



An
Bord
Pleanála

Inspector's Report

ABP-306575-20

Development	Additional temporary car park spaces, to be removed upon Estuary MetroLink station becoming operational, to existing office campus consisting of 113 . car spaces and associated circulation
Location	Swords Business Campus, Balheary Road, Swords, Co. Dublin, K67 D2X4.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0526
Applicants	Swords Business Campus Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First / Third Party
Appellant(s)	Swords Business Campus Limited
Date of Site Inspection	5 th May 2020
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at Swords Business Campus, Balheary Road, Swords, Co. Dublin; within Swords Business Campus, which is located to the north of Swords Town Centre, to the east of the Balheary Road and to the west of the R132 Regional Road and the M1. It is easily accessible by road from junction 4 on the M1, via the R132 and Balheary Road.
- 1.1.2. Swords Business Campus comprises the former Motorola manufacturing plant and is situated on a site of c. 7.75 ha and is a gated development. There are two main buildings split by a pedestrian walkway. The buildings have a stated floor area of c. 26,900 sq m and have been internally subdivided to create separate units for a number of different businesses. There are existing car parking areas to all four sides of the Business Campus buildings, stated total of 804 surface car parking spaces, with an internal access road encircling the buildings and servicing the car parking. Areas of landscaping, with mature trees and playing pitches, occupy the remainder of the site.
- 1.1.3. The appeal site is located to the north of the main Business Campus building, and currently comprises a flat area of grass laid out as a football pitch. There is a line of trees along the southern boundary of the appeal site, dense mature trees to the north and car parking to east, south and west. The Broadmeadow River is located c. 40m to the north of the appeal site, and the Ward River is c. 80m to the south east. The two rivers merge at a point c. 280m east of the appeal site.
- 1.1.4. The route of the proposed Metro North line is along the western side of the R132, c. 180m east of the appeal site.
- 1.1.5. This site is given as 0.3 ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the provision of additional temporary car park spaces, to be removed upon Estuary MetroLink station becoming operational, to existing office campus, consisting of 113 car spaces and associated circulation.

- 2.1.2. The proposed parking spaces and associated circulation space would be constructed as a continuation of the existing car park in terms of alignment and configuration and would be hard surfaced. It is also proposed to provide a surface water attenuation system to accommodate the run-off from the additional paved area.
- 2.1.3. The application was accompanied by an Engineering Services Report, and a Parking Justification Report.

3.0 Planning Authority Decision

3.1 Decision

- 3.1.1. The planning authority decided to refuse planning permission for three reasons:

1. The proposed development is located in an area zoned 'ME' in the Fingal Development Plan, 2017-2023 for which the objective is to facilitate opportunities for high-density mixed-use employment generating activity and commercial development within the Metro Economic Corridor. Having regard to the level of existing car parking provision at Swords Business Campus, the proximity of the site to the proposed Metro Link route, and the requirement under Table 12.8 of the Development Plan to apply a 50% reduction in maximum car parking allowances for development near public transport or on Metro Economic Corridor zoned lands, it is considered that the proposed development of temporary car parking spaces in the absence of sufficient evidence to support additional parking demand at this location or clarity on the level of employment that warrants the increase is premature and would contravene materially Objective DM113 of the Development Plan which seeks to 'limit the number of car parking spaces at places of work and education so as to minimise car borne commuting. The number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2 The Planning Authority is not satisfied, on the basis of the information submitted in relation to surface water drainage proposals and flood risk of the proposed new temporary car parking, that development would not be prejudicial to

public health or pose an unacceptable risk of environmental pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3 The proposed development is considered to be premature pending the receipt and assessment of the applicant's response to the additional information request for their concurrent application (F19A/0435) and recommendation relating to same. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.3. Planning Reports

- Zoned 'ME' in the Fingal Development Plan, 2017-2023 for which the objective is to facilitate opportunities for high-density mixed-use employment generating activity and commercial development within the Metro Economic Corridor.
- The site is also located within Masterplan area MP8.B, referred to as Estuary Central, to be prepared during the lifetime of the Development Plan.
- The proposed new Metro Link route is located to the east of the subject site to the west of the R132.
- DM113: Limit the number of car parking spaces at places of work and education so as to minimise car-borne commuting. The number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8. Car Parking for offices is in the range of 1:30 to 1:40 and there should be a 50% reduction in ME and TC zoned lands near public transport.
- DM118: Ensure that all new employment and education developments include adequate, secure and dry bicycle parking, in accordance with the standards set out in Table 12.9.
- ED99: Protect the integrity of the Metro Economic corridor from inappropriate forms of development and optimise development potential in a sustainable and phased manner.

