



An
Bord
Pleanála

Inspector's Report

ABP-312160-21

Development

Change of use of building (referenced A on Site Plan), from ancillary storage to general storage with trade counter and subdivided into four units. Retention of vehicle parking and sales area referenced E, retention of storage compounds F1, F4 and F5 retention of structures J2, J3 and J4. Permission to demolish buildings H1 and H2 and re-build buildings (referenced as K1 and K2) with modern construction for general storage.

Location

Centrepont Business Park,
Carrickcarnan, Ravensdale, County
Louth.

Planning Authority

Louth County Council

Planning Authority Reg. Ref.

21309

Applicant(s)

Arabtec Capital Unlimited.

Type of Application

Planning Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal	First Party
Appellant(s)	Arabtec Capital Limited.
Observer(s)	No Observers.
Date of Site Inspection	28 th September 2022.
Inspector	Elaine Sullivan

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1.0 Introduction

- 1.1. The subject site forms part of a wider development site, which forms the Economic/Business Zone of Carrickcarnan as designated in the Louth County Development Plan 2021-2027, (Map 6.1, Volume 2 & Map 3.2 of Volume 1A).
- 1.2. Planning permission to develop the adjoining site to the north was applied for under PA Ref. 20/1001 and is subject to a first party appeal to the Board under ABP 312158-21. Both sites are within the same ownership and the red line boundary ABP-312158-21, (PA Ref. 20/1001), extends into the Centrepoint Business Park and includes the existing vehicular entrance to the site. It was originally proposed to provide a vehicular connection between both sites and to connect the developments with an internal road. However, this proposal was amended under further information and the connection was removed from the proposal.
- 1.3. As there are interactions between both sites and they form part of a wider Masterplan for the Carrickcarnan Economic/Business Zone, the applicant has requested that the Board consider both appeals at the same time. In the interests of clarity, development proposed under the subject appeal, and located within the Centrepoint Business Park will be referred to as Phase 1, and development proposed on the adjoining site to the north, under ABP-312158-21, will be referred to as Phase 2.

2.0 Site Location and Description

- 2.1. The subject site has a stated area of 1.7 ha and is located in north County Louth, approximately 1km to the south of the border between the Republic of Ireland and Northern Ireland. It forms the southernmost part of a triangular site which is bounded by the R132, (Dublin Road) to the east and by Newtown Road, (a local road access road), to the west. The M1/ N1 Dublin – Belfast motorway is approximately 300m to the west of the site. Access to the motorway from the site is via Junction 20, the Carrickcarnan Junction, which is located approximately 1.3km to the south of the site.
- 2.2. Access to the site is from the R132 via a bellmouth junction of approximately 15m in width. The site currently comprises the Carrickcarnan, Centrepoint Business Park

which contains a range of activities including a lorry depot, warehouse development, open storage areas and some warehouse retail units. The western boundary of the site boundary is by a wire mesh fence with a mature hedge and trees. To the east of the site and along the R132 the site is bounded by a wire-mesh fence. This fencing is open and allows views into the site with a lorry compound facing onto the public road. The northern boundary with the adjoining site, comprises dense trees and planting with a greenfield site beyond that.

3.0 Proposed Development

- 3.1. The proposal relates to development at the existing Centre Point Business Park, Carrickcarnan which includes the following,
- Change of use of Building A, (324m²), from ancillary storage to general storage with trade counter and subdivided into four units,
 - Retention of three storage compounds, (F1, F4 and F5), and the retention of a vehicle parking and storage area, (E), all with a combined surface area of 6,294m².
 - Retention of existing structures, (J2, J3 and J4), with a floor area of 107.8m².
 - Demolition of existing buildings, (K1 and K2), and the construction of new buildings with a floor area of 327m² for storage in their place.
- 3.2. The development proposal was altered under further information. The response to the FI was submitted on the 10th day of November 2021 and proposed to decommission the existing septic tank and connect the surface and wastewater drainage to a new wastewater treatment system and surface water management system on the adjoining site to the north. This site is subject to an appeal under ABP 312158-21.
- 3.3. Revised proposal for signage, landscaping and parking layouts were also submitted during the further information stage.

4.0 Planning Authority Decision

4.1. Decision

Planning permission was refused by the PA for the following 2 reasons,

1. In the absence of a satisfactory proposal for a wastewater treatment system and surface water proposal to service the development, it is considered that the proposed development is contrary to policy IU 22 of the Louth County Development Plan which requires that all new development incorporates treatment of run-off, and policy IU 17 which relates to the installation of wastewater treatment systems. Having regard to the proposal to decommission the existing wastewater treatment facility and in the absence of an alternative proposal it is considered that the proposed development would cause pollution to the Flurry River, would be prejudicial to public health and as such would be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information provided with the application and contained within the appropriate assessment screening report the Planning Authority cannot be satisfied that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on Dundalk Bay SAC and Dundalk Bay SPA, in view of the site's Conservation Objectives. In such circumstances the Planning Authority is precluded from granting permission for the subject development.

