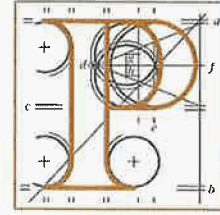


Our Ref: ABP-302447-18



An
Bord
Pleanála

Indaver Ireland Limited
Carranstown
Duleek
Co. Meath

Date:

4 APR 2019

Re: Alteration request to extend current permission for waste-to-energy facility in perpetuity
(application reference number 17.PA0026)
Carranstown, Duleek, Co. Meath

Dear Sir / Madam

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


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: 01-873 7107

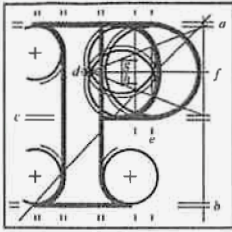
Teil
Glao Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost

Tel (01) 858 8100
LoCall 1890 275 175
Fax (01) 872 2684
Website www.pleanala.ie
Email bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

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An
Bord
Pleanála

Board Order
ABP-302447-18

Planning and Development Acts 2000 to 2018

Planning Authority: Meath County Council

(Associated application reference number: 17.PA0026)

REQUEST received by An Bord Pleanála on the 30th day of August 2018 from Indaver Ireland under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of a strategic infrastructure development described as the Indaver Ireland waste-to-energy facility at Carranstown, Duleek, County Meath.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 4th day of February 2013, including condition number 3(1) limiting the tonnage of waste accepted for treatment at the facility to not exceed 220,000 tonnes per annum,

AND WHEREAS the Board made a decision on the 1st day of August 2014 under case reference number 17.PM0004 to alter the terms of 17.PA0026 through the amendment of condition number 3(1) to allow for the annual tonnage of waste accepted for treatment at the facility to be increased from 220,000 tonnes to 235,000 tonnes for a temporary period until the 31st day of December 2019,

AND WHEREAS the Board has received a request to alter the terms of the development, the subject of the permission,

AND WHEREAS the requested alteration is described as follows:

The alteration to Indaver waste-to-energy installation to allow acceptance of increased tonnage from 220,000 tonnes per annum to 235,000 tonnes per annum on a permanent basis,

AND WHEREAS the Board has determined that the requested alteration would constitute the making of a material alteration to the terms of the development concerned and requested the requester under section 146B(3)(b)(i) to submit to the Board the information specified in schedule 7A to the Planning and Development Regulations 2001, as amended, in respect of the alteration,

AND WHEREAS the Board is required to make a determination under section 146B(4), the Board is satisfied that the alteration requested, having regard to:

- (i) the extent and character of the alteration requested, which is significantly under the threshold in respect of Class 10 (*waste installations for the incineration or chemical treatment as defined in Annex IIA to Directive 75/442/EEC under heading D9, of non-hazardous waste with a capacity exceeding 100 tonnes per day*) of Part 1 of Schedule 5 of the Planning and Development Regulations 2001, as amended, and which, therefore, does not fall within the scope of Class 21 development under the same Part relating to '*any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex*',

- (ii) the information submitted by the requester pursuant to schedule 7A of the Planning and Development Regulations 2001, as amended, as contained in the Environmental Report, inclusive of the Report for the Purposes of Appropriate Assessment Screening appended thereto,
- (iii) The criteria set out in Schedule 7 to the Planning and Development Regulations 2001, as amended, including:
- (a) the characteristics of the alteration requested which comprises a relatively small-scale alteration to operations from 1st January 2020 entailing a circa 7% increase in waste throughput, without physical modifications to the installation; the nature of emissions arising, including emissions to air and occasional indirect discharges of clean water to a drainage ditch within the catchment of the River Nanny to water which are governed by the provisions of the EPA IED Licence W0167-03; and the relatively low level of additional associated resource use, generation of waste residue, pollution and nuisances and additional traffic movements generated,
- (b) the location of the alteration requested within a rural landscape which has a significant presence of substantial heavy industrial operations, outside of any residential settlement, and which is rated as being of moderate sensitivity to the proposed alteration project under the Landscape Character Assessment of the Meath County Development Plan 2013-2019; at a distance from any site referred to under section 146B(7)(a)(vi) and with indirect source-pathway-receptor connectivity only to Laytown Dunnes/Nanny River Estuary proposed Natural Heritage Area (site code: 000554) (circa 8.1 kilometres downstream) and to the River Nanny Estuary and Shore Special Protection Area (site code: 004158) (circa 9.1 kilometres downstream); and notwithstanding the lack of absorptive capacity of the River Nanny and the Bettystown groundwater which are of *Poor/Moderate* and *Poor* status, respectively, and *At Risk* of not meeting their WFD objectives, and



(c) the types and characteristics of potential impacts arising from the requested alteration alone, cumulatively or in-combination, which are not considered to be significant, including by reason of the governing of, *inter alia*, emissions to air and water through the terms and conditions of the EPA IED Licence W0167-03,

would not be likely to have significant effects on the environment, including on any European Site in view of their Conservation Objectives,

AND WHEREAS the Board is satisfied, having regard to:

- (i) the nature and scale of the requested alteration taken cumulatively with the existing waste-to-energy installation,
- (ii) the examination of environmental impact, including in relation to Natura 2000 Sites, carried out in the course of that application,
- (iii) the waste policy framework context,
- (iv) the submissions and observations received, and
- (v) the report and recommendation of the Board's inspector, which is adopted,

that the requested alteration would not be materially contrary to the provisions of the government's waste policy under A Resource Opportunity, Waste Management Policy Ireland (Department of the Environment Community and Local Government, 2012), or the Eastern and Midlands Regional Waste Management Plan 2015-2021 in respect of the capacity requirement for thermal recovery facilities to 2030 and would accord with the provisions of the Meath County Development Plan 2013-2019 and with the proper planning and sustainable development of the area.

NOW THEREFORE in accordance with section 146B(3)(b)(ii) of the Planning and Development Act 2000, as amended, the Board hereby alters the above-mentioned decision so that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 30th day of August 2018.



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

Dated this 3rd **day of** April **2019.**

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.. **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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