



An
Bord
Pleanála

Inspector's Report

ABP-310169-21

Development

Retention for permanent continuation of use of the existing waste processing and transfer facility & the continued use of the existing buildings on site associated. Planning permission is sought for new proposed stormwater attenuation storage tanks and associated stormwater treatment infrastructure.

Location

St Margaret's Recycling & Transfer Centre Ltd, Sandyhill, St Margarets, Co Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

FW20A/0029

Applicant(s)

St Margaret's Recycling & Transfer Centre Ltd

Type of Application

Retention

Planning Authority Decision

Grant Retention

Type of Appeals

First & Third Party

Appellants

Jerry Beades PC
St Margaret's Recycling & Transfer
Centre Ltd

Observers

J Griffin
John F Lynch
DAA

Date of Site Inspection

23rd September 2021

Inspector

Dolores McCague

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1.0 Site Location and Description

- 1.1.1. The site is located at Sandyhill, St Margarets, Co Dublin adjoining St Margarets by-pass, R122. Dublin Airport is to the east with the southern run-way to the south east. Dublin airport lands extend to within 240m of the south of the subject site. Lands bounding to the north, south and west are currently in agricultural use. Those to the north and east are shown to be within the ownership of the applicant.
- 1.1.2. The site is located south of the village of St Margarets, across the regional road from the primary school. The R108 is located to the south.
- 1.1.3. The site is currently occupied by a Recycling & Transfer Centre which includes a facility for end of life vehicles. On the date of inspection there was a lot of waste sorted and stored, or processed and stored or awaiting processing, on the site and a lot of dust in the air. A number of machines were in use, including two grab / handlers and the hammermill.
- 1.1.4. The site is given as 2.93ha.

2.0 Proposed Development

- 2.1.1. Retention planning permission and planning permission is sought by St. Margaret's Recycling & Transfer Centre Ltd. at St. Margaret's Metal Recycling, Sandyhill, St. Margaret's, Co. Dublin. Retention planning permission is sought for the permanent continuation of use of the existing waste processing and transfer facility for the bulking, transfer and recycling of metals, construction & demolition waste, bulky/skip waste, batteries, wood waste, glass, other non-biodegradable non-hazardous wastes, and an Authorised Treatment Facility for end of life vehicles, accepting up to 24,900 tonnes of waste per annum. Retention permission is also sought for the continued use of the existing buildings on site associated with the daily operations of the facility including processing shed, offices, plant room, shelter buildings etc., existing site services, boundary treatments and all ancillary site development works necessary to facilitate the development erected under and in accordance with Reg. Ref's. F13A/0409, F11A/0443, F10A/0177, F03A/1561, F03A/1682 and F97A/0109. Planning permission is sought for new proposed stormwater attenuation storage tanks and associated stormwater treatment infrastructure to serve the existing

development with permission also sought to restore part of the lands to agricultural use. The above development will require a review of the existing waste facility permit for the site and as such, a separate application will be made to the environmental section of Fingal County Council upon receipt of planning permission.

2.1.2. The application was accompanied by:

Planning Statement by Downey Planning,

EIA Screening Report by Downey Planning,

Services Report by Boylan Engineering,

Screening Report for Appropriate Assessment of application for the continuation of use of St. Margaret's Recycling Centre, Sandyhill, Co Dublin, by Openfield Ecological Services,

2.1.3. The Planning Statement accompanying the application includes:

The site has been in operation since 1997 and operates as an authorised treatment facility for members of the public under waste facility permit from Fingal Co. Co. (WFP-FG-13-0002-02.

The existing facility comprises:

- Concrete hardstanding entrance laneway and public parking area in the northwestern corner,
- Concrete hardstanding area for storage of cars awaiting depollution and storage of parts,
- Large covered waste processing shed including depollution area in the western portion of the site,
- Site offices, welfare facilities and a weighbridge located in close proximity to the entrance,
- Concrete hardstanding area for storage of depollution cars,
- Secure perimeter fencing.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to grant permission subject to 17 conditions including, Condition 2:

Permission and retention permission as outlined in the development description hereby permitted shall be for a period of three years only from the date of the final grant of permission, unless permission is granted for continued use either by the Planning Authority or An Bord Pleanála on appeal.

Reason: To prevent unauthorised development and in the interests of the proper planning and development of the area.

Condition 5:

No goods or materials of any description shall be accepted from or sold to visiting members of the public and all deliveries to and collections from the site shall be carried out by the operators of the facility or by persons or entities with whom the operators have entered into ongoing contracts for such services.

Reason: In the interests of maintaining an acceptable level of traffic generation at this location.

Condition 11:

The facility shall not operate outside the hours of 0900hrs to 1800hrs Monday to Saturday or as agreed in writing with the Planning Authority. No activity shall take place outside these hours or on Sundays or public holidays.

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

3.2. Planning Authority Reports

3.3. Planning Reports

There are three planning reports on the file. The first (28th February 2020) recommending further information includes:

- The layout of the facility is such that the main processing buildings and structures are predominantly located to the north and north-west and clustered around the site entrance. This includes a large extended shed to the south of the entrance referred to as the Main Processing Shed and a number of portacabins, welfare facilities and site offices located to the northern site boundary. A septic tank and percolation area are located to the rear of these units. A weigh-bridge is positioned immediately south of the portacabins. Compartmentalised storage areas /bunkers to the northern and eastern boundary of the site. These contain materials such as stainless steel, aluminium, wheel alloys, cables and non-ferrous materials. The majority of the operations and storage/sorting of materials appear to take place in the open, centrally within the site, and to the east and south of the main processing shed. The area to the south contains an electrical plant room, and is shown as accommodating baled cars, de-polluted end of life vehicles awaiting processing, and ferrous materials for processing and post processing. This area also contains a hammer mill and a movable grab, feeding materials for processing. To the east of the main site is a gated area which is separated from the main site by concrete panels and containers. This is intended to be restored to agricultural use. The area is capable of separate and independent access via a driveway and entrance to the R122, 95m north of the junction of the R122 and the L7231 Newtown Cottages access road. The area is not subject to retention for waste operations but is located within the red line boundary.
- Zoning and vision of the zoning – it is considered that the development does not comply with the objective and vision.
- Section 11.5 concerning non-conforming uses.
- Z05 objective
- Dublin Airport – noise zones; objective DA07, LAP The boundary of the Dublin Airport LAP reflects the DA zoning. The application site is not specifically referenced in the Plan. Site is located in the outer public safety zone. Objectives DA13, DA14 and DA15 are referenced.

- Waste Management Objectives WM01, WM02, WM03, WM04, WM05, WM07, WM08, WM09 and WM18 are referenced.
- Given the established nature of the facility on site which remains a waste transfer and recycling facility, its continued operation over a period in excess of 22 years, and the objectives in section 11.5 and Z05 of the Development plan, it is considered that the current application seeking retention and continuation of use of the development is acceptable in principle subject to assessment.
- EIA Screening – the planning authority has engaged Brady Shipman Martin Environmental and Planning Consultants to review the requirement for Environmental Impact Assessment. Their review includes:
 - The proposed development does not meet the requirements for mandatory EIA under part 1 of schedule 5 of the Planning and Development Regulations 2001. Class 11 (b) of part 2 of schedule 5 of the Regulations lists ‘installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule’. The proposed development is for acceptance of 24,900 tonnes per annum. 99.6% of the threshold. Class 11 (e) of part 2 of schedule 5 of the Regulations lists ‘storage of scrap metal, including scrap vehicles where the site area would be greater than 5 hectares’. The site of 2.93ha is significantly below the threshold.
 - The proposed development must be subject to screening.
 - Any project listed in this Part which does not exceed a quantity, area or other limits specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
 - The EIS screening report submitted with the application provides for:
 - A description of the proposed development;
 - A description of the aspects of the environment likely to be significantly affected by the proposed development;

- A description of any likely significant effects, to the extent of the information available on such effects, of the proposed development on the environment; and
- The compilation of the information at paragraphs 1-3 has taken into account where relevant, the criteria set out in Schedule 7; sets out detailed consideration of the requirement for a sub-threshold EIA and concludes that EIA is not required. Given the nature of the development and its location close to Dublin Airport, minimal information is provided under Risk of Accidents (section 4.1.6 of report) and Risks to Human Health (section 4.1.7 of report). It is noted that no mention is made of a previous major fire incident in January 2018.
- Additional information required.
- AA screening - the planning authority has engaged Brady Shipman Martin Environmental and Planning Consultants to review the AA screening report submitted.
 - The screening report states in Section 2.3 that the proposed development is located in the Ward River catchment and is within c460m of a tributary, the Huntstown Stream. The Engineering report that accompanies the application, prepared by Boylan Engineering, states that treated storm water leaving the site is connected to the Huntstown Stream approximately 500m downstream of the site. There is therefore a potential surface water pathway between the proposed development site and the Malahide Estuary SAC and SPA. The conclusion is concurred with, that there is no surface water pathway between the site and any other European site.
 - The Engineering report describes surface water treatment on the site, however the AA screening report does not contain any detail about either the current of proposed surface water management at the site. Section 3 states that the construction phase is limited to the installation of new storm water attenuation measures; and that surface water falling on hard surfaces drains to an attenuation tank and then overflows to the drainage ditch via a grease/silt trap and flow control device. This system complies with the Greater Dublin Drainage System. No impacts to surface water are

likely to occur. The report does not assess whether the SuDS measures existing or proposed are intended to avoid or reduce the harmful effects of the proposed development on a European site. This will require further examination. The report refers to foul drainage to Ringsend but does not provide any information on volumes. The Engineering report refers to a septic tank. This will require further examination.

- The report refers to pollution during construction and notes that deposition of silt is a natural feature of estuaries, however it does not attempt to quantify the likely or potential volumes of silt that might arise, or the potential scale of deposition in the context of the receiving estuarine environment. Re. pollution during normal operation, it states that the use of accepted SuDS techniques and overall compliance with GDSDS in the design of the project will ensure that negative effects to water quality do not arise from surface water run-off. Without detailed and clear explanation this may be regarded as mitigation. No detailed assessment is presented as to whether or not these elements will have a significant effect on any European site, that would be mitigated by the use of SuDS. Additional information required.
- Recommending additional information on 16 points, which issued.

3.4. Other Technical Reports

- 3.4.1. Transportation Planning Section – undated - sightlines – to the north, the required 145m sightlines are achievable. To the south sightlines are below standard as a result of the maturing growth along the western boundary. Sightlines to the centreline of the road, as shown in the drawing, can be used only to the left of the entrance and only if there is a continuous white line along the centreline of the road for the required distance. The line is a broken line along this stretch of road; overtaking is not prohibited for vehicles approaching from the south. The current maintenance of the boundary does not resolve the issue as it only trims back to a boundary that already impedes sightlines. With work to this boundary it is possible to increase the sightline provision to the required 145m. Where works are required to the property of a third party, written evidence of legal consent is required.

