Inspector's Report

ABP-317480-23

Development	Demolition of buildings, road improvement works and construction of gas turbine power generation station with all associated site works. An Environmental Impact Assessment Report has been prepared. EPA licence is required.
Location	Kilshane Road, Kilshane, Finglas, Dublin 11.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW22A/0204
Applicant(s)	Kilshane Energy Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Damien and Sorcha Kelly Sean Loughran (on behalf of Fingal One Future) William McFarland

Observer(s)	Sustainability 2050 An Taisce DAA
Date of Site Inspection	12th February 2024
Inspector	Rachel Gleave O'Connor

Contents

1.0 Introduction

1.1. This case relates to three third party appeals against the decision of Fingal County Council to grant permission for a Gas Turbine Power Generation Station. The applicant previously requested pre-application consultations with An Bord Pleanála under Section 37B of the Planning and Development Act 2000 (as amended) under ABP-311877-21. The Board confirmed on 14th December 2021 that the proposed development did not constitute strategic infrastructure development as it did not come within the scope of s.37A or s.182 of the Planning and Development Act 2000 (as amended) and that an application for planning permission should be made directly to Fingal County Council.

2.0 Site Location and Description

2.1. The subject site is located to the south and east of Kilshane Road, and west of the N2. The existing entrance to the subject site is situated on Kilshane Road, just west of the Kilshane Road bridge over the N2. There is an additional entrance situated to the west of the site. A small number of one-off houses are located opposite the site and to the north of Kilshane Road. The remaining lands surrounding the site are largely comprised of agricultural fields, with the businesses and commercial/industrial sheds appearing in the wider vicinity east and west of the site. Huntstown Quarry, Huntstown Power Station and anaerobic digestion facility are located further to the south of the site.

2.2. The subject site itself is comprised of grassland, with hedgerows marking field boundaries. A small number of existing buildings are situated to the north west corner of the site. The appeal applicant's landholding extends further to the south west of the subject site itself.

3.0 Proposed Development

3.1. The proposed development will consist of the following:

1. The construction of a new Gas Turbine Power Generation Station with an output of up to 293 Megawatts. The proposed station will consist of 1 no. Gas Turbine and 1 no. 28m high Exhaust Stack partially enclosed by a 12m high acoustic wall. 1 no. single storey Admin Building and Warehouse (c. 926m2), 1 no. single storey Packaged Electronic/Electrical Control Compartment (PEECC) (c. 72m2), 1 no. single storey Continuous Emission Monitoring System (CEMS) Shelter (c. 14.8m2), 1 no. 16.2m high x 024.4m Fuel Oil Tank, 1 no. 15.3m high x 09.2m Raw/Fire Water Tank, 1 no. 16.2m high x 018.3m Demin Water Tank, and miscellaneous plant equipment.
2. The demolition of a detached residential dwelling (c. 142m2 GFA) and associated farm buildings (c. 427m2 GFA) located in the north west corner of the subject site to facilitate the proposed development.
3. Road improvement works to 493.34m Kilshane Road (L3120), including the realignment of a portion of the road (293.86m) within the subject site boundary and the provision of new footpaths, off-road cycle ways, together with the construction of a new roundabout linking the proposed realignment of Kilshane Road back to the existing road network to the northeast of the subject site and to the proposed internal road network to serve the proposed development.
4. The construction of entrance gates, low wall and railings fronting the realigned Kilshane Road and a private internal road network providing for vehicular, cyclist and pedestrian access to serve the development. Construction of 3m high security fencing within development.
5. Total provision of 26 no. car parking spaces including 1 no. disabled persons parking space and 2 no. EV electrical charging points.
6. Provision of security lighting columns to serve the development and the installation of Closed-Circuit Television System (CCTV) for surveillance and security purposes.
7. Provision of 20 no. sheltered bicycle parking spaces.

8. Provision of hard and soft landscaping works, tree planting and boundary treatments including 3m high security fence along Kilshane Road and the perimeter of the subject site boundary.
9. Provision of new on-site foul sewer pumping station to serve the development.
10. Provision of underground surface water attenuation areas to serve the development.

3.2. All associated site development and excavation works, above and below ground, necessary to facilitate the development. This application relates to a development that will require an Industrial Emissions Directive licence from the Environmental Protection Agency.

3.3. The plant proposed has a maximum stated output of 293MW. It is designed to be a flexible peaking plant, operating to balance fluctuating electricity demand in the grid due to intermittent renewable supplies and as a backup generation for operating in times of high electricity demand and low renewable electricity supply. It is stated that the facility will operate for between 22 hours and 95 hours in a year with an annual average of 46 hours. It is stated that dispatch instructions will issue from EirGrid, the Transmission System Operator who will decide the actual operating hours of the unit depending on system needs.

3.4. There is other infrastructure necessary to support the development, which is not included within the appeal application and stated to comprise the following:

- Above Ground Installation (AGI): This is required to facilitate the gas connection for the development and is stated to be subject to a separate planning application.
- Underground Gas Supply Installation: This is required to connect the AGI to the transmission pipeline network. It is stated that this will be subject to a Section 39a application to the Commission for Regulation of Utilities. Route options for the gas connection have been provided (Dwg.22045-PL-14).
- Strategic Infrastructure Development (SID) Application for a Gas-Insulated Switchgear Substation (GIS), Air Insulated Switchgear Substation (AIS) and grid connection to serve the development. (Note: Strategic Infrastructure Development on the site to An Bord Pleanála ref. 314894-22 granted

permission on the 24th August 2023, for a 220kV Gas Insulated Switchgear (GIS) substation and an underground 220kV transmission line connection to the existing Cruiserath 220kV substation).

4.0 Planning Authority Decision

4.1. Decision

4.1.1. The Planning Authority decided to grant planning permission subject to conditions. 34no. conditions are set out; conditions of note include condition no.2 requiring that the output not exceed 293 megawatts, that the development be used solely as described in the application as a back-up energy supply system, and that the operational lifespan be 25 years; condition no.3 requiring details of restoration of the site following decommissioning; and condition no.34 concerning a €68,788.50 financial contribution toward public infrastructure and facilities.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The main points of the planner's report can be summarised as follows:

- Nature of the Proposed Development: Inconsistencies and inaccuracies in relation to how the proposed development is described and concerning site ownership are noted. The 10 year timeframe for operation is a short period. It is not clear how the output stated to be up to 293 megawatts will be monitored/limited.
- Strategic Context: The government policy statement on Security of Electricity Supply states that the development of new conventional generation (including gas-fired and gas oil/distillate-fired generation) is a national priority and should be permitted and supported in order to ensure security of electricity supply and support the growth of renewable electricity generation. The Climate Action Plan 2021, National Development Plan 2021-2030 and Policy Statement on Security of Electricity Supply (November 2021) specifically identify the requirement for conventional electricity generation capacity in the order of 2GW of supply.

- Site Zoning: The application site is zoned ‘HI – Heavy Industry’ in the Fingal County Development Plan. Industry-High Impact and Utility Installations are permitted in principle. The proposed use is considered to come within the scope of these uses and is permitted in principle in terms of the zoning objective.
- Design and Visual Impact: Lack of details of all proposed structures noted. A full set of drawings is required for each structure proposed and written text detailing the nature of each item, above ground, underground, nature and purpose of structure. Due to this lack of details, the Planning Authority cannot determine what is proposed and fully assess the visual impact of the project.
- Impact on Amenities of the Area: The EIAR addresses matters that would impact amenities, the EIAR is inadequate and deficient and needs to be fully revised. A fully revised Construction Environmental Management Plan is also required.
- Landscape and Green Infrastructure: Section drawings required. Details of earthworks required. An Arboricultural Method Statement for the site is required. A Green Infrastructure Plan in accordance with Objective G122 of the Development Plan has not been submitted.
- Water and Drainage: The drainage proposal includes SuDS measures. Runoff from catchment 3 requires pumping which is not ideal, but a robust rationale and design have been submitted in this regard which is considered acceptable. Further rationale required in relation to reliance on below ground attenuation storage instead of basins, ponds and forebay systems. The submitted Flood Risk Assessment is considered to be acceptable. Note that no objection has been received from Irish Water in relation to proposed connections to the network.
- Transportation: The quantity of bicycle and car parking spaces is acceptable, however the refinement of details is required in terms of location and provision of storage and welfare facilities, as well as EV charging points. The Transportation Planning Section would not have any concerns in relation to operational traffic impact on the road network and the construction traffic would have a temporary negative impact, with a CEMP to be utilised to

minimise impact. Further detail and discussion in relation to the proposed future uses and impact on the road network should be provided. Further details of the Kilshane Road Realignment required. Internal road layout generally acceptable, additional swept path analysis required. Revised taking in charge plan required. In the event that permission granted, a final CEMP and MMP will be required.

