



An
Bord
Pleanála

Inspector's Report

ABP-313225-22

Development

Rehabilitation works to existing 'Purple Zone' staff car park to include resurfacing, lighting, road markings and signage, ducting for EV charging points, and all associated site works and ancillary development.

Location

Dublin Airport Purple Zone Staff Car Park, Corballis Way, Corballis, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F22A/0029

Applicant(s)

DAA PLC

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

First Party

Appellant(s)

DAA PLC.

Observer(s)

None

Date of Site Inspection

19th of January 2022

Inspector

Karen Hamilton

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1.0 Site Location and Description

- 1.1. The subject site relates to an existing staff car park (Purple car park), and another long-term carpark (Express Green) at Dublin Airport, Co. Dublin. These car parks are located to the east of the airport campus adjoining the R132.
- 1.2. The Express Green long term car park is to the east of the Sword Road (R132) and accessed directly off this road. The Purple Zone staff car park consists of c. 907 carparking spaces and is located to the west of the R132 although is accessed off Corballis Way, adjacent to the Radisson Blu Hotel.
- 1.3. The Purple car park is currently in poor state of repair. Access into the purple car park is currently restricted. There is a taxi waiting area to the north of the car park which has unlimited access. The northern part of the Express Green car park is fully serviced, and the overall car park can accommodate 2,700 surface parking spaces.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
 - Rehabilitation works to the existing “Purple Zone” staff car park (c.2.67ha) to include
 - Resurfacing, lighting, road markings, signage and ducting for EV charging points.
 - No increase in parking capacity is proposed.
 - Staff parking will be facilitated in the northern section of the ‘Express Red’ long terms carpark (also known as the “Express Green” car park for the duration of the works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Decision to grant permission subject to 13 no. conditions of which the following are of note:

Condition No. 2: The use of the “Purple Zone” staff car park shall cease within 5 years of the final grant of permission. On expiry of that period the site shall be cleared and reinstated to its former condition unless, prior to the end of that period, permission for the continuation of the use beyond this date has been granted by the Planning authority or An Bord Pleanála at appeal.

Reason: To facilitate the redevelopment of the site in accordance with Zoning Objective “HT” or any subsequent change in zoning following the expiry of the current Development Plan and to allow for the future assessment of demand for staff car parking serving Dublin Airport in light of the circumstances then prevailing.

Condition No. 3: The grant of permission relates only to the development as described in the public notices and does not authorise any use or works relating the taxi infrastructure within the application boundary.

Reason: To ensure that the development shall be in accordance with the permission, and the effective control is maintained.

Condition No. 4: Notwithstanding the development hereby permitted, the proposed development shall otherwise strictly comply with the conditions of An Bord Pleanála Decision Reg. Ref. PL06F.220670 insofar as it pertains to the site.

Reason: In the interests of the proper planning and sustainable development of the area.

Condition No. 13: The following requirements shall be complied with:

- i) The hours of operation on all construction sites shall be restricted to 08.00am to 07.00 pm, Monday to Friday, and 08.00 am to 02.00pm on Saturdays.
- ii) No activities shall take place on site on Sundays or Bank Holidays.
- iii) No activity, which would reasonably be expected to cause annoyance to residents in the vicinity, shall take place on site between the hours of 07.00 pm and 08.00 am.
- iv) No deliveries of materials, plant or machinery shall take place before 08.00am in the morning or after 07.00 pm in the evening.

Reason: In the interest of public health.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission and notes the following:

- The rationale and background for the proposal is acceptable.
- The proposal will remain within the limitations of Condition No 23 c) which restricts the number of parking for the airport.
- The integration of the land use is in keeping with the surrounding area, is fully reversible and the site can be completely rehabilitated upon expiration of permission for a further duration of 5 years.
- There is no proposal for intensification of the site.
- In the conclusion it is noted that the proposal is to an established nonconforming use which is at odds with the land use zoning objective to the site.
- The development is reversible and subject to a temporary permission and would not undermine the delivery of the long-term planning objectives for the area.

3.2.2. Other Technical Reports

Transport Planning Section: No objection subject to conditions.

Parks and Green Infrastructure Division: No objection subject to conditions.

