



An  
Bord  
Pleanála

## Inspector's Report PL06F.247665

### Development

Development of three 5-storey office blocks together with parking, services and storage area for each building (EIS accompanies application).

### Location

Lands at Stockhole Lane,  
Clonsaugh, Co. Dublin.

### Planning Authority

Fingal County Council

### Planning Authority Reg. Ref.

F16A/0397

### Applicant(s)

Glenvest ULC

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Glenvest ULC

### Observer(s)

Gerard McLeod, Lorna Jane McAlevey  
& Gerard McLeod Jr., John McLeod,  
Gregory & Philomena Fitzsimons,  
Christina Fitzsimons, DAA.

**Date of Site Inspection**

9 March 2017

**Inspector**

Una Crosse

## 1.0 Site Location and Description

- 1.1. The site, which has an area of 4.98 hectares, comprises part of a larger holding of 17.2 hectares. The site comprises agricultural land and is currently grazed.
- 1.2. The site is adjoined to the north by agricultural lands, to the south by the Clayton Hotel, to the east by a Topaz filling station and the west by the M1 Motorway. To the east of the site between the appeal site and the Topaz petrol station, permission exists for a new Hotel development. Further east of the site on the other side of Stockhole Lane and to the north of the site adjoining Stockhole Lane there is a mix of uses primarily residential but including a horticultural type development.
- 1.3. The site is accessed from a roundabout on Stockhole Lane which runs in a north south axis to the east of the site and which connects to the R139 to the south of the site via a roundabout junction.

## 2.0 Proposed Development

- 2.1. The proposal comprises three blocks of office development (Blocks 1, 2 & 3) each of which is 5 storeys in height with 23,970 sq.m of office space proposed. An undercroft area is proposed under each block to accommodate car and bicycle parking, shower facilities, bin storage facilities and plant service areas with a total area of 5,048 sq.m. The total gross floorspace of the development is 29,018 sq.m.
- 2.2. Each of the blocks is c.23m in height. Block 1 includes 7,404 sq.m of office space with Block 2 & 3 each providing 8,283 sq.m. Blocks 2 & 3 are connected at basement level with a common vehicular entrance.
- 2.3. A total of 474 car parking spaces are proposed at surface and undercroft levels.
- 2.4. It is proposed to provide an access road linking to the existing road from the Stockhole Lane roundabout with alterations proposed to the roundabout junction of the R139 & Stockhole Lane to facilitate the provision of a left through lane on the northern side of the R139.
- 2.5. The proposal includes foul and surface water drainage proposals, landscaping including a central water feature and 3 no. electricity substations.

2.6. The application was accompanied by an EIS and a Masterplan. The proposed development comprises Phase 1 of the overall Masterplan development.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was refused for the following reason:

Having regard to the site's location in close proximity to the strategic junction of M1/M50 and given the limited potential for the site to be accessed by public transport, walking and cycling it is considered that the development would have an adverse impact on the strategic and local road network. While the mitigation measures proposed by the applicant are noted it is considered that these measures would not sufficiently mitigate the impacts of the proposed development having regard to the existing capacity issues on national routes and associated junction and the R139 roundabout. Furthermore, the proposed development is considered premature pending a coordinated strategic review of transport and land use integration in the area and it is considered that the development would be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

The report of the Planning Officer is summarised as follows:

- Noted that a centrally located high quality amenity space proposed which forms part of wider area of open space which is an integral part of the masterplan; It is noted that the OS zoning is omitted in the Draft Plan; Proposal is acceptable in principle having regard to the provisions of the Development Plan and layout of proposal and location of car parking, proposal considered acceptable in relation to relevant airport noise and public safety zones;
- Notes that the masterplan submitted is designed in a campus style with a series of linear blocks radiating out from a centrally located park with 13 blocks and 100,000 sq.m in office floorspace; Masterplan was prepared with input from the

PA during pre-planning discussions; Proposed blocks create a gateway to the wider lands; masterplan considered appropriate indicative framework and satisfied LO423;

- Primary views of the site are from M50/M1 interchange which is elevated above the sites and surrounding area; VIA shows development can be absorbed into the existing landscape and development context emerging is of higher buildings;
- Main potential impacts on residential amenity are likely during construction with impacts predicted to noise environment slight during construction;
- Reference is made to case put forward by applicant about imbalance of office space located to the east of M1 & M50 and impact of same on M50; Reports from NTA, TII and Fingal's Transportation Section outlined and noted that new Dublin Airport LAP will cover the proposed lands;
- Site specific issues raised by the Fingal Transportation section are outlined; Conflicts with entrance permitted for hotel under Ref. F08A/1305 are set out and considered that they can be addressed by condition;
- Issues raised by the Water Services Section are outlined and noted that part of the site overlaps with the pipeline for the proposed Greater Dublin Drainage Scheme but that as car parking is proposed in the area it is not significant;
- The report then considers the EIS and notes that while not mandatory the EIS was prepared on foot of pre-planning discussions with the PA who considered an EIS would be required to assist with the assessment of the proposal; While the EIS focuses on the proposal (Phase 1) the wider masterplan proposals are considered as part of the cumulative assessment;
- The report then summarises each of the EIS sections and provides a planning comment after each one which consider the assessment of impacts and proposed mitigation to be acceptable; It is noted that within the consideration of interactions that human beings as a primary interaction should be recognised.
- In terms of appropriate assessment, the screening report is outlined which identifies 11 sites within 15km of the site; The Mayne River which is located in the southern portion of the overall Masterpaln lands discharges to Baldoyle Bay which is an SAC and SPA but with design measures for surface and storm water

management and disposal of wastewater with no significant effects on any Natura 2000 site in the area;

- The report concludes that while acceptable in principle that significant concerns remain regarding the impact of the proposal on the strategic and local road network and the mitigation measures proposed considered insufficient and refusal is recommended;

### 3.2.2. Other Technical Reports

#### Transportation Planning Section

- NTA concerns outlined (see below) and agrees with policy concerns and prematurity but notes a number of mitigating measures: the restricted parking provision will limit car-borne commuting to the proposal with the development providing Grade A offices in the Fingal area providing potential destination for employees currently traveling further south on the M50; Applicant proposing to provide a shuttle bus service between Dublin Airport and Clongriffin Dart Station providing a dedicated albeit limited public transport service; Scope for walking limited but some scope for cycling and if a significant number of cyclists may encourage provision of cycle lanes; Transport study required and number of assumptions in the TTA which could be included;
- Access – not clear if applicant has control of land required for upgrade of R139 roundabout, safety of weaving traffic of concern;
- Traffic & Transportation Assessment (TTA) – issues raised including absence of capacity analysis of the M1 & M50; Queue Length surveys (QLS); Mode split and mobility management; no TTA for entire masterplan area; no details of proposed shuttle bus service and reliance of transfers; Capacity assessment including trip distribution and RFC's at critical junctions; Viability of specific bus service to the area given wide distribution of trip origins;
- Parking – rate of 1-50 sq.m rather than the Dev Plan standard of 1-25sq.m proposed given proximity to National Roads, with minimising car parking considered as best way to minimise traffic impact;
- Carriageway – not clear why 7m carriageway required when 6m sufficient;

**Parks** – Landscape Plan acceptable in principle with more detailed plan required in event of permission;

**Heritage Officer**

- Given location and nature of proposal it will not adversely impact Natura 2000 sites;
- Consider that archaeological test trenching should be undertaken now and information sought as additional information;

**Water Services** – Insufficient Information regarding surface water drainage;

**Irish Water** – Further information required manhole invert levels detailed design for potable water supply; wastewater upgrade dependent on upgrade due for completion mid-2107;

**Environment and Water Services** – conditions proposed;

Site overlaps a small area of the Greater Dublin Drainage Pipeline Corridor;

**EHO** – Acceptable subject to conditions;

**3.3. Prescribed Bodies**

**Transport Infrastructure Ireland:**

- Proposal at variance with official policy (DoECHLG) Spatial Planning and National Road Guidelines for PA's (2012) in relation to control of development on/affecting national roads as would adversely affect the operation and safety of the national road network for the following reasons:
- Impact on the national road network in respect of capacity and efficiency with proposal creating an adverse impact on the national road and associated junction;
- Modelled junction performance has not been validated with any queue length or journey time data with results not considered an accurate reflection of traffic;
- Capacity assessment in TIA cannot be accepted as a representation of conditions at the junction and cannot be relied upon;

- Capacity issues on national routes and associated junctions in vicinity of the proposal with the projected increase in traffic adversely impacting on the safety, carrying capacity and use of national routes which is unacceptable;
- Increased risk of rear end collisions due to build up of stationary vehicles on the M50 from the M1 junction with proposal exacerbating existing delays;
- Modelled behaviour R139/Stockhole Lane junction has not been validated with any queuing or journey time data;
- Junction assessment does not reflect eastbound traffic turning right onto Clonshaugh Road queuing back beyond the roundabout;
- Accurate assessment of the R139/Stockhole Lane junction required;
- Interaction between the junctions at Clonshaugh Road, Stockhole Lane and the M1/M50 junction not represented;
- Proposed new left turning lane from the R139 (western approach) to Stockhole Lane does not solve capacity issues on the R139 at the junction;
- No evidence presented on how mode share of 63% proposed for single occupancy vehicles can be achieved;
- Mitigation does not address the significant capacity, road safety and efficiency issues;
- Not aware of a critical enabling transport infrastructure committed for the area;
- Masterplans proposed for areas supplement or complement statutory plans rather than replace same;
- Absence of appropriate plan-led evidence based planning;
- Promotion of developer led masterplan exercises without consultation and liaison by the Local Authority with the TII and NTA and in the absence of strategic transport evidence based requirement for their entire area is wholly inappropriate;
- Assessment does not assess the potential traffic impact of the masterplan lands or the cumulative impact of other masterplan lands in the area which is not acceptable;



