



An
Bord
Pleanála

Inspector's Report ABP-307318-20.

Development

Temporary planning permission (5-year duration) is sought for the retention of a development consisting of the following: (a) hardstanding external car park for c.45 no. cars with vehicular access onto the Public Road; (b) an external car wash bay; (c) a steel clad commercial unit (c.287 sq.m.) for both internal parking/recovery and car valeting; (d) a chemical WC cubicle for staff; (e) advertising signage as erected; (f) external lighting column and CCTV cameras; and, (g) connection to surface water network and all other associated siteworks.

Location

Ballycoolin, Ballycoolin Road,
Blanchardstown, Dublin 15.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

FW20A/0019.

Applicant

Nik Kasapi.

Type of Application

Temporary Planning Permission and
Retention Permission.

Planning Authority Decision

Refused.

Type of Appeal

First Party.

Appellant

Nik Kasapi.

Observer(s)

None.

Date of Site Inspection

5th day of August, 2020.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The irregular triangular shaped appeal site has a stated 0.18 hectares and it is located on the western side of the Ballycoolin Road (Note: R843 Regional Road) with the northernmost portion of the site situated opposite 'Rosemount Park Road', c150m to the south of the Ballycoolin Snugborough Road roundabout junction and c1.3km to the north of the M50, as the bird would fly, in the Townland of Ballycoolin, and c9km to the north west of Dublin's city centre.
- 1.2. The site benefits from c80m of road frontage on its eastern boundary with the heavily trafficked Ballycoolin Road, which at this point contains 3 lanes, with the central lane providing a right turn only access into Rosemount Park Road. This boundary consists of a tall metal palisade type fence that sits on a low concrete plinth and there is a yellow L-shaped hatched road box which extends across the adjoining two road lanes on the western side of Ballycoolin Road.
- 1.3. The adjoining stretch of the Ballycoolin Road has a posted speed limit of 60 kilometres per hour. It is tree lined with pedestrian footpaths, segregated cycle lanes, lighting standards, grass verges on either side and there is a bus stop to the south east on the opposite side of the Ballycoolin Road as well as another bus stop in close proximity to the north of the entrance serving the appeal site.
- 1.4. At the time of my site inspection I observed that the site was mainly surfaced in hard stand accommodating delineated car parking spaces. The entrance serving the site is located towards the northern end of the site and is roughly opposite the junction with Rosemount Park Road. Towards the southern end of the site there is a single storey metal clad structure containing five large bay openings. Separating this building and the roadside boundary with the Ballycoolin Road there is a metal cargo container and adjoining the western side elevation roughly midway there is what appears to be a portaloo structure. There was a number of advertising signs of various sizes and types present. There was also lighting and CCTV infrastructure throughout the site area.
- 1.5. Adjoining the site on its north, north west and western side is the National Sports Campus and to the south the remaining portion of land the appeal site forms part of and to the south is another hard surfaced pocket of land with single storey metal buildings thereon. To the west the adjoining land contains a derelict complex of

buildings surrounded by green land. The area opposite has a mixed business character.

2.0 Proposed Development

2.1. Temporary planning permission (5-year duration) is sought for the retention of a development consisting of the following:

- Hardstanding external car park for c.45 no. cars with vehicular access onto the Ballycoolin Road;
- An external car wash bay;
- A steel clad single storey commercial unit with a given c.287m² gross floor area for both internal parking/recovery and car valeting. This is located centrally alongside the southern boundary of the site and has a given 5.3m ridge height; 4m eaves level, 12m depth and 25m length. It is broken internally into two separate functional areas, i.e. a car valet area with a given 111m² area and an internal car parking area with a given 167m² area;
- A chemical WC cubicle for staff use;
- Advertising signage as erected;
- External lighting column and CCTV cameras;
- Connection to the public surface water network; and,
- All associated site works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority refused planning permission for the following stated reasons:

- “1. *The subject site is located on ‘HT’ zoned land within the 2017-2023 Fingal Development Plan. Notwithstanding the temporary nature of the application, the lands are zoned to facilitate the opportunities for technology, high technology and advanced manufacturing, major office and research and development based employment within high quality, high accessible, campus*

style settings. The site is also identified in the Development Plan to provide a Light Rail Corridor and a Stop. The proposal in terms of design and uses are considered wholly inappropriate, substandard and do not provide exemplar sustainable design and aesthetic quality. Therefore, the development to be retained materially contravenes the land use zoning objective and the associated vision as set out in the Fingal Development Plan 2017-2023 and is contrary to the proper planning and sustainable development of the area.

2. *The proposed development is located on the heavily trafficked Ballycoolin distributor road in close proximity to the junction with Snugborough Road and immediately opposite the access to Rosemount Business Park Road. It is considered that traffic movements generated from the development to be retained endangers public safety by reason of traffic hazard and obstruction of road users.*
3. *The development to be retained materially contravenes Objective BLANCHARDSTOWN 8 and Objective DMS122 of the Fingal Development Plan 2017-2023 which seeks to protect the Light Rail Corridor and ensure its stops are kept free from development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officer’s Report** is the basis of the Planning Authority’s decision. I note the following comments from this report:

- The uses sought are not permissible on the ‘HT’ zoned land.
- The structure to be retained is substandard.
- The transportation report findings are concurred with.
- Clarification is needed on surface water drainage and how wastewater is dealt within the confines of the site.
- Not all of the signage on site is subject of this application.

- Refusal is recommended.

3.2.2. Other Technical Reports

Water Services: Additional Information sought in relation to water drainage.

