

**Submission to An Bord Pleanála Oral Hearing
in relation to
Proposed Development by Indaver Ireland
known as
Waste Management Facility, Ringaskiddy, County Cork,**

Case Reference No: PL 04.PA 0010

made on behalf of

Mary O’Leary on Behalf of CHASE

by

**Hazel McCarthy BA, MRUP, M IPI
Fenton Simons Planning and Development Consultants**

1.0 Introduction

My name is Hazel McCarthy, I am a qualified town planner with over 13 years experience, during this period I have worked for Cork Corporation (Cork City Council), Offaly County Council, Kildare County Council, South Dublin County Council and Fingal County Council. In Offaly and Kildare I worked as an Area Planner with responsibility for development control and enforcement in the northern areas of both Counties. In South Dublin and Fingal I was employed as a Senior Executive Planner, a member of the management team with signing function for the northern and western areas respectively. A year and a half ago I left Fingal County Council to join Fenton Simons Associates as Senior Planner. As a Planning Consultant I have been involved in major urban developments, advise on many different planning issues and the planning process. I have a Bachelor of Arts from University College Cork and a Masters in Regional and Urban Planning from University College Dublin. I am a corporate member of the Irish Planning Institute.

Fenton Simons represent CHASE during the Strategic Infrastructure Development process and are making this submission to An Bord Pleanála during the assessment period of the proposed development by Indaver Ireland.

We consider that this current planning application being assessed by An Bord Pleanála, is not in accordance with the guiding planning policy as set out below, or with the proper planning and sustainable development of the area, we request that permission for the development as proposed be refused

2.0 Planning Principles to which An Bord Pleanála Must Have Regard in Relation to Waste Management

In view of An Bord Pleanála's ruling in relation to the interface between the Environmental Protection Agency Act, 1992 and the Planning and Development Acts, 1963-1993, operational aspects of the facility are governed by license given by the Environmental Protection Agency. Under Section 37G(5) of the Planning and Development Act 2000, as inserted by section 3 of the Planning and Development (Strategic Infrastructure) Act 2006 the Board is now entitled to refuse permission if it considers that the development is unacceptable on environmental grounds having regard to the proper planning and sustainable development of the area in which it is proposed. This was not the case in 2001 when an earlier application for a smaller development was filed with Cork County Council. That application was dealt with on appeal under Board Ref 04.131196. At the time the appeal came before the Board in 2003 the Board was obliged to hear and decide the appeal under the more restrictive rules adopted in 1992. Those rules did not permit the Board to refuse permission even if it did consider that the development would be unacceptable on environmental grounds having regard to the proper planning and sustainable development of the area in which it was proposed.

The arguments put forward in this document are based on the proposed development's compliance with the aims, policies and objectives of national, regional and local policies, which relate to waste management and the principle of proper planning and sustainable development.

3.0 Planning & Waste Management Policy

There are a number of planning and waste management policies, at local, regional and national level, to which An Bord must have regard to, in assessing planning applications. In relation to the proposed incinerator by Indaver Ireland, the content outlined below details the statutory and approved planning guidance and regulation in terms of land use planning and waste management, and how the proposed development does not comply with the objectives and goals of same.

3.1 NATIONAL POLICY CONTEXT

3.1.1 National Development Plan “*Transforming Ireland — A Better Quality of Life for All*”, 2007-2013

The National Development Plan (NDP) for Ireland involves an investment of €7 billion of Public, Private and EU funds in numerous projects and initiatives throughout the country including education, roads, public transport, health services, social housing, industry, water and waste services, childcare and local development. It is an economic development plan and includes details on waste management issues, based on EU guidance. While the issue of “Thermal Treatment” is mentioned in the NDP, it asserts that in line with national policy, the Regional Waste Management Plans have regard to the preferred waste management option of thermal treatment. However, a specific objective of the Waste Management Plan for Cork County 2004 (hereafter WMP) confirmed the decision to continue to implement the Waste Management Strategy adopted in 1995 which does not include incineration as an option for dealing with waste. The initial targets outlined in the Landfill Directive for 2010 and 2013 can be met without incineration. There is no present requirement for a municipal waste incinerator due to the improvements in the integrated waste management systems required under the Cork Waste Management Plan 2004, therefore to develop a facility to provide for a capacity greater than that required would be counter productive in that it could discourage prevention and recycling which is the chosen waste management strategy for the region as stated in the WMP, and as underpinned by the NDP.

Conclusion

The National Development Plan refers to the WMP as the guiding document for waste management in the region, to which the proposed development does not comply and therefore the proposal to develop an incinerator in this location is not in compliance with national policy. We consider therefore that the proposed development is not in accordance with either the National Development Plan or the Waste Management Plan for the region which is referred to as the guiding document in the NDP and therefore we ask An Bord Pleanála to refuse permission for the proposal on this basis.

3.1.2 The National Spatial Strategy

The National Spatial Strategy (NSS) is a twenty year planning framework designed to achieve a balance of social, economic and physical development and population growth between the regions. The rationale for this framework plan is to provide a better balance of social, economic and physical development throughout the country, so as to provide a better quality of life for all people, high quality environments in which to live and work while also promoting a strong competitive economic position.

Cork has been identified as one of the nine “Gateway” cities, with a number of “Hub” towns to act as the main focus of new investment in housing, transport , employment ,

environment and infrastructure. The focus of the NSS is to bring people, jobs and services closer together with the fundamental aim of the NSS being the promotion of balanced regional growth in a sustainable manner.

The development of specific private energy facilities is not detailed in the NSS but in terms of environmental protection, development arising from the NSS will be implemented within the framework of strong and ambitious policies for the protection of the environment. Policy and action in this regard will focus on limitations on greenhouse gas emissions.

In addition to this, the NSS recognizes that *“the environment is a prime ingredient of the potential of the country as a whole and of different areas of the country. In looking at the environment in this way not only points to the developmental possibilities which it offers but also to the fact that it is a potential that can be eroded if it is not managed carefully”*.

Conclusion

With the above mentioned policies of the NSS in mind, we consider that the cumulative negative impacts that the proposed development will have on the receiving environment, including direct and indirect CO₂ emissions associated with the proposed facility, the impact of the proposed facility on Cork Harbour, significant parts of which are designated as a proposed National Heritage Area, candidate Special Area of Conservation (SAC) and a Special Protection Area (SPA), and which is now the subject of a proposal for recognition by UNESCO as a proposed World Heritage Site, to be seriously prejudicial to achieving the goals expressed in the National Spatial Strategy. The proposal will have a negative impact in terms of visual impact, the cultural historic and environmental importance of the area and its use for marine leisure activities. The proposal is not in accordance with the principles of the NSS, nor does the development as proposed reflect the spirit of the Strategy in terms of sustainable development, and therefore we ask An Bord Pleanála to refuse permission for the proposal on this basis.

3.1.3 National Hazardous Waste Management Plan 2008-2012

In chapter 6 of the NHWMP it is stated that the EU Waste Framework Directive requires that a policy of national self sufficiency in disposal installations be adopted by member states where this is possible on grounds of strategic need and the proximity principle.

The “Proximity Principle” is referred to in the EU Framework Directive 91/156/EEC and is a core underpinning principle of integrated waste management. The “Proximity Principle” determines that waste must be dealt with as close to the source of generation as possible.

