



An
Bord
Pleanála

Inspector's Report

ABP-312521-22

Development	Extension to warehouse, change of use part of warehouse to office, new security hut and new HGV parking area
Location	Belinstown, Ballyboughal, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0572
Applicant(s)	Aramex Ireland Limited
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Aramex Ireland Limited.
Observer(s)	Alan and Alisa Sexton Alan and Louise O'Brien.
Date of Site Inspection	21 st of September 2022.
Inspector	Karen Hamilton

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1.0 Site Location and Description

- 1.1. The subject site contains a logistics business at Bellinstown, Ballyboughal, Co. Dublin. The site is located along the eastern side of the R108, c. 2km south of the village of Ballyboughal and comprises of 4 no. logistic/ storage warehouses, 2 no. transit warehouses and 2 no office blocks, for Aramex Ireland Ltd (logistics and transportation). There are hardstanding areas thought the site associated with warehouses for the movement and parking of the HGVs.
- 1.2. The surrounding area is mostly agricultural and there are two one off dwellings immediately west of the site, also accessed from the R108. There are several rural dwellings also on the opposite side of the R108.

2.0 Proposed Development

- 2.1. The proposed development would comprise of:
 - a) A 505m² logistics warehouse building extension, the height of which does not exceed 9.0m, between warehouse 1 & 6.
 - b) The change of use of part of existing Warehouse 1 building (313m²) from warehouse to office, with an additional floor into a two-storey ancillary office floor space totalling 626m², this will consist of offices, canteens, toilets, and shower facilities with the alteration of the elevations and existing office floor layout to accommodate the additional office space.
 - c) A 1,1558m² logistics warehouse building extension, the height of which does not exceed 11.0m to the east of Warehouse 2, 5 & 3. This extension will also incorporate two-storey staff facilities totalling 294m² consisting of offices, canteen, toilets and shower facilities.
 - d) A 1,834m² logistics warehouse building extension, the height of which does not exceed 11.0m to the east of Warehouse 4.
 - e) A new single storey security hut and 1 no. ESB substation and internal site lighting and demolition of existing security prefab.
 - f) New vehicular and pedestrian entrance to the south of existing Warehouse 2, 5 & 3 from the R108 road.

- g) HGV trailer parking area with associated dock levellers and circulation space to the proposed buildings, a truck wash facility, a bunded fuel tank with associated pumps and refuelling area.
- h) New boundary wall with railing detail to the southern boundary.
- i) All landscaping, car parking, visitor car park access and disability access car parking spaces and cycle parking, 2.4m high perimeter fencing to the eastern boundary, site services and all associated site works above and below ground to accommodate the proposed works including new treatment system and percolation area, underground foul and storm water drainage network and attenuation

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for three reasons as listed below:

1. The proposed development includes a new access to the south of the current access on the R108. The existing horizontal alignment of the R108 incorporates a series of bends in the vicinity of the proposed development resulting in difficulty achieving the required sightlines in accordance with the relevant standards. A significant blind spot in a northerly direction on the existing road would result in sightline of approximately 75m to 80m, which is significantly below the 145m sightline required in accordance with the TII standards. As such, the proposal in its current format would constitute a traffic hazard, would materially contravene Objective DMS 129 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.
2. The subject site is within the “RU” Rural Zoning Objective under the Fingal Development Plan 2017-2023, the objective of which is to ‘protect and promote in a balanced way, the development of agriculture and rural-related enterprise, the rural landscape, and the built and cultural heritage’. The proposal involves the provision of an HGV trailer parking area and a bunded fuel tank and associated pumps and refuelling area on undeveloped ‘RU’

zoned lands at the eastern side of the site. 'Heavy Vehicle Park' and 'Fuel Depot/Fuel Storage' use class are listed within the 'Not Permitted' use class category applicable to the 'RU' Zoning Objective. The proposed development therefore materially contravenes the "RU" Zoning objective of the Fingal Development Plan 2017-2023 and as such would be contrary to the proper planning and sustainable development of the area.

3. The proposed development, by virtue of its significant intensification of use and associated noise and disturbance from on-site operations would seriously injure the amenities and depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and is summarised below:

Justification/rationale for the proposal

- The applicant states the new access will provide a safer access.
- The increase in the processing yard will allow drivers to position their vehicles while waiting on their processing.
- Due to the impact of Brexit the applicant is requested to hold stock for express delivery.
- The existing warehouse is approved for medical and pharmaceutical grade products.

Compliance with Zoning Objective/ Development Plan objectives

- The existing logistics operation is a non-conforming use within the RU zoned lands and permitted before the development plan.
- There is currently 11,860m² and the proposal involves c. 4,861m² of additional floorspace.