Environment and Water Services: No objection subject to conditions.

Water Services: No objection subject to conditions.

3.3. Prescribed Bodies

National Transport Authority (NTA): No objection subject to those conditions relating to PL06F.220670 being met.

Irish Aviation Authority (IAA): No observation on the proposal.

Transport Infrastructure Ireland (TII): No observation on the proposal.

Dublin Airport Authority (daa): No objection to the proposal.

Aircraft Noise Competent Authority (ANCA) Fingal County Council: The proposal does not require an assessment for the need for a noise-related action.

3.4. **Third Party Observations**

One third party submission received from Taxi Alliance of Ireland in relation to the following:

- to the lack of traffic safety measures,
- no emergency exit for taxi,
- impact on the portaloos which are made available for Taxis,
- absence of consultation.

4.0 **Planning History**

4.1.1. On the site

PL06F.205955 (Reg Ref F03A/1413)

Permission granted by the Board for the continuance of use of the ground level carpark for a total of 10,400 parking spaces. An EIA was submitted with the application.

Condition No 1: The use hereby permitted shall cease on or before the 30th day of June 2014 and the car park shall be permanently removed and the lands reinstated in accordance with a restoration plan to be agreed with the planning authority unless, prior to the end of the period, planning permission shall have been granted for the retention of the permitted development for a further period.

Reason: To allow for the preparation of an integrated transport plan serving the airport complex.

4.1.2. Adjoining Red Express (Green)

F20A/0331

Permission granted for the temporary continuance of the existing 2,7000 long-terms car parking spaces for a further 7 years from the date of expiry of PL06F.PA0030 (07th of May 2021).

Condition No 2: The use of the surface car park shall cease within 7 years from the final grant of permission or when Metrolink is operational, whichever is earlier. On expiry of that period the site shall be cleared and reinstated to its former conditions unless, prior to the end of that period, permission for the continuation of the use beyond this date has been granted by the Planning Authority or by An Bord Pleanála on appeal.

Reason: To facilitate the redevelopment of the site in accordance with zoning objective “HT” or any subsequent change in zoning following the expiry of the current Development Plan and to allow for the future assessment of demand for long term car parking serving Dublin Airport in the light of circumstances then prevailing.

4.1.3. Overall Airport Permission (Terminal 2)

PL06F.220670 (Reg Ref F06A/1248)

Split decision issued on appeal in 2007. Permission was granted for phase 1 of the new passenger terminal and permission refused for phase 2 of the passenger terminal. The following conditions are relevant to the proposed development:

Condition No 23: Provision of parking to serve the development hereby permitted shall be the subject of separate planning applications, as required. Any additional parking provided shall have regard to the mode share targets established by the Mobility Management Plan and the growth of passenger numbers using the Airport. Having regard to the assumptions underpinning the Environmental Impact Statement submitted with the subject application, the submitted Mobility Management Plan and the capacity of Phase 1 of the development, the following restrictions to car parking, which are a direct result of the proposed development, shall apply:

- (a) The total number of long-term public car parking spaces serving the Airport shall not exceed 26,800.
- (b) The total number of short-term public car parking spaces shall not exceed 4,000.

(c) There shall be no material increase in the number of employee car parking spaces at the airport.

Reason: In the interest of the free flow of traffic and the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Section 28 Guidance

5.1.1. Development Management Guidelines for Planning Authorities (June 2007)

Section 7.5 Temporary permissions

In granting temporary permission, 3 factors should be taken into a considered:

- Temporary permission is not justified where an applicant wishes to carry out development of a permeant nature that conforms with the provisions of the development plan.
- It is undesirable to impose a condition involving the removal or demolition of a structure that is clearly intended to be permanent.
- It must be remembered that the material considerations to which regard must be had in dealing with applications are not limited or made different by a decision to make the permission a temporary one.

5.2. Fingal County Development Plan 2017-2023

Zoning

The site is zoned as HT, High Technology, where it is an objective to: *“Provide for office, research and development in high technology/high technology manufacturing type employment in a high quality built and landscaped environment”*.

- Car Park (non-ancillary) is not permitted under the HT land use zoning.