Traffic – a previous EIAR provided for this development under reg. ref. FW 19A/0135 highlighted that the existing development has handled volumes of 36,391 tonnes. The existing development had a temporary permission to operate up to 21,900 tonnes. An increase of 3,000 tonnes would not be considered to have any significant impact on the existing road network subject to only operating up to 24,900 tonnes. It should be noted that the maximum limit of 24,900 tonnes would be a de-intensification. Additional information recommended.

- 3.4.2. Parks and Green Infrastructure Division – 02/04/2020 – conditions in the event of permission being granted.
- 3.4.3. Water Services Department – 26/03/2020 – further information re. wastewater, and re. surface water – catchment drawings, calculations for the required 1:100 year attenuation are incorrect and appear to be based on a 25% uplift of the 1: year volumes. The overflow from the rainwater harvesting system (3x 35m³, stored for firefighting purposes only) discharges untreated and flows un-attenuated into the north to south open drain on the western boundary. Applicant to submit detailed drainage layouts, including pipe sizes, gradients and levels, in order to demonstrate that the proposal is hydraulically possible to implement. The location of the flow control devices should also be included.
- 3.4.4. Executive Scientist, 12 June 2020 - if permission is granted a review of the current waste permit (WFP-FG-13-0002-03) is required. A revised drawing in respect of proposed site plan (drg no 1522-DR02) is required – only the proposed surface water system referred to as proposed storm pipe on the current drawing, should be indicated in blue and arrows indicating length/distance coloured differently. As additional information the applicant shall submit a fire prevention plan including an assessment of the fire risk from all waste activities carried out at the site, prepared in accordance with the guidance provided by the UK Environment Agency (at - web address given).
- 3.4.5. Environmental Health Air & Noise Unit – undated - conditions – no heavy construction equipment/machinery to be operated before 8am, or after 7pm Monday to Friday, and before 8 am and after 13.00pm Saturday. Dust control during construction. A dust management plan during both the construction phase and operational phase. Due consideration to B.S. 5228 2009+A1 2014 ‘Noise Control on

Construction and Open Sites Part – Code of practice for basic information and procedures for noise control. In particular construction noise levels shall be monitored continuously and a threshold value of 65dB LAeq,1hr free field at residential noise sensitive locations in the vicinity of the development shall be adopted. Noise due to the normal operation of the proposed development shall not cause a noise nuisance to nearby noise sensitive location, shall not exceed the background level by 10dB(A) or more or exceed NG4 limits whichever is lesser. The site shall be so operated that there will be no emissions of malodours, gas, dust, fumes or other deleterious materials. There shall be no noise from that site that would give reasonable cause for annoyance to any person in any residence, adjoining unit or public place in the vicinity.

3.5. Prescribed Bodies

- 3.5.1. Irish Aviation Authority 31/03/2020 – no observations.
- 3.5.2. DAA 26/03/2020 – information re noise.
- 3.5.3. IW – 03/05/2020 – conditions.

3.6. Further Information

3.7. A request for additional information on 16 points, issued 19 June 2020:

- 1 Risk of accidents – review EIS screening report.
- 2 Submit revised proposals for reduced intake, having regard to the threshold for EIA of 25,000 and to ensure an adequate buffer is maintained in the protection of the environment.
- 3 Sightlines.
- 4 Occupancy re. waste water treatment.
- 5 Surface water disposal – drawing of catchments A, B and C, calculations for 1:100 year attenuation, those submitted are incorrect. The overflow from the rainwater harvesting system discharges untreated and unattenuated. This is not appropriate. Submit detailed drainage layout.
- 6 Red line – landscaping plan does not correlate.

- 7 Restoration of part of the site to agricultural use – provide detailed timeline for the removal of all vehicles, equipment and materials from the lands and indicate where the foregoing will be relocated.
- 8 Information to enable an assessment re AA screening – re. surface water and foul water.
- 9 Employment density – public safety zone.
- 10 Noise zone A – applicant to detail the predicted noise environment.
- 11 Provide details of the planning permission which authorised the existing Hammermill on site.
- 12 Provide a full and detailed description of all waste processing activities on site to include: all waste streams currently accepted and processed and the percentage of each waste stream as a percentage of total waste throughput; volumes of all waste streams processed on a monthly and yearly basis; all waste processing activities conducted on site from acceptance on site to transfer off site to recovery.
- 13 Confirm that all lands outlined in red are within their ownership or submit consent from landowners.
- 14 Submit revised site layout wherein the proposed surface water system referred to as proposed storm pipe should be indicated in blue and arrows indicating length/distance hatched in an alternative colour.
- 15 Submit fire prevention plan and an assessment of fire risk from all waste activities.
- 16 Storm water attenuation areas (A, B and C) do not appear to correlate with the area of the site on the proposed site plan, address discrepancy.

3.8. Response to further information request:

- 3.8.1. Downey Planning responded, 1 Oct 2020, to the request for further information including proposing a reduction in intake from 24,900 tonnes per annum to 24,000 tonnes per annum (item 2); updated EIA screening report. The long established nature of recycling on the lands indicates that the development is not likely to have significant effects on the environment and this is confirmed in the enclosed AA

screening report and EIA screening report which have both been updated to reflect the 24,000 tonnes proposed intake, and all of the items of the additional information requests. Therefore, noting that the proposed development is subthreshold and that there is not likely to be any significant effects on the environment as a result of the proposed development, it is submitted to the Planning Authority that an EIAR is not required for the proposed development set out within this Additional Information Response.

3.8.2. Sightline (item 3) - the recycling centre has been in existence for numerous years, in the most recent permission the Transport Department had no issues with the existing sightlines, the entrance has not been amended, and should be permitted as is. Re. surface water, item 5, a revised drawing and calculations have been submitted. Revised landscaping proposals, per item 6, from Jane McCorkell Landscape Architects is submitted. A revised AA screening report from Openfield Ecological Services is submitted in response to item 8(a); response to 8(b) is that wastewater does not discharge to Ringsend. The maximum number of employees working at the site will be considerably below the 110 persons under the ERM public safety report, re. Dublin Airport safety zone, item 9; re item 10, Noise Zone A, the use is not a noise sensitive use. The hammermill, (item 11), is located within the curtilage of planning permission Reg. Ref. F13A/0409 and therefore is ancillary to the overall operations of lands as a recycling centre and is a process and equipment associated with the facility. The Waste Facility Permit for St. Margaret's did not require that a separate planning permission was to be sought for this ancillary piece of equipment and they consider the hammermill to be part of the overall recycling centre. The hammermill forms part of the current application as set out in the planning application pack, including drawing no. 1522-DR03 titled 'existing shelter building over hammermill', and thus will be regularised as part of this current application which is seeking retention permission for the recycling centre and all associated existing buildings on site. A Fire Prevention Plan is provided and corresponds to the current Emergency Response Plan (ERP), (item15).

3.8.3. Documents attached:

- Surface Water Management by Boylan Engineering.
- Fire Risk Assessment by Boylan Engineering.

- EIA Screening Report by Downey Planning, including Surface Water Sampling Report 2018 by Boylan Engineering. This states that the site is an established waste facility and has been in operation for the past 22 years (c1997) and operates as an authorised treatment for end-of-life vehicles (ELVs) under a Waste Facility Permit from Fingal County Council. The buildings associated with the operation of the facility are all in existence on site, with recycling activity as an appropriate use well established on the lands. All input material is weighed and recorded at the facility weighbridge. Input tonnages are monitored on a monthly and quarterly basis by the applicant. The applicant also restricts and controls customer tonnage in accordance with the Waste Facility Permit. The waste types accepted on site comprise the following:

Metals,

Construction and demolition waste,

Bulky/Skip waste,

Wood waste,

Batteries,

Non-biodegradable non-hazardous wastes,

Glass,

End-of-Life Vehicles (ELVs).

- Volume of waste to be accepted at the facility, item 1, response from Boylan Engineering.
- Restoration to agricultural lands, item 7, response from Boylan Engineering.
- Foul wastewater, items 4 and 6, response from Hydrocare Environmental Ltd. including a replacement wastewater treatment system.
- Noise sensitivity, item 10, response from RPS Group Limited.
- Land ownership, item 13, letter of consent and map.
- Screening Report for Appropriate Assessment of application for the continuation of use of St. Margaret's Recycling Centre, Sandyhill, Co Dublin, by Openfield Ecological Services.

3.8.4. The Screening Report for Appropriate Assessment of application for the continuation of use of St. Margaret's Recycling Centre, Sandyhill, Co Dublin, includes:

There is no clear evidence that water quality is currently negatively affecting the conservation objectives of Natura 2000 sites in Malahide Estuary. Water quality is not listed as a conservation objective for either the SAC or SPA.

The construction phase is limited to the installation of new storm water attenuation measures. The current surface water treatment system serving the site comprises a series of silt traps, a buffer tank with oil decanting unit and two hydrocarbon interceptors, which manages and treats runoff from defined hardstanding areas. During construction the existing silt traps and hydrocarbon interceptors will remain in place and so any construction pollutants will be captured prior to entering the Hunstown Stream.

The proposed improvements will involve:

- All external hardstanding yard areas to be captured and directed to the surface water network.
- The external hardstanding area is subdivided into 4 catchment zones, reception area, zone A, zone B and zone C.
- The surface water system to hardstanding in each catchment zone will have buffer tanks to act as attenuation for a 1 in 100 yr storm event. The outfall from each zone is restricted via flow control.
- The buffer tanks are sized via microdrainage software that models in the head-discharge relationship of the flow control and as such the 25% volume increase due to head discharge relationship per requirements of GDSDS is not applied.
- Each zone will have silt trap manholes to capture silt laden run off. Furthermore the gullies, existing and proposed are silt trapped. These will be periodically serviced by the operator as is the current case.
- All catchment zones are conveyed via gravity to a hydrobreak manhole at the entrance to the facility which controls the discharge of the system. The hydrobreak is sized at greenfield run-off rates which equate to 2.1 l/s/ha which is akin to the GDSDS requirement of 2.0 l/s/ha limiting throttling criteria.

- After passing through the hydrobreak manhole the surface water will be treated via a class 1 full retention interceptor designed to achieve a concentration of 5mg/l of hydrocarbon at discharge.
- The discharge from the interceptor is then pumped from a wet well manhole to an above ground sand filter unit. The sand filter unit filters the discharge through a medium of sands to remove any silts, grits and lower the concentration of any hydrocarbons that pass through the interceptor. The wet well will operate at less than 50% duty load and will have a standby redundancy pump. The site is supported by an onsite diesel generator in the event of electrical outages.
- Long-term storage is provided in the sized attenuation tanks.
- Rainwater that falls on the roof of the processing building will be captured via roof guttering and downpipes. As the roof water is considered clean (this is backed up by ongoing historical dust monitoring results at the site), the run-off captured on the roofs do not require any treatment.
- The captured roof run-off is directed into above ground rainwater harvesting tanks that are used for fire fighting purposes. The overflow from the tanks is directed to an attenuation tank and controlled discharge to the surface network at the R122.
- Existing foul wastewater system to be decommissioned and a new wastewater treatment system installed and expanded soil polishing filter.