- Proposal inappropriate piecemeal and incremental approach to significant development in vicinity of the strategic national road network;
- Masterplan submitted does not include reference to the DoECLG Spatial Planning and National Road Guidelines nor the NTA Transport Strategy 2016-2035;

#### **National Transport Authority (NTA):**

- Proposal inconsistent with GDA Transport Strategy 2016-2035 (Chapter 7);
- Given critical importance of safeguarding the capacity and function of the strategic road network for the movement of strategic road traffic, the quantum and car dependent nature of the proposed development will negatively impact on the capacity and strategic function of the M1-M50 junction.
- No public transport serving the development not is it near a future core bus network, absence of public transport options provides no viable alternative for future employees other than car;
- Existing environment not conducive to encourage walking or cycling;
- Rationale for proposal based on 2002 Clonsaugh LAP which is outdated given opening of Tunnel and upgrade of M50 & M1;
- Intention of NTA and other key stakeholders to instigate a transport study of the airport and environs to establish strategic and local transportation requirements for the area including subject lands addressing transport issues including public transport;
- NTA consider proposal is premature in advance of the completion of the transport study;

#### **Dept. of Arts, Heritage, Regional, Rural & Gaeltacht Affairs**

- Archaeology - Pre-Development Archaeological testing with conditions proposed;
- Nature Conservation – mitigation measures included in section 9.8.1 of the EIS should be included as a condition of any permission;

### 3.4. **Third Party Observations**

Submissions received as per observations outlined below. Submission received from owners of site with extant permission for hotel to west of the appeal site in support of the development subject to condition relating to roads.

## 4.0 **Planning History**

- 4.1. None of relevance on the subject site but the following are within the vicinity of the site or specifically referred to by the applicant in the Appeal.
- 4.2. **West of the Site** within Wider Masterplan lands – Ref. F07A/0766 – Permission granted for three office buildings of 31,600 sq.m. Permission expired.
- 4.3. **Clayton (Bewleys) Hotel** - Ref. PL06F.245362 (F14A/0465) – Permission granted for new buildings and alterations to Bewleys Hotel Dublin Airport, including new bedrooms, conference centre and seminar rooms, new car spaces and all associated works.
- 4.4. Ref. F03A/0660 Planning Permission Granted for a 5 – 9 storey 450 bedroom hotel (total area: 29,295m<sup>2</sup>), including conference centre, 20m. swimming pool, gym, leisure centre, restaurant/dining room and bar on a site measuring 5.1 hectares (12.6 acres), approximately. The proposed development will include the demolition of a habitable house; the construction of 2 no. ESB sub-stations and the provision of 914 no. car parking spaces. An application for road widening, construction of a new roundabout and entrance road at the N32 Clonshaugh Road North junction has been submitted separately to Dublin City Council.
- 4.5. Permission granted under Ref. F05A/0972, Ref. F05A/1489, Ref. F05A/1592 and Ref. F06A/0231 for alterations to the hotel.
- 4.6. **Topaz Petrol Filling Station** - Ref. PL06F.245112 – (F15A/0182) Permission granted for extension to the opening hours permitted under application ref: F13A/0221 to allow 24 hour opening of the service station.
- 4.7. Ref. F13A/0221 – Permission granted for a service station of 584-sq.m. gross floor area incorporating a net convenience retail area of 100-sq.m.; a café/restaurant seating area of 164-sq.m.;

- 4.8. **Extant Hotel Development to the east/northeast** - Ref. F08A/1305 / ABP PL06F.232704 (Extended until September 2019 under F08A/1305/E1) Permission granted for a 325 bedroom hotel with associated spa and leisure facilities, meeting and conference rooms, restaurant, bar and function facilities, plant, lighting and associated facilities, ESB substations, provision of 650 underground and surface car parking spaces with access to the development from the proposed access road and existing adjacent road and roundabout, landscaping and all associated ancillary works. The hotel building's overall height is ten storeys with basement on a site approximately 1.5 kilometres south-east of Dublin Airport, adjacent to the M1/M50 interchange, the N32 and Bewleys Hotel to the south and Clonshaugh Road to the east. Planning permission was previously granted on substantially the same site (under Council Reg. Ref. F04A/1684 and An Bord Pleanala reference PL06F.212020) for a 239 bedroom and 13 suite hotel comprising 16 floors over basement with plant at roof level.
- 4.9. **Dublin Airport Ref. F16A/0155 (PL06F.247299)** - Permission upheld on appeal for the demolition and part demolition of buildings to provide for 4 no. office blocks and other works at the former Aer Lingus Head Office Building and modifications to F14A/0436 for new access road.

## 5.0 Policy Context

### 5.1. National and Regional Policy

The following Policy Documents are considered directly relevant:

#### 5.1.1. Spatial Planning and National Road Guidelines for PA's (2012)

These guidelines set out planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60 kmh speed limit zones for cities, towns and villages. Chapter 2 deals with Development Planning and Roads with Section 2.7 of same addressing Development at National Road Interchanges or Junctions. Chapter 3 of the Guidelines deal with Development Management and Roads.

### 5.1.2. **Transport Strategy for the Greater Dublin Area 2016-2035**

The transport strategy provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA) over the next 20 years. It also provides a transport planning policy around which other agencies involved in land use planning, environmental protection, and delivery of other infrastructure such as housing, water and power, can align their investment priorities. It describes itself as an essential component, along with investment programmes in other sectors, for the orderly development of the Greater Dublin Area over the next 20 years.

To facilitate further analysis of travel patterns in the GDA, the region was divided into a number of corridors based on the national and regional transport networks. The corridors are shown in Figure 3.7 and named using the letter A to H. The appeal site is located within 'Corridor A' which includes – Drogheda – Balbriggan - Swords – Airport – North Inner City – to Dublin City Centre and is within Segment A2 of this corridor described as the 'Outer Metropolitan Area'. The headline details for this corridor are as follows:

- The car mode share, for all trip purposes is 72%.
- The public transport mode share for all trip purposes is 12%.
- There is a significant amount of population and employment growth planned for the larger urban areas within this corridor, including Swords, Balbriggan, South Drogheda, Clongriffin, Ballymun, Donabate and the Airport environs.
- The National Road Authority's (NRA) "National Roads Traffic Management Study" identifies this corridor as having among the highest forecast growth in transport demand up to 2025; however, there is limited scope for increases in radial road capacity along this corridor.
- Capacity constraints have emerged at the Malahide Road junction with the R139 at Clare Hall.
- With the limited scope for further increases in road capacity, it will be necessary for the anticipated growth in trips crossing the M50 and the Royal Canal, to be mainly catered for by public transport.

The Options proposed for this corridor are set out in Section 4.2 of the report and include new Metro North.

Chapter 7 deals with Land Use and Behavioural Change with Principles of Land Use and Transport Integration outlined in Section 7.1.2.

## 5.2. Development Plan

### 5.2.1. Fingal County Development Plan 2017-2023

- The Fingal County Development Plan 2017-2023 came into effect on 16<sup>th</sup> March 2017. The site is zoned 'HT' – High Technology in the new Fingal Plan. The objective of the zoning is to 'provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment'.
- The 'purpose of the High Technology Zoning as set out on page 232 of the Plan is to facilitate opportunities for major office, science and technology, research and development based employment within high quality, highly accessible, campus style settings. The application site and lands in vicinity of same are subject to the preparation of a Masterplan which is included in Objective ED90 of the Plan with the specific reference for the appeal site and adjoining lands MP11.C – Clonshaugh West. Policy PM14 and PM15 refer to masterplans.
- It is stated that within the lifetime of the Plan it is proposed to prepare two Masterplans for the HT zoned lands at Clonshaugh with Objective ED94 proposing to 'prepare LAP's and Masterplans within the lifetime of the Development Plan for strategically important High Technology zoned lands in collaboration with key stakeholders, relevant agencies and sectoral representatives'. Objective ED95 seeks to encourage the development of corporate offices and knowledge based enterprise in the County on HT lands and work with key stakeholders, relevant agencies and sectoral representatives'. Section 11.3 of the Plan refers to Masterplans and states that masterplans will be subject to a public consultation process and presentation to the Elected Members of the Planning Authority for agreement. Objective Z03 refers.
- There is an indicative road proposed to the north of the lands.