Appendix 6: Map based Local Objectives

Local Objective 65: Consider within the context of the Masterplan, the nature and scale of appropriate HT uses having regard to the site strategic and unique location in proximity to an international airport within the Dublin Airport Authority land.

Local Objective 66: Undertake a Land Use and Transportation Study to determine the development capacity of the subject lands, and an appropriate phasing and quantum of development in advance of the operation of the indicative route for New Metro North line.

Master plan

MP 11.A: Dublin Airport Local Area Plan 2020-2026

5.3. **Dublin Airport Local Area Plan 2020-2026**

Section 6.5: Protection of Core Airport Function

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

OBJECTIVE ED02: In order to protect the core aviation function of Dublin Airport, no further non-air transport related office development shall be permitted at the HT zoned lands within the Airport until such time as required roads infrastructure is in place and public and sustainable transport such as the Swords CBC and Metrolink are operational. Any planning application for further phases of development at Dublin Airport Central shall be accompanied by a traffic and transport impact assessment setting out the impact of development on core airport function and shall include mobility management plans which shall comply with the Surface Access and Transport objectives in Chapter 8 of this LAP.

Section 8.5.3: Staff employed at the airport

The aim of the LAP is to establish a Mobility Management Plan (MMP) for the whole airport to promote the reduction of private car movements.

The majority of staff travel to work by private car (72%).

OBJECTIVE MM01 Facilitate, with the relevant stakeholders, the coordination and/or amalgamation of all Mobility Management Plans within the Dublin Airport LAP area, to provide an over-arching MMP for submission to Fingal County Council for approval every three years. This will include the designation of a mobility manager for the Airport by daa who should co-ordinate, engage and review the MMP. The first co-ordinated MMP should be delivered within 2 years of the adoption of this LAP

OBJECTIVE MM03 Increase emphasis on the promotion of public transport usage among staff and passengers.

Section 8.6.1: Car Parking Facilities

Staff Car Parks: There are approximately 5,360 car parking spaces available to serve this demand. These car parking facilities are spread through Dublin Airport in the vicinity of the buildings they serve.

OBJECTIVE CP04 Limit the growth of employee parking in order to improve public transport usage, particularly in locations near the centre of Dublin Airport campus where land can be more efficiently used for other purposes

5.4. Natural Heritage Designations

The site is located:

- c. 2.2 km to the southwest of Feltrim Hill proposed Natural Heritage Area (site code 001208)
- c. 4.8km to the west of Sluice River Marsh proposed Natural Heritage Area (site code 001763),
- c. 4.5km to the south of Malahide Estuary SPA (site code 004025), Malahide Estuary proposed Natural Heritage Area and Malahide Estuary SAC (site code 000205).
- c.5.6km to the west of Baldoyle Bay SPA (site code 004016), Baldoyle Bay proposed Natural Heritage Area and Baldoyle Bay SAC (site code 000199).

5.5. EIA Screening

- 5.5.1. The proposed development relates to the rehabilitation of an existing carpark and decrease in parking spaces from 907 to 832. It is stated in the accompanying documentation that there will be no increase in the quantum of car parking proposed.
- 5.5.2. The proposed works to the existing car park do not exceed the thresholds for mandatory EIA (i.e., Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere) as per Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended).
- 5.5.3. Schedule 7A of the Planning and Development Regulations, 2001 (as amended) sets out information to allow a screening for EIA. I have assessed the proposed development in accordance with the criteria in Schedule 7 regarding the:
- Characteristics of Proposed Development
 - Location of Proposed Development
 - Types and Characteristics of Potential Impacts
- 5.5.4. I do not consider the proposal would have any likely negative impact on the environment. Therefore, having regard to the nature and scale of the proposed development 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.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal area submitted by daa, the applicant, in relation to two conditions, Condition No 3 and Condition No 13. It is requested that the Board deal with the appeal under Section 139 (a) of the Act. The appeal can be summarised as follows:

- 6.1.1. Background/ need for the appeal

- The proposal represents a reduction in parking from c. 907 to c. 832 (c. 8%).
- The works are required to upgrade a substandard carpark which currently represents a trip hazard.
- Part of the works can be carried out under exempted development.
- The use of the purple car park was considered within the overall airport development application (PL.06F.220670, Reg Ref F06A/1248) and does not require an Environmental Impact Assessment.
- A Stage 2 Appropriate Assessment has been screened out.