4.2. Planning Authority Reports

4.2.1. Planning Reports

Two reports from the Planning Officer informed the decision of the PA. The first report dated the 11th day of May 2021 requested further information on seven points. The second report dated the 30th day of November 2021 assessed the information submitted. The first report included the following:

- The report notes the extensive planning history for the site and also that there is a planning application under assessment for the adjoining site to the north,

(PA Ref. 20/1001). This development proposal is for two warehouses, wastewater treatment plant, raising the levels on the site and an attenuation pond and surface water management system.

- The development being sought forms part of the existing Centrepont Business Park and is a modest extension to warehousing which has already been sanctioned on the site.
- There is an extensive planning history for the site and permission has been granted for some of the retail warehousing development within the site. This has established the principle of development for the site.
- Previous refusal reasons related to the signage for the site. A planning statement demonstrating compliance with development management standards and listing all uses on the site would be beneficial.
- The retention of the lorry compound area runs right up to the boundary. This should be set-back and landscaping should be provided.
- It is not clear from the layout and history of the site if major accidents have been considered. Details have not been provided regarding access routes in and around the site. The design process and Masterplanning for the site should be influenced by fire safety regulations.
- A lighting plan should be provided to for the site to provide details of the impact of lighting on road users of the R132. Concerns are raised regarding the proliferation of signage on the site.
- There is a concern regarding sightlines from the entrance. Details of compliance with car parking standards are not provided.
- A septic tank services the site. The percolation area is part of the hard standing area, which is not permitted in EPA standards. This area should be relocated.
- Details regarding surface water drainage are required.
- Further information was requested with regard to seven points which related to signage, landscaping, lighting, fire access and emergency routes, surface

water drainage, sightlines, capacity of existing wastewater treatment system and the preparation of a Stage 2 Appropriate Assessment.

The second report of the PO dated the 30th day of November 2021 assessed the information submitted by the applicant and included the following;

- The applicant demonstrated compliance with development management standards with regard to site coverage, plot ratios, open storage areas, landscaping, car and bicycle parking areas, access arrangements and sightlines, waste management, light and noise.
- The submission relating to surface water management outlined that surface water from the site would be drained into an attenuation pond with an outfall to land drains. This pond would be located on the adjoining site to the north as part of the development proposed under PA Ref. 20/1001, which was refused permission on the 12th day of November 2021.
- Therefore, there is no comprehensive proposal to address surface water drainage in any comprehensive manner within the site and the subject development and the development does not accord with Development Plan policy IU 22.
- Regarding wastewater treatment, the applicant has proposed to decommission the existing septic tank and percolation area and to treat foul water within a new proprietary wastewater treatment system, (WWTS), to be provided on the adjoining site to the north. This system was proposed under PA Ref. 20/1001, which was refused permission on the 12th day of November 2021.
- In the absence of any alternative proposal to treat wastewater the PA is not in a position to grant permission for the proposed development in the absence of any proposal to treat effluent from the site.
- The Stage 1 Screening Report for Appropriate Assessment states that the development will not have any significant impact on the European sites of Dundalk Bay once the proprietary WWTS proposed under 20/1001 is constructed. As this development has been refused permission the PA

cannot be satisfied that the proposal will not be likely to have a significant effect on Dundalk Bay SAC and Dundalk Bay SPA.

- The PO determined that the proposed development relied on the provision of a surface and wastewater management system which was to be provided on an adjoining site to the north under PA Ref. 20/1001. Planning permission for this development was refused and in the absence of any proposals to manage wastewater within the site it was recommended that planning permission be refused.

4.2.2. Other Technical Reports

- Infrastructure – The report dated the 11th day of May recommends that further information be requested with regard to sightlines.
- Environmental Compliance Section – The report dated the 16th day of April 2021 recommended that further information be requested with regard to the location of existing wells on the site, details of existing wastewater treatment systems and compliance with EPA standards, relocation of percolation area and description of materials stored on the site. A report dated the 17th day of November 2021 has no objections subject to planning conditions and the implementation of the surface and WWTS proposed under PA Ref. 20/1001.
- Fire & Rescue Service – Report dated the 16th day of November 2021 - A Fire Safety Certificate is required.
- Heritage Report – Report dated the 25th day of November 2021 states that a Stage 1 Screening Report has been prepared for the site but is not comprehensive and does not consider impacts on European Sites in Down and Armagh. Impacts regarding surface and foul water drainage are only considered with the surface water management system and WWTS proposed on the adjoining site under PA Ref. 20/1001 is in place. No information has been supplied as to how this will be managed in the interim. Connections between both development sites not considered.

4.3. Prescribed Bodies

- No submissions.

4.4. Third Party Observations

- No submissions received by the PA.

5.0 Planning History

There is an extensive planning history for the site. The list below is not comprehensive and relates to the most recent history for the site,

08/144 – Planning permission refused by the PA on the 3rd day of April 2008 for a change of use of building from furniture store to retail use.

08/145 – Planning permission refused by the PA on the 3rd day of April 2008 for miscellaneous signage. (Compounds D4 and D5 are shown on the Site Layout Plan for this application).

