. Binman Limited has a number of convictions under the Waste Management Act 1996/2008, three in total, (copies enclosed) This raises further concerns in this Company's ability to carry out its Waste Management in this highly sensitive populated environment. Greenport Environmental Limited have no record or experienced of this type of industry. They are a new company declared as a subsidiary of Mr. Binman Limited, Grange, Kilmallock, County Limerick. Waste for this facility will be entirely sourced from Mr. Binman Limited and Greenport has relied entirely on Mr. Binman, for their Safety Statement. It appears that Mr. Martin Sheahan Junior is a Director of Mr. Binman Limited and Greenport Environmental Limited would have major responsibilities in managing both companies.
- (9) No evidence in this Application that the principles outlined in Strategic Environmental Assessment SEA were remotely addressed. Directive 2001/42/EC has reference.
- (10) AFSC has lodged a proposal with An Bord Pleanala for a Strategic infrastructure development for Strategic Oil storage on a site adjacent to the north perimeter of the applicant's site. This proposal was granted SID status under an ABP decision reference 13.PC0049 on 21st November 2008. The proposed site is subject to an EIS Scoping document reference 13.PS0003 prepared by ABP on 6th May 2009, "this task in ongoing". Source AFSC submission to Limerick County Council 9th June 2009.

Limerick County Council have failed to take cognizances of this proposed development which would effectively enclose the Applicants, (Greenport Limited) within a Tank Farm.

SUMMARY OF CONFLICT WITH COUNTY DEVELOPMENT PLAN OF LIMERICK COUNTY COUNCIL 2006 – 2111.

1. Vision Statement.

Limerick County Council will adopt a positive and sustainable approach to balanced development, thereby enhancing the lives of people who live in, work in and visit the County, while protecting the natural and built environment.

Policy Conflict.

1. General Settlement Policy:-

- (a) Policy SP1 Sustainability
- (b) Policy SP2 Local area promised by Limerick County Council but theme study supplied instead.
- (c) Policy SP3 & SP4 Economic Development Policy ED 22, 23, 25, 27, 28, 29, 30 and 33

The Shannon Estuary Policy SE1, 2, 3, 4, 5, 6, 9, 10, 12, 13.

Transport & Infrastructure Policy INI 30, 34, 44, 45.

- 2. While the stated Legal status of the Limerick, Clare & Kerry Waste Replacement Plan indicates that where there is conflict in interpretation, the Limerick, Clare & Kerry Development has precedence that there should be evidence in this Planning Application that the Councils involved, including Limerick City Council and Shannon Foynes Port Company, had unanimous approval for locating this waste facility in the Port of Foynes. There is no evidence whatsoever that other locations were considered.

As regards Policy No. CR 24 Public Right of Way there is serious doubt that a Planning Application, No. 04/2226, granted by Limerick County Council on the 28/10.2004 has Legal Status in addition to concerns raised over Methane Gas and Seveso Tank Farm.

I wish to bring to your notice that compost, on its own, is prone to spontaneous self combustion. A recent fire in Harvard, Connecticut, U.S.A burned for seven days before being extinguished. These fires are unpredictable and their control depends on the experience and diligence of the operator.

I must also draw your attention to an article in the Irish Times 3rd December 2009. I respectfully suggest that you look at the paragraph marked "x" and investigate if site is the subject of Application 09/737.

I submit that this Planning Application 09/737 be refused consent by An Bord Pleanala. Bearing in mind the proximity principle in the Waste Plan, collecting the Waste Raw Material in Ludderoore, taking it 27 miles to the Port of Foynes, processing it there and taking it back out again and by definition it is still waste is environmental vandalism. All previous users of this 17.24 site had good and valid reasons to locate there, Greenport have none, it makes no sense.

No copy of the Theme Study is available to me at present, I will forward this when it is available to me.

Yours faithfully,


MICHAEL F. CLEARY
FOYNES & DISTRICT COMMUNITY COUNCIL

Invitation

You are invited to a Public Meeting at Foynes Community Centre on Thursday, 3rd December to address the concerns of the people of Foynes & District regarding the issues outlined hereunder:-

A Community concerned, Foynes Co.Limerick

Dear

I am writing to you as Chairman of Foynes & District Community Council Ltd., in reference to the granting of planning applications for a Bio-gas facility within the habitable area of Foynes.