6.1.2. Conditions the subject of this appeal

- Condition No 2 includes a time limit on the operation of the staff car park for 5 years and requests clearance and remediation “*to its former condition*” as an agricultural field.
- Condition No 13 requires a restriction on the hours of construction.

6.1.3. Condition No. 2: Cessation of Use of the Purple Car Park

- There is insufficient public transport to the airport and there is a requirement for the restriction of use of purple airport.
- This condition effectively removes the applicant’s ability to continue to operate a lawful and long- established existing development.
- There is a strict process to revoke an existing permission/ use.
- Attaching condition, no 2 would inappropriately circumvent the legal safeguards which affect property rights.
- The planning act allows conditions to remove the use of unlawful/ unauthorised developments.
- The proposal relates to the resurfacing and not the use of the carpark.
- The Development Management Guidelines for Planning Authorities provide guidance on the imposition of conditions which should relate to the development permitted, be ultra vires and enforceable with adequate reasons to justify the condition.

- Reference to Objective Z05 of the Fingal County development plan: permit reasonable intensification of non-conforming uses.
- **Necessary:** Previous legal decisions¹ state that a condition must be of benefit to the proposed development. The condition is not required to provide a safe carpark for staff. The PA have not given a clear reasoned basis for the decision.
- **Relevant to Planning:** The reason given for including condition no 2 is not valid (i.e., HT zoning objective or any subsequent change in zoning). No rationale is given to the limit on time. The Metrolink planned date is c. 3 years.
- In relation to the HT zoning, there is an allowance for non-conforming uses (Policy Objective Z05).
- There is no transport basis for the inclusion of the time limit on this permission.
- The submission from the NTA acknowledged the need to maintain the capacity of the airport staff car parking.
- **Enforceable:** it is not clear if the reinstatement of the site it to the current hardcore state or the former pre use for agricultural use.
- The car park is a strategically important infrastructural asset.
- The condition is contrary to the public interest and planning policy.
- **Precise:** As per above the time limits and return to previous use s unclear.
- **Reasonable:** There is no reason or justification for the timescales imposed. If this condition is upheld by the Board, daa would not be in a financial position to invest in these works.
- Public transport or other incentives are not possible to serve demand at present.
- Aligning with planning policy framework for the airport: Should the airport not be able to meet its immediate infrastructure and staffing neds then a high-quality infrastructure cannot be achieved.

¹ Asbourne Holdings Ltd. V An Bord Pleanala {2003} 2 I.R. 114

- Policy RPO 8.18 of the Eastern and Midland Regional Spatial and Economic Strategy (EMRSES) supports appropriate levels of car parking at the airport.
- Condition No 23 of the permission relating to the redevelopment of Terminal 2 only required that staff parking did not increase.

6.1.4. Condition No 13: Construction Hours

- It is requested that this condition is removed.
- The site is not proximate to residential or other noise sensitive receptor.
- The development management guidelines state that conditions should only be included where they apply and meet the needs of a particular case.
- The works are only for 3 months, are minor in scale and are located within an already high noise environment.

6.1.5. Appendix 1

- Zoning map of Fingal Development Plan, 2017 and 2023
- Aerial photograph of subject site (c. 1995)

6.2. **Applicant Response**

The applicant is the appellant.

6.3. **Planning Authority Response**

A response from the PA was received in relation to the first party submission, as summarised below:

- The PA report acknowledged the non-conforming use on the site.
- Condition No. 2 complies with the Planning and Development Act and is not ultra vires.
- Condition No. 2 is relevant, enforceable, and precise and relates to the development.
- Condition No. 2 does not preclude the future use of a strategic site, complies with sustainable development, and allows the efficient use of material assets.

- Condition No. 13 is a standard condition, applied in a manner consistent with established practice in planning consents in Dublin Airport.

6.4. **Observations**

None received.