- Dublin Airport: The site is situated within Noise Zone A associated with Dublin Airport. There will be permanent employees based in the development. No details have been submitted of predicted noise levels within staff areas, and therefore application is contrary to Objective DA07 of the Development Plan. The proposed employment density is acceptable with reference to the site location in the Outer Public Safety Zone. Submission received from DAA noted with respect to height limitations, emissions, communication, obstacle warnings and engagement.
- Control of Major Accident Hazards: The application site is close to an identified Seveso Site and, based on the information submitted, the development will qualify as an establishment under the control of major accident hazard regulations owing to the quantities of dangerous substances to be stored at the site. The application submission documents addresses Major Accidents. The HSA had no observations to make.
- Environmental Impact Assessment: The submitted EIA is deficient with respect to the following:
  - Description of the proposed development;
  - Description of likely significant effects on the environment;
  - Description of mitigation;
  - Description of reasonable alternatives;
  - Content of Non-Technical Summary.

  Inadequacies in relation to individual chapters of the EIAR are also highlighted. A revised EIAR is required.

- Appropriate Assessment: There are a number of deficiencies in respect of the submitted Screening Report which are outlined in detail in the LPA Planner's report. The report is deficient in a number of aspects with a lack of detail which represents an incomplete examination and precludes a robust evaluation by the competent authority in coming to a determination on the need for an AA for the project. Additional information is therefore required.
- Conclusion: While national level policy requirements for conventional electricity generation capacity in the order of 2GW is highlighted, noting the deficiencies, inaccuracies and inadequacies of the submitted application reports and drawings, it is recommended that further information is sought.

4.2.2. On 7th November 2022 a Further Information Request was issued to the applicant for 15 reasons, as summarised below:

1. Clarification with respect to site ownership.

2. Clarification with respect to the details of the proposed development.

3. A full set of drawings for each structure proposed alongside written description.

4. Clarification regarding the 10 year duration proposed and details of site restoration.

5. Clarification regarding monitoring and limitation of output capacity.

6. Additional information with respect to Transportation matters.

7. Rationale with respect to underground attenuation or revised proposals.

8. Noise Assessment Report.

9. Engagement with DAA/IAA with respect to emissions.

10. Revised landscape plan and details.

11. Engagement and clarification with respect to compliance with DAA height limitations.

12. Revised CEMP.

13. Revised Appropriate Assessment Screening Report.

14. Revised EIAR.

15. Green Infrastructure Plan.

4.2.3. On 11th January 2023 Further Information was submitted by the applicant. This comprised a Further Information Response report, additional and revised drawings/plans, letter from Fingal County Council with respect landowner consent to the application, letters from IAA and DAA, engineering report Response to Request for Additional Information, Appropriate Assessment Screening Report (Jan 23 Revised Version), Non-Technical Summary of EIAR (Jan 23 Revised Version), EIAR (Jan 23 Revised Version), Volume 1 Appendices to EIAR (Jan 23 Revised Version), Volume 2 Appendices to EIAR (Jan 23 Revised Version), Preliminary Construction Environmental Management Plan, Additional Information Response Landscape, and COMAH Land Use Planning Assessment report. On 13th January 2023 Fingal County Council deemed the submitted further information to be Significant Further Information / Revised Plans and issued a notice to the applicant requiring further publication of notices. On 18th January 2023 the Council received confirmation from the applicant with respect to the publication of a revised newspaper advertisement and site notice with respect to the application on the site.

4.2.4. On 14th March 2023 Fingal County Council issued a request to the applicant for a Clarification of Additional Information as summarised below:

1. The response submitted with respect to item no.3 did not sufficiently respond to the request. Further details requested.

2. Notwithstanding the response to item 2(d) revised plan requested. *(NOTE: relates to item 6(d)).*

3. The Planning Authority is not satisfied with the response with respect to item no.13 concerning the AA Screening Report. A specific response to detailed points is required and not a revised Screening Report or cross references to other documents.

4. The Planning Authority is not satisfied with the response with respect to item no.14 concerning the EIAR. In accordance with Sections 172(1D) and 172(1E) of the Planning and Development Act 2000, as amended, the applicant is requested to revise the relevant chapters/sections of the EIAR and submit a response to the Planning authority by 30th April 2023.

5. The response to item no.15 is inadequate. A Green Infrastructure Plan in accordance with Objective GI22 of the Development Plan is requested.

4.2.5. On 24th April 2023 the applicant submitted a Clarification of Additional Information Response comprising a Clarification of Additional Information Response Item 1(b): Written Report, additional/revised drawings/plans, Response letter from Waterman Moylan engineer consultants for the application, Clarification of additional information Response Report, Non-Technical Summary of EIAR (April 23 Revised Version), Method Statement – Photo-montage production report, and Green Infrastructure Plan. On 26th April Fingal County Council deemed the submitted further information to be Significant Further Information / Revised Plans and issued a notice to the applicant requiring further publication of notices. On 3rd May 2023 the Council received confirmation from the applicant with respect to the publication of a revised newspaper advertisement and site notice with respect to the application on the site.

4.2.6. Following the receipt of additional information, a subsequent report of the Planning Authority typed 21st June 2023 outlined assessment of this information and concluded that a satisfactory response to the Clarification for Additional Information had been received. Note:

- The Fingal County Development Plan 2023-2029 was adopted since the issuing of the request for clarification of additional information. The main policy and objectives applicable to the proposed development from the adopted plan are noted. The proposed uses remain permitted in principle under the zoning of the 2023 plan.
- Following an assessment of applicable planning policy, the additional information received, consideration of submissions received, the outcome of the Appropriate Assessment and Environmental Impact Assessment processes, the nature of impacts of the proposed development, it is considered that subject to compliance with conditions, the proposal would be an acceptable form of development in this area, would not give rise to unacceptable impacts on the visual or residential amenities of the area or property in the vicinity, would provide adequate arrangements for traffic, transportation and water services including surface water management and

would therefore be in accordance with the proper planning and sustainable development of the area.

4.2.7. On 23rd June 2023 the Council issued a Notification of Decision to Grant Permission to the applicant.

4.2.8. **Other Technical Reports**

4.2.9. The main points of departmental technical reports can be summarised as follows, with further submissions with respect to additional information submitted noted as appropriate:

4.2.10. Parks and Green infrastructure Division: The landscape plan lacks detail in relation to the proposed mounding throughout the site. Revised plan requested with details of soil and subsoil cross sections, plans and sections showing proposed grading and mounding, including levels and contours to be formed; as well as the relationship of proposed mounding to existing vegetation to be retained, including a specific Arboricultural Method Statement and tree protection plan.

4.2.11. Following receipt of Further Information on 11th January 2023 by the applicant, the Parks Division made the following observations:

- The additional information submitted is acceptable. Recommend conditions concerning the implementation of the landscape masterplan and arboricultural method statement, as well as a tree and hedgerow bond.

4.2.12. Following receipt of Clarification of Additional Information Submission on 24th April 2023 by the applicant, the Parks Division made the following observations:

- The submitted revised Green Infrastructure Plan mostly refers to the 2017-2023 County Development Plan; however pg.8 does outline how the development will comply with the current Development Plans green infrastructure objectives. Recommend a condition that the Green Infrastructure Plan is carried out in full and monitored.

4.2.13. Transportation Planning Section: Request additional information with respect to the following:

- Changing, shower, locker storage and drying facilities should be provided to encourage employees to cycle, walk, run to work and should be shown on the layout plans.
- Cycle parking should be provided at the end destination.
- Further detail and discussion in relation to proposed future uses and impact on the road network.
- Revised layout detailing engineering solutions to be provided to prevent unauthorised access to the old road which would become a cul de sac and also address the Road Safety Audit concerns.
- Cross section of the proposed realignment should be provided.
- A layout drawing detailing both the proposed scheme tie-in and the possible future Bay Lane junction and Kilshane Road upgrade layout overlapping should be provided for clarity that the tie-in can be achieved within the existing boundary's and further discussions in relation to the proposed transitions to the existing road is required.
- Additional Swept path analysis is required for the new alignment showing accesses and entrances for service vehicles & emergency services.
- Further discussion in relation to the proposed haul routes required.
- Letter of consent required for works on FCC lands.
- Request the applicant consult directly with the Transportation Division.

4.2.14. Following receipt of Further Information on 11th January 2023 by the applicant, the Transportation Planning Section made the following observations:

- In relation to item no.'s 6(a),(b),(c),(e),(f),(g),(h), and (i) of the further information request, the proposal is now acceptable (subject to detailed further design in specified cases).
- In relation to item no. 6(d) of the further information request, further details are required which can be dealt with by condition, concerning land required for a two-lane design and one-lane entry design to the roundabout.