- The site is located within the Outer Airport Noise Zone and the northern part of the sites falls within the Outer Public Safety zone for Dublin Airport. The north-western part of the Masterplan lands is within the Inner Airport Noise zone.
- Chapter 6 of the Plan deals with Economic Development and includes specific objectives. Section 6.12 deals with location of employment.
- Chapter 7 deals with movement and Infrastructure with Objective MT02 supporting the recommendation of the NTA's Transport Strategy for the GDA 2016-2035 to facilitate the future sustainable growth of Fingal. Objective MT07 seeks to 'Carry out a comprehensive feasibility study of the South Fingal area to produce a strategic 'vision' and overall strategy for the proper planning and sustainable development of the study area, based on a sustainable transport and smarter travel approach, planning for all transport modes and needs, whilst also being reflective of road network capacity and modal split assumptions. This will be carried out within two years of adoption of the Development Plan and will be used to inform the preparation of statutory Local Area Plans and Masterplans in the area. The preparation of the study will include implementation recommendations and will involve; Consultation with key statutory stakeholders including TII and the NTA, public consultation and engagement with relevant statutory bodies'.
- Table 12.8 provides the car parking standards with offices general requiring 1 per 30 sq.m and Office – Science and Technology 1 per 40 with both standards to be reduced by 50% near PT, (public transport), MEC (Metro Economic Corridor) and TC (town centre).

#### 5.2.2. **Fingal County Development Plan 2011-2017**

- As the application was made to the PA and the appeal was lodged with the Board under the former Plan it is considered appropriate to provide some details in respect of the policy which pertained during that period. The site was zoned 'HT' in the previous Fingal County Development Plan 2011-2017. The objective of the zoning was to 'provide for office, research and development and high technology/high technology manufacturing type employment in a high quality and landscaped environment'.

- The ‘vision’ for HT zoned lands was to ‘facilitate opportunities for high technology, high technology and advanced manufacturing, major office and research and development based employment within high quality, highly accessible, campus style settings. The HT zoning is aimed at providing a location for high end, high quality, value added businesses and corporate headquarters. An emphasis on exemplar sustainable design and aesthetic quality will be promoted to enhance corporate image and identity’.
- Part of the site was zoned ‘OS’ the objective of which is to ‘preserve and provide for open space and recreational amenities’.
- The application site and lands in vicinity of same were subject to the preparation of a Masterplan.
- Local Objective 423 – Provide in the Masterplan for office based, research and development and high technology type employment and facilitate hotel with ancillary dancehall and public house uses, education, petrol station and uses to support the significant local employment base such as restaurant, café and childcare uses.
- Local Objective 430 – Facilitate the provision of public transport to the land north of the M50 Extension.
- An indicative road proposal was located to the north of the site.
- The site was located within the Outer Airport Noise Zone and the northern part of the sites falls within the Outer Public Safety zone for Dublin Airport. The north-western part of the Masterplan lands is within the Inner Airport Noise zone.

### 5.3. **Natural Heritage Designations**

There are 11 Natura 2000 sites within 15km of the site. Appropriate Assessment is considered separately in section 9 of the assessment below.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The first party grounds of appeal are summarised as follows:

## **Context**

- Request proposal considered together with office proposal at Dublin Airport (PL06F.247299) given similar nature of proposals and traffic impact on M1/M50;
- Site is strategically located in context of Dublin City and region and proximate to national and international transport networks;
- Proposal addresses an imbalance in office space within the GDA with 12m sq.ft west of M1 along M50 corridor with only 1.8m sq.ft east of the M1 with proposal a key strategic site adjacent to Dublin Airport;
- Fingal has fastest growing population in the Country;
- Proposal is plan-led with site zoned for technology uses since 1999 and continues to be and appropriateness of the site as a key, strategic employment development site is long established;
- No in-principle concerns about the development;
- LAP in 2002 allowed for development including 50,000 m<sup>2</sup> of office space with permission granted in 2007 for three office buildings (c.31600 sq.m) to the west of the hotel within overall landholding;
- Masterplan prepared to support applicant as required by the CDP with no issues with same;
- Atkins Ireland response to specific traffic and transport issues (Appendix 2) raised by FCC, NTA and TII in turn;

## **Strategic Location, Public Transport & Mitigation Measures**

- Proposal would have a limited impact on the surrounding road network including M50/M1 corridor given proportion of traffic generated by the proposal using the M50 and M1 (43%);
- Impact addressed by implementation of proposed transport mitigation as set out in application including provision of a shuttle bus between Clongriffin Station and Dublin Airport, restriction of car parking on the site, Mobility management plan committing to sustainable transport measures and upgrading of R139 roundabout;



- Proposed additional mitigation submitted in appeal to improve the operation of the local junction network by signalling the existing R139/Stockhole Lane roundabout, fully signalise the R139/Clonshaugh Road traffic signal junction and link these new signalised junctions with the M1 junction 3 signal gyratory and proposed that these proposals would be incorporated into the area wide SCOOT traffic control system;
- Also include provisions for pedestrians and cyclists with signalled controlled Toucan crossings and shared space paths with all land involved within ownership of Fingal or Dublin City and could be conditioned to be delivered prior to occupation of the proposal;
- Signalisation of Leopardstown Link Road and roundabout have significantly improved traffic flows and queue lengths;
- Existing capacity issues experienced on M50 corridor not solved by restricting development with position of objection to additional traffic onto the strategic road network an attempt to control numbers with no effect on capacity;
- Report entitled 'M50 Demand Management Study' prepared in compliance with Condition No. 7 of the M50 upgrade and widening, states that only measure which would impact traffic volumes are fiscal measures such as variable distance-based tolling and without same not possible to protect traffic capacity provided by upgrade;
- Not appropriate to halt creation of employment opportunities in Fingal until significant investment is made in new public transport;
- No specific data detailing what constitutes an 'adverse impact on the strategic road network' with proposal potentially beneficial in intercepting outbound commuters from Fingal before they access the strategic road network;
- NTA & TII inconsistent approach in responding to the current proposal and proposal at Dublin Airport (PL06F.247299) with neither body objecting to same;
- Actual impact of vehicular traffic associated with the proposal would go against flow of other traffic;
- PA, NTA or TII did not give due consideration to the very substantial transport mitigation proposed by the applicant;

## **Prematurity**

- Concerns raised regarding prematurity pending a co-ordinated strategic review of transport and notes the inclusion within the material amendments of the forthcoming Fingal Plan an additional local objective for the South Fingal area which seeks to carry out a comprehensive feasibility study of the South Fingal Area with the objective not included in the Draft Plan;
- Objective to prepare a strategic review is noted but note a similar strategic review of the South Fingal area – South Fingal Planning Study, 2004 – with the objective to create a strategic vision up to 2011 and included the appeal site for science and technology purposes with a further study likely to do same;
- The new study proposed by Council will seek to provide an overall strategy based on sustainable transport and smarter travel which has already been set out in the NTA Transport Strategy for the Greater Dublin Area 2016-2035 with no other long term public transport improvements planned for the South Fingal Area up to 2035;
- Council's position on prematurity unsustainable given that detailed and focused studies have already been undertaken;
- Proposed shuttle bus route identified in the Fingal/North Dublin Transport Study (2014) prepared by AECOM on behalf of NTA with other operators also proposing bus routes to the area subject to licencing;

## **Response to NTA & TII Submissions (to PA)**

- Statement that proposal not compliant with Chapter 7 of the NTA GDA strategy of focusing office developments into city centre and higher order centres while acceptable in principle, reality of poor radial transport connections mean difficult to deliver office development in areas catered for by high quality public transport;
- Extensive mitigation proposed to address lack of public transport including shuttle bus providing connection to two transport hubs which was identified in the Fingal/North Dublin Transport Study 2014 as a route which would integrate existing services with private operators also willing to provide services;
- Proposal follows principles of land use and transport integration set out in Chapter 7 reducing need to travel and distance travelled;

- Strategic location of the site adjacent Airport and Dublin/Belfast Corridor with current lack of office accommodation in city centre;
- Proposal complies with the key strategic planning principles outlined in Chapter 7 which also provide that in limited circumstances development not well served by existing or committed high capacity public transport and maximum parking standards;
- Travel plan condition welcomed;
- Key principle of Spatial Planning and National Roads Guidelines is that development is plan-led with the principle of proposal accepted by PA;
- Both NTA & TII declined to meet appellant to discuss proposal and any concerns;
- Development site zoned for purposes proposed with assessment of suitability of the site for same undertaken in context of location;
- Argument by TII that a statutory plan is required rather than a non-statutory Masterplan to allow involvement of parties like TII disingenuous given TII declined to meet appellant during masterplan process;
- Masterplans intended to complement statutory Development Plan not replace it;

#### **Other Matters**

- Issues raised by Irish Water and FCC Water Services which sought Further information set out in response by RPS which address issues raised;
- Recommendation from Heritage Officer that programme of trial trenching undertaken prior to any permission contrary to recommendation of Development Applications Unit which recommended a condition be attached with Chapter 10 of EIS recommending trial trenching prior to commencement;
- No operational impacts envisaged on neighbouring properties;
- No surface water arising from proposal which may cause flooding with additional information on same outlined in Appendix 3 of appeal;

## **6.2. Planning Authority Response**

The PA response to the appeal is summarised as follows:

- Still of view that the proposal would have an adverse impact on the strategic and local road network given the location of the site in close proximity to the junction of the M1/M50 and limited potential of site to be reached by public transport;
- Note mitigation measures but do not consider they are sufficient to mitigate the impacts of the proposal having regard to existing capacity issues on national routes and associated junction and the R139 roundabout;
- Proposal premature pending a coordinated strategic review of transport and land use integration in the area;
- Request Board uphold decision of the PA and if appeal successful a financial contribution should be applied;

### 6.3. Observations

Six observations were submitted to the Board which are summarised as follows:

- Incorrect address on site notice with site address Clonshaugh Road;
- Traffic already extremely heavy during rush hours with roads not capable of accommodating the large volume of traffic;
- Existing dwelling difficult to access;
- Proposal is the beginning of a larger development generating further traffic;
- Empty office space in other parts of the City;
- Amenities in the area poor including Wifi and public transport;
- Features promised in previous development such as trees not provided;
- Impact of noise and dust during construction and concern that hours of construction will not be adhered to;
- Loss of privacy of adjoining dwellings;
- Area is a small local country area;
- Concerns regarding the security of existing dwellings;
- Unnecessary elevation of land which is already causing flooding to adjoin properties;

One of the observations was received from the DAA and is summarised as follows:

- Request condition is attached requiring appropriate noise mitigation measures are implemented taking account of future airport growth;
- Operation of cranes requires further detailed assessment in relation to flight procedures to be agreed with the DAA and IAA in advance of construction;
- Request condition limiting use of parking area to ancillary element of development;

## 7.0 ASSESSMENT

This assessment comprises three parts, firstly, the assessment of the issues raised in the appeal, then the Environmental Impact Assessment and finally the Appropriate Assessment.

The assessment is outlined as follows:

### **Section 8 – Assessment of Issues**

The following issues are addressed:

- Compliance with Development Plan Policy
- Compliance with Transport Planning Policy
- Impact on Strategic and Local Road Network
- Prematurity pending Co-Ordinated Strategic Review of Transport and Landuse Integration
- Impact on Residential Amenity
- Other Matters

### **Section 9 - Environmental Impact Assessment**

### **Section 10 – Appropriate Assessment**

## 8.0 ASSESSMENT OF ISSUES

### 8.1. Compliance with Development Plan Policy

- 8.1.1. Firstly, I would note that the appellants have sought to draw comparisons with the Office Development recently granted permission by the Board at Dublin Airport (PL06F.247299). While I discuss the matter of public transport in more detail in the following sections I would note that unlike the subject site, the airport is currently served by public transport and therefore the proposals are not, in my opinion, directly comparable.
- 8.1.2. Since the application and appeal were lodged the Fingal Development Plan 2017-2023 has come into effect (16<sup>th</sup> March 2017). In this regard it is the new plan which provides the relevant policy context. I would however note that given that the application was determined while the previous plan was in force I will refer to same where necessary.
- 8.1.3. Having regard to the acceptability of the proposed development on the subject site, in terms of Development Plan policy, I would note that the subject site, which forms part of a larger holding, is and has been zoned for High Technology 'HT' purposes in the both the new Fingal County Development Plan and previous Plans for the area. The objective of the current zoning is to 'provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment'. The proposal would comply with same. Furthermore, the stated purpose of the HT zoned lands in the Plan is to 'facilitate opportunities for high technology, high technology and advanced manufacturing, major office and research and development based employment within high quality, highly accessible, campus style settings. I would suggest that the layout proposed and particularly that outlined in the masterplan for the site would provide for a high quality business park/campus.
- 8.1.4. In addition to the zoning policy pertaining on the lands, the site is also subject to the requirement to prepare a masterplan. In the previous plan Local Objective 423 applied to the site requiring the preparation of a Masterplan. It is stated in the newly adopted Plan that within the lifetime of the Plan it is proposed to prepare two Masterplans for the HT zoned lands at Clonsaugh with Objective ED94 proposing to 'prepare LAP's and Masterplans within the lifetime of the Development Plan for strategically important High Technology zoned lands in collaboration with key stakeholders, relevant agencies and sectoral representatives'. Objective ED95 seeks to encourage the development of corporate offices and knowledge based enterprise

in the County on HT lands and work with key stakeholders, relevant agencies and sectoral representatives'. Section 11.3 of the Plan refers to Masterplans and states that masterplans will be subject to a public consultation process and presentation to the Elected Members of the Planning Authority for agreement.

- 8.1.5. While a masterplan has been prepared for the lands and is, in my opinion, an appropriate tool or framework for facilitating co-ordinated development on these lands, I would note that the submitted Masterplan does not benefit from collaboration with relevant agencies such as the NTA and TII. I acknowledge that the appellants have sought to engage with these agencies and have outlined cancelled meetings facilitated by the PA. However, given the strategic context and importance of these lands I would suggest that such an inclusive process would be beneficial. Furthermore, the new plan also provides for a public consultation process and the agreement of Elected Members which was not part of the process undertaken or required by same. The masterplan process envisaged is similar to that of an LAP I would suggest. I would also note that the Planners report refers to the site being within the boundary of the proposed Dublin Airport LAP, however, the zoning map (Sheet 11) does not reflect such inclusion.
- 8.1.6. Furthermore, I would note that Objective MT07 as set out in the Plan seeks to 'carry out a comprehensive feasibility study of the South Fingal area to produce a strategic 'vision' and overall strategy for the proper planning and sustainable development of the study area, based on a sustainable transport and smarter travel approach, planning for all transport modes and needs, whilst also being reflective of road network capacity and modal split assumptions. The objective also proposes to carry out this Study out within two years of adoption of the Development Plan and that the Study will be used to inform the preparation of statutory Local Area Plans and Masterplans in the area. The preparation of the study will include implementation recommendations and will involve; Consultation with key statutory stakeholders including TII and the NTA, public consultation and engagement with relevant statutory bodies'. The appellants state that this objective was included at the Material Alterations Stage of the process but was not included in the Draft Plan. While this may be the case, the Objective is included in the current Plan pertaining in this area and is a relevant consideration which I discuss in further detail in Section 8.4 below.

8.1.7. A number of observations refer to matters of principle stating that the area is a small local country area and that there is empty office space in other parts of the City. I would note that the land is zoned, is located on the fringe of the city adjacent to the airport and therefore could not be reasonably considered as a small country area. Therefore, the principle of the proposed use on the site is acceptable on the basis of the zoning objective pertaining. However, the zoning in isolation does not establish that a proposed use is appropriate and in this regard Objective MT07 is relevant and is discussed in more detail in following sections of this report. In conclusion while the proposal would accord with the zoning objective pertaining on the lands there are a number of strategic policies contained within the new plan which suggest that the proposal is premature.

## 8.2. **Compliance with Transport Planning Policy**

- 8.2.1. Both the TII and NTA have provided the PA with their comments in respect of the proposal. Both organisations sought that the PA would refuse permission for the proposal on the grounds of non-compliance with Transport Planning policy which I will address in turn. Firstly, the TII concerns relate in the main to the capacity of the network and they consider that the proposal is at variance with official policy (DoECHLG) Spatial Planning and National Road Guidelines for PA's (2012) in relation to control of development on/affecting national roads as would adversely affect the operation and safety of the national road network. I have addressed concerns related to the impact on the strategic and local road network separately in the next section (Section 8.3).
- 8.2.2. In relation to the concerns expressed by the NTA, they consider the proposal is inconsistent with the GDA Transport Strategy 2016-2035 and in particular to the considerations outlined in Chapter 7 of this Strategy. The NTA state that there is no public transport serving the development nor is it near a future core bus network and that the absence of public transport options provides no viable alternative for future employees other than car. While I discuss the capacity of the existing network in Section 8.3 below and prematurity pending transport studies in Section 8.4 below these matters are both critical considerations and central concerns in respect of Transport Planning Policy.