- Planning history cited. Re. pre planning consultation – the application notes that a brief phone conversation took place in relation to the proposed development, a number of issues have come to light subsequently.
- Sectional reports and submissions from prescribed bodies cited.
- Re. compliance with zoning – parking is not listed therefore acceptable subject to compliance with policies and objectives.
- Re. compliance with original planning permission – prior to 2008 a basketball court existed c20m west of the subject site. The former court now accommodates 34 car parking spaces, which do not appear to have planning permission. Under F17A/0038 the applicant states the floor space of Swords Business Campus to be 26,000 sq m. In the subject application it is stated to be 26,958 sqm. It is unclear when or if the additional floor space was permitted. A count of the car parking spaces indicated on 'existing site plan' Drawing No A11-001 submitted 17/9/2019 is 810 spaces. Plans should note parking spaces and units they have been allocated to. A car space management map would be a fundamental facilities management tool. These issues were raised in F19A/0435.
- Re. compliance with Chapter 7 of the development plan – table 12.8 1:30 to 1:40 and DM113, to reduce parking in close proximity to public transport. The applicant uses the floor area 26,958 sqm to calculate the number of spaces that should be on site and apply a 50% reduction to the shortfall ($899-805=94/2=47$). The report sets out as a table the various planning references, associated floor spaces and car parking requirement at 1 space per 30 sq m, and also based on a 50% reduction, and based on table 12.8. Excess in car parking is said to range from 370 in 2017 to 516 or 531 depending on what floor area is actually permitted; and the additional issue relating to the 34 spaces on the former basketball court is not resolved. The applicants state that they are committed to facilitating significant modal shifts among occupants away from private car use, but have not submitted a mobility management plan with the subject application or two previous ones in 2019. In a FI request on F19A/0435 the applicants were asked to identify the permissions permitting the floor area increases, the removal of the basketball court and the 34 additional spaces; and further temporary parking is premature pending the response.

- Re. impact on the visual and general amenity of the area – the proposal seeks the expansion of six lines of parking. Swept path /auto tracking has been carried out and demonstrates access. The parking impacts through loss of green space and removal of amenity space, trees and green infrastructure in an area prone to flooding.
- Re. reports – significant issues raised by Parks Division, NTA, IW, Water Services and IFI, are listed.
- Re. Impact on Natura 2000 sites and screening for AA – none submitted. The possibility of pollution and impacts on water cannot be excluded and refusal is recommended.
- Re. EIA screening – the requirements of sub-threshold development may be met in the context of the existing 804 spaces and the sensitivity of the receiving environment.
- Conclusion – recommending refusal - insufficient justification, excessive provision, lack of information re. surface water and flood risk, possibility of pollution, and premature re. concurrent application F19A/0435, outstanding FI and lack of AA Screening or NIS. Which recommendation informed the decision that issued.

3.4. Other Technical Reports

3.5. Water Services Planning

- 3.5.1. At risk of flooding, fluvial flood zone. FEMFRAM Ward Model Flood Extent Map. Although identified as a hazard, the flood risk assessment does not adequately explore or consider - justification test, climate change, compensatory storage – per Guidelines.
- 3.5.2. Surface Water WQ05 of CDP, a riparian corridor of 30m to be maintained along Broadmeadow River.
- 3.5.3. Maximum allowable discharge rate 2l/s/ha or Qbar, whichever is greatest. This equates to 0.6l/s. The proposed discharge is 2l/s, excessive. If 0.6l/s cannot be achieved through Hydrobrake or similar flow control device, the developer shall, per item 6.8.2.3 of the GDSDS, either consider an integrated catchment approach or alternative SuDS devices with inherent slow release characteristics, such as swales, permeable pavements, etc.

3.5.4. FCC policy is to use green infrastructure whenever possible. Above ground drainage using green infrastructure maximises environmental benefits. Attenuation tanks do not provide the same benefits and should only be used as a last resort. Consider revised design, consider CIRIA SuDS Manual C753.

