

**SECTION 131 FORM**

Appeal NO: PL 16.207212.

Defer Re O/H ☐

TO:SEO

Having considered the contents of the submission ~~dated~~ received 30/06/04 from

Monica Muller I recommend that section 131 of the Planning and Development Act, 2000

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

E.O.: Kieron Samers

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. Doula

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 r Fagan

Please treat correspondence received on 30/06/04. as follows:

<p>1. Update database with new agent for Applicant/Appellant _____</p>	
<p>2. Acknowledge with BP <u>20</u></p>	<p>1. RETURN TO SENDER with BP _____</p>
<p>3. Keep copy of Board's Letter <input type="checkbox"/></p> <p>Response to appeal from 3rd party appellant.</p>	<p>2 Keep Envelope: <input type="checkbox"/></p> <p>3. Keep Copy of Board's letter <input type="checkbox"/></p>

<p><b>Amendments/Comments</b></p>

<p><b>4. Attach to file</b></p> <p>(a) R/S <input type="checkbox"/> (d) Screening <input type="checkbox"/></p> <p>(b) Mapping <input type="checkbox"/> (e) Inspectorate <input type="checkbox"/></p> <p>(c) Processing <input type="checkbox"/></p>	<p align="center"><b>RETURN TO EO</b> <input checked="" type="checkbox"/></p>
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<p>EO: <u>Kieron Somers</u></p> <p>Date: <u>01/07/04</u></p>	<p>Plans Date Stamped <input type="checkbox"/></p> <p>Date Stamped Filled in <input type="checkbox"/></p> <p>AA: <u>James Fagan</u></p> <p>Date: <u>1/7/04</u></p>
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MONICA MULLER  
ROSSPORT  
BALLINA  
CO. MAYO  
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Email: monicamuller@eircom.net

An Bord Pleanála  
84 Marlborough Street

Dublin 1

Tuesday, 29 June 2004

Objection to Mayo County Council Planning Permission P 03/3343 for a Gas Refinery in Bellanaboy, Co. Mayo and Peat Depository in Shramore, Co. Mayo; **My Response Shell's Objection**

1. Please find attached photographs taken today 29 June 2004 showing works on site. I particularly wish to draw the Bord's attention to the spilling of diesel, the numerous drains cut through the site, the construction of attenuation ponds not even in the position as in the shown in drawing COR-AR-SD-006 submitted with the application.

Miles of plywood walkways through the site, numerous containers which are labelled: for example canteen, chemical store, drying sheds and toilets, piped water facilities, electricity generating facilities, car parks and visitor's car-park and a species of orchid not described in the EIS, which survived the massive drainage and construction works.

Site preparation work as shown on drawing COR-AR-SD-006 (Construction Phase Drainage Layout after settlement pond is constructed) are complete. But the settlement pond has not been constructed as shown on the drawing. As a result the developer has gained a year by doing this work illegally this spring and summer (during the bird-breeding season) without the benefit of permission but then everyone around here knows, that Shell has been granted political permission.

2. I am advised that on the bases of the Bord's decision in the Lennon Quarry, Co. Mayo, case, the Bord is precluded from granting permission for this development. I also wish to inform the Bord that any grant of permission in this case would be as an extension to an unauthorised development similar to the leave granted by Mr. Justice Abbott in the case of Murphy v An Bord Pleanála. The Bord's decision in 16.206076 also applies here.

3. The EIS submitted for this application is now invalid as there have been substantial changes to the site which are not addressed in the EIS.
4. I refer to the appeal by Tom Philips and Associates on behalf of the developer.
  - a) I respect the belated honesty of the developer who is now basically saying that the EIS is meaningless and we have no intention of keeping to the mitigation conditions, included therein and we don't like conditions which are clear and concise.
  - b) I am intrigued by the statement on page 1 *"such an appeal is not designed to question the spirit of the conditions deemed appropriate by Mayo County Council in its Decision. Rather it stems from a desire to ensure clarity and precision of interpretation for all parties involved in considering the proposed gas terminal and peat deposition for the Corrib Gas development."* when on further reading I find that they are totally appealing the conditions, some of which were mitigation measures proposed in the EIS.
  - c) At 2.3. the developer seeks to amend condition no 4 with the addition of *"certain construction materials may be imported on site prior of the realignment of the R 314 subject to the prior agreement of the Planning Authority."* This is not been addressed in the EIS and the European Commission has clearly stated in Reasoned Opinions which have been placed before the Bord, that EIA is a public participation process and should not be subject to private deals between a planning authority who already appears desperate to allow this development without proper assessment at all.
  - d) Condition no 6. The developer wishes this condition amended to: *'The maintenance, repair and upkeep of the parts of Regional Road R-313 and Local Roads L-12044 and L-1204, which are used as haul routes, Regional Road R-314 from Bellanaboy Bridge to the main terminal entrance, and those roads identified by the road and bridge condition survey referenced in Condition No 7, shall, throughout the construction period, be carried out by Mayo County Council and any costs incurred shall be paid by the Developer.'* This clearly shows that the developer agrees that the upgrading of the road is being done 100 % for the benefit of Shell. It is therefore a significant direct effect of this development. The road (L-1204) is itself, believe it or not, designated a SAC and passes through the SAC and will have a significant negative effect on the SAC. The developer when asked by Mayo County Council to provide the necessary information refused, saying that it was a matter for Mayo County Council. Mayo County Council have now issued a Part 8 consultation for this upgrading, the most blatant piece of project splitting to avoid an EIS for this road, a conspiracy between Shell and Mayo County Council. (Or is it a repeat of Shell and the Nigerian Government?) This will be referred separately to the Bord as a Section 5 referral.
  - e) Condition 15 states *'The developer shall insure that no material shall leak or fall from vehicles while in transit transporting waste from the terminal site.'* The EIS goes to great length to tell us that the peat will