The Department of the Environment, Heritage and Local Government, in their 2004 policy document *“Taking Stock and Moving Forward”* notes acceptance that facilities provided in a region must deal primarily with waste from that region. In addition, the Environmental Protection Agency (EPA) affirms that inter-regional movement and treatment of waste should be provided for in the revised Regional Waste Management Plan; however, this may only occur in appropriate circumstances. Circular WIR: 04/05 states that; *“one of the fundamental components of policy in regard to the regulation of the movement of waste is the application of the proximity principle”*.

The statement by the applicant that waste from outside of the region and the State will be delivered to the proposed facility, as the facility will accept waste from the whole island, allows one to believe that the facility may accept waste from outside of the region thus allowing waste to be transported across the country thereby directly contravening the “Proximity Principle”. It would therefore appear illogical to locate a facility of this type in an isolated area in the south of Ireland when there is a lack of specific data on where the waste to be incinerated would be sourced from.

Furthermore, it should also be noted that the previous proposal which was granted permission by An Bord Pleanála on site is referred to in the NHWMP. This is merely a statement of fact as at the time there was a live permission on the site. In no instance does the Plan state that Ringaskiddy is the preferred location for a facility of this nature.

The new National Hazardous Waste Management Plan adopted in 2008 sees all of Ireland as a single market for waste management purposes. This was not the case in 2003-2004 when the previous application was considered by the Board. In the previously permitted application on the site, the applicant was prohibited from importing waste from outside the State. As this philosophy has now changed, the suitability and rationale for proposing a facility of this nature and scale at Ringaskiddy, which is on the extreme south coast, has to be questioned, even further, in terms of the “proximity principle”.

The NHWMP 2008-2012 states *“Prevention is at the top of the waste hierarchy, and represents the preferred policy approach to materials management and an alternative to the wastage of materials. The prevention of waste is preferable to its generation and to the monetary and environmental costs incurred as a result of its regeneration. A new and revitalized approach to prevention is taken in the revised waste framework directive”*.

Prevention is defined in the revised waste framework directive as:

“Prevention” means measures taken before a substance, material or product has become waste that reduces:

- a)** the quantity of waste, including through the re-use of products or extension of life span of products;
- b)** the adverse impacts of the generated waste on the environment and human health;
- c)** the content of harmful substances in materials and products.”

The Cork County Waste Management Plan does not include incineration, but focuses on prevention, re-use and recycling, takes cognisance and has regard to the provisions of the National Hazardous Waste Management Plan. A program of preventative actions and objectives is outlined in the plan, 81 no. objectives and actions are outlined in total. Actions specifically relating to hazardous waste management are described in chapter 7, actions 71-76. These actions have been formulated with respect to the recommendations made in the National Hazardous Waste Management Plan to ensure compliance with section 22(8) of the Waste Management Acts.

Conclusion

The proposed development contravenes the objectives of the National Hazardous Waste Management Plan 2008-2012 in that it does not adhere to the “proximity principle”. While the Waste Management Plan for the region does not include incineration as an option, it does provide for specific objectives and actions which have been formulated with respect to the recommendations of the National Hazardous Waste Management Plan, ensuring compliance with the requirements of the Waste Management Acts. We therefore ask An Bord Pleanála to refuse permission for the proposal on the basis that it materially contravenes the objectives of the National Hazardous Waste Management Plan 2008-2012 in that it does not adhere to the “proximity principle” and undermines the prevention goals in the plan.

3.1.4 DoEHLG Draft Planning System for Flood Risk Management Guidance Document.

The Minister for the Environment, Heritage and Local Government, Mr. John Gormley and Dr Martin Mansergh, Minister of State at the Department of Finance with responsibility for the OPW, published for public consultation the Draft Planning Guidelines on the Planning System and Flood Risk management, which are aimed at ensuring a more consistent, rigorous and systematic approach to fully incorporate flood risk assessment and management into the planning system.

These guidelines when finalised, will have statutory force under section 28 of the Planning and Development Act 2000. In this regard, the Planning and Development (Amendment) Bill will include provisions to ensure planning authorities fully comply with guidelines. Local Authorities are requested to have regard to the recommended flood risk assessment and management process when preparing or varying development plans and local area plans, and in regard to applications for planning permission, pending the finalization of the guidelines.

The draft Guidelines will require the planning system at national, regional and local levels to:

- (1) Avoid development in areas at risk of flooding, such as floodplains, unless there are wider sustainable grounds that justify appropriate development; and

where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere;

(2) Adopt a sequential approach to flood risk management and guide development away from areas that have been identified as being at risk through flood risk assessment; In areas of high risk, for example you should see water compatible developments such as docks and marinas, amenity open space, outdoor sports and recreation, while other more vulnerable development should be directed towards areas of minimal or no flood risk.

(3) Incorporate flood risk assessment into the process of making decisions on planning applications and planning appeals.

In launching the draft guidelines, Minister Gormley emphasized that there are many areas, including parts of towns and cities that are at risk from periodic severe flooding. “The effects of climate change, such as more severe rainfall events and rising sea levels, will increase these risks and may put other areas at risk that may not have flooded in the past. Adapting the reality of climate change therefore requires us to be even more vigilant in ensuring that the risks of flooding into the future are fully integrated into the planning process. We are now ensuring through these guidelines that development vulnerable to flooding will no longer be permitted by planning authorities in areas of high or even moderate risk of flooding, except in exceptional circumstances where it is demonstrated to be necessary on grounds of wider sustainable development and only then where it meets the criteria of the stringent justification test. Zoning and re zoning decisions must meet all of the criteria of this Justification Test, and furthermore, undeveloped zoned land for which new information indicates may now or in the future, be at risk of flooding will have to be assessed in line with the Guidelines”.

Conclusion

It is important to note that flooding has been reported on the site as recently as 2004. In this regard we consider that the development of an incinerator on the proposed site does not conform to The DoEHLG Draft Planning System for Flood Risk Management Guidance Document. We request that An Bord refuse permission for the proposed development.

3.2 REGIONAL POLICY CONTEXT

3.2.1 The South West Regional Planning Guidelines 2004

The South West Regional Planning Guidelines broadly endorse the WMPs adopted by the City and County Councils for Cork. The guidelines state that investment in waste infrastructure, as well as measures to reduce levels of waste generated, are critical in relation to the economic growth of the region.

Conclusion

The RPG's, in terms of waste management policy, have regard to the WMP, which the proposed development contravenes.

3.2.2 Cork Area Strategic Plan 2001-2020

The CASP is a non statutory plan prepared by the Cork Councils which sets out a shared vision for Cork and its hinterland up to the year 2020. While CASP is a non-statutory plan, it is a plan to which both planning authorities have regard to in terms of planning policy and development management; therefore its policies must be considered when determining this application for the proposed incinerator at Ringaskiddy.

With regard to Cork Harbour the Plan states:

“Creation and Maintenance of High Quality Environment”

“The overall quality of life as expressed in the natural, social and cultural environment is one of the key attributes that attracts new business and skilled workers to a developing region. The quality of life available in Cork is both a major marketing strength and a highly prized asset recognized nationally and internationally. The natural environment and in particular the spectacular harbour area are without comparison elsewhere in Europe. Protecting this asset and the social and cultural assets in all their manifestations is therefore vital to the future success of the area”.