The development will not add to any pressure in the catchment that could act in combination to result in significant effects to Natura 2000 sites.

3.9. Further Reports

- 3.9.1. Parks and Green Infrastructure Division – 21/10/2020 – conditions in the event of permission being granted.
- 3.9.2. Transportation Planning Section – 21/10/2020 - sightlines – as previously stated the current maintenance of the boundary does not resolve the issue of sightlines as it only trims back to a boundary line that already impedes sightlines. The existing boundary hedgerow is robust and would appear to have thickened over time. Visibility could be improved to meet the standard of 145m (it is currently circa 125m) by trimming back behind the existing roadside barrier. However, the Transportation

Planning Section accepts that the entrance is an existing entrance in operation for a number of years and the lands to the south east, between the road and the site, is not in the ownership of the applicant. Improvements can be achieved by trimming back the hedgerow directly adjacent to the entrance. Recommending conditions.

- 3.9.3. Water Services Department – 27/10/2020 – further information re. wastewater, a new wastewater system is proposed – conditions recommended; re. surface water – the site is split into 5 separate catchments with individual flow controls. The use of underground attenuation and multiple flow control devices is not desirable as the performance generally relies on regular and costly maintenance. The use of SuDs systems is preferable. It is noted the surface water systems on site will be managed privately, and the nature of the use is acknowledged. In this instance the surface water proposal is acceptable; conditions recommended.
- 3.9.4. Executive Scientist – 05/11/2020 – the Environment Division highlights that the facility breached the waste-in limit of 21,900 tonnes set out in the waste facility permit WFP-FG-13-0002-02 in 2018 (36,391.18 tonnes) and also breached the waste-in limit of 21,900 tonnes set out in the current waste facility permit WFP-FG-13-0002-03 in 2019 (30,736.67 tonnes). Waste-in figures to date indicate that the facility has accepted 17,631.88 tonnes. Re. item 7 of the FI, inadequate information has been provided in respect of the process of restoring the lands in question to agricultural use. In the first instance the applicant shall engage the services of an independent consultant to carry out a site characterisation and assessment on a priority basis to determine if there is risk of environmental pollution from the lands. The response to item 11; the intention to regularise the hammermill is noted. The applicant shall liaise with the EPA as to whether a waste facility permit is appropriate for current waste activities. The response to item 12 relates to the proposed waste processing activities and not current waste processing on the site as requested. The Fire Risk Assessment and Fire Prevention and Mitigation Plan, in response to item 15 is noted. The indicative Fire Water Calculations is based on the water available on site, and an indicative max. waste pile size of 132m³. The Fire Prevention and Mitigation Plan did not indicate what maximum size waste piles should be. It made reference to areas having storage capacities of up to 3,000m³. Nor did it indicate the location of waste piles and spacing between them, required in order to ensure a fire would not spread and would be extinguished within 4 hours, as per objectives of a

Fire Prevention Plan, as described by the UK Environment Agency Guidance. Achieving these objectives will impact on the layout of the facility. The provision of adequate water storage for the purpose of fire-fighting is also an element that needs to be considered. The applicant shall review and update the documents outlined above and submit the revised documents to the Council for agreement with the Environment Division. An updated site layout drawing to be submitted. If permitted, a new waste licence or Industrial Emissions Licence may be required.

3.10. Prescribed Bodies

3.10.1. TII – 13 Oct 2020 – to be carried out in accordance with the recommendations of the Transport (Traffic) Assessment and Road Safety Audit submitted.

3.10.2. Aircraft Noise Competent Authority (ANCA) – 19 Oct 2020 - not of the opinion that the proposed development contains a proposal requiring the assessment for the need for a noise-related action, or indicates that a new operating restriction may be required.

3.10.3. DAA – 27/10/2020 – under DAA safeguarding policy, office space is considered a noise sensitive use. They refer to their previous request for the existing and predicted noise environment on site to be fully assessed. They note the inclusions of existing noise levels on site but do not see the inclusion of future noise levels, with consideration of future airport growth. Further clarification required.

3.10.4. The Second Planning Report (9th Nov 2020) recommending clarification of further information includes:

Reference to each item of FI and reports from sections, clarification of further information to be requested on 5 points, which issued.

3.11. Clarification of Additional Information

3.11.1. A request for clarification of additional information issued 13/10/2020, which includes:

1 Noise zone A – applicant to detail the predicted noise environment and if noise mitigation measures are required.

2 The description of the current application is for continued use of the buildings and not the structures themselves; no reference has been made to the hammermill in the notices, which would be appropriate; regularise. Applicant to liaise with the EPA as

to whether a waste facility permit or Industrial Emissions Licence is appropriate for current waste activities including the hammermill.

3 The indicative Fire Water Calculations are based on the water available on site, and an indicative max. waste pile size of 132m³. The Fire Prevention and Mitigation Plan did not indicate what maximum size waste piles should be. It made reference to areas having storage capacities of up to 3,000m³. Nor did it indicate the location of waste piles and spacing between them required in order to ensure a fire would not spread and would be extinguished within 4 hours, as per objectives of a Fire Prevention Plan as described by the UK Environment Agency Guidance. Achieving these objectives will impact on the layout of the facility. The provision of adequate water storage for the purpose of fire-fighting is also an element that needs to be considered. Review and update the documents.

4 Provide a full and detailed description of all waste processing activities on site. The response provided relates to the proposed waste processing activities and not current waste processing on the site as requested.

5 Inadequate information has been provided in respect of restoring a section of the land, (1.19ha), back to agricultural use.

- a) Detail a specific timeframe, including a completion date for the restoration of lands, clarifying the reference made to legal proceedings mentioned in the response to the request for additional information and detailing where the existing materials on the lands will be relocated.
- b) Provide full details of the measures required to restore the lands in question including soil importation (if required), land drainage, landscaping etc. Such information to be provided by a competent individual with experience in land restoration.
- c) Provide a detailed topographical survey of the lands to be restored, referencing the current position including ground levels and the completed restoration works, showing expected finished levels, landscaping works etc.
- d) The applicant shall engage the services of an independent consultant to carry out a site characterisation and assessment on a priority basis to determine if there is risk of environmental pollution from the lands.

3.12. Further Clarification Response

3.12.1. A response to the request for clarification of additional information was received 16/03/2021 including:

- Letter from Downey Planning.
- Opinion by Senior Counsel, Dr Yvonne Scannell, Arthur Cox Sols.
- Letter from EPA in relation to Article 11, application no. 2155.
- Response to item 3 by Boylan Consulting Engineers and a letter of engagement from the Fire Safety Officer, and a Fire Prevention and Mitigation Plan.
- Response to item 4 by St Margaret's Recycling, including a breakdown of current and proposed waste volumes, waste acceptance, and waste handling and processing operations.
- Response to item 5 by Boylan Consulting Engineers and a letter from Hamilton Turner Solicitors (to be redacted and not made available to the public) which appears to refer to legal proceedings related to the lands to be restored.

3.12.2. Letter from Downey Planning:

- Response to CAI item 1 - Not noise sensitive.
- Response to CAI item 2 – a hammermill is a mill whose purpose is to shred or crush material into smaller pieces by the repeated blow of hammers. These machines have numerous industrial applications, including crushing and shredding metals and materials in waste management. A Senior Counsel letter is attached re. the status of the hammer mill. Applicant has made a request to the EPA in accordance with Article 11 and the agency made a declaration that a waste permit is appropriate for current activities including the hammermill.
- Response to CAI item 5, the Boyle Engineering document, concludes that materials can continue to be stored onsite until conclusion of legal proceedings.

3.12.3. Opinion by Senior Counsel, includes:

Planning and Development Regulations, articles 1 and 2 definitions: industrial process; height limit on exemption – plant or machinery greater than 15m: the height of the machinery is 10.97m. Other limitation – ‘would seriously alter the external

appearance of the premises'; is screened from the public road. The erection of this plant and machinery initially was exempted development and it continues to be so.

3.12.4. Copy of e-mail from the EPA (to an earlier query) stating that a waste facility permit is appropriate.

3.12.5. Boyle Engineering Response to CAI item 5:

The Fire Safety Report and Risk Assessment provides a calculation for maximum combustible waste pile sizes based on available firefighting water on site of 158m³. The limiting factor for the stockpile storage is based on the available water for firefighting purposes. It is noted that the available firefighting water is contained on site in static storage tanks amounting to 158m³. St Margaret's Recycling are in the process of applying for a connection agreement with IW to supply a connection to support two 90mm hydrants on the site. A pre-connection application is currently being processed by IW and at time of writing, still being processed.

The Fire Safety Report and Risk Assessment refers to a calculation for maximum combustible stockpile size based on the available firefighting water. For example, notwithstanding the subsequent limitations set by the available firefighting water, table 1 of the report refers to maximum stockpile sizes for rubber (i.e. tyres) and Fragmentiser Waste from depolluted ELVs of 450m³. Non-combustible stockpiles, e.g. stockpiles of materials that are not combustible should not be limited in size by the amount of firefighting water available. The storage capacities of up to 3,000m³ referred to in the Fire Prevention and Mitigation Plan refer to the capacity of the area to store materials, not necessarily total stockpile size (eg. an area could have a number of stockpiles of varying sizes segregated by precast concrete walls and /or appropriate separation distances). The Fire Prevention and Mitigation Plan has been updated to clearly reflect this, and is appended. Furthermore, an arrangement of multiple stockpiles separated by a non-combustible wall system (eg. precast Kelly block system or other similar) can be used to segregate and manage stockpiles.

'Forward Fire Engineering', Mr Brian Burke, has been engaged to manage fire risk at the site.

In liaison with Fingal Co Co Fire Department, it has been determined that a system of two number hydrants would be required to fight a fire for approx. 4 hours. It is the

intention to provide a fire ring main to the site with four or more hydrants, subject to IW confirmation of connection availability.

Fire water retention will be provided in the form of a combination of available storm water storage systems (difference between 1 in 10 and 1 in 100 yr storm system). The proposed attenuation system has storage for 1 in 100 yr storm with allowance for 20% increase due to climate change of in excess of 1,050m³. EPA guidance on fire water retention generally requires a site to account for a 1 in 10yr storm event in the fire water retention calculations. For this site a 1 in 10yr storm accounts for less than 450m³ storage, thus providing available capacity of 550m³ of storage in the surface water system once the discharge is isolated in event of fire, the remainder of fire water retention will be provided in the form of yard bunding. As the site is generally graded towards gullies located centrally in the yard, the provision of low level kerbing around the site will easily provide any required capacity to store the remainder of fire water run-off. Discussions between Forward Fire Engineering and Fingal Co. Co. Fire Department assessed circa 1,000m³ of firefighting water could be generated on the site. The exact volume of fire water retention is to be determined subject to the ongoing measures being implemented in accordance with Forward Fire Engineering, per points above.

