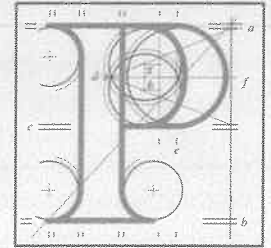


Our Ref: 17.PA0026

Your Ref:

An Bord Pleanála



Aoife Loughnane
E.P.A.- Regional Inspectorate
McCumiskey House
Richview
Clonskeagh Road
Dublin 14

05 FEB 2013

Re: Amendments to existing Permissions for Waste to Energy Plant at Carranstown, Duleek, County Meath.

Dear Madam,

An order has been made by An Bord Pleanála determining the above-mentioned case. A copy of the order is enclosed.

Please be advised that in accordance with the provisions of section 37H(4) of the Planning and Development Act, 2000 as amended a grant of permission under section 37G shall not become operative until payment by the applicant of a sum in respect of costs has been complied with.

Furthermore, section 37H(5) states that where an applicant for permission fails to pay a sum in respect of costs in accordance with a requirement made under subsection 2(c) the Board, the authority or any person concerned (as may be appropriate) may recover the sum as a simple contract debt in any court of competent jurisdiction.

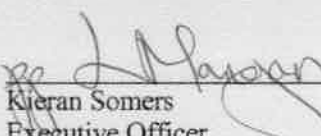
In accordance with section 146(5) of the Planning and Development Act, 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. In addition, the Board will also make available the Inspector's Report and the Board Direction on the decision on its website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The attachment contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,


Kieran Somers
Executive Officer
Direct Line: 01-8737107

PA17.LTR

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

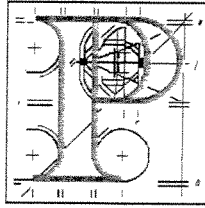
Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

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An Bord Pleanála



STRATEGIC INFRASTRUCTURE DEVELOPMENT

PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

An Bord Pleanála Reference Number: 17.PA0026

(Planning Authority: Meath County Council)

APPLICATION for permission under section 37E of the Planning and Development Act, 2000, as amended, in accordance with plans and particulars, including an environmental impact statement, lodged with An Bord Pleanála on the 30th day of April, 2012 by Indaver Ireland Limited of 4th Floor, Block 1, West Pier Business Campus, Old Dunleary Road, Dun Laoghaire, County Dublin.

PROPOSED DEVELOPMENT: Amendments to the existing development as follows:

- (a) To increase the intake tonnage of waste from 200,000 tonnes to 220,000 tonnes per annum.
- (b) To allow the acceptance of some additional types of waste defined as hazardous and non-hazardous in the European Waste Catalogue.
- (c) A change in status of the temporary spare parts warehouse building (single storey building 25 metres x 15 metres x 6.7 metres high) to a permanent centralised maintenance depot.
- (d) A change in status of the temporary electrical switchgear building (associated with the above) 4 metres x 2.5 metres x 3.2 metres high from temporary to permanent.
- (e) A change in status of the temporary construction modular office building (single storey building 33 metres x 12 metres x 3 metres high) from temporary to permanent.

FOR

- (f) A change in status of the temporary electrical switchgear building (associated with the above) 3 metres x 2.7 metres x 3.2 metres high from temporary to permanent.
- (g) Construction of an access roadway to the modular office building.
- (h) 22 number new car parking spaces associated with the modular office building.
- (i) A new on-site effluent treatment system associated with the modular office building.
- (j) Change in status from temporary to permanent for hardcored areas associated with the spare parts warehouse, construction offices and temporary site car park.
- (k) An additional fuel storage tank (8.7 metres length x 2.7 metres diameter).
- (l) An additional ammonia storage tank (7.15 metres length x 3.5 metres diameter).

All at Carranstown, Duleek, County Meath.

DECISION

GRANT permission under section 37G of Planning and Development Act, 2000, as amended, 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.

DETERMINE under section 37H(2)(c) the sum to be paid by the applicant in respect of costs associated with the application as set out in the Schedule of Costs 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 the submissions and observations received by it in accordance with statutory provisions.

