



An  
Bord  
Pleanála

# Inspector's Report

## ABP-312424-22

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<b>Development</b>	Light industrial warehouse/data centre containing office space
<b>Location</b>	Parslickstown, Navan Road, Mulhuddart, Dublin 15
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	FW21A/0046
<b>Applicant(s)</b>	Colm Mac Daibheid
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Alice Woods
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	27 <sup>th</sup> July 2022
<b>Inspector</b>	Ian Boyle

## 1.0 Site Location and Description

- 1.1. The appeal site is in an existing light industrial area / business park in Mulhuddart, Dublin 15. The site is accessed via a cul de sac that leads from Damastown Close to the east. This section of Damastown Close runs in a north – south direction and connects the N3 (National Route) (south) to the Damastown Roundabout (north).
- 1.2. The site is bound to the north by a chemical logistics business, the east by a bus hire company, the south by the N3 and the west by vacant land. The surrounding area is characterised by mainly light industrial uses, including a builders providers, logistics companies, car repairs and maintenance, tiling and flooring businesses, warehousing, etc.
- 1.3. The Tolka River is situated roughly 80m to the north of the site.
- 1.4. The site has a stated area of approximately 0.5ha.

## 2.0 Proposed Development

- 2.1. The proposed development comprises a light industrial warehouse / data centre (1,890sqm, approximately), ancillary office space, car parking, landscaping and associated site works.
- 2.2. The Planning Authority requested further information on 4<sup>th</sup> May 2021, including an as-constructed layout drawing (indicating surface water drainage infrastructure on the site) (Item 1), details of the proposed drainage design (Item 2), access details and future intended circulation routes (Item 3), and anticipated car parking demand and trip generation (Item 4).
- 2.3. The Applicant responded with further information on 9<sup>th</sup> November 2021. This mainly included details of the proposed drainage and surface water storage requirements, the proposed method of drainage attenuation and means of surface water disposal and car parking provision (30 no. spaces proposed).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority issued a Notification of Decision (NoD) to Grant Permission on 6<sup>th</sup> December 2021, subject to 22 no. conditions.
- 3.1.2. The conditions are mainly standard and include that the approved structure should only be used for warehousing and the other permitted uses (office space, staff amenities and welfare facilities) must remain ancillary to the permitted use (i.e. warehouse) (No. 2); the sole access serving the development must be from the existing site entrance (No. 6); the preparation and submission of a Construction Environmental Management Plan (CEMP), which includes relevant mitigation measures outlined in the previously submitted Ecological Impact Assessment (No. 11); preparation of a noise and air emission management plan (No. 13); provision of a piece of public art or sculpture or architectural feature that has a relationship with the area (No. 17); and payment of a financial contribution (€161,688) (No. 22).

### **3.2. Planning Authority Report**

#### **3.2.1. Planning Reports**

- The site is zoned for General Employment under the Fingal County Development Plan 2017-2023 where light industry and warehouse is permitted in principle.
- The scale of the proposed unit at 1,890sqm is considered limited in terms of its potential to accommodate a data centre. Therefore, should permission be granted, the use of the unit for this purpose (data centre) should be omitted under condition.
- The proposed unit will not be highly visible from either the N3 or Damastown Close. The design and scale of the building would be generally acceptable in the context of the site's location and would not result in any significant impact in terms of the visual amenities of the area, subject to exact materials and signage details.

- The Water Services Department indicated no objection in terms of surface water management or flooding.
- Irish Water indicated no objection to the proposed water supply and foul drainage arrangement proposed.
- The proposed car parking provision specified under further information is considered acceptable.
- The Ecological Impact Assessment submitted as part of the application is noted. With the exception of localised impacts and short term impacts during construction no significant impacts on fauna are envisaged. The proposed development is not considered to result in significant permanent impacts to the ecology of the site.

### 3.2.2. **Other Technical Reports**

Environmental Health Officer: Requested further information including the submission of a Construction Management Plan and Noise and Air Emission Management Plan to address potential dust and noise emissions created during the construction and operational stages of the development.

