



An
Bord
Pleanála

Inspector's Report

ABP-311566-21

Development	Construction of petrol station and 4 no. two storey buildings incorporating 18 industrial units. A Natura Impact Statement (NIS) received with Planning Application.
Location	Milverton and Townparks, Skerries, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0388
Applicant(s)	Sneem Property Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Sneem Properties Ltd.
Observer(s)	<ul style="list-style-type: none">• Skerries Community Association CLG• Cllr Seana O Rodaigh & Duncan Smith TD

- John McGann C/O Togher Hill
Road Safety Residents Association
- Skerries Tidy Towns Committee
- Carmel Keeling
- Joe O'Brien TD
- Mary Dowling
- Niall Friel
- Cathy McHugh

Date of Site Inspection

28th July 2022.

Inspector

Lucy Roche

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1.0 Site Location and Description

- 1.1. The proposed development site is located at Milverton and Townparks, on the western side of the Dublin-Belfast railway line to the southwest of Skerries and c100m south (as the crow flies) of Skerries Railway Station. The railway line currently delineates the western development boundary of Skerries, demarcating the built-up area from the rural hinterland. There are at present no linkages between the railway station and the subject site. The site is bounded by the R127 Regional Road and an unlabelled local road to the south.
- 1.2. The site itself has a stated area of 7.19ha, is irregular in configuration and comprises five agricultural fields bounded by mature hedgerow and drainage ditches / water courses. The redline / development site boundary incorporates a section of the local public road network, including a section of the R127 Regional Road that runs under the railway bridge (a protected structure).
- 1.3. A water course, the Mill Stream, traverses the site in a south-easterly direction. A tributary of the Mill Stream merges with the watercourse south of the site. The two water courses join with a culvert system that runs underneath the Railway line. The combined watercourse flows into the Irish sea c1km to the east.
- 1.4. A narrow, overgrown track extends along the site's southwestern boundary, while a private laneway borders the site to the north. Local topography has a general fall that runs in a northwest to southeast direction. Lands within the proposed development site fall towards the Mill Stream.

2.0 Proposed Development

- 2.1. The applicants, Sneem Property Ltd are seeking planning permission for the first phase of development at the Milverton and Townparks 'General Employment Zoned' lands in Skerries. The proposed development, as originally presented to the planning authority, consisted of the following:
 - A new junction arrangement at the entrance to the site from the R127 (A new four-armed roundabout is proposed to replace the existing priority-controlled junction to the south of the subject site approximately 40m southwest of the railway underpass)

- A building (Building E) containing mechanic, tyre-sales, petrol station located close to the entrance. Also proposed is a canopy over pump islands (6 no. fuel dispenser bays) and associated amenities
- Phase 1 of a business park comprising 4 no. 2 storey buildings (Buildings A, B, C and D) accommodating up to 18 light industrial units.
- An internal access road via the proposed new roundabout junction on the R127 with tie ins to the adjacent roads.
- 81 car parking spaces (including 3 e-charge & 1 accessible),
- 98 bicycle parking spaces landscaping and boundary treatments.
- Surface water flood relief and attenuation for the lands.
- Foul sewerage pumping station and connection of foul water sewer to the existing public sewer in the Dublin Road east of the railway underpass.
- All associated site works and services

2.2. An NIS (undated September 2021) has been submitted with the appeal

2.3. The applicants, as set out in their grounds of appeal, have made a number of proposed amendments to the scheme, including:

- The scale of the light industrial buildings has been reduced in order to increase the distance between the main access road and the hedgerow along the southern boundary.
- The vehicular access route between light industrial blocks B&C has been removed
- The design of Blocks B and C have been amended such that vehicular access is available from one side only

2.4. Table 1 below provides a schedule of the key figures associated with the proposed development:

Table 1: Site / Development Details			
Site Area	7.19ha		
Total GFA	Original Proposal	4,550sqm	
	As Amended (appeal)	3,066sqm (-1,484sqm)	
Petrol Station	Gross Floor Area	214sqm	
	Retail area	17sqm	
	Tyre Sales	185sqm	
	WC / storage	12sqm	
		Original	Amended (appeal)
Business Park	Gross Floor Area	4,336sqm	2,852sqm
	Block A (3no.units)	886	709
	Block B (7no units)	1546	967
	Block C (5no. units)	1240	711
	Block D (3no. units)	664	465
Pumping station	97sqm		
Parking	Cars	81no spaces	75no spaces
	Bicycles	98no spaces	66no. spaces

2.5. The following documentation has been submitted in support of the application:

- Appropriate Assessment - Natura Impact Assessment
- Biodiversity and Ecology Report
- Bat Survey
- Arborist Report and Drawings

- Revised Lighting Plan
- EIA Screening Report
- Construction Management Plan
- Waterman Moylan Letter in response to Refusal Reason no.8

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council did by order dated 8th September 2021 decide to refuse permission for the proposed development for 8no. reasons as follows:

- 1) The subject lands have an area of c. 7.2 ha and form part of the Milverton Masterplan lands located to the south-west of Skerries. The subject lands are zoned 'GE' in the Fingal Development Plan 2017 – 2023 and are identified as being within an area which is subject to a Masterplan (MP 5D refers). Given the required level of connectivity at this location, in particular an over bridge at the rail line, the issues pertaining to flooding and the fact that the current proposal represents phase 1 of the wider development of the masterplan lands, the preparation of a Masterplan by the Planning Authority is considered to be an essential prerequisite to ensure an integrated and plan led approach to development of the area. The proposed development in the absence of a Masterplan prepared by the Planning Authority in the manner set out in Section 11.3 of the Fingal Development Plan 2017 – 2023 entitled 'Masterplans' would represent an ad-hoc, piecemeal approach to the development of the area. The proposed development would therefore contravene materially Objective PM14 of the Fingal Development Plan 2017 – 2023 and would be contrary to the proper planning and sustainable development of the area.
- 2) In the absence of a pedestrian and cycle bridge across the railway line to facilitate safe and easy access from the site to both train and bus services, it is considered that the proposed development is largely car dependent and would promote unsustainable transport modes. As such, the proposal would

materially contravene Objectives SS20, Skerries 10 and Skerries 11 of the Fingal Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

- 3) The proposed development does not integrate a sufficient amount of the existing landscape features including hedgerows and trees, specifically along the front roadside boundary and the southern laneway boundary, which is a townland boundary, and in its current format would negatively impact on the existing green infrastructure. As such the proposed development would materially contravene Objective GI20 of the Fingal Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.
- 4) Based on the information contained in the Appropriate Assessment Screening report submitted, it has not been demonstrated to the satisfaction of the Planning Authority that the proposed development individually or in combination with other plans and projects would not adversely affect the integrity of European Sites in view of the site's conservation objectives. In such circumstances the Planning Authority are precluded from granting planning permission.
- 5) Based on the information contained in the submitted EIA Screening report, it is considered that insufficient information has been provided to allow the Planning Authority to make a determination on the requirement for sub-threshold EIA. In the absence of adequate information in this regard, the proposed development would be contrary to the proper planning and sustainable development of the area.
- 6) The pumping station proposed to serve the development is located below the minimum separation distance from the proposed development as specified in Objective WT12 of the Fingal Development Plan 2017-2023 which relates to provision of appropriate noise and odour buffers from development. As such the proposal would contravene materially Objective WT12 and would therefore be contrary to the proper planning and sustainable development of the area.

- 7) It has not been demonstrated to the satisfaction of the Planning Authority that the minimum required separation distance between the proposed development and the secondary watercourse which flows in a general north-south alignment on the site is adhered to. As such, the proposal would materially contravene Objective DMS171 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.
- 8) The applicant has not provided adequate information which demonstrates feasibility of connection of the proposed development to the public water and wastewater infrastructure. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The case planner in their report has regard to the locational context and planning history of the site, relevant planning policy, third-party submissions and interdepartmental reports received. The main issues raised in the assessment are summarised below:

- The proposed development would accord with the 'GE' zoning. A number of conditions relating to the use / operation of the proposed industrial units / petrol station are recommended.
- The subject site forms part of the Milverton Masterplan lands. To date no masterplans has been prepared. The preparation of a master plan by the planning authority is considered to be an essential prerequisite to ensure an integrated and plan led approach to the development of the area.
- The Masterplan prepared by the applicant has not been carried out by the planning authority or on its behalf, it has not been subject to SEA or AA nor has any public consultation been carried out. It constitutes the development aspirations of the applicants.
- No provision has been made for the provision of the pedestrian over bridge from the 'GE' Employment lands to Ballast Pit Masterplan Lands.