FOR

REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard to the following:

- (a) the provisions of the EU Waste Framework Directive, including the waste hierarchy set out in Article 4, which prioritises *energy recovery* over *disposal*, and the principles of *self-sufficiency* and *proximity* set out in Article 16;
- (b) the provisions of the National Development Plan 2007-2013 in relation to waste management;
- (c) the provisions of the National Hazardous Waste Management Plan 2008-2012, which recommends that Ireland should strive for greater self-sufficiency in hazardous waste management;
- (d) the provisions of the North East Region Waste Management Plan 2005-2010, and the North East Region Waste Management Plan 2005-2010 Review Report;
- (e) the policies and objectives of the Meath County Development Plan 2007-2013;
- (f) the planning history of the site, and the existing waste-to-energy recovery facility on site, which operates under a licence issued by the Environmental Protection Agency;
- (g) the limited quantity and types of hazardous waste that would be accepted for treatment;
- (h) the location of the site, and its proximity to a national transport network;
- (i) the documentation submitted in support of the application and to the oral hearing, including the environmental impact statement and the Habitats Directive screening statement;
- (j) the submissions on file, including those from prescribed bodies, and the Inspector's report and assessment, and
- (k) the waste licence review application (Registration Number W0167-03) made to the Environmental Protection Agency for the proposed development.

FOR

The Board considered that the environmental impact statement submitted with the application, supported by the further information submitted to the Board over the course of the application, including the information submitted to the oral hearing, the submissions of prescribed bodies and the planning authority, and other submissions on file, were adequate in identifying and describing the likely significant effects of the proposed development. The Board completed an environmental impact assessment, and agreed with the Inspector in his assessment of the likely significant effects of the proposed development, and generally agreed with his conclusions on the acceptability of the mitigation measures proposed and residual effects in relation to the increase in non-hazardous waste capacity. The Board did not share the Inspector's concerns regarding the residual effects of the treatment of hazardous waste (as summarised in Section 11.9.12 of the Inspector's report) for the following reasons:

1. Having regard to the level of geotechnical, hydrogeological and hydrological information available on the current file and on the planning appeal history files, the Board considered that any residual concerns in relation to details of the waste water treatment system could be appropriately addressed by means of condition.
2. Having regard to the level of information on file relating to the acceptance, handling, storage and management procedures for various waste streams, and to the application to the Environmental Protection Agency for a revised waste licence, the Board was satisfied that the details of such procedures would be satisfactorily dealt with by the waste licensing process, and that adequate information was available to inform its decision-making for planning and environmental impact assessment purposes.
3. The Board considered that the availability of an appropriate, licenced treatment facility in Ireland for segregated hazardous waste (as opposed to export abroad) should not necessarily lead to a change in public perception or practice in relation to waste management. Moreover, public communication programmes can respond to changes in attitudes should they arise.

Having completed the environmental impact assessment, the Board concluded that the proposed development would not be likely to have significant adverse effects on the environment.

The Board carried out a screening exercise in relation to the potential impacts of the proposed development on European sites, having regard to its nature



and scale, to the receiving environment, to the Habitats Directive screening statement submitted with the application, to the submissions on file generally, including those from the prescribed bodies and from the planning authority, and to the Inspector's assessment, which is noted, and concluded that the proposed development, in itself or in combination with other plans or projects, would not be likely to have a significant effect on any European site.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be in compliance with national, regional and local waste management policies, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would, therefore, 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 acceptance of hazardous waste:

1. The Board considered that the acceptance of a limited quantity of specified types of hazardous waste in this existing commercial waste-to-energy plant would provide an alternative to the current export of a significant proportion of such waste in accordance with the principles of self-sufficiency and proximity as set out in the EU Waste Framework Directive.
2. Point (3) above addresses the reasons for not accepting the Inspector's second recommended reason for refusal.
3. Point (2) above addresses the reasons for not accepting the Inspector's third recommended reason for refusal.
4. The Board noted Condition 30 of Planning Appeal Reference Number PL17.219721, which required the developer to pay a financial contribution in respect of a community recycling park. The Board considered the provision of a community recycling park at Duleek to be a matter for the planning authority.

FOR

CONDITIONS

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further information received by An Bord Pleanála on the 11th day of June, 2012 and on the 30th day of August, 2012, as further amended by the information submitted to the oral hearing, and in accordance with the provisions of the submitted environmental impact statement, including environmental mitigation measures contained therein, 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. Conditions attached to the planning permission granted under planning register reference number SA/901467 shall be complied with in full, except where otherwise specified in the following conditions.

Reason: In the interest of clarity.

3.
 - (1) The tonnage of waste accepted for treatment at the facility shall not exceed 220,000 tonnes per annum.
 - (2) Non-hazardous waste to be accepted at this facility shall primarily be waste generated in the waste region in which it is located. Where non-hazardous waste is accepted from outside that region, it shall only be done in accordance with the proximity principle and Ministerial Policy as set out in Circular WIR:04/05.
 - (3) The tonnage of separately collected hazardous waste accepted for treatment at the facility shall not exceed 10,000 tonnes per annum.