The Plan promotes visitor access to Cork Harbour, the development of Cobh, Crosshaven and Monkstown as premium leisure sailing destinations, the enhancement and restoration of Victorian streetscapes and features in Cobh and interpretation of the Cathedral and other Landmarks. It also promotes the development of a tourist and leisure facility on Spike Island and the development of the harbour as a facility for water based sport and leisure activities.

The Plan states *“Cork harbour is an outstanding asset which has the potential to become Europe’s most exciting waterfront, the focus for a mosaic of different opportunities.”*

In relation to Ringaskiddy, the Plan states *“Port related industry, port back up facilities and other uses that complement the port should be located at Ringaskiddy, and other land uses should be avoided in this area”*.

Conclusion

The proposed development of an incinerator in this location would be detrimental to objectives and vision for the area as set out in the Cork Area Strategic Plan 2001-2020. We therefore ask An Bord Pleanála to refuse permission for the proposal on this basis.

3.2.2.1 The CASP Update

The CASP update was published in 2008. The supplementary County Managers report to the Elected Members in relation to the CASP update states; *“The update modifies the 2001 CASP and delivers an up dated strategy which provides a significant enhancement in economic growth and accommodates a greater population than originally envisaged. Although the update of CASP is being brought into effect at a time of considerable national and international economic uncertainty, where the growth rates of recent years would appear unlikely to be repeated at least in the short term, the aim of the update remains focused on sustainable delivery of the Governments population targets for the South West Region... The update achieves this while adhering to the key goals for the City-Region which were agreed as part of the 2001 Plan.”*

Section 3.5.17 of the CASP update highlights that the provision of waste management infrastructure is critical to support the sustainable development of all sectors in the CASP region including the industrial, commercial, service and residential sectors, the Plan states that the provision of waste infrastructure, as outlined in the Cork City and County Waste Management Plans, should be prioritised in line with the EU Waste Hierarchy.

In this regard incineration does not form part of the Cork County Waste Management Plan, therefore the proposed development would not accord with the provisions of the CASP update in relation to waste management infrastructure.

Section 3.5.13 states: *“The Port of Cork contributes significantly to the well being of commerce, industry and tourism, not just in the Cork sub-region, but beyond, to the entire country. It impacts greatly on the heritage, cultural, environmental and recreational character of its hinterland. The Port of Cork is committed to its responsibility for promoting and regulating water based leisure facilities and activities.”*

It is important that the harbour is utilized efficiently, enjoyed and managed for the benefit of all.”

It is considered that the proposed development if permitted in this location would be contrary to the provisions of Section 3.5.13 of the CASP Update as it would have a detrimental impact on the heritage, cultural, environmental and recreational character of the harbour.

Conclusion

The proposed development of an incinerator in this location would be detrimental to objectives and vision for the area as set out in the Cork Area Strategic Plan Update. We therefore ask An Bord Pleanála to refuse permission for the proposal on this basis.

3.2.3 Cork County Waste Management Plan 2004

The Cork County Waste Management Plan (hereafter WMP) was formulated by Cork County Council to address the on going challenge of waste management in County Cork. The current plan replaces the 1999 plan and is governed by government policy that must be adhered to in Local Government Waste Management Planning.

Under Section 26 of the 2003 Protection of the Environment Act, the review, variation or replacement of a WMP has become an executive function of the City or County Manager, therefore policies in the WMP become de facto planning policies and in cases where conflicting objectives are found, the Waste Plan effectively supersedes the County or City Development Plan. Therefore the policies contained in a WMP have extra importance in terms of details of locations for proposed waste facilities.

In terms of waste management, the WMP falls into a hierarchy of policy derived from EU and National level and complies with national legislation on waste management plans.

The current Waste Management Plan confirms the decision to continue the implementation of Scenario 2 for the management of waste in the County. This scenario does not endorse incineration. The plan states that prevention is the core component / activity in the region and to adopt pro-active policies and measures to ensure more sustainable development. Prevention is a long term initiative that may take

many years to register success. A program of preventative actions and objectives are outlined in the plan, 81 no. objectives and actions are outlined in total. These actions cover all aspects of waste management including Waste Prevention, Collection and Recovery, Disposal of Residual Waste, Packaging Waste, Litter, Hazardous Waste and General Waste Management.

Actions specifically relating to hazardous waste management are described in chapter 7, actions 71-76. These actions were formulated with respect to the recommendations made in the National Hazardous Waste Management Plan to ensure compliance with section 22(8) of the Waste Management Acts. In addition the initial targets outlined in the landfill directive for 2010 and 2013 can be met without incineration. The development of such a facility as that proposed could divert waste away from prevention, material recovery/re-use and recycling, which is the main objective of the 2004 WMP. Therefore the proposed development would contravene the objectives of the 2004 WMP.

The WMP also has long term targets to meet obligations under the EU Landfill Directive 1999/31/EC and the National Strategy on Biodegradable Waste 2006. The Councils obligation to meet these targets for 2010 and 2013 can be achieved without resorting to incineration. (Stated in the report of the DOS and A/SE Cork County Council dated 02/02/2009).

Conclusion

The proposed development would contravene the WMP for the region. We therefore ask An Bord Pleanála to refuse permission for the proposal on this basis.

3.2.2.1 Conflict with The Waste Management Plan for Cork Region 2004 – Issue of Need

The guiding document on waste management policy applicable to the proposed development is the Waste Management Plan for the County 2004 and was guided by both National and European Policy.

The proposed development by Indaver is not included in or catered for in the planned waste management strategy for the region which is to be delivered by Cork County Council. The waste management plan for the County confirmed the decision to continue with the implementation of the waste management strategy adopted in 1995, which does not include incineration as an option for dealing with waste although “alternatives” to Landfill are “continually being assessed.” The Council has adopted the approach of a fully integrated waste management strategy, through the continued provision of bring sites, civic amenity sites and the inclusion of Bottlehill as the landfill site for residual waste. The 2004 Plan places more emphasis on prevention of waste.

In relation to both hazardous waste and municipal solid waste a lot of progress has been made in minimizing the amount of waste going to landfill which is in line with the EU Landfill Directive. The Councils have stated that their obligations for 2010 and 2013 can be achieved. The Councils further state that the shortfall for 2016 will be limited, i.e. only 18,917 tonnes out of a total of 475,116 tonnes.

Conclusion

Given the fact that the preparation and adoption of the WMP is based upon adherence to EU policy and the WMP does not provide for incineration and is based on the principle of prevention, the proposed facility by Indaver Ireland is clearly in conflict with such guidance. Therefore the proposed development is not in accordance with the governing Waste Management Policy for the area.

The Cork Waste Management Plan does not identify any further requirements for waste recovery facilities or waste disposal facilities in the region and therefore from a land use planning and waste management perspective the proposed development is unnecessary, unreasonable and unsustainable given the volume of statutory guidance that applies to the granting of permission for such a facility in terms of both land use planning and waste management. This is not supported by EU, National or Regional Planning and / or Waste Policy.

