



An
Bord
Pleanála

Inspector's Report

ABP-309158-21

Development	Construction of 3 no. buildings for motor vehicle service, sales & ESB substation
Location	Holywell, Marshallstown, Swords, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0023
Applicant(s)	Port Side Investments Ltd.
Type of Application	Permission
Planning Authority Decision	Permission
Type of Appeal	Third Party
Appellant(s)	Joe Duffy Property Company Limited (JDPCL)
Observer(s)	Dublin Airport Authority
Date of Site Inspection	23 rd of April 2021
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. This greenfield site is located on the southern side of the R125, south of the Airside Shopping Centre. The landholding is a c. 0.91ha, sited south-west of the R125 road in Airside/Swords. The R125 links the M1 and the Old Dublin Road/Swords By-pass. The site is to the south-west of the R125/Holywell roundabout (the second roundabout travelling west from the M1 junction 3). It is within the townland of Marshallstown.
- 1.2. The site is elevated and is at a higher level than the surrounding road network. It is bounded by the R125 road to the north, by the Holywell Dale road to the east, by a recently completed extension to the Holywell Dale road to the south and undeveloped lands to the west. Holywell residential development is located to the east. Airside Technology Park is located to the west. Tesco is located to the north on the opposite side of the R125.

2.0 Proposed Development

- 2.1. As originally submitted, this was to consist of the following:
 - The construction of Building 'A', a single storey 6.6 metre high 1,060sq.m motor vehicle service and sales facility building;
 - Building 'B' a single storey 6.6metre high 895sq.m motor vehicle service and sales facility;
 - Annexe building to the west of Building 'A' and 'B', a single storey 605sq.m ancillary valeting and wash building;
 - Building 'C' a single storey 55sq.m ancillary building providing an ESB substation, bin storage and security office;
 - Associated site works including on-grade car parking/display spaces, attached and freestanding signage, flagpoles, proposed new vehicular site entrance of Holywell Dale road extension, associated boundary treatments, landscaping and drainage.

The application form provides that the g.f.a of the proposed works is 2615sq.m all on a site of 0.91 Ha at Holywell, Marshallstown, Swords, Co. Dublin.

2.2. Documentation submitted with the application includes the following:

- A Planning Report by EMD Architects;
- Drainage Proposals and Calculation and Standard Construction Details by Alan Clarke & Associates;
- Visual Impact Assessment by Digital Dimensions;
- Architectural and Technical Drawings.

2.3. It is noted that the plans were subsequently revised by the further information and clarification of further information submitted.

3.0 **Planning Authority Decision**

3.1. **Decision**

On the 8th of December 2020, Fingal County Council granted permission for the proposed development subject to 16no. Conditions. These include relative to restriction of the use of the buildings on site for motor vehicle service and sales facilities, archaeological monitoring, landscaping, infrastructural issues, regard to construction management, hours of operation, construction and demolition waste, updated and revised Flood Risk Assessment to be submitted, restriction on signage and development contributions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy and to the inter-departmental reports and the submissions made. Their Assessment included the following:

- The proposed development would be considered generally acceptable within lands zoned for 'General Employment'.
- In view of the different use applied for, the reasons for refusal in PL06F.249301 have been overcome.
- They recommended a condition relative to archaeological monitoring.

- They do not consider that the proposal would impact negatively on the existing residential amenity.
- They recommended revisions to the site layout to provide for a stronger street frontage on this prominent corner and revisions to the car parking layout.
- That, the information requested by the Transportation Section should be provided.
- In addition, that the information requested by Water Services relative to Flood Risk, Services and Drainage should be provided.
- That an AA Screening report should be submitted in order to determine if the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- They concluded that insufficient information has been submitted in order to fully assess the proposed development. Further information was requested in relation to traffic assessments, car parking layouts, cycling facilities, land ownership boundaries, aviation noise, archaeology and screening for appropriate assessment.

Further Information request

In summary, this includes the following:

- A revised site layout plan showing a relocation of the buildings to address this prominent street frontage, with the parking element to the rear.
- A Traffic and Transportation Assessment to show; a revised parking layout indicating areas for staff and customers and pedestrian access; a revised site plan showing the extent of land in the ownership of the applicant. In addition regard to issues of right of way and any necessary third party consent required to facilitate the required access; a revised layout to include cycling facilities.
- To submit a flood risk assessment in line with the requirements of the Planning System and Flood Risk Management Guidelines, 2009.
- To submit details relative to surface water drainage, attenuation and compliance with the principles of SuDS.

- To submit details of existing and proposed watermain/foul layouts; drawings and specifications in relation to Irish Water concerns.
- To comply with the requirements of the Dublin Airport Authority as regards noise mitigation measures.
- To carry out archaeological monitoring in accordance with the details requested.
- To submit an AA Screening report.
- To submit a detailed landscape plan and boundary treatment details.

Further Information response

EMD Architects have submitted a response on behalf of the Applicants which includes the following:

- A Planning Further Information Report by EMD Architects
- A revised Visual Impact Assessment by Digital Dimensions
- Drainage Proposals, Calculations and Standard Construction Details by Alan Clarke & Associates
- Landscape Design Rationale – Gannon & Associates
- Report to inform Screening for Appropriate Assessment – Gannon & Associates
- Flood Risk Assessment – Garland Concepts Realised
- Traffic & Transport Assessment – Garland Concepts Realised
- Assessment of Aircraft Noise Impact – Dalton Acoustics
- Revised Architectural and Engineering Drawings
- Revised Public Notices relative to significant further information

Planner's response

They had regard to the F.I response, to the interdepartmental responses including from the Transportation and Water Services Sections and to the submission from BMA Planning on behalf of their clients JDPCL. They recommended that revised drawings be submitted to provide for greater visual interest along the Holywell Dale

Road (eastern boundary) and have regard to revisions to improve the visual impact including external finishes. Also, further details relative to car parking, ownership/right of way and flood risk. They recommended that Clarification of F.I be submitted to include the following revisions and modifications:

- The redesign of the proposed building to include revisions to external finishes.
- To clarify the Transportation issues, as requested in their Report, including relative to parking, access, ownership/right of way and to submit revised site location map showing this.
- To clarify items raised by the Water Services Section. This includes having regard to the Flood Risk Assessment and FFLs and attenuation.
- An AA Screening Report to update, as necessary the changes to the proposed development which may arise from the CFI.

Clarification of F.I response

EMD Architects response includes the following:

- Drawings showing the revisions to elevational treatment of the proposed building, along Holywell Dale Road, together with the detailing of the prominent corner onto the R125 roundabout.
- They confirm that the final schedule of floor area is 2,200sq.m gross internal floor area.
- They provide details on car parking in accordance with the Fingal CDP standards.
- They provide details relative to site ownership and note there are no other lands in proximity to the site in the ownership of the applicant. Also, that no rights of way are required to access the site.
- The attenuation tank has been relocated to the west of the building to avoid zones of potential flood risk.
- Gannon & Associates who prepared the AA Screening Report have confirmed that the proposed revisions will not have potential for significant effects on European Sites and their Screening Report remains valid.

Planner's Response to CFI

They conclude that the applicant has satisfactorily addressed the outstanding issues. They consider that the design of the proposed development would provide an attractive strong road frontage at this location. The proposed development is considered to be in accordance with the proper planning and sustainable development of the area.

