

**SECTION 131 FORM**

Appeal NO: PL 16.207212.

Defer Re O/H ☐

TO:SEO

Having considered the contents of the submission ~~and~~ received 29/06/04. from

An Taise. I recommend that section 131 of the Planning and Development Act, 2000

~~be~~/not be invoked at this stage for the following reason(s):. No new issues.

E.O.: Kieron Somers

Date: 01/07/04.

To EO: \_\_\_\_\_

Section 131 not to be invoked at this stage. ☒

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

S.E.O.: M. Doherty

Date: 6/7/04

S.A.O: \_\_\_\_\_

Date: \_\_\_\_\_

M \_\_\_\_\_

Please prepare BP \_\_\_\_\_ - Section 131 notice enclosing a copy of the attached submission  
to: \_\_\_\_\_

Allow 2/4weeks – BP \_\_\_\_\_

EO: \_\_\_\_\_

Date: \_\_\_\_\_

AA: \_\_\_\_\_

Date: \_\_\_\_\_

# CORRESPONDENCE FORM

Appeal No: PL 16.207212.

M c Fagan

Please treat correspondence received on 29/06/04. as follows:

1. Update database with new agent for Applicant/Appellant \_\_\_\_\_

2. Acknowledge with BP 20

3. Keep copy of Board's Letter ☐

Response to appeals from An Taisce.

1. RETURN TO SENDER with BP \_\_\_\_\_

2 Keep Envelope: ☐

3. Keep Copy of Board's letter ☐

## Amendments/Comments

## 4. Attach to file

(a) R/S ☐

(d) Screening ☐

(b) Mapping ☐

(e) Inspectorate ☐

(c) Processing ☐

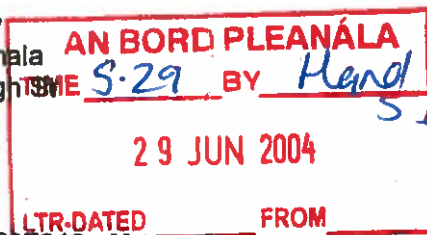
RETURN TO EO ☒

	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>Kieron Samers</u>	AA: <u>James Fagan</u>
Date: <u>01/07/04.</u>	Date: <u>1/7/04</u>



## AN TAISCE – THE NATIONAL TRUST FOR IRELAND

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1



29<sup>th</sup> June 2004

Dear Sir

REF: PL16.207212, Mayo County Council reference number P03/3343. Appeal re ~~construct a gas terminal for the reception and separation of gas in the Corrib Gas field and for a peat deposition site, Bellagelly South, Srahmore, Attavally, Bangor Erris, Co Mayo~~

Thank you for your letter of 3 June, 2004, enclosing copy of First Party appeal and other Third Party appeals.

### **First Party Appeal by Tom Phillips & Associates on behalf of Shell and EP, Ireland.**

We wish to advise that our comments on this First Party Appeal, in particular in relation to conditions, are made without prejudice as it is the submission of our appeal that the application lodged has not been justified on location and design grounds and would be prejudicial to public safety, nature conservation and water quality protection and amenity.

However, we welcome this first party appeal since it reveals and clarifies the applicants objectives in relation to the project which are in accordance with its international policy to minimise safety and environmental regulation and control.

### **Principles upon which Appeal is Based**

Section 1.3 states that the appeal is based on the 'Department of the Environment's Yellow Book', which is a significantly out of date publication which does not address relevant EU Directive and particularly inadequate with regard to provision of information required on applications accompanied by an Environmental Impact Statement. It is reliant on inadequate and outmoded National Guidelines that has resulted in Ireland being subject to such a range of legal actions by the European Commission including an action initiated in July 2003, with regard to a range of breaches of Council Directive 85/337/EEC, as amended by 97/11/EC following the failure of the Irish Government to take action with regard to the contents of a Reasoned Opinion of 25th July, 2001, which was referred to in the An Bord Pleanála Refusal Decision on the previous Mayo gas terminal proposal.

