



An
Bord
Pleanála

Inspector's Report ABP-308105-20

Development	Additional permanent car parking to existing office campus consisting of 48 no. car spaces
Location	Swords Business Campus, Balheary Road, Swords, Co. Dublin, K67 D2X4.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0435
Applicants	Swords Business Campus Ltd
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellants	Swords Business Campus Ltd
Date of Site Inspection	4 th November 2020
Inspector	Dolores McCague

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.8. Prescribed Bodies	8
3.10. Further Information	8
3.11. Further Reports	9
4.0 Planning History	11
5.0 Policy Context	13
5.1. Development Plan	13
5.2. Natural Heritage Designations	14
5.3. EIA Screening	14
6.0 The Appeal	15
6.1. Grounds of Appeal	15
6.2. Planning Authority Response	20
6.3. Board Correspondence	20
7.0 Assessment	21
7.2. Appropriate Assessment	21
7.4. Car Parking Policy	27
7.5. Drainage	28
7.6. Parking Layout	29
7.7. Irish Water Assets	29
8.0 Recommendation	30
9.0 Reasons and Considerations	30
10.0 Conditions	30

1.0 Site Location and Description

- 1.1.1. The site is located at Swords Business Campus, Balheary Road, Swords, Co. Dublin, which is to the north of Swords Town Centre, to the east of the Balheary Road and to the west of the R132 Regional Road and the M1; where it is easily accessible by road from junction 4 on the M1, via the R132 and Balheary Road.
- 1.2. Swords Business Campus is a gated development comprising the former Motorola manufacturing plant on a site of c. 7.75 ha. There are two main buildings split by a pedestrian walkway. The buildings have a stated floor area of c. 26,900 sq m and have been internally subdivided to create separate units for a number of different businesses. There are existing car parking areas to all four sides of the Business Campus buildings, stated to total of 804 surface car parking spaces,
 - 1.2.1. An internal access road encircles the buildings and services the car parking. Areas of landscaping, with mature trees and playing pitches, occupy the remainder of the site.
 - 1.2.2. The appeal site is located to the north of the main Business Campus building, and currently comprises a flat area of grass, laid out as amenity grassland. There is a line of trees along the southern boundary of the appeal site, dense mature trees to the north and car parking to east, south and west. The Broadmeadow River is located close to the north of the appeal site, and the Ward River is to the south east. The two rivers merge at a point c. 280m to the east.
 - 1.2.3. The route of the proposed Metro North line is along the western side of the R132, c. 180m east of the appeal site.
 - 1.2.4. This site is given as 0.2 ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the provision of additional car park spaces, to existing office campus, consisting of 48 car spaces and associated circulation.
- 2.1.2. The proposed parking spaces would be constructed as a continuation of the existing car park in terms of alignment and configuration and would be hard surfaced. It is

also proposed to provide a surface water attenuation system to accommodate the run-off from the additional paved area.

- 2.1.3. The application was accompanied by an Engineering Services Report, and a Parking Justification Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to refuse planning permission for the reason:

1. On the basis of the information submitted in the response to the additional information request including measures intended to avoid or reduce deterioration in the overall water quality of the Broadmeadow River and in the absence of a Natura Impact Statement the Planning Authority cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European Sites Malahide Estuary SPA and Malahide Estuary SAC Numbered 000205 and 004025, or any other European site, in view of the sites' Conservation Objectives. In such circumstances the Planning Authority is precluded from granting permission. Therefore, the proposed development would materially contravene objective NH15 of the Fingal Development Plan, 2017-2023, which seeks to 'strictly protect areas designated or proposed to be designated as Natura 2000 sites and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- 3.3. There are two Planning Reports on the file, the first recommending a further information request includes:

- Zoned 'ME' in the Fingal Development Plan, 2017-2023 for which the objective is to facilitate opportunities for high-density mixed-use employment generating activity and commercial development within the Metro Economic Corridor.

- The site is also located within Masterplan area MP8.B, referred to as Estuary Central, to be prepared during the lifetime of the Development Plan.
- The proposed new Metro Link route is located to the east of the subject site to the west of the R132.
- DM113: Limit the number of car parking spaces at places of work and education so as to minimise car-borne commuting. The number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8. Car Parking for offices is in the range of 1:30 to 1:40 and there should be a 50% reduction in ME and TC zoned lands near public transport.
- DM118: Ensure that all new employment and education developments include adequate, secure and dry bicycle parking, in accordance with the standards set out in Table 12.9.
- ED99: Protect the integrity of the Metro Economic corridor from inappropriate forms of development and optimise development potential in a sustainable and phased manner.
- Planning history cited. Re. pre planning consultation – the application notes that a brief phone conversation took place in relation to the proposed development, a number of issues have come to light subsequently.
- Sectional reports and submissions from prescribed bodies cited.
- Re. compliance with zoning – parking is not listed, therefore acceptable subject to compliance with policies and objectives.
- Re. compliance with original planning permission – prior to 2008 a basketball court existed c20m west of the subject site. The former basketball court now accommodates 34 car parking spaces, which do not appear to have planning permission. Under F17A/0038 the applicant states the floor space of Swords Business Campus to be 26,000 sq m. In the subject application it is stated to be 26,958 sqm. It is unclear when, or if, the additional floor space was permitted. A count of the car parking spaces indicated on 'existing site plan' Drawing No A11-001, submitted 17/9/2019, is 810 spaces. Plans should note parking spaces and the units they have been allocated to.