- The site occupies a prominent location on one of the principal entrances to Skerries, any proposal at this location should be of a high design quality. a comprehensive visual impact assessment is required.
- No undue impacts on residential amenity anticipated
- A comprehensive landscape plan is required for the proposal. Details of proposed new planting (as per EIA Screening) are required.
- The minimum 10m setback from secondary watercourse (field ditch) has not been achieved, contrary to CDP Objective DMS171
- A number of shortcomings in the Tree Survey have been identified with a number of hedgerows /trees omitted. A revised survey is required.
- A bat survey is required
- The subject site is subject to a Nature Development Area Designation however no proposals have been but forward to enhance nature
- While noting the content of the report from the Transport Planning Section, concerns remain in terms of constraints of the underpass which it is considered would negatively impact pedestrians and cyclists
- The planning officer concurs with the issues raised in the submission from the NTA
- A buffer zone (35-50 meters) around all pumping stations is required.
- No objection to surface water drainage proposals
- They deem the Appropriate Assessment Natura Impact Statement submitted an AA Screening report and note that mitigation measures cannot be considered as part of AA Screening. It is unclear whether the mitigation measures should be construed as mitigation measures in the context of preventing significant effects on European Sites
- The planners report identifies a number of deficiencies in the submitted EIA Screening Report
- The report recommends that permission be refused for 8no. reasons as set out in section 3.1 above

3.2.2. Other Technical Reports

Transport Planning:

The Transportation Planning Section has no objection to the proposed development subject to the following conditions:

- A revised Construction Management Plan shall be provided once the contractor has been appointed and prior to construction for the written approval of the Planning Authority.
- The Applicant/Developer shall liaise with the Operations Department to ensure the proposed junction is constructed to the satisfaction of the Operations Department and meets the Council's Standards for taking in charge.
- No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.
- All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer's expense

Environment (Waste Enforcement and Regulation):

- Requests details (prior to commencement of the development) of the various waste streams, generated during site clearance/demolition and construction phases and any proposed exportation/importation of soil and stone material

Parks and Green Infrastructure:

- The current proposal does not integrate a sufficient amount of the existing landscape features including hedgerows & trees in particular along the southern laneway boundary (which appears to be a townland boundary) and front roadside. There is an absence of tree survey information and any landscape proposal although the EIA Screening document states new plantings are relied upon to minimise the impact to biodiversity. Therefore, the

existing proposal is considered incomplete and in its current layout will likely have a negative impact on the existing green infrastructure.

Water Services:

- While cognisant of the nature of the development not being residential, they request that the applicant re-consider the location of the pump station which is within 35m of the proposed development contrary to Objective WT12 and examine the impact with regard to noise and odour from the proposed pump station on the development lands as well as the surrounding environs
- No objection to proposals for surface water subject to condition.
- There is a potential conflict with regard to this development and potential flood relief works on this site/in the immediate vicinity of this site.
- This area has been identified within the FEMFRAMS study as a potential area to provide increased flood storage for the Mill Stream, to protect downstream properties in heavy rainfall events. However, as the OPW appear to be several years away from carrying out works it is recommended that the proposed development proceed. The proposed development in its current format shouldn't hinder any future flood defence works planned by the OPW.
- Figures in the up-to-date survey of the Mill Stream concur with the FEM FRAMS Mapping data
- The office would prefer that flood wall mitigation measure originally proposed under F20A/0218 be included within the proposed scheme

Archaeological Report:

Recommends pre-construction archaeological monitoring across the proposed development

3.3. Prescribed Bodies

Irish Water:

- Further information in the form of a pre-connection enquiry requested

Dept. Housing, Local Government and Heritage:

- Recommend that a condition pertaining to Archaeological Monitoring be included in any grant of planning permission that may issue.

National Transport Authority:

The report raises a number of concerns, as follows:

- In the absence of walking, cycling and public transport, the proposed development will be entirely car dependent, contrary to policy.
- Appropriately designed pedestrian facilities (including a pedestrian and cycle bridge across the railway line) to access public transport in the area should be provided
- A pedestrian and cycle bridge should be provided across the railway line to allow easy access to both train and bus services.
- No cycling infrastructure or pedestrian crossing points are proposed on the access roundabout.
- No provision for cycle tracks or pedestrian and cycle crossing points within the business park
- Secure cycle parking should be provided.
- Welfare facilities should include shower facilities, drying areas and secure locker facilities ideally within easy reach of the cycle parking.
- MMP coordinator should be appointed by tenant

Recommends that the assessment of the application have regard to the policies and objectives of the County Development Plan and should seek to address the concerns raised

3.4. **Third Party Observations**

A significant number of third-party submissions were received by the planning authority during their determination of the application. Following review, I note that the content of these submissions accord, substantially, with the issues / concerns raised by the 9no. observers to this appeal. These issues / concerns are summarised in 6.3 of this report.

4.0 **Planning History**

F20A/0218 Permission refused (2020) for: A petrol filling station; Phase 1 of a business park comprising 6 no. 2-storey blocks accommodating up to 33 no. light industry units etc. Permission was refused for 5no reasons: Flood Risk; Traffic Safety (lack of sightlines); lack of a master plan; appropriate assessment and design.

5.0 **Policy Context**

5.1. **National Policy / Guidance**

- Project Ireland 2040 - National Planning Framework.
- Eastern & Midland Regional Assembly - Regional Spatial & Economic Strategy 2019-2023
- The Retail Planning Guidelines for Planning Authorities
- The Planning System and Flood Risk Management – Guidelines for Planning Authorities
- Transport Strategy for the Greater Dublin Area 2016-2035
- Design Manual for Urban Roads and Streets (DMURS).

5.2. **Fingal Development Plan 2017-2023**

- 5.2.1. Strategic Policy: Seeks to deliver 25 main aims one of which is to consolidate development and protect the unique identities of the settlements including Skerries

5.2.2. Settlement Hierarchy: Skerries is designated a Self-Sustaining Town given its substantial population, vibrant town centre and varied retail offer

5.2.3. Zoning: The subject site is zoned 'GE' General Employment

Objective: Provide opportunities for general enterprise and employment.

Vision: Facilitate opportunities for compatible industry and general employment uses logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable, and legible. Industry and petrol stations are both listed as being uses that are permitted in principle within this zoning.

As per Chapter 6, Economic Development, the purpose of the General Employment (GE) zoning is to facilitate opportunities for general employment uses and compatible forms of industry, logistics and warehousing. The GE zoning is the largest economic development zoning in Fingal with over 1,850 ha of GE zoned lands located principally in Blanchardstown and Balbriggan, with notable zonings in locations such as Dardistown, Cloghran, and Baldoyle. Within the lifetime of the Development Plan, it is intended to prepare Masterplans for GE zoned lands located at various locations including, Milverton. (Objectives ED92 and ED93 relate)

5.2.4. Milverton Masterplan (MP)

As per chapter 4 Urban Fingal, Local Area Plans and Masterplans the main elements to be included in the Milverton Masterplan are:

- The Masterplan lands will be subject to a detailed flood risk assessment to address potential flood risk and proposed mitigation measures.
- Provide a pedestrian over bridge from the 'GE' General Employment zoned lands into the Ballast Pit Masterplan lands.

As per Section 4.1, Background, Masterplans shall be prepared and agreed by the Planning Authority prior to the submission of any planning application and shall

provide for the phased development of subject lands as appropriate. (Objectives PM14 relates)

As per Section 11.3, Masterplans, a number of Masterplans will be prepared during the Plan period. These are indicated on the Development Plan Maps. The Masterplans will assist in achieving quality developments in terms of, inter alia, urban design, structure, delivery of community/amenity facilities and permeability. Subsequent planning applications will be required to adhere to the approved Masterplans. Masterplans will be subject to a public consultation process and presentation to the Elected Members of the Planning Authority for agreement.