- The Transportation Planning Section has no objection to the proposed development subject to conditions.

(NOTE: reference in the response is made to erroneous item no.'s for the further information request however this is corrected in the summary presented here).

4.2.15. Following receipt of Clarification of Additional Information Submission on 24th April 2023 by the applicant, the Transportation Planning Section made the following observations:

- The Transportation Planning Section has no objection to the proposed development subject to conditions.

4.2.16. Water Services Department: The foul drainage proposal is acceptable. Basins, ponds and forebay systems are the preferred storage methods as they provide bio-diversity and amenity benefits in addition to water quality improvement and attenuation. The use of open water bodies in this location is stated to be prohibited by the IAA/DAA, however confirmation of this restriction is not evident from the supplied IAA/DAA documentation, unequivocal documentation is requested in this regard. No surface water/rainwater to discharge to the foul sewer under any circumstances. Surface water drainage to be in compliance with the GDR Code of Practice. Water supply proposal is acceptable.

4.2.17. Environmental Health, Air and Noise Unit: No objections subject to conditions concerning hours of works, adherence to mitigation measures for noise and dust, noise level restrictions, restricted hours for pile driving, control of emissions, operational noise mitigation and operational emission controls.

4.2.18. Archaeology: The proposed development will have a direct negative impact upon an identified archaeological feature, however preservation by record i.e. excavation, has been recommended as mitigation and this approach agreed with the National Monuments Service, Department of Housing, Local Government and Heritage. Excavation under licence from the Department will be required. A programme of archaeological monitoring is also recommended given the high potential for further identification of archaeological material in the area.

4.2.19. Environment, Climate Action and Active Travel Department: Recommend a condition with respect to submission of a Construction and Demolition Resource Waste Management Plan.

4.2.20. Following receipt of Further Information on 11th January 2023 by the applicant, the Environment Section made the following observations.

- Confirm no additional comment.

4.3. Prescribed Bodies

4.3.1. The following is a summary of responses received to the application, with any subsequent submissions to additional information information submitted by the applicant noted as appropriate:

4.3.2. Environmental Protection Agency: The development proposed will require a licence under Class 2.1 of the EPA Act: 2.1 Combustion of fuels in installations with a total rated thermal input of 50MW or more. The Agency has not received a licence application relating to the development described. The associated EIAR will be required as part of any licence application to the Agency. The Agency cannot issue a Proposed Determination on a licence application until a planning decision has been made.

4.3.3. Uisce Éireann / Irish Water: Request that any grant of planning permission be condition with respect to connection agreement, compliance with Irish Water Standards, codes and practices, written approval from Irish Water for any proposal to divert or build over assets, and adherence to separation distances.

4.3.4. Following receipt of Further Information on 11th January 2023 by the applicant, Uisce Éireann reconfirmed their previous submission with respect to requested conditions.

4.3.5. HSE Environmental Health Service (EHS): The EHS is of the opinion that the EIAR Non-Technical Study (NTS) is not adequate to meet the legislative requirements and does follow the 2018 Guidance. This is a significant failure as it limits 3rd party access to the environmental assessment information in a non-technical format and the statutory requirements for EIA have not been meet. It is not clear why the project has been split into a number of different applications and why all components have not been included in the EIA. In relation to Chapter 9 of the EIAR Emissions to Air

there is no assessment against the WHO health based air quality guidelines for total environmental exposure during the operational phase of the project.

4.3.6. In relation to Dust, conflicting statements are included in the EIAR in relation to demolition and dust mitigation (ref. pages 124&126 of EIAR and description of development). In relation to Human Health, ambient air quality levels are not the most appropriate evaluation criteria for potential nuisance from dust generated from construction activities, because they are based on average annual levels that can mask extreme peaks of dust deposition within the results. They are also specific to a particle size whereas dust nuisance covers a broader spectrum of particle sizes. Potential nuisance dust deposition over a 29 month period is not short term and high dust deposition levels over this period can have a significant effect on human health. In the event that permission is granted, EHS recommends measures in relation to implementation of dust mitigation and monitoring of dust.

4.3.7. In relation to Chapter 10 Noise and Vibration, EHS recommends that construction activity should not commence prior to 8am in order to protect Public Health. It is considered that the predicted noise during operation will not adversely impact public health. EHS consider that the recent planning permission for increased night time use of Dublin Airport should be incorporated into the cumulative effect of noise on the local environment. In relation to Protection of Ground and Surface Water, note that the proposed connections have not been approved by Irish Water. There should be no direct emission into ground water. Reference is made to a draft Construction Management Plan in the EIAR, however this could not be found indexed to the EIAR. The EHS could not identify where any likely significant effects from artificial lighting has been considered in the planning application.

4.3.8. Following receipt of Further Information on 11th January 2023 by the applicant, the EHS made the following observations:

- In relation to the splitting of the project into different applications, the response details the consent process for each element of the project. Irrespective of the different consent process for different elements of the overall project, it is still the opinion of the EHS that the requirement within the EIA process is to consider the project as a whole including any elements that require separate

consent. Additional consent requirements for any element of the overall project should not be a limiting factor on the scope of the EIA.

- In relation to the Construction and Environmental Management Plan (CEMP), the EHS has considered the draft plan submitted and is of the opinion there is adequate protection of public health with implementation of mitigation, and with a system of receiving and investigating complaints, as well as review. Section 8.1 of the CEMP addresses issues around dust nuisance. Section 8.2 of the CEMP does not give details of how potential light nuisance will be assessed or mitigated and this should be more detailed in the final CEMP. Section 8.3 of the CEMP does not specify hours of activity as a mitigation o noise emissions. In relation to cumulative noise with the Airport, the EHS notes the FI submission and has no further comment to make. Adequate protection of ground and surface waters is outlined in section 10 and 11 of the CEMP.
- The NTS now meets requirements.
- With respect to the FI request concerning Human Health in the EIAR, the EHS is of the opinion that the applicants assessment has used correct methodology.
- In relation to air quality and dust, the rationale for use of AQS and WHO targets are noted. The statement that they are predicted to meet the current Statutory Health Protection Standards is correct. The proposed dust monitoring methods are over and above the general requirements and are welcomed.
- In conclusion: the EHS is still of the opinion that the EIA should have included all elements of the overall project irrespective of the different consent requirements. The proposed CEMP provides adequate protection of Public Health provided it is reviewed and specific to the final construction methodologies employed, and there are built in review/complaint procedures, hours of construction activity is condition to not commence before 8am, and more specific details of lighting is included. The correct methodology has been used to assess population and human health. The proposed dust monitoring is welcomed and is an enhanced health protection measure.

4.3.9. DAA: The site is located within the Obstacle Limitation Surface for Dublin Airport. As such, DAA would recommend that no structure on site exceed 105m above Ordnance Survey Datum (also applying to construction phase and roof top equipment). As the proposed development is located on the Take Off Flight Path, placing obstacles above 105m on the site would impact aircraft take off performance. The proximity of the proposal to the airport means the operation of cranes during construction may cause concerns in relation to air safety, and at a minimum, requires further detailed assessment in relation to flight procedures at Dublin Airport. DAA requests that a condition is attached to any grant of permission, requiring the developer to agree any proposals for crane operations in advance with DAA and the Irish Aviation Authority. As the site is located in the Outer Public Safety Zone of Dublin Airport, the following objectives of the Development Plan are applicable, DA13 and DA14, which seek to promote appropriate land uses in the vicinity of the airport. Request that the Council have regard to the recommendations of the ERM Report Public Safety Zones in this regard.

4.3.10. Transport Infrastructure Ireland (TII): Confirm no observations to make.

4.3.11. Irish Aviation Authority (IAA): Request that the application be required to engage with DAA / Dublin Airport to confirm that the facility (and any associated exhaust fumes / emissions, etc) will not have a negative impact on the safety of aviation activity at Dublin Airport. In the event that planning consent is granted, as the development is 2.7km (approx.) from the threshold Runway 10R at Dublin Airport and consequently within the 13km wildlife hazard assessment zone for the aerodrome, the applicant should be conditioned to engage with Dublin Airport to ensure that appropriate wildlife hazard reduction techniques and management is employed during the construction and subsequent operation of the site. The applicant should be conditioned to contact the IAA to agree appropriate aeronautical obstacle warning lighting/marking and to notify the Authority, DAA / Dublin Airport and the IAA's Air Navigation Service Provider (ANSP) of the intention to commence crane operations within at least 30 days prior notification of their erection.

4.3.12. Health and Safety Authority (HSA): As the application appears to outside the scope of Regulations determining when the HSA gives technical advice to Planning Authorities, the HSA has no observations.