3.6. Parks Division

3.6.1. Similar application for 48 spaces to the west recently lodged.

3.6.2. Negative visual impact has not been addressed. How many trees are required to be removed is not clearly shown or how the large tree stand to the north will be protected during construction. Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and an Arboricultural Method Statement, in accordance with BS 5837:2012 Trees in relation to design, demolition and construction, recommendations required. Prepared by a suitably qualified arboricultural consultant. A Landscape Plan is required to clearly indicate what trees are for retention/removal. The plan should include tree planting to enhance the amenity of the business campus and soften the appearance of the park.

FI listed.

3.7. Transportation Planning:

- Would bring total for campus to 965, 66 above the development plan standards. Additional Parking being provided speculatively to facilitate leasing. Standards are maximums; this still facilitates 47 additional spaces.
- Proposed development is premature pending identification of end user.
- If permitting limit to 47, to be removed after a seven year period – delivery date of metro link.

3.8. Prescribed Bodies

3.9. National Transport Authority

3.9.1. The proposed development is subject to the Metro Economic Corridor zoning of the Fingal Development Plan, 2017-2023. The policy of the Metro Economic Corridor is to provide for sustainable development and has stricter parking standards as set out in Table 12.8 - car parking standards.

- 3.9.2. The applicant has not provided sufficient evidence to support additional parking demand at this location or clarity on the level of employment that warrants the increase. The applicant has not provided a Mobility Management Plan to demonstrate how the campus intends to reduce reliance on the private vehicle in favour of more sustainable modes such as public transport, walking and cycling.
- 3.9.3. In accordance with the NTA National Cycle Manual, cycle parking should be safe, secure and convenient. It should be covered, lit and within close proximity to the building entrance.
- 3.9.4. As part of the PA's assessment it is recommended that a Mobility Management Plan be requested, to fully understand the parking requirement and how the campus will move away from reliance on the private vehicle.

3.10. IFI

- 3.10.1. CEMP should identify potential impacts and mitigation measures and provide a mechanism for ensuring compliance with environmental legislation and statutory consents.
- 3.10.2. Comprehensive surface water management measures must be implemented at the construction and operational stage to prevent any pollution of the Broadmeadow Catchment. While policies and recommendations made under the GDSDS have been applied in development of a drainage strategy for this site, a maintenance policy to include regular inspections and maintenance of the SuDS infrastructure and the petrol/oil interceptor throughout the operational stage should be a condition of any permission.

3.11. IW

- 3.11.1. Both 150mm and 300mm diameter watermains traverse the site. The applicant is required to accurately determine the position and to submit design proposals demonstrating how they are to be accommodated.

3.12. Third Party Observations

None

4.0 Planning History

F19A/0435 Swords Business Campus Ltd – substantial FI sought (08-Nov-2019) in relation to proposed additional permanent car parking, for 48 spaces on 0.2ha.

1 re. planning history and car parking spaces which do not appear to have planning permission; and floor space discrepancies.

2 regarding differences in calculations of existing car parking spaces – an annotated map.

3 revisions requested to car parking layout; additional bicycle parking; and a landscaping plan.

4 re. 150mm and 300mm diameter watermains traversing the site.

5 re. part of site at risk of flooding – justification test, climate change impact and compensatory storage – revised Flood Risk Assessment.

6 maximum allowable discharge shall be 2l/s/ha or Q_{bar} whichever is the greatest. For the proposed development this equates to 0.4l/s. the proposed discharge of 2l/s and is excessive...

7 AA Screening Report or NIS

F19A/0283 Human Assisted Reproduction Ireland Ltd (Rotunda IVF) permission granted. 43 parking spaces had been assigned to the unit, 21 in excess to that generated by the proposed use. 3 no. new accessible spaces were permitted as part of the permission. Condition 2:

A total of 22 no. car parking spaces shall be provided with this unit. The following requirements in relation to parking and road safety shall be carried out in full:

- The proposed bicycle parking shall be covered/sheltered and shall be agreed in writing with the PA prior to construction of the proposed development.
- A parking management strategy report and associated layout plan shall be provided for the written approval of the PA.