The construction of a municipal waste incinerator will not be needed because of improvements in the integrated waste management systems as required by the Waste Management Plan 2004. Furthermore the construction of an incinerator at this location could have a detrimental effect in that it could discourage prevention and recycling as such a facility could reduce the incentive to reduce, reuse and recycle.

We therefore ask An Bord Pleanála to refuse permission for the proposal on this basis.

3.2.2.2 Conflict with Cork Waste Management Plan – Recycling Policy.

A key objective of the WMP is recycling. The proposed facility at Ringaskiddy, if constructed could have a detrimental effect in that it could discourage prevention and recycling as such a facility could reduce the incentive to reduce, reuse and recycle.

The development of a thermal treatment facility in the region, such as the Indaver Ireland development is not required to treat waste from the region or to meet regional recycling or landfill diversion targets. Furthermore this is a type of treatment that is not recommended in the WMP and does not conform to recycling objectives of the WMP.

Conclusion

The proposed development is therefore not in accordance with the governing Waste Management Policy for the area. This type of treatment is not recommended in the WMP and does not conform to recycling objectives of the WMP, if constructed it could have a detrimental effect in that it could discourage prevention and recycling as such a facility could reduce the incentive to reduce, reuse and recycle. Therefore if the proposed development were granted permission it would not be in accordance with the principles of sustainable development, to which An Bord Pleanála must have regard. We therefore ask An Bord Pleanála to refuse permission for the proposal.

3.2.2.3 Conflict with Cork Waste Management Plan – Landfill Policy

Bottlehill Landfill has a waste licence since June 2004. This landfill will cater for all of the landfill needs of the Cork County and City Region up to the year 2025, and potentially beyond, subject to licence. The existing landfills in the region (Kinsale Road and Youghal) are expected to cease operation in July and December 2009 respectively. Bottlehill is expected to open in the final quarter of 2009.

The development of the landfill facility ensures that wastes which cannot be treated at a waste-to-energy facility can be managed and disposed safely in the Cork Region. The Bottlehill Landfill is part of the required regional waste infrastructure, and is part of the long-term waste strategy for the region. If the Indaver proposal is granted permission and developed, the viability of this proposed landfill will be put at risk.

The proposed development will require residual landfill disposal for non combustible and similar left over waste. The residual material at the proposed site will most likely have to be moved to a landfill, after the delivery of waste from all over Ireland and further afield to the proposed facility at Ringaskiddy, therefore resulting in two trips of waste to and from the facility which is unsustainable in terms of carbon emissions. Bottlehill landfill is licenced to accept a limited amount of ash only. There is a risk that the quantity of ash arising at this proposed development requiring to be landfilled may exceed that amount. As the County WMP did not envisage incineration of municipal or industrial waste on this scale in the Cork region, it is reasonable to suggest that Cork County Council did not envisage the available ash storage capacity at Bottlehill being outstripped in this way to service this application.

Conclusion

The proposed development if granted would not be in accordance with the principles of sustainable development, to which An Bord Pleanála must have regard, it would not be in compliance with the National Waste Management Policy and would not be within the provisions of the Cork Waste Management Plan. If granted it would put at risk the

regional landfill at Bottlehill, which is part of the long-term waste strategy for the region. We therefore ask An Bord Pleanála to refuse permission for the proposal.

3.3 LOCAL POLICY CONTEXT

3.3.1 Cork County Development Plan 2009

The Cork County Development Plan 2009 set out the strategy for the proper planning and sustainable development of the County including objectives for the provision of infrastructure together with waste recovery and disposal facilities.

3.3.1.1 Waste Management Policy

Chapter 6 sets out the objectives for waste recovery. In this chapter the WMP 2004 is summarized, with particular reference to waste management planning issues.

Objective INF 6-1 states: *“It is an objective to implement and support the provisions of the County Council’s approved Waste Management Plan and in particular, to promote the development of facilities for the prevention, minimization, re-use/re-cycling or disposal with energy recovery of waste material.”*

Section 6.7.2 outlines that the energy industry has very specific land-use planning requirements and it is necessary to ensure that energy projects do not in themselves constitute negative impacts, particularly in areas of environmental or landscape sensitivity.

Conclusion

The current proposal is contrary to objective INF 6-1 of the CDP 09 as it is not in accordance with the provisions of the WMP 2004, the proposal if constructed would have a negative impact on Cork Harbour which is an area of landscape sensitivity. We therefore ask An Bord Pleanála to refuse permission for the proposal on this basis.

3.3.1.2 Zoning Objective

In 2003 when the previous application was being considered, An Bord agreed that a *“waste to energy facility on this site constituted a material contravention of the CDP”*. (Direction Ref:04.131196 pg.2). In the current application the EIS states: *“given the approval of the planning permission by the Bord for the previous proposal, the land use zoning of the land in question has effectively been changed, even if the local policy framework has not responded to the implications of the decision”* (pg.2.28 EIS).

This is a false assumption in that, the decision was made in relation to a specific proposal, and the merits of that proposal and its relationship to the site. The granting of a Material Contravention does not automatically lead to a Variation of the Development Plan. The previous permission has now expired. It should be noted that the opportunity to change the zoning of the site arose when the Carrigaline Electoral Area Local Area Plan was being made in 2005. The Council did not consider it appropriate to modify the Zoning.

The proposed development is located within the development boundary of Ringaskiddy (settlement map 5 of the Carrigaline Electoral Area Local Area Plan) The site is designated as Zoning objective I-15 which states that the land is:

“suitable for large stand alone industry with suitable provision for landscaping and access points and provision for buffer planting minimum of 15metre wide, open space buffer to the Martello Tower and its associated pedestrian access”.

In relation to the limited employment content, the proposed development would materially contravene the zoning objective I-15, which specifies that the lands are zoned for large stand alone industry

The zoning objectives and maps for all settlements in the County are set out in the relevant Local Area Plan or Special Local Area Plan.

Development Plan **Objective LAP 2-1** states: “It is an objective to ensure that development, during the lifetime of this plan, proceeds in accordance with the general land-use objectives set out in this plan and any specific zoning objectives that apply to particular areas as set out in any relevant Local Area Plan and Special Local Area Plans”

Objective ECON 3-1 states:

- (a) *“It is an objective of the County Development Plan to promote the development of Industrial areas as the primary location for uses that include manufacturing, repairs, warehousing, distribution, open storage, waste materials treatment and recovery and transport operating centres. The development of inappropriate uses, such as office based industry and retailing will not normally be encouraged;*
- (b) *It is an objective that industrial areas that are not used for small to medium sized industry, warehousing or distribution are considered generally to be suitable for waste management activities (including the treatment and recovery of waste material but not including landfill or contract incineration facilities). In the interests of clarity, contract incineration facilities comprise those whose primary role is to manage wastes that are not generated by the company;*

- (c) *It is an objective that subject to local considerations, civic amenity sites and waste transfer stations may be suitable on industrial sites with warehousing and/or distribution uses”.*

Conclusion

In this regard the proposed development is a material contravention as contract incineration either for municipal or hazardous waste are not permitted in this area. We therefore ask the Bord to refuse permission.