Each Masterplan shall consist of a written statement and a plan or series of plans indicating the objectives in such detail, as may be determined by the Planning Authority for the proper planning and sustainable development of the area. These plans are subsidiary to their parent plan (i.e. Local Area Plan, County Development Plan) and their associated zoning strategies and objectives.

5.2.5. The site is location within a Nature Development Area (Green Infrastructure Map 2)

5.2.6. **Relevant Objectives**

SS20: Manage the development and growth of Lusk, Rush and Skerries in a planned manner linked to the capacity of local infrastructure to support new development

ED92: Prepare LAPs and Masterplans within the lifetime of the Development Plan for strategically important General Employment zoned lands in collaboration with key stakeholders, relevant agencies and sectoral representatives. The Masterplans at Turvey, Milverton and Ballymadun will include a detailed flood risk assessment.

ED93 Encourage high quality sustainable design, permeability, and pedestrian and/ or cyclist friendly environments within General Employment zoned areas.

SKERRIES 10	Promote and ensure a safe and convenient road, pedestrian and cycle system highlighting accessibility and connectivity both within the town as well as between the town and surrounding towns and villages
SKERRIES 11	Promote and facilitate increased permeability and accessibility for those using active travel modes, prams, wheelchairs, personal scooters and other similar modes.
SKERRIES 14	Prepare and/or implement the following Local Area Plans and Masterplans during the lifetime of this Plan: - Milverton Masterplan (see Map Sheet 5, MP 5.D
PM14	Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.
PM15	Implement Masterplans prepared in accordance with the Development Plan.
PM20	Local Area Plans, Masterplans, Urban Framework Plans and other plans and strategies will be subject to Strategic Environmental Assessments as appropriate and Screening for Appropriate Assessment.
SW07	Implement the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DoEHLG/OPW 2009) or any updated version of these guidelines. A site-specific Flood Risk Assessment to an appropriate level of detail, addressing all potential sources of flood risk, is required for lands identified in the SFRA. <i>The areas listed include Milverton,</i>
GI20	Require all new development to contribute to the protection and enhancement of existing green infrastructure and the delivery of new green infrastructure, as appropriate

- WT12 Establish an appropriate buffer zone around all pumping stations suitable to the size and operation of each station. The buffer zone should be a minimum 35 metres – 50 metres from the noise/odour producing part of the pumping station to avoid nuisance from odour and noise.
- DMS171 Ensure that no development, including clearance and storage of materials, takes place within 10m – 15m as a minimum, measured from each bank of any river, stream or watercourse in the County.

5.3. Built Heritage

5.3.1. The following structures are listed in the NIAH:

- The stations masters house (11,311,035) c130m to the northeast
- Railway Bridge (11,311,037) within the site boundary

5.3.2. Protected structures:

It is noted that part of the public road network (R127), that has been included as part of the proposed development site runs under the railway bridge, a protected structure (PS Ref:231 – Single Arch Masonry Bridge. The proposed development does not consist of or comprise the carrying out of works to this protected structure.

5.3.3. Recorded Monuments

The following recorded monuments are located within the proposed development site

- Burnt Mound (ID: DU04591)
- Enclosure (ID: DU04592)

The following Recorded Monuments are located within 50m of the Proposed development site

- Burnt Mound (ID: DU04589)

- Burnt Mound (ID: DU04590)

5.4. Natural Heritage Designations

There are no designated sites on or adjacent to the proposed development site. The following sites are located within a 5km radius:

- Skerries Islands SPA (Site code: 004122) located c1.3km to the east
- Rockabill to Dalkey Island SAC (site Code: 003000) c3.4km to the east
- Rockabill SPA (site Code: 004014) c4km to the east
- Loughshinny Coast pNHA (Site code:002000) c2.2km to the southeast
- Knock Lake pNHA (Site Code:001203) c5km to the northwest

5.5. Environmental Impact Assessment (EIA) Screening

- 5.5.1. Planning permission has been sought for the first phase of development of the 'General Employment Zoned' lands at the Milverton and Townparks in Skerries. The proposal comprises the development of a commercial business park of 18 light industrial units; a building containing mechanic, tyre-sales, petrol station, and associated roads and infrastructure including a new junction arrangement at the entrance.
- 5.5.2. Class 10 Infrastructure projects of Part 2, Schedule 5 of the Planning and Development Regulations 2001(as amended) is relevant, in particular, Class 10(a) which relates to industrial estate development projects. An Environmental Impact Assessment Report (EIAR) would be mandatory under Class 10(a) if the proposed industrial project exceeded the threshold of 15ha. In this case, the subject site has a stated area of 7.19ha (lands within the redline boundary) which is well below the threshold for mandatory EIAR. In addition, it is noted that the actual area of land proposed for development within the site is c1.5ha, which is significantly below threshold for mandatory EIAR.
- 5.5.3. As per section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIAR is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the

Planning Authority determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.5.4. The appeal documentation includes an Environmental Impact Assessment Screening Statement (updated Oct 2021). The screening report references the following documents which provide additional information on certain environmental factors:

- Biodiversity and Ecological Report
- Bat Survey
- Arboricultural Impact Assessment
- Archaeological Impact Assessment
- Natura Impact Assessment
- Flood Risk Assessment

5.5.5. The EIA Screening Report submitted provides an assessment of the proposed development against the Schedule 7(a) criteria for determining likely significant effects on the environment. This has regard to the characteristics of the proposed development, the location of proposed development and type and characteristics of potential impacts. The screening report concludes that a sub-threshold EIAR is not required for this development.

5.5.6. I have completed an EIA screening determination of the proposed development with respect to all relevant considerations (a copy of this EIA screening determination accompanies this report). I am satisfied that the nature and scale of the project, the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. While I note that the site is linked via a surface water pathway (Mill Stream) to European Sites I am satisfied that any matter arising can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

5.5.7. I therefore conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the decision of Fingal County Council to refuse permission for the development proposed under Planning Register Reference F21A/0399 on the 8th day of September 2021 for eight reasons. The grounds of appeal are summarised as follows:

Refusal Reason No.1: Lack of a prepared Masterplan for the lands at Milverton by Fingal County Council

- The proposed development scheme has been substantially reduced / scale down from that previously proposed under F20A/0218
- The proposed development scheme does not impact on any flood areas
- It is requested that the Board accept the concept masterplan to enable the initial proposed phase 1 development to proceed pending the outcome of any longer-term flood risk study for the affected areas
- The petrol filling station has been redesigned to accommodate a kiosk type operation to avoid / eliminate non-essential pedestrian / cyclist / vehicular traffic draw to the facility
- The petrol filling station is located within flood zone 3 where flood risk is low, and the site is appropriately mitigated
- The proposed entrance arrangements have been designed to improve general traffic safety and to facilitate safer connectivity for active modes of travel under the railway bridge. The Board is requested to acknowledge the desirable planning gain associated with these improvement works

- The preparation by Fingal County Council for a masterplan for these lands has not taken place and there is no timeframe available for the preparation of a masterplan
- The requirement for a masterplan appears to be selectively applied and has been ignored on other MP designated lands
- A Masterplan is a 'non-statutory' and the proposed development is proposed to be accommodated on site in a plan led and sustainable way which would not materially contravene objective PM14
- It appears that the delivery of the pedestrian overbridge has not been pursued for various reasons, not least the potential significant and catastrophic visual impact of a bridge above the railway. The requirements and delivery of this bridge requires critical reassessment in the context of the review of the FCDR 2017-2023.
- The appropriate level of connectivity to the phase 1 area is achieved and discharged via new traffic control arrangements combined with changes to limit non-essential active mode (pedestrian / cycle) draw to the retail element of the petrol station
- The proposed development, and indicate proposed masterplan layout is not an ad-hoc piecemeal approach to site development but a carefully considered arrangement to enable the delivery of a much-needed sustainable employment hub

Refusal Reason No.2: Lack of pedestrian and cycle bridge to the proposed site

- Proposed traffic management and road improvement arrangements allow pedestrians and cyclists to access the phase 1 area within a safe 'at grade' arrangement
- The proposal for an overbridge may be unlikely to facilitate adequate access particularly for mobility impaired
- It is understood that there has not been any focus to deliver this facility by FCC

- The overbridge issue should not be used as a means to debar the reasonable development of Phase 1 lands.
- Proposed access arrangements were not disputed at pre-planning stage
- In relation to car dependency and non-compliance with Objective SS20, Skerries 10 and Skerries 11 it is suggested that this is a less than reasonable view of the proposed development.
 - The appeal site is located within a highly connected and sustainable location
 - Proper functioning employment lands require access for all formats of traffic
 - The proposed development would not negate against the delivery of Objectives: Skerries 10 and Skerries 11
 - Skerries, a self-sustaining town has a low ratio of jobs to residential workforce
 - Variation 2 of the FCDP updated policy in relation to economic development in Fingal noted that self-sustaining towns, such as Skerries have not experienced levels of sustainable employment development that would be desirable following population expansion. this was not addressed in the decision.
 - Reference made to NPF Objectives 7 and 9. Sustainable employment development in Skerries is not only desirable but is a prerequisite to fulfil national, regional and local policy of strategic sustainable development.