PI06F.248347 PA Reg Ref F17A/0038 The Board refused planning permission for the construction of 162 surface car parking spaces on the northern side of the business campus, on a 0.3763 ha site, which included the subject site, for the following reason:

The proposed development is located in an area zoned 'ME' in the Fingal Development Plan, 2017-2023 for which the objective is to facilitate opportunities for high-density mixed-use employment generating activity and commercial development within the Metro Economic Corridor. This objective is considered reasonable. Having regard to the level of existing car parking provision at Swords Business Campus, the proximity of the site to the proposed Metro North and Bus Rapid Transit routes, and the requirement under Table 12.8 of the development plan to apply a 50% reduction in maximum car parking allowances for development near public transport or on Metro Economic Corridor zoned lands, it is considered that the proposed development would represent the underutilisation and inefficient use of serviced and zoned land and would materially contravene Objective DM113 of the Fingal Development Plan, 2017-2023 which seeks to 'limit the number of car parking spaces at places of work and education so as to minimise car borne commuting. The number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Reg. Ref. F06A/1830: Permission refused in 2007 for construction of five office blocks, comprising three four storey buildings and two three storey buildings, 221 car parking spaces in a four storey over basement building and 118 surface car parking spaces. Permission was refused for four reasons, which can be summarised as follows:

1. Development would materially contravene GI zoning objective.
2. Premature pending preparation of Urban Centre Strategy.
3. Development would interfere with the character of the landscape.
4. Insufficient information submitted with regard to foul sewer and surface water drainage arrangement.

Reg. Ref. F00A/1314: Permission granted in 2001 for construction of two three storey buildings over basement car park. The stated use of the buildings was to accommodate call centre/ direct marketing facility/ data processing/ information technology/ software development/ science and technology/ research and development office units. This permission was not implemented.

Other - Swords Business Campus has an extensive planning history, with the majority of the planning applications relating to sub-division and/or changes of use of parts of the original light industrial/office building.

5.0 Policy Context

5.1. Development Plan

The Fingal Development Plan 2017-2023 is the operative plan, relevant provisions include:

- 5.1.1. The appeal site is zoned 'ME', Metro Economic Corridor. This Zoning Objective seeks to facilitate opportunities for high density mixed use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro Economic Corridor.
- 5.1.2. The site is also located within Masterplan area MP8.B, referred to as Estuary Central. Objectives SWORDS 27, ED90 and ED98 seek to prepare and/implement this Masterplan (among others) during the lifetime of the Development Plan.
- 5.1.3. The proposed Metro North route is located to the east of the appeal site, along the western edge of the R132.
- 5.1.4. Relevant Objectives include:
 - ED99: Protect the integrity of the Metro Economic corridor from inappropriate forms of development and optimise development potential in a sustainable and phased manner.

- ED100: Ensure high quality urban design proposals within the Metro Economic zoning, incorporating exemplary public spaces, contemporary architecture and sustainable places within a green landscape setting.
- DM113: Limit the number of car parking spaces at places of work and education so as to minimise car-borne commuting. The number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8.

5.1.5. The car parking standards set out in Table 12.8 for ‘offices – general’ and ‘offices – call centre’ are 1 space per 30 sq m GFA, and for ‘offices – Science and Technology’ are 1 space per 40 sq m GFA. In all cases the Table states that these are maximum figures, and should be reduced by 50% in the Metro Economic Corridor or near public transport.

5.2. Natural Heritage Designations

5.2.1. The nearest Natura sites are Malahide Estuary SAC (site code 000205) c 400m distance and Malahide Estuary SPA (site code 004025) c 700m distance from the subject site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Reid Associates have submitted a first party appeal on behalf of the applicant and the grounds of appeal can be summarised as follows:

- Swords Business Campus has extant permission for overall provision of 1078 car parking spaces. Proposed 113, should be understood only as additional to existing but not additional to overall permitted development. 805 have been provided, 1078 comprise the required provision to satisfy the relevant planning conditions and comply with the development plan standards at the date of the parent permissions for change of use from industry to business park: F99A/0502 phase 1, F99A/0570 phase 2 and F99A/0946 phase 3. A generic condition, no. 3, was included in relation to provision of car parking in accordance with development plan standards. Development plan standards: 1 per 25 sqm office. Per recent survey - floor area of 26,958; should have 1078 spaces, shortfall of 273. The subject application goes some way to satisfying the condition.
- Rationale for the proposed development - Swords Business Campus Limited purchased the site in 2018. In 2016 there was 8,732 sq m vacant; reduced to 7,989 in 2018. They have since invested in improvements. Units 1 and 5C have remained vacant since 2012. Hewlett Packard operated a disaster recovery operation in unit 1 which employed a handful of employees and did not require parking. The only units vacant are 5C (895 sqm) and 1 (3,910 sqm) (4,805 sqm total). Only 40 spaces remain lettable. They met the Council when they purchased the campus and understood a more flexible approach would be taken re. employment generation and their proposed parking strategy, to tie in with the operation of Metro. Both this application and F19A/0435 (161 spaces in total) are seeking to provide a smaller number of spaces than previously permitted.
- Evidence of parking shortfall impeding the letting of vacant unit 1 and unit 5C.
 - The accompanying letter from JLL is referred to. Aer Rianta, Ergo, Ebay, Veritas and Coca Cola are named as having been potential tenants.
- Review of the planning report and PA decision – failure to consider NPF 2040 – the site is located within the Dublin Belfast corridor – need for interim measures pending Metro. F17A/0038 application by the receiver stated the floor area incorrectly as 26,900 sq m. The 50% reduction in spaces along the Metro Economic Corridor applies to new development not existing. The

