

# **The Consultation “Problem”**

by

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**C H A S E**



## **The Consultation ‘Problem’**

*"I would like to have the power of the Mayor [of Shanghai] . . . I would just like that we can get through the consultation problem as quick as possible".*

*(An Taoiseach, Bertie Ahern, 20th Jan 2005, China)*

I have called my paper “The Consultation ‘Problem’” after hearing our Taoiseach on an interview from China earlier this year. It struck me at the time as interesting that he thought of consultation as a ‘problem’ rather than as a ‘process’ that we are all entitled to engage in!

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## **Who are CHASE?**

- C.H.A.S.E. (Cork Harbour Alliance for a Safe Environment) is an alliance of groups dedicated to protecting the health of their communities and safeguarding the Cork Harbour environment for future generations.
- CHASE was formed in October 2001. We are an umbrella group composed of communities from Carrigaline, Cobh, Cork, Crosshaven, Douglas, Kinsale, Midleton, Monkstown/Passage/Glenbrook, Ringaskiddy and Youghal.

## **What are CHASEs' aims?**

- Prevent toxic waste incinerator in Cork Harbour
- Promote awareness of alternative solutions
- Increase national/local knowledge on mass incineration
- Actively promote non-burn solutions.

## **Why is CHASE concerned?**

Our main campaign relates to the proposed construction of a Hazardous Waste Incinerator at Ringaskiddy in Cork Harbour. Our concerns about the development include:

- International guidelines (World Health Organisation) indicate that the site in Ringaskiddy is unsuitable. (Ref. Appendix 1).
- Health studies suggest that the dioxin, heavy metals, and particulate matter emitted from incinerators are harmful to our health. (Ref. Appendix 11)
- International and national waste management policies envisage incineration as a last resort, to be used only when all other options have been exhausted. (Ref. Appendix 1).

Despite these facts, An Bord Pleanála granted permission for the development, against the detailed advice of their own Senior Planning Inspector, and despite the objections of over 30,000 people and the refusal of planning permission by Cork County Council.

## Our Participation in the Planning Process

Following the application to Cork County Council for the construction of a 100,00 hazardous and non-hazardous waste incinerator in November 2001, CHASE was formed.

CHASE examined the application in detail, drawing on the expertise of the many members of the umbrella groups including engineers, chemical engineers, doctors, environmental scientists, solicitors, social scientists, and many others.

We also fully participated in the drafting of the New County Development Plan 2003 and the Cork County Waste Management Plan as we felt we had a democratic role to play at a local level.

The proposed application was contrary to:

- The County Development Plan (CDP), which excludes contract incineration from this site.
- The Cork Waste Management Plan (CWMP), which does not consider incineration as an option in waste management.
- The Cork Area Strategic Plan (CASP), which is the blue print for the Cork Area for the next 20 years and, ultimately, the National Spatial Strategy which recognises the importance of the success of C.A.S.P.

## The Planning Process

<b>2002</b>	Approx. 30,000 people objected to the application (unprecedented in planning history).
<b>May 2003</b>	The County Councillors refused to materially contravene the CDP.
<b>May 2003</b>	The CDP excludes contract incineration specifically from this site.
<b>May 2003</b>	Cork County Council refused planning permission.
<b>June 2003</b>	Applicant appeals to An Bord Pleanála.
<b>June 2003</b>	CHASE and over 20 other parties lodge counter appeals to An Bord Pleanála to uphold the planning refusal. CHASE demands an oral hearing to involve the public and highlight the issue.
<b>August 2003</b>	An Bord Pleanála grants an Oral Hearing to CHASE.
<b>September 2003</b>	An Bord Pleanála sets date for Oral Hearing in Neptune Stadium, Gurrabraher, Cork.
<b>September 22nd to October 9<sup>th</sup></b>	A long and detailed Oral Hearing takes place, presided over by a Senior Planning Inspector of An Bord Pleanála.

In his report, the inspector gives 14 major planning reasons why planning permission should be refused. So convinced was he that planning should not be granted, that he set no conditions for the development to go ahead.