- Re. compliance with Chapter 7 of the development plan – table 12.8 1:30 to 1:40 and DM113, to reduce parking in close proximity to public transport. The applicant uses the floor area 26,958 sqm to calculate the number of spaces that should be on site and apply a 50% reduction to the shortfall ($899-804=95/2=48$). The report sets out, as a table, the various planning references, associated floor spaces and car parking requirement at 1 space per 30 sq m, and also based on a 50% reduction, and based on table 12.8. Excess in car parking is said to range from 336 to 370 (in 2017) to 355 depending on what floor area is actually permitted; and the additional issue relating to the 34 spaces on the former basketball court is not resolved.
- The Transport Planning Section has pointed out the need for a Mobility Management Plan (MMP) for the whole campus. They can only support a temporary permission in light of Metro Link and would require provision of 48 bicycle spaces.
- The applicants should be asked to identify the permissions permitting the floor area increases, the removal of the basketball court and the 34 additional spaces; prior to consideration of temporary parking.
- Re. impact on the visual and general amenity of the area – the proposal seeks the expansion of four lines of parking. Swept path /auto tracking has been carried out and demonstrates access. The parking gives rise to negative impacts through loss of green space and removal of amenity space, trees and green infrastructure in an area prone to flooding. Amendments suggested to ameliorate impacts.
- Re. reports – significant issues raised by Parks Division, IW and Water Services are listed.
- Re. Impact on Natura 2000 sites and screening for AA – none submitted. The possibility of pollution and impacts on water cannot be excluded AA screening or NIS required.
- Re. EIA screening – the requirements of sub-threshold development are not met. EIA not required.
- Conclusion – recommending further information - insufficient justification, consideration can be given to temporary provision, lack of information re. surface water and flood risk, possibility of pollution. Recommendation that FI be requested, which issued.

3.4. Other Technical Reports

3.5. Transportation Planning Section:

- 804 spaces existing.
- Development Plan standards remain unchanged from previous – 1 space per 30m² gross floor area. Reduction in current plan for development in metro economic corridor to 1 per 60m². Under original development 899 spaces, existing is 95 spaces below this level. 22% of office space is stated to be unoccupied. It is proposed to provide 50% of the 95 spaces – 1 per 60m² in line with current standards. The approach is not in keeping with either the previous development standards or the current. Transportation Planning Section is satisfied that parking could be provided as temporary parking until Metro Link is delivered.
- A Mobility Management Plan (MMP) for the whole campus should be provided. Recommending conditions.

3.6. Parks Division

Landscape plan required.

Trees required to be removed clearly shown

Tree planting to soften the appearance of the proposed car park – numbers, location, size and species.

3.7. Water Services Planning

- At risk of flooding, fluvial flood zone. FEMFRAM Ward Model Flood Extent Map. Although identified as a hazard, the flood risk assessment does not adequately explore or consider - justification test, climate change, compensatory storage – per Guidelines.

- Surface Water WQ05 of CDP, a riparian corridor of 30m to be maintained along Broadmeadow River.

- Maximum allowable discharge rate 2l/s/ha or Qbar, whichever is greatest. This equates to 0.6l/s. The proposed discharge is 2l/s, excessive. If 0.6l/s cannot be achieved through Hydrobrake or similar flow control device, the developer shall, per item 6.8.2.3 of the GDSDS, either consider an integrated catchment approach or

alternative SuDS devices with inherent slow release characteristics, such as swales, permeable pavements, etc.

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

3.8. Prescribed Bodies

3.9. Irish Water

IW records indicate both a 150mm and 300mm diameter watermain traversing the site. The applicant is required to accurately determine the position of these services relative to the proposed development and to submit design proposals demonstrating how these services are to be accommodated within the proposed layout.

Connection conditions.

3.10. Further Information

3.10.1. Further information on 7 points was sought, 11-Nov-2019:

- 1 re. planning history and car parking spaces which do not appear to have planning permission; and floor space discrepancies.
- 2 regarding differences in calculations of existing car parking spaces – an annotated map.
- 3 revisions requested to car parking layout; additional bicycle parking; and a landscaping plan.
- 4 re. 150mm and 300mm diameter watermain traversing the site.
- 5 re. part of site at risk of flooding – justification test, climate change impact and compensatory storage – revised Flood Risk Assessment.
- 6 maximum allowable discharge shall be 2l/s/ha or Qbar whichever is the greatest. For the proposed development this equates to 0.4l/s. The proposed discharge of 2l/s and is excessive

- 7 AA Screening Report or NIS.