basketball court, probably dates back to Amdahl, an American company, which predates the change of use to business campus, when 1 space per 25 sq m was the standard and is therefore of no concern. The floor area was recently surveyed and 26,958 sq m is the confirmed, lettable floor area. Car parking is 805 with 40 spaces remaining for unit 1 and 5C – 4805 sq m or 1:120 sq m. Temporary parking is outside the scope of the development plan standards. The planning report offers no solution to the vacancy and does not consider the economic imperative. 22% of the space is vacant. Current public transport is poor. Public transport has not improved significantly since 1 space per 25 sqm was the office space standard.

- Mobility Management Plan – consultation with TII re. MetroLink station, 5m walk. Swords Business Campus Ltd is willing to facilitate pedestrian and cycle access through the business campus in order to optimise the station accessibility to surrounding areas – a significant planning gain; which outweighs reliance on parking standards. They would accept a condition requiring a Mobility Management Plan, which would relate transport demand to services in a more pragmatic manner. Potential (blue chip) occupiers cannot put the significant numbers of staff in place without adequate car parking. The NTA did not recommend refusal, but a condition. The temporary nature of the car parking provision is a tangible means of ensuring effective mobility management; not recognised in the planning report.
- There is a precedent for temporary car parking – Ryanair headquarters – F14A/0041 and F18A/0467 – 178 temporary spaces granted until 2027, (1:20 sq m office). A similar approach is sought. There is a lack of evidence, in the opinion of over provision.
- Visual amenity – the area is grassed but not visible from outside the site or from the public realm, due to the trees. The parking is outside the root zone. They are willing to appoint an arborist to oversee and ensure tree protection.
- Hewlett Packard (unit 1) did not need parking and the permitted parking was not put in place. Potential occupiers of unit 1 would have in the order of 450 staff, based on other occupants and at an allocation of 1 worker per 10 sqm, which is a generous space allocation.

- AA screening – no evidence of a pathway. The planning report suggests the need for FI, not a refusal. The Board have the option of requesting screening. The previous inspector (PL06F.248347) conducted AA and stated that a stage 2 AA was not required. It was considered that the drainage arrangements, which were part of the development project, were sufficient to ensure surface water would not have an adverse impact on the Ward river. Discharge rate is in line with SuDS for a 1 in 100 year event. The CS Consulting report states that the site is in Flood Zone C, at least risk. There is no basis to sustain a risk on a European site. A hoarding will be placed around the site and there will be no release of material external to the site.

A screening for AA would show the proposed development is not within a protected site and there are no pathways. No Annex II habitats are present on site.

- EIA screening – it is not of a class or threshold – no characteristics of the project or location that would give rise to environmental impact concerns.
- Rebuttal of Reason 1 – development plan metro economic corridor – table 12.8 only applies to new development not an established campus. The proposal is to provide the infrastructure necessary to comply with parent permission. It cannot be premature as the campus is already in place. DM113 similarly applies to new development.

Vision statement economic aims and goals and strategic policy are cited in support of the proposal. Chapter 6 and ED06, also ED13, ED11, ED85, and chapter 7 which outlines the movement strategy seeking to integrate land use and transport, will be facilitated by the movement strategy the client is committed to putting in place. Objective MT22 connectivity to stations will be directly facilitated by agreed access through the campus. The zoning supports the development.

Policy DM113 and table 12.8 apply to new developments. No restrictions apply to temporary parking and this should be decided on its merits. The vacancy for over a decade is sufficient to warrant permission.

NPF 2040 – National Policy Objective 11, supports the proposal.