3.3. Other Technical Reports

Environmental Health Air & Noise Unit

They provide that the proposal is acceptable subject to recommended conditions, regarding construction works, noise levels and monitoring, odour and dust restrictions.

Planning & Strategic Infrastructure

They advise that taking into account the large scale and greenfield nature of the site in an area of high archaeological potential, that a condition relative to archaeological monitoring be included.

Water Services Planning Division

They had some concerns about surface water drainage being in compliance with standards and requested that additional information be submitted. That, the applicant be requested to carry out and submit a flood risk assessment in line with the Planning System and Flood Risk Management Guidelines.

In response to the further information submission, they requested Clarification of Further Information relative to the Flood Risk Assessment so that the applicant demonstrate that the proposed development would not result in additional risk of flooding downstream.

In response to the CFI submission, they note the revised location of the attenuation area, outside the area at risk of potential flooding, which they consider acceptable. They have regard to the FFLs of the proposed buildings which they provide are acceptable. However, they are concerned that the loss of these flood zones and potential impact downstream has not been addressed and that further consideration of the need to provide compensatory storage is required. They recommend the

inclusion of a condition that an updated revised FRA Risk Assessment be provided, prior to the commencement of development.

Transportation Planning Section

They recommend further information in summary relative to the following:

- A Traffic and Transport Assessment should be provided.
- Revised Parking layout to include parking areas for staff and customers and pedestrian access.
- A Site Layout Plan to show the extent of ownership and of the applicant and to include details of any third party consents required to facilitate access.
- A revised layout to include the provision of cycling facilities along the southern boundary to the entrance.

Their response to the F.I submission included that the Traffic and Transport Assessment is generally acceptable. They had a number of outstanding concerns and recommended that a Clarification of F.I be submitted to include the following:

- Parking facilities in compliance with the CDP standards.
- A revised site plan to indicate all the lands adjoining the proposed site within the applicant's ownership.
- Third Party consent to facilitate the access should where necessary be provided.

The Transportation Planning Section noted the CFI submitted and provide that they have no objections subject to recommended conditions.

Parks Department

They provide that the proposed landscape plan is acceptable in principle, subject to details on tree planting, boundary treatment and management and maintenance of landscaped areas for a minimum period of 18 months. They note no additional comments relative to the CFI submission.

3.4. Prescribed Bodies

Irish Water

They recommended that further information be submitted relative to drainage issues, including the existing and proposed watermain/foul layout. They noted that the existing foul sewer traverses the site and likely diversion required.

They had no objection to the revised plans submitted and recommended standard conditions.

Irish Airport Authority

They advise that they have no objections to this application.

Dublin Airport Authority

They note that the proposed development is located within Noise Zone C and refer to compliance with Objective DA07 of the Fingal CDP.

In response to the F.I submission they recommend that in the event of permission a condition be attached in accordance with Section 4.2 of the Noise Impact Report undertaken by Dalton Acoustics Ltd.

Department of Culture, Heritage and the Gaeltacht

They advise that taking into account the large scale and greenfield nature of the site that a condition relative to archaeological monitoring be included.

Transport Infrastructure Ireland

They provide they have no comments to make on this application.

3.5. Third Party Observations

Submissions received from local residents relative to concerns regarding the impact of the proposed development on nearby residential have been noted in the Planner's Report and further regard to issues raised are had in the Assessment below.

4.0 Planning History

Subject Site

- Reg.Ref.F17A/0393 & P06F.249301 Permission refused by the Council and subsequently by the Board for in summary the construction of a Petrol Filling

Station and all associated works, all on lands to the south of the R125 (near roundabout junction) in the townland of Marshallstown, Swords, Co. Dublin.

The Board's 3no. reasons for refusal in summary included:

1. Having regard to the General Employment zoning, the scale and form of the proposed development, would result in the petrol filling station being a subsidiary use to the restaurant/café use which would extend substantially beyond the working population, and would therefore, contravene materially the land use zoning objective for the area.
 2. The scale and form of the proposed development would undermine the role and function of the nearby Local Centres and detract from the role and function of Swords Town as the primary retail centre.
 3. The proposed development would, seriously injure the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.
- Reg.Ref.F17A/0392 – Permission granted by the Council for a proposed roundabout and access road to serve proposed commercial development lands including associated services.

This was not the subject of an appeal to the Board.

It is of note that Condition no.8 of that permission is referred to by the Third Party Appellant as relevant to the subject appeal. This is as follows:

That the development shall be constructed and maintained to the Local Authority's standard for taking in charge including footpaths, verges, public lighting, sewers, watermains or drains, forming part of the development, until taken in charge by the Local Authority.

Reason: In the interests of the proper planning and development of the area.

Copies of these decisions are included in the Planning History Appendix of this Report.

Proximate

The following nearby permitted developments are referred to in Traffic & Transport Assessment submitted:

- Reg.Ref.F18A/0426 – Permission granted subject to conditions by the Council for the provisions of an extension of 750sq.m g.f.a (500sq.m net) to the existing licenced Tesco foodstore. The development also includes the provision of additional ancillary car parking to the north of the existing car park as well as all site services, landscaping and site development works. Tesco is located at the junction of the R125 and the Holywell Link Road, Swords.
- Reg.Ref.F19A/0386 – Permission granted subject to conditions by the Council for the construction of an eight storey hospital/health care facility at lands to the north of the R125 road and accessed off Holywell Link Road and Lakeshore Drive, Swords.

Neither of these cases was the subject of an appeal decision.

5.0 Policy Context

5.1. National Policy

There are a number of National and Regional Policies and Plans which provide a context for the proposed development and these include:

- Project Ireland 2040 National Planning Framework (2018)
- Regional Spatial and Economic Strategy 2019-2031
- Building on Recovery: Infrastructure and Capital Investment 2016-2021
- The Regional Planning Guidelines for the Greater Dublin Area 2010-2022
- Design Manual for Urban Roads and Streets 2019
- Smarter Travel – A Sustainable Transport Future: A New Transport Policy for Ireland 2009-2020
- The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009.

5.2. Fingal County Development Plan 2017-2023

Chapter 11 provides the Land Use Zoning Objectives.

Regard is had to Sheet 8 – Land Use Zoning - Swords.

The site is located within the GE, 'General Employment' zone, where the objective is: *To provide opportunities for general enterprise and employment.* This zoning seeks to facilitate opportunities for general employment uses and compatible forms of industry, logistics and warehousing.

Section 6.13 refers to the Land Use Zonings and Sectoral Building Requirements.

Table 6.3 provides – Economic Development Zonings to be updated as per rezonings – includes reference to GE – General Zonings (total amount of land zoned per ha for this use is given as 1850 Ha).

Objective ED29 - *Promote the growth of the manufacturing sector in Fingal by responding to the varying needs and requirements of the different components within the sector and by creating high quality built environments offering a range of building sizes and formats, supported by the targeted provision of necessary infrastructure.*

Objective ED92 seeks to prepare LAPS and Masterplans within the lifetime of the DP for strategically GE zoned lands...