4.3.13. Following receipt of Further Information on 11th January 2023 by the applicant, the HSA made the following observations:

- The application is covered by Regulation 24(2)(a) of S.I. 209 of 2015.
- Attention directed to the need to consult with the local authority emergency services on any potential impact on local access/egress arrangements, in the context of public behaviour in the event of an emergency and access for emergency services, generally and in relation to fire prevention and response issues.
- On the basis of the information supplied, the Authority has determined that the siting criteria for new establishments have been met. Accordingly the Authority does not advise against the granting of planning permission in the context of major accident hazards.
- The advice given is only applicable to the specific circumstances of this proposal at this period of time. The assessment submitted, which formed the basis of the Authority's advice, specifies the particular dangerous substances that will be stored at this location. Changes to those substances or their location could alter that advice. Therefore, part of our technical advice is to impose conditions in this regard should planning permission be granted.
- Future development around COMAH establishment has the potential to impact on the expansion of those establishments.

4.3.14. Commission for Regulation of Utilities (CRU): Response following Further Information on 11th January 2023. Reference to the Security of Electricity Supply – Programme of Actions paper published in September 2021. This states that gas-fired generation will remain a critical enabler of the decarbonisation of the electricity system in 2030 and beyond. In June 2022 an updated paper was published taking account of progress in securing additional new gas generation. CRU's programme is aligned with national policy, reference made to The Policy Statement of Security of Electricity Supply, The Climate Action Plan 2021, The National Development Plan 2021-2030 and the EPA Guidance note on Best Available Techniques for the Energy Sector (Large Combustion Plant Sector) 2008.

4.3.15. Department of Housing, Local Government and Heritage: Response following Further Information on 11th January 2023. With respect to archaeology, and the archaeological component of the revised EIAR submitted as part of FI, it is recommended that a planning condition be included concerning archaeological excavation and monitoring.

4.4. Third Party Observations

4.4.1. 8 no. third party submissions were received with respect to the application as originally submitted. Matters raised reflect similar issues set out in the grounds of appeal as summarised in section 7 below, focusing on potential impact upon human health, reliance on fossil fuels and associated carbon emissions, visual impact, transportation impact and hazards, as well as noise, light, air emissions during construction and operation. In addition, matters concerning loss of hedgerows and trees, potential impact upon access to adjacent lands and odours associated with the foul pumping station were also raised.

4.4.2. In response to Further Information dated 11th January 2023, 2 no. third party submissions were received with key matters of concern reflecting the same matters outlined above.

4.4.3. Following receipt of Clarification of Additional Information Submission on 24th April 2023 by the applicant, 4 no. third party submissions were received, outlining similar key concerns to those outlined above.

5.0 Planning History

5.1.1. Subject Site:

5.1.2. ABP Ref: 314894-22: On the 24th August 2023, An Bord Pleanála GRANTED planning permission for a Strategic Infrastructure Development for a proposed 220kV Gas Insulated Switchgear (GIS) substation and an underground 220kV transmission line connection to the existing Cruiserath 220kV substation.

5.1.3. FW21A/0250: On 10th February 2022 Fingal County Council REFUSED planning permission for the construction of a Gas Turbine Power Generation Station with an output of up to 293 Megawatts. The application was refused for 6 no. reasons,

relating to insufficient information to allow Appropriate Assessment; insufficient information to determine whether Environmental Impact Assessment required; lack of information to determine compatibility with aircraft safety/efficient navigation; in the lack of information and mitigation, adverse effect on amenity and devaluation of adjacent property; adverse effect upon green infrastructure; and lack of clarity regarding the ability to undertake proposed road upgrades within lands under the control of the applicant.

5.1.4. F95A/0432: On 17th August 1995 Fingal County Council GRANTED a new entrance to the site.

5.1.5. Surrounding Area:

5.1.6. Lands adjacent to Huntstown Power Station, North Road, Finglas, Dublin 11 - ABP Ref. 311528-21, Decision not yet made with respect to a Strategic Infrastructure Development Application for construction of a 2 storeykV GIS substation known as 'Mooretown', 4 underground transmission cables and all associated and ancillary site development and construction works.

5.1.7. Lands adjacent to Huntstown Power Station, North Road, Finglas, Dublin 11, FW21A/0151, ABP Ref. 313583-22, On 20 Apr 2022, a notification to GRANT permission was issued Fingal County Council on 20th April 2022. A third party appeal was subsequently lodged on 16 May 2022 and is now currently consideration by An Bord Pleanála. The application comprises the demolition of 2 no. existing residential dwellings and construction of 2 no. data hall buildings. EIAR is submitted with application.

5.1.8. Townlands of Johnstown, Huntstown, Coldwinters & Balseskin, at Blanchardstown and Finglas, Co. Dublin, (Southeast of Huntstown Power Station, Johnstown, Dublin to Finglas 220kV Substation, Balseskin), FW21A/0144, On 11th November 2021 decision to GRANT planning permission for the installation of electrical infrastructure between Finglas substation and Huntstown Power Station to facilitate the retirement of existing Electricity Supply Board overhead powerlines and facilitate site clearance for future development of a data centre and substation (subject to separate planning applications).

5.1.9. Site in the townlands of Huntstown/Coldwinters, Dublin, FW20A/0063, On 13th May 2021 Fingal County Council REFUSED permission for the construction of a

5,000sqm single storey research and development building for 3 no. reasons relating to inadequate information to determine whether an Environmental Impact Assessment is required; inadequate surface water management solutions; and the inclusion of lands in third party ownership within the application boundary without consent of landowners.

5.1.10. Huntstown Power Station, Huntstown Quarry, Finglas, Dublin, D11 N407, FW19A/0015, On 30th April 2019 Fingal County Council GRANTED permission for development of a Battery Energy Storage System and ancillary equipment.

5.1.11. Huntstown, North Road, Finglas, Dublin 11, FW18A/0082, On 28th August 2018 Fingal County Council GRANTED permission for a wastewater treatment plant.

5.1.12. Kilshane, Huntstown & Johnstown Townlands, North Road, Finglas, Dublin 11, FW17A/0012, On 8th May 2017 Fingal County Council GRANTED permission for an increase in the permitted intake rate of construction and demolition waste at the facility, continuation and intensification of waste recovery activity, and relocation of C&LD waste recovery activities to a new waste recovery facility within the site and ancillary works.

5.1.13. Site within Roadstone Wood's Huntstown Quarry, Huntstown, North Rd, Finglas, Dublin 11, FW13A/0089, On 12th November 2013 Fingal County Council GRANTED permission for a Renewable Bioenergy Plant to generate up to 3.8MW of electricity from 90,000 tonnes of non-hazardous biodegradable waste per annum utilising Anaerobic Digestion technology.

5.1.14. Huntstown Quarry, Huntstown, Johnstown,Coldwinters & Kilshane, Grange & Cappogue Townlands, North Road, Finglas, Dublin 11, FW12A/0022, On 07 Feb 2013, a decision GRANT PERMISSION was made by Fingal County Council on this application. Subsequently, an appeal was lodged on 05 Mar 2013 and a decision to Attach Con(s), Amend Con(s) & Remove Cons was made by An Bord Pleanala on 25 Aug 2014. The application comprised permission for continued use of all existing authorised facilities and activities within the site application area.

6.0 Legislation and Policy Context

6.1. European

6.1.1. Large Combustion Plant Directive (2001/80/EC)

6.1.2. This Directive requires reductions in emissions of acidifying pollutants, particles and ozone precursors.

6.1.3. Renewable Energy Directive (2009/28/EC [REDI])

6.1.4. This Directive requires a commitment to produce energy from renewable sources and it set binding targets on the share of renewable energy in energy consumption and in the transport sector to be met by 2020. It aimed to make renewable energy sources account for 20% of EU energy by 2020. Ireland had a national target of 16%. The government decided that 40% of electricity consumed in 2020 would be generated by renewables sources. Members States must submit National Renewable Energy Action Plans and Progress Plans to the EC.

6.1.5. Recast Renewable Energy Directive (Revision 2018/2001 [REDII])

6.1.6. This Directive established a new binding renewable energy target for the EU for 2030 of at least 32%, with a clause for a possible upwards revision by 2023. This target is a continuation of the 20% target for 2020. In order to help EU countries deliver on this target, the directive introduced new measures for various sectors of the economy, particularly on heating and cooling and transport, where progress has been slower (for example, an increased 14% target for the share of renewable fuels in transport by 2030).