07/61 – Planning permission refused by the PA on the 13th day of March 2007 for the retention of 7 open air compounds delineated as no's D3 to D9 inclusive and located along the northern site boundary. The development was refused for the following reasons,

1. The development for which retention permission is sought would materially contravene Policy 8.4 of the Louth County Development Plan which states that no dual access or intensification of existing access are permitted onto a national route.
2. The development for which retention is sought is within the curtilage of unauthorised activity for which planning permission has never been granted. Therefore, to intensify any activity at this site is considered inappropriate and contrary to the proper planning and sustainable development of the area.

Note: Compounds marked D3, D6, D7 & D8 on Drawing No. 111 of PA Ref. 07/61 correspond with the location of compounds F1, F4 and F5 Drawing 151, Existing Site Plan, Elevations and Sections, which are proposed for retention under the subject appeal.

Enforcement Files

13/U025 – File opened on the 8th day of April 2013 in relation to an unauthorised trailer sign. The case is closed.

On the adjoining site to the north,

ABP312158/21, (PA Ref. 20/1001) – Planning permission sought for development on the adjoining greenfield site to the north for the construction of two warehouse-type buildings of 924sqm each, a new vehicular entrance on to the R132, a new vehicular link between existing and proposed development to connect with existing access onto the R132, new on-site wastewater treatment plant with pumping station, rising main pipeline with outfall connecting to the Flurry River, drinking water treatment plant with connection to new potable well located on adjacent site and associated pipework across public/private roads, attenuation pond and raising the site levels by an average of 1.13m across the site. This application was refused by the PA and is subject to a first party appeal which has not yet been decided.

Note: It is proposed to drain the surface and foul wastewater from the subject site to the adjoining site where it will be treated on site prior to discharging to the River Flurry.

6.0 Policy Context

6.1. Development Plan

- 6.1.1. The site is located within the administrative boundary of Louth County Council. The operative Development Plan for the area is the Louth County Development Plan, (LCDP), 2021-2027, which came into effect on the 11th day of November 2021.
- 6.1.2. The application was assessed by Louth County Council in accordance with the policies and objectives of the Louth County Development Plan 2015-2021, which was the operative Development Plan at the time.
- 6.1.3. On review of the contents of both plans I note that there is no material change between the 2013 County Development Plan and the 2021 County Development Plan as they relate to the appeal site and the current proposal.
- 6.1.4. The following sections of the Louth County Development Plan 2021-2027 are relevant to the proposed development,

The site is located within Rural Policy Zone 1 and within the Economic/Business Zone of Carrickcarnan. (Map 6.1, Volume 2 & Map 3.2 of Volume 1A).

5.19.3 – Rural Enterprises – Policy Objectives:

- EE 62 - To consider, subject to the preparation of a Masterplan, the development of the Economic Business Zone at Carrickcarnan for commercial development including an Off-line Motorway Services area, truck stop, service, repair and parking area and associated ancillary infrastructure to include motel/hotel, ancillary retail shop and dining facility, light industrial, storage and logistics facilities, retail warehousing (bulky goods only) and motor sales.

Chapter 10

10.2.5 – Sustainable Drainage Systems – Policy Objectives

IU 19 - To require the use of Sustainable Drainage Systems to minimise and limit the extent of hard surfacing and paving and require the use of SuDS measures be incorporated in all new development (including extensions to existing developments). All development proposals shall be accompanied by a comprehensive SuDS assessment including run-off quantity, run off quality and impacts on habitat and water quality.

IU 20 - To require all development proposals meet the design criteria, (adjusted to reflect local conditions), and material designs contained in the Greater Dublin Strategic Drainage Study (GDSDS) and demonstrate how runoff is captured as close to source as possible with subsequent slow release to the drainage system and watercourse.

Chapter 13 – Development Management Guidelines

13.13.2 – Business Parks and Industrial Estates

13.13.2 – Layout

13.13.4 – Plot Ratio – Site Coverage 60% / Plot Ratio 1.5:1

13.13.5 – Parking & Loading / Table 13.11 – Parking Standards.

13.13.7 – Landscaping & Boundary Treatments.

13.13.9 – Noise, Lighting and Emissions.

13.13.10 – Signage

13.16.5.1 – National and Regional Roads - Aside from the exemptions, set out in Tables 7.9 and 7.10, any new access off a National or Protected Regional road shall be restricted to locations within the 50km/h speed limit. Accesses in locations where the speed limit is greater than 60km/h shall generally be avoided.

6.2. Natural Heritage Designations

6.2.1. No designations apply to the subject site.

6.3. EIA Screening

6.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal relate to the reasons for refusal and include the following:

- The appeal site contains a mixture of warehousing and retail warehousing uses which are long-standing, established uses which have been permitted through the planning system.
- The uses on site are compliant with the policies of Louth County Development Plan and the report of the PO had no objection to the principle of development on the site.
- A separate planning application for the adjoining site to the north is also on appeal to the Board, (Ref. ABP 312158-21, PA Ref. 20/1001).