Transportation: Refusal recommended. The following comments from this report are noted:

- The site is located within the proposed light rail corridor. This corridor has not been included in the Government's Capital Programme, 2016 to 2021, but a significant amount of design work has already been carried out and it is therefore prudent to leave this corridor free from development.
- The existing access to the site prior to the unauthorised development would not have been frequently used and any intensification of an access at this location would require significant improvement to cater for an increase in its use.
- Reference is made to the planning history of the site. It is not considered that this application resolves previous reasons for refusal of other developments sought.
- The proposed development fails to demonstrate how the traffic would enter/exit from the proposed development under the current layout.
- It is possible that traffic turning right into this development would improperly use the middle lane of the Ballycoolin Road, with the potential for head-on collisions. This could be resolved by changing road markings on the road, but this could have negative implications for traffic accessing Rosemount Business Park and it is not clear that the Roads Authority would be agreeable to such changes.
- It may be possible to relocate the entrance away from the junction however, it is unclear if the applicant has control over the adjoining lands to the south.
- The current layout remains a traffic hazard.

Environmental Health: No objection subject to safeguards.

3.3. Prescribed Bodies

- 3.3.1. **Irish Water:** Further information requested. Their report notes that the applicant should be requested to submit drawings that clearly demonstrate existing water infrastructure in the area and clarify how wastewater is dealt with on site.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1. Of relevance are the following planning applications:

ABP Ref. No. PL06F.247876 (P.A. Ref. No. FWA/0152): On appeal to the Board planning permission was refused for an unmanned Petrol Filling Station. The development will consist of: 1) Two number 4 hose pumps under the high tech circular canopy system dispensing Petrol and Diesel on each side of the pump; 2) Two number 6 hose pumps under the canopy system dispensing Diesel, Marked Gas Oil (MGO) and Ad Blue; 3) Two number single hose " slave" pumps under the canopy system dispensing Diesel; 4) Two number outdoor payment terminals on the six hose pump diesel islands; 5) Five number electrical cabinets, one on each island, measuring 2,400mm high and 900mm x 900mm on plan; 6) Three underground storage tanks, one 60,000 ltr split 50,000ltr diesel and 10,000 ltr MGO. One 40,000 ltr underground tank storing unleaded petrol and one 5,000 ltr underground tank storing Ad Blue; 7) All associated fuel pipework between the pumps and underground tanks and fill-points and vents; 8) Concrete surfacing in the fuel dispensing forecourt and over the tanks farm. Asphalt surfacing through the remainder of the site. The drainage of the forecourt; 9) Landscaped boundary treatment in agreement with the Local Authority on the eastern and western boundary; 10) Retention of the existing stone wall along the road frontage on the Ballycoolin Road except at the proposed entrance and exit; 11) Advertising along the edges of the high tech circular canopy system and a standalone 6m high advertising monolith in the North Western corner of the site; 12) Vehicle entrance and Exit entrances along the Ballycoolin Road, Blanchardstown, County Dublin.1. The Board **refused** permission for the following stated reasons and considerations:

“1. *Having regard to the location of the site on the heavily trafficked Ballycoolin Road, in close proximity to its junction with the Rosemount Business Park and its roundabout junction with the Snugborough Road, it is considered that the proposed development would give rise to conflicting vehicular movements and*

would endanger public safety by reason of traffic hazard and obstruction of road users.

2. *The proposed development is located in an area zoned HT – High Technology in the current Fingal County Development Plan, the objective for which 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 proposed development, which comprises an unmanned filling station, would not facilitate opportunities for high technology and advanced manufacturing, major office and research and development based employment within high quality, highly accessible, campus style settings. The proposed development would, therefore, materially contravene the land use zoning objective, as set out in the Development Plan and be contrary to the proper planning and sustainable development of the area.*
3. *The proposed development would be premature pending the finalisation of the preferred route for the light rail project and would, therefore, contravene materially objective ‘Blanchardstown 8’ of the current County Development Plan to support the delivery of a light rail corridor. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”*

P.A. Ref. No. FW16A/0086: Planning permission was **refused** for an unmanned petrol filling station for reasons relating to: 1) endanger public safety by reason of a traffic hazard and obstruction of road users; 2) material contravention of a number of stated Development Plan objectives; and, 3) contravene land use zoning objective for the site and the provision of a Metro West Stop.

ABP Ref. No. PL06F.207621 (P.A. Ref. No. F04A/0425): On appeal to the Board planning permission was **refused** for a petrol filling station, ancillary retail shop and café for reasons and considerations relating to: 1) traffic hazard and obstruction to road users; and, 2) unacceptable risk to contamination of the public water supply and as such the proposed development would be prejudicial to public health.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The Fingal Development Plan, 2017 to 2023, is applicable.
- 5.1.2. The site forms part of a larger parcel of land zoned 'HT' (High Technology) which has the stated objective to: *"provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment"*.
- 5.1.3. On the opposite side of the Ballycoolin Road the land is zoned 'GE' (General Employment). The zoning objective for such lands is to: *"provide opportunities for general enterprise and employment"*; and, the stated vision is to: *"facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable and legible"*.
- 5.1.4. A cycle route forming part of the Greater Dublin Area (GDA) Cycle Network runs alongside the roadside boundary of the site.
- 5.1.5. The site is also identified in the Development Plan to provide a light rail corridor and a light rail stop.
- 5.1.6. BLANCHARDSTOWN 8 of the Development Plan supports the delivery of the light rail corridor linking Blanchardstown to Tallaght in South Dublin and to the indicative route for Metro North at Dardistown.
- 5.1.7. Chapter 7 of the Development Plan indicates that significant preliminary design work has already been carried out for Light Rail Corridor formerly known as 'Metro West'.
- 5.1.8. Objective DMS122 of the Development Plan seeks to ensure that the possible routes of the Light Rail Corridor and its stops are kept free from development.
- 5.1.9. Objective DMS123 of the Development indicates that the Planning Authority will: *"allow high-density development along the Light Rail Corridor, in accordance with the land-use plans of the Council"*.
- 5.1.10. Objective MT27 of the Development Plan states that the Planning Authority will: *"support TII in progressing the design of a Light Rail Corridor that addresses the needs"*

of Fingal, in particular the Blanchardstown area, with a view to securing permission from An Bord Pleanála”.