- New uses are proposed for the extension including the HGV parking and fuel depot/fuel storage.
- The new uses are not permitted within the land use zoning and are considered a material contravention.

Impact on visual amenity of adjoining area/ impact on amenity of adjoining property

- The proposal would not be visually discordant, having regard to the location behind the existing building from the R108.
- The Parks and Green Spaces recommend conditions in relation to landscaping.
- A Construction Environmental Management Plan (CEMP) is proposed which will incorporate details such as phasing, Traffic Management and waste management.
- There will be a significant intensification with an increase floorspace of 41%.
- It is not anticipated there will be any undue overlooking, overbearing etc on the adjoining residents.

Transportation considerations

- The provision of 165 no parking spaces follows Table 12.8 of the Fingal CDP 2017-2023.
- 84 no. cycle parking spaces are provided.
- Most trips are likely to be undertaken by car and truck.
- The alignment of the R108 includes a series of bends in the vicinity.
- There is difficulty in achieving the sightlines.
- The current southern access is substandard when assessed against the current standards.
- The proposed new access, south of the site, and the sightlines are considered 75m to 80m, significantly below the 145m sightlines required.
- The Transport Planning Section considered the new access will cause a traffic hazard (contravene Objective DMS 129).

- The proposed parking area has an unorthodox layout and already congested.
- There are issues with the internal layout and no pedestrian links throughout.
- The TTA uses historic data from 2018/2019 in relation to the traffic along the R108/125.
- The TTA states that junctions would continue to operate well within capacity and a Road Safety Audit has been submitted.

Water & Drainage considerations

- Under ground attenuation tanks are generally not acceptable and where avoidable should be geo cellular systems.
- The submission from IFI recommends the use of SuDS measures and clarity on other issues.
- If permission is recommended, clarity could be sought on a number of these issues.

3.2.2. Other Technical Reports

Transport Planning Section: Recommend a refusal based on the insufficient sightlines which would constitute a traffic hazard.

Parks and Green Infrastructure: No objection subject to conditions.

Water Services: Additional information in relation to the surface water, as summarised below:

- Revised surface water design including SuDS to reduce storm volume.
- No discharge of surface water to the foul/ rainwater.
- Surface water drainage in compliance with the “Greater Dublin Regional Code of Practice for Drainage Works”

Environment Waste Section: No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. Inland Fisheries Ireland (IFI): Recommend Further information in relation to:

- a revised surface water layout to incorporate a nature based soft engineer option.
- Inclusion of an oil interceptor on drainage to the south.
- Details on drainage from the truck wash and parking area to the west of warehouse 1.
- Details on the decommissioning/ disposal of the existing wastewater treatment system.
- The site is to be raised 1-2 m although it is unclear if this includes the importance of soils, implications for increase run-off and mitigations for any negative impact on the downstream catchment.

3.3.2. Irish Water: No objection subject to conditions.

3.3.3. Development Applications Unit (DAU): No objection subject to archaeological monitoring.

3.4. **Third Party Observations**

Three objections were received. Two of these third parties have made observations to the appeal. The issues raised are like those raised in the observations to the grounds of appeal and are summarised below in Section 6.4.

4.0 **Planning History**

4.1.1. Subject site

There is a significant amount of history on the subject site dating back to 1992 which relates to the establishment of the site as a logistics business. I have detailed those of which I consider most relevant below:

Reg Ref 92A/0066

Permission granted for the continuation of use of a warehouse (534m²) for commercial use and retention of a portacabin office (45m²).

Reg Ref 95A/0429

Permission granted to a logistics business for the erection of a new agricultural warehouse for the collection and redistribution of fruit and vegetables. A condition requiring the reduction in the floor space of the warehouse by 108m² to protect the residential amenity.

Between 1996-1999, there were a number of alterations to the site for the logistics business for new warehousing units, hardstanding etc:

Reg Ref 96A/0520

Reg Ref 96A/0960

Reg Ref 99A/0093

Reg Ref 99A/0094

Reg Ref 99A/0106

Reg Ref F05A/1875

Permission granted for extension of a logistics business for the construction of a new warehouse with the total area of new buildings 2,996m². The proposal included for 6 no. new loading bays and the extension of the existing car parking spaces.

4.1.2. Site to the north

ABP 310349-21 (Reg Ref F21A/0128)

Permission granted for a change of use from agricultural sheds to agribusiness stores

ABP 302716-18 (Reg Ref F18A/0417)

Permission refused for the retention of an inner security gate and fencing, retention of car parking area and full planning for surfacing, drainage and all associated site works for one reason based on the location of the car park c. 100m from the site, which would endanger the staff (due to the movement across the road). The Board noted the potentially unauthorised development on the applicant's lands.