With regard to the specific conditions referred to in the consultants' submission, our comments are as follows:

#### **1 Condition Number 2**

In raising this matter the consultant has simply highlighted the fact that a valid application accompanied by a valid EIS in accordance with the Regulations and Directive, was in fact not lodged on 17<sup>th</sup> December, 2003.

2 Condition Number 3 - Section 47 Agreement

This confirms that the applicant is seeking to evade any effective measure for regulation of compliance of this development and confirms the concerns raised by Brain Coyle with regard to gas facilities in Mexico and other countries.

3 Condition 4

This confirms that the applicants have no clear design specification for what is proposed to accommodate the development and are seeking to accommodate the ultra vires extension of development area into lands not shown in the application site.

4 Condition 6

This shows that the applicants are seeking to abrogate any responsibility for wider damage to roads in the area affected by haulage for the proposed development.

5 Condition 12

This is a clear admission by applicants that they are seeking to evade responsibility for environmental damage and health and safety impact caused by vehicles servicing the development.

6 Condition 16

The applicants are seeking to evade correction of the impact of dripping of peat slurry waste emitting from vehicles along the haul route.

7 Condition 25

This confirms that the applicants wish to evade any meaningful regulation on noise levels which can only be effectively enforced by defining decibel levels. The removal of defined decibel level threshold makes any noise mitigation conditions meaningless.

8 Condition 31

The consultant has completely misread this condition which refers not only to the assessment of hen harriers for the site, but 'in the area'. Examination of both the content of the EIS and the letter of 26<sup>th</sup> May, 2004 from Ecological advice Consultancy Services (EACS) shows there has been a completely inadequate assessment of hen harrier nesting patterns in the area. The only proper assessment by the applicants and by Jenny Neff has been limited to 'extensive surveys of Bellanaboy site between 2000 and 2004', which stated that 'it is clear that no suitable nesting habitat for the hen harrier is present'. However, no proper data on monitoring observation of hen harrier movement in the area has been provided by the applicants' consultant, although it is conceded in the EIS Volume 1, that the species has been observed flying overhead on a number of occasions during field surveys from 2001 to 2003. No information is provided to justify the statement on page 2 of the consultants' submission to establish the claim, 'I believe that it is extremely unlikely that hen harriers breed on either the Bellanaboy or Srahmore sites.' The outcome sought by the consultant with regard to condition 2.8.1 makes reference only to one site, without it being clear whether it relates to Bellanaboy or Srahmore and no reference to the haul route or wider area. Furthermore, the request for deletion of condition 32 confirms the applicants' disregard for nature conservation.

9 Deletion of Conditions 34 – 36

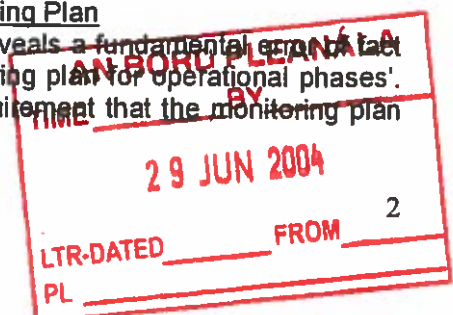
This confirms the consultants' disregard for health, safety and water quality protection.

10 Condition 55

With regard to removing the qualification 'accredited' is an attempt to allow the applicants to evade independent scrutiny.

11 Condition 70 – National Natural Heritage Monitoring Plan

Section 2.12.1 of the consultants' submission reveals a fundamental error in fact in stating that, 'the condition requests a monitoring plan for operational phases'. Condition 70 is emphatic in referring to the requirement that the monitoring plan



applied to both construction and operation. This confirms that the applicants are seeking to evade any meaningful monitoring during operation stage.

### General Assessment

We have commented in detail on the applicants' recommendations for amended planning permission conditions not because we consider that the proposed development can be made acceptable with revised specifications and conditions and revised environmental impact measures, but to analyse the intention of the applicant in seeking the significant modification of what we submit are the already seriously inadequate conditions attached by Mayo County Council to an application that is a major part no more than a concept or proposal in Outline form.