Should a connection to the IW network not be feasible to provide capacity for two hydrants on the site, combustible stockpiles will be limited by size by the volume of available firefighting water. Ongoing Fire Risk Assessments will review the nature and volume of material stored, and any changes to available firefighting water (static storage or otherwise) to inform on suitable stockpile sizes.

A revised Fire Prevention and Mitigation Plan is attached.

3.13. Reports

- 3.14. Senior Executive Scientist – 01/04/2021 – the EPA Article 11 response, dating to 2016, is noted however details of the application for Article 11 were not included. It is noted from data on file that the Article 11 request was submitted on the basis of the shredder output being less than 75 tonnes per day. This could be interpreted to mean that under a Waste Facility Permit the maximum input of waste to the site is 75 tonnes per day. Tonnage threshold will have to be addressed by the Environment

Section when a Waste Facility Permit Review is sought; possibly through a fresh Article 11. Fire Prevention – it is noted that the combustible wastes listed are not exhaustive and do not include hazardous liquids from the depollution of ELVs (waste oil, mixed fuels) or gas cylinders from the quarantine area which needs to be addressed. Depollution of ELVs are classified as non-combustible which is questionable as they still contain combustible elements – car seats, plastic components. The fire prevention plan does not include a drawing showing the storage areas for combustible materials with their size limitations and separation distances between combustible piles. Piles of combustible waste, well in excess of 132m³ were observed by Waste Enforcement Officers during a site inspection on 16/3/2021 with an estimated 1,000m³ of fragmentiser waste in 1 single pile.

Description of Waste Processing activities – this is incomplete – it does not include use of hammermill, or show further processing to the fragmentiser waste (fluff); or show processing of cables, batteries etc on site. The hammermill operating procedure submitted is not detailed enough regarding inputs and outputs. It contains contradictory information as to whether depolluted ELVs go through the hammer mill or not (they do go through the hammermill but not all do). Re. restoration to agricultural use – the risk is based on spot samples from undisturbed locations on bunds and not from trial pitting across the entire site. The site is not suited to return to agricultural use until the entire site is subjected to categorisation, assessment and where necessary agreed mitigation and aftercare, using the EPA Guidance on the management of contaminated land at EPA licensed sites, or the Code of Practice for Environmental Risk Assessment for Unregulated Waste Disposal Sites. The report does not represent an application of the methodology described in the guidance. Re. details of all decontamination measures required to bring the site back to agricultural use – the response is that limited records from historical site investigation and drilling works are available. Fingal Co Co records indicate there may have been historical tipping in this area. The site is therefore not suited for return to agricultural use until it is subjected to categorisation, assessment and where necessary agreed mitigation and aftercare.

3.14.1. The Third Planning Report, (12/04/2021), recommending permission, includes:

- Reference to each item of FI and reports from sections,

- In the clarification, reference is made to an ongoing legal case regarding the part of the land for restoration, however an explanation has not been provided as to how that matter impedes the applicant carrying out the necessary site investigation works and the restoration works. Considering that Fingal Co. Co. records indicate there may have been historical tipping in this area, it cannot be said that the site is suited for return to agricultural use until subjected to categorisation, assessment and, where necessary, agreed mitigation and aftercare. Categorisation and assessment reports will be required before corrective action proposals can be agreed and this will be conditioned.
- It is considered that due to the deficiencies in the information submitted as part of the clarification of additional information, a permanent permission could not be considered appropriate in this instance. A temporary three year permission will be conditioned. The response to the item in respect of the hammermill is not considered satisfactory. Given the scale of this element and potential impacts, it is considered that it is warranted to include specific reference to it in the development description. However taking into account that it has been referenced on the drawings submitted with the application, and that only a temporary permission is being considered, its authorisation on this basis is deemed to be acceptable.

3.15. Prescribed Bodies

3.16. DAA– 26/03/2021 - Condition re. noise insulation.

3.17. **Third Party Observations**

3.17.1. Third party observations on the file have been read and noted. The issues raised in the third party appeal and observations on the appeal are similar to those raised in third party observations to the planning authority and are detailed in section 6 of this report.

4.0 **Planning History**

FW19A/0135 – Application for planning permission withdrawn - 03 Oct 2019 - for; (i) the permanent continuation of use of the existing and permitted waste processing and transfer facility at St. Margaret's which is currently operated under and in

accordance with temporary planning permission Reg. Ref. F13A/0409 and permanent planning permissions Reg. Ref. F03A/1682 and Reg. Ref. F97A/0109; (ii) an increase in waste throughput at the facility (to accept up to 49,500 tonnes per annum); (iii) continued use of the existing buildings on site associated with the daily operations of the facility; (iv) proposed stormwater attenuation storage tanks and associated stormwater treatment infrastructure; (v) and all ancillary site development works necessary to facilitate the development erected under and in accordance with Reg. Ref's. F13A/0409, F11A/0443, F10A/0177, F03A/1561, F03A/1682 and F97A/0109. This application is accompanied by An Environmental Impact Assessment Report (EIAR).

F13A/0409 permission granted 25 Aug 2014 (5 year permission) for the continuation of use of a facility for the bulking, transfer and recycling of metals, construction & demolition waste, bulky/skip waste, batteries, Waste Electrical and Electronic Equipment (WEEE), other non-biodegradable non-hazardous wastes, and an Authorised Treatment Facility for end-of-life vehicles. Permission is also being sought for a new 5-bay metal-clad portal frame storage building, with external finish to match existing adjacent storage building and associated site works. the new building (447.95m²) will be used for the storage & shredding of wood/timber products and bulky/skip waste segregation. the site is an established waste facility and operates under Waste Facility Permit WFP-FG-10-00012-02; the following planning permissions apply: F11A/0443, F10A/0177, F03A/1682, F03A/1561 and F97A/0109. Significant additional information received 25/06/2014. Expired 24th Aug 2019.

F11A/0443 permission granted 25 May 2012 – for the establishment of an authorised treatment facility for the de-pollution/recovery of end-of-life vehicles (ELVs) at an existing and established waste recycling facility (Planning ref. F97A/0109; Waste Facility Permit WFT-FG-11-00012-01). a change of use of the existing green waste storage building as granted under planning ref: F10A/0177 to carry out ELV de-pollution activities within this building. Modifications to the external facade of the existing storage building on site to facilitate the internal storage of all ELVs delivered to the facility pending de-pollution and an external metal crusher/baler is proposed along the northern boundary of the site, with the crushed bales stored on an adjacent mobile flat bed trailer (on concrete hardstanding), and all necessary site development works.

Condition no 3

The development hereby permitted shall be for a period of three years only. On expiry of this period, the site shall be reinstated to the satisfaction of the Planning Authority and all temporary structures / equipment shall be removed.

Reason: In the interests of orderly development and to allow for sufficient monitoring of the site in question. Expired June 2015.

F11A/0272 permission refused 05 Sep 2011, for change of use of existing green waste storage building as granted under planning ref: F10A/0177, to a de-pollution/recovery building for end of life vehicles and permission to store end of life vehicles on 325 sq.m. of existing concrete hard standing which will be associated with a new authorised treatment facility within the existing recycling facility (Waste Facility Permit WFP-FG-11-00012-01).

Reasons:

1 The subject site is zoned 'DA' 'Dublin Airport' under the Fingal Development Plan 2011 – 2017, which seeks to 'Ensure the efficient and effective operation and development of the airport in accordance with the adopted Dublin Airport Local Area Plan. 'Waste disposal and recovery facilities both low and high impact are not permitted under such land use zoning. The change of use from a green waste storage building (as permitted on a temporary basis under F10A/0177) to use as a de-pollution / recovery building for end of life vehicles would therefore materially contravene the land use zoning objective for this site and as such would be contrary to the proper planning and sustainable development of the area.

2 Having regard to the nature and extent of existing development onsite (and the temporary planning permission granted under Reg. Ref: F10A/0177), the nature and extent of surrounding uses/development and the associated operations of Dublin Airport, it is considered that the proposed vehicle recovery facility with associated vehicle storage hard standing area, de-pollution kit and hydraulic ramp would represent a substantial deviation from the existing permitted operations on site and would result in a significant intensification of recycling operations and industry at this location. It is considered therefore, that the proposal would seriously injure the amenities of the area by way of noise, fumes, visual impact, additional traffic generation and general activity. The proposed development would be contrary to the vision statement for the area, as set out in the Fingal Development Plan 2011 –

2017, which seeks to 'facilitate air transport infrastructure and airport related activity/uses only (i.e. those uses that need to be located at or near the airport)'. The proposal would therefore seriously injure the amenities of the area and would be contrary to proper planning and sustainable development.

3 Insufficient information has been submitted regarding the foul sewer and surface water arrangements for the proposed development. In the absence of same, the proposed development is considered to be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

F10A/0177 Permission & Retention granted 16 December 2010. Proposed development - retention for onsite prefabricated buildings comprising weighbridge control room, office, canteen and toilets, retention of existing 1500 sq.m. skip storage area to the south of the existing process building, change of use of existing 6458 sq.m. agricultural storage area to the south of the site as granted under F03A/1682 to storage area for construction demolition waste, retention of 10172 sq.m. area to the east of the site for processing of construction demolition and other inert non-hazardous waste, retention of existing boundary treatments and planning permission for bulking and transfer of green garden waste within the facility. Significant information received on 6th September 2010. (Noted on file the development is currently operating outside the parameters of the permissions granted. The application is intended to regularise. The breach has arisen through a contract being awarded to Sandyhill Environmental Ltd to store and crush waste concrete slabs for re-use from the demolition of the Ballymun flats complex).

Condition no 2 retention & permission for three years. Expired 15 Dec 2013

F05A/0233 refusal of permission, 19 Apr 2005, for the development of a concrete batching plant, bunded fuel oil tank, 3 no. 6m x 3m aggregate storage bays, water recycling unit and all other associated works.

F03A/1561 permission granted for permanent retention of 5 no. existing prefabricated single storey buildings, comprising office accommodation, canteens, toilets and weighbridge control room. Permanent retention is also sought for existing security fencing to boundary and skip storage area to the south of the site. All on an enlarged site from previously granted permission F97A/0109. The site possesses a current EPA waste licence (EPA Licence No 134-1).

F03A/1682 permission granted 17 Aug 2004 – proposed development - the retention of an existing stone road serving existing agricultural entrance located on the St. Margarets Road, stone area for use as agricultural storage, hard standing for use as parking of trucks ancillary to waste transfer depot on adjoining site.

F97A/0109 (third party appeal withdrawn, 06F.104750, file attached) permission granted for retention of existing use with extension and alteration of existing buildings, alterations and widening of existing entrance and septic tank – waste recycling and transfer depot.

Conditions:

2 - Only inert non-domestic waste shall be delivered to the site. No fruit, vegetables or food waste whatsoever shall be delivered to the site. The facility shall be continuously monitored by the applicants to ensure that no bird-attracting waste shall be delivered to the site.

