An Taisce
The National Trust for Ireland

20160308-ABP-PA0045

The Secretary
An Bord Pleanala
64 Marlborough Street
Dublin 1

08.03.16

For: **Proposal under *Strategic Infrastructure Act* by Indaver for 240,000 tonnes pa. capacity incinerator at Ringaskiddy, Co Cork. PA0045**

Dear Sir/Madam,

We wish to make submission on this infrastructure project advertised for Public Consultation.

1. PRELIMINARY ISSUE ON LACK OF LEGAL TITLE OF APPLICANT TO CARRY OUT DEVELOPMENT

1.1 Public Right of Way

The applicant has failed to address the status of a legal right of way running through a portion of the applicant's landholding to the Martello Tower, a Protected Structure on the ridge above to the southwest of the proposed development. There is a preliminary requirement for any development to demonstrate legal title to all of the area of the application site. This is an issue which also arose in relation to the ash deposition on the Nobber incinerator in Co Meath which resulted in the withdrawal of the application as a Strategic Infrastructure Project, PA0005. The issue of this right of way led to extensive representation by appellants at the Oral hearing of the previous proposals. This was based on map and documentation and evidence from long-standing residents of unrestricted access along a right of way running from the foreshore at Gooby Beach/Paddy's Point, up through the applicants' landholding to the Martello Tower. The argument was made that even if this route is not registered as a right of way, it is such by reason of established usage and that old editions of Ordnance Surveys Maps show a pathline running diagonally across the site.

No extinguishment of this right of way has been carried out by Cork County Council.

1.2 Contravention of Written Agreement Between Local Residents, Cork County Council, IDA and Government

Following extensive controversies on the waste disposal and the dumping of asbestos waste at Barnaheely in the 1970s, a formal written agreement was reached between local residents, Cork County Council, the IDA and Government, represented by then ministers, Gene Fitzgerald and Des O'Mally, that no further waste disposal sites would be developed in the future in the Ringsaskiddy and Monkstown areas. Documentation of this agreement was submitted on the previous planning application 04/131196.

2. Failure to Properly Address Grounds of Refusal on Previous An Bord Pleanala Decision Ref: 04.PA0010 for a 240,000 tonnes pa. Incinerator

The proposal is the same in total tonnage of material processes and substantially the same in scale and impact as the previous Strategic Infrastructure Application refused by the Board on 4 grounds. The grounds of refusal by An Bord Pleanala were as follows:

> *1) The Board is not satisfied that the provision of incineration capacity to deal with residual municipal waste, in addition to hazardous waste, at this site is appropriate, having regard to both the layout and limited size of the site and to the current strategy of the Cork local authorities in respect of waste management, as set out in the submissions of the planning authority in connection with the application, including to the oral hearing. Accordingly, the Board is not satisfied that the proposed development would be compatible with the Waste Management Strategy for the region or the Waste Management Plan for County Cork, 2004, and, therefore, considers that the proposed development would not be in accordance with the proper planning and sustainable development of the area.*
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> *2) The Board considers that the provision of an incinerator to treat hazardous and industrial waste (100,000 tonnes per annum) is in accordance with national policy, as set out in the National Hazardous Waste Management Plan, 2008-2012, and therefore invited revised proposals to provide such incinerator, whilst omitting facilities to treat municipal waste and reducing the scale of the development accordingly. It is considered that the revised proposal received by An Bord Pleanála on the 3rd day of August 2010, which is designed to facilitate future provision of municipal waste treatment, does not comply with this request in terms of reduction of the scale of the development. Therefore, the development as proposed would constitute overdevelopment of the site, which would seriously injure the amenities of the area and of property in the vicinity, and would not be in accordance with the proper planning and sustainable development of the area.*
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> *3) The road serving the site is at risk of flooding and the Board invited revised proposals to address this issue. The measures put forward in the submission received by An Bord Pleanála on the 3rd day of August 2010 entail significant works to the road, including substantially altering levels immediately adjoining the property of others and modifying surface water drainage. The Board is not satisfied that the impacts of these measures have been fully described and assessed, that there is*

certainty in terms of their implementation and the responsibility for same and, consequently, that access to the proposed development would be available at all times.

