



Cork Harbour Alliance for a Safe Environment

Bishops Road,
Cobh,
Co.Cork.

Ref. 04.PA0010

15.02.2010

Ms. Caroline Treacy,
Adm. Assistant,
An Bord Pleanala,
64 Marlborough Street,
Dublin 1.

Dear Madam,

Thank you for your letter of the 21st January..

I understand that you have sent the letter to inform us of the communication you have had with Indaver Ireland's Consultants. However I find this a most unprofessional way of informing the public of what seems to be the Bord's intentions with respect to this application

This Community has fought this application for 10 years. It has been involved in two planning Oral Hearings and an EPA Oral Hearing., as well as the High Court and Supreme Court case, all at the community's expense and time. Your letter suggests more submissions and expert opinion etc. How much more expense does the Bord want to burden the community with ? This is not just an unfair decision but an un-just one that is totally contrary to the principle of fair and sound planning.

Your letter is not a decision yet we learn from the media (Irish Examiner 23.01.10) that according to the Bord spokesperson, it is "a decision in principle", and states to some degree the intention of the Bord with respect to this application.

While we are delighted that the municipal waste incinerator has been refused, we have grave concerns in relation to the decision made with respect to the hazardous waste incinerator

Your letter outlines what the applicant has to do to their application to supply additional and new information in order that the Bord can consider the merits of the application. This strikes me as fundamentally wrong.

It would appear that the Bord has prejudged the situation. How can the Bord be mindful to grant permission when it doesn't have the information it needs to do so and has sought further information from the applicant because it was "deficient" in their EIS i.e. missing?

The Bord is now allowing the developer to submit what is tantamount to a new application, including revised drawings of the entire operation, plus engineering solutions to coastal erosion in an amenity area and flooding.

If an application from a member of the public was sent to the Bord and the information in that application was deemed inadequate, the application would simply be refused by the Bord.

Why is this not happening with this application and why is this developer getting what is most certainly preferential treatment by the Bord, i.e. a second bite of the cherry? I want this question answered by the Bord

I realize the Bord allowed Shell to put in revised drawings and information in the Corrib Gas Field situation. This according to the ABP website, was due to the fact that the recommendations came so far into their project.

This is not the situation here, it has been clearly identified by the Bord before any works have commenced, that vital information is missing which the Bord needs

By the Bord indulging the developer, the communities are now faced with the prospect of another long drawn-out process which will mean more expense and time to the communities. This is totally unjust and unfair.

We the community, who have raised approximately 400,000 Euro to date, fighting this application are now expected to find more money. How much more do you expect this community to take? By your decision in principle you are placing an enormous burden on the communities of Cork harbour yet again.

I would argue that the Oral hearing was the place where **all** information should have been gathered to provide the Bord with **all** the information necessary on which to allow it to make a sound decision. This is, as I understand it, the function of an Oral hearing. This was clearly not done and we would contest that this was a failing by the Bord to ensure they had all necessary information from the Oral Hearing.

Any further costs incurred by the community in relation to the additional information sought, should be borne by the Bord and not the community.

At the 2003 and 2005 Oral hearings CHASE highlighted coastal erosion and flooding as problems. At the 2009 Oral Hearing, CHASE again presented evidence of coastal erosion and flooding at the site which has been on-going for years. Indaver Ireland had 6 years to sort out the problems and propose a solution. They were cross-examined about it at all three Oral Hearings. In 2009 it was obvious that the Office of Public Works were concerned about the coastal erosion and their evidence clearly shows that..

We had an adjournment to give time to Indaver Ireland to address the concerns of the OPW in relation to coastal erosion. Their answer was that their expert dealing with erosion, failed to return to the Oral Hearing after the adjournment and the issue of coastal erosion was left unanswered by Indaver. They did not provide the information required by the Bord when they were given the opportunity and they should not now be aided and abetted by the Bord to do so.