**AN BORD PLEANALA**  
 TIME BY  
 30 JUN 2004  
 FROM

be dried in windrows on the refinery site prior to being loaded into the lorries insuring that it will not leak. I know that these windrows will not dry the peat and in fact it was part of my original objection. **I am glad that the developer now agrees with me and expects the spilling and dribbling of peat slurry on the public road.**

- f) Condition 25, I agree is somewhat ambiguous and suggest that the developer's wish to have no noise condition is an insult to local residents. This is a quiet area and the developer seeks to nullify the noise and vibration effects by advertisement rather than the normal conditions.
- g) Condition 28, the developer wishes to have this condition omitted. Their statement is clever, they say that no hen-harriers have been found to be breeding on the site. With all the work and noise ongoing it is not likely that any hen-harrier of sound mind, would stay and breed.
- h) Condition no 32 states *"Removal of vegetation within the site to be carried out outside of the breeding season."* The developer seeks that this condition be omitted. I agree it is now totally meaningless as the developer has already removed most of the vegetation on the site during the breeding season, as I witnessed today, including most of the heather, but not all the orchids. I thank Tom Phillips for reminding me of section 40 of the Wildlife Act and will be reporting his client for the breaches because the works which Shell have carried out are not covered by the exemption, because no permission has been granted for development works on this site.
- i) With reference to conditions no 34, 35 and 36, the planning authority deemed that these conditions were necessary prior to their consent under the EIA Directive. The developer seems to have forgotten, not only here, but also throughout the EIS that Section 98 of the EPA Act and Section 55 of the Waste Act have been amended.
- j) Condition 55 states *'Prior to the commencement of development the developer shall submit an accredited Environmental Management System (EMS), specific to the construction stage of the development including all subcontractors, to Mayo County Council for agreement in writing.....'* I am glad that Mayo County Council agree with me that the EIS was totally inadequate. This condition requires the basic mitigation measures to be agreed between Shell and Mayo County Council. The EIA Regulations clearly state that an EIS shall contain all the likely significant affects and the mitigation measures proposed. This EIS does not.
- k) Condition no 70 request something that should have been in the EIS. It is clear that the EIS was totally inadequate in addressing discharges from the development. The developer compounds this error by trying to rely on the waste licence and the IPC Licence to cover-up for the inadequacies in the EIS and once again forgetting the amendments to the EPA Act and Waste Act.

As a final point I wish to raise the wonderful contention by Tom Phillips that the Yellow Book is relevant. At a loss as to what he refers to and researching it, I found that the Yellow Book pre-dates the EIA Directive and is therefore totally irrelevant.

<b>AN BORD PLEANÁLA</b>	
BY <u>Tom Phillips</u> on <u>20 JUN 2004</u>	
LTR.- DATED	FROM
PL	

Yours sincerely,

Monica Muller

ps

Coillte states in a document that *"Coillte is contracted to sell approximately 160 hectares of land at Ballinaboy, Glenamoy to Shell Exploration and Production..."*

This confirms my assertion in my appeal that the 'blue line' is not accurate, thereby making the application invalid.