Reason: To ensure that birds (which could pose a hazard to air navigation) are not attracted to the site and to facilitate the safe operation of Dublin Airport.

3 - No scavenging shall be permitted on site.

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

8 - The annual throughput of waste authorised by this permission shall not exceed 10,000 tonnes.

Reason: To enable the Planning Authority to maintain effective control over the land use.

Waste Permit

WFP-FG-13-0002-03 granted 5th September 2019

Third schedule disposal	
Class D15	Storage pending any of the operations numbered D1 to D14
Fourth schedule disposal	
R3	Recycling / reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes), which includes gasification and pyrolysis using the compounds as chemicals.
R4 (principal activity)	Recycling or reclamation of metals and metal compounds

R5	Recycling / reclamation of other inorganic materials, which includes soil cleaning resulting in recovery of soil and recycling of inorganic construction materials
R12	Exchange of waste for submission to any of the operations numbered R1 to R11
R13	Storage of waste pending any of the operations numbered R1 to R12
Third schedule part 1 permitted activity	
4 (principal class)	The reception, storage and recovery of scrap metal, including scrap metal arising from end-of-life vehicles and waste vehicles (other than end-of-life vehicles) excluding WEEE
7	Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material at a facility (excluding land improvement or development).
9	The reception, temporary storage and recovery of used batteries and accumulators where: (a) From 26 th September 2008, the treatment and recycling of used batteries and accumulators meets the requirements of Article 12 of Directive 2006/66/EC on batteries and accumulators, and (b) The annual intake shall not exceed 1,000 tonnes.
10	The recovery of waste (not mentioned elsewhere in this part of the third schedule) other than hazardous waste or any activity where there is a scheduled requirement to hold an IPPC licence or a waste licence, where the annual intake does not exceed 50,000 tonnes
12	The collection and storage (including temporary storage) and the appropriate treatment and recovery of end-of-life vehicles in accordance with the provisions of articles 14 and 15 of the Waste Management (End-of Life Vehicles) Regulations 2006 (SI No 282 of 2006)

5.0 Policy Context

5.1. Development Plan

5.2. Fingal County Development Plan 2017-2023 is the operative plan. Relevant provisions include:

Zoning 'DA' Ensure efficient and effective operation and development of the airport in accordance with an approved Local Area Plan. Not permitted – waste disposal and recovery facility.

One of the strategic aims of the plan is to 'Safeguard the current and future operational, safety, and technical requirements of Dublin Airport and provide for its ongoing development within a sustainable development framework of a Local Area Plan. The plan shall take account of any potential impact on local communities and shall have regard to any wider environmental issues.'

The Dublin Airport (DA) zoning is a unique economic development zoning within Fingal, comprising an extensive area of some 1,024 ha. The DA zoning covers all the operational buildings and lands associated with the airport and runways. Within the lifetime of the Development Plan, the Council will prepare a LAP for Dublin Airport that will outline the future vision for the airport, examine its operational requirements and the associated environmental effects.

Throughout the County there are uses which do not conform to the zoning objective of the area. These are uses which were in existence on 1st October 1964, or which have valid planning permissions, or which are unauthorized but have exceeded the time limit for enforcement proceedings. Reasonable intensification of extensions to and improvement of premises accommodating these uses will generally be permitted subject to normal planning criteria.

Objective Z05 Generally, permit reasonable intensification of, extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria

Justification for non-conforming use – planning history and quarry and recycling facility adjacent to Heathrow Airport under flight paths, and quarry and landfill adjacent to Belfast International Airport under flight paths.

5.3. Local Area Plan.

Dublin Airport Local Area Plan was adopted by the Council on 9th December 2019.

It notes that the Airport is of vital importance to the Irish economy and acts as the principal international gateway for trade, inward investment and tourism. In addition, the Airport facilitates Ireland's integration with Europe and aids in attracting foreign

direct investment. In the future, the Airport will facilitate Dublin in becoming an economic bridge between North America and Europe. Government Strategy set out in the National Planning Framework and the National Aviation Policy recognises the importance of growth at the Airport to future national prosperity. The Dublin Airport Economic Impact Study (DAA, April 2017) set out that Dublin Airport remains a major employment cluster and a nationally important strategic business location. The Airport is also the most important economic entity in Fingal and the wider Dublin City region.

Vision – ‘to facilitate and manage the sustainable growth of Dublin airport in a manner that reflects its status as Ireland’s premier aviation gateway whilst safeguarding the core operational function of the airport and supporting neighbouring communities, the economy and the environment’.

It is essential that the LAP safeguards the current and future operational, safety, technical and developmental requirements of Dublin Airport and provides for its on-going development within a sustainable development framework, having regard to both the environmental impact on local communities and the economic impact on businesses within the area.

Key Strategic Objective - Safeguarding - Safeguard the current and future operational, safety, technical and development requirements of Dublin Airport and provide for its ongoing development within a sustainable development framework, having regard to both the environmental impact on local communities and the economic impact on businesses within the area. Promote appropriate land use patterns in the vicinity of the flight paths serving the Airport, having regard to the precautionary principle, based on existing and anticipated environmental and safety impacts of aircraft movements.

5.4. **Directive 2000/53/EC on end-of life vehicles.**

EU rules which aim to make the dismantling and recycling of end-of-life vehicles more environmentally friendly.

Item (7) Member States should ensure that the last holder and/or owner can deliver the end-of life vehicle to an authorised treatment facility without any cost as a result of the vehicle having no or a negative, market value. Member States should ensure

that producers meet all, or a significant part of, the costs of the implementation of these measures; the normal functioning of market forces should not be hindered.

5.5. Natural Heritage Designations

- 5.5.1. The nearest designated site is: Malahide Estuary SPA (site code 004025) & Malahide Estuary SAC (site code 000205), approx. 7km from the site, and Baldoyle Bay SPA (site code 004016) and SAC (site code 000199), approx. 400m north of the site.

6.0 The Appeal

6.1. Grounds of Third Party Appeal

- 6.1.1. A 3rd party appeal has been submitted by Jerry Beades PC, 7th May 2020. The issues raised in the grounds include:
- Water for fire fighting – the incident was not notified.
 - Petrol filling station application FW20A/0120 not notified.
 - Containment of fire water – low level kerbing – even though all the surface water run off containing contaminants needs to be treated in what is an inadequate system at present on site before being released into the nearby ditches that lead into the water courses.
 - Use of well.
 - Location of percolation areas in adjoining lands.
 - The suggestion that the site team will reduce the amount of combustible material storage on site to an amount equivalent to the available water stored from rainwater runoff is totally inconceivable and that such a complete reduction would be implemented is totally unimaginable based on previous historical events.
 - Other combustible fluids were not included- petrol, diesel, brake fluids, gas cylinders, used engine oil and hydraulic oils as well as batteries that are known as being explosive by combusting from sparking.
 - Cars were stowed on racks outside approved boundaries.

- A serious fire incident occurred at this facility in 2018 and it is astounding that still almost three years after the event that an appropriate fire plan is not in place and that the planning authority are satisfied to again give temporary three year planning approval.
- FCC waste enforcement raise concerns as to what actual waste processing operations are taking place.
- The planning authority recognises that appropriate information was not submitted on the use of the hammermill, despite being requested as part of the additional information, and raises concerns over fragmentiser waste (fluff); particularly the after shredder residues (ASR) which is extremely toxic material and as it is light weight can be displaced easily by air. Appellant has submitted that other facilities that have these types of operations have an Industrial Emissions Licence.

6.2. **Grounds of First Party Appeal**

6.3. An appeal against conditions has been submitted on behalf of the 1st party by Downey Planning. The issues raised in the grounds include:

6.3.1. Condition 2 – permission for temporary period:

- The application submitted was for permanent permission. The permission granted was for 3 years.
- The facility has been operating for over 20 years and has extended and evolved over time as a result of increased business demands.
- The continuation is sought for up to 24,900 tonnes per annum, up from 21,900 tonnes per annum. The infrastructure is in place that can easily accept the tonnage and that up to 60,000 tonnes of waste per annum was historically accepted on the subject lands.
- The facility does not and will not accept food waste (putrescible wastes) or green waste. The only organic / biodegradable waste stream accepted is wood/timber which is not a food source and therefore not deemed to be an attraction to scavenging birds. Wood chipping operations is carried out indoors and the handling and processing of all minor C&D waste skips is carried out undercover and indoors. There is no record of complaints/non-

compliance associated with bird nuisance. Continued implementation of waste acceptance procedure will safeguard against any unlikely bird nuisance.

- Planning permission for the continuation of waste processing and transfer has been granted on several occasions since 1997 and which were compliant with the policies and objectives of the Fingal Development Plan at those times.
- Objective Z05 of the Fingal Development Plan allows reasonable intensification of non-conforming uses.
- The DAA had no objection in principle to the application.
- Permanent permission will put an end to the costly reoccurrence and administrative burden of repeat applications, will provide job security to 20-25 employees and waste facility owners, safeguard an existing waste transfer and recycling centre and ensure it is available to the Fingal Area as part of national and regional policy guidance.
- It is one of only 3 authorised treatment facilities for ELVs in Fingal. Objective WM01 of the Fingal Development Plan seeks to facilitate sustainable expansion of existing authorised treatment facilities for ELVs in compliance with EU (End of Life Vehicles) Regulations 2014, other relevant legislation and the Eastern Midlands Regional Waste Management Plan 2015-2021.

6.3.2. Condition 5 – not for members of the public.

- Condition no 5 – it is essential for members of the public to have ease of access in order to ensure that the legally binding EU targets for reducing waste reaching landfill are met.
- Waste Facility Permit WFP-FG-13-0002-03 allows for members of the public to access the facility in order to deliver their end-of-life vehicles. It is anticipated that only a small portion of the public will use the facility on a regular basis and high levels of traffic are not anticipated. Members of the public will not proceed past the existing weighbridge/reception area and this is safe and appropriate. The site has ample temporary parking space.

6.3.3. Condition 11 – restricting hours of operation.

- A starting time of 9am is very restrictive. Refuse collection services operate during early hours of the morning to facilitate a swift collection outside peak traffic times. These companies then travel to St. Margaret's Recycling facility who manage their recyclable waste. It is important that the centre is open at 8am so that these deliveries can be received prior to peak commuting and school going times. The starting time of 8am would be in line with other similar facilities operating in the greater Dublin area.
- They request amendment of this condition to a starting time of 8am Monday – Saturday.

6.4. Applicant Response

6.5. A response to the third party appeal has been submitted on behalf of the 1st party by Downey Planning. The response includes:

- They consider that the appeal should be dismissed for reasons which they outline.
- They respond to the issues raised under the headings:
 - Fire Safety
 - Waste Streams
 - EIA requirements
 - Noise
 - Land Restoration.
- In relation to Fire Safety – the size and locations of stockpiles on site, surface water run-off, water storage capacity, connections to the IW network for fire hydrants, and the images from a fire which took place on site - these issues have been reviewed by Fingal County Council during the course of their assessment.