- 5.1.11. The site forms part of a landscape setting that is designated as ‘Highly Sensitive Landscape’ and Chapter 9 of the Development Plan indicates that these landscapes are highly vulnerable to change.

5.2. Natural Heritage Designations

- 5.2.1. Within 15km radius of the site are the following Natura 2000 sites:

- The site lies c9.7km to the north east of Special Area of Conservation: Rye Water Valley/Carton SAC (Site Code: 001398).
- The site lies c9.9km to the north west of Special Protection Areas: South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and Special Area of Conservation: South Dublin Bay SAC (Site Code: 000210).
- The site lies c12.3km to the south west of Special Area of Conservation: Malahide Estuary SAC (Site Code: 000205) and Special Protection Areas: Malahide Estuary SPA (Site Code: 004025).
- The site lies c12.7km to the west of Special Area of Conservation: North Dublin Bay SAC (Site Code: 000206).
- The site lies c14.6km to the west of Special Area of Conservation: Baldoyle Bay SAC (Site Code: 000199).
- The site lies c14.9km to the west of Special Protection Areas: Baldoyle Bay SPA (Site Code: 004016).

5.3. EIA Screening

- 5.3.1. Having regard to the modest nature, scale and extent of the proposed development, the appeal sites location on serviced lands as well as the distance of the site from nearby sensitive receptors with the nearest European site being Special Area of Conservation: Rye Water Valley/Carton SAC (Site Code: 001398) which is located c9.7km away, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development due to the significant lateral separation between the two. The need for environmental impact assessment can,

therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows:

- There are conflicting objectives for the site within the Development Plan, i.e. the site is zoned high technology but also forms part of the light rail corridor.
- This development conforms with the HT zoning of the site in terms of automation, but it would contravene a transport objective for the site. If this is the case the only alternative is the sterilisation of this site and/or to put it into a temporary use.
- The temporary use results in a maximum of 40 turning movements per day based on the operations in the months prior to the Covid 19 Lockdown when the site was fully operational.
- The appellant is willing to accept a condition restricting any right turning movements for traffic travelling south east and for traffic exiting the application would be also willing to accept a left turn only with visitors directed to use the roundabout to the north for all onward journeys.
- The levels of traffic generated by this development would be substantially lower than the volume proposed under the previous application for a service station.
- The design of this road reflects the high volume of turning movements envisaged accompanying its use to get access to a metro station.
- There is scope to provide a second entrance to the south which would eliminate potential conflicts with turning movements at the junction of Rosemount Park Road.
- The proposed use is temporary in nature and does not contravene local planning provisions.
- The applicant is also happy to accept a condition that stipulates that the current use is continuously under annual review and should the Metro West proposal require earlier cessation then this shall be adhered to.

- There is a widespread acceptance that the Metro West project will not proceed in the medium term and it is contended that its future is highly ambiguous.
- The appellant would be willing to cease the car parking component should the Board have an issue with it.
- This is an underutilised suburban site and this development provides a use for it.

6.2. Planning Authority Response

6.2.1. None received.

7.0 Assessment

7.1. Overview

7.1.1. In my opinion the following issues are of relevance to the determination of this current appeal case before the Board:

- Principle of the Proposed Development
- Transportation – Light Rail Corridor
- Access and Traffic
- Visual Amenity
- Drainage and Water
- Other Matters Arising

7.1.2. In addition, the matter of '*Appropriate Assessment*' requires examination.

7.1.3. Before I commence my assessment I raise concerns that the details provided for a number of the components of the development sought under this application are inadequate and not in my view sufficient to evaluate or make a determination upon as part of this assessment.

7.1.4. I therefore consider in the absence of adequate drawings being provided for the advertisement signage, external lighting and CCTV provision alongside the proposed chemical WC these components should be excluded from any grant of retention permission for a temporary duration which is sought under this application. As any grant of retention permission, in my view, would be ambiguous in terms of what exactly

is being permitted, what is not permitted and moreover it would be difficult to enforce should any perceived deviations occur in future. For example, including any increased provision of signage at the locations generally indicated in the drawings submitted.

- 7.1.5. Further, from my inspection of the site I observed that there is advertising signage existing in addition to that ambiguously indicated in the submitted documentation. This includes but is not limited to a large advertisement sign in the northernmost end of the roadside boundary which is highly visible and incongruous from the public domain of the Ballycoolin Road.
- 7.1.6. It also appears to be in the form of *ad hoc* stored vehicles with mounted signage to the rear of them. The one observed had advertising for another business that appeared not to be connected to those operating from the subject site.
- 7.1.7. The level of signage observed on site including those generally indicated to be present on the submitted drawings result in a high level of visual clutter and diminishes the visual amenity as well as quality of the Ballycoolin Road.
- 7.1.8. The signage present is not in my opinion of any particular quality or could it be considered to accord with the Development Plans vision for '*HT*' zoned land which in part seeks qualitative design approaches at all levels of development. With the signage present also including large fabric signage at either side of the entrance are at positioned a low height levels and at the height levels chosen they have the potential to and likely have in the past conflicted with pedestrian movement along the adjoining pedestrian footpath.
- 7.1.9. Moreover, in relation to the chemical WC sought for retention, the documentation submitted, fails to clarify how waste water in all of its guises is dealt with within the confines of the site and how it connects, if it does so, to public infrastructure running along the Ballycoolin Road. From my inspection despite the fact that the site in general was well maintained it was not very evident how wastewater has been connected to the existing foul sewer and/or drainage supply has is contended in the planning application form accompanying this application. For example, it was evident that surface water run off and run-off from the roof structure of the large metal building in places was directly simply to hard stand with no method of capturing present.
- 7.1.10. In relation to the external lighting column and CCTV cameras, again there is little clarity provided in the submitted documentation for this component of the development