There are some simple facts:

- **Foynes should not have a Bio gas facility close to its oil tanks. It is an unacceptable hazard and breaches principles set out by the European Court of Human rights.**
- **Foynes should not have an In Vessel composting facility when there is so much hazardous material already stored near the site. There is a tipping point of safety that has been reached.**

We are reasonable people, and please understand that this is not a knee jerk reaction to the word 'waste'. It is a reaction to the denial of the basic human rights set out that need to be considered in these circumstances:

- **Have alternative sites been assessed as part of the process?**
- **Are there any environmental factors that may suggest that this site is not favourable?**
- **Have all safety aspects been considered with the close proximity of a bio-gas facility to a tank farm.**

The entire process in the presentation of these applications has been laden with obfuscation.

Again we need to ask the questions:

- **Why would you build a dangerous waste management facility next to an already growing tank farm in Foynes?**
- **Why build a methane plant next to 10,000 tons of oil?**
- **What alternatives have been considered, and have they included the obvious:**
 - Aughanish Island – already the home of significant waste material.**
 - Luddenmore, Grange – the existing Mr. Binman facility.**
 - Gortnadroma – An existing dump facility well away from population centres**

Askeaton Business Park – The 'business park' in Askeaton is a Shannon Development owned land bank, comprising 227 acres of unused land with a supporting infrastructure.

Had there been full, open, and transparent discussions with the community we would not be at this point. It is a basic tenet of environmental law that public consultation and participation allows all parties to come to an agreed path of progress.

This has not happened.

I would implore you to look at the treatment of the people of Foynes in detail, and take action to alleviate the pressures we are under. We are struggling to find logical reasons for the siting of this facility in the centre of Foynes.

Before you respond I would like to draw your attention to a European Court's decision over an incident in Istanbul, circa 2004 where methane gas exploded at a rubbish tip killing a number of people. The court held that there had been a violation of Articles 2.1 and 13 of the convention. In a similar case Guerra V Italy circa 1998 26 EHRR 357 the court held that states have a positive obligation to ensure respects for rights under ECHR, Article 8.

We would request that consent for development for planning application 08/1633 be put on hold, until such time that application 09/737 has been through the full rigors of planning and consultation. The health and safety of the people of Foynes is paramount, and it is incumbent on all agencies involved in this facility to guarantee that the lives of the people of Foynes will not be negatively impacted by any development at this site.

A public meeting will be held at 8.00 pm on Thursday, 3rd December 2009, at the Community Centre Foynes. All issues relating to this proposed development will be discussed. The chair will be independent, and all parties concerned will be invited to present their views. Invitations will go out to all government bodies, Greenport environmental Ltd., Mr. Binman, and any other persons or group who may have an interest.

If you, or your representative cannot attend please reply to Eimear O'Malley, Secretary, Foynes and District Community Council, Oorla, Foynes, Co. Limerick at your earliest convenience.

Yours sincerely,


(Michael F. Cleary)

Chairperson

Foynes & District Community Council

Foynes & District Community Council

At a well attended meeting of Foynes & District Community Council on Thursday 12th November 2009 Planning application No 08/1633 and Planning Application 09/737 were discussed.

A unanimous proposal was agreed that an invitation be sent to the government agencies involved in the planning applications, namely, Limerick County Council, Limerick City Council, Kerry County Council, Clare County Council, Shannon Foynes Port Company, the applicant Greenpark Environmental Limited (Mr. Binman), and any other person or body who may have an interest in those planning applications including the media, public representatives and the general public to attend a public meeting at the Community Centre, Foynes on Thursday 3rd December at 8pm to discuss these applications. The main concern is application 09/737 where methane gas will be produced in the process and the fact that this facility is so close to the tank farm, property of Atlantic Fuel Supply Company.

No further comment will be made until after this meeting.

Yours sincerely,

Michael Cleary

Chairman

Foynes & District Community Council