Environment Section: No objection, subject to condition requiring the Applicant to submit details of the waste streams, including expected tonnages, which will be generated during site clearance/demolition and construction phase, prior to commencement of the development.

Water Services: Requested further information including an 'as-constructed layout' drawing clearly indicating the surface water drainage infrastructure on the site, including the volume of attenuation storage and a confirmed layout design which accurately reflects the proposal in the context of the overall site, clearly demonstrating that the design is sufficient and complies with the requirements of the GSDS (Greater Dublin Strategic Drainage Study).

Transportation Planning Section: Requested further information in relation to a potential future access road being created to access zoned lands to the west of the site, car parking provision and travel demand numbers.

Biodiversity Officer: No written report on file. Verbal report provided to the Planner. No objection.

### 3.3. Prescribed Bodies

Inland Fisheries Ireland: No objection subject to a condition requiring the completion of a detailed Construction Environmental Management Plan (CEMP) prior to commencement of development. The CEMP should identify potential impacts and mitigating measures and provide a mechanism for ensuring compliance with environmental legislation and statutory consents.

Irish Water: No objection, subject to a condition requiring the Applicant to sign a connection agreement with Irish Water prior to the commencement of the development and to adhere to the standards and conditions set out within.

Transportation Infrastructure Ireland: No objection.

Health and Safety Authority: No objection.

### 3.4. Third Party Observations

A single submission was received from a resident in the area. The main issues raised are summarised as follows:

- The proposed development would harm the environment and does not provide sufficient plants and trees to accommodate bees and other forms of wildlife or sufficient shelter for nesting birds, squirrels, etc.
- The site is proximate to the River Tolka, which is the drainage system for the entire Mulhuddart area. This drainage system is already under pressure.
- The proposed 21 car parking spaces is insufficient and offers limited community gain.

## 4.0 Planning History

### Subject Site

Reg. Ref. FW19A/0076: The Planning Authority refused permission for a light industrial warehouse / data centre in June 2020 for a single reason, which stated that in the absence of information submitted by the Applicant it was not possible to determine that the proposed development would not have a detrimental impact on

the water quality of the River Tolka and, therefore, the designated sites further downstream.

### **Adjoining site to the south**

Reg. Ref. FW15A/0167: The Planning Authority granted permission for a new warehouse (2,740sqm approx.) with ancillary office, reception and staff areas in May 2016. [Denoted as 'Phase 1 development completed, granted under FW15A/0167' on the Site Location Map submitted as part of current application.]

## **5.0 Policy Context**

### **5.1. Fingal Development Plan 2017-2023**

#### **5.1.1. Zoning**

The site is zoned 'GE – General Employment', under the Fingal Development Plan 2017 – 2023 ('Development Plan'), which seeks to 'provide opportunities for general enterprise and employment'.

The vision for this zone 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 land uses Industry - General, Industry - Light, Logistics, and Warehousing are listed as permitted in principle under this zoning objective.

Data centre is neither listed as 'permitted in principle' or 'not permitted' under the zoning matrix. The Development Plan states that such uses will be assessed in terms of their contribution towards achieving the zoning objective and its vision and their compliance and consistency with the policies and objectives of the Development Plan.

### 5.1.2. **Economic Development**

#### Objective ED27

*Promote the continued growth of the ICT sector in Fingal by creating high quality built environments offering a range of building sizes, types and formats, supported by the targeted provision of necessary infrastructure.*

#### Objective ED109

*Ensure that a range of industrial and/ or manufacturing units, in terms of size, scale, format and arrangements, is provided for to adequately respond to enterprise requirements in different economic sectors.*

#### Objective DMS103

*Ensure that the design and siting of any new Business Parks and Industrial Areas conforms to the principles of Design Guidelines as outlined in Table 12.7.*

Table 12.7 sets out the Design Guidelines for Business Parks and Industrial Areas.

### 5.1.3. **Road Infrastructure**

Table 7.1 of the Development Plan identifies Roads Schemes for future road improvements. This includes the N3 Upgrade Littlepace to M50.