4) On the basis of the evidence put forward in connection with the application, that the site might be at risk of coastal erosion in the future, the Board requested details of the nature, extent and impact of appropriate measures to prevent such erosion. The Board is not satisfied that the submission of the 3rd day of August 2010 contains sufficient information in relation to implementation of such coastal protection measures and the impact of these works, including on other nearby property.

While this application is being assessed 'de novo', these 4 considerations remain relevant and applicable. It is submitted that the scale of development does not address the Boards concerns as stated in 2010 and that the flood and coastal erosion issues remain fundamental impediments to site suitability of for both access to the site ,and management of risk and spillage for a waste facility.

The Inspectors Report for the PA0010 application also set out a range of other conclusions and considerations in relation to the strategic justification for the application and it location suitability, all of which are relevant in considering this application.

In particular the concern in relation to the adequacy of the EIS on Human Beings needs to be revisited:

"Arising from deficiency of the information provided in the EIS in relation to identification and analysis of impact on human beings and in particular human health, I am not satisfied that it is possible to carry out an appropriate assessment. In this regard, while the Board may consider requiring further information, it is my considered opinion that the information required to overcome the deficiency in the EIS can not be provided within a reasonably short period of time. Accordingly, it is my considered opinion that the proposed development should be refused permission."

3 RELEVANT WASTE AND RESOURCE POLICY CONSIDERATIONS

3.1 Meeting Climate emission targets

The application is presented as contributing to alternative energy production.

While use of waste as a resource for energy production is accepted in principle, and supported by policy and guidance, the most efficient use of this energy is through use of the steam for district heating, rather than electricity production which is significantly less efficient. The process of energy recovery proposed is for electricity generation and the application site is not suitable for district heating connection.

3.2 National Policy "Waste a Resource Opportunity" July 2015

While national policy supports thermal treatment of waste the alternative of use of RDF (residual waste) as fuel in cement kilns as a fuel substitute (thus reducing requirement for energy

import for production) requires consideration as the preferred method of extracting energy from municipal waste, rather than a new build municipal waste incinerator.

3.3. National Hazardous Waste Plan 2014

This sets out as a general objective for the reduction of export of hazardous waste.

Section 6.2 sets out three specific recommendations:

1. *expansion of recovery and treatment capacity in Ireland for waste that does not need thermal treatment or landfill – generally referred to as physico-chemical treatment –*

2. *addressing the deficit in thermal treatment capacity in Ireland (i.e. use as fuel, co-incineration*
   or incineration) for Irish hazardous waste currently being exported (e.g. solvents) –

3. *securing of long-term disposal arrangements for hazardous waste streams not suitable for thermal treatment or recovery."*

These considerations require an integrated approach to hazardous waste management in Ireland including solvents. The provision a combined municipal and hazardous waste incinerator on the constricted site at Rinagskiddy, with a 24,000 tonne hazardous burning capacity, would undermine the development of an integrated hazardous waste management facility both nationally and regionally, as the site has no capacity of ancillary processing or storage facilities.

3.4 Regional Waste Policy: Southern Region Waste Management Plan 2015-2021

This has superseded the 2004 Waste Management Plan for Cork. The strategic vision is based on "*the move to a circular economy*" and to "*further reduce the role of landfilling in favour of higher value recovery options*". The specific "key measures" to achieve goals include "*support the development of thermal recovery in the region which meets the need of the region and the state in reducing the export of residual waste for treatment abroad*"

Policy EI5(a) "*supports the development of up to 300,000 tonnes of additional thermal recovery capacity for the treatment on non hazardous wastes nationally*" stating "*this capacity is a national treatment need and is not specific to the region*"

Policy EI5(b) "*supports the need for recovery to be developed specifically for the on-site treatment of industrial process wastes*"

Policy EI5(c) "*supports the development of up to 50,000 tonnes of additional thermal recovery capacity for the treatment of hazardous waste nationally…as a national treatment need and not specific to the region*".

None of these considerations establish the location suitability or justification for 216,000 tonnes of residual waste and 24,000 tonnes of hazardous waste at Ringaskiddy.