5.0 Policy Context

5.1. Fingal County Development Plan 2017-2023

Zoning

The site is located on lands zoned as “RU” Rural where it is an objective to:

“Protect and promote in a balanced way, the development of agricultural and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage.”

Section 11.8: Zoning Objectives, Vision and Use Classes

Vision: Protect and promote the value of the rural area of the County.

This rural value is based on:

- Agricultural and rural economic resources
- Visual remoteness from significant and distinctive urban influences,
- A high level of natural features.

Agriculture and rural related resources will be employed for the benefit of the local and wider population. Building upon the rural value will require a balanced approach involving the protection and promotion of rural biodiversity, promotion of the integrity of the landscape, and enhancement of the built and cultural heritage.

Use Classes Not Permitted

- Retail Warehouse
- Heavy Vehicle Park
- Fuel Depot/Fuel Storage
- Logistics

Non-Conforming Use

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

Rural Based Enterprise

Section 5.3 Rural Economy and Enterprise

Appropriate scaled enterprises will be directed to local employment centres of small towns and villages:

Objective RF107: Encourage and support local enterprise within Fingal's small towns, villages and rural business zones by facilitating the provision of space for small scale employment including office development through the Local Area Plan process.

5.2. Natural Heritage Designations

The Rogerstown Estuary SAC and SPA is located approximately 5.3 km to the east.

5.3. EIA Screening

The proposal is not of a threshold which would require an EIA preliminary examination although having regard to the nature, size and location of the proposed development there is no real likelihood of significant effects on the environment.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by the appellant in relation to the refusal of permission.

6.1.1. Rationale and Scope of the proposed development

- There has been employment and development on the site for over 30 years.
- The proposal will enhance the site without over-intensifying the development.
- The proposal is only a holding facility.
- Evidence for a material contravention under S37 of the Act has been presented.

6.1.2. Executive Summary

- The proposal was not afforded full consideration by the PA.
- The proposal is not considered a material contravention and the PA have prejudiced the application.

6.1.3. Documentation submitted to support the application

- There was a suit of supporting documentation with the application.

6.1.4. Additional supporting documentation for the Board to consider *de novo*

- Presentation to Director of Service from Aramex Ltd Ireland
- Record of preplanning correspondence
- Response from the engineers to the Surface Water Further Information request.
- Response from the engineers to the Transport Planning Report
- Aerial Photography.

6.1.5. Summary of planning history

- A summary of the planning history on the site has been provided.

6.1.6. National, Regional and Local Policy

- The national planning framework supports enterprises in rural areas.
- The RSES for the EMRA notes the importance of the region and the growth of enterprise.
- The Fingal development plan emphasises the need for a diverse rural economy.
- The land use zoning on the site is detailed along with a breakdown of other employment land uses within the Fingal plan.
- The Fingal Local Economic & Community Plan 2016-2021 is referenced along with the proposals to stimulate the economy and the rural enterprise.
- As Summary Statement of Consistency notes the proposal can comply with the national, regional, and local polices.

6.1.7. Grounds of Refusal- No 1 (Traffic and Transport)

- Aramex is a critically important business for County Fingal.
- The development is required to ensure better access/ egress etc.
- The PA did not accommodate a S247 meeting.
- The planner undertook a site inspection although Aranmex was unaware and therefore the planner would not have understood the scale of works.
- Intensification of operation is only around 2.7% and not 41% as indicated on planner's report.
- The use of the warehouses is predominantly bulky storage for the anticipated delivery to customers.
- A request for further information would have better explained the use on the site and the fuel storage etc is only associated with the main use on the site.
- The new services will provide additional amenities etc of staff, therefore supporting the local community and the expansion of a large business.

6.1.8. Material Contravention of the plan

- The use on the site predates the RU zoning.
- The proposal is not a material contravention of the plan.
- The development plan objectives have been subject to rigorous assessment and the proposal complies with the development plan.
- The pattern of other logistic, storage and distribution use within the RU zoning have been mapped (36 no businesses).
- There is also a significant amount of logistics businesses outside the RU zoning which and there appears to be a close correlation with the airport.
- Recent grant of permission to the north, the Inspector noted the proposal for "agribusiness" was accepted and overturned the PA reason for refusal which considered the proposal was inappropriate.

6.1.9. Transport Rebuttal (Reason no 1).

- The proposal includes an upgrade of the access/ egress into the site.
- The existing HGV access will be decommissioned.

- Access onto the regional road is restricted by a third-party hedge.
- The speed limit along the road is 80kph.
- The design team have carried out a survey and the 85th percentile speed limit in a southerly direction is 68.93kph. which requires a sightline of 120m in accordance with the Transport infrastructure Ireland (TII) geometric Design of Junctions
- The Design team are satisfied that the access is in the most suitable location to maximum the sightlines.
- Safety improvements include the removal of 11 no existing parking spaces north of the proposed access, removal of existing hedgerow north and south, regarding of existing embankments within Aramex ownership and removal of existing wall and railings.
- Additional safety signage is proposed along the R108 with anti-skid surfacing on approach to the entrance to reduce speeds in both directions.