I have expressed my concerns before about how this application is being dealt with. (30.09.09 and 11.11.09). I have been in correspondence with you in the last few months about contact Indaver Ireland has had with the Bord in relation to a proposed hazardous landfill site in "The Naul" in Dublin. (10.12.09)

In that correspondence I expressed my concerns that contact between Indaver Ireland and the Bord was compromising the Bord while it was still considering a separate application that was before it, by Indaver Ireland, for the two incinerators. My concerns have now increased and it would appear that Indaver Ireland is being assisted in every way by the Bord which is bending over backwards to ensure that Indaver, get their toxic waste incinerator built on a flood plain, on a coast that is eroding and suffers from coastal flooding.

The Bord is also mindful to give Indaver permission to build a waste transfer station to store hazardous waste that has the potential to explode and cause severe injury to the 700 staff and pupils of our National Maritime College, the primary schools and Junior GAA clubs that use the facility. (Oral Hearing 2009 Evidence of Mr Peter Daly) and to cause severe environmental pollution of our harbour

It would appear that the Bord has ignored the medical evidence given in relation to particulate matter and the potential effects on health by the incinerator. The evidence of Drs Gavin Ten Tusscher, Alan Watson, George FitzGerald, Declan Pender, Peter Morehan, Harry Kelleher, Paul Mc Donald, Profs Vivvyn Howard and Colin Bradley and Anthony Staines is all to be ignored.

Does that then mean that the Bord has decided to accept the evidence of Indaver Ireland's Medical expert Dr Hogan, which was described by Prof. Anthony Staines as plagiarism of his published work? (Oral Hearing 2009) Is Dr Hogan's the medical evidence that the Bord is to rely on to base its decision, that the incinerator will have no adverse health effects on an already compromised community? Professor Staines asked for this evidence to be withdrawn from the Hearing, so the question is why wasn't it. (Oral Hearing 2009)

If the Bord is indeed partly basing its decision on Dr Hogan's evidence, who's credibility is undermined as a medical witness, then it would appear that there is enormous pressure to "get this incinerator in at all costs". This raises grave concerns for the community in relation to how and on what evidence the Bord makes decisions

Effectively with respect to this application, the Bord is willing to ignore the voice of the communities of Cork Harbour, Cork County Council, Cork Planning Authority, The County Architect, Elected Members of Cork County Council, The Medical Doctors in Cobh, An Expert Medical advisor to the EU on particulate matter, The co-author of the HRB on incineration, An eminent Paediatrician who has done extensive studies on the effects of particulates on children, The Chief Emergency Officer for the HSE, the W.H.O. and the Minister of the Environment with respect to Flood Management. (Oral Hearing 2009)

It is rarely that a community has been so united in its opposition to a development in which the only one supporting the application is the developer themselves. How can all these stakeholders be ignored in the interest of a private developer? I understood that planning decisions were meant to be consistent, balanced and made in the interest of fairness. This certainly does not apply in this situation.

Neither is there any consistency in the Bord's intended decision. The Bord in December refused planning to a hotel development in Glanmire, Co. Cork. One of the reasons given was that it contravened the Draft Flood Management Plans. The "site would contravene the provisions of the Development Plan, and would be contrary to the draft national guidelines on the management of flood risk which advises the avoidance of such development in areas at risk of flooding. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area." (Ref 04.233398)

Those Flood Management Plans have now been passed into law by the Minister for the Environment, yet here we see the Bord now choosing to ignore them. It would appear the Bord intend to grant planning to a toxic waste incinerator and a 15,000 tonne hazardous waste transfer station, that is to be built on a flooding plane, that is crumbling into the harbour as I write. There is clear inconsistency in relation to these decisions and I would like you to explain to me the rational behind it.

As the Bord has indicated its intentions with respect to this application, I would now request a copy of the Inspectors Report. It is necessary that we have the opportunity to see the Report at this time so that we can understand why the Bord is seeking further information

I realise that normally the Report is not available until the Bord makes a final and formal decision but the Bord has now changed the protocol on how decisions are announced.

The Inspector's Report has to be furnished to us in fairness, so that we can see where and what the deficiencies were that were identified by the Bord and that need mending by the developer

I await the Report and your response.

Thanking you

Mary O' Leary

Chairperson,
CHASE