## 5.2. **Natural Heritage Designations**

No natural designations apply to the subject site.

The closest European site is SAC Rye Water Valley / Carton (Site Code: 001398), which is approximately 6.6m to the southwest.

The SPA South Dublin Bay and River Tolka Estuary (Site Code: 004024) is approximately 13.5km to the east.

The pNHA Royal Canal (Site Code: 002103) is roughly 2.7k to the south.

## 5.3. **EIA Screening**

5.4. Having regard to the nature of the proposed development, which consists of a light industrial warehouse / data centre with ancillary office space, car parking, landscaping and associated site work, and its proximity to the nearest 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.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A single Third Party Appeal was received. The main grounds of appeal are as follows:

- The proposed data centre would have a negative environmental impact.
- The data centre would be unsustainable from an energy security, investment, jobs and climate action targets perspective.
- There would be a negative impact on air quality, wildlife / habitats and biodiversity, traffic, light pollution, noise and air quality.
- There are invasive plant species' present in the Tolka Valley Park area and its surrounding vicinity, including Giant Hogweed and Himalayan balsam.
- The proposed Landscape Plan does not encourage biodiversity because most plants are low-lying. There are not enough trees and shrubs to provide cover or a food source for wildlife.

### **6.2. Applicant Response**

The Applicant lodged an Appeal Response with the Board on 3<sup>rd</sup> February 2022.

The following main issues were raised:

- Condition No. 2 prohibits the use of the unit as a data centre.
- The site was previously used for storing construction equipment. As such, it would be considered as a brownfield site and there would be no impact on biodiversity of animals or plants in the area as a result.
- A full Appropriate Screening and Ecological Impact Assessment was completed as part of the application, which concluded the proposed



development would not have a negative impact on any nearby Nature 2000 sites.

- The Landscape Plan was agreed with the Planning Authority prior to lodging the planning application.

### **6.3. Planning Authority Response**

- The appeal submission includes observations on data centre developments. However, Condition No. 2 of the Council's Decision omitted the data centre from the proposed development and restricted it to warehousing.
- The site is zoned for development under the County Development Plan and the impact of the scheme on the amenities of the area was given consideration in the assessment of the application.
- The Board is respectfully requested to uphold the Decision of the Planning Authority, and its conditions therein, and to retain Condition No. 22 (financial contribution).

## **7.0 Assessment**

The main planning considerations relevant to this appeal case are:

- Environmental Impact
- Landscaping
- Invasive Plant Species
- Appropriate Assessment

### **7.1. Environmental Impact**

- 7.1.1. The proposed development is for a light industrial warehouse / data centre (1,890sqm, approximately) with ancillary office space, car parking, landscaping and associated site works.
- 7.1.2. The zoning objective (GE – General Employment) seeks to provide opportunities for general enterprise and employment. The vision for the zone is to facilitate

opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. It also states that general employment areas should be highly accessible, well designed, permeable and legible.

- 7.1.3. The proposed development has a typical layout, design and format of a standard warehouse unit / premises. I note also that the appeal site is within an existing industrial park, called the Damastown Court Industrial Park, and that the surrounding vicinity is comprised mainly of similar light industrial and bulky good retail uses, such as a builders providers, car repairs, tiling and flooring companies, general warehousing and storage facilities. The area is also heavily developed, urbanised, with brightly lit conditions and high levels of activity, particularly during the daytime. Therefore, the proposed development, which is for warehousing, is consistent with the zoning for the site and the character of the receiving environment, in my opinion.
- 7.1.4. In relation to potential environmental impacts, I note that the Planning Authority omitted the use of a data centre under Condition 2 of their NoD to Grant Permission. In my view, the stated floorspace (1,890sqm) for such a use (data centre) is somewhat limited and not typical of such a facility. Furthermore, there is limited information on file in terms of any of the supporting infrastructure that is normally considered necessary for a development of this kind, such as an energy source(s), water supply, the provision of heat dispersal infrastructure, etc. Therefore, I consider it appropriate to assess the proposed development as a 'light industrial warehouse' only and that in the event permission is granted by the Board a condition be attached that prohibits the facility from being used as a data centre.
- 7.1.5. I note that the main cause for concern raised by the Appellant is linked to the potential use of the building as a data centre and consequent environmental impacts that would arise due to such a use. Whilst it is not made explicitly clear, it appears to me that the Applicant has sought to address this by way of noting in their Appeal Response that the proposed development cannot be used as a data centre, due to the Planning Authority's inclusion of Condition 2 requiring a separate grant of permission in order for such a use to be developed on the property. Furthermore, as the Applicant raises no concerns with regards to the condition, this intimates their acceptance of it, in my opinion.