- 8.2.3. Chapter 7 of the GDA Transport Strategy 2016-2035 considers Land Use Integration and Behavioural Change. Section 7.1.2 outlines the primary goals of land use and transport Integration as including – reducing the need to travel, reducing the distance travelled, reducing the time taken to travel, promotion of walking and cycling and promotion of public transport use. It then provides strategic planning principles which include – High volume, trip intensive developments such as offices and retail, should be primarily focused into Dublin City Centre and the larger Regional Planning Guidelines (RPG) higher order centres within the GDA. The subject site is not within either. However, the Strategy does provide for limited exceptions stating that – except in limited circumstances trip intensive developments or significant levels of development should not occur in locations not well served by existing or committed high capacity public transport.
- 8.2.4. Therefore, I would suggest that in order to meet this ‘test’ the proposal must demonstrate that it will be well served by existing or committed high capacity public transport. As detailed in the appeal, the appellant proposes to provide a shuttle bus for employees of the proposed development. While the provision of a shuttle bus service is to be welcomed, this would not constitute high capacity public transport. The existing high capacity public transport which it is proposed to access is the Dart Line at Clongriffin. However, this is some 7km away on a route which has a bus corridor from Clongriffin Dart Station to the R139/Malahide Road junction only with no corridor in place from the R139/Malahide Road junction to the site which is almost half the distance. I would note that there was a bus corridor along this stretch of the route but it is no longer operational. There is no bus corridor from the site to the airport. I would also note that at Section 1.7 of the Technical Note regarding the Shuttle Bus (Appendix C of the Transportation Appendix to the appeal) the time on the bus is estimated at 13 minutes from Clongriffin Dart Station with a 10 minute transfer penalty added for the purpose of comparison. No estimate was provided from the Airport at peak times. I would suggest that 13 minute transfer at peak times, would be optimistic given the absence of a bus corridor for almost half the route. A consistently swift transfer between the transport hub and the site would, I would suggest, be essential in order to make the journey attractive to employees.
- 8.2.5. In relation to the extension of existing Dublin Bus routes it is stated in a number of areas within the documentation that consultation between the appellant and Dublin

Bus envisages that subject to licencing and when development of phase 1 reaches 30% occupancy that two bus services during each peak would be provided. Minutes of a meeting held on 14<sup>th</sup> March 2016 are included with the appeal and I would note that the discussions appear to be very strategic rather than detailed with mention of the possibility of diverting Route 27 and mention that diversion of a route from the airport would be difficult given road links are not favourable. If Route 27 were to be diverted to the site, this would provide connectivity to the site between from the City Centre and Jobstown to the south. I would also note that Atkins state at Section 5.60 of Appendix 2 of the appeal that as described within the TTA, Dublin Bus have made commitment to service the development when it opens. However, I do not consider that the minutes attached to the appeal from the meeting with Dublin Bus or any other correspondence give any level of certainty that this diversion may in fact materialise or that the site would be serviced by Dublin Bus. Similarly, the response from the private operator refers to investigating the possibility of a new route with a 15% occupancy the commercial incentive for the provision of a service.

- 8.2.6. In terms of proposed public transport options for this area as set out in the NTA strategy, Section 4.2 of the report outlines that they are primarily based on the new Metro North. In advance of the construction of same it is proposed to provide a number of BRT (Bus Rapid Transit) services or BRT type services, one linking Swords and the Airport to the City Centre and the other along the Malahide Road to Clongirffin by way of upgrading the existing bus corridor. Neither of the options for BRT identified in the GDA Strategy would pass the subject site.
- 8.2.7. As noted in the application documentation, the proposed Shuttle Bus route mirrors the alignment of a BRT service which was proposed from the Airport to the Dart Station at Clongriffin (Section 4.2 of AECOM report – Stage One). This 2014 Stage One Appraisal document set out a wide range of options with the Stage Two appraisal providing a recommendation on same. Three BRT services were recommended including the Clongriffin to Dublin Airport Route (section 9.7). However, this route does not appear to be included in the NTA Strategy 2016-2035 as outlined above. I would note, as I state above, that the bus corridor is no longer in operation along the stretch of the R139 from the site to Northern Cross.
- 8.2.8. In this regard, having regard to the absence of any existing or committed public transport service facilitating the site and in the absence of a public transport corridor

for the entire route between the site and the existing public transport nodes, I would suggest that the proposal would not meet the test for limited circumstances. In this regard, I consider that the proposal by itself and by the precedent it would establish for further development on these lands would be in conflict with the Transport Strategy for the Greater Dublin Area, 2016-2035.

### **8.3. Impact on Strategic and Local Road Network**

- 8.3.1. The NTA in their submission to the PA state that given the critical importance of safeguarding the capacity and function of the strategic road network for the movement of strategic road traffic, the quantum and car dependent nature of the proposed development will negatively impact on the capacity and strategic function of the M1-M50 junction. This is the central issue, in my opinion, in respect of the concerns expressed in this case. As I outlined above, providing a shuttle bus to the most proximate public transport hubs, while mitigating traffic concerns in theory, is dependent on a quick transfer of employees to and from the site and the public transport hub. In this regard, not alone is the capacity of the road network a consideration in respect of the car borne users of the proposal but also those who may use such a shuttle service.
- 8.3.2. The TII have also outlined their concerns with the proposal and consider that the proposal is at variance with official policy (DoEHLG) Spatial Planning and National Road Guidelines for PA's (2012) in relation to control of development on/affecting national roads as would adversely affect the operation and safety of the national road network. They outline a number of concerns in terms of the impacts that the proposal may have on the national road network in respect of capacity and efficiency of the adjoining strategic road network. I will address the concerns outlined which I note have been responded to by the appellant's agents in Appendix 2 of the appeal. Matters related to transport planning policy are addressed separately in section 8.2 and section 8.4.
- 8.3.3. I would note that the appellants stress the significance of the proposed mitigation measures which in addition to the shuttle bus discussed above include restricted car parking with 474 spaces proposed for the c.2000 employees envisaged in this phase. They state that the Planning Authority, the NTA or TII did not give due

consideration to the very substantial transport mitigation proposed by the applicant. These measures, they consider, will reduce the impact the proposal will have on the strategic and local road network which include the important M50/M1 junction located proximate to the site. However, the concerns expressed above in relation to the ability of the proposed shuttle bus to encourage potential employees to change mode are a central consideration, in my opinion, to the assessment in the TTA.

- 8.3.4. In terms of concerns raised about the capacity of the network to cater for the proposal which is the principle concern, I will address some of the assumptions used in the TTA and the supplementary traffic modelling technical note included with the Appeal (Appendix A of Appendix 2). I would make specific reference to a number of matters.
- 8.3.5. The original TTA addressed the matter of trip generation on the basis of mitigation measures proposed to impact on modal splits such as the proposed shuttle bus, parking demand management and proposed measures outlined within the mobility management plan. The trip generation was determined using TRICS v7.2.4 with the land use chosen for the trip rate analysis, Employment-Business Parks with trip rates calculated multi-modal. I would note that Appendix C of the original TTA include the list of sites selected for the TRICS exercise. These include a site at Taney Road in Dundrum, Co. Dublin, a business park in Athlone and three sites in the UK. On the basis of the TRICS assessment undertaken, it is estimated that the AM peak would see 441 cars arriving and the PM peak would see 394 cars leaving the site. I have a number of concerns regarding the estimates provided for trip generation and other estimates made in the TTA.
- 8.3.6. I have addressed in the section above, my concerns regarding the potential impact the proposed shuttle bus will have on the proposed development. I consider that proposing a modal share of 12% for the development on the basis of a private shuttle bus, with the attendant issues outlined about same above, and possible public bus services is ambitious. I would also note that one of the mitigating elements of the proposal is to increase multi occupancy vehicles which it is stated in the TTA will increase from 3% to 19% with mitigation. This would provide that of the proposed 2000 employees almost 400 would be sharing cars to access the proposal. I acknowledge that even with full occupancy that 2000 employees would not access the development every day, however, I would note that in response to concerns

raised by the TII in terms of mode share targets, the appellants respond by stating that the proposed mode shares are derived using best practice methods and are thought to be best possible prediction of likely mode share for the employment site with the mitigation measures in place. The subject site is however removed from existing or committed public transport facilities and evidence of car sharing in the most proximate employment areas such as the Airport or the IDA Industrial Estate at Clonshaugh have not been provided. While I consider the proposals have considerable merit I remain concerned at the modal share applied to multi-sharing and public transport.

- 8.3.7. In the appeal, it is stated (Section 6.7) that the proposal would have a limited impact on the surrounding road network including the M50/M1 corridor given the proportion of traffic generated by the proposal using the M50 and M1 is 43%, 28% on the M50 and 15% on the M1. Given the proposed high quality specification for both the site and the blocks and the strategic location of the site with the potential to attract high end occupiers that estimating that 57% of the traffic accessing the proposal would come from east of R139 junction with Stockhole Lane and not enter the M50/M1/R139 junction is an overestimate. I consider that the matter of trip assignment has not been addressed in sufficient detail in the original or supplemental information submitted.
- 8.3.8. The TII stated that the capacity assessment in the TIA cannot be accepted as a representation of conditions at the junction and cannot be relied upon. Fingal also noted in the Transportation report that the capacities of the mainline carriageways of both the M1 and M50 have not been analysed with concerns of increasing levels of congestion. The appellants have submitted as part of their Transportation Response a Supplementary Traffic Modelling Technical Note (Appendix A) which contends that the proposal will have a minor impact with traffic generated to and from the site travelling against the peak flows. The concerns expressed above, in respect of the multi-modal splits and trip assignment are relevant in my opinion to the conclusions provided by the appellant in relation to impacts.
- 8.3.9. It is noted that traffic surveys were undertaken at 12 junctions in the original TTA which was then revised to the 4 most proximate junctions within the supplementary traffic modelling exercise conducted for the appeal submission. The supplementary modelling presented a number of additional mitigation measures which include

signalising the existing R139/Stockhole Lane roundabout, fully signalising the R139/Clonshaugh Road traffic signal junction and link these new signalised junctions with the M1 junction 3 signal gyratory and proposing that these proposals would be incorporated into the area wide SCOOT traffic control system. Reference is made by the appellant to the signalisation of Leopardstown Link Road and roundabout which they state have significantly improved traffic flows and queue lengths. The TII note specifically that the interaction between the junctions at Clonshaugh Road, Stockhole Lane and the M1/M50 junction was not represented which would appear to have been addressed by the supplementary modelling and mitigation.