Objective ED93 – *Encourage high quality sustainable design, permeability and pedestrian and/or cyclist friendly environments within GE zoned lands.*

Objective ED111- *Ensure that proposals for industrial and/ or manufacturing buildings demonstrate regard to the relevant development standards.*

Objective ED112 - *Encourage better integration of industrial areas into the urban fabric of the County, resolving tensions between uses and enhancing the security and permeability of industrial areas for pedestrians and cyclists as well as businesses.*

Objective DMS184 - *Attach to any grant of permission for new warehouses or similar industrial buildings, a condition to exclude use/storage of SEVESO substances (or require a separate planning permission for it).*

Objective DMS171 - *Ensure that no development, including clearance and storage of materials, takes place within 10m – 15m as a minimum, measured from each bank of any river, stream or watercourse in the County.*

Movement and Infrastructure- Chapter 7

The Statement of Policy includes: *Provide an appropriate level of safe road infrastructure and traffic management, in particular to support commercial and industrial activity and new development.*

Aviation Noise

This includes the need to minimise the adverse impact of noise without placing unreasonable restrictions on development and to avoid future conflicts between the community and the operation of the airport. It is noted that 2no. noise zones are provided relative to inner and outer zones. Objective DA07 refers.

5.3. Natural Heritage Designations

The subject site is located approx. 2.8km from the Malahide Estuary pNHA(000205), the Broadmeadow Swords Estuary SPA (004025) and the Malahide Estuary SAC (000205) and approx.1km from Feltrim Hill pNHA (001208).

5.4. EIA Screening

Having regard to the nature and scale of the proposed development on a fully serviced site and the nature of the receiving environment, 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

A Third Party Appeal has been submitted by BMA Planning and Development Consultants on behalf of Joe Duffy Property Company Limited (JDPCL), of North Road, Dublin11, who are the owners of the neighbouring site to the west of the current application site (as outlined in Figures 1 and 2 of their submission). Their Grounds of Appeal are summarised under the following headings:

Access issues

- They refer to condition no. 8 of the Council's permission Reg.Ref. F17A/0392 relative to the issue of access. It is their understanding that the Council intends that the Airside Road connects to the roundabout permitted.
- JDPCL control the lands required to connect the access road from Holywell Dale through the Airside Business Park Road to the L2305 and they intend to apply for planning permission for this in the short term.
- They need to be certain that they can make the connection to the road (as indicated in orange Figures 1 and 2 refer) and that they will be entitled to have free and unimpeded access across that road.
- Until the road is completed and taken in charge by FCC, they have no ability to connect to that road as has always been the intention of FCC.
- Having reviewed the Further Information Response and the Clarification of Further Information responses they remain of the view that the applicant's response does not address their concerns as outlined in their previous Observation relative to access to the application site. On this basis they submit that the proposed development should be refused.

Delivery of Access Road permitted under Reg.Ref. F17A/0392

- The applicants have not given evidence to suggest that they intend to secure the completion of the permitted road (F17A/0392).
- They include a quote from the Chief Executive's Report that the permitted road was not included in the red line boundary of the application site and that it has not been taken in charge to date.
- They refer to the FI and CFI responses and include that while the applicants did provide a letter of consent from *October Investments (Ireland) ICAV*, they failed to bring clarity in terms of delivery and taking in charge of the permitted road. This heightened their clients concerns regarding the timely delivery of the road up to their boundary.
- If not delivered in this development there are only small parcels of land remaining and the incentive to deliver the road is then gone, which would

result in the subject lands remaining completely isolated from the Airside Motor Park.

- This is an opportunity to bring clarity to the roads infrastructure situation, which has not been taken. It represents a piecemeal approach to the development of the lands and the area generally. They request that if the Board decides to permit, the inclusion of a condition to secure the completion of this access road, prior to the commencement of the proposed development.

Premature Pending Completion of the Link Road

- Airside Motor Park is one of the largest and most important clusters of motor sales and servicing facilities in Dublin.
- The current application will in the absence of the connection of the Airside Motor Park to the Holywell Dale Roundabout, be an outlier remote from the remainder of the Park.
- It has been the intention for some time that the link road to the south of the application site will connect to the Airside Motor Park.
- Traffic congestion is a major issue at Airside and the completion of the road from Airside to Holywell Dale Road roundabout is part of the overall roads strategy for the area.
- The Traffic and Transport Assessment submitted did not provide an assessment of the scenario whereby the link road (part of which was constructed under Reg. Ref. F17A/0392) was completed through their lands to the west of the site and connecting to Airside Motor Park (Figure 2 refers).

Conclusion

- The application site boundary should be amended to include the road required to access the application site and any grant of permission should include a condition on the basis that this piece of infrastructure is delivered and made available to Fingal County Council to take in charge, thereby facilitating the future connection of the forthcoming road to ensure it is completed up to the boundary of the Third Party property.

6.2. Applicant Response

EMD Architects response on behalf of the First Party includes the following:

- The Appellant refers to Condition no.8 of Reg.Ref.no. F17A/0392 which relates to a different permission, not the subject of this application. It requires the road permitted in that permission to be constructed and maintained to the LA standard for taking in charge. They need to be certain that they can make a connection to the road permitted under that application.
- They note that the grounds of appeal appear to have no objection to the current application Reg.Ref.F20A/0023. The subject of the appeal, and the entire basis of the appeal relates to the terms of a planning permission which has been previously granted and is now in the course of being implemented.
- They consider that this appeal is misconceived and should be dismissed under Section 138 of the Planning and Development Act 2000 (as amended).
- They provide that Port Side Investments Ltd, have purchased the lands the subject matter of the current application from October Investments (Ireland) Ltd. who are developing the road, which is the subject matter of Reg.Ref.F17A/0392.
- The lands the subject matter of the application ref. no. F20A/0023 do not include this road, which has been constructed by October Investments (Ireland) ICAV, up to the boundary of the Applicant's lands, and the Applicant's site now has a full connection to all existing road networks and utility services in the immediate area.
- The applicant should not be precluded from proceeding with its development on the basis of a perceived dispute between the company developing the road and the Appellant who is the adjoining landowner.
- The Applicant for the current application cannot be required to take the road in charge by the Local Authority, under threat that if it does not do so, or achieve that result, that planning permission should be refused which is the essence of the appeal.

- Proceedings can be brought under Section 160 of the Planning and Development Act if there are any concerns in respect of the manner in which the development granted in F17A/0392 is being implemented, this should be pursued by the Local Authority, under planning enforcement.
- They note that Figure 1 in the Third Party grounds of appeal indicates that the outline of their landholding has been set back from the access road, they consider that it is difficult to see how this alteration can be reconciled with that granted under F17A/0392. They include Figures 1 and 2 to show the relationship of the third party site to the permitted access road.
- It is not appropriate to use the planning appeal process to delay and frustrate Port Side Investments in implementing a development in respect of a development for which the Appellant have no planning objections.
- It would be inappropriate to include third party lands over which the Applicant has no control in any application.
- It would be improper for the Board to impose a condition, that the road granted under a separate application be delivered.

6.3. **Planning Authority Response**

The position of the planning authority is as set out in the reports attached to the planning file as sent to the Board and they have no further comments to make.

In the event, that their decision is upheld, they request that Condition no. 16 (development contributions) of their permission be included in the Board's determination.