7.0 **Assessment**

The applicant has requested the Board deal with the grounds of appeal under Section 139 of the Planning and Development Act, 2000 (as amended) (Act) where the appeal is brought against a condition or conditions that the decision provides that the permission shall be subject to, if the Board is satisfied, the determination would be limited to the conditions. I note the nature of the proposal and the absence of any third-party appeal or any significant public interest in the proposal and I consider it reasonable to assess the appeal under Section 139 of the Act. Therefore, the issues aside may be addressed under the following headings:

- Condition No. 2
- Condition No. 13
- Appropriate Assessment

7.1. **Condition No. 2**

Introduction

- 7.1.1. Condition No. 2 states the following: “The use of the “Purple Zone” staff car park shall cease within 5 years of the final grant of permission. On expiry of that period the site shall be cleared and reinstated to its former condition unless, prior to the end of that period, permission for the continuation of the use beyond this date has been granted by the Planning authority or An Bord Pleanála at appeal.

Reason: To facilitate the redevelopment of the site in accordance with Zoning Objective “HT” or any subsequent change in zoning following the expiry of the current Development Plan and to allow for the future assessment of demand for staff car parking serving Dublin Airport in light of the circumstances then prevailing.”

7.1.2. The appellant considers the use of a time restriction for the carpark is unacceptable. They reference the reduction of parking spaces from 907 to 832, the lack of public transport for staff travelling to and from work, and the requirement to revert to the original condition of the site on cessation of the 5-year period. In general, they note the transport authorities did not consider the proposal unacceptable and they consider the planners report does not explain sufficiently the rationale for the temporary permission.

Planning History

7.1.3. The proposed development relates to the upgrading of an existing staff carpark and the temporary use of the Express Green car park for staff parking until the works are complete.

7.1.4. The submission from the NTA refers to condition No 23 of the permitted redevelopments of Terminal 2 (PL06F.220670) which includes a cap on the quantum of long-term and short-term parking spaces and restricts any material increase in the staff parking. I note the proposal relates to a reduction on parking by 75 spaces, therefore I consider the proposal complies with this permission.

7.1.5. There is a significant amount of planning history for the site relating to the provision of long term carparking and staff parking associated with the overall airport campus. Neither the PA nor the applicant has provided analysis of the proposed development in the context of these permissions, and I note a significant amount of these permissions include temporary uses for carparking (e.g., PL06F.205955, Reg Ref F03A/1413 and F20A/0331)

7.1.6. The previous planning approval for the purple carpark PL06F.205955 (F03A/1413) permitted the use of the car park by the Board for a temporary period of c. 10years. That proposal requested the permeant continuance of 10,400 spaces. The Inspector's report on noted the reliance on private car parking and the long-term proposals for an efficient public transport system, *inter alia*, Metrolink. A similar temporary permission was granted by Fingal County Council for the continuation of the Express Long-term Carpark (F20A/0331) although I note in this instance the applicant had applied for a temporary continuance of use.

7.1.7. Having regard to the planning history for parking in the airport campus, I note the imposition of temporary permissions is not uncommon. As stated above, in this

instance the appellant considers the imposition of a temporary is not acceptable or justifiable and conflicts with the guidelines for conditions in the Development Management Guidance for Planning authorities. I have further elaborated on these issues below.

Dublin Airport Local Area Plan and Fingal Development Plan 2019-2023

- 7.1.8. Whilst I note the PA report does not include any assessment which relates to the inclusion of the temporary permission, reference was included within the conclusion². It is stated that the proposed rehabilitation is to an established non-conforming use that is at odds with the land use zoning on the site, although the development is reversible and subject to a temporary permission and would not undermine the long-term planning objectives for the area.
- 7.1.9. As stated above, the proposal did not refer to a temporary proposal, this aside I note this reference to the non-conforming use and the long-term planning objectives for the area.
- 7.1.10. Land Use: The site is zoned for HT, High technology, in the county development plan, where it is an objective to “provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment”. Car park (non-ancillary) is not a permitted use within this land use zoning. Whilst the PA note this established non-confirming as acceptable, I note the previous temporary permissions on the site. In the absence of any in-depth analysis by the applicant or PA, one may assume that the current staff parking operates under a temporary permission, which has since lapsed. In the event the permission has lapsed then the use would be unauthorised. This aside, the Board will note the location of the site within a proposed masterplan area, which is also of relevance to the determination of the application and further discussed below.
- 7.1.11. Development Plan Policy: The carpark is located within the vicinity of terminals T1 & T2 and closer than the current express long-term parking. The current development plan includes policies guidance for the appropriate development of the airport. Policy Objective CP04 of the development plan requires that the growth of employee parking is limited in order to improve public transport usage, particularly in locations