- 7.1.6. However, I note that the site is within proximity of the nearby Tolka River, which is roughly 80m to the north, and the Tolka Valley Park, which is roughly 275m east. Therefore, there is potential for a new industrial development / warehouse type unit to impact terrestrial and aquatic flora and fauna species.
- 7.1.7. The Applicant has submitted a detailed Ecological Impact Assessment (EclA) (Appendix 2 of the Ecology Report). The report notes that the appeal site comprises a mix of low ecological value habitats including spoil and bare ground, recolonising bare ground and buildings and artificial surfaces. There are also stockpiles of construction material, refuse and other forms of waste. From my physical inspection of the site, its condition was evident, and corresponded with the description included in the EclA.
- 7.1.8. The EclA notes that there would be a net loss of common habitat types within the appeal site and potential negative impacts on some forms of fauna. This would be particularly the case during the construction phase, due to increased noise and physical disturbance that would be expected to occur onsite, but also when the development is operational. I note that there are no high value habitats within the site which are of high ecological importance (i.e. otter or bats). No rare or uncommon bird species were found as part of the site survey either.
- 7.1.9. The EclA includes various measures to reduce potential impacts during the construction stage that would be implemented throughout the project, including the preparation of detailed method statements. The proposed development would be connected to the mains water and foul sewer systems and there would also be onsite attenuation of stormwater. A petrol interceptor would also be installed prior to the discharging of water to the Tolka River which is via an outfall manhole.
- 7.1.10. Furthermore, the Council's Biodiversity Officer provided a verbal report stating that they had no objection to the proposal. The Council's EHO, Environment, and Water Services Sections also had no objection, subject to the Applicant completing a Construction Management Plan, a Noise & Air Emissions Management Plan, and submitting further details on future predicted waste streams that would likely be generated by the development.
- 7.1.11. In summary, having reviewed the plans and particulars accompanying the application and given the nature of the appeal site and proposed development (light

industrial warehouse), I do not consider there would be potential for significant environmental impacts and that any impacts arising would be temporary and not significant.

## **7.2. Landscaping**

- 7.2.1. The Appellant submits that the proposed Landscape Plan would not encourage biodiversity as most plants are low-lying and there is not enough trees and shrubs to provide shelter, cover or a food source for wildlife.
- 7.2.2. I have reviewed the Landscape Plan submitted as part of the application and note that it seeks to implement a similar style of landscaping to that of the adjoining development to the south, which is 'Project Tiles and Wood Flooding' (permitted under Reg. Ref. FW15A/0167).
- 7.2.3. The proposed landscaping response comprises a mix of low-lying shrubs, including a variety of compact, evergreen / semi-evergreen and perennial grass species. There are also larger specimen type trees in the form of Cypress Oak, Wild Cherry and Silver Birch, which are situated around the perimeter of the site. A wildflower mix is intended to be sown along part of the site's southern boundary, and at the entrance to the site, and this would complement the other plants and trees by way of potentially attracting beneficial insects, bees, birds, etc.
- 7.2.4. There is very limited planting or vegetation onsite at present, and I consider that the new planting and soft landscape features proposed would significantly improve the visual appearance and aesthetic of the site.