6.4. **Observations**

Dublin Airport Authority (Daa) notes the submission of an "Assessment of Aircraft Noise Impact at proposed Motor Sales & Service Facility at Holywell, Marshallstown, Swords. Co. Dublin", undertaken by Dalton Acoustics Ltd. They request that if the Board decides to grant permission that a condition be attached requiring the construction requirements of Section 4.2 of this Report to be implemented in full in

order to ensure the proposed development is designed with noise mitigation to an appropriate standard as required by the Fingal CDP 2017-2023.

7.0 Assessment

7.1. Consistency with the Zoning Objective

- 7.1.1. As stated in the Policy Section above, the appeal site is zoned for General Employment, with the objective of the zoning to provide opportunities for general enterprise and employment. The Vision for the zone is to facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment, with GE areas highly accessible, well designed, permeable and legible. The development plan for this zoning identifies *vehicles sales outlet – large vehicles* and *vehicle servicing/maintenance garage* as permitted in principle. Therefore, this proposal is acceptable in principle in this land use zoning.
- 7.1.2. Submissions made are concerned that the proposal, taking into account, the residential development on the opposite side of Holywell Dale Road is situated in a 'transitional zonal area' and is contrary to policies for the CDP for such areas which seek to avoid development that would be detrimental to the amenities of the more environmentally sensitive zone. Section 11.4 of the Plan relates to transitional zones abutting residential areas and the need to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zone. However, in this case it is noted that the land uses are separated by a public road and the rear of the residential while opposite, is set back and is not abutting the subject site.
- 7.1.3. Regard is had to issues of design and layout, including as submitted in the revised plans and to the impact on the character and amenities of the area in this Assessment below. However, it is noted that the main issue of concern for the Third Party is the impact of the proposal on the completion of the 'New Access Road' (as granted under Reg.Ref. F17A/0392) and as to whether the proposed development will impact adversely on or impede/interfere with the future access to their adjoining lands. However, it is noted that in the current case, as it is not stated to be an appeal against conditions of the Council's permission (Reg.Ref. F20A/0023), this application

is considered 'de novo' having particular regard to the 'access issue' in this Assessment below.

7.2. Design and Layout

- 7.2.1. The proposed new motor showroom, workshop and security building are to be constructed on a greenfield site, which, while proximate to the new road construction to the east, is currently undeveloped. The residential in Holywell Dale estate is on the opposite side of the road to the east of the site, and Tesco on the opposite side of the road to north of the site. It is noted that while the site is relatively flat, it is more elevated i.e situated on top of an embankment, than the roads on its northern and eastern site boundaries. The site of the proposed buildings and car display /parking area forms part of the overall Airside Retail Park following the completion of the access road. The buildings are to be single storey consisting primarily of car display, maintenance, and workshop space and ancillary offices, staff canteen and sanitary services.
- 7.2.2. The Planning Report submitted with the application provides details of the Design Concept as originally submitted. The buildings were to be set out on site to address the roadways, providing high quality buildings with facades onto the main road, the roundabout and the secondary road. The existing grassed and landscaped embankments are to be retained to form a transition between the public roadways and the proposed development. The separate buildings referred to as 'A', 'B' and 'C' were to be detailed in a contemporary manner, each to be viewed as a separate pavilion, finished in glass and prefinished metal cladding. They were to be separately designed according to their proposed uses. Buildings 'A' and 'B' were to be located in proximity.
- 7.2.3. As part of the further information request the Planning Authority recommended that the site layout be revised, and the proposed buildings be relocated on site to provide a stronger street frontage on this prominent corner. Also, that the car parking should be placed behind the buildings to the west and the proposed buildings should front both the R125 and Holywell Dale Road.
- 7.2.4. In response revised plans were submitted by EMD Architects, to include revisions to the building form and located as shown on the Site Layout Plan. A 'Planning Further

Information Report' was also submitted, to address, in particular the frontage to the Holywell Dale Road, to provide an urban edge type streetscape, enlivened by glazed elements. It is noted that Buildings 'A' and 'B' are to be merged in linear form. The floor plans show that the floor area is to include workshop, office and showroom elements. A 'Link Building Wash/Valet' is shown in a central position as part of the continuous linear building form. The length of this building is shown as 92.07m and the width as 26.45m i.e c.2435sq.m. As shown on the elevations, the height of the proposed building varies from 6.2 to 6.6m.

- 7.2.5. Building 'C' is the smaller building shown located at the southern end of the site and the location has not been changed in the revisions made. The internal floor area is given as 55sq.m. It is shown subdivided to include an ESB sub-station, Bin Store/Recycling, Switch room and Security Areas. Building 'C' is to have rendered walls painted in a selected colour, glazed screens to the security office and an oversailing flat roof clad in aluminium.
- 7.2.6. The Council's C.F.I request included that revised plans be submitted to show a greater visual interest along the Holywell Dale Road (eastern boundary) by the use of additional glazing and panel detailing. Also, that the revised drawing illustrates additional visual breaks along this elevation, a greater vertical emphasis and a stronger corner design achieved at the corner of Holywell Road and Holywell Dale Road. In addition, that the design of the proposed building be informed by the CFI relative to the issues raised regarding Flood Risk Assessment.
- 7.2.7. Revisions to the elevational treatment to include these issues raised have been submitted in response to the CFI. This includes a fully glazed corner to the north east of the building, and a substantially increased amount of glazing and architectural detailing to the east façade onto Holywell Dale Road. The applicants are of the opinion that this will create greater visual interest and more connectivity between the building and its immediate surroundings, while enlivening the building when seen from the R125 roundabout. They confirm that the final schedule of floor area is 2,200sq.m gross internal floor area. The parking configuration has been revised so that it is shown to the rear of the proposed building.

7.2.8. Having regard to the documentation submitted, that include revisions to the design and layout and to the elevational treatment of the proposed building, I would consider that the revised plans will be an improvement on that originally submitted and will be acceptable on this site. If the Board decides to permit, I would, therefore recommend a condition regarding external finishes.

7.3. Signage

7.3.1. Regard is had to the proposed associated signage on the Site Layout Block Plans and Elevations submitted. The Planning Report submitted with the application provides details of the signage elements that are proposed to be mounted on the elevations of Buildings 'A' and 'B' and of the site signage. The latter is to include 3no. freestanding pylon signs; 2no. located at the south western corner of the site, 1no. at the north eastern corner of the site, internally illuminated, 6m high and 1.5m wide (13.5sq.m) and 2no. 6m high flag poles. Regard is also had to the revised plans submitted.

7.3.2. It is important to avoid an over proliferation of signage and it is recommended that if the Board decide to permit that a condition be included to prevent internal illumination and to restrict any further signage either on the buildings or within the site, without a further grant of permission.

7.4. Impact on the Character and Amenity of the Area

7.4.1. Submissions made have expressed concern that the positioning of this proposed development on such a prominent, elevated site, designed in a way to emphasise rather than minimise its prominence would be contrary to the goal of a new neighbourhood with a quality environment and oriented towards sustainability. In addition, they consider planned 'display space, attached and freestanding signage and flagpoles' will further create visual obstruction. Issues of noise, traffic, odours and lighting and will detract from the amenities of the area and sensitive land use. That the proposal would not protect and improve residential amenity rather it would have a negative impact on the Holywell residential area.