6.1.10. Grounds of Refusal- No 2- Land use zoning

- The proposal would enhance a well- established operation which has successive permissions.
- The “Heavy Vehicle Park” and “Fuel Dept/ Storage” is ancillary to the main logistics business and not the primary use of the site.
- The proposal does not contravene the development plan.
- The Board can overturn the PA decision as it is of strategic importance, the regional planning policy supports the development and there is a pattern of development for similar proposals within the “RU” land use zoning.

6.1.11. Reason for Refusal No 3- intensification of use.

- The proposal represents an enhancement of facilities and not an intensification.
- There will only be an increase of operations by c. 2.7 rather than 41%.
- The reorientation of the development will potentially reduce impacting uses.
- The HGVs will move away from the residential properties.

6.1.12. Appendices

- Reason for refusal Reg Ref D21A/0572
- Aramex presentation to the Director of Service for Fingal County Council
- Record of preplanning approach to FCC.
- Engineer response to Surface Water Issues
- Engineers' response to Transport Planning issues.
- Aerial photography.

6.1.13. Maps submitted

- Traffic Layout
- Proposed Signage
- Civil Services Layout

6.2. **Applicant Response**

The applicant is the appellant.

6.3. **Planning Authority Response**

The PA submitted a response to the grounds of appeal relating to both the sightlines and the surface water drainage. The submission is summarised below:

6.3.1. Sightlines

- The alignment of the R108 incorporates a series of bends in the vicinity resulting in difficulty achieving the required sightlines.
- The applicant accepts a blind spot is present on approach from the north to the new access.
- The required sightlines in accordance with TII standard DN-GEO-3060 is 145m from a 2.4m set back.
- The applicant has undertaken a speed survey (details not submitted) to state the ambient road speed is c.69kph and the required sightline can be reduced to 120m.

- The issue of the blind spot remains and the reduced sightlines to 120m is not acceptable as traffic approaching from the north would not have sight of HGVs and cars exiting the proposed access.
- The proposed localised interventions to slow traffic is not feasible in a rural setting with speeds of 80kph.
- The sightline which would be achieved c. 86m is short of the required 120m and would constitute a traffic hazard.

6.3.2. Surface Water Drainage

- The applicant has incorporated an underground tank within the revised submission which is not desirable, and a nature-based solution is encouraged.
- There is scope to incorporate additional SuDS features on the site.

6.4. Observations

Two observations were received from residents in the vicinity of the site (one submitted by an agent). The issues raised are similar and have been summarised into themes.

6.4.1. Land use zoning

- The land is not zoned for commercial or industrial development.
- The extension is into agricultural/ residential lands.
- The location of Aramex is a legacy issue.
- This scale of development should be in industrial parks.
- Aramex must invest considerably into the site to meet their needs.
- There was previously only a small courier business on the site.
- The site has expanded massively over the last 23 years.
- The use is not permitted under the RU zoning.

6.4.2. Traffic and Transport

- The traffic to and from Aramex already causes considerable congestion.

- Tailbacks occur all day during the day (photograph submitted of HGVs) along the R108).
- Drivers are regularly lost and missing the turn.
- There are cyclists and children regularly using the road along with HGVs.
- There are insufficient sightlines provided.
- The proposed scenario would be a significant traffic hazard.
- This stretch of the road is extremely busy with continuous traffic.

6.4.3. Impact on Residential Amenity

- The proposed development has a negative impact on the property.
- The HGVs constantly drive on the grass verges.
- There is noise and light pollution which affect the quality of life.
- The installation of the truck wash will have a significant negative impact due to noise.
- The construction process will have a significant effect on the amenity of the residents.

6.4.4. Impact on visual amenity.

- The warehouse is still visible from behind the trees.
- The proposal has a significant visual impact on the surrounding area.
- The proposal is overdevelopment on the site.

6.4.5. Other

- The applicant is not the legal owner, and the issue of the ownership should be addressed under the Planning and Development Regulations.
- The owner should provide written consent.

6.5. Further Responses

Transport Infrastructure Ireland (TII): A response from TII noted the location of the proposed development along a regional road and made no specific observations.