- Reason 2 surface drainage and flood risk – CD Consulting document is referred to. The stormwater system is designed to 1:100 plus 10% climate change, using an attenuation tank and a hydrobrake; outfalling into the existing business campus storm water drainage system; to the Fingal CoP. A possible solution would be to use permeable paving to allow direct recharge to groundwater. There are no grounds for suggesting that it would contribute to flood risk. Flood zone C and a small section already developed in flood zone B. Proposal is low vulnerability use.
- Reason 3 prematurity – does not correspond with the Ryanair decision. Not speculative; no end user will agree terms without a commitment to provide car parking.

Attached to the grounds are:

A letter from JLL (Jones Lang LaSalle Ltd) stating that the issue of car parking has been raised by existing tenants and prospective tenants. They state that only 40 spaces are available with the remaining office accommodation in units 5/6 C and unit 1 which amounts to 51,633 sq ft. Unit 1, approx 42,500 sq ft, will be unlettable. Similar office offerings in various locations are referred to.

- A memorandum from CD Consulting – re. reason 2. The stormwater system was designed to retain 1:100 plus 10% climate change, using an attenuation tank and a hydrobrake to limit outflow to greenfield rates; passing through an oil interceptor to outfall into the existing business campus storm water drainage system; to the Fingal CoP. This was thought preferable to an outfall to Broadmeadow River directly to the north. It would not increase storm water flows - storage. It would not increase potential pollution – gullies removing silt and grit and an oil separator. A possible solution would be to use permeable paving to allow direct recharge to groundwater.
- Flood zone C and a small section already developed in flood zone B. Proposal is low vulnerability use. No justification test required. Extract from CFRAM mapping provided. It is not proposed to alter the site profile or to interfere with any area currently indicated as flood zone B. Proposed temporary car park will not interfere with predicted localised extreme flooding

1:100 and will not pose unacceptable public health or environmental risk as it will not interfere with the existing flood plain.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The appeal submission states that there is extent permission for 1078 spaces. In F99A/0949 between c752 and 762 spaces are shown for 25,911 sq m. The more recent F06A/1830 shows the arrangement of car parking spaces throughout the campus with reductions to the rear / northern side and increases to the front / southern side. The timeline of these changes and an actual car park management map has not been provided. From the planning histories, the campus does not appear to have ever provided 1,078 car parking spaces within the lifetime of permissions.
- 1. Development Plan Metro Economic Corridor zoning – the concurrent applications for the subject development (113 temporary spaces) and F19A/0435 (48 permanent spaces) is very similar to the previous development (F17A/0038) refused by the Board. The PAs reason no. 1 is the same as the Boards reason.
- Car park space management and mobility management plans – F19A/0283 unit 5/6A may have been assigned an excessive number of spaces, suggesting poor car park space management. The applicant states that 43 spaces had been assigned to their unit – 1064 sqm – 18 should have been assigned, per standards. Condition no. 2 limits the number to 22 (including 3 accessible spaces permitted under F19A/0283). In F17A/0038 the Transportation Planning Section states that standards are maximums not requirements. The Transportation Planning Section in related applications has pointed out the need for a mobility management plan relating to the campus and is of the opinion that the development is premature pending end user and associated parking requirements. The NTA also requires a mobility management plan.
- In the absence of a mobility management plan the proposed development will lead to significant overprovision of car parking. The applicant states that they

are committed to facilitating significant modal shifts but have not submitted a mobility management plan with this or the previous two applications in 2019.

- 2. Surface Drainage and Flood Risk – accommodation of two watermain pipes traversing the site was requested previously (F19A/0435). Water Services Planning Section raises more specific issues – that the site is partly within an area at risk of flooding. The proposed surface water discharge rate of 2l/s is excessive. Objective WQ05 requires the maintenance of a riparian corridor of 10-15m measured from the top of the embankment. This should have been indicated.
- 3 prematurity - The development is premature pending receipt and assessment of the response to the FI request on the concurrent F19A/0435.

6.3. Board Correspondence

6.3.1. The Board notified prescribed bodies of receipt of the appeal.

6.3.2. A response was received from the Department of Culture, Heritage and the Gaeltacht which can be summarised as follows:

Nature Conservation – the proposed development is c40m from the Broadmeadow river, a short distance above its confluence with the Ward River. The surface drainage from the proposed temporary car parking is to be via gullies, a holding tank and a petrol filter into the existing surface drainage system serving the campus. This apparently discharges into the Ward River within about 500m of where the latter river enters the Malahide Estuary Special Area of Conservation (site no. 000205) and Malahide Estuary Special Protection Area (site no. 004025). There is therefore a direct hydrological pathway from the proposed development site into the Natura 2000 sites which are designated for habitats and water bird species definitely vulnerable to water borne particulate matter and hydrocarbons. It is also noted that Fingal Co Co considers the proposed development is vulnerable to flooding which could similarly lead to downstream pollution of the European sites. Despite these possible detrimental impacts on the Natura sites arising from the proposed development no AA screening report was submitted. The Department recommends that, as suggested by the applicant in its appeal, the Board should request the

applicant to submit as additional information an AA screening report, this may lead to a NIS being submitted as well.