7.4.2. It is noted that the revised plans show the proposed building, on this elevated site located on the opposite side of Holywell Dale Road. The front elevation of the

proposed car showrooms building will face the rear of the 3 storey residential buildings in Holywell Rise. As shown on the plans the closest residential block in Holywell Rise is set back c. 40m from the proposed single storey building. The residential is also somewhat screened by landscaping and the rear boundary wall along that development. In view of the proposed use, the separation distance, the intervening public road and screening I would not consider that the proposed development will adversely impact on this residential. I would recommend if the Board decide to permit that conditions be included regarding construction management, restriction on hours of operation both at construction and operational stages and relative to noise and lighting.

- 7.4.3. It is noted that the site is currently devoid of trees or landscaping. The Planning Report submitted provides details of hard and soft landscaping to be provided. Details of boundary treatments and public lighting have also been given. As part of the Council's further information request it was recommended that a detailed landscape plan and boundary treatment details should be submitted. In response it is provided that the proposed location of the linear building will be bounded by hard and soft landscaping onto the R125 and Holywell Dale road. The revised configuration is to ensure that the building visually shields the concourse and parking area from these roads. The concourse has been designed with a mixture of paving surfaces interspersed with shrubbery and tree stands, the aim being to create a textured plaza area. Tree stands are included both interspaced within the carparking area and proximate to the site boundaries.
- 7.4.4. As shown relative to the elevations an element of cut and fill is to be used relative to levelling the site, and siting the proposed building, within and partly screened by the existing embankment. It is noted that as given the FFL of the linear building is 36.30m which is c.2m higher than the level of the road. Contextual Elevations have been submitted showing the north elevation of Building 'A' relative to the residential in Holywell Rise. It is noted that the height of the proposed single storey flat roofed building is lower than the residential on the opposite side of the road.
- 7.4.5. Architectural Visualisations have been submitted by Digital Dimensions which provide details of the Method Statement Photo-montage production. The photo-montages include before and after visualisations. This includes views from 3 locations ie, the north west corner (opposite Tesco), the roundabout and the south

east corner (New Road opposite the residential). Having regard to these visualisations, the single storey nature of the proposed building and the distance from residential in Holywell Dale, I would not consider that the proposed development would have a negative visual impact on the character or amenities of the residential development of the area. It will be seen in the context of the commercial development in Airside Park. If the Board decides to permit, I would recommend, that a condition relative to landscaping and boundary treatment be included.

7.5. Archaeology

- 7.5.1. The issues of potential for impact on archaeology has been raised by the submission from the Department of Culture, Heritage and the Gaeltacht and in the Council's Archaeological Report. It is noted that this is a large greenfield site and is located in an area of high archaeological potential. The Department recommends a detailed condition relative to archaeological monitoring. The Council recommends an archaeological assessment to include pre-development test-excavation to establish the presence/absence of archaeological remains and the nature and extent of such should they be present. In response to the Council's F.I it is provided that the applicant undertakes to engage the services of a suitably qualified archaeologist to carry out pre-development testing at the site. Condition no. 4 of the Council's permission relates to archaeology. I would recommend that should the Board decide to grant permission, that an archaeological monitoring condition be included.

7.6. Noise issues

- 7.6.1. Dublin Airport Authority (Daa) are Observers and note that the proposed development is located within Noise Zone C. The Fingal CDP 2017-2023 includes Objective DA07, relative to noise sensitive uses such as residential development. It refers to mitigation measures such as noise insulation where appropriate within the Outer Noise Zone. As part of the F.I response an 'Assessment of Aircraft Noise Impact' for the proposed development has been submitted. This notes that the proposed hours of operation will vary and be c.8:30 to 19.00 hours and will be closed on Sundays. If the Board decides to permit, I would recommend a condition to this effect to provide a restriction on the hours of operation.

7.6.2. It is submitted, that there is no requirement for additional measures to be undertaken in order to create and maintain favourable internal noise levels or to provide mitigation measures, within the proposed development based on the intended use of the proposed development. However, it is noted that in response to the F.I submission and as per their Observation to this Appeal, the Daa, recommend that in the event of permission a condition be attached in accordance with Section 4.2 of the Noise Impact Report undertaken by Dalton Acoustics Ltd. This provides an outline of the proposed Building fabric and the Daa note that it details the construction materials required to achieve the desired noise criteria for office space. Condition no.5 of the Council's permission relates. While, the proposed usage is not a noise sensitive use, I would have no objection to the inclusion of a specific condition as recommended by the Daa relative to this issue.

7.6.3. It is noted that Condition no.8 of the Council's permission refers to construction management and includes conditions relative to noise monitoring, hours of operation and noise level restrictions during construction. If the Board decides to permit, I would recommend a condition relative to construction management, hours of operation, traffic, noise, dust control measures etc.

7.7. Access issues

7.7.1. The site is bounded to the north by the R125 roadway. It is within a 50km/hr speed limit. The Holywell Dale road to the east of the site has recently been realigned with a new roundabout to the south-east of the site installed. The site is bounded to the south by a newly designed and installed roadway, linking into the Holywell Dale road. This recently implemented infrastructure was the subject of a Traffic Impact Assessment and obtained planning permission (Ref.Ref. 17A/0392 refers).

7.7.2. It is submitted, that the TIA then demonstrated that the road network was sufficient to accommodate greater traffic movements for a petrol station than would be generated by the current proposal. As noted in the Planning History Section above, the site was the subject of a previous planning application (Reg.Ref.F17A/0393 refers) for a petrol station and forecourt which was refused planning permission by the Board Ref. PL06F.249301 refers.

7.7.3. Access to the subject site, is provided via the recently constructed roundabout (permitted under F17A/0392) along the southern road spur off the roundabout. It is noted that the subject site is entered from this southern roadway, with the new sole vehicular access/egress point created approx. 58m from the Holywell Dale roundabout.

7.8. Traffic & Transport Assessment

- 7.8.1. This was submitted in response to the Council's Further Information request. It has regard to the proposed development and to existing and proposed traffic conditions at various locations (Figure 1 refers) on the road network proximate to the site. This includes traffic generation and trip distribution. It is noted that the access to the motor sales and service facility will be via the existing Holywell Dale access road. It is therefore assumed that the distribution of development traffic will follow the same pattern as the distribution of existing traffic to/from Holywell Dale access road.
- 7.8.2. Regard is also, had to committed development in the area which includes a proposed extension to Tesco superstore, located on a site to the north of the R125 and the proposed development, granted in 2019; and a proposed Health Centre, located on a site to the northwest of the R125 and the proposed development granted in 2020. Note is had of these cases in the Planning History Section above.
- 7.8.3. Regard is had to Operational Assessments including capacity in Section 5. It is noted that traffic generated by the proposed development will have some effect on the local road network. Details are given relative to traffic modelling and of the road network:
- The existing R125/ Holywell Dale/ Holywell Link Road roundabout
 - The existing R125/ L2305/ Lakeshore Drive roundabout
 - The existing Pinnock Hill roundabout
 - The existing Holywell Link Road/ Mountgorry Way/ Feltrim Road roundabout.
- 7.8.4. In general, it is noted that these operate at capacity with queues and delays during the AM and PM peak hours and this will be further the case when the Tesco development and the Health Centre is complete. Further details of these calculations are given in the Conclusions section and reference is had to the years 2022, 2027

and 2037. Traffic Counts and Modelling Results are provided in the Appendices to the TTA.