6.1.7. Amended Renewable Energy Directive (RED III)

6.1.8. On 9 October 2023, the EU Council adopted the amended Renewable Energy Directive (RED III), part of the "Fit for 55" package. It was published in the Official Journal of the European Union on October 31, and entered into force 20 days after that date. The RED III aims to increase the share of renewable energy in the EU's overall energy consumption to 42.5% by 2030, with a further indicative target of 2.5%. The Directive also introduces specific targets for Member States in the industry, transport, and building (district heating and cooling) sectors. Some provisions in RED III have a transposition date of 1 July 2024, with other provisions having a transposition date of 18 months after entry into force of the Directive.

6.1.9. Energy Roadmap 2050

6.1.10. This 2011 Roadmap deals with the transition of the energy system in ways that would be compatible with the greenhouse gas reductions targets set out in the REDI.

6.1.11. REPowerEU May 2022

6.1.12. In response to the hardships and global energy market disruption caused by Russia's invasion of Ukraine, the European Commission is implementing its REPowerEU Plan to help the EU save energy, produce clean energy and diversify its energy supplies.

6.2. **National**

6.2.1. The National Planning Framework – Project Ireland 2040

6.2.2. The National Planning Framework 2018-2040 (NPF) sets ten strategic outcomes. Strategic Outcome 8 is the Transition to a Low Carbon and Climate resilient society. The NPF states that the future planning and development of our communities at local level will be refocused to tackle Ireland's higher than average carbon-intensity per capita and enable a national transition to a competitive, low carbon, climate resilient and environmentally sustainable economy by 2050 through harnessing our country's prodigious renewable energy potential (pg.12). Chapter 9 'Environmental and Sustainability Goals' addresses renewable energy.

6.2.3. National Policy Objective 55 seeks to "Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050."

6.2.4. National Development Plan 2021-2030

6.2.5. The National Development Plan 2021-2030 (NDP) sets out Governments investment strategy and budget up to 2030. Chapter 13 'Transition to Climate-Neutral and Climate-Resilient Society' identifies renewable energy as a strategic investment priority. Page 123 also includes the following within Strategic Investment Priorities: SOE Investment:

> *"Significant expansion and strengthening of the electricity transmission and distribution grid onshore and offshore, including transmission cables and substations, to link renewable electricity generation to electricity consumers and to accommodate higher levels of renewables on the electricity system*

and reinforcement of the natural gas network by our system operators EirGrid, ESB Networks and Gas Networks Ireland".

6.2.6. The Climate Action and Low Carbon Development (Amendment) Act 2021

6.2.7. The Climate Action and Low Carbon Development (Amendment) Act 2021 (Climate Act, 2021), commits Ireland to a legally binding 51% reduction in overall greenhouse gas emissions by 2030 and to achieving net zero emissions by 2050. Under section 17 'Amendment of section 15 of the Principal Act' the Board as a relevant body shall, in so far as practicable, perform its functions in a manner that is consistent with the most recent approved climate action plan, most recent approved national long term climate action strategy, national adaptation framework, sectoral plans, furtherance of the national climate objective and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

6.2.8. Climate Action Plan 2023

6.2.1. The Climate Action Plan 2023 is prepared in accordance with the Climate Action and Low Carbon Development (Amendment) Act 2021 and follows the introduction of economy-wide carbon budgets and sectoral emissions ceilings. The plan implements the carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve Ireland's emissions by 2030 and reach net zero no later than 2050, as committed to in the Programme for Government. The Plan outlines targets for solar energy production and acknowledges that in order to meet the required targets it will be necessary to build supporting infrastructure.

6.2.2. Government Policy Statement on Security of Electricity Supply, Nov. 2021

6.2.3. This policy statement notes that electricity is vital for the proper functioning of society and the economy. Circular Letter PL12.2021 seeks to ensure security of electricity supply which is at short to medium term risk due to lower than expected availability of some existing power stations, expected growth in electricity and the expected closure of some power stations.

6.2.4. It states that the development of new conventional generation (incl. gas-fired & gasoil/distillate-fired generation) is a national priority and should be permitted and supported, which will ensure security of electricity supply and facilitate the target of up to 80% renewable electricity generation by 2030. The Policy Statement builds on

policies set out in the National Development Plan and the Climate Action Plan 2021, which target the development of c.2GW of flexible gas-fired generation capacity.

6.2.5. National Energy Security Framework, April 2022

6.2.6. Sets out the Government's response to the impacts of the war in Ukraine on the energy system in Ireland. Paragraph 2.3.3 (Electricity) states that "The level of dispatchable electricity generation capacity (i.e capacity that does not rely on wind or solar energy) needs to increase significantly over the coming years due to the reduced reliability of existing plants, anticipated new power stations not being developed as planned, expected strong growth in demand for electricity, and the closure of existing generation."

6.2.7. National Adaption Framework (NAF) 2018

6.2.8. The NAF sets out the national strategy to reduce the vulnerability of the country to the negative effects of climate change and to avail of positive impacts.

6.2.9. Ireland's National Energy and Climate Plan 2021-2030

6.2.10. The National Energy and Climate Plan (NECP) was prepared in accordance with Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action to incorporate all planned policies and measures that were identified up to the end of 2019 and which collectively deliver a 30% reduction by 2030 in non-ETS greenhouse gas emissions (from 2005 levels).

6.3. **Regional**

6.3.1. Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031

6.3.2. The RSES for the Eastern and Midland Region addresses the increased demand for increased indigenous energy resources and security of supply.

6.3.3. The RSES focuses on the need to shift reliance from fossil fuels and natural gas as the region's main energy source to a more diverse range of low and zero-carbon sources.

6.3.4. Objective RPO 10.20: Support and facilitate the development of enhanced electricity and gas supplies, and associated networks, to serve the existing and future needs of the Region and facilitate new transmission infrastructure projects that might be

brought forward in the lifetime of this Strategy. This Includes the delivery of the necessary integration of transmission network requirements to facilitate linkages of renewable energy proposals to the electricity and gas transmission grid in a sustainable and timely manner subject to appropriate environmental assessment and the planning process.

6.4. **Local**

6.5. Fingal County Development Plan 2023-2029

6.5.1. At the time of the original application submission to Fingal County Council the applicable policies were within the Fingal County Development Plan 2017-2023. Subsequent to the request for further information and clarification, the Fingal County Development Plan 2023-2029 was adopted on 22nd February 2023 and came into effect on 5th April 2023.

6.5.2. The following relevant sections and policies/objectives under the Fingal Development Plan 2023-2029 are noted (not an exhaustive list):

6.5.3. The site is zoned HI 'Heavy Industrial' (provide for heavy industry) under Sheet 12 Blanchardstown North within the Fingal Development Plan 2023-2029. Permitted in principle uses under the zoning include industry – high impact, utility installations, waste disposal and recovery facility (high impact), concrete asphalt and sustainable energy installation (ancillary to main use and of an appropriate scale).

6.5.4. The site is situated within the boundary of Framework Plan FP12.B (Dublin Enterprise Zone). This framework plan has not yet been finalised/adopted. Approximately 700m to the south east of the site there is a Seveso Site with a consultation zone of 300m.

6.5.5. Strategic Objectives under the Plan are outlined on page 17 and include the following relevant objectives for this appeal:

1. Transition to an environmentally sustainable carbon neutral economy.

5. Protect, enhance and ensure sustainable use of Fingal's key infrastructure, including water supplies and wastewater treatment facilities, energy supply including renewables, broadband and transportation.

6.5.6. The site is partially within Airport Noise Zones A and B, and within Zone C. The site is also within the Outer Public Safety Zone associated with Dublin Airport.

6.5.7. Objective DAO2 ‘Safeguarding the Current and Future Requirements of Dublin Airport’ concerning the safeguarding of the current and future operational, safety, technical and developmental requirements of Dublin Airport.

6.5.8. Objective DAO11 ‘Requirement for Noise Insultation’ concerning the control of inappropriate development and requiring of noise insultation in accordance with Table 8.1 (of the Plan) within Noise Zone B and Noise Zone C.

6.5.9. DAO14 ‘Aircraft Movements and Development’ concerning the restriction of development which may conflict with aircraft movements on environmental or safety grounds.

6.5.10. DAO18 ‘Safety’ concerning the promotion of appropriate land use patterns in the vicinity of the flight paths serving the Airport.

6.5.11. Chapter 5 of the Plan addresses ‘Climate Action’ the following policies are of relevance. Policy CAP1 ‘National Climate Action Policy’ concerning the implementation of national objectives on climate change including the national Climate Action Plan 2023, National Adaption Framework 2018 and National Energy and Climate Plan for Ireland 2021-2030. Policy CAP2 ‘Mitigation and Adaptation’ relates to addressing climate change through effective mitigation and adaptation.