3.3.1.3 Development Strategy for the Area.

Chapter 3 of the CDP 09 outlines the strategy for the development of the towns and urban areas so that Cork achieves its full economic potential. The Objectives in this section have regard to The National Spatial Strategy, The Atlantic Gateways Initiative, The Regional Planning Guidelines for the South West Region, The Cork Area Strategic Plan including the update and the North West Cork Strategic Plan.

In this chapter Ringaskiddy is designated as a Strategic Employment Centre. In this regard:

Objective Set 4-1 states;

“The Role of Strategic Employment Centres:

- (a) *It is an objective to recognize, as special parts of the settlement network, those established settlements, which because of the strategic qualities have evolved as important locations for industrial development, employment and economic activity;*
- (b) *It is an objective to safeguard these strategic industrial locations against inappropriate development that would undermine their suitability for long term strategic use.”*

Objective Set 4-2 states;

Ringaskiddy: *“It is an objective of this plan to encourage the development of Ringaskiddy as a major location for port development and large-scale industry taking account of the need to enhance public transport including the provision of a high quality green route and protect the environment of the existing residential community to continue the sustainable development of Ringaskiddy”.*

Section 5.2.19 outlines that the spatial strategy in the CASP Update involves support for the development of Ringaskiddy as a strategic employment location, focused primarily on industry. Major transport infrastructure proposals include potential for enhancement of port related facilities at Ringaskiddy. In addition the CDP also notes that the area has a number of residential and amenity uses that require protection against inappropriate development.

Objective ECON 3-2 states:
County Metropolitan Strategic Planning Area

- (a) *“It is an objective to promote the development of Ringaskiddy, Little island, Carrigtwohill and Kilbarry as Strategic Employment Centres, which will be primary locations for large scale industrial development;*
- (b) *It is an objective to ensure that sufficient and suitable land is zoned for appropriate uses. Such land will, normally, be protected from inappropriate development that would prejudice it’s long term development for these uses.”*

Chapter 9 of the CDP sets out the approach to development at local level, guidance and objectives in relation to land use zoning. This guidance informs the specific zoning objectives that apply to different parts of the County in any relevant Local Area Plan.

Ringaskiddy is covered by the Carrigaline Electoral Area Local Area Plan, in which it is identified as a Strategic Industrial Area with the following strategic aim: *“Re-affirmation of and provision for its strategic and port related industrial roles; very limited expansion of industrial uses with amenity improvements to the village and improvement of community and recreational facilities”*.

The CDP 09 goes on to outline the strategic importance of Ringaskiddy in relation to Port related development.

Objective ECON 3-5 states:

Locations for Port Related Development

“It is an objective to ensure that land with the potential to accommodate port related development, particularly at Ringaskiddy, but also in other ports throughout the County, is normally protected from inappropriate development which would prejudice its long term potential to accommodate this type of development”.

Objective INF 4-1 states:

The Port of Cork

“It is an objective to assess the scale and nature of future port development in Ringaskiddy and identify possible alternatives”.

Objective INF 4-2 states:

The Role of Ports and Harbours

- (a) *It is an objective generally to support the port and harbours of the County and to recognize their essential role in facilitating industrial development,*

defence, trade, marine leisure, recreation and other economic sectors, while respecting their environmental setting;

- (b) *It is an objective to improve port and harbour infrastructure in the County and to safeguard lands in the vicinity of ports and harbours against inappropriate uses that could compromise the long-term economic potential (including access) of the port or harbour.*

Section 4.17.2 states:

“Spike Island is no longer required for use a prison and with its military and maritime history, offers the potential for the development of a major tourist attraction. New marinas are also proposed to further expand recreational capacity. Collectively these developments signal the increased role for the harbour in the future economic, tourism and recreational life of Metropolitan Cork.”

Section 4.17.3 states :

“It is recognized that the full potential of the Harbour could best be realized through a more integrated approach to its planning and development. In this regard, the Council will seek to prepare an overall study for the development of the Harbour...”

INF 7-3 states: “It is an objective generally to encourage the production of energy from renewable sources, including in particular that from biomass, waste material, solar wave and wind energy, subject to normal proper planning considerations, including in particular impact on areas of environmental or landscape sensitivity”.

There are four scenic routes [A53/S53](#), the [A54/S54](#), the [A51/S51](#) and the [A57/S57](#) located on all sides of the site.

The importance of the Landscape of the Harbour, in terms of the context and the policy which seeks to protect it, is acknowledged and supported in the objectives and policies listed previously. It is therefore concluded that the area is of significant landscape sensitivity and as such the negative impacts of the proposal on the area, would render it inconsistent with Objective INF 7.3

Conclusion

The proposed development must be assessed in terms of the relevant CDP policies and objectives, which in turn is itself guided by national and regional policy.

The CDP identifies Ringaskiddy as a designated Strategic Employment Centre. Ringaskiddy is one of the most significant employment areas in the County with modern deep port facilities, a naval and marine training institution and major, large scale, high technology manufacturing plants. The proposal contravenes CDP 09 policy in that contract incineration is prohibited in this area, thus materially contravening the

zoning for the site as stated in (ECON 3-1). In addition policy states that industrial land in the area should be reserved for industry which has a particular need to be located in the area (ECON 3-5). The construction of an incinerator is not a Port related activity.

The proposed development would contravene objective Set 4-1 in that the construction of a commercial incinerator of this scale would be detrimental in safe guarding the area as a strategic industrial location and would undermine its suitability for long term strategic use. In addition, Objective Set 4-2 would be materially contravened in that it would be detrimental to the environment of the existing residential community and would be contrary to the sustainable development of Ringaskiddy. Rather than facilitating what the Carrigaline LAP requires, – *“amenity improvements to the village and improvement of community and recreational facilities”* the proposal will be detrimental to those community and recreational facilities including Gobby Beach and the environs of the Martello Tower together with its associated right of way to the Beach.

Furthermore the CDP 2009 acknowledges the tourism potential of the harbours of Cork County, including Cork Harbour. The role of Cork Harbour in advancing the development of the marine leisure sector is acknowledged and commitment is given in the Plan to prepare a Harbour Study (4.17.3 CDP 09). The construction of an incinerator in such a prominent location in the Harbour would be detrimental to any plans to advance the development of the marine leisure sector in this area or the re-development of Spike Island as a major tourist attraction. (4.17.2.CDP 09) all of which are objectives of the current Cork County Development Plan.

We consider therefore that the proposed development is not in accordance with the land use zoning objective for the site or the development strategy for the area as outlined in the Cork County Development Plan and ask An Bord Pleanála to refuse permission for the proposal on this basis.

3.4 Conclusion to Planning and Waste Management Policy

The requirement for waste infrastructure as proposed by the applicant in Ringaskiddy should be determined based on compliance with Policies and Objectives as outlined in the Waste Management Plan for the Cork Region 2004, the Cork County Development Plan 2009 and relevant guiding EU and National Policy.

We consider that the proposed development does not warrant a grant of permission given that it does not represent sustainable development, does not comply with local, regional and national guidelines and policies and therefore should be refused permission by An Bord Pleanála.

In consideration of all of the above, we ask An Bord Pleanála to refuse permission for the proposed development as it is not in accordance with the land use zoning objective attached to the development site and is a material contravention of the CDP, is not in accordance with statutory planning policies and objectives as outlined in the relevant planning and waste management guidance and is therefore not in accordance with the proper planning and sustainable development of the area.

