



Objection

Objector:	Mr Paul Barlow
Organisation Name:	Woodstown Bay Shellfish Ltd.
Objector Address:	The Harbour, Dunmore East, Waterford, Co. Waterford.
Objection Title:	Objection #OS010245 - 3rd party objection for Reg No:[P0606-04]
Objection Reference No.:	OS010245
Objection Received:	07 March 2022
Objector Type:	3rd Party
Oral Hearing Requested?	Yes

Application

Applicant:	SSE Generation Ireland Limited
Reg. No.:	P0606-04

See below for Objection details.

Attachments are displayed on the following page(s).



Office of Environmental Sustainability,
EPA Headquarters,
P.O. Box 3000,
Johnstown Castle Estate,
County Wexford.

7 March 2022

Re: Objection to Proposed Determination P0606-04 by Paul Barlow MD of Woodstown Bay Shellfish Limited.

To whom it concerns,

This objection should be read in conjunction with my previous submission to this process dated 24 November 2020. The grounds for this objection and the reasons, considerations, and arguments on which the grounds are based are set out as follows.

Ground 1 - There is no Planning Permission for the consented development

1. The development that is the subject of the Proposed Determination ('PD') is a materially different development to that which was granted planning permission as file reference PA26.PA0016 by An Bord Pleanála ('the Board') on 29 July 2010, the reasoned conclusions of which the Agency is stated (at s.3 of its Inspector's Report) to have had regard to in undertaking its environmental impact assessment ('EIA') of the activity.
2. The development the subject of this PD, as described therein by the Agency is: "*a 795-megawatt (thermal input) gas-fired, combined cycle gas turbine (CCGT) power station located in the townland of Great Island, approximately 15km south of New Ross, County Wexford.*" The PD allows a maximum volume of chlorinated water to be emitted to the Barrow Estuary, through Emission Point Reference Number SW2-Condenser Cooling Water of 33,000 m3 per hour, which equates to a daily limit of 792,000 m3. The PD permits other chlorinated emissions to the estuary including at SW8-Cooling Water Screen Wash water which has a daily limit of 1,970 m3. Cooling water is to be abstracted from the estuary
3. The development that was the subject of the planning permission granted by An Bord Pleanála in 2010 was for a smaller output energy plant, described in the Board's Order as "*a combined*

cycle gas turbine (CCGT) power plant with an electrical output capacity of 430 megawatts (MW)". The planning permission assumed a maximum cooling water demand of 20,000 m³/hr (to be extracted from the estuary) which equates to 480,000 m³ per day.

4. The proper planning and sustainable development of a 795 MW power plant at this location with its associated volumes of water abstraction for cooling purposes was never the subject of a development consent. There is no planning consent for the abstraction of what now amounts to nearly 800,000 m³ per day of cooling water or the return of an equivalent volume of water to the Barrow Estuary in a chlorinated form or the increased incidence of fish impingement at the cooling water intake. The traffic implications of the current operation were never the subject of a planning permission including the substantial increase in transportation of sodium hypochlorite from the 5 tonnes per annum assumed in 2010 to the annualised rate of 1230 tonnes for 2019 reported by the licensee to the Agency by letter dated 25 March 2020.
5. By comparing the 2010 report of the An Bord Pleanála Inspector with the 2021 report of the Agency's Inspector, it is abundantly clear that the Environmental Impact Assessment conducted by An Bord Pleanála in 2010 for the purpose of granting planning permission was for a materially different project.
6. In circumstances where an application for a licence was made to the Agency in respect of an activity that involves development or proposed development for which a grant of permission is required but where the licence applicant cannot confirm that a planning application has been made, the Agency is obliged, under s.87 of the EPA Act 1992, as amended, to refuse to consider the application. The remaining grounds of objection are made without prejudice to this ground, the implication of which is that the Agency has no jurisdiction to grant a PD for the development proposed.

Ground 2 – No proper public notification was made of this PD

7. The notice published by the Agency to inform the public of the making of the PD failed to identify to the public the true nature and scale of the project being consented and how it has significantly increased in terms of power output and water abstraction and discharge of chlorinated and ammonia rich cooling water since the previous EIA process. It should have been made clear to the public that this is a 795 MW power plant, not the 430 MW power plant on the same site that was the subject of an EIA in 2010 and that the water abstraction and discharge has almost doubled since An Bord Pleanála was last involved.