7.0 Assessment

The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Impact on the Visual and Residential Amenity
- Traffic and Transportation
- Other
- Appropriate Assessment

7.1. Principle of development

Introduction

- 7.1.1. The proposed development relates to the expansion of an existing logistics business and consists of the extension of two existing warehouse buildings (an increase of c. 4,861m² floorspace) . The proposal includes the expansion of the overall logistics operation to include HGV parking, associated refuelling and washing facilities.
- 7.1.2. The site is located within a rural area to the north of Swords and south of the village of Ballyboughal on lands zoned as “RU”, rural. The PA second reason for refusal relates to the principle of the development at this location having regard to the proposed use and the land use zoning, as stated below:

“The subject site is within the “RU” Rural Zoning Objective under the Fingal Development Plan 2017-2023, the objective of which is to ‘protect and promote in a balanced way, the development of agriculture and rural-related enterprise, the rural landscape, and the built and cultural heritage’. The proposal involves the provision of an HGV trailer parking area and a bunded fuel tank and associated pumps and refuelling area on undeveloped ‘RU’ zoned lands at the eastern side of the site. ‘Heavy Vehicle Park’ and ‘Fuel

Depot/Fuel Storage' use class are listed within the 'Not Permitted' use class category applicable to the 'RU' Zoning Objective. The proposed development therefore materially contravenes the "RU" Zoning objective of the Fingal Development Plan 2017-2023 and as such would be contrary to the proper planning and sustainable development of the area."

- 7.1.3. The grounds of appeal, submitted by the applicant, does not consider this reason for refusal is reasonable as the proposed extensions and uses are ancillary to the main permitted use on the site, rather than new standalone proposals. The grounds of appeal refer to both the existing use of the site and the compatibility of the proposed development with the zoning. I have dealt with these separately below.

Planning History

- 7.1.4. Subject site: There is a significant amount of planning history dating back to 1992 which relates to the commercial activity on the site. The most notable planning decisions relate to the grant of permission for continued commercial use on an existing warehouse and retention of the portacabin officer (Reg Ref 92A/0066) and permissions in 1999 for a new warehousing unit (F99A/0094), change of use from agricultural warehouse to general warehouse (F99A/0106), new warehousing unit (F99A/0094) and new build extensions in 2005 (F05A/1875).
- 7.1.5. The planning history clearly indicates a gradual growth of the site from the initial agribusiness to the current logistics business. The grounds of appeal consider this supports the need for further growth on the site. I note the PA consider the use of the site is a non-conforming use and whilst there is a substantial planning history further expansion is not justified having regard to the land use zoning, further discussed below.
- 7.1.6. Adjoining Site: The grounds of appeal refer to the Board decision on the site directly north of the subject site. Permission was recently granted ABP 310349-21 (Reg Ref F21A/0128) for a change of use of three sheds from agricultural shed to agribusiness store to facilitate the storage, packing and distribution of agricultural fresh produce and the construction of a new single storey administrative building for staff.
- 7.1.7. The Board considering the RU- Rural Zoning on the site. I note the previous permission and proposal for an agribusiness (fresh food packing) differs from the

business currently operational on the site and I do not consider this permission reflects any similarity to the logistics business on the subject site.

Land Use Zoning

- 7.1.8. The land use zoning “RU” rural includes an objective to “*Protect and promote in a balanced way, the development of agricultural and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage.*” The following use classes are not permitted within the “RU” zoning, Retail Warehouse, Heavy Vehicle Park, Fuel Depot/Fuel Storage and Logistics.
- 7.1.9. The PA reason for refusal considers the proposed uses on the site, in particular the Heavy Vehicle Park and Fuel Depot/Fuel Storage, conflict with the rural land use zoning and represents a material contravention of the Fingal County Development Plan 2017-2023. The grounds of appeal consider this is not reasonable, having regard to the current permitted use on the site and the need to expand, the PA are not justified in considering the proposal a material contravention, but the Board may overcome this decision as part of S37 of the Act, further discussed below.
- 7.1.10. I note the location of the site within the rural area of Fingal, north of Swords urban area. The development strategy for the county, as supported in the development plan, requires growth to be directed into the towns and villages of Fingal. This is in turn supported by the land zoning zonings, where the site is zoned as “RU” rural. The current use on the site, and its historic evolution since 1999, is acknowledged. Having regard to this historic use on the site, the proposed development may be considered a non-conforming use.
- 7.1.11. The proposed development is on lands to the rear (east) of the site. These lands are currently in agricultural use. The site would be expanded to accommodate an extension of two of the warehouses and also includes truck and trailer parking (c. 20 spaces), 14 driver car parking spaces, a queuing area for c.24 HGV vehicles and a refuelling and truck wash area. Whilst the grounds of appeal argue the works are ancillary to the main use and therefore not a standalone use, I disagree.
- 7.1.12. The proposed expansion into the rear of the site, is in my opinion, significant. The increased floor space represents a 41% increase in floorpsace, and the scale of the truck and trailer activity is substantial. The grounds of appeal have presented a rationale for the expansion of the site although it is my opinion that, having regard to

the policies and objectives of the development plan and those specific to the rural area and associated land use zoning, a commercial development of this nature and scale would generally be directed into an existing settlement.