4.0 Conflict with Proximity Principle

The “Proximity Principle” is referred to in the EU Framework Directive 91/156/EEC and is a core underpinning principle of integrated waste management. The “Proximity Principle” determines that waste must be dealt with as close to the source of generation as possible. The Department of the Environment, Heritage and Local Government, in their 2004 policy document *“Taking Stock and Moving Forward”* notes acceptance that facilities provided in a region must deal primarily with waste from that region.

Accordingly the 2004 WMP for the Cork Region recognizes the responsibility of the Cork Authorities to manage waste generated in the Cork Region in the most environmentally sustainable manner. In addition, the Environmental Protection Agency (EPA) affirms that inter-regional movement and treatment of waste should be provided for in the revised Regional Waste Management Plan; however, this may only occur in appropriate circumstances. Circular WIR: 04/05 states that; *“one of the fundamental components of policy in regard to the regulation of the movement of waste is the application of the proximity principle”*.

The statement by the applicant that waste from outside of the region will be delivered to the proposed facility, allows one to believe that the facility will accept waste from outside of the region thus allowing waste to be transported across the country thereby directly contravening the “Proximity Principle”. This fact, upon a grant of permission for the facility, will be realised given that in relation to both hazardous waste and municipal solid waste a lot of progress has been made in minimizing the amount of waste going to landfill which is in line with the EU Landfill Directive. The Councils have stated that their obligations for 2010 and 2013 can be achieved. The Councils further state that the shortfall for 2016 will be limited, only 18,917 tonnes out of a total of 475,116 tonnes. Therefore it may be assumed that proposed facility may be reliant on such outside waste from an economic perspective. The location of the proposed development in Ringaskiddy, is not central in terms of proximity to sources of waste from outside the region that may be treated there and is therefore in contravention of the EU Directive 91/156/EEC in terms of the “Proximity Principle”.

Conclusion

The proposed development if granted permission would not be in accordance with EU guidance in terms of the Proximity Principle, given that waste from outside the region will be transported and treated at the proposed facility in Ringaskiddy, which will not

be central to the source of waste, as it is on the southern coast. The facility is further isolated in that it is only served by a single road access and it will not have rail access.

5.0 Conflict with Seveso II Directive (96/82/EC)

Council directive 96/82/EC (Seveso II Directive) “aims at the prevention of major accidents and the limitation of their consequences for man and the environment, with a view to ensuring high levels of protection throughout the community in a constant effective manner”

From the information supplied with the EIS, as submitted with the planning application, it appears that the proposed development will be categorized as a Seveso establishment. In this regard it is considered that the proposed development would not be appropriate in this location due to its proximity to a large residential population, and the National Maritime College and the naval service Head Quarters. In the event of an emergency, this population would be at risk, which is against the World Health Organisation Guidelines and contrary to the approach required by the Seveso Directive.

Article 12 introduced the requirement for landuse planning into the Seveso II Directive, Seveso I did not contain such requirements. “The provisions reflected the request by Council Ministers that following the incidents in Bhopal 1984 and Mexico 1984 the lessons learnt should be taken into account and that land restrictions could limit the consequences of such incidents”

Land use Planning is defined as “a systematic assessment of land and water potential, alternative patterns of land use and other physical, social and economic conditions, for the purpose of selecting and adopting land –use options which are most beneficial to land users without degrading the resources or the environment, together with the selection and implementation of measures most likely to encourage such land uses” (Land Use Planning Guidelines in the Context of Article 12 of the Seveso II Directive 96/82/EC as amended by directive 105/2003/EC)

Article 12 of the Seveso II Directive (96/82/EC).states:

“Member States shall ensure that the objectives of preventing major accidents and limiting the consequences of such accidents are taken into account in their land-use policies and/or other relevant policies. They shall pursue those objectives through controls on:

- (a) the siting of new establishments;*
- (b) modifications to existing establishments covered by Article 10;*
- (c) new development such as transport links, locations frequented by the public and residential areas, where the siting or developments are such as to increase the risk or consequences of major accident.*

Member States shall ensure that their land-use and /or other relevant policies and the procedures for implementing those policies take account of the need, in the long term, to maintain appropriate distances between establishments covered by this directive and residential areas, areas of public use and areas of particular natural sensitivity or interest, and in the case of existing establishments, of the need for additional technical measures in accordance with Article 5, so as not to increase the risk to people.

This site is close to residential areas, areas of public use, the college and the beach and areas of particular natural sensitivity or interest, and thus a grant of permission would be inconsistent with the obligation imposed under this provision. We therefore ask the Bord to refuse permission for this reason.

Member states shall ensure that all competent authorities and planning authorities responsible for decisions in this area set up appropriate consultation procedures to facilitate implementation of policies established under paragraph 1. The procedures shall be designed to ensure that technical advice on the risks arising from the establishment is available, either on a case-by-case or on a generic basis, when decisions are taken.”

Section 5.3.9 of the Cork CDP 2009 refers to prevention of Major Accidents and states:

“A number of industries in County Cork are affected by the Seveso II Directive (96/82/EC). This EU Directive seeks to prevent major accidents involving dangerous substances and to limit the consequences of accidents on people and the environment. In this plan, the focus is to ensure that:

- Proposals for new establishments at risk of causing major accidents;*
- Proposals for the expansion of existing establishments designated under the directive; and*
- Other developments proposed near to existing establishments,*

all take into account the need to prevent major accidents involving hazardous substances and safeguard both the public and the environment”.

ECON 3-8 of the CDP states in relation to the prevention of major hazardous accidents:

“It is an objective to reduce the risk and limit the consequences of major industrial accidents by, where appropriate, taking into account the advice of the Health and Safety Authority when proposals for new development are considered.”

ECON 3-9 of the CDP states in relation to proposals for new establishments: *“It is an objective, in assessing applications for new development or expansion of existing development involving hazardous substances, to have regard to:*

The Major Accidents Directive (Seveso II) (96/082/EEC)

- Potential adverse impacts on public health and safety and*
- The need to maintain appropriate safe distances between residential area, areas of public use and areas of particular natural sensitivity.”*

ECON 3-10 of the CDP states in relation to proposed development adjacent to existing establishments:

“The Health and Safety Authority have established consultation distances surrounding establishments designated as containing hazardous substances. In addition to the normal planning criteria it is an objective to ensure that development within these distances complies with the requirements of the Major Accidents Directive (Seveso II). The Council will consult with the Health and Safety Authority regarding any such proposals”.

It is noted that the applicant, while conceding that the intended establishment would be a Seveso site, states that it would be a lower tier site. It makes that assertion based on what it itself says will be the likely chemical substances on site. Its consultants explicitly accept and rely entirely upon what the applicant says in that regard. The National Authority for Occupation Safety and Health (also called HSA) similarly explicitly relies on what the applicant says in that regard in treating the establishment as if it were a lower tier Seveso site.

Additional requirements apply in the case of an upper tier Seveso site. These additional requirements include factors relevant to the land use planning decision, such as consideration of the consequences of setting a ‘specified area’ within the meaning of the Irish implementing regulations – European Communities (Control of Major Accident Hazard Regulations 2006).