sought. From my inspection of the site it would also appear that these columns from inspection are quite high. There is no clarity provided also on what level of lighting and mitigation measures have been included to prevent overspill onto the public domain, in particular there is no assurance that no overspill of lighting would occur on the heavily trafficked Ballycoolin Road and/or that lighting is not used outside of business hours. The later again is unclear and is made further unclear by the presence of another structure on site with windows whose functional use is not provided. I am not convinced that the level of lighting on site would not cause any visual intrusion and/or distraction to road users of the adjoining regional road.

- 7.1.11. Based on the above considerations I consider it prudent that these components are omitted from any grant of retention permission for the development sought, even having regard to the temporary nature of the permission that is sought by the applicant.

7.2. Principle of the Proposed Development

- 7.2.1. This appeal site and the adjoining land on the western side of this stretch of the Ballycoolin Road is zoned 'HT – High Technology. The stated objective for such lands is to: *“provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment”*.
- 7.2.2. This application relates essentially to what can be described as the retention of a car wash; a car parking/recovery area, car valeting commercial operations and a single storey metal clad structure on site which is indicated to have two separate functional uses. That is the parking of vehicles and valeting of vehicles.
- 7.2.3. The appellant in their grounds of appeal indicate that from the end of 2019 they have operated a small-scale business employing two staff on a full-time basis with the hope of increasing to 3 staff in time by maximising the valeting business. They indicate that their primary business is a car wash with car parking and recovery of vehicles being a minor component of their business. They also indicate that the car parking also includes surplus trade for third party garages.
- 7.2.4. Under Chapter 11 of the Development Plan the land uses to which this application relates are not included in the list setting out land uses that are generally deemed to be 'permitted in principle' on 'HT' zoned land.

7.2.5. Of concern, the list setting out land uses that are 'not permitted' in principle include: "car parking non-ancillary"; "concrete"; "asphalt"; "vehicle servicing/maintenance garage"; through to, "vehicle sales outlet – small vehicles". In relation to the last indicated land use it would appear that the appellant alongside providing parking for recovered vehicles also accommodates surplus vehicles for other car garages and the like. It is unclear the scope of which vehicle sales relates to the cars that are stored on site, i.e. whether the third party for whom the applicant stores these vehicles meets potential buyers for these cars at this location.

7.2.6. While car wash use and car valeting are land uses that are not expressly identified in the land use zoning matrix for 'HT' zoned land, I consider it is not practical for this matrix to identify every possible land use or development type therein. In this instance I concur with the Planning Authority's Planning Officer that there is a level of synergy in terms of the land uses with the car parking on site being non-ancillary to the car wash and car valeting principal land uses. I also consider:

- That the site is for all intents and purposes finished in hardstand of a type identified as not permitted.
- That valeting of cars is a type of car maintenance and part of good ownership practice in the upkeep of vehicles.
- That the accommodation of parking area for recovered vehicles is also a function in the maintenance of vehicles as is their parking until removed to another location for their fixing or decommissioning. Furthermore, these practices are probable to involve some intervention to the vehicles prior to their removal.
- That the accommodation of surplus vehicles for other garages there is a lack of clarity on the same. It is probable in my view to relate to either a combination of vehicles that are in a garages stock for sale and/or there is a lack of available space to store vehicles for general vehicle maintenance through to collection. On this point there is a lack of clarity and assurance provided.
- That there appears to be a use of the external area inside the site to advertise other commercial operations.
- That there is sufficient reason based on my inspection of the site, including having viewed the area that is indicated as being used for internal parking that this is not

functionally the case. Within this space there is specialist machinery including automotive lift, tyre changing tools and the like that are for vehicle maintenance. Of further concern, there is also a 3-phase electricity generator which I am unclear if it were merely being stored at this location. This is not suitable for use indoors for various safety reasons and I am unsure as to whether or not this is used separately externally as an energy back up or for some other purpose. There is also a drinks kiosk for the sale of soft drinks within this area facing onto the main hard surfaced area.

- That the main building contains five large bays with five a concrete ramp running along the northern elevation and that this is common of various types of car maintenance business operations.

7.2.7. In addition, I note that Chapter 11 of the Development Plan indicates that land uses which are neither '*permitted in principle*' nor '*not permitted*' will be assessed in terms of their contribution towards the achievement of the zoning objective and vision alongside their compliance and consistency with the provision of the Development Plan.

7.2.8. This application relates to a retrospective permission for the development set out under Section 2.1 for a period of 5 years. The land uses do not correlate functionally or in any other manner synergise with permitted land uses in '*HT*' or indeed with the vision for '*HT*' zoned land. This vision seeks to: "*facilitate opportunities for 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*".

7.2.9. Arguably, the land uses sought display strong synergy with land uses as set out above that are not permitted in principle on '*HT*' zoned land.