- 7.1.13. I consider the proposed development includes uses which are not permitted within the “RU” land use zoning as being Heavy Vehicle Park and Fuel Depot/Fuel Storage which, notwithstanding the current permitted development on the site, are not compatible with the policies and objectives of the development plan which require the preservation of the rural area. To permit the expansion of this facility would further erode a valuable agricultural resource.

Rationale for development

- 7.1.14. As stated above the grounds of appeal consider the expansion of the site is essential for the operation of the business, a major employer for the surrounding area. The site is operated by Aranmex. This is a worldwide freight and logistics business with headquarters in Dubai and offices and warehousing facilities in three locations in Ireland. The site is one of the three locations with the other two businesses, in Carrigtwohill (Co. Cork) and Shannon (Co. Clare) within business parks.

- 7.1.15. The grounds of appeal include a presentation given to the Director of Service in Fingal County Council, promoting the expansion of the business at this location. Whilst I note the business may require additional lands for expansion, I do not consider this is a consideration which would essentially negate the policies and objectives of the current development plan relating to the economic development of settlements and the protection of rural areas.

Material Contravention of the Fingal County Development Plan 2017-2023.

- 7.1.16. The PA reason for refusal states the proposal represents a material contravention of the development plan. As stated above the grounds of appeal do not consider the proposal materially contravenes the land use zoning and is therefore not applicable in the decision making, although the Board may grant permission under Section 37 (2) of the Act where they consider either of the following criteria apply to the proposal:

- i. the proposed development is of strategic or national importance.

- ii. there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned,
- i. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

7.1.17. The grounds of appeal state that the following should be considered by the Board in their decision making:

- The proposal is of both strategic and national importance,
- Objective ZO5 of the development plan allows extensions and improvement of premises accommodating non-conforming uses,
- The policies of the Regional Spatial and Economic Strategy (RSES) support the proposed development,
- There is a pattern of permissions granted recently in the area which support (ABP -310349-21) similar economic growth.

7.1.18. The site has not been designated as a strategic location of growth in any national, regional or local plan. The Board will note my assessment above in relation to the principle of the expansion in a rural area and as previously stated, I do not consider the location of the site is suitable to accommodate a regional logistics business.

7.1.19. Objective ZO5 of the development plan state “*Generally, permit reasonable intensification of extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria*”. The Board will note my assessment above in relation to the nature and scale of the proposed development and in general I do not consider the proposed development a reasonable extension or improvement, rather a significant expansion with significant planning consideration including the increased movement of transport, loss of agricultural lands and those knock-on effects on climate etc. I do not consider there is any conflict between Objective ZO5 or these objectives relating to the land use zoning.

7.1.20. As stated above, I do not consider the characteristics of proposal permitted under ABP -310349-21 are the same as the proposed development and therefore are not relevant to this determination.

7.1.21. Having regard to my assessment above I consider a grant of permission under Section 37 (2) (b) of the Planning and Development Act 2000 (as amended), is not justified in this instance.

Conclusion

7.1.22. Having regard to the location of the site within a rural area, on lands zoned as “RU” rural in the Fingal County Development Plan 2017-2023 and the policies and objectives of the development plan which direct employment activities to settlements, I consider the proposed expansion of the existing facility represents an intensification of development which is not appropriate at this location. In this regard and having regard to the criteria listed in Section 37 (2) (b) of the Act, I do not consider a material contravention of the development plan is justified. I consider to proposed development would be contrary to the proper planning and sustainable development of the area.

7.2. Impact of Visual and Residential Amenity

7.2.1. The site is located directly adjacent to two residential properties. There are additional one of rural dwellings on the opposite side of the R108, within the vicinity of the site. The occupants of both properties adjoining the site have made observations in relation to the impact of the proposed extension on their amenity. Concern is raised in relation to both the impact of the proposal on their residential and visual amenity.

7.2.2. Residential Amenity: Most of the works proposed on the site are located to the rear of the existing logistics business and include the extension of two warehouses and the HGV parking and associated parking/refuelling/truck wash. The new access will be relocated to the south of the site, further from the existing residential properties.

7.2.3. The observers have raised concern in relation to the impact from the HGV movements and associated noise. Other concerns include the impact from the flood lighting on the side of the premises. I consider many of the concerns raised relate to the impact of the existing works on the residential amenity of these occupants. While the proposed development will increase the intensity of the business, I consider the

location of the expansion at the rear of the site will not impact significantly on those residential properties along the R108. In addition, I consider the relocation of the proposed access, further away from the existing dwellings, will reduce the impact of the vehicle movement into and out of the site. While any impacts from construction may increase noise etc, these would be short term and confined to the construction period, which, in my opinion would not have a significant impact on the residential amenity.