- The logic of having two applications for the site was to have all the existing development regularised in one application and to provide new development under the second application.
- The adjoining site also required a Stage 2 Appropriate Assessment which also took into consideration the subject site.
- It is proposed to treat the wastewater for the subject site within the system proposed for the adjoining site to the north. However, the PA refused the development proposed under PA Ref. 20/1001 prior to making a decision on the subject proposal. This had knock-on implications for the subject site.
- As both sites are now interconnected with regard to the proposals for wastewater treatment, the appeals were lodged concurrently, and it is requested that they be assessed simultaneously.
- The decision of the PA to refuse permission for the development as the WWTS was to be provided on a separate site was unreasonable and could have been dealt with by condition or through a clarification of further information. The adjoining lands are within the ownership of the applicant and the WWTS could have been provided in this manner.
- The second reason for refusal seems to arise as a result of the implications from reason one, where the proposal to provide the WWTS for the subject site on the adjoining site was not accepted. In not accepting the proposal the PA considered that they were precluded from granting permission due to the potential impacts on Dundalk Bay SAC and Dundalk Bay SPA.
- A new Stage 1 Screening report has been prepared for the appeal and confirms that the proposed development, either individually or in combination with other plans and projects would not be likely to have a significant effect on Dundalk Bay SAC or Dundalk Bay SPA.
- It is requested that both applications be assessed in unison.

7.2. Planning Authority Response

A response from the PA was received on the 13th day of January 2022 and includes the following,

- The request for further information sought to address environmental concerns relative to wastewater treatment and disposal.
- The applicant proposed to decommission the existing septic tank on the site and to treat foul water with a new proprietary treatment WWTS to be provided on the undeveloped site to the north, which was subject to planning application 20/1001. Effectively this resulted in a proposal whereby no solution was put forward to treat the sewerage on the current site.
- The PA were not in a position to grant permission as the fundamental issues relative to the treatment of the sewage and compliance with EPA standards had not been addressed.
- This has a direct impact on the River Flurry which is connected to the designated sites of Dundalk Bay SAC and Dundalk Bay SPA.
- The development relied on a favourable decision being made on planning application 20/1001.
- The planning reports of the PO dated the 30/11/2021 and the 17/05/2021 address all of the issues raised in the appeal.
- With regard to the planning applications lodged under PA Ref 21/309 and 20/1001, and the issues raised regarding appropriate assessment and Stage 2, the PA have concerns that have not been fully addressed.
- The Board may wish to consider this further to ensure clarity regarding correct procedures should future applications be made in respect to the site for similar type developments.

7.3. Observations

- No observations received.

8.0 Assessment

- 8.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- The Principle of Development
- Compliance with Development Plan
- Drainage and Wastewater Treatment
- Appropriate Assessment

8.2. The Principle of Development

8.2.1. The operative Development Plan for the area is the Louth County Development Plan, (LCDP), 2021-2027, which came into effect on the 11th November 2021. The application was assessed by Louth County Council in accordance with the policies and objectives of the Louth County Development Plan 2015-2021, which was the operative Development Plan at the time. The policies relevant to the proposed development are carried through to the LCDP 2021-2027. On review of the contents of both plans I note that there is no material change between the 2015 County Development Plan and the 2021 County Development Plan as they relate to the appeal site and the current proposal.

8.2.2. The subject site is located on lands which are designated as the Economic/Business Zone of Carrickcarnan. (Map 6.1, Volume 2 & Map 3.2 of Volume 1A). The site currently comprises a mix of uses which relate to storage / warehousing or retail warehousing, which are in accordance with the vision for the wider site as set out in Policy Objective EE 62 of the LCDP 2021-2027. There is an extensive planning history for the site which has established some of the current uses on the site. The report of the PO notes that the principle of development within the site has been established through previously permitted development. Within this context, I am satisfied that the principle of development on the site is acceptable and can be assessed accordingly.

8.3. Compliance with Development Plan

8.3.1. I am satisfied that the proposed development is broadly in accordance with the standards for development as set out in Chapter 13 of the LCDP and in particular with Section 13.13.2 which relates to development in Business Parks and Industrial

Estates. The scale of the development is minor in nature and seeks to regularise unauthorised development and to replace existing buildings and uses.