Refusal Reason No.3: Lack of integration of existing landscape features (hedgerows and trees) in the context of the proposed development

- The proposed development scheme has been designed to avoid any undue impact on green infrastructure – noting that some trade off/ removal of hedgerow is required in connection with site access and development works
- An updated Arborist Report has been submitted with the appeal to address the inadequacies of the original report. The proposed development scheme has been revised to reflect the up-dated report, in particular the scale of

industrial development as been reduced to increase the distance between the main access road and the hedgerow along the southern boundary.

Refusal Reason No.4: Adequacy / Inadequacy of Appropriate Assessment Screening Report

- The AA screening report was undertaken by a qualified ecologist and has been updated to incorporate the findings of the Bat survey and revised Arborist report
- A Biodiversity & Ecology report and a construction management plan have also been submitted
- The mitigation measures stated in the AA screening report are not mitigation measures as referred to in case law but normal 'soft' surface water run-off control measures and soft pollution control management techniques during the construction phase and do not require the undertaking of a further detailed Stage 2 assessment
- No foul drainage capacity constraints have been reported at the Skerries/Barnageera wastewater treatment plant

Refusal Reason No.5: Adequacy / Inadequacy of EIA Screening Report

- The proposed development site has an area of c7hectares and as such is sub-threshold.
- A revised EIA Screening report has been submitted to address the issues raised by FCC
- In relation potential impacts on the road network and railway under bridge constraints – proposed road and footpath improvements and safety changes to the road network were accepted by the Transport Planning Section and provide for improved traffic management and improved control connectivity
- In relation to fuel storage in proximity to flood zone – this is addressed in normal context of Flood Risk Guidelines for petrol filling stations and an

appropriate condition to this effect can be applied in the context of a successful appeal

- In relation to landscape / visual assessment – the proposed two storey buildings are nestled within the designated development area landscape will have a low landscape visual impact and will not be viewed from the urban area of Skerries to the east of the railway station
- In relation to Bio-diversity – the EIA Screening report submitted with the application referenced the Arborist Report

Refusal Reason No.6: Unacceptable proximity / separation distance of Foul Drainage Pumping Station from proposed development

- Objective WT12 has primarily been applied to large municipal type foul water pumping stations close to residential areas and is arguably of lesser relevance to limited scale pumping stations, detached from residential areas
- WT12 includes the word 'should' (The buffer zoned *should* be a minimum of 35-50 meters from the noise / odour producing part of the pumping station) indicating that there is discretion in the application of this objective and this discretion may have more applicability to areas containing less sensitive use activity (non-residential use)
- Notwithstanding, the technical characteristics of the proposed foul pumping station is that of a sealed system which would not produce any odours or otherwise have any noise producing pollution beyond its enclosed area / perimeter
- The revised site layout plan (Drawing No.11.105.AP302) provides for an appropriate buffer zone

Refusal Reason No.7: Unacceptable proximity of proposed development to the onsite secondary watercourse

- The refusal reason relates to the proximity of the proposed development to a minor (secondary) tributary of the main watercourse through the site.
- A revised site layout plan has been submitted with this appeal to address this matter. As a result the following changes arise:

- A slight reduction in the size of the light industrial buildings
- The vehicular access route between light industry blocks B&C is removed to ensure a minimum buffer of 15m from the watercourse
- Blocks B and C are amended such that vehicular access is provided from one side only

Refusal Reason No.8: Adequacy / Inadequacy of information relating to feasibility of connection to public water and wastewater infrastructure

- This reason for refusal relates to technical engineering issues of connection to public water services which were not raised by Irish Water and are therefore not deemed to be of material significance
- Waterman Moylan issued a pre-connection enquiry to Irish Water in March 2020 the letter of response adequately addresses the issues raised.

6.2. Planning Authority Response

The planning authority, following a review of the appeal submission and associated attachments have no further comment. They request that the Board up-hold their decision and note that provision should be made for applying a financial contribution in the event that the appeal is successful.

6.3. Observations

6.3.1. 9no. observations were received from:

- Skerries Community Association CLG
- Cllr Seana O Rodaigh & Duncan Smith TD
- John McGann C/O Togher Hill Road Safety Residents Association
- Skerries Tidy Towns Committee
- Carmel Keeling
- Joe O'Brien TD

- Mary Dowling
- Niall Friel
- Cathy McHugh

6.3.2. The issues raised in the observations have been grouped and summarised as follows:

Principle of Development:

- The need for the proposed development is questioned having regard to the proliferation of business parks in the North County Dublin area
- The need for the proposed petrol station is questioned having regard to its proximity (less than 1km) to an existing petrol station and the ban on new registrations of petrol and diesel vehicles from 2030 onwards
- The refusal of previous applications on site establishes a strong precedent
- A comprehensive masterplan is required for the area to avoid ad-hoc, piecemeal development
- The area should be rezoned from GE to Green belt

Design / Visual Impact

- The proposed development would have a negative impact on the character and visual amenities of the area
- The 'landmark building' drawings are misleading as they omit petrol pumps, service bays signage etc
- It is unclear if the buildings proposed have been designed to achieve adequate energy efficiency
- The proposed development would extend the boundary of Skerries leading to urban sprawl

Ecological / Environmental Impact

- The proposed development would have a detrimental impact on biodiversity, landscape and agricultural lands contrary to county development plan policy

- The proposed development requires appropriate assessment having regard to the inclusion of mitigation measures within the Appropriate Assessment Screening document
- The proposed development has the potential to introduce sources of contamination that could have significant impact on groundwater in the locally important aquifer and connected watercourses
- The proposed development would result in a loss of agricultural lands, habitat and feeding grounds
- The proposed development would have an impact on bats
- The petrol station would give rise to odours / smells
- The proposed development would give rise to impacts from noise
- The proposed development would result in a loss of hedgerows

Traffic / Transportation

- The proposed development would result in an increase in domestic and commercial vehicles on the R127 and Togher Hill leading to traffic safety concerns
- The development is car-dependent and is inadequately served by pedestrian and cycle infrastructure. The proposal to reduce or eliminate any generation of pedestrian movement from Skerries to the site is unacceptable and would be contrary to Green Infrastructure objectives of the plan.
- Concerns raised regarding the proximity of the proposed entrance to railway tunnel / bridge which already represents a hazard to pedestrians and cyclists
- The footpath under the railway bridge is extremely narrow (c500mm) and cannot safely cater for increased foot traffic
- The railway bridge / tunnel is inadequate in width and height and cannot accommodate most commercial vehicles. It is also a source of traffic congestion that would be exacerbated by the proposed development.
- The existing entrance on lands to the south of the appeal site has not been adequately referred to in the plans and particulars submitted with the application (note road layout drawing sheet 2 of 2 proposes footpath across entrance – has entrance been shown etc)
- Car parking proposals are inadequate

- The traffic count undertaken in November 2017 may underestimate current traffic levels
- Internal road layout provides a danger to cyclist and pedestrians
- The future use of the light industrial units as part or fully retail units will further increase both vehicular and foot traffic
- There is a lack of adequate drawings of proposed road layouts and pedestrian / cycle routes
- No Road Safety Audit has been submitted

Flood Risk and Surface Water Drainage

- The subject site is located in an area identified as being at risk of flooding.
- Sea level rise as a result of climate change should be considered
- Increase in surface water run-off would exacerbate flood risk on and downstream of the site.
- Permitting the proposed development while pending outcome of a long-term flood risk study would be contrary to proper planning and sustainable development
- Inadequate proposals for surface water drainage and attenuation
- Concerns raised regarding the foul sewerage pumping station located on site and the connection of the foul water sewer to the existing public sewer in the Dublin Road

Archaeology

- Sites of archaeological interest must be preserved for further study and should not be impeded or disregarded

Procedural Issues

- Objections raised to the crude manner in which site notices were erected
- The applicant has engaged the services of a former senior planner in Fingal County Council to assist in the preparation of the application. The planning Authority should confirm that he did not have any involvement in the lands etc while employed by the Council

7.0 Assessment

7.1. Introduction / Background:

7.1.1. Having examined the application details and all other documentation on file and having regard to relevant planning policies and guidance, I consider that the main issues in this appeal are as follows.