- 8.3.10. I would acknowledge the additional mitigation proposed particularly the synchronised signalling which seeks to address the concerns raised regarding the capacity of the most proximate junctions and network and issues regarding queuing, queues lengths and traffic flows specifically between the M1/M50 junction and the R139 roundabout and the Clonshaugh Road junction. The synchronised signalling is provided as a response to almost all of the concerns expressed by the TII in the appellants Transportation response as included in the supplementary Traffic Modelling prepared and included within the Technical Note at Appendix A.
- 8.3.11. In addition, it is proposed to provide pedestrians and cyclists with signalled controlled Toucan crossings and shared space paths with all land involved within ownership of Fingal or Dublin City and could be conditioned to be delivered prior to occupation of the proposal. Such improvements to the pedestrian and cycling network is a positive development in any context.
- 8.3.12. However, in the context of the concerns expressed above about the location of the site in relation to high capacity public transport, and the concerns outlined regarding modal share and trip generation and assignment I do not consider that such mitigation is sufficient to address the overarching concerns. I would suggest that such measures would be more appropriately considered in the context of an integrated transport and land use strategy such as that discussed in the following section.
- 8.3.13. I would also note the concerns of the TII that the assessment does not assess the potential traffic impact of the masterplan lands or the cumulative impact of other masterplan lands in the area which they consider is not acceptable. The appellant's

response in Appendix 2 states that the cumulative impact of the masterplan lands has been addressed within the TTA and the EIS. I would note that the TTA, in respect of cumulative development, refers to the previous permission, now lapsed for the proposed Airport City Development which was included in a TIA undertaken for the proposed Clayton Hotel Extension. In respect of the masterplan lands, the TTA states that it is difficult to definitively determine the impact of the future masterplan development plans, post Phase 1 with each phase proposed to be subjected to a detailed TTA whereupon future roads and infrastructure will be in place. I would suggest that while the remaining masterplan lands are mentioned within the context of cumulative impacts, they are not assessed. While this is not unusual in the context of such lands, the precedent which this development would establish if permission were granted, is a significant consideration for the remainder of the masterplan lands. The Supplementary Traffic Modelling prepared and included within the Technical Note at Appendix A does not address cumulative impacts.

- 8.3.14. It is also stated, by the appellants, that there is no specific data detailing what constitutes an 'adverse impact on the strategic road network' with the proposal potentially beneficial in intercepting outbound commuters from Fingal before they access the strategic road network. This argument is a strategic one as there is no way of supporting this contention given that the proposal does not appear to have any committed tenants.
- 8.3.15. Matters relating to control of lands to undertake works and in particular the dedicated left turn slip from the R139 roundabout were addressed by the applicant in the application and I consider that this matter has been appropriately addressed. The bus layover has been relocated to mitigate risks outlined. I would note that there were a number of cars parked along this stretch of road between the R139 roundabout and the Topaz roundabout.
- 8.3.16. The appellants state in the appeal that the existing capacity issues experienced on the M50 corridor will not be solved by restricting development with the position of objection to additional traffic onto the strategic road network an attempt to control numbers with no effect on capacity. This may indeed be true, however, unlike other sites, the appeal site is not served by existing public transport routes. This, in my opinion, is a considerable obstacle to the nature and scale of development proposed,

particularly in the absence of an integrated land use and transportation study which is discussed separately in the next section.

8.3.17. Finally, I would note that the appellants consider that the NTA & TII have an inconsistent approach in responding to the current proposal and the proposal at Dublin Airport (PL06F.247299) which neither body objected to during the recent application process. As I have noted elsewhere, Dublin Airport has existing public transport connections and the new Metro North is proposed to service same. Indeed I would note that, in Technical Note within Appendix C of the Transportation Response, Dublin Airport is described as the most significant transportation hub in the country. The comparisons suggested by the appellant between the Airport development and the subject proposal are not, in my opinion, sufficient to establish a precedent for the proposed development.

#### **8.4. Prematurity pending Co-Ordinated Strategic Review of Transport and Land Use Planning Integration**

8.4.1. It is stated that it is the intention of NTA and other key stakeholders to instigate a transport study of the airport and environs to establish strategic and local transportation requirements for the area including the subject lands addressing transport issues including public transport. In this regard the NTA consider the proposal is premature in advance of the completion of the transport study. The Transportation Planning Section of Fingal, while noting many of the merits of the scheme, conclude that a transport study is required and concur with the considerations of the NTA regarding prematurity.

8.4.2. I note that Atkins in their response to the appeal states that the applicant contests the statement from the Council that the proposal is premature pending a co-ordinated strategic review of transport and land use integration in the area given that such a study was carried out in 2014 and 2015 namely the Fingal/North Dublin Transport Study Stage One (November 2014) and Fingal/North Dublin Transport Study Stage Two (June 2015). While it may be the case that such strategic transport studies were carried out the missing element between these studies and the concerns raised by the PA is land use integration. I note that in the main body of the appeal the planning consultants state that the objective to prepare a strategic review



is noted but state that a similar strategic review of the South Fingal area, namely the South Fingal Planning Study, 2004, exists. It is stated that the objective of same is to create a strategic vision up to 2011 and includes the appeal site for science and technology purposes with a further study likely to do same.

- 8.4.3. They state that the new study proposed by the Council will seek to provide an overall strategy based on sustainable transport and smarter travel which has already been set out in the NTA Transport Strategy for the Greater Dublin Area 2016-2035 with no other long term public transport improvements planned for the South Fingal Area up to 2035. It is their contention that the Council's position on prematurity is unsustainable given that detailed and focused studies have already been undertaken. The 2004 Study together with the 2014/5 transport studies provide the required co-ordinated strategic review of transport and land use integration in the area in their view. Reference is also made to the inclusion of the bus route proposed for the Shuttle Bus service which was identified in the Fingal/North Dublin Transport Study (2014) prepared by AECOM on behalf of NTA. However, as I outlined above, this route was not included in the GDA NTA strategy 2016-2035 and more importantly in my opinion, the bus corridor previously in place from the site to the R139/Malahide Road junction is no longer operational. This has not been addressed satisfactorily in my opinion and may be a consideration which such an integrated study would assess.
- 8.4.4. Furthermore, while I note the argument of the appellants that the studies required currently exist, it is the consideration of the transport and landuse integration together at the same time that is the crux of the concerns regarding prematurity, in my opinion. The 2004 Study is 13 years old and was produced to create a strategic vision up to 2011. Therefore, this study predates considerable changes in transport policy. In addition, the 2014/5 study has little consideration of the integration of transport and landuse as it applies to areas such as the appeal site.
- 8.4.5. Of particular significance I would suggest, as I have already noted in Section 8.1 above, is the inclusion of Objective MT07 within the new Development Plan which seeks to 'Carry out a comprehensive feasibility study of the South Fingal area to produce a strategic 'vision' and overall strategy for the proper planning and sustainable development of the study area, based on a sustainable transport and smarter travel approach, planning for all transport modes and needs, whilst also

being reflective of road network capacity and modal split assumptions. It is stated in the Plan that this study will be carried out within two years of adoption of the Development Plan and will be used to inform the preparation of statutory Local Area Plans and Masterplans in the area. The Plan also refers to consultation with key statutory stakeholders including the TII and the NTA and to public consultation and engagement with relevant statutory bodies. In this regard I would suggest that the concerns raised by the PA and other stakeholders in respect of prematurity pending an integrated and co-ordinated strategic review of land use and transportation considerations are reasonable.

#### **8.5. Impact on Residential Amenity**

I note the observations received by the Board in respect of the impact on the residential amenity of a number of properties located within the area. The matter of traffic is addressed separately above. In terms of impacts arising principally from the construction phase of the proposal, which is a temporary phase, I note the contents of the EIS and in particular the contents regarding noise and air quality and consider that the mitigation proposed is appropriate to address the concerns arising. Concern that construction hours are not adhered to is a matter which, if permission is granted, should be addressed to the PA. In terms of loss of privacy and security, the development is sufficiently separated from the nearest residential properties such that there will be no impact on privacy. Finally, concerns that features promised in previous developments, such as trees would not be provided, is a matter for compliance with the Local Authority.

#### **8.6. Other Matters**

##### **8.6.1. Drainage and Flooding**

I note the documentation submitted to the PA in respect of the Engineering Services Report which addressed surface water design. I also note that the internal engineering reports included on the PA file and the report from Irish Water include matters raised as necessitating further information. While not included as reasons for refusal, the appellant has sought to address the concerns by way of a response to the information sought and have included two reports with the appeal. One of the reports responds to queries regarding the potable water supply and the requirement for a detailed design for same as well as matters relating to rainwater harvesting and

fire hydrants. The other refers to issues raised in respect of water and wastewater and to the requirements for clarification on the proposed surface water drainage for the proposal and to concerns regarding foul water invert levels with the other matters raised statements rather than requests for information. I would suggest to the Board that the concerns have been addressed appropriately, in my opinion, and should the Board be minded to grant permission for the proposal that a condition should be attached requiring the agreement of the PA in respect of these matters.