- 8.3.2. The elements proposed for retention include three open storage compounds, (identified on drawings as F1, F4 and F5), and a vehicle parking and storage area, (identified as area E), all with a combined surface area of 6,294m². Area E, which includes the vehicle parking area appears to have been constructed over the percolation area for the septic tank on the site. On the occasion of the site inspection all of the areas for retention comprised hard standing with vehicle storage being the main use. Some building materials were being stored in open compounds, (F4 and F5), in the north-western corner of the site. It is also proposed to retain three single storey structures, (identified as J2, J3 and J4), which have a combined floor area of 107.8m². Additional works involve a change of use of Building A, (324m²), from ancillary storage to general storage with a trade counter and subdivided into four separate units. It is also proposed to demolish and replace Buildings K1 and K2, which are located to the north and south of Building A. The replacement buildings would be used for storage and would have a combined area of 327m².
- 8.3.3. Access arrangements to the site would remain the same and the applicant has demonstrated that the required sightlines of 215m along the R132 can be achieved with a set-back of 4.5m as required in Table 13.13 of the LCDP.
- 8.3.4. Development proposals put forward during the further information process included revisions to signage, landscaping and parking layouts. A new, double-sided totem sign of 11.6m in height would be installed at the entrance to the site. Additional planting in the form of trees, shrubs and grassed areas would be provided along the site boundaries and at the site entrance and parking for 43 cars and 20 bicycles would also be provided within the site. A lighting plan for street lighting along the R132 was also prepared with a view to ensuring motorists were not impacted by the development.
- 8.3.5. All of these elements are in accordance with Development Plan standards as set out in Sections 13.13.5 – Parking & Loading, Table 13.11 – Parking Standards, 13.13.7 – Landscaping & Boundary Treatments and Section 13.13.10 – Signage.
- 8.3.6. Overall, the nature and scale of the development is acceptable within the context of the site and in consideration of the development standards set out in the LCDP.

However, the works proposed for retention and replacement have implications with regard to the management of surface and foul water within the site. These issues are addressed in detail in Section 8.4 below and also in Section 8.5, Appropriate Assessment.

8.4. Drainage and Wastewater Treatment

- 8.4.1. Drawings submitted with the application show a septic tank located along the eastern section of the site with the 'probable location' of a percolation area. No information was provided regarding the existing wastewater treatment system for the site or how surface water from the site is managed. In response to a request for further information, the applicant proposed to decommission the existing septic tank and to connect the existing development with the WWTS proposed for the adjoining site to the north, (ABP 312158-21, PA Ref. 20/1001). It is also proposed to connect the existing site to the proposed surface water management system on the adjoining site to the north. This system would include a wetland area which would attenuate surface and storm water runoff prior to discharging it to the stream running along the northern boundary of the adjoining site.
- 8.4.2. The WWTS for the adjoining site would cater for the development proposed for the entire Masterplan site and has been designed to accommodate 106 persons. However, the figures outlined in Section 2.1 of the Services Design Details & Specification report only add up to 104. The application also states that there are 22 people currently working in Phase 1 / Centrepont Business Park. However, the Traffic Impact Assessment for development proposed under Phase 2, and subject to appeal under ABP 312158-21, states that there are 30 people employed in the Business Park. Should planning permission be granted for both developments, the WWTS would be dealing with a combined population of 38 for an interim period.
- 8.4.3. Development proposed under ABP 312158-21 includes the construction of a new wastewater treatment plant, (WWTP), which would include a 11250 litre primary tank, a 11250 litre buffer tank, a 11250 litre treatment tank, a Uv disinfection system 50 PE and a Ferric dosing system. Once the effluent passes through the wastewater treatment system it would be pumped via a pumping station within the curtilage of the site, to a rising main along the R132 to a point at the Flurry Bridge approximately

1.5 km to the south of the site. The treated effluent would then be discharged into the Flurry River. The discharge of trade effluent or sewage effluent to waters is subject to a licence under Section 4 of the Local Government Water Pollution Act, 1977, with the PA being the issuing body.

- 8.4.4. Under the Water Framework Directive, the Flurry River has been given a status of 'poor' at its location adjacent to, and upstream of, the subject site due to poor invertebrate status or potential. At the proposed discharge point at the Flurry Bridge, the river has a 'moderate' status due to moderate biological, invertebrate and fish status or potential. Further downstream, at Ballymascanlan Bridge and closer to the outfall to Dundalk Bay, the river has a 'poor' status due to high phosphate and orthophosphate levels.
- 8.4.5. A waste assimilative capacity, (WAC), of the Flurry River was carried out by the applicant at the point of discharge to establish the impact the treated effluent would have on the river. The exercise was carried out to the European Communities Environmental Objectives Surface Water Regulations (S.I. 272 of 2009) and the results found that the Flurry River has the assimilative capacity to deal with the treated effluent generated by the development.
- 8.4.6. There are a number of national monitoring stations along the Flurry River. The closest one to the subject site is approximately 1.5km to the south of the site at Flurry Bridge, (Ref. RS06F020100). The closest station to the river's outfall to Dundalk Bay is at Ballymascanlan Bridge, (Ref. RS06F020700). The flow data for the Flurry River was taken from the nearest hydrometric station at Currathir Bridge, which is approximately 5 km downstream from the site, and was obtained from the Environmental Protection Agency, (EPA). This information is also publicly available on the www.catchments.ie website. Samples were also taken at the Flurry Bridge location, which is approximately 3km to the north of Currathir Bridge. The treated effluent levels for the water to be discharged was supplied by the manufacturers of the wastewater treatment plant. The results of the exercise show that the discharge from the WWTP is within the assimilative capacity of the Flurry River for BOD, suspended solids, pH, ammonia and ortho-phosphate.
- 8.4.7. I reviewed the figures submitted with the WAC and assessed them against the parameters set out in Schedule 5 of SI 272 2009, European Communities

Environmental Objectives, (Surface Waters) Regulations 2009. The results showed that the discharge will be within the parameters of the Schedule 5 of SI 272 2009, for BOD and Phosphorus/MPR. Notwithstanding the poor status of the waters, the discharge will not result in appreciative pollution downstream, over and above that inherent in the waters, and as such would be acceptable. It is noted that the baseline figures were taken from a point downstream instead of upstream of the site. However, there are no national monitoring stations upstream of the site at the river flows from a point north of the border.