7.2.10. Moreover, no advantage should be had or given to the fact that this development is already on-going in the absence of planning permission and it is imperative that the development sought under this application is considered no different from an application for planning permission. The only unfortunate advantage is that it easier to discern the development on site and within its setting as it is already *in situ*.

- 7.2.11. I also note that as the land on the opposite side of the Ballycoolin Road is zoned 'GE' - General Employment. It could be argued that reference should be had to Section 11.4 of the Development Plan which deals with the matter of Transitional Zonal Areas and in turn Objective Z04 of the Development Plan which states that the Planning Authority shall: *"have regard to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals for lands in the vicinity of zoning boundaries"*.
- 7.2.12. The zoning objective for 'GE' zoned land is to: *"provide opportunities for general enterprise and employment"*; and, the vision is to: *"facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable and legible"*.
- 7.2.13. Chapter 6 of the Development Plan indicates that the: *"purpose of the High Technology (HT) zoning is to facilitate opportunities for major office, science and technology, and research and development based employment within high quality, highly accessible, campus style settings"* and that it is one of the most important economic development zonings in Fingal with just over 685 ha of HT zoned lands located principally in Blanchardstown and Swords, supplemented with significant zonings at Dublin Airport and along the southern boundary of the County with Dublin City. Whereas I note that there is a much larger land bank of 1,850ha zoned 'GE' under the Development Plan.
- 7.2.14. I therefore consider that the 'HT' zoned land is the zone that is more sensitive to developments that could be seen as detrimental to achieving the vision for lands that are deemed to be of economic importance within the Fingal County Council administrative area.
- 7.2.15. I am also cognisant that the site alongside the adjoining parcel of land to the immediate south, which together makes up a crescent shape block of land, has been subject to a number of planning applications in the past for redevelopment in various guises as a petrol filling station.
- 7.2.16. I have set out an overview of the planning history of the site under Section 4.1 of this report above and I note that whilst these were considered under previous adopted Development Plan.

- 7.2.17. The most recent of which was refused by the Board under PL06F.247876 for three substantial reasons which despite this application relating primarily to a car wash and car valeting service with ancillary car parking and not a filling station it is still incumbent that the applicant demonstrate that the reasons and considerations that resulted in refusal have been overcome and/or would not arise in the context of the development sought. However, of concern similar concerns form the substantive basis of the refusal reasons given by the Planning Authority for the refusal of the application subject of this appeal. Therefore, it would appear that the Planning Authority considered that this application gives rise to similar access and traffic related issues and as such there is a similarity in the reasons given for the refusal of this current application with the Planning Authority evidently considering that previous reasons have not been overcome with this application
- 7.2.18. I am further cognisant that the site forms part of the identified Light Rail Corridor route formerly known as 'Metro West'.
- 7.2.19. Under objective BLANCHARDSTOWN 8 of the Development Plan, the Planning Authority seeks to support the delivery of the light rail corridor linking Blanchardstown to Tallaght in South Dublin and to the indicative route for Metro North at Dardistown. Moreover, of particular relevance to the development sought under this application, Objective DMS122 of the Development Plan also sets out that the Planning Authority will seek to ensure that the possible routes of the Light Rail Corridor and its stops are kept free from development.
- 7.2.20. On a side note Objective DMS123 of the Development Plan also seeks high density development along the route of the Light Rail Corridor which arguably the development sought under this application is not only a type of land use deemed to be not permitted but also could not be considered to be a land use that optimises the potential of 'HT' zoned lands.
- 7.2.21. This development therefore could prejudice the provision of the Light Rail Corridor and would be contrary to the above local planning provisions.
- 7.2.22. My final comment relates to the Planning Authority's first reason for refusal which I have set out under Section 3.1 of my report above.

7.2.23. It essentially concludes that the development sought under this application, if retained, would materially contravene the 'HT' land use zoning objective and the vision associated for 'HT' zoned land as set out in the Development Plan.

7.2.24. In addition, the third reason for refusal indicated that the development sought under this application, if retained would materially contravene Objective Blanchardstown 8 and Objective DMS122 of the Development Plan.

7.2.25. The provisions provided under Section 37(2)(a) of the Planning & Development Act, 2000, as amended, provides that the Board may in determining an appeal under this section of the Act decide to grant a permission for a development even if the development contravenes materially the Development Plan relating to the area of the Planning Authority to whose decision the appeal relates, i.e. in this case, Fingal County Council. It states:

“Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that”

“(i) the proposed development is of strategic or national importance”

“(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned”

The other two criteria indicate the following:

(iii) Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.2.26. If one or more are applicable, so as to permit the Board to grant permission for the proposed development sought under this application, then the question to be determined is whether a favourable decision should, in the circumstances of the present case, be made. If they do not apply, then the Board is precluded from granting permission in this case.