The detailed contents of the first party appeal confirms that the real objective of the applicant is to obtain a form a legal consent which would allow a virtual free hand to the applicants in fleshing out what is no more than an outline concept into a proposal involving:

- The construction of a terminal and ancillary structures on OS datum levels which remain to be adequately established and on ground conditions and hydrology including the presence or absence of rock which have not yet been established;
- Allowing peat slurry to be 'disposed' at the site in Srahmore in a manner not integrated with the main planning application and through the use of a separate EPA license consent procedure which has been deemed by the European Commission to be in breach of the requirements for integrated assessment and development proposals required under Council Directive 85/327/EEC as amended by 97/11/EC, the principle of which is the subject of legal proceedings initiated by the European Commission against the Irish Government in July, 2003;
- The haulage of construction materials and waste disposal from the site over long distances over sub-standard local roads without including areas designated as Candidate Special Areas of Conservation and substantial works on such roads without plans and specifications or even adequate map data to establish the nature and extent of such works which are subject to a separate Part 8 proposal outside the Environmental Impact Statement.

We submit that this proposal is significantly more problematic than the previous application refused by An Bord Pleanála. In attempting to mitigate the specific safety issue on which An Bord Pleanála refused the application, the new proposal has a much wider and more dispersed environmental impact and consequent risk to public health and safety and the regional environment including SAC and SPA-designated areas. This application exacerbates rather than addresses the information deficiencies of the previous proposal. What the applicant is seeking is full permission on a development for which the plans and specifications are in no more than Outline form and for which part land areas, for example areas along haul routes including SAC designations, not even clearly identified. We do not consider that there is any means under the EIA Directive by which such an application be validated since the determination of any consent could not be accompanied by the required mitigation measures.

### Comment on Third Party Appeals

The number of Third Party Appeals from local residents and organisation reflect a range of justifiable concerns with regard to the conception impact and safety of this proposals.

<b>AN BORD PLEANÁLA</b>	
TIME _____	BY _____
29 JUN 2004	
LTR-DATED _____	FROM _____
PL _____	

### Third Party Appeal by Brian Coyle

The content of this appeal is of major significance in seeking to establish international comparisons for the proposed development. In particular, we consider this appeal successfully highlights the fact that Shell and BP Ireland have failed to justify the location or conception of the proposed development or any other international comparison for such an in-shore gas processing facility. Evidence of this is that the health and safety risks associated with gas processing are exacerbated because of the range of additional risks posed by the location of the processing terminal in such an in-shore location. This proposal is being considered by An Bord Pleanála 'de nouveau', although regard will of course will be given by all parties to the previous application and decision. Much has been made by the appellants of the fact that the only specific ground of refusal by An Bord Pleanála related to the disturbance of peat cover on the application site, notwithstanding the other matters of concern raised in the Inspector's Report and Bord Direction. However, we consider that the appeal by Brian Coyle contains significant new information not available at the time of the second ~~aural~~ hearing on the previous application, which puts in question the fundamental location justification and viability of the project.

### RECOMMENDATIONS

This is an application of international significance in its scale and impact. Accordingly, the proposal must be considered with regard to international comparison with other locations of gas landfalls, indeed, if any comparison does exist for an in-shore processing facility in such close proximity to houses and affecting nature conservation designations and scenic views. The information which should be required by An Bord Pleanála in considering this application is completely different to that pertaining in the previous application which warrants a comprehensive assessment of the sustainability and justification of the entire project being required subject to the preliminary issue of the adequacy of the Environmental Impact Statement and accompanying information being evaluated.

We are concerned that An Bord Pleanála's rejection of the calling of an Oral Hearing has not been based on an adequate assessment of the different and more complex proposal which this application represents and the new information on international comparisons from Brian Coyle.

Yours sincerely



IAN LUMLEY  
Heritage Officer