Boylan Engineering have been retained to respond to these issues and their response to the grounds is attached as an appendix to Downey Planning's submission. The applicants have appointed Mr Brian Burke of 'Forward Fire

Engineering', to ensure all fire procedures and systems on site are regularly checked, monitored and updated where deemed necessary.

The applicants have been working tirelessly to ensure the highest standards of fire safety measures are always in place.

- Re. Waste Streams – it is unclear where the appellant got his information regarding Fingal Council's Waste Enforcement Section site visits. There are regular sites, (unannounced and announced), which are facilitated.

Re. the waste streams requirement for an Industrial Waste Licence; an Industrial Waste Licence is not required.

- EIA requirements – Fingal County Council and their consultants came to the conclusion that the proposed development is sub-threshold and that EIA is not required. Other throw away comments are made by the appellant. The fire incident in 2018 was an unfortunate event that shocked the applicants, who have since worked tirelessly to ensure no such incident ever happens again.
- Noise – they are of the opinion that the small office and welfare facilities are not noise sensitive uses, however they accept condition no. 7.
- Land Restoration – as outlined in their clarification of additional information, the issue of restoration of lands is subject to a legal dispute at present and has delayed the restoration process, which they fully intend to complete. They attach details in that regard.

6.5.1. Boylan Engineering – their response to the third party grounds of appeal, includes:

- Fire safety – response to request for additional information (by Derek McDonnell) includes that max. combustible waste pile sizes, based on available firefighting water on site is 158m³. The intention to obtain a connection to the Irish Water network to facilitate the provision of hydrants on site was stated. In the intervening period confirmation of feasibility has been obtained from IW for connection to the IW water network and the applicants' engineers are in the process of preparing a connection application.

Re. the proposed drainage system outlined in response to a further information request, the entire site has been designed to cater for a 1:100 year storm event with an allowance of 20% for climate change. In excess of

1000m³ storage is proposed. Detailed calculations of each catchment area and associated conveyance and storage has been provided. The Fire Prevention plans provided in response to request for additional information clearly state that 'Fire Warden shall isolate surface water valve to prevent contamination.'

Re. the suitability for purpose, of the Derek McDonnell report – the applicant has appointed Mr Brian Burke of 'Forward Fire Engineering', to provide consultancy services in the practical application of the Fire Risk Assessment and to address and manage fire risk associated with its operations. The applicant has implemented a number of recommendations made by Forward Fire Engineering.

Storage of fire contaminated water will be in the proposed surface water network with a capacity in excess of 1000m³. Additional storage will be provided above ground via kerbing of the site. As the surface water network will be isolated from discharging, the storage of water in the facility will surcharge onto the yard. Provision of above ground storage of fire water (and long term surface water storage) is an accepted industry standard for events with a low likelihood of occurring. The statement that surface water or contaminated fire water would be released untreated to nearby ditches or watercourses is inaccurate and untrue.

Re. reduction in the amount of combustible materials stored – the FRA notes that combustible materials must be limited to stockpile sizes of 132m³. This does not limit the number of stockpiles. Provided separation distances are adhered to. Forward Fire Engineering to provide practical guidance.

- Waste streams - waste streams were based on tables given to the Environment Section for the Waste Facility Permit review application; codes were per their form, the second table was the materials accepted, processing activity and fate or final output. The planner's report states that the waste handling procedure submitted as part of the CAI (P5.2.B/WHANDLING) is not representative of the waste activities on site. The procedure does not include the use of the hammermill in the waste process. It does not show further processing to the fragmentiser waste (fluff). Also, it does not show processing

of cables, batteries etc. on site. A hammermill operating procedure is also attached however it is not detailed enough regarding what the inputs and outputs of the hammermill are. The information submitted contains contradictory information as to whether depolluted End-of-Life vehicles (ELVs) go through the hammermill or not. From a recent site inspection carried out by the Environment Section on 16/03/2021 ELVs do go through the hammermill but not all the time.

- The procedure referenced P5.2.B/WHANDLING was developed prior to commissioning of the hammermill, it does contain general instructions for handling metals. Batteries are covered by procedure P5.2.H/BATT. The processing of waste through the hammermill does produce a lighter fraction residue waste, List of Waste Codes (LoW) classification 19 10 04 (fluff-light fraction and dust other than those mentioned in 19 10 03). This was referenced in P5.2L/HAM, there is no further processing of this material onsite. It is removed from site for further recovery.
- It is noted that the processing table did not refer to ELVs being subjected to the shredder process (this is the source of 'contradictory' reference in the Planner's report). Procedure P5.2L/HAM does not distinguish sourcing input materials and the point is acknowledged from the site visit that some ELV dismantled material may be subject to shredding.
- The procedure from the environmental management system are part of a process for managing the environmental issues associated with activities onsite to ensure impacts are appropriately managed. Procedures are subject to continual development through review and update (plan-do-check-act). Site Management are engaging with Fingal County Council Environment Section on the procedure for the hammermill as submitted P5.2L/HAM, per section 2 of the Waste Facility Permit (WFP-FG-0002-03). Procedure P5.2.B/WHANDLING has been updated in accordance with Permit requirements, version 7, it clarifies that ELV material will not go through the shredder, consistent with the Tables submitted 16th March (see appendix C).

- Article 11 – the Article 11 Ref No 2155 was based on input quantities. The move from 21,900 to 24,000 tonnes per annum would not require afresh Article 11 declaration as the activity remains sub IE threshold.
- Condition 5 is the subject of the first party appeal. The current waste facility permit (WFP-FG-0002-03) allows for delivery of ELVs by its owner under condition 4.2. This is an important service to the public.
- Land reverting to agricultural use – condition no. 4 – samples were taken from the stockpile bunds associated with historical tipping and analysis detailed in the response for clarification of additional information. The results indicate that the stockpiles do not pose a risk to human health or the environment; but indicates that 300mm of soil is required and may be imported to the site. The legal case relates to historical tipped material and the outcomes will determine liability on costs for removal of this tipped material and by extension timeframes on restoration. The applicant will comply in full with further categorisation and restoration detail required by the Council as detailed in condition 4.
- IW – pre-connection enquiry.
- Forward Fire Engineering – re. their engagement by St Margaret’s Recycling to act as their Fire Safety advisor.
- Procedure P5.2.C / WASTEHAND -

6.6. Planning Authority Response

- 6.6.1. The planning authority has submitted a response, 20 July 2021, stating that they have no further comments to make.

6.7. Further Responses

- 6.7.1. Jerry Beades PC has responded, 20 July 2021, to the issues raised in the first party grounds of appeal, the response includes:
- Re. the applicant’s statement that they have enjoyed the benefit of planning permissions for 20 years, the facility had permission for recycling for a fixed period of

time, for dry recycling and transferring of C&D waste. It has morphed into full extensive scrap yard and is seeking permanency.

- Re. the argument that they have been compliant:
 - There have been exceedances of heavy metals and hydrocarbons in the watercourses, highlighted in the planning reports.
 - There was a major industrial fire, which created pollution in the area.
 - The facility has advertised and sold car parts to the public in breach of their planning conditions.
 - They have intensified their activities by processing scrap metals through stockpiling, fragging and shredding scrap whilst only having permission to bale and remove ELV de-polluted cars. They have built unauthorised units to house an unapproved shredding unit. This also creates an unregulated production of after shredder residue that is airborne fluff and is classified as a hazardous material per EWC codes of wastes.
 - They have entered adjoining lands and deposited unauthorised materials, including tyres, metals, containers, oil tanks, on these lands – photos refer.
 - They have continued to use agricultural lands for industrial activities, in non-compliance with conditions. The aerial photographs show further creep.
 - They claim to have accepted 60,000 tonnes annually as justification for permission; requiring an EPA licence. The withdrawn application was for 49,500 tonnes per annum.
- Re. the claim that the DAA had no objection in principle, the zoning is Z05, the activity is non-conforming.
- There are many facilities serving the Fingal area, future capacity is not in jeopardy.
- They seek supplies from other counties, not complying with proximity principle.
- The application has not dealt with the issue of water.
- Condition no. 5 is similar to that attached to F13A/0409, not appealed, and ignored by the applicant.

- There is no mention in the notices that the applicant intended to open the facility to the public and no supporting traffic information. They have previously breached the condition expressly not to engage with buying and selling car parts to the public. ELVs are not allowed on public roads. The withdrawn application FW 19A/0135 stated 'permanent planning permission is now being sought for an essential waste management facility to serve the Fingal Area and members of the public. It is essential for members of the public to have ease of access to a waste facility such as St Margaret's facility.' The observer is of the opinion that the applicant has already invited the public to enter and leave the premises creating additional traffic. Items of information are supplied.

- Operating times – the nearest house is just 41m from the entrance and the school is only 100m from the entrance. They did not provide a traffic management plan highlighting the need for special opening hours. It does not deal with municipal waste and there is no refuse collection services delivering to the facility and they have so informed the DAA so that no scavenging birds would interfere with the flight path to the airport. The opening time of 9 is more conducive to local needs. Saturday pm working should not be allowed.

- Retention of the hammermill was not referred to in the notices. The matter of airborne fluff has not been addressed.

6.7.2. Jerry Beades PC has responded, 20th July 2021, to the first party response to the third party grounds of appeal, the response includes:

- Detailing his interest in development.

- The Fire Prevention Assessment of Mr Derek McDonnell has been superseded but the Fire Prevention and Mitigation is draft and will not be finalised until June 2021 without the opportunity for review by external interested parties. The Boylan report (15th March 2021) refers to keeping waste piles to a max 132m³ yet a site visit on 16th March 2021 records a stockpile of 1000m³ of fragmentiser waste.

- The applicant infers that the council are aware of all activities and are satisfied with same. The reports do not support this. Planning report of 12th April 2021: states that the response by the applicant is 'not representative of the waste activities on site. The procedure does not include the use of hammermill in the waste process. It

does not show further fragmentiser waste (fluff), Also, it does not show the processing of cables, batteries, etc on site'. The response submitted by the applicant acknowledges that ELVs were subject to the shredder processes and refers to revised processes following a FCC site visit. Despite requests from FCC, the information was not adequate and the Council are still looking for full and detailed description of all waste processing activities on site.

- EIA – Fire in 2018, 8 tenders, not referred to in application, no stated re Major Accidents Regulations, airborne particles have not been addressed, ASR are known to be carcinogenic; exceedances of heavy metals and hydrocarbons in watercourses; unauthorised hammermill. Noise not addressed.
- Land restoration – despite permissions F10A/0177 and F13A/0409 conditions requiring restoration of some lands to agricultural use have not been complied with.it appears that they will not be restored until settlement of High Court dispute. It is not clear when the dispute commenced and not relevant to planning.
- The statutory notice did not refer to retention of hammermill, airborne fluff, or potential impacts on ground water.