- 7.2.27. In this case based on the considerations above it is my opinion that development sought is not a type of development that is generally deemed to be acceptable on land subject to the 'HT' land use zoning.
- 7.2.28. I also do not consider that this development could be considered of strategic and/or of national importance but rather they would hamper and be detrimental to the vision set out for this land use zoning objective in the short term due to their visual and functional incongruity with 'HT' zoned land.
- 7.2.29. Moreover, I do not consider that there are conflicting objectives in the Development Plan in relation to the land use zoning objective and the realisation of the light rail corridor. It would be unusual given the limited public transportation options and connectivity that a high technology bank of land would not give consideration to improvements in modes of transport available to it and improved transport connectivity to other similar pockets of zoned land, important transport nodes including efficient connectivity to Dublin Airport and high density residential neighbourhoods. Arguably as this appeal site is located in Ballycoolin, Dublin 15, and therefore forms part of the 'Dublin 15 Enterprise Zone', to permit development that fails to align even for a short duration of time with 'HT' zoned land objective and the vision for 'HT' would be detrimental to Fingal County Councils said initiative for the lands including Ballycoolin. Which the Chapter 6 of the Development Plan indicates that they have been committed to the continued investment in, management and promotion of.
- 7.2.30. Furthermore, there is no imperative in the regional planning guidelines or national planning provisions that would support the development sought under this application. Nor has there been a fundamental change in direction in local planning provisions in relation to land uses permitted in this locality and/or infrastructure provisions prior to the adopted plan and/or since the making of the current Development Plan.
- 7.2.31. I therefore concur with the Planning Authority in this case that the development sought under this application, if permitted, would materially contravene the 'HT' zoning objective and vision for the site as well as its setting; it would prejudice the realisation of the objectives of the Development Plan for 'HT' zoned land alongside would materially contravene Development Plan objectives BLANCHARDSTOWN 8 and DMS122. I therefore consider that in such circumstances the Board is precluded from a grant of permission.

7.3. Transportation – Light Rail Corridor

- 7.3.1. I am cognisant that the current Development Plan acknowledges that the light rail corridor formerly known as ‘Metro West’ has not been included in the Government’s Capital Programme, 2016 to 2021. Notwithstanding, it acknowledges under Chapter 7 that significant amount of preliminary design work has already been carried out to its 25km route which is designed to operate from Tallaght through Clondalkin, Liffey Valley, Blanchardstown with links to connect to Metro North at Dardistown to the south of Dublin Airport.
- 7.3.2. Notwithstanding, Objective MT27 of the Development Plan indicates that the Planning Authority will: *“support TII in progressing the design of a Light Rail Corridor that addresses the needs of Fingal, in particular the Blanchardstown area, with a view of securing permission from An Bord Pleanála”*.
- 7.3.3. In addition, as set out previously Objective DMS122 of the Development Plan seeks to: *“ensure that the possible routes of the Light Rail Corridor and its stops are kept free from development”* alongside requires that all development alongside the possible routes of the light rail corridor to include permeability for pedestrians, cyclists and public transport so as to maximise its accessibility.
- 7.3.4. I also note that public consultation on this public infrastructure project was carried out in 2019 and despite the momentum for its provision as part of various enhance public transport key capital projects that was gathering prior to Covid 19 it is difficult to gauge realistically when works could commence on this light rail corridor.
- 7.3.5. Notwithstanding, Project Ireland 2040 – Building Irelands Future, National Planning Framework recognises that Dublin’s continued performance is critical to Irelands competitiveness and that improving the strategic infrastructure required to sustain growth will be a key priority as part of the Metropolitan Area Strategic Plan (MASP). With this including enhanced access, expansion and improvements of various public transport modes including Luas and metro networks.
- 7.3.6. In addition, the National Planning Framework also lists one of the key future growth enablers would be the delivery of projects set out in the Transport Strategy for the Greater Dublin Area including metro links and the like.
- 7.3.7. It is an objective of the Development Plan to support the delivery of the light rail corridor under objective BLANCHARDSTOWN 8 of the Development Plan with the site being

located within the corridor of the light rail as well as the proposed stop 'Ballycoolin' stop (Note: Sheet 12 of the accompanying Development Plans).

- 7.3.8. As reasoned by the Board Inspector in appeal case ABP Ref. No. PL06F.247876, which related to an appeal of a decision to refuse a petrol station on this appeal site and land situation to the immediate south: *“the basis for the inclusion of the line in the plan, namely to future proof the delivery of public transport in the area, is entirely reasonable and is a function of the development plan process. The fact that the provision may not be realised in the current Government’s Capital Programme does not suggest that it, or another form of high-quality public transport, would not be provided along the corridor in the longer term. As noted in the observation from Sport Ireland the National Transport Authority in its Transport Strategy for the Greater Dublin Area 2016-2035 indicates that the bus service in the area is to be enhanced and a core bus corridor provided with a stop at Ballycoolin”*.
- 7.3.9. I therefore concur with the Planning Authority’s third reason for refusal and the recommendations of the Transportation section which consider it prudent that the associated corridor of this route is kept free of development to allow it to be built in the future as funding becomes available and I consider Dublin’s competitiveness will be one of the key drivers to economic recovery following on from the impacts of Covid 19 as the economy seeks to recover and stabilise.

7.4. Access and Traffic

- 7.4.1. The development sought is served by an existing access onto what I observed is an extremely heavily trafficked regional road. This road is tree lined and the entrance serving the development sought lies roughly immediately opposite the access serving Rosemount Park Road, which is the main access serving Rosemount Business Park.
- 7.4.2. In addition, this entrance is at a point where the posted speed limit is 60kmph and where there are 3 lanes with the central lane accommodating right turn access for vehicles journeying in a northerly direction along the adjoining Ballycoolin Road. It opens immediately onto a pedestrian footpath, a designated cycle route and a grass verge that aligns the western side of the Ballycoolin Road. It is located c150m to the south of the heavily trafficked Ballycoolin Road/Snugborough Road roundabout junction. There is also an L-shaped hatched yellow box marking on the two carriages

immediately adjoining the Ballycoolin Road roadside edge in the immediate vicinity of the access and there is a bus stop to the south east as well as to the north.