I also note that a Flood Risk Assessment was included with the application. I also note concerns expressed in observations on the appeal to the unnecessary elevation of land which is already causing flooding to adjoin properties. While the appellants address the matter in their appeal I would note that the site is located within Flood Zone C and therefore is not at risk from fluvial flooding and is not subject to a justification test. In addition, the measures proposed in respect of surface water management on the site, are in my opinion, appropriate in the context of the site and the nature of the proposal.

#### 8.6.2. Archaeology

While I address the matter of Archaeology separately in the EIA at Section 9.9 below, I note the report of the Heritage Officer and the response to same from the appellant within the appeal. The only mitigation measure proposed (C-AACH1) in the EIS relates to the proposed programme of archaeological test trenching recommended to be carried out post planning. While it is stated that there are no specific sites or areas of archaeological or cultural heritage potential, it is considered that it is possible that ground disturbance associated with the proposal could have an impact on burial archaeological features that may survive beneath the current ground level and which have no surface expression. It is within this context that test trenching is proposed. I would suggest that this is a reasonable response and that to require the test trenching be undertaken prior to any grant of permission on the site would not be reasonable given the absence of any reasonable suggestion of any potential features.

#### 8.6.3. DAA

An observation received from the DAA requests that in event of permission being granted that the Board attach a condition requiring appropriate noise mitigation

measures are implemented taking account of future airport growth. Concern is also expressed regarding the operation of cranes during construction which it is stated may cause concern in relation to air safety and which it is stated requires further detailed assessment in relation to flight procedures with the proposal required to be agreed with the DAA and IAA in advance of construction. If the Board are minded to grant permission for the proposal, I would suggest that a condition is attached to address this concern. The final matter raised related to the use of the parking area associated with the proposal and the request that a condition is attached to any grant of permission requiring any parking area is solely for the use of the proposed office development;

## 9.0 ENVIRONMENTAL IMPACT ASSESSMENT

### 9.1. Overview

- 9.1.1. The EIS accompanying the application is presented in the grouped format in one document supported by appendices. The Non-technical summary is set out in a separate document included on the file and is required to provide a summary of the EIS in non-technical language. The statement submitted with the current application provides such a summary, in my opinion. The applicant has stated that the EIS is submitted to address the requirements of Class 10 (b)(iv) of Schedule 5 of the Planning and Development Regulations 2001 as amended whereby an EIS is required for 'Infrastructure Projects' comprising of '*Urban development which would involve an area of 2 hectares in the case of a business district, 10 hectares in the case of other parts of the built up area and 20 hectares elsewhere*'. It is stated that while the overall masterplan lands at 17.2 hectares is below the threshold for mandatory EIA in areas outside of built up areas, the Planning Authority confirmed during pre-planning discussions that an EIS would be required to assist with the assessment of the proposal.
- 9.1.2. The specialist chapters are set out from Chapter 5 -18 and provide a background, address the existing environment, potential impacts and potential cumulative impacts which are considered in the context of the remainder of the masterplan lands and the existing and approved hotel developments. The Chapters then address proposed

mitigation measures where necessary and residual impacts. I would note that Chapter 13 sets out the key mitigation and monitoring measures included in the EIS.

- 9.1.3. Chapter 1 provides details of the purpose, methodology and scope of the document. Chapter 2 provides a description of the site and proposed including the proposed phasing. It also addresses the planning context. In terms of alternatives considered, alternative locations, designs and processes are included. In terms of alternative sites, it is stated that given the zoning of the site, that no alternative sites were considered. Alternative designs are outlined with two principle layouts considered with sketches of same included. Option 2 was pursued for a number of specified reasons. Alternative processes were not considered relevant. Section 2.6 addresses the Characteristics of the Proposal with Section 2.7 describing the 'Existence of the Project' which outlines the phasing and stages. Chapter 3 addresses Population and Human Health. Chapter 4 considers Land and Soils. Chapter 5 addresses Flora and Fauna. Chapter 6 addresses Landscape and Visual Impact with photomontages included as Appendix 6.1. Chapter 7 considers Noise and Vibration, Chapter 8 Air Quality and Climate and Chapter 9 Hydrology and Drainage. Chapter 10 examines Archaeological, Architectural and Cultural Heritage with Appendix 10 including supporting documentation for this Chapter. Chapter 11 addresses Material Assets. The interactions arising are addressed in Chapter 12 with a summary of EIA Mitigation and Monitoring Measures set out in Chapter 13.

## 9.2. **Population and Human Health**

- 9.2.1. In terms of potential impacts, the main impacts include economic activity and social patterns with the creation of employment during the construction, estimated at 12-36 months and operational phases with the scale of accommodation facilitating accommodation for c.2000 persons. The positive impact envisaged is reasonable in this regard. The suggestion that such a workforce would enhance local spending power in local business and services is less identifiable given the relatively remote location of the site from services and businesses save for the Hotel and petrol station.
- 9.2.2. Similarly, in terms of social patterns, given the relative distance from and poor connectivity with existing residential communities it is not clear what local area is intended in respect of future employees and relocation to the local area and the

slight positive impact may be more reasonably suggested as neutral. Other impacts addressed such as land use and employment relate to the same impacts. In terms of health and safety the matters addressed principally relate to the construction phase which are proposed to be controlled through the Construction, Environmental and Waste Management Plan. This is considered reasonable. In terms of cumulative impacts, the construction phase is considered to have a potential positive impact in terms of employment with the operational phase creating office space and adjoining hotel accommodation. Mitigation is proposed for the construction phase through the Construction, Environmental and Waste Management Plan which is acceptable.

### 9.3. **Land and Soils**

- 9.3.1. The main impacts in respect of land and soils are predicted at construction stage. These include compaction of underlying soils and subsoils, removal of overburden alteration to its thickness, potential for contamination from fuel/chemical use on site, impacts to groundwater flows and levels due to excavations and any dewatering. I would consider that these are standard impacts related to a development of the nature proposed and that the mitigation proposed and the Construction, Environmental and Waste Management Plan will provide the necessary mitigation to ensure that none of the impacts arise or cause any significant impact. This Plan was included with the application documentation submitted to the PA.
- 9.3.2. In terms of the operational phase the potential for contamination of ground and groundwater from fuel/chemical use on site is addressed as is the reduction in groundwater recharge due to the new impermeable hardstand. However, these are again matters associated with any large project of this nature and the ongoing management of the site would ensure that no such impacts would arise or create a significant impact. In terms of cumulative impacts, the same issues largely arise particularly in the context of proposals at both the existing Clayton Hotel and the site of the permitted hotel and all such impacts should be imperceptible as envisaged.

### 9.4. **Flora and Fauna**

The main impact is the loss of improved grassland but given the low ecological value of the lands the impacts on biodiversity and local habitats is neutral which I would consider is reasonable. Given the proposals for surface water and foul waste, no impacts of any significance from the operational phase are predicted which would

also be reasonable. Mitigation is proposed in order to reduce the risk of contamination from leaks and this is covered in the Construction, Environmental and Waste Management Plan.

#### **9.5. Landscape and Visual Impact**

The landscape and visual assessment prepared describes the character of the area as typical of the urban fringe with a mix of agricultural lands and recent developments. Its sensitivity to development as included in the CDP landscape character assessment is described as low. The primary view into the site is from the elevated M50/M1 interchange with limited views from the site with the Clayton Hotel restricting views to the southeast. Ten viewpoints were assessed each of which are illustrated in photomontages. The cumulative impacts of the adjoining extant permissions is also addressed in separate montages. Views 1 & 2 are from the M50 and M1 with little impact to the former and none to the latter. Similarly views 3 & 4 from the M1 and R132 are indiscernible. View 5 is from Stockhole Lane c.320m from the site and the development is visible but given the context the proposal would form part of the existing structures. I consider that the impacts predicted in the EIS are reasonable. Views 6, 7, 8 & 9 illustrate no discernible impact. Similarly View 10 taken on Stockhole Lane c.680m from the site demonstrates no discernible impact. In respect of visual impact, I consider that the proposal while having localised visual impact in the immediate vicinity of the site, would not cause any discernible impact on the wider landscape.

#### **9.6. Noise and Vibration**

Noise and vibration impacts are predicted principally to occur at construction stage and are addressed at section 7.5.1 of the EIS. The assessment indicated that the predicted noise levels for the range of construction noise levels, which include excavation works, piling and foundation laying will meet recommended construction noise limits. Operational noise related to traffic noise and noise associated with building services. It is predicted that the changes anticipated will be imperceptible. I consider that given the location of the site that the impacts outlined are acceptable. Mitigation measures are outlined at section 7.8 and include limiting hours of operation and the use of designated routes. I would suggest to the Board that the impacts outlined and the mitigation proposed is reasonable in my opinion.

### 9.7. **Air Quality and Climate**

The predicted potential impacts in respect of air quality and climate are outlined and include construction dust and greenhouse gas emissions during construction phase and traffic related emissions and greenhouse gas emissions from the operational phase. The impacts predicted are considered reasonable given the nature and scale of the proposal. I consider that the mitigation measures proposed as outlined in Section 8.8 are satisfactory.