- 8.4.8. It is also proposed to connect the site with the surface water management system for the proposed development on the adjoining site to the north. The surface water discharge from both developments will be drained to an attenuation pond, (feature wetland), to the north of the site with an outfall to the land drain which runs along the northern site boundary. The outfall would be regulated through a flow control device to be discharged at the 'Greenfield Run-Off Rate' and run off to the watercourse would first be treated by a Class 1 Klargestor Bypass Petrol Interceptor to limit contamination. The attenuation pond would have the capacity to hold 166m³ in a permanent pond with an additional minimum volume of 1,980m³ provided in temporary attenuation storage which would comprise vegetated sloped embankments with a typical gradient of 1:3. The services report states that the surface water network has been designed to cater for the 5, 30 and 100-year storm events. Attenuation for the 100-year storm event would be provided within the system and would result in no flooding within the site. Additional capacity has been designed in the system to allow for climate change as per the Greater Dublin Strategic Drainage Study, (GDSDS).
- 8.4.9. I am satisfied that the proposed WWTS on the adjoining site has the capacity to cater for the existing development at the Phase 1 lands and for development proposed for Phase 2 and the wider Masterplan site. As noted above, any discharge of trade effluent will be subject to a licence to be issued by the PA under Section 4 of the Local Government Water Pollution Act, 1977. It is noted that the PA had no objection to the technical specifications of the proposed WWTS and the surface water management system subject to planning conditions.
- 8.4.10. Although the proposed WWTS may have the capacity to cater for both sites, it is subject to a separate planning permission, which has not yet been granted. In the

absence of this permission the subject development contains no proposals to deal with wastewater from the existing and proposed development. Whilst the wastewater proposals would improve the existing conditions on the site, it's delivery cannot be guaranteed. A Natura Impact Statement, (NIS), was carried out for the Phase 2 development under ABP-312158-21. Within the NIS, the WWTS was identified as a measure applied to mitigate against any effects on the European Sites within the zone of influence, which were identified as Dundalk Bay SAC and Dundalk Bay SPA. The issue of the WWTS as a mitigation measure is expanded on in Section 8.5 below. It is noted that under Section 34(12)(b) planning permission cannot be granted to retain unauthorised development where the development may have required an appropriate assessment prior to it being carried out.

8.5. Appropriate Assessment

- 8.5.1. A Stage 1 Screening Report was submitted with the application. The report identified Dundalk Bay SAC and Dundalk Bay SPA as European Sites within the zone of influence for the subject site. There is no direct pathway to the designated sites from the subject. However, there is an indirect pathway to the designated sites via the land drain that runs along the northern boundary of the adjoining site, (Phase 2 lands). This drain feeds into the Flurry River which flows to Dundalk Bay. During the operational phase of the development, the subject site would have a hydrological connection to this drain and to the Flurry River via the treatment of wastewater from the site. For this reason, Dundalk Bay SAC and SPA were included in the screening exercise.
- 8.5.2. The screening report states that there is no connectivity between the site and Dundalk Bay SAC and SPA. A hydrological connection existing between the site and the subject site during the operational stage which will involve the discharge of wastewater into the Flurry River. However, the designated sites are approximately 11 km downstream of the site for surface water discharges and 9 km downstream for wastewater discharges. Therefore, the hydrological separation distance is sufficient to ensure that significant effects do not arise. Section 3.4 of the Screening Report notes that the proposed application was considered in combination with the proposed development on the adjoining site to the north, (ABP 312158-21), and that

this application was subject to an NIS. The report states that, *'Having regard to the mitigation contained in the NIS that accompanies (PA Ref.), 20/1001 it can be considered that this application for retention will have no cumulative effects upon the Dundalk Bay SAC / SPA when considered in combination with this adjacent development'*.

8.5.3. The report concluded that, *'an AA of the proposed development is not required as it can be excluded on the basis of objective information included in this report, that the proposed development, individually or in combination with other plans or projects will not have a significant effect on any European sites'*.

8.5.4. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is screening.

Stage 1 – Screening

Description of Development

8.5.5. The project is not directly connected with or necessary to the management of a European Site and therefore, it needs to be determined if the development is likely to have significant effects on any European site.

8.5.6. The proposed development comprises the following,

- Change of use of Building A, (324m²), from ancillary storage to general storage with trade counter and subdivided into four units,
- Retention of three storage compounds, (F1, F4 and F5), and the retention of a vehicle parking and storage area, (E), all with a combined surface area of 6,294m².
- Retention of existing structures, (J2, J3 and J4), with a floor area of 107.8m².