6.5.12. Chapter 11 of the Plan addresses Infrastructure and Utilities. Policy IUP10 ‘Water Conservation and SuDS’ promotes the inclusion of water conservation and SuDS measures in all developments. Objective IUO9 ‘Surface Water Drainage Systems’ concerns application of the Greater Dublin Strategic Drainage Study. Objective IUO10 ‘SuDS – Nature-Based Solutions’ requiring the incorporation of nature-based solutions. Policy IUP41 concerns the improvement of air quality, Objective IUO58 concerns the monitoring, management and improvement of air quality, and section 14.20.19 ‘Air Quality’ of the Development Management Standards in the Plan sate that ‘All developments during construction and operational stage shall ensure that the air quality of the surrounding area is not affected and details of the air quality controls in place throughout construction shall be identified in any construction management plan submitted.’

6.5.13. Chapter 9 of the Plan relates to Green Infrastructure and Natural Heritage. GINHO13 ‘Wetlands’ seek the creation of new wetlands where appropriate. GINHO15 ‘SuDS’ use of SuDS and nature-based solutions to limit surface water run-off.

6.5.14. Policies GINHP5 ‘Green Infrastructure Network’, GINHP9 ‘Landscape Character’, and GINHP25 ‘Preservation of Landscape Types’ include provision that landscape character should be maintained. Table 9.3 sets out the different types of landscape character in the County. The appeal site is within the low-lying agricultural type of landscape, which has a modest landscape value of low sensitivity.

6.5.15. Chapter 14 of the Plan sets out Development Management Standards and includes the following objectives of relevance to the appeal:

6.5.16. DMSO124 ‘Integrated Green Infrastructure Plan’ requires the submission of an Integrated Green Infrastructure Plan for commercial development planning applications over 2000sqm.

6.5.17. DMSO125 ‘Management of Trees and Hedgerows’, DMSO126 ‘Protection of Trees and Hedgerows during Development’ and DMSO134 ‘Site Summary of Specimen Removal, Retention and Planting’ seek to protect, preserve, and manage trees and hedgerows.

6.5.18. The following Development Management objectives are also of relevance: DMSO153 ‘Green Corridors’; DMSO197 ‘Foul and Surface Water Drainage Systems’; DMSO199 ‘Buffer Zones around Wastewater Treatment Plants’; DMSO202 ‘SuDS’; DMSO203 ‘FCC SuDS Guidance Document’; DMSO205 ‘Surface Water Management Plan’; and DMSO212 ‘OPW Flood Risk Management Guidelines’.

6.6. Fingal County Council Climate Change Action Plan 2019-2024

6.6.1. Outlining 133 actions that are on-going or planned within the Council, covering five key action areas – Energy and Buildings, Transport, Flood Resilience, Nature-Based Solutions and Resource Management.

6.7. **Natural Heritage Designations**

6.7.1. The site of the proposed development does not overlap with any natural heritage designations. The following Special Protection Areas (SPA) and Special Conservation Areas (SAC) are most proximate to the site with approximate distance indicated in brackets: -

- Malahide Estuary SAC 000205 (9.48km);

- South Dublin Bay and River Tolka Estuary SPA 004024 (9.51km);
- Malahide Estuary SPA 004025 (9.57km);
- North Dublin Bay SAC 000206 (11.83km);
- North Bull Island SPA 004006 (11.83km);
- Rye Water Valley / Carton SAC 001398 (11.84km);
- South Dublin Bay SAC 000210 (12.19km);
- Rogerstown Estuary SAC 000208 (12.32km);
- Baldoyle Bay SAC 000199 (12.42km);
- Baldoyle Bay SPA 004016 (12.42km); and
- Rogerstown Estuary SPA 004015 (12.98km).

6.7.2. A Screening for Appropriate Assessment of the proposed development has been carried out in Section 9 of this report below in relation to potential impacts on designated European sites.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. Three third party appeals of the Planning Authority's decision to grant permission have been submitted. The main points of each of the appeals is summarised below:

7.1.2. Damien and Sorcha Kelly

- Inadequate consultation by the developer of local residents.
- Impact upon property values in the area, with reference to previous reason for refusal related to application PF/0275/22 on the site.
- With regards visual impact, a significant effect is concluded with respect to Kilmonan Lodge, with no consideration or consultation evident.
- Combined effect of 2 power stations on the health of local population. With prevailing west to south west winds, blowing toxins directly across the M2 Motorway [sic] towards 6 properties.

- In Doc 10 EIA page 84, air pollution levels are described as not having a 'significant' impact on human health. This acknowledges that there will be some impact on human health and with 3 young children within 165m of the plant, this should be assessed for its effect on children. (Reference to a Harvard Study conducted in 2021 considering negative impacts of burning natural gas and biomass. Links to early mortality and respiratory illness including childhood asthma).
- Air Quality Assessment based on a 1km distance from the plant, with a worst case of 42% at the site boundary, however local residents are closer.
- Light pollution – plant for 44 street lights up to 10m in height is excessive.
- The public transport planning aspect of the project is inadequate and inaccurate, with access from both directions to the site posing an extreme threat to pedestrians attempting to use public transport. Cycle access is impractical. The Kilshane Cross upgrade is not likely to be undertaken for a considerable amount of time.
- The haulage route is ambitious and unrealistic as the Kilshane Road route is more direct. The redevelopment of the Kilshane Road will be a safer road design, but will lead to increased traffic. Increase use of heavy vehicles on the bridge will reduce its lifespan and likely cause structural damage. Location of the construction entrance to the site is opposite home residence and dangerous, with no timeframe provided.
- Concerning regarding noise during construction and operation. As DAA Noise Zones are under review, confirmation that noise will remain within current values will be negated by the time construction may commence. Developer states noise will be negative and long-term.
- Developer has no experience of power plant development / operation.
- Use of current entrance poses a high risk of traffic accident.
- Risk of damage to N2 Motorway bridge on Kilshane Road.
- Risks identified that would impact nearby residents with respect to pipeline flash fire (would also impact airport), turbine rupture and public safety zone.

- Alternative site layout 1 is the most viable location placing the site further from adjacent residences and the airport. Considered that financial reasons, and the ability to provide the maximum number of future industrial premises, is driving the location choice. The location of future industrial units will also conflict with power lines etc.
- Moving the site closer to the N2 moves its closer to residents. Lower local population levels does not change the suitability of the location.

7.1.3. Sean Loughran (on behalf of Fingal One Future)

- Locking Ireland into gas for at least 25 years. Ireland's plans to consume gas in new power plants is a de facto commitment to increase natural gas production, albeit via other countries, in conflict with Irelands commitments as part of the 'Beyond Oil and Gas Alliance.' Contrary to legal obligations to reduce emissions under the Climate Action Plan.
- The proposed Kilshane Gas Station is incompatible with the Paris Agreement and will compromise the health and welfare of Fingal's citizens. Concern that the Kilshane Gas Station is being built to provide electricity for data centres rather than as back up supply.
- The proposal is contrary to the Development Plan and Fingal's Climate Action Plan 2019-2024. Specifically Objective PM30 (Development Plan 2017-2023).
- High cost of electricity, more local sustainable energy generation would increase money to the Irish economy, high carbon emissions and reliance on imported fuels.
- A full assessment of the potential contribution of GHG emissions from the proposed Kilshane Gas Station within the context of the first carbon budget of the Climate Action Plan is lacking.
- Between four and seven new natural gas plants are proposed for the country – the cumulative impact of these plant should be considered. In addition, the proximity of the proposal to Huntstown power station leading to a concentration of emissions in a well-populated area.

- Adverse health effects to neighbouring communities. Reference to the EPA and American Lung Association, that emissions contribute to health conditions, including heart disease, asthma, bronchitis and other lung diseases. Long-term exposure is especially contributory to adverse health effects. With the elderly, very young and those in poor health particularly vulnerable. The proposed station is within 5km of Tyrrelstown and Mulhuddart, as well as parts of Blanchardstown, Finglas and Ballymun. There is a large proportion of children and minority populations in these areas that are disproportionately impacted by emissions.
- Nowhere in the EIAR does the applicant account for methane emissions. Methane leaks from every stage from gas production, procession, transmission and storage.
- Lack of transparency around the details of the Kilshane Energy Ltd. No track record in the sector.
- The EPA say that Ireland is projected to fall short of climate targets.
- The IPCC Report says that human-caused climate change is already affecting many weather and climate extremes in every region across the globe leading to loss and damage to nature and people.

7.1.4. <u>William McFarland</u>

- The proposal will result in adverse impact on green infrastructure, biodiversity and ecology.
- Adverse effect from noise and emissions, setting an undesirable precedent.
- Extensive emissions, with no monitoring regime to demonstrate acceptable levels.
- Night-time operation not considered in the EIA or Planning Authority assessment.
- As it incorporates new technologies, the precautionary principle should be applied with respect to impact on local residents.
- Excessive visual impact, specifically in relation to cumulative impact.