- Development Context
- Compliance with the requirements of the Milverton Masterplan
- Indicative Masterplan Layout
- Layout and Compliance with the Objectives of the Fingal Development Plan
- Impact on the Character of the Area
- Traffic
- Ecological Impact
- Other
- Appropriate Assessment

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise.

7.2. Development Context

Zoning and Proposed Uses:

7.2.1. The proposed development site is located within the settlement boundary of Skerries as set out in the Fingal County Development Plan 2017-2023 and comprises c7.19ha of 'GE' General Employment zoned lands with the objective to provide for general enterprise and employment. The vision for this area is to 'facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable, and legible'. The GE zoning is the largest economic development zoning in Fingal with over 1,850 ha of

GE zoned lands located principally in Blanchardstown and Balbriggan, with notable zonings in locations such as Dardistown, Cloghran, and Baldoyle.

- 7.2.2. The proposal for consideration comprises the first phase of development of the 'GE' zoned lands at Milverton. The 'uses' proposed within the scheme include mechanic, tyre-sales, petrol station and light industry. Petrol stations, vehicle servicing / maintenance garage and industry-light are all uses deemed to be permitted in principle with the GE zoning. As per the information submitted in support of the application (Background Planning Report) the proposed industrial units are intended for a variety of uses such as production, research and development, warehouse, distribution, and start-up/incubator units. Noting the general description of these units as light industrial I consider that it would be appropriate, in the event of a grant of permission, that the use of the units be conditioned to that of a light industrial building as per the definition provided in the Planning and Development Regulations 2001 (as amended).
- 7.2.3. In relation to the proposed petrol station, I refer to Section 4.11.9: 'Retailing and Motor Fuel Stations' of the 'Retail Planning, Guidelines for Planning Authorities, 2012' which imposes a floorspace cap of 100m² on the net retail area of petrol filling station shops. Where permission is sought for a floor area in excess of 100sqm, the sequential approach to retail development shall apply. In this instance, the proposed development provides for a stated retail floorspace of c17sqm which is significantly below the 100sqm cap set out in the guidelines. I therefore have no objection to this aspect of the proposed development.

Milverton Masterplan

- 7.2.4. The 'GE' General Employment lands at Milverton and Townparks have been identified in the Fingal Development Plan 2017-2023 (FDP) as a key site requiring, as per Objective Skerries 14, the preparation and implementation of a masterplan (Milverton Masterplan – MP5.D). The purpose of the masterplan is to assist in achieving quality developments in terms of, inter alia, urban design, structure, delivery of community/amenity facilities and permeability. As set out in the FDP, masterplans shall be prepared and agreed by the planning authority prior to the

submission of any planning application. Based on the information available it would not appear that a masterplan has been agreed for these lands.

- 7.2.5. In the absence of an agreed Masterplan for Milverton, the applicants have prepared and submitted as part of this application, an indicative masterplan layout (Drawing No. 11.105. PD304) which they state can be relied upon to facilitate the Phase 1 development of the lands.
- 7.2.6. To further support development of these lands in the absence of an agreed masterplan, the applicants have cited instances where Fingal County Council granted permission on lands in areas identified for the preparation of masterplans but where no masterplan was agreed. In this regard I note that while it is stated within the text of the FDP that masterplans shall be prepared and agreed by the planning authority prior to the submission of any planning application, there is no specific objective within the plan that would prohibit the development of these lands in the absence of an agreed masterplan.
- 7.2.7. On this basis of the above I consider that it would be unreasonable to refuse permission for the development of these lands based on the lack of an agreed masterplan, particularly having regard to the potential for employment generation. However, having regard to the location of the site on the periphery of the built up-area of Skerries, the strategic importance of these 'GE' lands (as per Objective ED92) and the requirements of Objective PM14 of the development plan which seeks to actively secure the implementation of the masterplans and the achievement of the specific objectives indicated, I consider that it would be reasonable to ensure that the development of these lands as currently proposed under this application and / or through the implementation of the proposed indicative masterplan layout would, as a minimum:
- Accord with the requirements for the masterplan area as set out in the Fingal Development Plan 2017-2023
 - Not compromise the future development of the remainder of the GE zoned lands (masterplan area)

The above criteria are considered in more detail in the following sections of this report.

7.3. Compliance with the requirements of the Milverton Masterplan

7.3.1. In this section I will consider if and how the applicants development proposals for the 'GE' zoned lands at Milverton, as proposed under this application and / or as set out in the proposed 'indicative masterplan layout', accord with the requirements for this area as set out in the Fingal County Development Plan.

7.3.2. As per the requirements of the Fingal Development Plan, the main elements to be included in the Milverton Masterplan are as follows:

- The Masterplan lands will be subject to a detailed flood risk assessment to address potential flood risk and proposed mitigation measures.
- Provide a pedestrian over bridge from the 'GE' General Employment zoned lands into the Ballast Pit Masterplan lands.

Flood Risk Assessment

7.3.3. A flood risk assessment (FRA) for the proposed development site has been submitted in support of this application. The FRA identifies fluvial flooding from the Mill Stream as the main source of flood risk with a significant portion of the site (lands on either side of the watercourse) located within Flood zone A and B. The cause of flooding is attributed to undersized culverts at the site's downstream boundary.

7.3.4. The development as proposed is located substantially within non-affected flood risk areas (Flood Zone C) however, some infilling is proposed within Flood Zones A and B to facilitate access etc. These proposed infill works have been subject to a justification test. The mitigation measures included within the FRA include the construction of all buildings and road infrastructure above the 0.1% AEP HEFS Flood Event along with proposals for the provision of compensatory flood storage.

- 7.3.5. The impact of climate change is considered in Section 5.3.1 of the report. The results of the climate change assessment show that there is no risk to the proposed development from the potential impact of climate change. A minimum freeboard of 0.61m is provided above the 0.1% AEP HEFS (High-End Future Scenario) flood event.
- 7.3.6. As noted from the reports on file from Fingal County Council, the area has been identified within the FEM FRAMS study as a potential area to provide increased flood storage for the Mill Stream, to protect downstream properties in heavy rainfall events. However, it is understood that the OPW are some years away from carrying out these potential works with no definite starting date known. I note that Fingal's Water Services Section were satisfied that the proposed development, in its current state, should not hinder any future flood defence works planned by the OPW and as such I do not recommend that permission be refused on this basis.
- 7.3.7. On the basis of the information available I am satisfied that the development of this site as proposed would not impact on existing flood levels or lead to an increased risk of flooding downstream of the site. However, I am not satisfied that the 'indicative masterplan layout' as proposed, particularly as it relates to the possible future development of lands to the northeast of the masterplan area, has been adequately informed by the FRA. In this regard I note that the proposed indicative layout for this area would appear to include for the development of lands within Flood Zones A. I would therefore have concerns regarding the feasibility of the 'indicative masterplan layout' pending the outcome of a more detailed flood risk assessment for the overall masterplan area.