The inspectors report on PA0010 while based on National Regional and Local policy, and statistics then applicable, sets out a range of considerations, which remain relevant:

"Notwithstanding the geographical distribution of hazardous waste arising within the state and significant cluster of hazardous waste producing pharmaceutical industry in the Cork area; having regard to the increased capacity of dedicated solvent recovery and on-site incinerators employed by manufacturers of hazardous waste in the area, to the on going changes in the manufacturing processes to bio-pharma processes which produce much less hazardous waste, the recent developments in alternative and preferred methods for treatment of solvent based hazardous waste, and to the current levels of hazardous waste exports originating from Cork in the region of 7,000-10,500tpa; the Board is not satisfied that a demonstrable need has been proven for location of a national hazardous waste incinerator with 50,000tpa capacity at Ringaskiddy."

"Having regard to the existing and planned facilities in Cork waste region by the local authorities for the recovery / disposal of municipal solid waste, including mechanical biological treatment with energy recovery followed by landfilling of residual waste, recycling rates which are significantly higher than the national average and stabilisation of waste arisings in the region; it is considered that there is a realistic prospect of achievement of landfill targets in the region and that a demonstrable need for incineration of MSW to facilitate compliance with requirements of the Landfill Directive has not been proven. It is further considered that the proposed development would contravene the provisions of the waste management strategy for the region and the waste management plans of the two relevant local authorities, and may prejudice their policy and objectives."

4. SITE SUITABILITY ISSUES

4.1 Suitability of site for Scale of Proposed Development

In its further information request of 3rd August 2010 on the previous application 04.PA0010, the Board raised concern on scale of development, and in particular required omission of the municipal waste element of the proposal.

This applicants disregarded these considerations entirely. Section 1.5.2 of Addendum to Inspector Report of 27th April 2011, states that the applicants were seeking to develop "*a processing capacity of 240,000 tonnes per annum rather than 100,000 tonnes per annum as prescribed in the Direction of the Board (Jan. 2010) under Item 1 A"*.

The applicant in advancing the current proposal has failed to addresses size restriction consideration determined by the Board in 2010.

2. 4.2 Exposure of site to Coastal Erosion and Access Route to Flooding

The flood and coastal erosion exposure of the site is recognised by the applicant.

The proposed works proposed to the L2545 seek to address this issue. However these works are limited to the area under direct ownership of Indaver and Hammord Lane.

There is inadequate evidence that these works will resolve the issue of flood impact on vehicular

access to the site.

"Coastal Protection" measures above the foreshore at Gobby Beach are proposed. However, the applicants legal title to place 1,100 of shingle in the area proposed above the high tide mark is not adequately explained.

The impact of sea level rise of water tables is inadequately assessed.

The geology and hydrogeology of the site is such that there is an inflow of seawater into ground water. This was established in the EIS for the first application ref: 04.131196. where the inspectors Report state that: "*The significance of this for the suitability of the site is that the site may not have any natural containment, so that, in the event of a spillage of hazardous chemicals or waste of some kind from loading and unloading operations (and human error cannot always mitigate against) there is the very real possibility that there would be contamination of groundwater and hence pollution of the harbour waters"*

The fourth ground of refusal on PA0010 related to coastal flooding. Since this An Bord Pleanala decision, there has been mounting data through the IPPC UN panel on global climate change as well as particular data provided by the EPA and Met Eirrean and the OPW on the situation in Ireland in modelling both sea level rise and exposure to increased Atlantic storm conditions. The exposure of groundwater on the site to increase seawater ingress and risk of erosion to the eastern foreshore part of the site will, accordingly, increase.

The inspectors report on PA0010 stated :

> *"Parts of the site (particularly the area where waste transfer station is located) as well as the road serving the site are liable to flooding (associated with coastal storm surge). Such a flooding event took place in 2004. The Flooding Guidelines recommend a sequential approach in areas subject to flooding giving priority to avoidance. Historical evidence indicates that site along its eastern boundary is subject to coastal erosion /recession. It is projected that if continued at the same rate and at an even pace, the coastal erosion would be 55m in 100 years and as such 18-22m at the site during the lifetime of the facility (depending on commencement of operations on a ten-year permission). This would mean disappearance of the path (between Martello Tower and Goby beach) proposed to be re-located in this section. It is also likely that such erosion levels could pose a serious threat on the integrity of the access route to the waste reception area located at the rear of the facility. In general the soil structure at the site is stated to be weak, and the site is stated to be located over a vulnerable aquifer.*
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> *The mitigation measures proposed by the applicant involve raising the design levels so as to locate the proposed incinerator facility on a platform of 5.77mOD (road at 2.55m OD), and anchoring the design platform to the rock below. In the case of the waste transfer station design levels is proposed to be increase to 4.55mOD, the foundation for the platform would not included anchoring to the rock. No mitigation measures are proposed for prevention of coastal erosion. In any event, the applicants do not seem to have sufficient legal interest /estate to enable them carry out any mitigation measures at a future date. Secondly, the impact analysis of any mitigation measures, would also need to be carried out. These have not been done in the EIS. Engineering solutions are mostly effective as prevention measures when used in conjunction with the natural characteristics of a site or in resolving a single problem. In this case, there are two main*