A lower tier Seveso site can become an upper tier Seveso site simply by a change in its chemical inventory. An increase in a chemical inventory of itself does not trigger a requirement to apply for further planning permission. Once constructed, this establishment could therefore, by a simple increase in its chemical inventory, become an upper tier Seveso site without the necessity of seeking further planning permission from the Board, or from the local Planning Authority.

The precautionary principle and the necessity to control sites which pose a risk of Major Accident Hazard in the manner described in the Seveso Directive thus require the Board to consider this application as if it were for an upper tier Seveso site. To do otherwise would be to subject the application to an inappropriately weak level of scrutiny in land use planning terms.

Conclusion

One of the critical precautionary elements laid down in the Seveso Directive is

“The need to maintain appropriate safe distances between residential area, areas of public use and areas of particular natural sensitivity.”

The proposed development is not in compliance with Development Plan Policy in relation to Seveso sites as it would not be appropriate in this location being close to a large residential population, a public road, a beach frequented by the public and the National Maritime College. We therefore ask An Bord Pleanála to refuse permission for the proposal.

6.0 Conflict with Site Selection for New Hazardous Waste Management Facilities World Health Organisation

The World Health Organisation, Regional Publications, European Series no 46, Site Selection for New Hazardous Waste Management Facilities, sets out the screening criteria and exclusionary criteria guide in the search for a suitable site for new waste management facilities.

Site Selection in this document is broken down into 4 steps.

Step 1: The elimination of generally unsatisfactory areas. These would include;

- coastal areas subject to floods;
- coastal wetlands;
- areas with limestone deposits;
- areas with surface mining;
- areas critical for aquifer recharge;
- lands designated for preservation;
- areas of high well yield;
- areas of reservoir watersheds.

In relation to the Step 1 criteria, the area is coastal and prone to flooding. The coastline at the eastern boundary of the site is evidently eroding and collapsing into the sea. Therefore the proposed site must be considered unsuitable under the applicable criterion in step 1.

Step 2: Highlights 6 types of areas which are considered “promising”:

- Industrial Areas;
- The sites of existing waste management facilities;
- Compatible public lands;
- Abandoned properties;
- Lands with major highway access;
- Lands near waste generators.

In relation to these criteria, while the land subject to this proposed development is zoned an industrial area, the zoning precludes contract incineration. The lands are near waste generators; however, much of this waste is dealt with in house by the generators and the facility as proposed, will receive the vast majority waste from the whole of the Island. As a result, the location of such a facility on the southern coast is in fact far removed from the waste generators which it is proposed to facilitate. Therefore the proposed site does not conform to any of the criteria which are considered “promising” by the WHO in relation to site selection for such a facility. There is no access from the site to a major highway, as it is accessed by a local road. The nearby N28 has capacity issues which have been outlined by other witnesses already.

Step 3: is to assess promising areas in detail:

- riverine area subject to floods;
- freshwater wetlands;
- areas with flood hazard related to dam;
- coastal waters for shell fish and fishing;
- areas upstream of water supply intakes;
- areas with surface mining;
- areas of special significance;
- the visual corridors of scenic rivers;
- existing development areas;
- areas for which non industrial development is planned;
- agricultural districts;

The characteristics for groundwater and soil for each site should also be considered.

Because the site fails to pass the Step 1 test (and even if it did, would fail at Step 2) it is not appropriate or necessary to take the later Steps. They are listed here for the sake of completeness

Step 4: is to evaluate and rank sites. This involves the consideration of factors affecting health and environment such as;

- Population density;
- The response time of rescue squads and emergency services;
- Whether the site includes critical habitats or areas of potential mineral development;
- Ground water and soil characteristics;
- Slope;

Factors in the community that require assessment include:

- Access to sewers;
- Transport restrictions;
- Structures along transport corridors;
- Whether the land is used in a way which is incompatible with hazardous waste management;
- Visual impact ;
- The feasibility of acquisition.

The applicant appears to have applied a number of the Step 4 tests but for the reasons already stated, this is not a basis for judging the site to be a suitable one for this proposed development.

In addition, the WHO puts forward **exclusionary criteria** which define areas within which a facility will generally not be considered. The most relevant exclusionary factors in relation to this site are:

- 1)** Unstable or weak soils, such as organic soil, soft clay or clay-sand mixtures, clays that lose strength with compaction, sands subject to subsidence and hydraulic influence, and soils that lose strength with wetting or shock

Comment: the soils at the eastern boundary of the site are washing away into the sea under the action of the daily tides.

- 5)** Flooding, as in flood plains or hydraulic encroachment, coastal or riverine areas with a history of flooding every 100 years or less, and areas susceptible to stream channel or storm encroachment (even if not historically subject to flooding);

Comment: this site is prone to flooding. Mr Thomas Ahern has given a personal account of relatively recent storm encroachment in the environs.

- 7)** Atmospheric conditions such as inversions or other conditions that would prevent the safe dispersal of an accidental release

Comment: thermal inversions are noted as occurring in the harbour area up to 5 percent of the time.

- 9)** Natural resources, such as habitats of endangered species, existing or designated parks, forest and natural or wilderness areas;

Comment: the badger, a protected species, lives on site. The site lies in line between a number of the harbour's designated nature protection zones of particular importance to birdlife.

- 11)** Historic locations or structures, locations of archaeological significance and locations or land revered in various traditions. [Note- the intention is to prevent not only damage or contamination but also visual, aural or functional encroachment]

- 12)** Sensitive installations such as those storing flammable or explosive materials, and airports.

Comment: Hammond Lane is in the centre of the site, surrounded by the proposed development on three sides, and appears to store flammable materials.

- 13)** Stationary populations such as those of hospitals and correctional institutions.

Comment: the primary children in the gym at the National Maritime College (and any other young children using the facilities) may be regarded as a stationary population as in the event of an accident they will not be capable of moving to safely as easily as

adults. Spike Island Prison is currently empty, and plans for redevelopment of the Island are under consideration. If those plans come to fruition, or if it resumes prison duties, people on Spike Island may be regarded as ‘stationary populations’ in the sense that they would not readily be able to flee to safe ground on the mainland.

- 14) Inequity, resulting from an imbalance of unwanted facilities of unrelated function or from damage to a distinctive and irreplaceable culture or to people’s unique ties to a place.

Comment: This inequity or sense of unfairness has already been the subject of evidence from residents around the harbour particularly in Ringaskiddy village and in the town of Cobh., and I understand further evidence will be offered under this heading.

The World Health Organisation publication “Site Selection for New Hazardous Waste Management Facilities”, also states that regulations may not cover all significant aspects of facility development. *“Other starting points for gauging site acceptability may be plans made by local or provincial governments or community groups. These are significant even if they lack force of law. Other non-regulatory considerations could include:*

- *The development practice of local government;*
- *The planning goals of local or provincial government;*
- *Goals set by the community;*
- *Norms derived by specialists from local conditions;*
- *Government regulations or guidelines on related subjects.”*

In this regard the construction of the proposed development on the proposed site would not comply with the goals of the Local Authorities in relation to the development of the site and the specific objectives as set out in the CDP in relation to the development strategy for the area namely;

- ECON 3-1 - (non material contravention of the zoning objective for the site);
- ECON 3-5 - (non compliance with the objective to reserve land for facilities with a specific need to be located in the Harbour area);
- INF 4.1 - (non compliance with the objective to develop the area as a Strategic Employment Centre);
- INF 4.2 - (non compliance with policy in relation to the role of ports and harbours) and
- INF 6-1 - (non compliance with the Waste Management Plan for the region),

all of which have been discussed earlier in this document.