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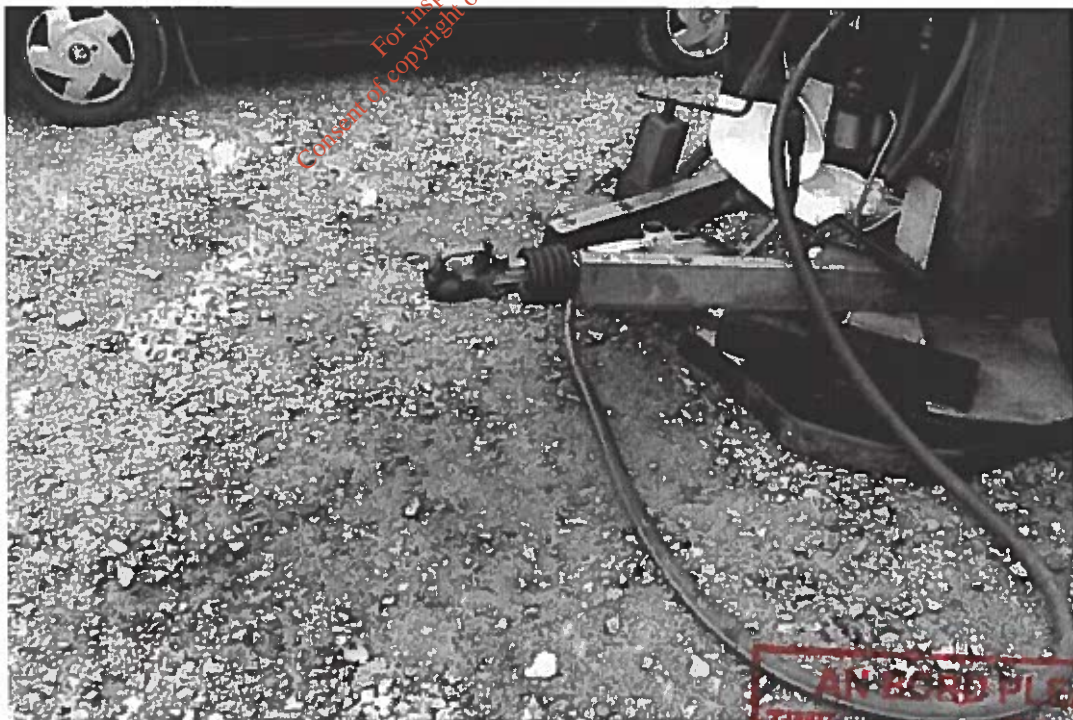




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**BOARD PLEANÁLA**

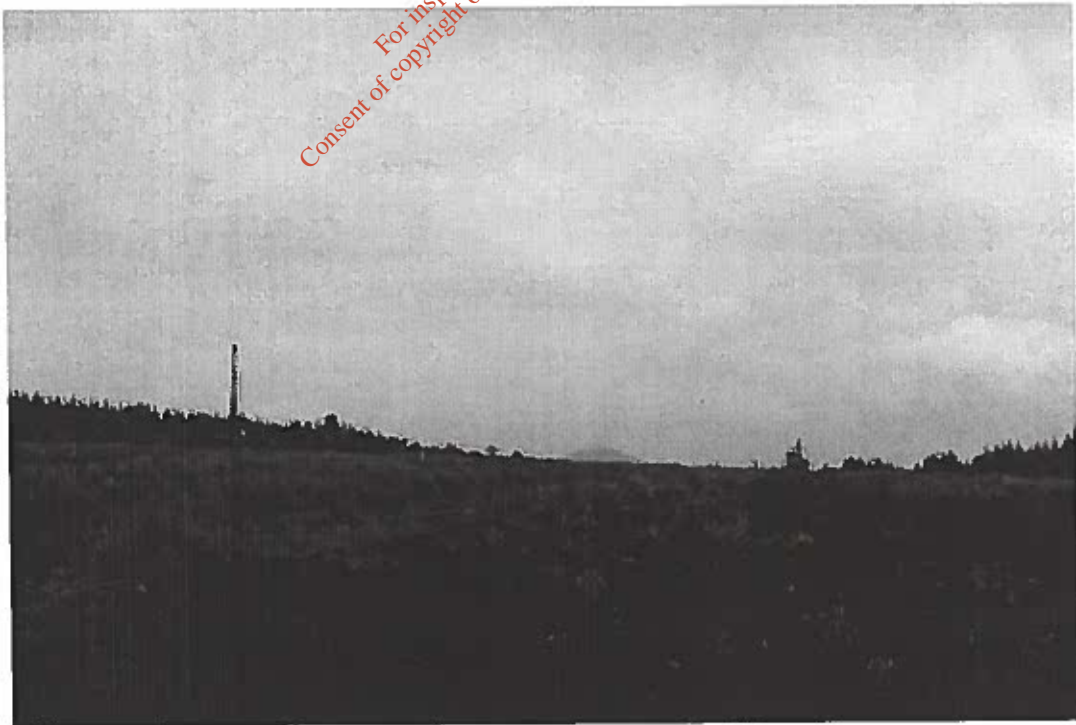
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