3.10.2. A response to the request for further information was received 7th July 2020, which includes:

Reference to the planning history.

That the floor area survey stating 26,958m² is correct.

That the basketball court was likely also a car park.

Listing planning histories.

Supplying evidence that shortfall in parking is impacting on the letting.

A mobility management plan was submitted as part of planning compliance with F00A/0172.

Precedent for flexibility in parking provision is cited.

Amended layout.

Landscape plan.

IW mains – the 300mm watermain is recorded as being further south than the works area and the 150mm watermain is immediately adjacent to the north. It has not been possible to verify on the ground.

Revised flood risk assessment attached.

Attenuation calculations revisited – storage resized to 79m³, discharge rate reduced to 0.3l/sec.

AA screening attached.

3.11. **Further Reports**

3.12. Transportation Planning Section:

Between the parent planning permission and today national policy has undergone significant change. Metro Link will help alleviate demand for private vehicle use.

A Mobility Management Plan is a live document. A document that was submitted 20 years ago may not be relevant.

When Metro Link is operational parking can then be reallocated.

Bicycle parking should be located closer to the building in an area that is passively supervised and sheltered.

Conditions:

- Parking permitted until six months after the first operation of Metro Link, after which it shall be removed.
- An updated Mobility Management Plan (MMP) for the campus shall be provided.
- Additional bicycle parking for 48 bicycles shall be provided in a suitable sheltered parking area to be agreed in writing with the planning authority prior to the construction of the proposed development.

3.13. Irish Water

Conditions:

Where the applicant proposes to build over/divert IW asset(s), the applicant must have in place, a diversion agreement with IW prior to any works commencing.

Separation distances between the existing Irish Water assets and proposed structures, other services, trees, etc, have to be in accordance with the Irish Water Codes of Practice and Standard Details.

All development shall be carried out in compliance with Irish Water Standards codes and practices.

Condition re connection.

3.14. Second Planning Report

- Referring to the further information supplied, which in some cases was incomplete.
- An appropriate assessment screening report has been prepared and submitted, however, the proposed development will rely on an underground attenuation tank and oil-interceptor to address drainage issues in a way that will mitigate against the deterioration in overall water quality of the Broadmeadow River. It is the planning officer's understanding that this mitigation measure necessitates the preparation of a full NIS. It should be noted that the Ryanair application F18A/0467, referred to in the planner's report, included a comprehensive NIS.

- The proposed development is c 24m from the Broadmeadow River, a short distance above its confluence with the Ward River. The surface drainage from the proposed car parking is to be via gullies, a holding tank and an oil separator into the existing surface drainage system serving the campus. This apparently discharges into the Ward River within about 500m of where the latter river enters the Malahide Estuary SAC and Malahide Estuary SPA, which are designated for habitats and water bird species, vulnerable to water borne particulate matter and hydrocarbons.
- In the absence of a NIS refusal is recommended.
- The response to the additional information request has sufficiently addressed the issue of flood risk and partially addressed other issues.

4.0 Planning History

PI06F.306575 PA Reg Ref F19A/0526 The Board refused planning permission for the construction of 113 temporary surface car parking spaces on and associated circulation the northern side of the business campus, for the reason:

1 The proposed development is located in an area zoned 'ME' in the Fingal Development Plan, 2017-2023 for which the objective is "to facilitate opportunities for high-density mixed-use employment generating activity and commercial development within the Metro Economic Corridor." Having regard to the level of existing car parking provision at Swords Business Campus, the proximity of the site to the proposed Metro Link route and Bus Rapid Transit routes, and the requirement under Table 12.8 of the development plan to apply a 50% reduction in maximum car parking allowances for development near public transport or on Metro Economic Corridor zoned lands, it is considered that the proposed development of temporary car parking spaces for the established use on site would contravene materially Objective DM113 of the development plan which seeks "to limit the number of car parking spaces at places of work and education so as to minimise car borne commuting.

The number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8". The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

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

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

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

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

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

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

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

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

5.0 Policy Context

5.1. Development Plan

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

- 5.1.1. The appeal site is zoned 'ME', Metro Economic Corridor. This Zoning Objective seeks to facilitate opportunities for high density mixed use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro Economic Corridor.

- 5.1.2. The site is also located within Masterplan area MP8.B, referred to as Estuary Central. Objectives SWORDS 27, ED90 and ED98 seek to prepare and/implement this Masterplan (among others) during the lifetime of the Development Plan.
- 5.1.3. The proposed Metro North route is located to the east of the appeal site, along the western edge of the R132.
- 5.1.4. Relevant Objectives include:
- ED99: Protect the integrity of the Metro Economic corridor from inappropriate forms of development and optimise development potential in a sustainable and phased manner.
 - ED100: Ensure high quality urban design proposals within the Metro Economic zoning, incorporating exemplary public spaces, contemporary architecture and sustainable places within a green landscape setting.
 - DM113: Limit the number of car parking spaces at places of work and education so as to minimise car-borne commuting. The number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8.
- 5.1.5. The car parking standards set out in Table 12.8 for 'offices – general' and 'offices – call centre' are 1 space per 30 sq m GFA, and for 'offices – Science and Technology' are 1 space per 40 sq m GFA. In all cases the Table states that these are maximum figures, and should be reduced by 50% in the Metro Economic Corridor or near public transport.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura sites are Malahide Estuary SAC (site code 000205) c 0.52km distance and Malahide Estuary SPA (site code 004025) c 0.944km distance from the subject site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed

development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

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

- From the tone and tenor of the various reports on the file, the Council was generally disposed to grant planning permission. A more appropriate course of action would have been to seek clarification of additional information requesting AA. A full AA is submitted with the grounds of appeal.
- The conclusion of the AA is that the design of the drainage system ensures with the implementation of mitigation measures, there are not likely to be significant effects on Malahide Estuary SPA of SAC or any other European site alone or in combination with other plans or projects.
- The Transportation Planning Section accepts that the parking could be permitted until Metro Link is delivered. They would accept such a condition.
- Evidence of parking shortfall impeding the letting of vacant unit 1 and unit 5C.
- An accompanying letter from JLL is referred to: Aer Rianta, Ergo, Ebay, Veritas and Coca Cola are named as having been potential tenants.

There is a precedent for temporary car parking – Ryanair headquarters – F14A/0041 and F18A/0467 – 178 temporary spaces granted until 2027, (1:20 sq m office). A similar approach is sought.

Attached to the grounds are:

- A NIS prepared by Roger Goodwillie & Associates.
- A letter from JLL (Jones Lang LaSalle Ltd) stating that the issue of car parking has been raised by existing tenants and prospective tenants. They state that only 40 spaces are available with the remaining office accommodation in units

5/6 C and unit 1 which amounts to 51,633 sq ft. Unit 1, approx 42,500 sq ft, will be unlettable. Similar office offerings in various locations are referred to.

6.1.2. The NIS was prepared by Roger Goodwillie & Associates includes:

There are 13 Natura 2000 sites within 15km of the appeal site. These sites and their distance from the appeal site are as follows:

- Malahide Estuary SAC (000205): 0.52km.
- Malahide Estuary SPA (004025): 0.944km.
- Rogerstown Estuary SAC (000208): 3.8km.
- Rogerstown Estuary SPA (004015): 3.9km.
- Baldoyle Bay SAC (000199): 7.5km.
- Baldoyle Bay SPC (004016): 7.5km.
- Rockabill to Dalkey Island SAC (003000): 9.6km.
- Lambay Island SPA (004069): 11.9km.
- Lambay Island SAC (000204): 9.6km.
- Ireland's Eye SPA (004117): 11.8km.
- Ireland's Eye SAC (002193): 11.9km.
- Howth Head Coast SPA (004113): 13.9km.
- Howth Head SAC (000202): 14km.

Only in Malahide Estuary SAC and Malahide Estuary SPA is there potential for impact. Any effluent would be completely diluted by the sea before it could reach the other sites.

The previous report concluded at screening with a finding of no significant effects, and therefore no possibility of cumulative effects.

The planning authority's decision was that there is the possibility of effects in the absence of mitigation.

6.1.3. AA

Malahide Estuary SPA is a fine example of an estuarine system, providing both feeding and roosting areas for a range of wintering waterfowl. It is divided by the

Belfast Railway viaduct to the inner section does not drain completely at low tide. Its lagoonal nature is of particular value as it increases the diversity of birds which occur. The site is of high conservation importance, with internationally important populations of Light-bellied Brent Goose and Black-tailed Godwit, and nationally important populations of a further 12 species. Two of the species which occur regularly (Golden Plover and Black-tailed Godwit) are listed on Annex 1 of the EU Birds Directive.

Malahide Estuary is a Ramsar Convention site.

Malahide Estuary SAC covers a wider area than the SPA as it includes the beach of the Island, a sandy peninsula that extends from the northern side of the estuary. Taken with the rest of the area the site includes six habitats of special interest, listed in Annex 1 of the EU Habitats Directive.

6.1.4. Qualifying interests for Malahide Estuary SAC:

Mudflats and sandflats not covered by seawater at low tide

Salicornia and other annuals colonising mud and sand

Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)

Mediterranean salt meadows (*Juncetalia maritimi*)

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

Fixed coastal dunes with herbaceous vegetation (grey dunes)

6.1.5. Qualifying interests for Malahide Estuary SPA:

Great Crested Grebe

Light-bellied Brent Goose Shelduck

Pintail

Goldeneye

Red-breasted Merganser

Oystercatcher

Golden Plover

Grey Plover

Knot

Dunlin

Black-tailed Godwit

Bar-tailed Godwit

Redshank

Wetland and Waterbirds

6.1.6. Conservation Objectives

SPA

To maintain the favourable conservation condition of the species in Malahide Estuary SPA, which is defined by the following list of attributes and targets:

Attribute	Measure	Target	Notes
Population trend	% change	Long term population trend stable or increasing	Population trend are presented in part four of the conservation objectives supporting document
Distribution	Range, timing and intensity of use of areas	No significant decrease in the range, timing and intensity of use of areas by species other than occurring from natural patterns or variation	Waterbird distribution form 2010/2011 and 2011/2012 waterbird survey programmes is discussed in part five of the conservation objectives supporting document

To maintain the favourable conservation condition of the habitats in Malahide Estuary SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

This is defined by the following attribute and target:

Attribute	Measure	Target	Notes
Habitat area	Hectares	The permanent area occupied by the wetland habitat should be stable and not significantly less	The wetland habitat area was estimated as 765ha using OSi

		than the area of 765 hectares, other than that occurring from natural patterns of variation	data and relevant orthophotographs.
--	--	---	-------------------------------------

Potential effects on attaining objectives:

Impact on species:

There is no evidence from IWeBS counts that the bird populations in Malahide Estuary are currently changing from anything but natural population fluctuations.

Once in operation the potential impacts of run-off from the carpark are changes in salinity and an input of oil.

No species is particularly sensitive to changes in salinity and the invertebrates and plants that provide food to birds are resilient to different salinity fluctuations over the course of every tide and every rainfall event.

As regards possible oil input, all higher organisms suffer negative effects from an oil film which, as well as a toxic effect, alters oxygen penetration and birds' natural waterproofing.

Impact on habitats:

A construction impact is possible if sediment from the small amount of soil removal necessary was to escape into the existing stormwater system.

All estuaries experience changes in salinity throughout the tidal cycle and weather conditions. Therefore it is only the negative impact of oil residues that needs be considered in this case. Traces of oil could be carried to habitats at or below high tide level, i.e. mudflats and sandflats, *Salicornia* communities, Atlantic salt meadows and Mediterranean salt meadows. The potential effects are largely those on the invertebrates and vertebrates using the habitats and the resultant impacts on ecosystem function.

Mitigation measures:

The project has been designed to have no impact on the surrounding environment. During construction the existing storm drains will be protected from sediment inputs from the existing paving. There is adequate and suitable ground on the NE side to

accept infiltration from run-off, if any in that direction. A drainage system has been designed to collect all surface drainage from the car park in an attenuation tank after passage through an oil separator. It will be released at greenfield rates by a hydrobrake system or equivalent. It flows into the existing storm drainage system which discharges into the Broadmeadow River and estuary.

This means that there will be no release of oil residues and that rainfall falling on the surface will reach the estuary at almost the same rate as it does today. The only addition will be the small proportion of the water that was previously discharged to the air through the lawn grasses.

Conclusion – beyond reasonable scientific doubt that with the implementation of mitigation measures, there are not likely to be significant effects from the proposed development on the Malahide Estuary SPA of the Malahide Estuary SAC or any other European site, either alone or in combination with other plans or projects.

6.2. Board Correspondence

6.2.1. The Board informed IFI, The Heritage Council, The Development Applications Unit Department of Culture, Heritage and the Gaeltacht and An Taisce.

6.2.2. IFI responded, which response includes:

- IFI agree with Fingal County Council policy regarding surface water management and the use of Green Infrastructure wherever possible to collect, convey and treat surface water run-off. A maintenance policy to include regular inspection and maintenance of the SIDS infrastructure throughout the operational stage of the development should be a condition of any permission.

6.2.3. The Development Applications Unit Department of Culture, Heritage and the Gaeltacht responded, which response includes re nature conservation:

- The Department notes that surface water run-off from the proposed car park extension is to be discharged into the adjacent Ward River. As the Ward River runs downstream into the Malahide Estuary SPA 520m away and the Malahide Estuary SAC at a distance of 944m, there is a definite hydrological pathway by which pollutants originating from the development site could reach these European sites. However, run-off from the car park is to be directed through an oil separator which

should prevent polluted discharges, and the rate of discharge is to be controlled by an attenuation tank. The NIS consequently concludes that with the implementation of these mitigation measures there are unlikely to be significant effects. This Department considers that the conclusion can be accepted with the proviso that no detrimental impacts on Malahide Estuary SPA or SAC will result from this development only if the oil separator and the attenuation tank are properly maintained and regularly cleaned during the operational phase of the proposed extension.

6.3. Planning Authority Response

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

- They note the submission of the NIS and that the Board is now the competent authority.
- The planning authority had other concerns that were inadequately or only partially addressed in the response to the further information request: loss of amenity space; recent increase in floor space; provision of a car parking spaces management map; revision of the proposed car parking spaces; the quality and location additional bicycle parking; position of IW mains traversing; and surface water drainage requirements, which were not addressed in the FI response.
- They re-iterate the need that these items be addressed and set out the request again.

7.0 Assessment

7.1. The issues which arise in relation to this appeal are: appropriate assessment, car parking policy, drainage, parking layout and Irish Water assets and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. In response to the Further Information request which included a request for an AA Screening Report or NIS, an AA Screening Report was provided; which reached a conclusion of no significant effect.