## The Participants in the process

- The Applicant
- Cork County Council (C.C.C.)
- Health and Safety Authority (H.S.A.)
- An Bord Pleanála (A.B.P.)
- Environmental Protection Agency (E.P.A.)
- The Community

### *The Applicant*

- Provided inadequate information .....  
*“the EIS submitted with the application is inadequate and fails to comply with the mandatory requirements”* (Ref. Inspector’s Report 2003)
- Was “not aware of the WHO Guidelines for Site Selection for hazardous waste incinerators” (Ref. Inspector’s Report 2003)
- Only did flora and Fauna study on the construction phase of the development not on the operation of the development as legally required (Ref Inspector’s Report 2003 and EPA Oral Hearing 2005)
- Did not do a risk assessment on human health.

“This section of the EIS seems to me to be deficient. I would not regard this as an adequate or a useful contribution to an assessment of the human health impacts of the development proposed here. There is no description of the process used to produce it, but I do not see any obvious indication that any formal process for human health assessment was used.”

(Dr. Anthony Staines, co-author Health Research Bureau Report 2003, at EPA Oral Hearing 2005)

### *Cork County Council*

- Did not inform the public that this was a Seveso 11 site, by way of public meeting, to inform them of the explosive potential of the development.
- Ignored the dangers the development posed to the Maritime College despite information provided by the applicants own consultants:
  - "In the case of a pool fire ... the resulting heat radiation would be sufficient to cause 2<sup>nd</sup> degree burns after 40 seconds exposure [at the Naval College]."
  - " A Vapour Cloud Explosion ... could result in windows being broken at the proposed Naval College ..."

(Ref. Byrne and O’Celiig, Hazard Identification and Evaluation Report.)

## ***Health and Safety Authority***

- The HSA did not know the application was for a Hazardous Waste Incinerator.
- They did not know what chemicals were going to be burnt or stored on site.
- Did not know that fires ignite regularly in the Hammond Lane site which is located in the middle of the proposed development.
- Did not know a mains gas pipeline runs through the site.
- Did not consider the fact that the people of Cobh (population 14,000 approx.) have only one escape route over a humpback bridge and a car ferry in the event of a major fire.
- Did not consider that a fire would block off the escape route of the staff and personnel from the Naval base and the Maritime College.
- Were not aware of the WHO guidelines on Site selection.
- Relied solely on the information provided by the applicant and sought no additional information from any other source. (Inspectors Report 2003)

## ***An Bord Pleanála***

An Bord Pleanála (ABP) granted an Oral Hearing.

Twenty-four appellants gave three weeks of their time voluntarily, many depending on the good will of their friends and family to look after their children. Many others took unpaid time off work to attend the oral hearing, such was their commitment to engaging in the democratic process and their belief in the integrity of the decision making process.

- As the Bord's own expert at the hearing, the Planning Inspector gave fourteen reasons why this development should not be allowed and attached no conditions to his final recommendation, so convinced was he that this development should not proceed:
- He could not guarantee it did not pose a risk to public safety.
- It failed 13 of the 14 criteria in the Guidelines laid down by the W.H.O. for proper site selection. These guidelines are there to ensure such facilities are located as far away from populations as possible and to reduce the impact on the environment.
- This site suffers from flooding, coastal erosion and inversions.

The inspector indicated in his report that the Bord had two options open to it - either:

- Reject the first party appeal or
- Invite further submissions from the applicants.

The Bord did neither and granted permission.

It is a principle of Irish law that the State's institutions cannot act arbitrarily and must only act reasonably and in the interest of fairness and justice. An experienced inspector prepared a comprehensive and detailed report from which the Bord (10 Political Appointees) should not depart unless they had good and reasonable grounds for doing so. They did neither and therefore the decision of nine members of the Bord, to reject

the Inspector's considered opinion was unreasonable and against the principles of planning and the democratic process which the oral hearing is meant to represent.

This decision is now the subject of a judicial review application, leave to seek such a review having been granted by the High Court earlier this year.

### ***Environmental Protection Agency***

The final player in the process is the E.P.A. who issue waste licences to industry.

The EPA granted an oral hearing on the incinerator's waste licence application. CHASE again participated fully in this process over two and a half weeks.

Three undeniable truths emerge from the hearing:

1. The operation at this site will release harmful pollutants.
2. It would be wise to assess the extent of the harm those pollutants would cause to people's health before deciding to grant a licence.
3. This assessment has not been carried out.

We now await the EPA's decision in late July.