- Demolition of existing buildings, (K1 and K2), and the construction of new buildings with a floor area of 327m² for storage in their place.
- The development proposal was altered under further information submitted on the 10th day of November 2021, whereby it was proposed to decommission the existing septic tank and to connect the surface and wastewater drainage to a new wastewater treatment system and surface water management system on the adjoining site to the north, which is subject to a separate appeal under ABP 312158-21, (PA Ref. 20/1001).

8.5.7. The subject site currently comprises the Centrepoint Business Park which contains a range of activities including a lorry depot, warehouse development, open storage areas and some warehouse retail units. The site is fully covered with hard standing areas. It adjoins an open greenfield site to the north, (subject to ABP 312158-21), and there is some dispersed residential development to the south and east. The site is bounded by public roads to the east and west.

8.5.8. European Sites

The European Sites within the zone of influence include the following,

- The Carlingford Mountain SAC, (Site Code 000453), circa 3.2 km to the south-east of the site,
- Carlingford Shore SAC, (Site Code 002306), circa 4.6 km to the east of the site,
- Carlingford Lough SPA, (Site Code 004078), circa 13.7 km to the south-east of the site,
- Slieve Gullion SAC, (Site Code UK0030277), circa 4.1km to the east of the site,
- Derryleckagh SAC, (Site Code UK0016620), circa 6.3km to the north-east of the site,
- Dundalk Bay SPA, (Site Code 004206), circa 12 km downstream of the site via surface water connection and 9 km downstream via the wastewater connection from the Flurry Bridge, (8.6 km as the crow flies),

- Dundalk Bay SAC, (Site Code 000455), circa 12 km downstream of the site via surface water connection and 9 km downstream via the wastewater connection from the Flurry Bridge, (8.6 km as the crow flies).

8.5.9. The Slieve Gullion and Derryleckagh SAC are located to the north of the border and have been included in the zone of influence due to their proximity to the site. There is no direct or indirect surface water or groundwater connection from the subject site to the Carlingford Mountain, Carlingford Shore, Slieve Gullion and Derryleckagh SAC's, and the Carlingford Lough SPA. There is also no ground habitat connection as the European sites are at some remove overland from the subject site. Therefore, there is no source-pathway-receptor connection between the subject site and the Carlingford Mountain, Carlingford Shore, Slieve Gullion and Derryleckagh SAC's, and the Carlingford Lough SPA. The proposed development would not result in any significant impacts on the integrity and conservation objectives of these European sites and the can be screened out of any further assessment.

8.5.10. Dundalk Bay SAC and SPA are located approximately 8.3 km to the south of the site and approximately 12 km downstream from the site via the Flurry River. There is no direct hydrological connection between the subject site and the Dundalk Bay SAC and SPA. However, during the operational phase of the development there will be an indirect hydrological connection between the subject site and Dundalk Bay SAC and SPA via a land drain on the adjoining site to the north, which flows to the Flurry River and on to Dundalk Bay and through the discharge of treated effluent from the site to the Flurry River.

8.5.11. The Qualifying Interests and Conservation Objectives for the designated sites are outlined in the table below.

Dundalk Bay SAC	
Site Code 000455	
Distance from the site: circa 12 km downstream of the site via surface water connection and 9 km downstream via the wastewater connection from the Flurry Bridge, (8.6 km as the crow flies).	
Qualifying Interests	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Perennial vegetation of stony banks [1220]

	<p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>
Conservation Objectives	<p>To <i>maintain</i> the favourable conservation condition of Estuaries, mudflats and sandflats not covered by sweater at low tide, perennial vegetation of stony banks, Atlantic salt meadows and Mediterranean salt meadows in Dundalk Bay SAC.</p> <p>To <i>restore</i> the favourable condition of Salicornia and other annuals colonising mud and sand in the SAC.</p>
<p>Dundalk Bay SPA</p> <p>Site Code 004026</p>	
<p>Distance from the site: circa 12 km downstream of the site via surface water connection and 9 km downstream via the wastewater connection from the Flurry Bridge, (8.6 km as the crow flies).</p>	
Qualifying Interests	<p>Great Crested Grebe (Podiceps cristatus) [A005]</p> <p>Greylag Goose (Anser anser) [A043]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Teal (Anas crecca) [A052]</p> <p>Mallard (Anas platyrhynchos) [A053]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Common Scoter (Melanitta nigra) [A065]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Knot (Calidris canutus) [A143]</p>

	Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Herring Gull (<i>Larus argentatus</i>) [A184] Wetland and Waterbirds [A999]
Conservation Objectives	To maintain the favourable conservation condition of the waterbird Special Conservation Interest species listed for the Dundalk Bay SPA. To maintain the favourable conservation condition of the wetland habitat in Dundalk Bay SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

8.5.14. The conservation objectives for each of the qualifying species are measured by monitoring the percentage change of population and the range, timing and intensity of use of the areas for each of the bird types identified. The conservation condition of the wetland habitat is assessed by measuring the permanent area occupied by the wetland habitat.