7.2.2. The refusal reason was based on the need for a Natura Impact Statement which had not been provided.

7.2.3. The grounds of appeal includes a NIS.

7.2.4. The NIS was prepared by Roger Goodwillie & Associates and includes:

Only in Malahide Estuary SAC and Malahide Estuary SPA is there potential for impact. Any effluent would be completely diluted by the sea before it could reach the other sites.

European Site	Relevant QI & SCI	Is there a likelihood of significant effects	Reason
Malahide Estuary SAC [000205] c.120 m	Mudflats and sandflats not covered by seawater at low tide [1140] <i>Salicornia</i> and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	There are reasonable grounds for concern that runoff from construction may be capable of causing a significant effect and the risk cannot be excluded on the basis of the information available, AA must be carried out.	Soil and silt in runoff from construction. Proposal for containment not given
Malahide Estuary SPA [004025] c.120 m	Great Crested Grebe Light-bellied Brent Goose Shelduck Pintail	There are reasonable grounds for concern, that runoff from construction may be capable of causing a significant effect on	Soil and silt in runoff from construction.

	Goldeneye Red-breasted Merganser Oystercatcher Golden Plover Grey Plover Knot Dunlin Black-tailed Godwit Bar-tailed Godwit Redshank Wetland and Waterbirds	the wetland and the risk cannot be excluded on the basis of the information available, AA must be carried out.	
--	--	--	--

Potential effects on attaining objectives:

Impact on species:

There is no evidence from IWeBS counts that the bird populations in Malahide Estuary are currently changing from anything but natural population fluctuations.

Once in operation the potential impacts of run-off from the carpark are changes in salinity and an input of oil.

No species is particularly sensitive to changes in salinity and the invertebrates and plants that provide food to birds are resilient to different salinity fluctuations over the course of every tide and every rainfall event.

As regards possible oil input, all higher organisms suffer negative effects from an oil film which, as well as a toxic effect, alters oxygen penetration and birds' natural waterproofing.

Impact on habitats:

A construction impact is possible if sediment from the small amount of soil removal necessary was to escape into the existing stormwater system.

All estuaries experience changes in salinity throughout the tidal cycle and weather conditions. Therefore it is only the negative impact of oil residues that needs be considered in this case. Traces of oil could be carried to habitats at or below high tide level, i.e. mudflats and sandflats, Salicornia communities, Atlantic salt meadows and Mediterranean salt meadows. The potential effects are largely those on the

invertebrates and vertebrates using the habitats and the resultant impacts on ecosystem function.

Mitigation measures:

The project has been designed to have no impact on the surrounding environment. During construction the existing storm drains will be protected from sediment inputs from the existing paving. There is adequate and suitable ground on the NE side to accept infiltration from run-off, if any in that direction. A drainage system has been designed to collect all surface drainage from the car park in an attenuation tank after passage through an oil separator. It will be released at greenfield rates by a hydrobrake system or equivalent. It flows into the existing storm drainage system which discharges into the Broadmeadow River and estuary.

This means that there will be no release of oil residues and that rainfall falling on the surface will reach the estuary at almost the same rate as it does today. The only addition will be the small proportion of the water that was previously discharged to the air through the lawn grasses.

Conclusion – beyond reasonable scientific doubt that with the implementation of mitigation measures, there are not likely to be significant effects from the proposed development on the Malahide Estuary SPA of the Malahide Estuary SAC or any other European site, either alone or in combination with other plans or projects.

- 7.2.12. The Development Applications Unit Department of Culture, Heritage and the Gaeltacht have submitted an observation on the appeal, noting that surface water run-off from the proposed car park extension is to be discharged into the adjacent Ward River. As the Ward River runs downstream into the Malahide Estuary SPA 520m away and the Malahide Estuary SAC at a distance of 944m. They state that run-off from the car park is to be directed through an oil separator which should prevent polluted discharges, and the rate of discharge is to be controlled by an attenuation tank. The NIS consequently concludes that with the implementation of these mitigation measures there are unlikely to be significant effects. The Department considers that the conclusion can be accepted with the proviso that no detrimental impacts on Malahide Estuary SPA or SAC will result from this development only if the oil separator and the attenuation tank are properly

maintained and regularly cleaned during the operational phase of the proposed extension.

7.3. Screening for Appropriate Assessment (Stage 1)

- 7.3.1. I accept that only in Malahide Estuary SAC and Malahide Estuary SPA is there potential for significant effects.