- 7.8.5. The Design Manual for Roads and Streets (DMURS 2019) indicates that for a 50km/h speed limit a sightline of 45m at a 2m set-back shall be achieved in both directions from the proposed access. The visibility splay to the east and west of the proposed access is measured from a 2m set-back to the nearside kerb of the road. It is provided that sightlines at the proposed access onto the new access road are in compliance with DMURS.
- 7.8.6. There is an existing footpath/cycle path provided on the northern side of Holywell Dale which provides pedestrian and cycle access to the R125. It is proposed to extend the footpath along Holywell Dale Road and connect to the proposed access to the motor vehicle sales and services facility.
- 7.8.7. Details of the internal layout provide that the main internal roads are 6m wide. HGV access to the site will be via the proposed access onto Holywell Dale. The types of HGV's accessing the site would be car transport lorries and emergency vehicles. It is provided that the internal layout can facilitate HGV movement within the site.
- 7.8.8. The TTA provides that the development provides for adequate car parking when assessed in accordance with the Fingal CDP 2017-2023. Facilities for pedestrians, cyclists are included along the new access road. A cycle lane is to be provided. On site, I noted that there is a pedestrian crossing on Holywell Dale Road to the north of the new roundabout and to the east of the site. This is to serve the nearby residential in Holywell estate to the east. There is also a pedestrian crossing to the north of the site, which provides a crossing from the R125 to Tesco. However, it is noted that the latter is not particularly relevant to the subject site as there are no pedestrian linkages shown from the site to the northern boundary. All access to the site is from the New Road along the southern boundary.

7.9. Regard to issues raised by the Third Party

- 7.9.1. It is noted that in response to the recommendations of the Transportation Section, the Council's further information request included that a site plan be submitted by the applicant/developer, to include the extent of lands in the ownership of the applicant as well as any letters of third-party consent required to facilitate the required access.

In addition, they provided, that any rights of way should be indicated in yellow, site boundary in red and ownership boundary in blue to be shown on the site location map and site layout plan. In response it is noted that extracts from the Deed of Transfer of lands to Port Side Investments Ltd are included in Appendix 1 of the Planning Report submitted at Further Information stage. Schedule 1 indicates the red line to the property. Schedule 2 notes access is available to the site from the road set out in Schedule 3.

- 7.9.2. BMA's response on behalf of the Third Party to the F.I submission notes that they own the neighbouring site to the west of the current application site shown outlined in yellow on their aerial photographs. JDPCL do not object in principle to the motor sales/sales facilities at this location. However, they have concerns regarding vehicular access to their site and the traffic impacts on the wider road network. JDPCL have intentions to develop their lands in due course including the completion of the through road as shown in orange in the aerial photograph. While access to their lands is available from the north through Airside Motor Park, it is their understanding that the Airside Road connects to the roundabout permitted under Reg.Ref. F17A/0392. They provide that there is no apparent reason as to why the applicant and the landowner should not be in a position to deliver the road permitted under Reg.Ref. F17A/0392 as part of this development. They are concerned about lack of clarity of the ownership/completion/taking in charge of this road.
- 7.9.3. In response to the F.I submission the Transportation Planning Section requested a Clarification of F.I be submitted including that a revised site plan should be provided indicating all the lands adjoining the proposed development in the applicant's ownership. They provided that if the red line boundary and the blue line boundary are coincident this should be clearly marked on the drawing provided. Also, that all third-party consents to facilitate the proposed development and access to the proposed development, where necessary should be provided. This was included in the Council's CFI request.
- 7.9.4. EMD Architects' response provides that the site ownership is as indicated on the OS map and Site Plan previously submitted (0.91ha). There are no other lands in proximity of the site in the ownership of the applicant. There are no rights of way required to access the site. They note that the adjoining roadway to the east and south of the site were developed by October Investments (they have included a letter

from them), who are the owners of the access road not yet taken in charge. This letter provides consent to access the site and provides further detail regarding their landholding, including a map indicating the area in orange. They submit that the necessary consent to gain access to the site from this road has been provided with the current application and relevant rights of way that the Applicant has been granted over this land was provided in the documentation to the Board. They provide that they have confirmed the site ownership and the access on their Block Plan. They also refer to maps and correspondence sent to the Transportation Section.

- 7.10. The Third Party response to the CFI submission, provides that their concerns relative to the issues of Ownership, Delivery of the Access Road and Impact on the road /traffic network have not been addressed. They are also concerned about the issue of prematurity pending the completion of the Link Road. That the granting of permission for a standalone motor sales and servicing facility would be premature until the position with regard to the road network, is clarified.
- 7.10.1. It is of note that the Transportation Planning Section response to the CFI considers that the land ownership issue has been clarified and note that a letter of consent for access along the new section of road that has not been taken in charge has been provided.
- 7.10.2. The First Party response to the grounds of appeal notes that it primarily concerns reference to condition no. 8 of Reg.Ref. F17A/0392 where permission was granted for the roundabout and access road. They consider that it is not relevant to the current application and should be dismissed under Section 138 of the Planning and Development Act 2000 (as amended). They provide that Port Side Investments Ltd, have purchased the lands the subject matter of this application from October Investments (Ireland) who are developing the road, which was the subject matter of F17A/0392, and that the lands the subject matter of the current application do not include this road. That the Applicant has no control over the road and the ownership of the road is vested in a third party from whom the Applicant bought its land. They provide that the road the subject matter of F17A/0392 has been constructed by a third party landowner, October Investments (Ireland) ICAV, up to the boundary of the Applicant's lands, and the Applicant's site now has a full connection to all existing road networks and utility services in the immediate area. They submit that the planning process cannot be used to require the Local Authority to take the road in

charge and the Applicant should not be delayed further in the implementation of its development through an appeal which raised no substantive planning issues.

- 7.10.3. It is of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: *“A person shall not be entitled solely by reason of a permission under this section to carry out any development”*. Under Chapter 5.13 ‘Issues relating to title of land’ of the ‘Development Management - Guidelines for Planning Authorities’ (DoECLG June 2007) it states, inter alia, the following: *“The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...”*
- 7.10.4. However, the current proposal as submitted under Reg.Ref.F20A/0023, while it has been submitted as a development in its own right, is dependant for access, on the use and completion of the access road to the proposed development site as permitted under F17A/0392. As shown on the Site Location Map submitted, it appears that this road as permitted under the drawings associated with F17A/0392 will go as far as and will provide access to the more land locked, Third Party lands. While the ‘New Roadway’ is shown to extend just past the site boundary on the plans submitted with the current application, it then adjoins the ‘Future Roadway’.
- 7.10.5. Currently, as seen on site, the new road goes almost to an area of land that is fenced off from the subject site. There is a palisade fence along the western boundary with adjoining lands. Those lands to the west appear to include the third party lands, which are currently greenfield. It does not appear from the drawings as submitted with the application, that the current proposal will obstruct or impede this, rather access will be from that part of the new road already constructed. The developer of the road permitted under F17A/0392 has an obligation to carry out the development in accordance with the plans and particulars lodged in accordance with the conditions of that permission, including condition nos. 3 and 8 relative to roads related issues. Any lack of compliance with the conditions relevant to F17A/0392 is not within the remit of the Board, but rather for the Council’s Planning Enforcement.
- 7.10.6. If the Board decide to grant permission, the Third Party request that a condition be included to secure the completion of the permitted access road, prior to the

occupation of the subject development. They provide that in the interests of clarity, this should be included to ensure that the road is completed up the boundary with their property, which will, in turn, enable the future connection of the link road through their lands to Airside as was clearly the intention when Reg.Ref. F17A/0392 was approved.