Provision of a Pedestrian Overbridge

- 7.3.8. The second element of the Milverton Masterplan relates to the provision of a pedestrian over bridge from the 'GE' General Employment zoned lands at Milverton into the Ballast Pit Masterplan lands to the north.
- 7.3.9. The Dublin – Belfast railway line currently defines (in part) the western development boundary of the Skerries, demarcating the established built-up-area from its rural

hinterland. The Milverton Masterplan lands are located to the west of the railway line, outside the established built-up area. The development of these lands would therefore result in the western expansion of the settlement. Any such proposals should in my opinion be carefully considered to avoid urban sprawl and reliance on unsustainable transport modes.

- 7.3.10. Notwithstanding the peripheral location of the masterplan lands, their proximity to Skerries Railway Station is I consider one of the key factors supporting the future development of these employment zoned lands. There is at present a pedestrian link between the railway station and the proposed development site however, as noted by third parties, there are deficiencies in existing pedestrian facilities particularly at the railway underpass. No dedicated cycle facilities are available in the area. The provision of an overbridge between the Ballast Pit Masterplan lands and the Milverton Masterplan lands, as envisaged in the development plan, would provide a direct link between the 'GE' zoned lands and the railway station. This link would I consider increase the areas permeability and accessibility, promote and facilitate the use of sustainable transport modes, and reduce car dependency, and thus help to ensure that the western expansion of Skerries occurs in a more sustainable manner.
- 7.3.11. However, neither the proposed development nor the proposed 'indicative masterplan layout' provide for the delivery of the overbridge. The applicants citing high financial cost and visual impact as justification for not pursuing the delivery of this objective. It is their contention that the requirement and delivery objective for an overbridge at this location requires critical reassessment in the context of the review of the Fingal Development Plan.
- 7.3.12. To support the first phase of development of the MP lands in the absence of the over bridge, the applicants refer the changes made to the scope and extent of the proposed development (from that previously proposed and rejected under Fingal Reg; Ref: F20a/0218), to avoid non-essential active modes of travel to the site. Such changes include the reduction in the retail floor area of the petrol station and the omission of food offerings. In addition, the applicants also refer to the proposed traffic management and road improvement arrangements which they consider will improve the safety and convenience of users of the road network (pedestrian, cyclist

and vehicular) and allow pedestrian and cyclists to access the development within a safe 'at grade' (i.e., non-elevated) arrangement.

- 7.3.13. I am not however satisfied that the measures outlined by the applicant are sufficient to justify the development of these lands in the absence of the overbridge as to do so would, in my opinion, not only contravene the objectives of the FDP but would result in the development of an employment area that is largely car dependent contrary to proper planning and sustainable development.

Conclusion:

- 7.3.14. While I acknowledge that the development of the GE lands at Milverton would support employment growth within the self-sustaining town of Skerries, I am of the opinion that the development as proposed, would represent an ad-hoc, piecemeal approach to the development of these peripheral lands and that it would result in the creation of an employment area that is largely car dependent. The proposed development would therefore be contrary to the objectives of the Fingal Development Plan, in particular Objective PM14; Objectives SS20, Skerries 10 and Skerries 11 and would be contrary to the proper planning and sustainable development of the area. I recommend that planning permission be refused on this basis.

7.4. Indicative Master Plan Layout:

- 7.4.1. In addition to the first phase of development currently proposed under this application, the applicants proposed 'indicative masterplan layout' provides an indicative layout for the potential second phase of development at Milverton. It should be noted however that the plan does not include all lands designated as part of the Milverton Masterplan and would appear to exclude c1.2ha of 'GE' zoned land to the northwest of the plan area. These lands would appear to be in third party ownership.
- 7.4.2. Furthermore, I am not satisfied that the indicative masterplan layout as proposed, in particular the proposed road layout, would adequately support the future

development of the adjoining 'GE' zoned lands to the northwest. In this regard I note that the internal road network for the proposed Phase 1 development culminates c15m short of the boundary with the adjoining zoned lands to the northwest. The possible future extension of this roadway would appear to be compromised due to the layout of the development, in particular the positioning of Block A. In addition, I note that the indicative future road layout for Phase 2 does not serve the adjoining GE lands.

- 7.4.3. In light of the above I am of the opinion that the proposed indicative masterplan layout has the potential to compromise the future development of zoned land within the Masterplan area. This is a new issue, and the Board may wish to seek the views of the parties however, having regard to the other substantive reasons for refusal set out in this report, it may not be considered necessary to pursue the matter.

7.5. Layout and Compliance with the Objectives of the FDP

- 7.5.1. The planning authority, in their assessment of and in their decision to refuse permission for the proposed scheme, cited a number of concerns relating to the layout of the proposed development and its failure to comply with stated objectives of the Fingal Development Plan 2017 -2023, in particular Objective GI20 (protection and enhancement of green infrastructure); Objective WT12 (pumping station buffer zone) and Objective DMS171 (separation distances from watercourses).
- 7.5.2. In response to the issues raised, the applicants have submitted a revised site layout plan (Drawing No.11.105. AP302) detailing a number of proposed amendments to the proposed scheme. These amendments are detailed in Section 2.3 above and are discussed in more detail below.
- 7.5.3. The proposed scheme (as amended) increases the separation distance between the main access road and the opposing site boundary. This increased separation distance, achieved through a reduction in the scale of the proposed industrial units, allows for protection and retention of the existing hedgerow along the southern laneway boundary (southwest site boundary). The retention of this hedgerow, would I consider, significantly reduce the impact of the development on existing green

infrastructure, help to retain existing ecological corridors on site and aid the assimilation of the development into the landscape. The development as proposed will however necessitate the removal of existing vegetation along the front / roadside boundary (southeast) in order to facilitate the proposed access arrangements and road improvement works. The loss of vegetation at this location is I consider justified in the interests of traffic safety. Appropriate landscaping and planting would, I consider help to mitigate the loss of existing vegetation, in this regard I recommend, in the event the Board are of a mind to grant planning consent, the submission of a detailed landscaping plan to be agreed with the Council prior to the commencement of development. In light of the above and having regard to the revised Arboricultural Impact Assessment submitted with the appeal, I am satisfied that the proposed scheme (as amended) would not contravene Objective GI20 of the Fingal Development Plan and therefore I do not recommend that refusal reason 3 as cited by the planning authority be upheld.

- 7.5.4. The vehicular access road between the light industrial blocks B&C has been removed in order to provide a minimum separation distance of 15m from the watercourse. This amendment would accord with the requirements of Objective DMS171 of the Fingal Development Plan and would I consider help to retain the water course as an ecological corridor within the site.
- 7.5.5. The revised site layout plan (Drawing No.11.105. AP302) submitted as part of the appeal documentation shows the proposed pumping station relocated to an area of greenspace adjacent to the proposed access road and at a distance in excess of 60m from proposed structures. While I am not convinced, having regard to the scale and design of the proposed pumping station and its location in a non-residential area, that the provision of a buffer zone in accordance with the requirements of Objective WT12 was necessary in this instance, I have no objection to its revised location.

7.6. Impact on the Character of the Area

- 7.6.1. The appeal site comprises c7.2ha of agricultural land located within the development boundary of Skerries but outside of the established built-up area. The area is

classified as a Coastal Character Type Landscape Area (a highly sensitive character type) under the Fingal County Development Plan 2017-2023. The site occupies a prominent position on the R127, one of the main access roads into Skerries, in the vicinity of the existing railway bridge, a protected structure.

7.6.2. Following consideration of the plans and particulars submitted and having carried out an inspection of the area I am of the opinion that while the development of these lands as proposed would alter the character of the area, the impacts arising from same, particularly in the long term, would not be significant.

7.6.3. The lands in question are zoned for development and thus a certain degree of change is anticipated and justified. While the proposed development site comprises c7.19ha of agricultural lands, the works proposed under this application are confined to an area of c1.5ha with a significant portion of the site (lands adjoining the Mill Stream), being retained as greenfield. This along with the low-lying nature of the lands and retention of existing field boundaries (as detailed on the site layout plan (Drawing No.11.105. AP302) would I consider help retain much of the areas amenity value and rural character, while also aiding the assimilation of the development into the landscape.