6.8. Observations

- 6.8.1. Observations on the appeals have been submitted by: John Griffin, John F Lynch and the DAA.
- 6.8.2. The DAA observation, 4 June 2021, requests that Conditions 7 and 9 be retained.
- 6.8.3. John Griffin's observation, 8 June 2021, includes:
 - Concerned about lack of clarity on the fire fighting capacity/infrastructure required to the proposed activities which are currently in breach of all planning conditions. This facility does not have approval to store vehicles on racks in the open. All such activity was supposed to be carried out within the sheds per F11A/0043. The planning granted under F13A/0409 required the applicant to liaise with the County Fire Officer. The applicant did not mention the major fire that occurred on this site in 2018 which required 8 units from Dublin Fire Brigade and Dublin Airport Fire Brigade to attend. Irish Independent report attached to observation.

- Concerned about clarification of additional information which states that they will be applying to IW for fire hydrant supplies. These issues should have been addressed 5 years ago and not if they get planning approval.
- Most of the lands covered by this application are supposed to be for agricultural use. An extension to the C&D facility was granted for three years on the condition that it would be returned to agricultural use. This did not happen and an additional temporary permission for 5 years was granted (F13A/0409). It is astounding that FCC has not commenced enforcement proceedings for continuous breaches of planning permission. There is no incentive for them to comply.
- Concerned about the environmental impact this facility could be having on the local area. The curtailing of exceedances of the volume of material being handled must be firmly applied.
- Adjoining lands are ploughed for food produce, observer is concerned about that. Initially the applicant was involved in C&D waste but in 2011 applied for an ELV facility, and was granted for the use within sheds. Since then the site has turned into a massive scrap yard, with metals, plastics, the shredding of materials in the open and other recycling activities taking place and no apparent air/water monitoring. It is not clear what materials are coming from this site that could be impacting the surroundings, airborne or seepage. The facility handles tyres, batteries, hydrocarbon oils, coolants, brake linings which could contain asbestos, and no assessment of their impacts.
- The same land owners have planning application for a full scale petrol station beside this site. A full EIS should be carried out.
- The letters from IW and DAA are not relevant as they preceded further information requests.

6.8.4. John F Lynch's observation, 8 June 2021, includes:

- The applicant admits to not carrying out conditions and the council reward him by another grant of planning.
- This activity should be carried out in an industrial zoned area.

- It is not clear from the plans how waste water or surface water is being handled or how much of this contaminated water will find it's way into the groundwater or natural drains. Tanks, trailers and other vehicles are stored in the open and not on concrete.
- They were asked to check with the EPA as part of the application that their activity was suitable for a Waste Permit, but they did not do so in the current application period.

6.8.5. The DAA has responded, 16 July 2021, to the first party response to the third party grounds of appeal, noting particularly section 3.4 noise, and has no further response to make.

6.8.6. John Griffin has submitted, 20 July 2021, a second observation on the first party appeal, which includes:

Generally supporting the third party appeal.

Surface water even if it goes through an attenuation tank will be contaminated because of the material that is stored in the concrete yards and surface areas. The applicants have commenced further industrial processing within these areas of scrap, whether its cars, parts of cars, scrap, that can contain all kinds of either water-soluble contaminants or those transported by water. In case of a fire in any section of the yard or shed, then additional water from the hydrants will also need to be dealt with by the attenuation system. This water will need to be treated and not released to the local rivers and streams.

Supports Mr Beades in his submission re. the well and percolation area being in different land registry deeds, and that the well was also used for land irrigation.

Concern re. unregulated use of the hammermill / shredder and its residues.

Re. legal dispute, when did it start? There is no mention of it in F13A/0409. It should not be accepted as a reason for failure to comply with conditions.

Other issues raised reiterate those already made in the earlier observation on grounds of appeal.

A break-in may result in an arson attack to cover up the crime and may result in a major fire incident.

The zoning for the area is not suitable for the activities being performed and they are totally inappropriate, and the applicants are not forthcoming in dealing with queries or tonnages genuinely being processed and the methods used at this facility.

6.8.7. John F Lynch has submitted, 20 July 2021, a second observation on the first party appeal, which includes:

Generally supporting the third party appeal.

The applicants indicate that because of the passage of time they could not rely on retention.

The applicant has referred to intensification of activities rather than extensification of the site as a justification for change in processing procedures but this has not been the case.

Retention will have longer term implications for a major national infrastructural asset Dublin Airport.

Hours of operation should be regulated and reduced at weekend.

Any ELV should be delivered at a pre-arranged time, transported via a car carrying specialist.

The documentation falls short of any legitimate standard.

Outstanding planning conditions should first be complied with. The applicant should not use third party land issues or disputes as an excuse for not complying.

7.0 Assessment

7.1.1. I have read the file and visited the site and I consider that the issues which arise in relation to this appeal are: appropriate assessment, the principle of the development, and environmental impact assessment and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. The development as described in the public notices comprises:

Retention planning permission and planning permission is sought by St Margarets Recycling & Transfer Centre Ltd at St Margarets Metal Recycling Sandyhill, St Margarets, Co Dublin. Retention planning permission is sought for the permanent continuation of use of the existing waste processing and transfer facility for the bulking, transfer and recycling of metals, construction & demolition waste, bulky/skip waste, batteries, wood waste, glass, other non-biodegradable non-hazardous wastes, and an Authorised Treatment Facility for end of life vehicles, accepting up to 24,900 tonnes of waste per annum. Retention permission is also sought for the continued use of the existing buildings on site associated with the daily operations of the facility including processing shed, offices, plant room, shelter buildings etc., existing site services, boundary treatments and all ancillary site development works necessary to facilitate the development erected under and in accordance with Reg. Ref's. F13A/0409, F11A/0443, F10A/0177, F03A/1561, F03A/1682 and F97A/0109. Planning permission is sought for new proposed stormwater attenuation storage tanks and associated stormwater treatment infrastructure to serve the existing development with permission also sought to restore part of the lands to agricultural use. The above development will require a review of the existing waste facility permit for the site and as such, a separate application will be made to the environmental section of Fingal County Council upon receipt of planning permission.

7.2.2. The application is accompanied by a Screening Report for Appropriate Assessment prepared by Openfield Ecological Services, dated February 2020, and, in response to a request for further information, a Screening Report for Appropriate Assessment prepared by Openfield Ecological Services, dated September 2020, which revises the earlier report. It includes:

The Natura 2000 sites identified for examination by having a hydrological pathway from the subject site are Malahide Estuary SAC (site code 0205) and SPA (site code 4025). There are no direct or indirect pathways to any other Natura sites.

The report cites the published description of the development, and describes the construction phase of the development. It states that the surface water system complies with the Greater Dublin Strategic Drainage System (GDSDS) and that no

impacts to surface water are therefore likely to occur. The wastewater from the canteen and toilets will be treated on-site. Water for domestic purposes will be from the mains.

The proposed development will not result in direct impacts to habitats within any designated site. Site specific conservation objectives have been set for the Malahide Estuary SAC and SPA and none of these objectives relates to water quality. There is no evidence that poor water quality in the Malahide Estuary is negatively affecting habitat or bird populations.

Pollution during construction is considered. The Hartstown Stream runs 460m north of the site boundary and there is a pathway to this area from the subject lands via the drainage ditch which passes through a portion of the site. Any impact is likely to be temporary in nature and will not affect estuarine areas downstream. Deposition of silt is a natural feature of estuaries and high value intertidal habitats such as mudflats depend on vast quantities of sediment to maintain their structure and functioning. There will be no exposure of large quantities of soil as the development site is already of hard standing. There will be no significant effect to water quality arising from this source. During normal operation the use of SUDS techniques, and compliance with the Greater Dublin Strategic Drainage System in the design of the project, will ensure that negative effects to water quality do not arise from surface water run-off. These are not mitigation measures in the AA context.

7.3. Assessment

- 7.3.1. The development which involves acceptance, treatment and export off site of large amounts of waste materials, is not supported by sufficient detail on the materials accepted at the site, the processing which will be carried on, the emissions from these processes to air and water, to enable any meaningful assessment of potential impacts on protected sites. The potential for firewater to be discharged from the site, is not fully considered in the current design and cannot therefore be assessed in terms of its potential impact downstream, including on protected sites, via the identified hydrological pathway.
- 7.3.2. In my opinion the Board does not have before it sufficient information to carry out screening for appropriate assessment.

7.4. Principle of the Development

- 7.4.1. From the planning history of the site there is currently planning permission to Fingal Waste Recycling Ltd, dating from February 26th 1998 (97A/0109) for retention of existing use with extension and alteration of existing buildings and widening of existing entrance and septic tank, to waste recycling and transfer depot.

Condition no 2 states only inert non-domestic waste shall be delivered to the site. No fruit, vegetables or food waste whatsoever shall be delivered to the site. The facility shall be continuously monitored by the applicants to ensure that no bird-attracting waste shall be delivered to the site.

Reason: To ensure that birds (which could pose a hazard to air navigation) are not attracted to the site and to facilitate the safe operation of Dublin Airport.

Condition no 8 states that the annual throughput of waste authorised by this permission shall not exceed 10,000 tonnes.

Reason: To enable the Planning Authority to maintain effective control over the lane (land) use.

(Notice of withdrawal of appeal (ref 06F.104750) dated 13th February 1998).

- 7.4.2. The successive planning permissions for use at this site, granted since that time, have been temporary permissions and have now expired. Accordingly the use of the site for recycling or operations related to processing, storage etc of materials other than inert non-domestic waste to a maximum of 10,000 tonnes per annum, falls to be considered against the background of current policies and standards including the Fingal County Development Plan 2017-2023.
- 7.4.3. It is worth noting that the planning authority's decision was to grant a further temporary permission. The application was for permanent permission. Conditions attached to the decision to grant permission, including its temporary duration, have been appealed by the applicant.
- 7.4.4. The zoning of the area in the current Fingal County Development Plan is 'DA' 'to ensure efficient and effective operation and development of the airport in accordance with an approved Local Area Plan'.

The Vision is: Facilitate air transport infrastructure and airport related activity/uses only (i.e. those uses that need to be located at or near the airport). All development within the Airport Area should be of a high standard reflecting the status of an international airport and its role as a gateway to the country and region. Minor extensions or alterations to existing properties located within the Airport Area which are not essential to the operational efficiency and amenity of the airport may be permitted, where it can be demonstrated that these works will not result in material intensification of land use.

Air Transport Infrastructure includes: aircraft areas, air traffic control/tower, ancillary health, safety and security uses, aprons, cargo handling, maintenance hangers, meteorology, retail – airside/duty free, runways, taxiways, terminals and piers.

Not permitted Waste Disposal and Recovery Facility (Excluding High Impact), Waste Disposal and Recovery Facility (High Impact).

Footnotes:

Uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.

Objective Z05 - Generally, permit reasonable intensification of, extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria.