- Full extent of project works no detailed in the CEMP, as evident from PA condition requiring a CEMP to be submitted. Again the precautionary principle should be applied as insufficient data and calls into question the PA assessment.
- Not consistent with the objectives of the Governments Climate Action Plan.

7.2. Applicant Response

7.2.1. Two responses from the applicant to the third-party grounds of appeal have been submitted, the first with respect to the appeal by William McFarland and the second with respect to the appeals by Mr and Mrs Damian & Sorcha Kelly and Fingal One Future. Key points are summarised below.

- With respect to the appeals submitted by Mr and Mrs Damian & Sorcha Kelly, and Fingal One Future the response notes the following points:
  - Generally, decisions on matters of health relate to matters that are determined by EPA's Industrial Emissions Directive Licence. Generally, Planning Authorities are precluded from making determinations on environmental grounds for IED licenced sites. During the consultation process the EPA has issued no directions to the PA. In the consultation process the HSA stated that they do not advise against the granting of planning permission. A summary of the HSE advise provided is also outlined. FCC have received no advice that the proposed development should not be granted.
  - With reference to item b of Damian & Sorcha Kelly's Appeal – The dispersion model, which assessed the impact of emissions to air from the facility at existing sensitive receptors within 1km of the site, including the 6 properties across the M2 motorway [sic]. The model takes into account five years of hourly meteorological data, including wind speed and wind direction. The impact of all wind speeds and wind directions, measured on an hourly basis over a five year period on dispersion of emissions to air from the facility has therefore been assessed. No exceedances of the relevant air quality standards, established for the protection of human health, at sensitive receptors within 1km of the site were predicted.

- With reference to item d of Damian & Sorcha Kelly's Appeal – The dispersion model included any sensitive air quality receptors within 1km of the site boundary, including local residences. The site boundary itself was also modelled, as a worst-case receptor. The dispersion model results presented in Chapter 9 of the EIAR are for this site boundary receptor. No exceedances of the relevant air quality standards, established for the protection of human health, were predicted at the boundary. As the sensitive air quality receptors are outside this boundary, emissions to air from the facility are therefore also predicted to be in compliance with the relevant air quality standards at these receptors.
- Section 2.3 of the Traffic and Transport Assessment outlines walking routes from the site to bus stops. Note that sections of the road along these routes are without pedestrian facilities. FCC note in their reports that the western arm of the Kilshane Cross junction has capacity constraints but that it is not within the scope of this development to upgrade it. FCC note that any future development of the remainder of the Masterplan lands would need to assess the junction and possible upgrades to the western arm as part of that future planning submission. While FCC is generally talking to vehicular capacity, the same can be said of pedestrian infrastructure. As the development will have 1-2 people operating the site on a daily basis (increasing to 50 during outage – only once every few years), the subject application would not warrant providing upgrade works to the Kilshane junction.
- During construction, up to 250 personnel will be on site during busy times, section 2.5 of the Preliminary Constructure Traffic Management Plan acknowledges the lack of access from public transport and proposes car parking on the site for workers.
- Note requirement for a final CEMP. If needed, could propose a shuttle systems from the site to the bus stops or propose a temporary footpath along the 75m of the western arm along Kilshane Cross Junction that lacks footpaths.

- Development includes improvement of pedestrian and cycle infrastructure along c.0.5km of the Kilshane Road.
- A future application would have to assess connectivity with respect to the Masterplan lands.
- Note FCC Transportation report with respect to the Kilshane Cross Junction upgrades.
- With respect to the proposed haulage route, FCC have accepted that the proposed additional construction traffic is acceptable as it is temporary and mitigation measures are outlined in the CEMP.

- With respect to the appeal by William McFarland, the following points are noted:
  - In relation to green infrastructure, the appellant has had no regard to the response of the applicant to the additional information request and the PA assessment of this.
  - The appellant refers to emissions not being monitored. Reference to the applicant response to Item no.3 of Clarification of Additional Information Request. Which the PA concluded to be generally acceptable. The appellant has not included a supporting report by a suitably qualified person to bring evidence to this reason for the appeal.
  - Night-time running is addressed by the PA under noise and vibration and subject to mitigation measures the PA was satisfied.
  - Regarding new technologies, this is vague, as it does not outline the technologies referred to, and should be disregarding by the Board.
  - The appeal ground with respect to visual impact is vague. Reference to the PA assessment which concluded that landscape impacts were significant but neutral in nature given the zoning of the site.
  - With respect to the CEMP, the PA were satisfied with additional clarification / information submitted and that this could be addressed by condition.

- With respect to climate action, this ground of appeal is vague. The PA assessed this. Peaking plants such as the one proposed are essential to energy security and part of the transition from fossil fuels to renewable sources.
- The appeal document could be considered perfunctory in nature as it is without evidenced foundation, lacking facts regarding the decision to grant by the PA and offers no reasonable evidence to support the grounds for appeal. It is not clear what the desired outcome is so the motivation for the Appeal is not clear and therefore could be considered vexatious.

7.3. Planning Authority Response

7.3.1. Two responses were received from the Planning Authority to the third-party appeals, received 21st August 2023 and 28th July 2023 outlining the following key points:

- The issues raised were considered in the detailed assessment of the planning application.
- Reference is made in one of the appeals to the lack of definition of 'back-up energy supply' in condition no.2. it is submitted that the wording of the condition is sufficient to address the issue, namely the future usage of the plant which is to be only operational on an intermittent basis in times of critical energy supply as described in the application documentation and not on a continuous basis.
- The Board is respectfully requested to uphold the decision of the Planning Authority.
- In the event that the PA decision is upheld, the PA requests that the Bord applies the Council's Section 48 Development Contribution Scheme as appropriate.

7.4. Observations

7.4.1. Three observations were received with respect to the third-party appeals submitted and these are summarised below.

7.4.2. <u>Sustainability 2050</u>

- The PA notified Sustainability 2050 of the grant by email as opposed to providing notification by registered post. This risks a notice being rejected as spam. Participating in an online submission should not mean forgoing being notified by post.
- The Planning Application has been presented such that its environmental impact would be assessed on it operating between 0.25% and 1% of the hours in a year such as its climate impact would be discounted were it to run for a larger percentage of the year. The PA has failed to condition its hours of operation to the operating hours described by the applicant.
- The observation made to the PA requested details of the proposed plant to be used. The PA failed to consider the matter. Type of generation plant is very important as it provides information on the primary energy demand in relation to power output, self consumption power, waste heat parameters, temperature of flue gasses, energy efficiency measures etc. Reference to Siemens technology with regard to use of waste heat recovery.
- Reference to Holohan v ABP C-461/17 and point 68 of the judgement which requires that observations on alternatives be considered. The application fails to describe different generation plant technologies that would inform on efficiency. Distributed generation should have been considered. The applicant concedes that many decisions were made before the planning application was made before the public was consulted, EU law requires that consultation is meaningful and can influence the outcome. The EU Directives on Energy Efficiency and Revised EIA Directive have direct effect. The War in Europe has brough a new imperative to reduce dependency on gas. No compelling reason to locate a generation plant on the gas grid if operating for just 0.25% to 1% a year.
- The EIA Directive requires that an assessment is made of the project in accordance with its recitals, reference to recital criteria 6, 7, 13, 17, 23 of EIA Directive 2014/52/EU. The applicant has failed to describe carbon emissions from building and operating the project as required by the EIA Directive. The EIAR fails to mention the largest wate stream of all waste heat. Project was conceived prior to the gas crisis in Europe arising from the war. Drawings lack

detail on proposed substructures, reference to Sweetman v ABP [2021] IEHC 390 and Sweetman v ABP [2021] IEHC 662, and judgment in Balscadden Road SAA Residents Association Ltd v ABP [2020] IEHC 586. Extract of drawings included.

- Query where the details for the bunding of the Fuel Oil Tank are.

7.4.3. An Taisce

- To comply with s.15(1) of the Climate Action and Low Carbon Development (Amendment) Act 2021, ABP needs to demonstrate that projects align with the Climate Act's objectives around decarbonisation, the net zero requirement and the sectoral limits. Highlight that the electricity sector, relevant to the subject appeal, has a very stringent limit. Unclear how the proposal is consistent with increasing carbon budgets.
- ABP is bound to objectives of the budgets and sectoral ceilings. Permissions should be refused once sectoral ceilings have been reached.
- The application refers to the 2021 Climate Action Plan, which is now out of date. The 2023 Climate Action Plan represents significantly increased ambitions.
- EPA data indicates that Ireland will not meet its targets for the first or second carbon budgets without urgent and deep emission cuts. The subsequent increased constraints under the upcoming Climate Action Plan 2024 should be taken into account.
- ABP is obliged to demonstrate how the proposal is compatible with the overall objectives (obligations) of emission reductions, and the subject proposal is incompatible with these.