Ground 3 – No Environmental Impact Assessment

8. The Agency's Inspector was wrong to conclude that because the planning permission was granted before 16/05/2017, the Agency's assessment should be undertaken in accordance with the requirements of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment ('the 2011 EIA Directive'). The development

that is the subject of this consent process is a new project that represents a significant increase in power generation capacity and significantly greater environmental footprint than the project previously permitted. Directive 2011/92/EU has been amended in 2014 by Directive 2014/52/EU and the consolidated EIA Directive ('the 2014 EIA Directive') ought to have been the basis of the Agency's EIA, and the EIA conducted by the Planning Authority for any new planning application.

9. Complaints of impacts to marine life in the estuary and in European sites from this power plant have not been properly addressed and no proper regard has been given to the views from the aquaculture and fishing industries that the discharge of excessive loadings of chlorine and chlorine compounds and ammonia rich water to the estuary has for some time been having a negative impact on certain species. The Agency has no knowledge of the concentrations of chlorine or volumes of chlorinated water or ammonia discharged through SW8 for the many years it was operated in non-compliance of the current licence, or the environmental impacts of those or other unauthorised discharges or the impact of compounds formed when the sodium hypochlorite reacted with ammonia in the discharge for example. There has been no environmental impact assessment of any damage that may have already been done.
10. The reputational damage to producers and aquaculture brands that rely on a pristine and healthy marine environment was not considered in any assessment of material assets or human impacts.
11. The Agency failed to consider the cumulative impacts of the surface water emissions from this plant with other emissions to the estuary now and in the past.
12. The Agency ought to have considered the non-compliances with the current licence before issuing a PD that relies heavily on self-regulation, including the failure to report to the Agency ongoing discharges of chlorinated water from SW8. It is not clear why the recommendation of Inland Fisheries Ireland for continuous monitoring of chlorine concentrations in emitted discharges was not implemented by condition in the PD or why the licensee is to be trusted to properly report chlorine emissions into the future when it didn't in the past. It is concerning that no chlorine limit or volume limit at all was placed on *SW13-Process Waste Water*. It is not beyond contemplation that a company that has already failed to report an unauthorised discharge for over a decade would utilise a liberally permitted discharge point for more than one effluent.
13. No alternatives to the cooling water intake system were considered for the purposes of minimising impacts to fish species, despite the existence of the following condition in the planning permission:

Final detailed measures (other than the reduced cooling water requirement which is a natural consequence of the combined cycle gas turbine), as proposed at the oral hearing, to minimise the incidence of fish impingement at the cooling water intake shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. The agreed measures shall be installed prior to commissioning of the new generating plant. Reason: In the interest of orderly development.

Ground 4 – Best Available Techniques were not applied

14. There is an assumption in the PD that BAT was established in 2001 and never moved on. There is an obligation on the licensee to provide best scientific information to the process and for the Agency to insist on it. It is a failing of this process that the interpretation of 'BAT' for emission discharges is 'stuck' in 2001, even though alternatives to chemical dosing were being identified as BAT by then.
15. In any event, the project as consented in the PD does not comply with BAT as set out in the BREF for Industrial Cooling Systems of December 2001 (Reference Document on the application of Best Available Techniques to Industrial Cooling Systems).
16. Paragraphs 2.3.1 and 2.3.2 of Annex VI of the BREF document suggest that the residual chlorine limit for Chlorine dioxide, chlorine and bromine (expressed as chlorine) should be no more than 0.3 mg/l whereas the Agency in its PD has allowed a limit of 0.3 mg/l for 'chlorine'.
17. The Agency has had no regard to the alternative and non-chemical cooling systems set out in Annex XI of the BREF document, which have evolved in the 21 years since publication.
18. The PD does not control or monitor the site specific implications of the proposed, existing and past chlorination due to the following reactions summarised in the BREF document:

From both the chlorine gas and the sodium hypochlorite solution, the most active chemical species is the non-dissociated hypochlorous acid. This is a very reactive oxidising agent and reacts with most organics in the water to form the trihalomethane (THM) chloroform (3-5%) and other chlorinated organics. Free chlorine can also react with ammonia to produce chloramines or with diverse dissolved organic compounds forming different types of organ halogenated compounds (such as THM, chlorophenols).
19. The PD has not incorporated the conclusion in the BREF document that it is not necessary to dose biocides when water temperatures are lower than 12°C.
20. The appropriate duration of sodium hypochlorite dosage in site specific conditions is not addressed in the Inspector's Report or limited in the PD. The assumption that dosage can occur on a continuous 24 hour basis or as unlimited 'shock dosing' is not compliant with the BREF document.
21. There was no application of BAT to water abstraction. The 'final detailed measures' to minimise the incidence of fish impingement at the cooling water intake to be agreed in writing with the planning authority prior to commencement of development and installed prior to

commissioning of the new generating plant ought to have represented BAT but were never implemented.