## **7.3. Invasive Plant Species**

- 7.3.1. The Tolka Valley Park and its surrounding vicinity is an area known for invasive plant species, including Giant Hogweed and Himalayan balsam. Such species have the potential to harm humans and native biodiversity.
- 7.3.2. While it would be an option for the Board to include a condition requiring the Applicant to complete and submit an Invasive Species Management Plan, prior to the commence of development, I note that neither the information on file, nor any of

the internal reports completed by Fingal County Council, indicate that the appeal site itself is affected by any such plant species.

#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development; which is for a light industrial warehouse and ancillary works within an existing industrial park / built-up urban area, and which would be connected to public services, with onsite surface water / stormwater attenuation, and the distance from the nearest European site; no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

#### **8.0 Recommendation**

- 8.1. I recommend that planning permission be granted for the reasons and considerations set out below.

#### **9.0 Reasons and Considerations**

- 9.1. Having regard to the zoning objective that applies to the area ('GE – General Employment') as set out in the Fingal Development Plan 2017-2023, the nature and scale of the proposed development, which comprises a light industrial warehouse in an existing industrial park and serviced area, and pattern of development in the surrounding vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the visual or residential amenities of the area, or of property in the vicinity, or result in any significant environmental impacts. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

#### **10.0 Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 9 <sup>th</sup> November 2021, except
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	<p>as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>a) The development hereby permitted shall be used for warehousing only and shall not be used for any other purpose without a prior grant of permission. All associated office space, staff amenities and welfare facilities within, and associated with, the permitted development shall be ancillary.</p> <p>b) No part of the development hereby permitted shall be sold for use by a separate operator.</p> <p><b>Reason:</b> In the interest of clarity.</p>
3.	<p>Details of all signage shall be the subject of a separate planning application submitted to, and agreed in writing with, the Planning Authority, or An Bord Pleanála, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>No additional floorspace shall be formed by means of internal horizontal division within the development hereby permitted unless authorised by a prior grant of permission.</p> <p><b>Reason:</b> In the interest of ensuring that adequate car parking and service facilities will be provided within the development.</p>
5.	<p>Prior to commencement of development, a revised layout plan shall be submitted to the Planning Authority addressing the following:</p> <p>a) Details of the tie-in to the existing road kerb at the entrance.</p> <p>b) The provision of 10 no. covered and secure cycle parking spaces in proximity to the building entrance.</p>

	<p>c) Parking space nos. 1 – 6 shall be parallel parking spaces.</p> <p>d) A separate pedestrian access gate shall be provided from the external footpath to the internal footpath and dished crossing points shall be provided.</p> <p>All the above works shall be carried out at the Applicant's expense according to the specification and conditions of the Planning Authority.</p> <p><b>Reason:</b> In the interest of orderly development.</p>
6.	<p>Surface water drainage arrangements for the proposed development shall comply with the requirements of the Planning Authority.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>Details, including samples, of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>
8.	<p>The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, dust and noise management measures and off-site disposal of construction/demolition waste.</p> <p>The CEMP shall identify potential impacts and mitigating measures, including the relevant measures outlined in the Ecological Impact Assessment (EclA) submitted to the Planning Authority on 10<sup>th</sup> March 2021 and ensure that best construction practices are implemented.</p> <p><b>Reason:</b> In the interests of public safety.</p>
9.	<p>The measures identified in the Ecological Impact Assessment shall be implemented.</p>

	<p><b>Reason:</b> To ensure the preservation and protection of flora and fauna within the area.</p>
10.	<p>Construction and demolition waste shall be managed in accordance with a Construction Waste and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
11.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority a Noise and Air Emissions Management Plan outlining how noise and air emissions will be monitored and managed once the development becomes operational in order to ensure that any such emissions do not significantly interfere with the amenities of the area.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
12.	<p>The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
13.	<p>External lighting shall be directed and cowled such as to reduce, as far as possible, the light scatter over roads, adjacent sites and surrounding area.</p> <p><b>Reason:</b> In the interest of residential amenity and traffic safety</p>
14.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0900 to 1300</p>



	<p>hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
15.	<p>The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Ian Boyle  
 Planning Inspector

2<sup>nd</sup> August 2022