7.10.7. The First Party submits that it would be inappropriate for the Board to include a condition that the road granted under a separate application be delivered. However, having regard to the site context, and the lack of clarity about the roads issue, if the Board decides to permit, I would recommend, that a condition should be included relative to the proposed access to the application site, to state that works undertaken will not impede or interfere with the construction and completion of the access road as granted under F17A/0392.

7.11. Car Parking

7.11.1. As shown on the plans originally submitted a total no. of 140 car parking spaces were to be provided. The revised plans show that the linear form of the proposed building, and the parking located predominantly to the rear of this building. It is provided that on entry to the site from the Holywell Dale Extension road, passing the security and utilities Building 'C', the linear building will form a backdrop onto the concourse area. This concourse has been designed with a north-south alignment, creating clear circulation routes and car parking bays.

7.11.2. The car parking standards are indicated in Table 12.8 of the Fingal DP. This include 1 space per 50sq.m for car showrooms. The car showroom parking area can operate as both customer parking and staff parking. As shown on the revised plans 44no. car parking spaces are being provided for staff and customer parking. It is provided that 2no. of these spaces are identified as disabled parking bays and 2no. reserved for electrical vehicles with charging facilities. The remainder of the areas are reserved for vehicles associated with the running of the Motor Sales Outlet & Service Workshop business. As shown on the Block Plan drawing these are noted as 46no. display, 27no. vehicle stock and 30no. service.

Their CFI response notes that the proposed floor area is 2,200sq.m gross internal floor area. It is their intention to provide the maximum number of staff and customer

parking spaces allowed for the Fingal DP Standards i.e. a maximum of 1 space per 50sq.m as such 44 spaces are being provided for staff and customers. I would consider it important that all associated parking be onsite to prevent any overspill onto adjoining public roads including the 'New Road' to the south. It is of note that the Transportation Planning Section has no objections to the proposed parking as submitted at CFI stage.

7.11.3. Bicycle parking is provided, with spaces being made available, located in the central area. It is noted that the Transportation Planning Section of the Council, provided that the existing cycle facilities along the eastern edge of Holywell Dale should be extended along the new access road running along the southern boundary of the proposed development. In response it is provided that as shown on the revised plan cycling facilities, including a cycle lane can be accommodated along the southern boundary to the entrance. I would recommend that if the Board decide to permit that a condition relative to on-site parking and cycle lanes be included.

7.12. Drainage issues

7.12.1. The site, which is currently greenfield, is proposed to connect to existing services. Details regarding Drainage Proposals, Calculations and Standard Construction Details have been submitted with the application. Surface water and foul sewer services have been provided to the new access road serving the site and a water supply has been provided to the site boundary. It is proposed to provide site services within the site in accordance with this specification and as indicated on the drawings submitted.

7.12.2. The surface water collection is to include rain harvesting for water supply to the buildings/car wash facility, and to then discharge to a new surface water drainage system installed as part of the SUDS drainage, to both reduce the use of fresh water and to limit the amount of water discharge to public storm water system. This is to include permeable paving located in the car parking bays, silt traps and interceptors, all as indicated on the engineers drawings submitted.

7.12.3. As part of the Council's F.I request the applicant was asked to comply with the Council's Water Services request and to submit further details on the underground attenuation tanks and to consider a more green and natural surface water drainage

proposal following the principles of the Sustainable Drainage Systems (SuDS) and in compliance with current drainage standards.

- 7.12.4. Details submitted in response to the Council's F.I request provide that the surface water drainage system in respect of the proposed building and site configuration, and that the revised plan addresses the requirements of SuDS drainage. This includes the use of permeable paving, attenuation and rainwater harvesting. They provide that consultation with the Council also confirmed that the drainage system shall not be taken in charge by the Local Authority. The revised drainage layout has been amended to reflect the repositioning of the proposed attenuation area and this drawing is included as part of the CFI submission. Revised surface water calculations are also appended to demonstrate the adequacy of the proposed drainage network and attenuation system.
- 7.12.5. The foul drainage is to discharge to a new foul drainage collection system installed as part of the new roadway installation. The invert levels require this to be a pumped system. The applicant was asked to submit details of the existing and proposed watermain/foul layouts, drawings and specifications to provide Irish Water with sufficient data to make a determination on the development. There was concern that an existing foul sewer traverses the site and a diversion is likely to be required. However, it is provided, that this is not the case in the drainage response to the F.I submitted. This provides that the foul water drainage system has been redesigned in respect of the now proposed building and site configuration, and that this revised design proposal addresses the requirements of Irish Water.
- 7.12.6. It is noted that Irish Water or the Council did not object to the proposed drainage system as per the revised plans submitted and it is recommended that if the Board decide to permit that appropriate drainage conditions be included.

7.13. Flood Risk Assessment

- 7.13.1. In response to the Council's F.I request, a Flood Risk Assessment has been submitted. This has regard to 'The Planning System and Flood Risk Management Guidelines' 2009. It is provided that all potential flood risks and sources of flood water at the site have been considered. This includes Fluvial, Pluvial, Coastal/Tidal

and Groundwater Flood Risk. While Coastal/Tidal is excluded, further consideration is given to the other categories.

- 7.13.2. A search was undertaken on the OPW Flood Hazard Mapping website and there are no historic records of flooding on this site. They refer to the CFRAMS Flood Risk Mapping. Map 16 of the Strategic FRA indicates that part of the site may be subject to flooding in a 1000 year return (0.01%). This would mean that part of the site is in Flood Zone B as defined by the flood risk management guidelines, with the remainder of the site in Flood Zone C, at low risk of flooding.
- 7.13.3. It is concluded that as the proposed development consists of non-habitable commercial services, it can be considered “less vulnerable development” under the Flood Risk Management Guidelines and is therefore suitable for development within Flood Zones B and C without the need for a justification test (Table 3.2 of the Guidelines refers). This is primarily due to the minimal hazard to the proposed commercial development associated with a low risk of flooding event (1000 year return period). The FRA provides that the proposed development is in compliance with the said Guidelines.
- 7.13.4. It is noted however, that the Council’s Water Services Department, had regard to the revised plans submitted including the relocation of the proposed building to a lower part of the site. They were concerned that it be demonstrated by way of Clarification, that the proposed development, would not result in an additional risk of flooding downstream. In particular, the section of the development within potential flood zones. Regard is had to the area identified as within zone B as a result of fluvial flooding from the Gaybrook Stream to the east of the site. They also provided that the position of the attenuation storage on site should be relocated to avoid zones of potential flood risk.
- 7.13.5. In response to the Council’s CFI request the revised layout submitted on behalf of the applicant provides for the relocation of the proposed below ground attenuation tank to avoid zones of potential flood risk. The proposed location is now shown to the west of the building when it was previously indicated to the south. The FFL of the proposed building is given as 36.3m, and of building ‘C’ proximate to the entrance as 37.1m which is considered to be acceptable. The vulnerable areas appear to be below 36.0 ODM. It is of note that while this is acceptable to the Council’s Water