² Page 22 of the Record of Executive Business and Chief Executives Order (F22A/0029).

near the centre of Dublin Airport campus where land can be more efficiently used for other purposes. Whilst I note the quantum of parking is not increasing, the proposal represents a significant investment into the permanent long term provision of staff parking at this location. Therefore, I consider the proposal is not in keeping with the objective in this policy to improve public transport usage.

- 7.1.12. Masterplan: The current Dublin Airport Central Masterplan is dated 2016³ which does not elaborate on the future proposals for the current site. I note this predated the existing county development plan. The site is located on lands identified for a masterplan (MP11.A) in the county development plan. The map-based objective for this area (Objective No.66) states “Consider within the context of the Masterplan, the nature and scale of appropriate HT uses having regard to the site strategic and unique location in proximity to an international airport within the Dublin Airport Authority land”.
- 7.1.13. Section 6.13 of the development plan notes the requirement to update the masterplan. The aim of the masterplan is to provide a framework for the creation of high-quality commercial development. I do not consider surface level carparking would enable the creation of a high-quality commercial development. The use would not ensure the long-term delivery of the map-based objective in the development plan by enhancing the strategic location of the site in keeping with the HT uses applicable to the land use zoning.
- 7.1.14. Dublin Airport Local Area Plan (LAP): Section 6.1 of the LAP states there are c. 5,360 car parking spaces available to serve parking demand. I consider this a significant number and indicates the provision of staff parking in excess of this subject site and at various locations. Other policies and objectives of this LAP highlight the need for a modal change from private car parks to public transport including airport staff. The Board will note the current Metrolink application has been submitted (ABP-314724-22). This supports the long-term national plan to strengthen the public transport provision to the airport from the city centre. Should Condition No 2 be retained (temporary timescale) I consider the delivery of staff carparking should be reassessed considering any upgraded public transport provisions, *inter alia*, Bus Connect and/or Metrolink.

³ [Airport Masterplan March 2016r.pdf \(fingal.ie\)](#)

Infrastructural Investment

- 7.1.15. The grounds of appeal note the national regional and local policies which relate to the need to maximise economic opportunity from sustainable investment into the airport infrastructure. No specific reference to staff parking is referenced to by the appellant.
- 7.1.16. Upon site inspection I noted additional staff carpark within the vicinity of the site, white carpark to the north of the R132, accessed to the rear of the petrol station, and available staff parking in the Green Carpark. I also noted there was significant capacity for additional parking on the subject site (approximately one quarter was empty). The availability etc to accommodate the staff parking has not been addressed in the applicant's submission. In addition, I note these staff parking facilities are outside the designated masterplan area on lands zoned for airport use, where car parking is a permissible use.
- 7.1.17. Having regard to the significant amount of parking currently provided within the airport campus and within the vicinity of the site, I do not consider the temporary permission would have a negative impact on the strategic operation of the airport. The grounds of appeal state that should Condition No. 2 be upheld by the Board; no such investment will be made to rehabilitate the purple carpark. I do not consider this is a planning consideration and any monetary investment in the business is a matter for the applicant.

Development Management Guidelines

- 7.1.18. The grounds of appeal consider the imposition of the condition is not in keeping with the guidance of the section 28 guidelines and is not necessary, relevant, enforceable, precise, or reasonable. The PA response to the appeal note that condition No. 2 relates specifically to the proposed development, is reasonable and necessary to achieve the proper planning and sustainable development and efficient use of material assets. As stated above, I consider the inclusion of a temporary permission is reasonable, relevant, and necessary to ensure the appropriate development of valuable commercial lands at a strategic location.
- 7.1.19. Section 7.5 of these guidelines notes that temporary permissions are not justified where an applicant wishes to carry out development of a permanent nature that

conforms with the provisions of the development plan or includes a condition involving the removal or demolition of a structure that is clearly intended to be permanent.