- 7.4.3. Previous to the commence of the current use of the site it is unlikely that this entrance would have been frequently used based on the fact that there appears to be no recent authorised use for the appeal site land.
- 7.4.4. As part of the appellants submission to the Board it indicates that they are open to a number of mitigation measures in order to improve safety over and above the existing situation.
- 7.4.5. These measures are not backed up by any amended access and egress design to serve the development sought and as pointed out by the Planning Authority's Transportation there is no assurance that the Road Authority would be agreeable to any amendments to the existing road design and layout to accommodate the development that is sought under this application.
- 7.4.6. Moreover, it would be questionable in my view that amendments to a public road that has been evidentially subject of enhancement and improvement in recent times to facilitate improved vehicular movements, for a temporary development, that has the potential to increase traffic circulation in the immediate vicinity of a busy road junction, i.e. with Rosemount Park Road, and in close proximity to heavily trafficked roundabout would be sustainable approach to traffic management at this location.
- 7.4.7. Whilst I accept that the development sought would generate a lesser volume of traffic as the previous development refused by the Board under ABP Ref. No. PL06F.247876. This application has not sought to address how right turning traffic would enter and exit the proposed development under the current layout. In the absence of any substantive improvements over the existing situation I accept that there is merit in the Planning Authority's Transportation section conclusion that the current layout of the development sought has the potential to result in head-on conflicts between vehicles turning right into the development and vehicles turning into Rosemount Park Road. With this conflict occurring in close proximity to the roundabout junction of Ballycoolin Road and Snugborough Road which could have further hazardous consequences for users of the Ballycoolin Road.
- 7.4.8. For this reason, the development sought would constitute a traffic hazard alongside would be contrary to maintaining the light rail corridor free of development in

accordance with the already discussed Development Plan provisions for this infrastructure provision.

- 7.4.9. Moreover, given the modest size of the subject site and the undeveloped nature of the land to the immediate west and north west of it, I consider that any redevelopment of the site, including land to the south and the said lands to the west as well as north west would be best developed in a co-ordinated manner that minimised the *ad hoc* provision of multiple access and egress points onto the western side of the Ballycoolin Road, which I note is a regional road.
- 7.4.10. Furthermore, Regional Roads like Ballycoolin Road, serve an important economic role as well as have a valuable social and community functions. Further, these roads also play a vital link between key locations, other strategic and local network public routes. As such it would not be desirable or in the interest of safety for road uses to have an excessive level of individual access points along it each catering in an ad hoc manner for various volumes of traffic on what is a heavily trafficked road.
- 7.4.11. Based on the above considerations I concur with the Planning Authority's second reason for refusal that the development sought, if permitted would result in traffic movements that would endanger public safety by reason of a traffic hazard and in turn would result in additional obstruction for road users. This could be contrary to the proper planning and sustainable development of the area.

7.5. Visual Amenity

- 7.5.1. The stated vision for 'HT' zoned lands includes providing a location for high end, high quality, value address businesses and corporate headquarters. The vision places an emphasis on achieving developments that are exemplars of sustainable design and aesthetic quality which would enhance the corporate image and identity that the Council are trying to achieve on such lands.
- 7.5.2. Against this vision the development for which permission is sought, including advertising which I previously recommend omitting due to lack of clarity and conformity with what is observable on site, could not cumulatively be considered as an exemplar of sustainable design or that this development as appreciated from the public domain enhances the visual amenities of its setting in anyway in creating a vibrant campus style high quality environment.

- 7.5.3. Arguably, it detracts from the visual amenities of this area, an area where extensive visual enhancements have been invested in the adjoining road network. With these works including the addition of trees, neatly maintained grass verges that incorporate separate pedestrian and cycle pathways on both sides with these being lit by a regular rhythm of light standards and with the Ballycoolin Road itself being of a qualitative vertical and horizontal alignment, finished with good road surfacing road markings, highly legible road signage and with robust kerbing edging the carriageway on either side.
- 7.5.4. The single storey metal shed type structure, the extensive hard surfacing through to the extensive *ad hoc* and of limited quality signage together cumulatively diminishes the visual amenities of its streetscape scene in a manner that fails to accord with the vision for 'HT' zoned lands.
- 7.5.5. Moreover, in terms of vitality and vibrancy of its streetscape scene the developments functional and visual incongruity with the types of land uses permitted and existing on 'HT' zoned land parcel it forms part of and arguably it also diminishes the types of land uses permitted and existing on the parcel of 'GE' zoned land opposite.
- 7.5.6. Based on the above considerations I concur with the Planning Authority in their first reason for refusal that the development sought from a design and use point is not appropriate for this location nor is it of a sufficient design quality and merit. Therefore, to permit the development sought under this application, even for a temporary duration, would diminish the visual amenities of the site's streetscape scene.

7.6. **Drainage**

- 7.6.1. The Planning Authority have raised concerns with regard to the management and disposal of wastewater from the site. They consider that the information submitted with this application is inadequate on these matters as it is in relation to the use of any sustainable drainage systems on site.
- 7.6.2. Further, Irish Water in their submission to the Planning Authority also seek further information in relation to clearly indicating existing water infrastructure in the area and how wastewater is dealt with on the site.
- 7.6.3. These matters are not clarified or addressed by the appellant in their grounds of appeal submission and it is also unclear whether or not the operation for which permission is sought has or has not been operating under a discharge license to date or what

provisions are in place, if any, in terms of capturing pollutants arising from the on-going uses from car washing through to what appears to be a level of vehicle maintenance as well as servicing.

- 7.6.4. Moreover, there is no clarity given for the arrangements for wastewater disposal arising on site from the WC as already discussed.
- 7.6.5. In relation to my inspection of the site and the details submitted with this application in my opinion there appears from the shortcomings in the current management of wastewater, surface water drainage through to pollutants.
- 7.6.6. Based on the above considerations I am not satisfied that an adequate standard of development could be achieved on the site and that the development sought under this application, if permitted, would not be prejudicial to public health. The Board may consider this a new issue in terms of their assessment of this case.