Ground 5 - No Appropriate Assessment was conducted

22. No AA screening was conducted. It is not clear to the public the basis on which the Board decided that there will be significant impacts on the conservation of species or habitats in the River Barrow and River Nore SAC (002162) and Lower River Suir SAC (002137).
23. No AA was conducted. There is a conclusion statement and a list of conditions that purport to mitigate against likely impacts but there is no assessment that can give the public any reasons for the conclusion and no comfort can be derived from what is a formulaic conclusion.
24. The impacts on conservation interest species of the affected European sites including salmon, lamprey, and Freshwater Pearl Mussel, of the water discharged to the estuary in the past, present and future has not been assessed in compliance with the requirements of Article 6 of the Habitats Directive and the related rulings of the Court of Justice of the European Union.
25. The Inspector, in dismissing the obligation to assess the environmental impacts and effects of the abstraction of water into the system has failed to recognise the relationship between the water discharged and the water abstracted. The substantial increase in volumes of discharge water being permitted in this PD has an equivalent intake volume, the impacts of which have had, are having and will have a severe impact on fish species caught up in the abstraction, and this has not been assessed. No AA was conducted by the planning authority in 2010 on the scale of water abstraction required for the very different project that is currently the subject of licence review and the impacts of such abstraction.

Ground 6 – No regard has been had to achieving Water Framework Directive objectives

26. The Inspector recognises that the installation is located at the intersection of three Water Framework Directive (WFD) waterbodies (map Appendix 1) and that the three transitional waterbodies have been characterised as at risk of not meeting good status. But the statement by the Inspector that the installation at Great Island “*has not been identified as a significant pressure*” is incorrect.
27. The 3rd Cycle Draft Colligan-Mahon Catchment Report published by the EPA in August 2021 identifies in relation to the Barrow Suir Nore Estuary waterbody (IE_SE_100_0100) multiple pressures and incorporates ‘recommended areas for action’ in relation to a submission by BIM in relation to “*Shellfish Protected Areas, Norovirus impacts, concern re sodium hypochlorite use (point source), important inshore fisheries*”.

28. The scale of concern from experienced members of the fishing and aquaculture industries in relation to unregulated and self-regulated discharges to the marine environment from this plant is by itself an identification of significant pressures on the meeting of the Water Framework Directive objectives from the installation.
29. The reliance on the Marine Institute assessment of the average dissolved concentrations for metals in shellfish waters for the period 2016-2019 and the microbial quality in shellfish flesh for 2018 is insufficient as the MI assessment fails to address impacts to shellfish from the discharge of chlorine and chlorine compounds into the estuary or the elevated consumption levels of sodium hypochlorite.
30. The reliance on the Waterford Harbour Pollution Reduction Programme (2012) conclusion that the key pressures on Shellfish were from urban wastewater systems, on-site wastewater treatment systems and agriculture is significantly outdated.
31. It is not clear why the recommendation of Inland Fisheries Ireland for continuous monitoring of chlorine concentrations in emitted discharges to the waterbody was not implemented by condition in the PD.

Ground 7 – this is not a full licence review

32. The licence review was restricted to discrete areas identified by the power plant operator. A full review of the Industrial Emissions licence for this installation is long overdue.

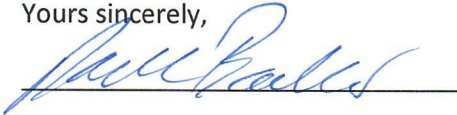
Ground 8 - The public has not had an opportunity to fully participate

33. The complaints from the fishing and aquaculture industries in relation to impacts on marine life coincide with a period over which the licensee has admitted using volumes of sodium hypochlorite significantly in excess of the volumes assumed when the 2010 EIA was conducted by the EPA and the Board.
34. The EPA is in effect granting a form of retention consent for the unauthorised discharges and unassessed chlorination of the past without conducting any assessment of those impacts. The public should be allowed to properly participate in any such assessment.
35. The Agency is placing too much emphasis on a 'BREF' document that was published more than 2 decades ago. Scientific knowledge has improved since then. The fishing and aquaculture industries and related environmental NGOs have not had a proper forum to allow them present modern scientific evidence to the process or to interrogate, through experts, the licensee's proposals.
36. An Oral Hearing is essential to ensure full participation of the public. Any public notification of an Oral Hearing should properly inform the public of the nature and scale of the development that is the subject of the licence review and the extent to which the project has

changed since the last EIA was conducted in 2010. This participant formally requests an Oral Hearing.

Enclosed please find the appropriate fee for this objection plus the additional fee for an Oral Hearing. If you have any queries in relation to this submission, please do not hesitate to contact our offices.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Paul Barlow", is written over a horizontal line.

Mr Paul Barlow

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