- 7.1.20. The grounds of appeal consider the resurfacing is of a permeant nature. It is my opinion that these works may be reasonably amended and do not include a structure. The use of specific timescale des not, in my opinion, warrant a condition unreasonable or unenforceable. Overall, I consider the use of condition relating to a restricted timescale, in this instance, is in keeping with the development management guidelines and is appropriate.

Reinstatement of the site

- 7.1.21. The exact works for reinstatement are queried by the appellant. In this regard, the appellant considers the reinstatement to its former condition may include the previous agricultural use. As stated above, the appropriate use of the site should be in keeping with that masterplan, map-based objective, or the local area plan which in place at the time of the planning decision.

- 7.1.22. I consider the intention of the temporary permission is to allow for more appropriate use of these lands at a strategic location and the wording of condition No. 2 would allow for the cessation of the carpark use unless a permission to extend the use or other proposal has been agreed. I consider the wording in relation to the restoration of the site should be omitted as it is more appropriate that the site is developed as a strategically important site rather than returned to any previous agricultural use.

Conclusion

- 7.1.23. Therefore, having regard to the HT, High technology, land use zoning, the quantum of staff parking within the vicinity of the airport, the location of the site within a defined masterplan area and the national, regional and local policies and objectives which support public transport, it is considered the retention of condition no.2 (temporary permission) would allow the future assessment of demand for staff parking and the sustainable use of the site. Having regard to the planning objectives to redevelop the site in the future, I consider reference to the reinstatement to its former condition may be omitted from condition no.2.

7.2. Condition No. 13

7.2.1. Condition No. 13 states that: The following requirements shall be complied with:

- i) The hours of operation on all construction sites shall be restricted to 08.00am to 07.00 pm, Monday to Friday, and 08.00 am to 02.00pm on Saturdays.
- ii) No activities shall take place on site on Sundays or Bank Holidays.
- iii) No activity, which would reasonably be expected to cause annoyance to residents in the vicinity, shall take place on site between the hours of 07.00 pm and 08.00 am.
- iv) No deliveries of materials, plant or machinery shall take place before 08.00am in the morning or after 07.00 pm in the evening.

Reason: In the interest of public health.

7.2.2. The applicant refers to the nature of condition No.13, which they consider generic in nature, and does not consider it is appropriate for the proposed development. In this regard, they refer to the absence of dwellings of noise sensitive receptors in the vicinity of the site.

7.2.3. The existing car park is within the wider airport complex, which also contains uses not directly associated with the airport. The proposal includes a complete resurfacing of the carpark, c. 2.675ha. I note there are c. 7 dwellings to the south of the site, the closest is c. 100m to the south. These dwellings are accessed off the R132 and comprise of both private dwellings and B & Bs. I also note the site is located directly adjacent to the Radisson Blu Hotel. I consider these are all noise sensitive receptors and whilst the appellant notes the already high noise environment of the airport, I consider there are other impacts from construction activities which have the potential to impact residential amenities, such as light pollution, dust, construction traffic etc.

7.2.4. Having regard to the location of the site and the nature of the proposed development, I consider the inclusion of Condition No.13, being a restriction on the hours of construction activities on the site, is relevant to the proposal and necessary to protect the amenities of those residents within the vicinity of the site. Therefore, I consider it reasonable to include Condition No.13.

7.3. Appropriate Assessment

Introduction

- 7.3.1. The proposed development comprises of the resurfacing of an existing staff carpark at Dublin airport. A screening for Appropriate Assessment accompanied the application which considered the impact of the proposed development on European Sites within a 15km radius of the site. The PA undertook an AA screening of those sites within a 15km radius of the site and concluded that no appropriate assessment issues were likely to arise, and a Stage 2 AA was not required.
- 7.3.2. The site is located c. 4.5km to the south of Malahide Estuary SPA (site code 004025), and Malahide Estuary SAC (site code 000205), and c.5.6km to the west of Baldoyle Bay SPA (site code 004016) and Baldoyle Bay SAC (site code 000199)
- 7.3.3. The screening report notes the presence of the Kealys stream on the site, which is currently culverted. Having regard to the potential source-pathway-receptor between the subject site and European Sites I consider there is only a potential for impact on the following European Sites.
- 7.3.4. Summary of European Site with a potential connection to the subject site.