7.0 Assessment

7.1.1. The issues which arise in relation to this appeal are appropriate assessment, temporary parking and flood risk, and other issues and the following assessment is dealt with under these headings.

7.2. Appropriate Assessment

7.2.1. There are seven Natura 2000 sites within 10km of the appeal site. These sites and their distance from the appeal site are as follows:

- Malahide Estuary SAC (000205): 0.3km.
- Malahide Estuary SPA (004025): 0.7km.
- Rogerstown Estuary SAC (000208): 3.54km.
- Rogerstown Estuary SPA (004015): 3.8km.
- Baldoyle Bay SAC (000199): 7.39km.
- Baldoyle Bay SPC (004016): 7.39km.
- Rockabill to Dalkey Island SAC (003000): 9.54km.

7.2.2. Neither an Appropriate Assessment Screening Report, nor an NIS were submitted with the planning application.

7.2.3. The grounds of appeal states that there is no evidence of any impact or pathway from the development to an SAC or SPA and that the planning report which suggests that the applicant should have submitted an AA screening report, justifies a case for additional information, not a refusal; the planning authority is the competent authority and it is in their competence to conduct an AA for the development; the Board who is now the competent authority have the option of requesting screening.

7.2.4. The grounds also states that the previous inspector (PL06F.248347) conducted AA and stated that a stage 2 AA was not required. It was considered that the drainage arrangements, which were part of the development project, were sufficient to ensure

surface water would not have an adverse impact on the Ward river. Discharge rate is in line with SuDS for a 1 in 100 year event. The CS Consulting report states that the site is in Flood Zone C, at least risk. There is no basis to sustain a risk on a European site. A hoarding will be placed around the site and there will be no release of material external to the site. A screening for AA would show the proposed development is not within a protected site and there are no pathways. No Annex II habitats are present on site.

- 7.2.5. I have reviewed the Inspector's report referred to in the grounds. As regards Rogerstown Estuary SAC and SPA, Baldoyle Bay SAC and SPA and Rockabill to Dalkey Island SAC, I agree with the conclusion reached that, having regard to the nature and scale of the proposed development, the distance, and lack of hydraulic connectivity, these sites can be scoped out without further consideration.
- 7.2.6. With regard to the Malahide Estuary SAC and SPA, these sites are within 1km of the appeal site, and are hydraulically linked via natural drainage and the proposed surface water management system. The qualifying interests of the SAC and SPA are as follows:

- **Malahide Estuary SAC:**

Mudflats and sandflats not covered by seawater at low tide

Salicornia and other annuals colonising mud and sand

Spartina swards

Atlantic salt meadows

Mediterranean salt meadows

Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)

Fixed coastal dunes with herbaceous vegetation (grey dunes).

- **Malahide Estuary SPA:**

Great Crested Grebe

Light-bellied Brent Goose

Shelduck

Pintail

Goldeneye

Red-breasted Merganser

Oystercatcher

Golden Plover

Grey Plover

Knot

Dunlin

Black-tailed Godwit

Bar-tailed Godwit

Redshank

Wetland and Waterbirds

- 7.2.7. The Conservation Objectives for both the SAC and SPA are to maintain or restore the favourable conservation condition of the qualifying interests for which the SAC/SPA has been selected.
- 7.2.8. Having regard to the nature of the proposed development and receiving environment, I consider that the potential impacts on the SAC and SPA are primarily related to impairment of water quality during construction and operation. I do not consider that any loss of, or disturbance to, habitats or species are likely to occur, having regard to the nature of the appeal site, which currently comprises amenity grassland adjacent to a large commercial building and car park, and the presence of the R132 Regional Road and M1 Motorway between the appeal site and the SPA/SAC.
- 7.2.9. I note that the Inspector's report referred to in the grounds, noted that the AA Screening Report stated that a Construction Environmental Management Plan would be developed, which would incorporate best practice measures in terms of controlling surface water emissions in accordance with CIRIA guidance (C532 – Control of Water Pollution from Construction), and the AA Screening Report concluded that impact on the protected sites was unlikely. No such assurances have been provided in the present case. Nevertheless, had such assurances been provided by way of a report to support screening for AA, I would not be in a position to concur with the conclusions in the 2017 Inspector's report, that the construction phase is not likely to result in any impacts to the designated sites. It has since been