problems coastal recession and flooding. In this case the weak soil structure means there is no effective natural protection against these, and as such protection must be entirely dependent on engineering solutions. Despite anchoring of the design platform to the rocks (therefore it won't make any difference if the entire ground underneath disappears) erosion of ground underneath is likely to effect the integrity of the access roads to waste reception area located outside the retaining walls. In the case of the waste transfer station double containment of may not be effective against ground disturbance as the platform is not proposed to be anchored to ground rock. I am not satisfied the proposed mitigation measures would overcome the problems. (I note the mitigation measures to locate the facility at levels significantly above projected flooding levels would exacerbate the negative visual impact of the proposed large structure)

Therefore, arising from the underlying weakness in the soil structure, coastal recession, flooding and location over a vulnerable aquifer; it is my considered opinion that the site is inherently unsuitable for location of a use which processes, and generates hazardous compounds."

It is submitted that these considerations remain applicable to the current proposed application.

4.3 Traffic generation and Location at the end of a Peninsula with deficient road Access Only Through a Residential Area.

The site has inadequate access from the national road network N28 and requires that all traffic has to travel in one direction past residential areas to a cul de sac location at the end of a peninsula.

Sine the previous application PA0010 and Bord Plenala has granted consent on 28 May 2015 to the Port of Cork for new berthage at Ringaskiddy, PA0035 which will create significant additional traffic generation.

Condition 5 required a Mobility Management Plan to reduce congestion

The proposal to restrict HGV traffic to and from the proposed incinerator does not address the cumulate impact with port and other traffic.

The inspectors report on PA0010 concluded in relation to traffic that:

"It is my considered opinion that the proposed development would exacerbate the congestion on the N28. In my view, particularly having regard to the configuration and capacity of the Shanbally village roundabout, additional traffic movements associated by the proposed development particularly the additional HGV traffic, would endanger public safety by reason of traffic hazard."

4.4 Adverse Visual and Landscape Impact

The application site is at the end of the Ringaskiddy peninsula, directly facing the shoreline and below a ridgeline to the immediate south. The main facility extends to the eastern end of the peninsular with inadequate buffering.

The photomontages submitted by the applicant provide for a scale of development structure to the east of the original proposal and with significantly greater impact on amenity, including in views across the harbour and from Cobh. The application particulars fails entirely to mitigate these impacts.

The concerns raised in the inspectors report on PA0019 remain relevant

> *"It is not possible to integrate the structure into the receiving physical environment because of the sheer scale of the structure, and the restricted usable site area where the processing units are located, but also because of its exposed water edge location. In addition, arising from its function the proposed structure has an introverted design, which discourages interaction with the surrounding area at the interface between the water and the land. Cork Harbour despite presence of a number of industrial and port facilities has a high visual quality, arising from its topography, landscape and historical heritage including its military fortifications. The visual and heritage quality of the harbour as an economic resource is recognised in the County Development Plan, CASP and a number of initiatives such as Cork Harbour integrated management strategy 2008, Cork Harbour Forum, and application for designation as a UNESCO world heritage site. The existing industrial developments (apart from one large hilltop complex set back from the water's age) do not intrude significantly into this visual context, because of their scale, and in particular their low height. Those located at the water's edge are located away from the centre of the harbour, around inlets (such as Loughbeg, Monkstown Creek), or have adequate site areas for provision of effective screening through landscaping.*
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> *It is my considered opinion that arising from its excessive scale and its exposed, central location, and restricted site area, the proposed development would seriously impose on the landscape, visual historical context of the harbour, and would be contrary to the policies for protection and sustainable development of Cork Harbour. "*