- 7.2.4. Visual Amenity: The observers note that the existing business is currently visible from behind the trees, the proposal would lead to overdevelopment and therefore have a significant visual impact on the surrounding area. As stated above, the expansion of the site is to the rear and will not be visible from the public road. The warehouse extensions will not be visible from the existing properties along the R108 and therefore, I do not consider they will have a significant visual amenity. I consider the observers concerns relate, in the most part, to the visual impact of the existing business.

7.3. **Traffic and Transport**

Introduction

- 7.3.1. The subject site is located along the R108, a regional route between Swords and the village of Ballyboughal. There are currently two vehicular access/ egress locations into the site. The entrance to the south, along the R108, provides access for HGVs, which sweep through the site and exit to the north. This entrance also provides access to the staff parking area at the front of Warehouse No. 2 and associated offices. Additional staff parking is provided to the north, beside the northern access.
- 7.3.2. The proposal includes the relocation of the access for HGVs. The new location is further south with the existing southern access closed off and the existing northern access for staff parking only. A new internal road configuration accommodates the expansion of the business to the rear and the relocation of the existing staff parking to the south of warehouse no.2.
- 7.3.3. The first PA reason for refusal relates to the design of the new access into the site, which is considered substandard, as stated below:

The proposed development includes a new access to the south of the current access on the R108. The existing horizontal alignment of the R108 incorporates a series of bends in the vicinity of the proposed development resulting in difficulty achieving the required sightlines in accordance with the relevant standards. A significant blind spot in a northerly direction on the existing road would result in sightline of approximately 75m to 80m, which is significantly below the 145m sightline required in accordance with the TII standards. As such, the proposal in its current format would constitute a traffic hazard, would materially contravene Objective DMS 129 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.

- 7.3.4. The grounds of appeal refer to the proposed upgrade of the existing access, the results of the traffic surveys which indicate a reduced speed along the road and the safety improvement incorporated into the design and layout. It is considered the design of the new access is acceptable to accommodate the proposal.
- 7.3.5. The Planning & Strategic Infrastructure Department Report notes the design of the R108, which includes a series of bends resulting in difficulty for the proposal to achieve the required sightlines. The requirement for 145m sightline is also noted and the absence of this standard to the north of the site. It is stated that the proposal cannot comply with the TII guidance.

Sightlines

- 7.3.6. The grounds of appeal refer to the speed of the R108 at 80 kph and notes access onto a road with this design speed would generally require a 120m sightline (TII guidance¹). The grounds of appeal have undertaken independent speed surveys along the R108 to illustrate that required standards for the sightlines should be reduced having regard to the lower speeds of vehicles travelling along this road.
- 7.3.7. The independent speed surveys found the average speed in the southern direction is 68.93 kph which requires a sightline of 120m. The current proposal can accommodate 86m to the nearest road edge and 103m to the centre line. There is an existing third-party hedge within the sightline to the north which is significantly

¹ [DN-GEO-03060 \(tiipublications.ie\)](https://www.tii.ie/publications/DN-GEO-03060)

overgrown and if trimmed back a 120m sightline can be achieved. Reference is also provided to additional survey speeds of 59.02kph in the southern direction although this appears to be a typo and might refer to the northern direction. The PA response to the grounds of appeal notes the absence of the survey.

- 7.3.8. Transport Infrastructure Ireland (TII) has two guidance documents applicable to the proposed development. The first, Design Manual for Roads and Bridges (DMRB) provides national standards for the design of roads and bridges. Volume 6² includes details for road link design, sight distances etc for national and regional roads. The second, referenced in the grounds of appeal, provides guidance on the geometric design of junctions (priority junctions, direct accesses etc onto regional and local roads). The Fingal County Development Plan does not specify any standards for sightlines and visibility rather Objective DMS 129 states “*Promote road safety measures in conjunction with the relevant stakeholders and avoid the creation of traffic hazards*”.
- 7.3.9. The y distance for an 80 kph road is not specifically stated in the TII guidance, rather the distance for a 70kph road is 120m and for an 85kph road is 160m. The Board will note the Transport Section of the Council require a y distance of 145m whilst the grounds of appeal note a required standard of 120m. This aside, neither the 120m or the 145m sightlines can be achieved and the grounds of appeal rely on a third party reducing the mature hedging along the front of the site to achieve sight distance of 120m. No third-party consents have been submitted. The PA response a lesser sightline of 120m may have been considered should their not have been other visibility restrictions on the road, further detailed below.
- 7.3.10. Although the applicants design team consider the proposed new entrance represents an upgrade of the existing access/egress into the site, the new access remains substandard. The TII guidance refers to unobstructed visibility is a junction with a distance corresponding with the minimum SSDs and as stated above, a third-party hedge remains in the sightlines.
- 7.3.11. The design of the new entrance would mean that the driver’s visibility of both HGVs and cars exiting the main junction would be restricted when exiting the site. Both the PA and the applicants consultant note a blind spot along the R108 on approach to