Site Name and Code and distance from site	Qualifying Interest and Conservation Objectives
Special Areas of Conservation (SAC)	
Malahide Estuary SAC (site code 000205) c. 4.5km to the east	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] CO: To maintain or restore the favorable conservation status of the habitat.

Baldoyle Bay SAC (site code 000199) c. 5.6km to the east.	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] CO: To maintain the favourable conservation status of the habitats.
Special Protection Areas (SPA)	
Malahide Estuary SPA (site code 004025) c. 4.5km to the east	Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Pintail (<i>Anas acuta</i>) [A054] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999] CO: To maintain the favourable conservation conditions of the species
Baldoyle Bay SPA (site code 004016) c. 5.6km to the east.	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141]

	<p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Wetland and Waterbirds [A999]</p> <p>CO: To maintain the favourable conservation status of the species.</p>
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Assessment of likely significant effects

- 7.3.5. The screening report provides an assessment of the potential impacts on c. 15 European Sites within a 15km radius of the site. The screening report notes the presence of the Kealys stream on the site, which was previously culverted. The proposed development includes the resurfacing of the existing purple zone staff carpark with the treatment of surface waters necessary. These surface waters eventually lead to the Baldoyle Bay, and the screening report notes a potential hydrological link between the site and the Baldoyle Bay SAC & SPA. No links to the Malahide Estuary have been identified and there are no habitats on the site which may be utilised by a species of interest in the Malahide Bay SPA or the Baldoyle Bay SPA.
- 7.3.6. The screening report notes the impact of the use of the car park complies with the relevant standards in the SUDS manual and is in accordance with the objectives of the Dublin Airport LAP and Strategic Flood Risk Assessment. The groundwater vulnerability is low. The interceptors and culverts at Kealys stream are inspected regularly and it is noted there is no potential from surface water run-off on the Baldoyle SAC/SPA. I note the information in the screening assessment and the accompanying documentation in the application and I do not consider the proposal will have any significant negative impact on the conservation objectives of any European site.

Screening Determination

- 7.3.7. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, 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 the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend that Condition No. 2 is **retained and amended**, and Condition No.13 is retained in the grant of permission having regard to those reasons and considerations below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of Section 139 of the Planning and Development Act, 2000, as amended:
- 9.1.2. To **AMEND** Condition No.2 as follows for the reasons and conditions set out hereunder:

Condition No. 2: The use of the “Purple Zone” staff car park shall cease within 5 years of the final grant of permission. On expiry of that period the use shall cease unless, prior to the end of that period, permission for the continuation of the use beyond this date has been granted by the Planning authority or An Bord Pleanála at appeal.

Reason: To facilitate the redevelopment of the site in accordance with Zoning Objective “HT” or any subsequent change in zoning following the expiry of the current Development Plan and to allow for the future assessment of demand for staff car parking serving Dublin Airport in light of the circumstances then prevailing.

Reasons and Considerations (1)

It is considered that the alteration to Condition No.2 is necessary to ensure the future development of the site is in keeping with the HT land use zoning and the national, regional and local objectives which promote and support public transport to the airport.

- 9.1.3. To **RETAIN** Condition No.13 as follows for the reasons and conditions set out hereunder:

Condition No. 13 states that: The following requirements shall be complied with:

- v) The hours of operation on all construction sites shall be restricted to 08.00am to 07.00 pm, Monday to Friday, and 08.00 am to 02.00pm on Saturdays.
- vi) No activities shall take place on site on Sundays or Bank Holidays.
- vii) No activity, which would reasonably be expected to cause annoyance to residents in the vicinity, shall take place on site between the hours of 07.00 pm and 08.00 am.
- viii) No deliveries of materials, plant or machinery shall take place before 08.00am in the morning or after 07.00 pm in the evening.

Reason: In the interest of public health.

Reasons and Considerations (2)

It is considered that the retention of Condition No. 13 is necessary to ensure the protection of the amenities of the residents of those dwellings within the vicinity of the site during construction works.

Karen Hamilton
Senior Planning Inspector

24th of January 2023