4.5 Adverse impact on Martello Tower Protected Structure.

The proposal directly affects the setting of the Napoleonic Martello Tower, and its relation to other historic monuments and features in the Harbour, including Spike Island which is currently being developed by Cork Co Co as a major tourist attraction

Notwithstanding the design alterations on the previous application as well as the addition of a wind turbine, the concerns stated the in the inspectors conclusions on PA0010 remain valid :

> *"The proposed development is not likely to have an impact on the structural integrity of the Martello Tower, a protected structure located at the apex of Ringaskiddy hill, in the adjoining site. Martello Tower is the largest of five towers operating with a number of military fortifications around the harbour. It has a commanding position arising from its central location and panoramic views over the harbour. It also has a specific function of protection of Fort Westmoreland located on Spike island. The proposed structure which would have a height of 48m OD (excluding the stack) would be higher than the hill (43m OD) on which the Martello Tower is located, and together with its excessive size (190mx55m) would create a mass of considerable scale, changing and challenging the topographical setting for the tower which currently enables panoramic views of the harbour. By reason of its mass and location, it would also sever the visual relationship of*

the Martello Tower with Fort Westmoreland located on Spike Island, and render its specific function redundant. It would therefore have significant adverse impact on the setting and function of the protected structure, and on the complex of historical military fortifications designed for the protection of the harbour. I am therefore satisfied that the proposed development would have adverse impact on the built heritage of Cork Harbour."

4.6 Conflict with Development National Maritime College of Ireland.

This proposal represents an irreconcilable conflict with the location of the National Maritime College of Ireland. In particular, the proposal creates a serious impediment to the further development of this college, including the development of a residential campus on the site.

4.7 Adverse Impact on Recreational Amenity.

The application site is on a cul de sac road with an established right of way to the foreshore for recreational amenity and for access to the Martello tower. The proposal would be entirely incompatible with the continued enjoyment of these areas for recreational amenity. Furthermore, the location impact and operation of the proposal would generate direct conflicts between recreational amenity access.

4.8 Inadequate Infrastructure for Emergency Evacuation.

The application site, because of its cul de sac location at the eastern end of the Ringaskiddy peninsular and opposite the National Maritime College presents serious emergency evacuation and fire fighting or emergency worker access problems because of the lack of alternative road access. The evacuation of the National Maritime College and Ringaskiddy village area would create a potential conflict with emergency vehicles arriving at the site.

The consideration raised on this issue in the inspectors report on PA0010 remain applicable.

"The competent authority for health and safety in relation to major accident hazards is HSA. This competency which covers health and safety and limited technical land use advice based on modelling prediction of risk of fatalities, but does not extend to emergency planning, which is also a requirement under the Guidelines for Directive. Arising from the inventory of the compounds stored at the site, the proposed facility would be classified as a lower tier SEVESO establishment, but can change to an 'upper' tier establishment through change of inventory or increase in the amount of substances, without a further consent process. The requirement for consultation with competent authorities for emergency planning apply only in the case of upper tier establishments, though the competent authorities are required to provide emergency response n the event of a major accident regardless. The competent authorities relevant in this case are HSE (health and safety executive), Gardai, and County Council. They were not consulted in relation to the proposal. They were not consulted.

The sole access to the site is by a single directional road (which as stated earlier is

subject to flooding). Arising from its location, there is no possibility of provision of a secondary access. Such a secondary access is considered necessary for emergency response. Having regard to location of a third level educational use whose sports facilities are used regularly by local primary and secondary schools, within 300m of the proposed facility (vulnerable receptor); it is my considered opinion that the views of the competent authorities who need to provide emergency response should be sought prior to a decision on the proposal. There are areas of public use along the boundaries of the site in the form of a roadside path along the northern boundary and an amenity path between Martello Tower and Goby Beach proposed to relocated along southern and eastern boundaries. The usage levels of these paths have not been determined. Having regard to the above and to the requirements of Article 12 of the SEVESO Directive, it is my considered opinion the views of the competent authorities providing emergency response and planning be sought prior to granting of a permission."

Yours Sincerely,

Ian Lumley,

Built Environment Office
An Taisce – The National Trust for Ireland