clarified that the appropriate test is a consideration of whether the development is capable of affecting the integrity of the protected site (rather than is likely to affect the integrity of the protected site). Therefore, it is not possible to screen out construction impacts on Malahide Estuary SAC and SPA. In addition, as pointed out in the planner's report in relation to flood risk, the possibility of impact during the operational phase cannot be excluded, and therefore operational phase impacts also require stage 2 appropriate assessment.

- 7.2.10. I cannot agree with the statement in the grounds of appeal that there is no basis to sustain a risk on a European site; or that the placement of a hoarding around the site would ensure that there would be no release of material external to the site.
- 7.2.11. The Department of Culture, Heritage and the Gaeltacht recommended that further information be sought.: AA screening and potentially an NIS.
- 7.2.12. Should the Board be otherwise minded to grant permission for the proposed development, a NIS would be required to enable stage 2 AA to be carried out. In the absence of a NIS the Board is not in a position to carry out AA as is required of the competent authority. In my opinion this is a reason to refuse permission.

7.3. Temporary Parking

- 7.3.1. The excessive provision of temporary parking is referred to in Reason no 1; and the prematurity of a decision on temporary parking, pending receipt and assessment of the applicant's response to the additional information request for their concurrent application (F19A/0435), is referred to in Reason no 3.
- 7.3.2. The grounds of appeal states that temporary parking is outside the scope of the development plan standards.
- 7.3.3. The grounds also makes the argument that the planning report offers no solution to the vacancy and does not consider the economic imperative; 22% of the space is vacant; current public transport is poor; and public transport has not improved significantly since 1 space per 25 sqm was the office space standard.
- 7.3.4. I note that the planning authority has attempted to obtain a clearer picture of the parking provision on the site, and the extent of existing floorspace areas served by such parking, in a request for further information on F19A/0435 (Swords Business

Campus Ltd) dated 08-Nov-2019, and that no response to this request is recorded (at the time of writing) on Fingal County Council's website.

- 7.3.5. The Board previously agreed with the planning authority's assessment that the provision of additional car parking at this location would materially contravene Objective DM113 of the Fingal Development Plan, 2017-2023 which seeks to limit the number of car parking spaces at places of work and education so as to minimise car borne commuting; and that the number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8. In my opinion there is no reason to reach a different conclusion in this case; and this is a reason to refuse permission.

7.4. Flood Risk

- 7.4.1. Flood risk and the risk of environmental pollution are referred to in the second refusal reason. As it bears on environmental pollution it is also of concern in relation to Natura sites and this has been referred to under the foregoing heading.
- 7.4.2. The report of the Water Services Planning refers to the fact that part of the site is located in a fluvial flood zone in the Ward Model Flood Extent Map, FEMFRAM, and that this is not adequately addressed in the flood risk assessment; and in addition it states that the proposed surface water discharge rate of 2l/s is excessive. The Water Services Planning report recommends requesting further information and it suggests possible solutions to these issues. In my opinion flood risk should not be a reason to refuse permission.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that planning permission should be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The proposed development is located in an area zoned 'ME' in the Fingal Development Plan, 2017-2023 for which the objective is to facilitate opportunities for high-density mixed-use employment generating activity and

commercial development within the Metro Economic Corridor. Having regard to the level of existing car parking provision at Swords Business Campus, the proximity of the site to the proposed Metro Link route-and Bus Rapid Transit routes, and the requirement under Table 12.8 of the Development Plan to apply a 50% reduction in maximum car parking allowances for development near public transport or on Metro Economic Corridor zoned lands, it is considered that the proposed development of temporary car parking spaces in the absence of sufficient evidence to support additional parking demand at this location or clarity on the level of employment that warrants the increase is premature and would contravene materially Objective DM113 of the Development Plan which seeks to 'limit the number of car parking spaces at places of work and education so as to minimise car borne commuting. The number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European Sites numbered 000205 and 004025, or any other European site, in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Planning Inspector

20th May 2020

Appendices

Appendix 1 Photographs

Appendix 2 Fingal Development Plan 2017-2023.