7.7. Other Matters Arising

- 7.7.1. **Large Container Structure on Site:** There is a large container located between the eastern elevation of the building sought for retention permission and the Ballycoolin roadside boundary. This container structure includes two windows on its eastern elevation and a door on its western elevation which was open at the time of inspection. It is quite clear in my view that this cabin structure is in use and is not being simply stored on site. There is no evidence for this structure having the benefit of permission and its internal use is unclear. I consider that this is an enforcement matter for the Planning Authority to deal with as they see fit.
- 7.7.2. **Suitability of Site Location/Underutilised Land:** I acknowledge that there is merit for finding a viable use for under utilised land and/or land without any functional use at a location like this where a site is highly visible from the public domain, which is the case with this appeal site, even if this use is of a temporary duration.

Notwithstanding, the uses for which retention and temporary permission is sought under this application. Together with what I observed on site are not land uses that functionally align with or would support the achievement of the vision for 'HT' zoned land or similarly the transitional character of zoning of this stretch of the Ballycoolin Road having regard to the 'GE' land use zone opposite.

Further, having regard to the design and layout of the entrance to serve the development the traffic generated by this development has the potential to conflict with road users' movements along the Ballycoolin Road and to be hazardous for those road users.

Moreover, as previously discussed the land within the site and immediately adjoining it to the south, west and north, in my opinion would benefit from a co-ordinated masterplan approach as to how it should be developed with this also considering how safe access onto the public road network can be achieved.

I therefore consider that this development would, despite its temporary nature, have the potential to provide a precedence for other *ad hoc* developments in this area, which would be detrimental to maximising the potential of these lands and would diminish the safe carrying capacity of the adjoining public road network. This is not suitable location for the development sought and this type of development should be directed to and accommodated on more suitable zoned land.

7.8. Appropriate Assessment - Screening

- 7.8.1. The appeal site is located within outer fringes of Dublin City in a landscape setting that has been subject of mainly largescale industrial, manufacturing through to corporate developments. The submitted planning application form indicates that the site currently discharges to the foul sewer network and it benefits from an existing water supply connection. However, this is not clearly indicated in the suite of drawings submitted with this application, nor has any provisions been made for dealing with other pollutants that would arise from this type of land use through to on-site sustainable and land use appropriate drainage measures. Despite this as set out under Section 5.2 of this report above the appeal site is not within or adjacent to any European Natura sites, with the nearest site located c9.7km to the south west of the site, i.e. the Special Area of Conservation: Rye Water Valley/Carton SAC (Site Code: 001398). There is also no evidence that would substantiate any direct connection to this or any other Natura Site. Having regard to the nature and scale of the development, its location within the built up urban area and lack of connection to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that temporary retention permission be **refused** for the reasons and considerations set out below. The Board may consider refusal reason and considerations No.s 4 and 5 to give rise to new issues in the context of their consideration of this appeal case.

9.0 Reasons and Considerations

1. The development sought is located in an area zoned 'HT' – High Technology in the Fingal County Development Plan, 2017 to 2023, the objective for which is to provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment. It comprises of the retention of a car park, car wash bay, a single storey commercial unit, chemical cubicle for staff, advertising signage, external lighting and cctv for a temporary period of 5-years. This low-density development would not facilitate opportunities for high technology and advanced manufacturing, major office and research and development-based employment within high quality, highly accessible, campus style settings. The development sought would, therefore, materially contravene the land use zoning objective, as set out in the Development Plan, would seriously injure the visual amenities of the area, in particular the streetscape scene of Ballycoolin Road, and it would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site on the heavily trafficked Ballycoolin Road, in close proximity to its junction with the Rosemount Business Park and its roundabout junction with the Snugborough Road, it is considered that this development for which retention is sought would give rise to conflicting vehicular movements and would endanger public safety by reason of traffic hazard and obstruction of road users.
3. The development sought under this application, if permitted, would materially contravene Objective BLANCHARDSTOWN 8 and Objective DMS122 of the Fingal Development Plan, 2017 to 2023, which seeks to protect the Light Rail Corridor and ensure its stops are kept free from development. The proposed

development would, therefore, be contrary to the proper planning and sustainable development of the area.

4. Having regard to the level of advertising signage for which retention is sought alongside the prevalence of other signage within the bounds of the site, it is considered that the proposed development would lead to the proliferation of poor quality signage in the area, which would represent an unacceptable visual intrusion and cause distraction to motorists which has the potential to be further added to by the level of high lighting sought for retention on tall columns on site. It is considered, therefore, that the signage sought would endanger public safety by reason of traffic hazard on the adjoining stretch of the heavily trafficked Ballycoolin Road in proximity to its heavily trafficked junction with Rosemount Park Road and the heavily trafficked Ballycoolin Road/Snugborough Road roundabout. It would also be visually intrusive and seriously injure the amenities of the area, would set an undesirable precedent for future development that would be contrary to the vision for 'HT' zoned land and the type of high quality public realm as well as environmental setting that the Planning Authority seeks to achieve on such lands. It would, therefore be, contrary to the proper planning and sustainable development of the area.
5. The Board is not satisfied based on the information provided that the applicant has demonstrate that they can provide adequate and sustainable drainage solutions to the required standards that would serve the development sought for its surface water, waste water through to capturing pollutant needs. In the absence of these details the Board is not satisfied that the development for which retention is sought would not be prejudicial to public health or give rise to environmental pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector - 19th day of August, 2020.