Services, as are the proposed FFL's their response to the CFI is concerned that the loss of these flood zones and potential impact downstream has not been addressed by the applicant. They provide that further consideration of the need to provide compensatory storage is required and recommend the inclusion of a condition that an updated revised FRA Risk Assessment be submitted in accordance with "The Planning System and Flood Management Guidelines". As per condition no.9 of the Council's permission, they request that updated and revised FRA shall be consistent with the FRA prepared by ROD on behalf of Fingal for the Swords Masterplan for Barryparks. An area of compensatory flood storage to be provided along the southern boundary of the site to mitigate against any potential downstream issues. This is to ensure that this proposal does not commensurate flood risk and in the interests of the proper planning and development of the area.

- 7.13.6. Taking the proposed commercial use and these revisions in the documentation submitted into account, I would consider that the proposed development type is appropriate for this site. However, if the Board decides to permit, I would in line with the advice of the Council's Water Services Section, recommend the inclusion of a condition that an updated revised Flood Risk Assessment be submitted.

7.14. Screening for Appropriate Assessment

- 7.14.1. An Appropriate Assessment Screening Report is included in response to the Council's F.I response. This notes that the proposed project involves the development of a motor sales and service centre and is not connected to, or necessary for, the management of any European site. A field survey was carried out by a qualified ecologist in June 2020. The purpose being to identify any potential source-pathway-receptor links between the proposed development and any European sites. Habitats within and bounding the subject site were classified to level 3 according to Fossett (2000).
- 7.14.2. It is noted that the proposed development is wholly located outside of any European sites and there are no European sites within the surrounding area. The closest European sites to the proposed development are Malahide Estuary SAC & SPA, situated approx. 2.4km to the north-east. Baldoyle Bay SAC & SPA are situated approx.5.6km to the south-east and Rogerstown Estuary SAC & SPA are situated

approx. 6.2km to the north. All other European sites are greater than 8km distant from the proposed development site.

- 7.14.3. It is provided that there are no surface water bodies present within the proposed development site. The Gaybrook Stream is mapped by the EPA as flowing approx.50m west of the proposed development site. However, it no longer flows as open channel in this location and is culverted under the R125 before flowing in open channel adjacent to the Tesco carpark. The closest area of open channel is situated over 120m from the proposed development site boundary, separated by both an existing area of natural vegetated buffer and the R125 and associated water drains. As such there is no hydrological connectivity between the proposed development and the Gaybrook Stream, or any other watercourse, and therefore to any European sites.
- 7.14.4. It is noted that the site is to be fully serviced and that there is no direction connection or discharge to any watercourse. Therefore, and in view of distance, source-pathway-receptor connectivity to Natura 2000 sites will not occur. Table 1 of the Screening Report for AA provides the relevant details. As there is no connectivity between the proposed development and any European site, there is no potential for any in-combination effects with any other plan or project. It is concluded that on the basis of objective information, the possibility may be excluded that the proposed development either by itself or in-combination will have a significant effect on any European sites.
- 7.14.5. In response to the Council's CFI request the applicant notes that they have issued the revised drainage scheme to Gannon & Associates who prepared the AA Screening Report, and that they have confirmed in writing that there are no substantial amendments to the drainage discharge points and have concluded that 'there is no potential for significant effects on European sites identified' and consequently their report submitted to the Council remains valid.
- 7.14.6. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, 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 as listed in the Screening Report submitted (Table 1 refers), or any other European site, in view of the site's

Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. I recommend that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the nature of the proposed development relevant to vehicle sales outlet and service facility – a use permitted in principle within the ‘GE’ General Employment, zoning objective of the site, the locational context, the scale of the development proposed and the existing road infrastructure serving the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Fingal County Development Plan 2017-2023, would be acceptable in terms of pedestrian and traffic safety and public health, would not seriously injure the amenities of the area and would not have adverse impacts on the proximate residential area. The proposed development would, therefore, 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 21st day of August, 2020, and the 12th of November 2020, and by the further plans and particulars received by An Bord Pleanála on the 11th of February, 2021 except as may otherwise be required in order to comply with the following 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.

Reason: In the interest of clarity.

2. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to the use as described in the planning application (as specified in the lodged documentation), that is, as motor vehicle service and sales facility building 'A' and 'B' and the uses described for ancillary Building 'C', unless otherwise authorised by a prior grant of planning permission, and in particular shall not be used as retail shops, notwithstanding the provisions of Class 14 (a) of Part 1 of the Schedule 2 to the Planning and Development Regulations 2001, as amended.

Reason: In the interests of clarity and to protect the retail function of Airside Retail Park.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

4. Apart from the signage shown on the submitted drawings, no further advertisement or advertisement structure or flag poles, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

No signage shall be internally illuminated.

Reason: In the interest of the visual amenity, and to allow the planning authority to assess any further signage through the statutory planning process.

- 5(a) The vehicular access arrangements, internal road network and car parking layout to service the proposed development shall comply with the detailed requirements of the planning authority for such works.

- (b) The vehicular access arrangements shall not impede or interfere with the access road to serve the adjoining lands as granted by the Council under Register Reference F17A/0392.
- (c) The car and bicycle parking facilities, hereby permitted, shall be reserved solely to serve the proposed development. There shall be no associated parking outside of the site on the access roads.
- (d) Cycleways and footpaths shall be provided between the proposed front boundary and the public road carriageway in accordance with the requirements of the planning authority.

Reason: In the interests of clarity and to ensure a satisfactory standard of development and in the interest of permeability.

6. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-
- (a) Details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
 - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

7. Prior to the commencement of development the applicant/developer is requested to submit an updated and revised FRA Risk Assessment in accordance with the requirements of "The Planning System and Flood Risk Management Guidelines"

November 2009. This shall comply with the detailed requirements of the planning authority for such works.

Reason: In the interests of flood protection

8. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

9. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

10. The development shall incorporate noise mitigation measures to ensure that appropriate noise levels for the commercial development are achieved and maintained, having regard to the location of the site within the Outer Airport Noise Zone. The required measures shall be determined by a quantified noise assessment of the site which shall be carried out by an appropriately qualified and experienced professional at the expense of the developer. Full details of the assessment and the proposed noise mitigation measures/construction materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health.

11. During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location or at any point along the boundary of the site shall not exceed:-
 - (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

12. The hours of opening shall not exceed 0800 to 1900 Monday to Saturday and shall be closed on Sundays and Bank Holidays.

Reason: In the interests of clarity and of the amenities of proximate residential development.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

14. Lighting shall be provided in the car park area and along the access road in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be designed to avoid light pollution on neighbouring properties.

Reason: In the interests of amenity and public safety.

15. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development,

including hours of working, dust, noise and traffic management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, cycleways, carparking, watermains, drains, and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Angela Brereton
Planning Inspector

28th of April 2021