European Site	Qualifying Interest features and Conservation Objectives: Maintain Favourable Conservation Status: M Restore Favourable conservation status: R	Connections to site and issues that require examination in stage 1 Screening for AA
Malahide Estuary SAC [000205] c.400 m	<p>Mudflats and sandflats not covered by seawater at low tide [1140] M</p> <p><i>Salicornia</i> and other annuals colonising mud and sand [1310] M</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] R</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] M</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] R</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] R</p>	<p>The proposed development site is within a built-up urban area.</p> <p>Boundary of SAC is c 500m distance.</p> <p>The possibility of indirect effects through surface water during construction and operation cannot be ruled out.</p> <p>No possibility of impacts on Dune habitats or Salt meadow habitats</p>
Malahide Estuary SPA [004025] c.700 m	<p>Great Crested Grebe M</p> <p>Light-bellied Brent Goose M</p> <p>Shelduck M</p> <p>Pintail M</p> <p>Goldeneye M</p> <p>Red-breasted Merganser M</p> <p>Oystercatcher M</p> <p>Golden Plover M</p> <p>Grey Plover M</p> <p>Knot M</p> <p>Dunlin M</p> <p>Black-tailed Godwit M</p> <p>Bar-tailed Godwit M</p>	<p>The proposed development site is within a built-up urban area.</p> <p>Boundary of SPA is c 900m distance.</p> <p>No possibility of direct effects on bird species and no ex-situ effects.</p> <p>The possibility of indirect effects through surface water during construction and operation cannot be ruled out.</p>

	Redshank M Wetland and Waterbirds M	
--	--	--

7.3.2. Mitigation

The proposal includes mitigation to prevent the identified potential impacts on surface waters and their likely significant effects.

Construction

The existing storm drains will be protected from sediment inputs from the existing paving. Infiltration from run-off on the NE side will be to the grassed area.

Operational Phase

A drainage system has been designed to collect all surface drainage from the car park into an attenuation tank after passage through an oil separator. It will be released at greenfield rates by a hydrobrake system or equivalent. It will flow into the existing storm drainage system which discharges into the Broadmeadow River and estuary.

This is acceptable subject to maintenance of the oil separator and attenuation tank.

- 7.3.3. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 7.3.4. Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that it would be likely to have a significant effect on European Site Nos. 000205, and 004025. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of its/their conservation objectives.
- 7.3.5. Following an Appropriate Assessment, it has been determined that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European Site Nos. 000205, and 004025, or any other European site, in view of the sites Conservation Objectives.
- 7.3.6. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

7.4. Car Parking Policy.

- 7.4.1. The grounds of appeal states that the Transportation Planning Section accepts that the parking could be permitted until Metro Link is delivered. They would accept such a condition.
- 7.4.2. Parking policy as set out in the Fingal Development Plan, 2017-2023 seeks to limit the number of car parking spaces at places of work and education in order to minimise car borne commuting. The Board has supported this policy in two previous applications for parking on this campus, on foot of planning authority decisions to refuse.
- 7.4.3. The Board previously agreed with the planning authority's assessment that the provision of additional car parking at this location would materially contravene Objective DM113 of the Fingal Development Plan, 2017-2023 which seeks to limit the number of car parking spaces at places of work and education so as to minimise car borne commuting; and that the number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8.
- 7.4.4. In the present case, the planning authority's refusal was not based on parking policy. The Transportation Department's report recommended a permission of temporary duration and subject to other conditions.
- 7.4.5. The current application is for a smaller parking area, of 48 spaces, rather than the 162 spaces and 113 spaces respectively of the previous applications/appeals.
- 7.4.6. In their response to the appeal the planning authority refer to the fact that other concerns raised in the further information request were inadequately or only partially addressed in the further information response: loss of amenity space; recent increase in floor space; provision of a car parking spaces management map; revision of the proposed car parking spaces; the quality and location additional bicycle parking; position of IW mains traversing; and surface water drainage requirements, which were not addressed in the FI response.
- 7.4.7. Many of these are amenable to condition.
- 7.4.8. The proposal can now be regarded as for a temporary permission, the applicant has stated acceptance of that situation, and would be removed when the Metro Link is delivered. I accept that the proposal runs contrary to policy to limit parking and the

Board's previous refusals are noted, however, on balance, in my opinion a temporary permission, for the limited period until Metro Link is in place, would not be contrary to the proper planning and sustainable development of the area.

7.5. Drainage

7.5.1. The Water Services Planning section initial report, raised certain issues of concern and recommended a request for further information:

- Maximum allowable discharge rate 2l/s/ha or Qbar, whichever is greatest. This equates to 0.6l/s. The proposed discharge is 2l/s, excessive. If 0.6l/s cannot be achieved through Hydrobrake or similar flow control device, the developer shall, per item 6.8.2.3 of the GDSDS, either consider an integrated catchment approach or alternative SuDS devices with inherent slow release characteristics, such as swales, permeable pavements, etc.
- FCC policy is to use green infrastructure whenever possible. Above ground drainage using green infrastructure maximises environmental benefits. Attenuation tanks do not provide the same benefits and should only be used as a last resort. Consider revised design, consider CIRIA SuDS Manual C753.

7.5.2. The further information response did not alter the proposed system to an integrated catchment approach or use of swales, permeable pavements, etc, but resized the proposed attenuation storage (to 79m³) and reduced the proposed discharge rate to 0.3l/sec.