In addition the proposal in this location would not comply with Government regulations or guidelines on related subjects, as discussed previously in this document.

Conclusion

In this regard we consider that the proposed site does not conform with The World Health Organisation, Regional Publications, European Series no 46, Site Selection for New Hazardous Waste Management Facilities, and in this regard we request that An Bord refuse permission for the proposed development.

7.0 Conflict with Site Selection under the Basel Convention Technical Guidelines

Further assistance on ascertaining international best practice on the key issue of site selection for hazardous waste facilities is available under the Basel Convention process. Ireland is a signatory to the Basel Convention on the Transboundary Movement of Hazardous Waste and their Disposal. Ireland signed the Convention on 19.01.1990 and ratified it on 07.02.1994. As part of its work of assisting signatories to the Convention to best implement its provisions, the Secretariat of the Basel Convention has published a series of Technical Guidelines on various issues of common interest. Number 4 in the Series is entitled Technical Guidelines for Incineration on Land. On the topic of site selection for hazardous waste incineration activities, the Guidelines say this:

7.1 VII. SITE SELECTION PARAMETERS

59. Site selection should be considered a phased decision process that examines each potential location on the basis of protecting human life, health and property from contaminants as well as protecting the natural environment.

60. In many cases, an incineration system represents only one component of an integrated hazardous waste management facility designed to provide complete treatment and/or disposal options for waste materials. Therefore, the site that is ultimately selected for the location of a hazardous waste management facility should reflect the requirement of each individual component unit. In general, factors that should be considered in any site selection process for an integrated hazardous waste management facility may be grouped into the main headings of site suitability and public acceptance.

61. Once suitable candidate sites have been identified, a detailed assessment shall be done to determine the environmental, technical and economical feasibility of establishing the proposed facility at a particular site. At this stage, issues that shall be considered include:

- site hydrology (surface water);
- geology of the site;
- hydrogeology of the site;
- presence of sensitive habitat;
- urbanization of surrounding areas;
- socio-economic aspects (including impacts of transportation);

- streams in and around the site, stream flow rates, and public use of stream water;
- location of markets for any recovered materials and proximity of potential energy users;
- availability and cost of land;
- cost of site development;
- ambient air quality conditions, dispersion characteristics and wind direction;
- economic viability (including transport costs).

62. An environmental impact assessment should be made prior to final decisions on the siting of the plant. Land use factors should also be addressed (i.e. population density and proximity to facility; transportation network; future land-use planned for the area). The social acceptability of the facility is key to the site-selection process together with the environmental suitability, the technical and economic feasibility and land use compatibility. Public acceptance represents a basic element in the site-election process. Public participation should be encouraged in the overall process, in particular at the early planning stages of a proposed facility. Public participation should be actively solicited during the entire process, beginning with needs assessment and site selection.

Conclusion

In this regard we consider that the proposed site does not conform with The Site Selection under the Basel Convention Technical Guidelines and in this regard we request that An Bord refuse permission for the proposed development.

8.0 Summary of Planning and Waste Management Argument

The granting of permission for the proposed facility will not be in compliance with the principles of sustainable development, guiding EU and National policies as affirmed by the statutory documents of the current Cork Regional Waste Management Plan or the Cork County Development Plan, all of which An Bord Pleanála must have regard to in assessing this application for permission.

Given the fact that, the proposed development materially contravenes the land use zoning objective for the area, contravenes and undermines the objectives of the Waste Management Plan for the area, would compromise the goals and objectives for the strategic development of the area, as outlined in the Cork County Development Plan 2009, and CASP, is not in accordance with “the proximity principle” or the criteria for site selection for new hazardous waste management facilities as set out by the World Health Organisation or the Basel Convention Secretariat or the DoEHLG Draft Planning System for Flood Risk Management Guidance Document and conflicts with the Seveso II Directive, we consider that the proposed development does not warrant a grant of permission. The proposal by Indaver Ireland, does not represent sustainable development, does not comply with local, regional and national guidelines and policies and therefore should be refused permission by An Bord Pleanála.

9.0 We request That The proposed development be refused permission because:

- It does not comply with the aims and objectives of the Cork Waste Management Plan 2004;
- This type of treatment is not recommended in the WMP and does not conform to recycling objectives of the WMP;
- It does not comply with the aims and objectives of the Cork County Development Plan 2009; primarily, INF 6-1, LAP 2-1, SET 4-1, SET 4-2, ECON 3-2, Econ 3-5, INF 4-2 and INF 7-3.
- It materially contravenes the zoning objective for the site; ECON 3-1 as stated in the CDP2009 *“It is an objective that industrial areas that are not used for small to medium sized industry, warehousing or distribution are considered generally to be suitable for waste management activities (including the treatment and recovery of waste material but not including landfill or contract incineration facilities). In the interests of clarity, contract incineration facilities comprise those whose primary role is to manage wastes that are not generated by the company”*;
- It does not comply with the aims and objectives of the Carrigaline Electoral Area Local Area Plan; In relation to the limited employment content, the proposed development would materially contravene the zoning objective I-15, which specifies that the lands are zoned for large stand alone industry;
- It does not comply with the Cork Area Strategic Plan 2001-2020; or the CASP update section 3.5.13;
- It is not required in terms of its size or process type for the Cork Region, if granted it would lead to over capacity and jeopardize the currently approved land fill facility at Bottle Hill;
- It does not comply with the objectives of the National Hazardous Waste management Plan 2008-2012;
- If granted it would not be in accordance with the “Proximity Principle” and Ministerial Policy as set out in circular WIR:04/05; as waste from outside the region and State will be transported and treated at the proposed facility which will not be central to the source of waste, as it is on the southern coast, is only served by a single road access and will not have rail access;
- It would put at risk the regional landfill, which is part of the long-term waste strategy for the region;
- It would put at risk the possible future development of Spike Island as a major tourist attraction as stated in Section 4.17.2 of the CDP;
- The development of an incinerator on the proposed site does not conform to The DoEHLG Draft Planning System for Flood Risk Management Guidance Document.
- The facility is a Seveso establishment as defined in the Seveso II Directive 96/82/EC and would not be appropriate in this location close to a large residential population, the National Maritime College, a primary school and the Harbour;
- The proposed development site does not comply with the site selection criteria for new hazardous waste management facilities as set out by the World Health Organisation;

- The proposed development site has not been selected in a manner that complies with the Basel Convention Technical Guidelines.

On behalf of Chase, and in the interests of the proper planning and sustainable development of the area we respectfully ask An Bord Pleanála to judiciously consider all of the information and points made in this submission when assessing this planning application and to refuse planning permission for same.

Trusting that all of the above will aid An Bord Pleanála in making the right decision in terms of this proposed development.

Yours sincerely,

Hazel McCarthy
BA MRUP MIPI
Senior Planner
Fenton Simons

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