² <https://www.tiipublications.ie/library/DN-GEO-03031-06.pdf>

the site from the north. This would have significant consequences to the traffic safety of road users, particularly those who are travelling north along the R108 at speeds of 80kph, which is the design speed of the road. Notwithstanding the applicant's survey that the average design speeds are less than those permitted along the road, it must be assumed that vehicles are permitted to travel at those speeds and as such the relevant visibility standards are necessary to prevent any serious traffic collisions.

Conclusion

7.3.12. Having regard to the proposed development, which relates to the increased movement and flow of HGVs along the R108 and into and out of the site, the location of the proposed access and the design of the R108, I consider the use of a substandard access is not acceptable and would cause a traffic hazard. The applicant has not adequately demonstrated that they have control or ownership over lands necessary to achieve the required sightlines.

7.4. Other

7.4.1. Legal Ownership: A third-party observation has raised concern in relation to the applicant's legal ownership of the site. This was not raised during the application process. Question 10 of the application form notes the site ownership by the applicant and potential to purchase the additional lands. I consider this to be a legal matter outside the remit of this planning appeal. I can only undertake my assessment based on the information before me. I am satisfied, based on this information, that the applicant has demonstrated sufficient legal interest to make this application. As in all such cases, the caveat provided for in Section 34(13) of the Planning and Development Act 2000, as amended, applies which stipulates that a person shall not be entitled solely by reason of a planning permission to carry out any development. I also note the provisions of Section 5.13 of the Guidelines for Planning Authorities, Development Management, 2007 in this regard.

7.4.2. Surface Water: The Water Services and Inland Fisheries Ireland (IFI) requested additional information on the inclusion of SuDS on the site. The grounds of appeal is accompanied by a new layout including permeable paving, along with attenuation tanks. A swale has been integrated into the southern boundary as a SuDS design feature. The report of the area planner noted the request for additional information

but considered if planning permission was under consideration clarity could be sought.

- 7.4.3. I note the updated proposal includes additional SuDs features and has retained the attenuation tanks. I consider other issues raised by the IFI such as clarity on the decommissioning of the septic tank etc can be reasonably conditioned, in the event the Board considers the proposal should be granted.

7.5. **Appropriate Assessment**

- 7.5.1. The application was accompanied by an Appropriate Assessment Screening Report. The report notes the proposed development, the location of the site c. 5km from the Rogerstown Estuary SAC (code 00020) and Malahide Estuary SAC (code 000205). Additional European Sites within a 15km radius were referenced. The report concluded that there was no hydrological connectivity to any of the European Sites within the 15km radius. No issues were raised in the Planners Report. I consider the information in the Screening Report acceptable.
- 7.5.2. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, no appropriate assessment issues arise, and 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. It is recommended the proposed development is REFUSED for the following reasons and considerations.

9.0 **Reasons and Considerations**

1. The subject site is within the "RU" Rural Zoning Objective under the Fingal Development Plan 2017-2023, the objective of which is to 'protect and promote in a balanced way, the development of agriculture and rural-related enterprise, the rural landscape, and the built and cultural heritage'. The proposal involves the provision of an HGV trailer parking area and a bunded

fuel tank and associated pumps and refuelling area on undeveloped 'RU' zoned lands at the eastern side of the site. 'Heavy Vehicle Park' and 'Fuel Depot/Fuel Storage' use class are listed within the 'Not Permitted' use class category applicable to the 'RU' Zoning Objective. The proposed development therefore materially contravenes the "RU" Zoning objective of the Fingal Development Plan 2017-2023 and as such would be contrary to the proper planning and sustainable development of the area.

2. The proposed development includes a new access to the south of the current access on the R108. The existing horizontal alignment of the R108 incorporates a series of bends in the vicinity of the proposed development resulting in difficulty achieving the required sightlines in accordance with the relevant standards. A significant blind spot in a northerly direction on the existing road would result in sightline of approximately 75m to 80m, which is significantly below the 145m sightline required in accordance with the Transport Infrastructure Ireland standards. The proposed access is substandard and the movement of traffic into and out of the site would endanger public safety by reason of traffic hazard and would lead to conflict between road users, that is, vehicular traffic, pedestrians and cyclists.

Karen Hamilton
Senior Planning Inspector

22nd of November 2022