8.5.15. The results of the Stage 1 Screening Report states that:

The Dundalk Bay SAC and SPA are 11 km downstream of the site for surface water and 9 km downstream for wastewater. Therefore, the hydrological separation distance is sufficient to ensure that significant effects do not arise. The report concluded that, *‘an AA of the proposed development is not required as it can be excluded on the basis of objective information included in this report, that the proposed development, individually or in combination with other plans or projects will not have a significant effect on any European sites’*.

Likely Effects on the SAC and SPA – Construction Stage

8.5.16. The construction works proposed for the subject site are limited and are restricted to the demolition of buildings K1, (175m²), and K2, (152m²), and the reconstruction of new buildings in their place with a combined floor area of 327m². During the construction stage, potential impacts would be limited to impacts on water quality in terms of toxic contamination in the form of chemical or hydrocarbon pollution and non-toxic contamination in the form of silt and sediments from the development. These contaminants could enter into the surface water drainage system or into the groundwater table which could then enter the drainage system in the area. The nearest land drain to the site is located approximately 250m to the north of the adjoining greenfield site and along the eastern boundary of this site. Given the nature and scale of the development proposed and the separation distance between any indirect hydrological connection to the designated sites, I am satisfied that there would be no significant impacts from on the conservation objectives of the designated sites from the construction stage.

Likely Impacts on the SAC and SPA – Operational Stage

8.5.17. Wastewater from the proposed development will be processed and managed on the adjoining site to the north. The surface water from both development sites will be attenuated in a wetland area to the north of the Phase 2 lands prior to discharge to the existing drain along the northern boundary. A new wastewater treatment plant, proposed under Phase 2 development and subject to ABP-312158-21, would treat the foul waste from both sites before discharging it to the Flurry River. The potential impact of untreated surface water runoff from the site is considered to be low given the scale of the development and the separation distance between the designated sites. However, in consideration of the precautionary principle the potential impact on the SAC and the SPA cannot be ruled out.

8.5.18. It is a requirement of the PA that surface water runoff is dealt with within the development site. In accordance with the Greater Dublin Strategic Drainage Strategy, (GDSDS), policies were adopted by planning Authorities in relation to surface water drainage which required the use of Sustainable Urban Drainage Systems (SuDS) in all new developments. Development Plan policy IU 19 requires

the use of Sustainable Drainage Systems to minimise and limit the extent of hard surfacing and paving and requires that SuDS measures be incorporated in all new development. Therefore, I do not consider the surface water drainage system proposed for the subject development, and located on the adjoining site, to be a measure specifically required to prevent any impact on a European Site.

- 8.5.19. It is proposed to treat foul waste from the existing and proposed development via a new wastewater treatment plant to be located on the Phase 2 lands to the north. All foul waste would be treated in the packaged wastewater treatment plant which would comprise 1 x 11,250 litre primary tank, 1 x 11,250 litre buffer tank, 1 x 11,250 litre treatment tank, 1 x Uv disinfection system, (50 PE) and 1 x Ferric dosing system. The treated effluent would then be pumped to a point approximately 1.5 km to the south of the site where it would be discharged into the Flurry River, which leads to Dundalk Bay SAC and SPA. As the proposal for the treatment of wastewater from the development has the potential to impact on water quality in the designated sites through discharges to the Flurry River during the operational stage, I am not satisfied that the development would not result in significant impacts on the conservation objectives of the SAC and the SPA through the deterioration of water quality.

In Combination Effects

- 8.5.20. The foul waste from the subject development at Centrepoint Business Park and from the proposed development of the wider development site to the north will be treated through the same systems. This would be the only in-combination effect which could impact on the conservation objectives of the designated sites. It would be directly related to the operational phase and the treatment of wastewater from both sites, which would have the potential to impact on water quality in the designated sites through discharges to the Flurry River in the absence of adequate treatment.

Conclusion

- 8.5.21. During the operational phase the proposed development would have an indirect hydrological connection to the Natura 2000 sites in Dundalk Bay via the Flurry River. Treated effluent from the subject development and the proposed development on the adjoining site, (ABP-312158-21), would be discharged to the river which flows directly to the designated sites. In the absence of mitigation measures, I cannot be satisfied that the proposed development, either alone or in-combination with any

other project, would not have a significant effect on the conservation objectives of Dundalk Bay SAC and SPA. The wastewater treatment plant is included as a mitigation measure in the NIS for the adjoining site. As a direct connection would exist between the existing and proposed development, I do not consider that the wastewater treatment for the subject site can be assessed in isolation to the adjoining site.

8.5.22. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in combination, will have a significant effect on the following European sites.

- Dundalk Bay SAC, Site Code 000455, and,
- Dundalk Bay SPA, Site Code 004026.

9.0 Recommendation

9.1. I recommend that planning permission be refused.

10.0 Reasons and Considerations

On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Dundalk Bay Special Area of Conservation, (Site Code 000455) and Dundalk Bay Special Protection Area, (Site Code No. 004026), or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Elaine Sullivan
Planning Inspector

21st November 2022