7.6.4. In visual terms the most significant element of the development is, in my opinion, the new roundabout junction arrangement on the R127. However, such works would not I consider be unusual in the context of the area, particularly having regard to the site's proximity to the established built-up area of Skerries. I accept that road improvement works of the nature and scale proposed are required to facilitate the development of these "GE" Zoned lands. I do not consider that the works proposed would have a significant negative impact on the character or setting of the protected structure.

7.6.5. In relation to the proposed structures, I am satisfied that the proposed development site can accommodate the height and scale of the structures proposed and that they are of a sufficient standard in terms of design and finish. I note however that the proposed scheme does not include proposals for signage. Signage, particularly any proposals for illuminated signage, should in my opinion be carefully considered. This

may be addressed by way of appropriate condition in the event that the Board determines to grant planning consent.

7.7. Traffic

- 7.7.1. Concerns have been raised regarding the ability of the existing road network (R127) to accommodate the additional traffic generated by this development. Particular reference is made to the inadequacies of the railway bridge which is considered a source of congestion.
- 7.7.2. The proposed development relates to the 'GE' General Employment zoned lands at Milverton and Townparks in Skerries and comprises the first phase of development of the applicant's landholding which as per the details submitted is to be delivered in two distinct phases. Phase 2 is to be subject to a separate planning application and it is intended that it comprise an additional 48no. production units (c11,404sqm).
- 7.7.3. A Traffic and Transport Assessment assessing the impact of the proposed and potential future phase 2 development on the surrounding transportation network and assessing the suitability of the proposed new four-armed roundabout to replace the existing priority-controlled junction and to provide access to the proposed development has been submitted in support of the application.
- 7.7.4. The TTA assesses the proposed new roundabout and the existing 3-armed roundabout to the east of the railway line (R127 / Miller's Lane). The existing junction was modelled based on its existing configuration and the results indicate that it is currently operating well within capacity and would continue to do so for the future assessment year of 2040. The proposed junction was modelled based on its proposed configuration and the ARCADY analysis results indicate that the junction would operate within capacity at the proposed year of opening and future year scenarios (2035). Arm 4 (R127(E)) of the proposed new roundabout is just under capacity in the 2040 scenario. Results indicate the highest Ratio of Flow to Capacity (RFC) at 0.97 and a corresponding queue of 16.9 vehicles for the AM peak and a maximum RFC of 0.70 and corresponding queue of 2.3 vehicles recorded for the PM. As per the report of the Transport Section of the Council, the associated

queueing length is 35m long and as the distance between the two roundabouts is c.90m, there should be no issue with traffic backing up between the roundabouts. The Transport Section of the Council raised no objection to the information contained in the TTA or the proposed development.

- 7.7.5. Based on the information submitted in the TTA, I am satisfied that the movement and flow of traffic generated by the proposed development would not have a significant negative impact on the surrounding road network particularly the R127.

7.8. Ecological Impact

- 7.8.1. Third parties have raised concerns regarding the potential impact of the proposed development on biodiversity, through the loss of agricultural lands, habitat and feeding grounds.
- 7.8.2. The applicants appeal documentation includes a report on Biodiversity and Ecology which provides a description of the flora and fauna of the area. The report describes the site as an example of traditional farmland, with small fields managed at relatively low intensity and holding significant biodiversity. Of the species identified on site, the Yellowhammer is a declining species on the red list of birds of conservation concern having declined by at least 50% over the last 25 years. Among the plants, the greater pond sedge is described as 'rare in drains near the sea'.
- 7.8.3. A Bat Survey was undertaken separately in September 2021. Three bat species were recorded on the site (Leisler's bat, Common pipistrelle and Soprano pipistrelle) all Annex IV species listed at least concern. The survey recommends mitigation measures, including the installation of sympathetic lighting (as per the revised public lighting layout, Drawing Number 11.105. AP326) submitted with the appeal and the retention and improvement (additional planting) of existing hedgerows and treelines. The mitigation described can be secured by way of condition in the event that the Board determines to grant planning consent.
- 7.8.4. The applicants Biodiversity and Ecology report notes that habitats on the part of the site to be development (c1.5ha) will be altered significantly and that plant and animal

species associated with farmland and disturbed soil may be reduced in the long term, depending on the future use of the fields to the east. However, as a significant part of the site will remain intact (the stream and adjacent low ground) most of the plant and other species identified will survive through at a reduced abundance. The yellowhammer will persist in the general area as long as wheat and barley are grown nearby and may even nest in the marginal hedgerow at the northern end.

7.8.5. The report refers to the NRA Guidelines on the assessment of Ecological Impacts of National Road Schemes and notes that in respect of same the ecological impact of the proposed development may be thought of 'minor negative' in that a moderate negative impact from the building and presence will be balanced by a minor positive one from landscaping. The retention of the stream and flood zones may be regarded as neutral though this could be positive if the habitat is allowed to rewild to some extent.

7.8.6. While the development of these lands as proposed would result in the loss of agricultural lands and associated habitats I am satisfied, on the basis of the information available, that through the implementation of the mitigation measures as described, no significant negative impact upon ecology would occur as a result of the proposed development. I would however recommend that a detailed landscaping plan and Construction Environmental Management Plan (incorporating all mitigation measures) be submitted and agreed with the council prior to the commencement of development.

7.9. **Other**

7.9.1. The eighth and final refusal reason cited by the planning authority relates to the failure of the applicants to demonstrate the feasibility of connecting the proposed development to the public water and wastewater infrastructure. This reason for refusal would appear to stem from the report received from Irish Water and their request for further information in the form of a pre-connection inquiry. In response the applicants have submitted a letter from Watermain Moylan confirming that a pre-connection inquiry was made to Irish Water and subsequently approved. A copy of

the approval document is provided in Appendix 8 of the grounds of appeal. This documentation is I consider sufficient to address the concerns raised in Refusal Reason no.8.

7.9.2. Third parties have queried the need for and the commercial viability of the proposed scheme. Commercial viability is not however an issue of concern for the planning process unless there is an over proliferation of one use in an area. There are c1,850ha of lands zoned for general employment uses within Fingal, however the GE lands at Milverton are the only employment zoned lands within the settlement of Skerries. The appropriate development of these lands would I consider aid the development of the settlement in a sustainable manner and help prevent it from becoming a dormitory town. In relation to the proposed petrol station, while in note that there are existing services within Skerries, I do not consider, particularly in the context of existing and anticipated population growth in the settlement, that the development of a further petrol filling station will result in an over proliferation of service stations to serve the town. In addition, while I appreciate that national policy is to stop the sales of petrol/ diesel/ hybrid cars from 2030, such sales can continue up to then and therefore the need for petrol / services stations will continue.

7.9.3. In relation to the site notices and the manner in which they were erected, I am satisfied that this did not prevent third parties from making representations / observations.

7.9.4. In relation to alleged conflict of interest, it should be noted that as the function and responsibilities of the Board do not extend to the role of Ombudsman, they are not in a position to consider or make a determination on the issue raised.

7.10. **Appropriate Assessment**

Introduction and Background:

7.10.1. A document entitled - An Appropriate Assessment: Natura Impact Statement, prepared by Roger Goodwille & Associates, was submitted with the planning application. This document includes a description of the project, an identification of

Natura Sites with 15km of the subject site, an identification of the potential effects on the identified sites with the zone of influence and details of required mitigation measures during both construction and operational phases.

7.10.2. The planning authority in their assessment determined that this document comprised a Stage 1 Appropriate Assessment Screening Report and not a full Stage 2 Appropriate Assessment / Natura Impact Statement. They were unclear as to whether the mitigation measures outlined in the document are an intrinsic part of the development proposed or are required to prevent significant effects on European sites. They also had concerns relating to the lack of appraisal of capacity of the Skerries / Barnagerra wastewater treatment plant to accommodate the proposed development and the failure of the report to address the potential for impacts on European Sites via the air pathway. In conclusion, planning authority was not satisfied that the proposal would not result in significant effects on European sites and planning permission was refused on this basis (Refusal Reason No.4 relates).