The only hazardous waste types to be accepted for treatment shall be in accordance with the European Waste Catalogue Codes listed in Table 2.1 of the environmental impact statement submitted to An Bord Pleanála with the application on the 30th day of April 2012, as attached in Appendix 1 of this Order.

FOR

Reason: To clarify the nature and scope of the permitted development.

4. The hours of waste acceptance and dispatch of residues/waste shall only be between 07.00 and 18.30 on Monday to Friday, and between 08.00 and 14.00 on Saturday. Waste shall not be accepted or dispatched on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of the amenities of property in the vicinity and to facilitate the operation of the waste-to-energy facility.

5. Prior to commencement of construction, the applicant shall submit to and agree in writing with the planning authority details of the proposed additional waste water treatment facility on site in accordance with the requirements of the Wastewater Treatment Manual "Treatment Systems for Small Communities, Business, Leisure Centres and Hotels" issued by the Environmental Protection Agency (1999).

Reason: In the interest of public health.

6. In relation to any excavation or ground disturbance, the developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of 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 (including hydrological and geotechnical investigations) 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

FOR

- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing 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 An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

7. Construction stage details for water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority.

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

8. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

9. The developer shall pay the sum of €60,000 (sixty thousand Euro) (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), to the planning authority as a contribution in respect of public roads improvements to benefit the proposed development. The works and measures shall include:

FOR

- (i) improved permanent road markings delineating the right turn lane at the access to the site from the R152 Regional Road; and
- (ii) permanent signage to assist in the enforcement of the traffic management plan, which prohibits traffic associated with the waste-to-energy facility from travelling along the R150 Regional Road between its junction with the R153 Regional Road to the west and the N2 National Road to the east.

This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority and which will benefit the proposed development.

SCHEDULE OF COSTS

In accordance with section 37H of the Planning and Development Act 2000, as amended, the Board requires a reasonable contribution to be paid by the applicant towards costs incurred by An Bord Pleanála and by the planning authority in its consideration of the application, as attached in Appendix 2 of this Order.

FOR

SCHEDULE OF COSTS

In accordance with section 37H of the Planning and Development Act 2000, as amended, the Board requires the following reasonable contribution to be paid by the applicant towards costs incurred by An Bord Pleanála, the planning authority and by persons who made submissions/observations to the Board in its consideration of the application:

To An Bord Pleanála	€21,045
To Meath County Council	€ 8,260
To Louth and Meath Health Protection Group	Nil
To James Rountree	Nil
To Louth People Against Incineration	Nil

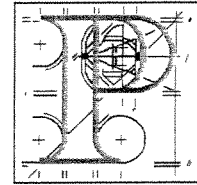
A breakdown of the Boards costs is set out in the attached Appendix 2.

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

Dated this 4th day of February 2013.



Appendix 1.

Strategic Infrastructure Development

File No. 17.PA0026

Brief Description of Development: Amendments to existing permissions for Waste to Energy Plant at Carranstown, Duleek, Co. Meath.

List of Proposed New European Waste Catalogue (EWC) Codes and Waste Types

(Listed in Table 2.1 of the environmental impact statement submitted to An Bord Pleanála on the 30th day of April, 2012)

EWC	Example of Material	Industry Source	Waste Management Region
160507*	Toilet bowl or other cleaners, detergents etc.	All industry	ALL Regions
160508*	Denture fixative waste	All industry	ALL Regions
160303*	Colourings used in cosmetic manufacture	All industry that generates off specification or redundant products	ALL Regions
160305*	Cosmetic eye shadow base, mascara, lipstick	All industry that generates off specification or redundant products	ALL Regions
150202*	Rags and cloths contaminated with paints	All industry that uses absorbents/filters/PPE etc	ALL Regions
150110*	Plastic jerricans previously containing cleaning agents	All industry that uses packaging	ALL Regions
170204*	Wood from dismantled warehouse contaminated with creosote or other preservative	Construction & Demolition projects	ALL Regions