7.5.3. In response to the Board's referral, IFI state agreement with Fingal County Council policy regarding surface water management and the use of Green Infrastructure wherever possible to collect, convey and treat surface water run-off. They also advise that a maintenance policy to include regular inspection and maintenance of the SuDS infrastructure throughout the operational stage of the development should be a condition of any permission

7.5.4. Notwithstanding the preference for use of green infrastructure which maximises environmental benefits, in the context of a temporary permission for the proposed development, I consider that the proposed surface water attenuation, as a short term measure, is acceptable.

7.6. Parking Layout.

- 7.6.1. The planning authority sought revision of the layout of the proposed car parking so that it would involve more uniformly shaped areas. This invited revision was not supplied as part of the further information response.
- 7.6.2. A more orderly appearance in the car parking layout would be to be preferred, but in the context of provision of a parking area for short term use only, I would not consider the layout a significant issue. Revisions to the layout may be required to avoid watermains and this is dealt with under separate heading below.
- 7.6.3. The further information request included an invitation to provide cycle parking. A revised layout showing such provision has been supplied. The location proposed is at the most remote location on the lands. I concur with the planning authority that bicycle parking should be provided, and that the proposed location is unsuitable. The 48 additional bicycles should be provided in a suitable easily accessible, secure, sheltered area. In this regard I would note that the site as outlined does not offer such a suitable area but that such areas are available within the associated lands. The red line boundary has been revised once already to accommodate alterations to the layout, in response to the further information request. I do not consider that revisions to the site boundary are required to allow for the provision of bicycle parking in a suitable area, and I consider that a condition requiring prior to commencement agreement of the location and nature of bicycle parking provision would adequately address this matter.

7.7. Irish Water Assets

- 7.7.1. The fact of watermains in Irish Water ownership crossing these lands, close to or through the site, was referred to in the further information request and the response; which stated that the 300mm watermain is recorded as being further south than the works area and the 150mm watermain is immediately adjacent to the north. It also states that it has not been possible to verify the locations on the ground.
- 7.7.2. Although it is not clear why it was not possible in the period between November 2019 and July 2020 to verify the watermain locations on the ground, Irish Water's recommended condition appears to address the issue. I would consider a layout

revision to be a suitable additional alternative. A condition, allowing for layout revision in lieu of diverting the watermains, should be attached to any permission.

8.0 Recommendation

- 8.1.1. Having regard to the foregoing assessment it is considered that the proposed development should be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

The proposed development is located in an area zoned 'ME' in the Fingal Development Plan, 2017-2023 for which the objective is "to facilitate opportunities for high-density mixed-use employment generating activity and commercial development within the Metro Economic Corridor." Notwithstanding the level of existing car parking provision at Swords Business Campus, the proximity of the site to the proposed Metro Link route and Bus Rapid Transit routes, and the requirement under Table 12.8 of the development plan to apply a 50% reduction in maximum car parking allowances for development near public transport or on Metro Economic Corridor zoned lands, it is considered that this limited scale car parking spaces, for use for a temporary period, pending the provision and operation of Metro Link, would not contravene materially Objective DM113 of the development plan which seeks "to limit the number of car parking spaces at places of work and education so as to minimise car borne commuting; and that subject to the following conditions the proposed development would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 7 th day of July 2020, except as may otherwise be required in order to comply with the following
----	--

	<p>conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This permission is for a temporary period of 8 years or until six months after the first operation of Metro Link, whichever comes sooner, after which period the car parking shall be removed and the site reinstated to amenity space.</p> <p>Reason: To facilitate car parking for a limited period only, awaiting improvement in public transport availability, so that car borne commuting is minimised in favour of more sustainable travel modes.</p>
3.	<p>Prior to the commencement of any development on the site, details of the provision of a minimum of 48 no. bicycle parking spaces, in locations convenient to the access doorway(s), designed to provide for security and shelter, shall be agreed in writing with the planning authority.</p> <p>Reason: To facilitate a more sustainable form of travel.</p>
4.	<p>An updated Mobility Management Plan (MMP) for the campus shall be provided and agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: To facilitate sustainable travel modes.</p>
5.	<p>Where the applicant proposes to build over/divert Irish Water (IW) asset(s), the applicant must have in place, a diversion agreement with IW prior to any works commencing.</p>

	<p>Separation distances between the existing Irish Water assets and proposed structures, other services, trees, etc, must be in accordance with the Irish Water Codes of Practice and Standard Details.</p> <p>All development shall be carried out in compliance with Irish Water standards codes and practices.</p> <p>Should revision of the proposed layout be required to avoid these services, a revised site layout shall be submitted for the prior written agreement of the planning authority.</p> <p>Reason: To protect public infrastructure and in the interest of clarity.</p>
6.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>The oil separator and the attenuation tank shall be properly maintained and regularly cleaned during the operational phase of the proposed extension.</p> <p>Reason: In the interest of public health and environmental protection.</p>

Planning Inspector

27th November 2020

Appendices

Appendix 1: Photographs

Appendix 2: Fingal County Development Plan 2017-2023, extract