7.10.3. In response to the concerns raised by the Planning Authority the applicants have submitted a revised document entitled - Appropriate Assessment: Natura Impact Statement (revised September 2021). The documentation submitted by the applicant in support of this appeal also includes an EIA Screening Report (updated Oct. 2021), a Bat Survey, an updated Tree survey, and a report on Biodiversity and Ecology.

Appropriate Assessment (AA) Screening

Identification of European Sites:

7.10.4. The proposed development site is not located in or immediately adjacent to a European site. Ten designated European sites are located within a 15km radius of the proposed development site. These are listed in Table 7.1 below. I am satisfied that there are no European sites with direct / indirect pathways from the proposed development site beyond this 15km limit.

Table 7.1: Summary Table of European Sites within a possible zone of influence of the proposed development

European Site	Distance
Skerries Island SPA (004122)	c1.4km
Rockabill Island SPA (004014)	C4km
Rogerstown Estuary SPA (004015)	c7.4km
Lambay Island SPA (004069)	C4.6km
Malahide Estuary SPA (004025)	c11km
River Nanny and Shore SPA (004158)	c. 10.3km
Rockabill to Dalkey Island SAC	c. 3.8km
Rogerstown Estuary SAC (00208)	c. 7.4km
Lambay Island SAC (000204)	c. 4.6km
Malahide Estuary SAC (00205)	c. 10.7km

Using the Source-Pathway-Receptor model, only three of the ten designated European sites identified, are linked (via the Mill Stream) to the proposed development site. I am satisfied that the remaining seven sites can be excluded from further consideration due to their distance from the site and the absence of hydrological pathways.

The three sites identified as being at risk along with their qualifying interests and conservation objectives are set out in the table 7.2 below:

Table 7.2

Skerries Island SPA(4122)

Details	The proposed development site is located c1.4km from Skerries Island SPA. The Skerries Islands are a group of three small uninhabited islands, Shenick’s Island, St Patrick’s Island and Colt Island, situated between 0.5 km and 1.5 km off the north Co. Dublin coast. Shenick’s Island is connected to the mainland at low tides. There is therefore a potential pathway to this SPA at low tide via the Mill Stream and the marine environment.
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Qualifying Interests:	<ul style="list-style-type: none"> • Cormorant (<i>Phalacrocorax carbo</i>) [A017], • Shag (<i>Phalacrocorax aristotelis</i>) [A018], • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046], • Purple Sandpiper (<i>Calidris maritima</i>) [A148], • Turnstone (<i>Arenaria interpres</i>) [A169], • Herring Gull (<i>Larus argentatus</i>) [A184]
Conservation Objectives:	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA
Rockabill Island SPA (4014)	
Details	The proposed development site is located c4km from Rockabill Island SPA (site code 4014). There is no direct pathway to this SPA, there is an indirect pathway from the site to the SPA via Mill Stream and the marine environment.
Qualifying Interests:	<ul style="list-style-type: none"> • Purple Sandpiper (<i>Calidris maritima</i>) [A148], • Roseate Tern (<i>Sterna dougallii</i>) [A192], • Common Tern (<i>Sterna hirundo</i>) [A193] • Arctic Tern (<i>Sterna paradisaea</i>) [A194]
Conservation Objectives:	To maintain the favourable conservation condition of the bird species listed as Qualifying Interests for this SPA.
Rockabill to Dalkey Island SAC	
Details	The proposed development site is located c3.8km from Rockabill to Dalkey Island SAC (site code 3000). There is no direct pathway to this SAC there is however an indirect pathway from the site to the SAC via Mill Stream and the marine environment.
Qualifying Interests:	<ul style="list-style-type: none"> • Reefs [1170] • Phocoena phocoena (Harbour Porpoise) [1351]
Conservation Objectives:	To maintain the favourable conservation condition of the habitats and species for which the SAC has been selected.

Identification of Likely Significant Effects

7.10.5. The Mill Stream, which bisects the site, provides a direct hydrological pathway (at low tide) between the appeal site and the Skerries Island SPA which is located c1.4km to the east. The Mill stream also provides an indirect pathway to both the Rockabill Island SPA and the Rockabill to Dalkey Island SAC which are located

c4km to the east. As a result of the direct / indirect hydrological links, there is a potential risk that contaminated surface waters from the project site could once discharged to the marine environment, contribute to the deterioration of water quality in offshore waters around the Natura 2000 sites.

- 7.10.6. Deterioration in surface water quality may occur initially during the construction phases as a result of silt – laden run-off from the site and / or inadvertent spillages of contaminant materials such as oils, fuels, cement etc. Once operational, there is a further risk of contamination of the surface water network in the event of leakage or spillage of hydrocarbons particularly those associated with the operation use of the petrol filling station and mechanics (Building E).
- 7.10.7. During the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site and entering the water system. During the operational phase clean, attenuated surface water will discharge to the Mill stream at a controlled rate equivalent to Greenfield runoff. (See Section 2.2.7 of the NIS document and the Outline Construction Management Plan). All proposed structures, parking areas etc have been set back from the stream. The separation distance available, between the proposed petrol filling station and the Mill Stream (50+ meters), should I consider significantly reduce the risk of contaminants reaching the hydrological pathway in the event of leakage / spillage.
- 7.10.8. While referred to in the NIS document as ‘mitigation’ I am satisfied that the pollution control and surface water management measures to be undertaken during both the construction and operational phases are standard practices for development sites of this nature and would be required for a development on any such site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I am satisfied having regard to the separation distances available and the dilution factor, together with the nature and scale of the development proposed, that the potential for significant effects on the qualifying interests of Natura 2000 sites as a result of surface water deterioration can be excluded and that this matter does not require further in-depth scientific examination.

7.10.9. Foul water from the proposed development shall discharge to the public system. Any pollutants or silt will be treated in the WWTP. Irish Water have confirmed that adequate capacity in the existing public network is available.

7.10.10. In relation to in-combination effects with other plans or projects I note that there is one other project within the vicinity of the site that may in combination with the proposed development have the potential to contribute to the deterioration of water quality of the Mill Stream and marine environment. The project in question relates to road infrastructure works permitted under ABP-309409-21. I note however that this application was screened for appropriate assessment with no appropriate assessment issues arising. I am therefore satisfied that no significant in-combination effects are likely to arise.

Screening Determination

7.10.11. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the following

- Rockabill to Dalkey Island SAC (03000)
- Rockabill Island SPA (004014)
- Skerries Island SPA (004122)

Or any designated European site, in view of the site conservation objectives, and notwithstanding the NIS document submitted with the appeal, that a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required. This assessment is based on the following: the nature and scale of the proposed development, the nature of the receiving environment, the distances to the nearest European sites, the capacity within the existing public wastewater treatment system to treat the additional loading from the proposed development, and the hydrological pathway considerations.

7.10.12. Measures intended to reduce or avoid significant effects on these European sites have not been considered in the screening process

8.0 Recommendation

8.1. I recommend that planning permission for this development be refused for reasons outlined below.

9.0 Reasons and Considerations

1.	<p>Having regard to:</p> <ul style="list-style-type: none">a) The location of the proposed development site on the periphery of the built-up area of Skerriesb) The location of the site within the 'GE' General Employment zoned lands at Milverton and the requirements for this area as set out in the Fingal Development Plan 2017-2023c) The lack of an agreed masterplan for the area (Milverton Masterplan -MP 5D)d) The inadequacies identified with the proposed 'Indicative Masterplan layout' which include its failure to include all of the GE zoned lands identified within the masterplan area, its failure to provide for a pedestrian overbridge to the Bellast Masterplan lands and issues relating to flood riske) The fact that the current proposal represents phase 1 of the wider development of the masterplan lands
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	<p>It is considered that the proposed development would represent an ad-hoc, piecemeal approach to the development of these lands; that it would be largely car dependent and would promote unsustainable transport modes and that it would not accord with the orderly expansion of the settlement of Skerries. Furthermore, the proposed development would contravene the objectives of the Fingal Development Plan 2017 – 2023, in particular objectives PM14, SS20, Skerries 10 and Skerries 11. The proposed development would therefore be contrary to the proper planning and sustainable development of the area</p>
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Lucy Roche
Planning Inspector
14th October 2022