FOR

EWC	Example of Material	Industry Source	Waste Management Region
170903*	Construction & Demolition waste such as window frames from a pharmaceutical building - may contain trace pharmaceutical powders.	Construction & Demolition projects	ALL Regions
170505*	Dredging spoil from firewater retention ponds	Construction & Demolition projects	ALL Regions
170503*	Soil & stones from clean up operations resulting from building foundations where possible contamination has occurred (e.g. on pharma site - old building)	Construction & Demolition projects	ALL Regions
180103*	Medical/Infectious Wastes. (Excluding Sharps) from Clinics, nurses stations etc	Healthcare industry, users of healthcare/ diagnostic/ research products	ALL Regions
130701*	Waste fuel oil and diesel	Manufacture/supply use of oils & fuels	ALL Regions
070101*	Water from a spill clean up containing trace oils and adhesive powders.	Manufacturers or users of organic chemicals	ALL Regions
080308	Waste Ink Solution (Water and Non hazardous Ink Solids), paint and water mixture	Manufactures or users of paints & inks	ALL Regions
200137*	Treated wood from Civic Amenity sites	Municipal/Industrial/ Commercial Waste	ALL Regions
200127*	Paint cans, and paint waste from Civic Amenity sites	Municipal/Industrial/ Commercial Waste	ALL Regions

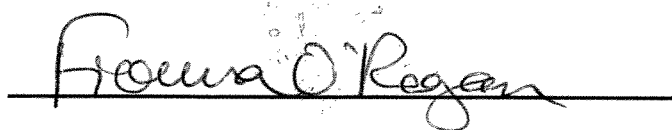
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EWC	Example of Material	Industry Source	Waste Management Region
200128	Water based paint from Civic Amenity sites	Municipal/Industrial/ Commercial Waste	ALL Regions
070501*	Rinsewaters containing trace pharmaceutical residues.	Pharmaceutical manufacturers or users	ALL Regions
070513*	Headache tablets	Pharmaceutical manufacturers or users	ALL Regions
070511*	Waste water treatment sludge from pharmaceutical plant - trace pharma powders may be present	Pharmaceutical manufacturers or users	ALL Regions
191303*	Sludges from soil remediation - e.g. illegal dumping clean up	Soil & Groundwater remediation Projects	ALL Regions
160107*	Discarded oil filters from garages and mechanics	Vehicle/Machinery Maintenance	ALL Regions
191206*	Wood (treated) from waste management facilities	Waste Management Facilities	ALL Regions
191211*	Shredded paint buckets and cans – contents previously pumped off and packaging shredded	Waste Management Facilities	ALL Regions
191003*	Material from shredding of white goods (after recycling) may contain some trace hazardous materials such as plastics with brominated flame retardants.	Waste Management Facilities where there is metal shredding	ALL Regions

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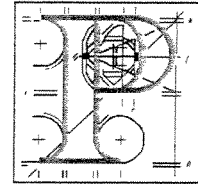
EWC	Example of Material	Industry Source	Waste Management Region
190811*	Waste water treatment sludge from local authority treatment plants where possible contamination may have occurred	Waste water treatment plants	ALL Regions
030104*	Wood shavings and small pieces of wood, treated with preservative, from furniture/window manufacturers	Wood Processing/Furniture manufacturer	ALL Regions
190113* 190112 190107*	Flue Gas Treatment residues, bottom ash and boiler ash, temporarily returned to site before being re-sent for treatment	Indaver Ireland WTE, Carranstown	NE Region

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

Dated this *4th* day of *February* 2013.



Appendix 2.

Strategic Infrastructure Development

Cost of determining the Application.

File No. 17.PA0026

Brief Description of Development: Amendments to existing permissions for Waste to Energy Plant at Carranstown, Duleek, Co. Meath.

Costs incurred by the Board in determining the application.

Board's Costs		
(1)	Cost based on Inspector's time Inspector 1 (pre-application consultation) - €3,276 Inspector 2 (application) - €101,556 Consultant 1 fee - €5,394 Consultant 2 fee - €8,000	€104,832 €13,394
(2)	Costs invoiced to Board	€3,469
(3)	Total chargeable costs	€121,695
(4)	Application fee paid	€100,000
(5)	Observer Fees paid	€650
(6)	Net amount due to be paid by applicant, or	€21,045
(7)	Amount due to be refunded to applicant	

2. Sum(s), which the Board considers reasonable, to be paid by the applicant to the planning authority or planning authorities.

	Name of Planning Authority	
(1)	Meath County Council	€8,260

FOR

3. Sum(s) to be paid by the applicant to other persons as a contribution to the costs incurred by such persons during the course of consideration of the application.

	Name of Person	
(1)	Louth and Meath Health Protection Group	Nil
(2)	James Rountree	Nil
(3)	Louth People Against Incineration	Nil


Fionn O'Regan

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

Dated this 4th day of February 2013.