7.5. A Local Area Plan has been adopted for the area.

Key Strategic Objectives set out under heading of safeguarding:

Support for airport safeguarding.

Support the continued sustainable growth of Dublin Airport and connectivity as a hub airport whilst ensuring protection of the environment.

Support the timely delivery of required infrastructure to facilitate airport growth.

Support the growth of the Airport as a major economic driver for the region.

Support continued communication between the Airport and neighbouring communities to protect community amenity and mitigate potential impact from airport growth in the interests of long term sustainability.

It is clearly established within national policy documents that the managed growth of Dublin Airport is critical to the economic well-being of the state. It is further demonstrated that the success of the Dublin region is intrinsically linked to the accessibility provided by the Airport. In addition, the Airport itself is a significant economic generator of income and employment. The Airport is the largest employer in Fingal and the economic status of the County is enhanced through the significant accessibility provided to the Airport in addition to the spin-off benefits accrued in the form of employment, housing demand, salary distribution which result in increased economic activity. Protection of the core function of the Airport is a key objective of the LAP in order to ensure that the significant investment required to ensure sustainable growth is utilised equitably for the benefit of the nation, region and County.

Objective ED01 Ensure an appropriate balance is achieved between developing the unique potential of Dublin Airport as an economic generator and major employer in the County and protecting the core operational function as the Country's main international airport.

Objective ED03 Engage with and support aviation uses associated with Dublin Airport to create quality and easily accessible employment opportunities for Fingal residents.

Environmental Resources Management [ERM] Report 2005. Specifically, this ERM Report provides guidance on the potential use and scale of development that may be considered appropriate within these zones.

Objective DA10 Restrict development which would give rise to conflicts with aircraft movements on environmental or safety grounds on lands in the vicinity of the Airport and on the main flight paths serving the Airport, and in particular restrict residential development in areas likely to be affected by levels of noise inappropriate to residential use.

Objective DA13 Promote appropriate land use patterns in the vicinity of the flight paths serving the Airport, having regard to the precautionary principle, based on existing and anticipated environmental and safety impacts of aircraft movements.

Not permitted – waste disposal and recovery facility.

- 7.5.1. In relation to objective Z05 and Non-Conforming Uses - the proposed development is not a reasonable intensification or a reasonable extension. The proposed development is not a minor extension or alteration to an existing property. It is a very significant use and is not compatible with aviation activities. It is also a material intensification of use. The volume along of 24,900 tonnes per annum when compared with the permitted annual throughput of waste not exceeding 10,000 tonnes, is a multiple of 2.5 times the permitted use. The nature of the proposed waste intake and the processing carried out on site is also a material intensification of the permitted use and would be likely to have a material impact on Dublin Airport.
- 7.5.2. In my opinion the proposed development is not acceptable in principle and this is a reason to refuse permission.

7.6. Environmental Impact Assessment

- 7.6.1. The application was accompanied by an EIA screening report which considered the:
Characteristics of proposed development,
Location of proposed development, and
Types and characteristics of potential impacts,
largely in terms of the proposed construction works only.
- 7.6.2. The need for Environmental Impact Assessment and the preparation of an EIAR was considered by the planning authority. The first planning report notes that the proposed development does not meet the requirements for mandatory EIA under part 1 of schedule 5 of the Planning and Development Regulations 2001. Class 11 (b) of part 2 of schedule 5 of the Regulations lists 'installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'. The proposed development is for acceptance of 24,900 tonnes per annum. 99.6% of the threshold. Class 11 (e) of part 2 of schedule 5 of the

Regulations lists 'storage of scrap metal, including scrap vehicles where the site area would be greater than 5 hectares'. The site of 2.93ha is below the threshold.

- 7.6.3. The further information request which issued, requested the applicant to submit revised proposals for reduced intake, having regard to the threshold for EIA of 25,000, and to ensure an adequate buffer is maintained in the protection of the environment.
- 7.6.4. The revised proposal was for 24,000 tonnes. The further information requested information on waste currently accepted and processed on site, including volumes. This information was not provided for the current waste but was provided for the proposed situation. A recent application for planning permission which was withdrawn ref. FW19A/0135 for the permanent continuation of use of the existing and permitted waste processing and transfer facility at St. Margaret's, and an increase in waste throughput at the facility (to accept up to 49,500 tonnes per annum), highlighted that the existing development has handled volumes of 36,391 tonnes.
- 7.6.5. The report of the Executive Scientist – 05/11/2020 – states that '*the Environment Division highlights that the facility breached the waste-in limit of 21,900 tonnes set out in the waste facility permit WFP-FG-13-0002-02 in 2018 (36,391.18 tonnes) and also breached the waste-in limit of 21,900 tonnes set out in the current waste facility permit WFP-FG-13-0002-03 in 2019 (30,736.67 tonnes)*' and also noted the waste-in figures to the date of the report (17,631.88 tonnes).
- 7.6.6. In the first party appeal it is stated that the infrastructure is in place that can easily accept the tonnage and that up to 60,000 tonnes of waste per annum was historically accepted on the subject lands.
- 7.6.7. The volume of waste throughput per annum, proposed in the subject application, has been selected in order to avoid the need for Environmental Impact Assessment, but, having regard to the throughputs per annum previously accepted at the facility, which have significantly exceeded planning permission and licence limits, it should not be supposed that the limit stated in either the original application (24,900 tonnes) or in the further information response (24,000 tonnes) will be adhered to, and therefore although presented as a sub-threshold development, I consider that the scale is such as to require Environmental Impact Assessment.

7.6.8. As presented, the proposed development falls within a class of development under Schedule 5, and therefore requires screening to determine whether it is likely to have significant effects on the environment.

7.7. EIA Screening

7.7.1. Based on the information presented with the application and appeal, the following screening for EIA is set out.

a) Description of the proposed development:

Although the description of the materials currently accepted at the facility and the nature of the processes carried on are not detailed, it can be taken from the information available that a major operation at the facility is the intake and processing of end-of-life-vehicles. Some of the processes carried out are: de-polluting the vehicles, that is draining the various fluids; shredding the vehicles, in which operation the hammermill is involved; and shredding car tyres which are made into pellets. All these processes are likely to involve significant emissions. The information available on these activities is deficient.

Details of other operations, including the intake and treatment of C&D waste, is also deficient.

No information is provided in relation to onward flow of waste.

It is stated that the site intends to continue to accept members of the general public as customers, (as may be envisaged by the end-of-life-vehicles directive), but no details of the likely numbers of customers or the marketing of the facility for customers, is provided.

The scale of the proposed development, as currently proposed, is only marginally below the threshold, at which EIA is required. According to documentation on the file it is currently operating well above the threshold at which EIA is required.

b) Description of the aspects of the environment likely to be significantly affected by the proposed development:

Having regard to the level of detail available it is difficult to comprehensively assess the aspects of the environment likely to be significantly affected. It is to be expected that the general operations at the site would generate dust (including processing of C&D waste), no data on dust measurement or monitoring is provided.

There is potential for air to be affected from the volatilization of hydrocarbons, arising from the de-pollution operations. No information is provided in this regard.

There is potential for air to be affected arising from tiny particles of metal, rubber and other materials becoming airborne, when the shredding of car bodies and tyres is taking place. No information is provided in this regard.

Fire, is a significant risk, and in the context of the site location, the potential impact on the functioning of Dublin Airport is a particular concern which needs to be addressed. Insufficient information is provided in this regard.

The potential for soil to be significantly affected cannot be discounted.

The nature and particle size of emissions from the hammermill processing area, the air dispersion and landfall of airborne particles, needs to be considered. No information is provided in this regard.

There are likely to be significant affects on surface water arising from surface run-off from the site. The drainage system currently in place is inadequate and this matter is being addressed in part in the additional drainage measures currently proposed. The information submitted is not detailed and does not include in sufficient detail the volume and composition of runoff from the site during normal operations, its collection, containment, treatment and disposal; or the likely volume and composition of runoff of fire water (i.e. water used for fire fighting) from the site, its collection, containment, treatment and disposal.

Information on existing conditions, including the flows in the streams into which the drainage will discharge, and the likely impact of the discharges on these natural waters, is required in order to assess the impact of the proposed development. No information is provided in this regard.

c) the likely significant effects of the proposed development on the environment are:

- deterioration in air quality,
- deterioration in surface water quality,
- risk of fire.

d) features or measures envisaged to avoid or prevent a significant adverse effect on the environment, which may be taken into account when determining whether an EIAR is required:

- proposals to improve surface water runoff collection and treatment,
- proposals, not yet developed, to address fire risk,
- the requirement, stated in the planning authority reports, for the waste licence to be reviewed.

7.7.2. Conclusion of Screening

Having regard to: the characteristics of proposed development: the size, which as presented is marginally below the threshold at which EIA is mandatory; the production of waste, and the likelihood of discharge of pollution and nuisances to air and water; the sensitivity of the location and its proximity to Dublin Airport, an existing and approved land use; and the types and characteristics of potential impacts, including fire risk; it is considered that the proposed development should be subject to an environmental impact assessment.

The Board should note that this application is for retention. In the case of retention requiring EIA it is necessary for the applicant to apply for leave to apply for substitute consent.

8.0 Recommendation

- 8.1. In the light of the foregoing assessment I recommend that planning permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1 The subject site is zoned 'DA' 'Dublin Airport' under the Fingal Development Plan 2011 – 2017, which seeks to 'ensure the efficient and effective operation and development of the airport in accordance with the adopted Dublin Airport Local Area Plan.' Waste disposal and recovery facilities both low and high impact are not permitted under such land use zoning. The proposed retention for the permanent continuation of use of the existing waste processing and transfer facility for the bulking, transfer and recycling of metals, construction & demolition waste, bulky/skip

waste, batteries, wood waste, glass, other non-biodegradable non-hazardous wastes, and an Authorised Treatment Facility for end of life vehicles, accepting up to 24,900 tonnes of waste per annum; and retention for the continued use of the existing buildings on site; would therefore materially contravene the land use zoning objective for this site and as such would be contrary to the proper planning and sustainable development of the area.

2 It is considered that the proposed retention would seriously injure the amenities of the area by way of noise, fumes, additional traffic generation and general activity. The proposed development would be contrary to the vision statement for the area, as set out in the Fingal Development Plan 2011 – 2017, which seeks to ‘facilitate air transport infrastructure and airport related activity/uses only (i.e. those uses that need to be located at or near the airport)’; and would accordingly be contrary to proper planning and sustainable development of the area.

3 Insufficient information has been submitted regarding: the activities and processes carried on, the volume of waste produced, the nature and quantity of emissions, mitigation or monitoring proposed, and measures to prevent and contain fire and to control the discharge of fire water; such as to enable the Board to assess the likely impacts of the proposed development on the environment, including impact on protected sites; accordingly the proposed development would be contrary to the proper planning and sustainable development of the area.

Planning Inspector

23 September 2021

Appendices:

Appendix 1 Photographs

Appendix 2 Fingal Development Plan 2017-2023 extract.