### 9.8. **Hydrology and Drainage**

The impacts predicted relate primarily to hydrology for the construction phase and drainage for the operational phase. In terms of the construction phase, the potential for silt or contaminated run off reaching the Mayne River is addressed as is the potential flooding of excavations from surface run-off. I consider that the mitigation proposed and best practice in terms of site management would ensure that this could be avoided. The potential for the operational phase of the development to cause flooding, or contamination of the River Mayne with discharges or overloading of the foul network are outlined, but again I consider that appropriate site management and devices would provide that any potential impacts could be avoided.

### 9.9. **Archaeological, Architectural and Cultural Heritage**

I have addressed archaeology at Section 7.1.6 in respect of the appropriate timing of investigations on this site. However, in terms of EIA, the only mitigation measure proposed (C-AACH1) relates to the proposed programme of archaeological test trenching recommended to be carried out post planning. While it is stated that there are no specific sites or areas of archaeological or cultural heritage potential it is considered that it is possible that ground disturbance associated with the proposal could have an impact on burial archaeological features that may survive beneath the current ground level and which have no surface expression. It is within this context that test trenching is proposed. I would suggest that this is reasonable but that as I note above at Section 7.1.6, to require same prior to any grant of permission on the site would not be reasonable given the absence of any indication of any potential features.

### 9.10. **Material Assets**



- 9.10.1. In terms of potential impacts, it is stated that the constriction phase of the proposal is likely to have some temporary impacts on the existing urban settlement in the vicinity of the site. I would note that while the surrounding area would not, in my opinion, be described as an urban settlement, I would consider that the mitigation measures proposed in respect of noise, air quality etc. are satisfactory for the temporary construction phase.
- 9.10.2. In terms of transport infrastructure and traffic, this chapter refers to the TTA as providing an assessment of the likely impacts both at construction and operational phases with mitigation proposed for both phases. It is stated that the full traffic impact assessment is contained within the TTA accompanying the EIS under separate cover. Traffic Impact Assessment is addressed separately in the following section but I would note that Figure 11.1 is provided to show the percentage traffic increase per junction. However, I would note that it is illegible. I would refer the Board to Figure 7.3 of the TTA for the same illustration. As I outline in Section 9.11 below there are significant concerns regarding the potential impact of the proposal on the strategic and local road network.
- 9.10.3. Other potential impacts on material assets include foul water disposal, potable water supply and surface water disposal which have been addressed in Chapter 9 above. The other material assets addressed include natural gas supply, electrical supply and municipal waste, the predicted impacts on which are all considered to be slight or imperceptible which I consider is reasonable.

#### **9.11. Traffic Impact Assessment**

While I address the matter of traffic and transport at sections 8.2, 8.3 and 8.4 of the assessment above, I would propose to outline a number of relevant considerations within this EIA. A Traffic Transport Assessment was prepared under separate cover to the EIS document. As I have outlined above, serious concerns were raised in respect of traffic impact which led to the decision of the PA to refuse permission. In response to the refusal, the appeal document included at Appendix 2, a transportation response which itself included at Appendix A of same a Technical Note entitled Supplementary Traffic Modelling. As I have outlined above, I have a number of concerns about the estimations relied upon in the original TTA particularly in respect of trip generation based on the modal share proposed. I have also

concerns about the trip assignment to and from the M50 and M1 which I consider is underestimated. While I note the mitigation proposed by way of the shuttle bus, restricted parking and the synchronised signalling included in the supplementary report included with the appeal, I consider that the mitigation proposed does not adequately demonstrate that the proposed development would not have a significant impact on the environment by reason of traffic impact.

#### 9.12. **Interactions**

Four potential interactions are predicted, namely, land and soils & Hydrology and Drainage; Flora and Fauna & Hydrology and Drainage; Noise and Vibration & traffic; and Air Quality and Climate & Traffic. This is a reasonable interpretation, in my opinion.

#### 9.13. **Conclusion regarding EIA**

Having read the EIS I would note that the document provides a comprehensive and reasonable outline of the issues arising within the specialist areas required to be considered. The interactions outlined in Chapter 12 are in my opinion an accurate reflection of the likely interactions which may arise. Overall the EIS document itself complies with the requirements set out in the Regulations. In addition, the EIS, in conjunction with other documentation and submissions received facilitates a thorough assessment of the likely significant impacts on the environment. As noted above, there are remaining concerns regarding the impacts of the proposal on the strategic and local road network and the mitigation proposed is not considered to be adequate in addressing the concerns remaining given the isolated location of the site from public transport routes.

### 10.0 **APPROPRIATE ASSESSMENT**

#### **Screening**

10.1. A report for Appropriate Assessment screening of the appeal site was submitted with the Planning Application (dated 9 September 2016).

10.2. There are a large number of Natura 2000 sites within 15km of the site, all of which are identified in a map in the screening report (Figure 7). They are as follows:

- Baldoyle Bay SAC (000199) & SPA (004016)

- Malahide Estuary SAC (000205) & SPA (004025);
- Ireland's Eye SAC (002193);
- North Dublin Bay SAC (000206);
- North Bull Island SPA (04006);
- Ireland's Eye SPA (004117);
- Rockabill to Dalkey Islands SAC (003000);
- South Dublin Bay and River Tolka Estuary SPA (04024);
- South Dublin Bay SAC (000210);
- Rogerstown Estuary SAC (000208) & SPA (004015);
- Howth Head SAC (000202) & Howth Head Coast SPA (004113);
- Lambay Island SAC (000204) & SPA (004069);

10.3. As noted in the screening report, there is limited relevant connectivity with the majority of the aforementioned sites. The only sites where there is any potential for hydrological connectivity are the Baldoyle Bay Sites (Baldoyle Bay SAC (000199) & SPA (004016)). The site is hydrologically linked to Baldoyle Bay SAC and SPA via a stream located to the south of the overall lands which flows to the River Mayne which discharges to Baldoyle Bay. I would suggest that in terms of potential impacts the following potential impacts are considered most relevant, direct loss of land/habitat and surface water and domestic wastewater. The site itself is improved grassland and therefore there is no loss of significant habitat. The site is located over 5 km from Baldoyle Bay SAC and SPA. I consider that significant attenuation is proposed within the site by way of SUDS measures and therefore the potential for impact on the water quality within the designated sites is remote. In addition, given the distance from the Natura sites and the proposed connection to the existing foul network the proposal would not have any adverse effect on the conservation objectives of these sites.

10.4. In respect of the sites mentioned above, I consider that due to the limited value of the vegetation on site, the separation distances of the appeal site from the designated sites and the nature of the proposed development that it is reasonable to conclude that on the basis of the information on the file which I consider to be

adequate that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Baldoyle Bay SAC (000199), Baldoyle Bay SPA (004016), Malahide Estuary SAC (000205), Malahide Estuary SPA (004025), North Dublin Bay SAC (000206), North Bull Island SPA (04006), Ireland's Eye SAC (002193), Ireland's Eye SPA (004117), Howth Head SAC (000202), Howth Head Coast SPA (004113), Rockabill to Dalkey Islands, SAC (003000), South Dublin Bay and River Tolka Estuary SPA (04024), South Dublin Bay SAC (000210), Rogerstown Estuary SAC (000208) and Rogerstown Estuary SPA (004015) in light of the site's Conservation Objectives and a Stage 2 Appropriate Assessment is not therefore required.

## 11.0 Recommendation

I recommend that permission for the proposed development is refused for the reasons and considerations outlined in the Draft Order below.

## **DRAFT ORDER**

### **Reasons and Considerations**

Having regard to the nature and scale of the proposed development and the sites location in close proximity to the strategic junction of the M1/M50, its distance from high capacity public transport nodes and its limited potential to be accessed by public transport, walking and cycling, it is considered that the development as proposed, and the precedent it would establish for further office space on the lands, notwithstanding the substantial mitigation proposed, would have an adverse impact on the strategic and local road network. Furthermore, the proposed development is considered premature pending a strategic review of transport and land use integration in the South Fingal area as required by Objective MT07 of the Fingal County Development Plan 2017-2023. Therefore, it is considered that the development as proposed would be contrary to the proper planning and sustainable development of the area.

#### Environmental Impact Assessment

The Board considered the Environmental Impact Statement submitted with the application and the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, including the appellants and observers. The Board considered that this information was adequate in identifying and describing the direct and indirect impacts of the proposed development. The Board completed an Environmental Impact Assessment, and agreed with the Inspector in her assessment of the likely significant impacts of the proposed development, and generally agreed with her conclusions on the acceptability or otherwise, as appropriate, of the mitigation measures proposed and residual impacts including the concerns outlined in respect of traffic impacts on the strategic and local road network. The Board generally adopted the report of the Inspector. The Board concluded that, having regard to the concerns outlined in respect of the strategic and local road network, that the proposed development would be likely to have significant impacts on the environment.

#### Appropriate Assessment

The Board agreed with the screening assessment carried out and conclusion reached in the Inspector's report that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European site in view of the site's Conservation Objectives.

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Una Crosse  
Senior Planning Inspector

March 2017