7.4.4. DAA

- Request that the Board take into account the DAA submission to the PA on the application, with specific regard to the potential impact on aircraft take of performance noted in the 'Obstacles Limitation Surfaces' section of the observation.

- In addition to the conditions attached to the grant of permission for application FW22A/0204, DAA requests that a further condition is attached to any subsequent grant of permission, requiring the developer to agree that no structure on site will exceed 105m above Ordnance Survey Datum.

7.5. EPA (IE Licence) consultations

7.5.1. The EPA response did not raise any new issues of substance over and above those previously set out in its original submission as a Prescribed Body on the application which is summarised in section 4.3 above.

8.0 Assessment

8.1.1. I have examined the file and planning history, considered national and local planning policies and guidance, inspected the site, and assessed the proposed development; including review of the planning authority decision, and responses from prescribed bodies and observers.

8.1.2. It should be noted that following my assessment of the proposed development and planning policies under the below headings, I undertake an Environmental Impact Assessment (EIA) in section 10 and a Screening for Appropriate Assessment (AA) in section 9 of this report. Where matters addressed under my assessment are also of relevance to my EIA or Screening for AA I have cross referenced this below. There are also matters raised in the third-party appeals and observations submitted that concern EIA or AA matters specifically and as such are addressed in those sections of my report, including in relation to concerns regarding human health, amenity impact (noise/emissions), visual amenity and biodiversity effects. The remaining matters raised in the third-party appeals and submissions can be dealt with under the following headings:

- Principle of Development;
- Transport; and
- Other Matters.

8.2. Principle of Development

8.2.1. Demolition

8.2.2. The proposal includes the demolition of a detached residential dwelling and associated farm buildings to the north west corner of the site.

8.2.3. I note Objective SPQHO44 – Retention, Retrofitting and Retention of Existing Dwellings, encourages the retention of structurally sound habitable dwellings in good condition, which while not a protected structure or in an ACA, have their own merit and/or contribute beneficially to the area in terms of visual amenity. In addition, Policy CAP8 and Objective DMSO256 – Retrofitting and Reuse of Existing Buildings, support the reuse of existing buildings rather than their demolition where possible.

8.2.4. While there is an existing dwelling on this site, this is associated with a farming use, on a site zoned for heavy industry. As such, residential use is not compatible with the zoning of the site. The existing dwelling is also not of architectural or historic merit and does not contribute positively to the visual character of the area as it is set-back from the street and there is a high boundary treatment. As such, I am satisfied that demolition of the structures on the site is acceptable in principle, where replacement development corresponds with the land use zoning of the site and other relevant planning policy considerations as set out below.

8.2.5. Land Use Zoning

8.2.6. The site is zoned 'HI – Heavy Industry' with an associated vision statement as follows:

"Facilitate opportunities for industrial uses, activities and processes which may give rise to land use conflict if located within other zonings. Such uses, activities and processes would be likely to produce adverse impacts, for example by way of noise, dust or visual impacts. HI areas provide suitable and accessible locations specifically for heavy industry and shall be reserved solely for such uses."

8.2.7. The Planning Authority assert that under the zoning, a power plant is not listed either as 'permitted in principle' or 'not permitted'. The plan states that such uses will be assessed in terms of their contribution towards the achievement of the zoning objective and vision and their compliance and consistency with the policies and objectives of the Development Plan. The Fingal County Council Planner's Report states in relation to the zoning, that it is clear from the vision statement and types of

uses permitted in principle in the HI lands, that the zoning caters for types of land use that may give rise to amenity impact, and that the proposed development was concluded to be acceptable in terms of land use zoning.

8.2.8. I agree with the Planning Authority that the specific use proposed, being a gas turbine power generation station, is not listed as a use class related to the zoning objective on page 484 of the Development Plan. However, I note that 'Industry – High Impact' and 'Utility Installations' are 'permitted in principle' uses under the land use zoning and would reflect activities of a similar nature to that of the current proposed development. With reference to the zoning objective and vision for the site, and in consideration of the proposed use, I am satisfied that the proposed gas power station use of the site is compatible with the land use zoning.

8.2.9. Compatibility with Planning Policy approach to Energy Production

8.2.10. I note that the third party appeals query the compatibility of the proposed development with climate legislation, and Government, as well as local, planning policy and guidance. In particular, I note that Sean Loughran (on behalf of Fingal One Future) outlines inconsistency with Ireland's legal commitments, climate targets and specific planning policies relating to climate action, William McFarland also states that the proposal is inconsistent with the Climate Action Plan.

8.2.11. The relevant European, National, Regional and Local; legislation, guidance, and planning policies / objectives, are set out in section 6 above. The intention described throughout these regulations and planning policies is to address climate change through a positive framework of actions. The Climate Action Plan 2023 commits Ireland to halving emissions by 2030 and to reaching net zero no later than 2050. While the focus in the Climate Action Plan (as well as overarching legislation) is for the expansion of sustainable renewable energy forms, the Climate Action Plan sets out key measures to ensure security of electricity supply and to reduce emissions, intended to maximise the output of renewables through increased flexibility. This includes that CRU and EirGrid will ensure an adequate level of conventional dispatchable generation capacity and deliver at least 2 GW of new flexible gas-fired generation, as well as that the gas network is expanded to accommodate 2 GW of new gas-fired generation (section 12.3.2). The Policy Statement on the Security of Electricity Supply 2021 seeks the development of new conventional generation (incl.

gas-fired & gasoil/distillate-fired generation) as a national priority. Which should be permitted and supported, to ensure security of electricity supply and facilitate the target of up to 80% renewable electricity generation by 2030.

8.2.12. The Fingal County Development Plan 2023-2029 contains policies and objectives related to the control and improvement of air quality in the County. The Development Management Standards at section 14.20.19 state that 'All developments during construction and operational stage shall ensure that the air quality of the surrounding area is not affected…' and page 195 of the plan in relation to Climate Action identifies the following 'action issue': 'Improving air quality and helping to prevent people being exposed to unacceptable levels of pollution in our urban and rural areas through integrated land-use and spatial planning.' Policies and Objectives within the plan also focus on the implementation of national objectives with respect to climate change (CAP1) and ensuring that the need for sustainable environmental infrastructure is addressed (CAP4). Policies focus support on the production of energy from renewable sources (CAP13). The Development Plan also contains a variety of policies for the protection of residential and visual amenity, human health and air quality, along with traffic management, and compliance with these policies is addressed as part of the EIA set out in section 10 of this report below.

8.2.13. The proposed development for a gas turbine power station is designed as a 'Flexible Peaking Plant' intended to operate at times of high electricity demand or during electricity supply shortages, ensuring security of electricity supply when renewable power generation capacity is limited. The proposed 'Flexible Peaking Plant' is intended to complement expansion of renewable energy supplies, by overcoming the challenges of capacity shortfalls in energy generation that may be weather dependant, in the context of an increasingly unreliable and aging conventional electricity generation supply. The proposed gas turbine power generation station would act as 'backup generation' for operating times of high electricity demand and low renewable electricity supply, in order to avoid power outages and ensuring security of electricity supply. It is stated that the facility will operate for between 22 hours and 95 hours in a year with an annual average of 46 hours. It is stated that dispatch instructions will issue from EirGrid, the Transmission System Operator who will decide the actual operating hours of the unit depending on system needs.

8.2.14. I note concerns raised in the third-party appeals submitted relating to the nature of the development proposal and a reliance upon gas instead of investment in more sustainable forms of energy production. However, there is a clear national planning policy framework which seeks to support the development of new conventional energy generation (including gas fired generation) to support security of electricity supply, linking this to facilitating increased renewable electricity generation. The Climate Action Plan is specific that it supports at least 2 GW of new flexible gas-fired generation and expanding the gas network to accommodate 2 GW of new gas-fired generation (section 12.3.2).

8.2.15. While I am cognisant of the policies and objectives of the Development Plan highlighted by the appellants which relate to sustainable energy projection, and I agree that the focus is upon supporting the expansion of renewable energy forms, this cannot be viewed in isolation to the wider framework of requiring security of electricity supply, which is also highlighted in the Climate Action Plan 2023 and in turn supported through policies of the Development Plan (CAP1).

8.2.16. On balance, and with regard to the conclusions of my EIA at section 10 below, I am satisfied that the proposal is a strategic, short term, transitionary, and will not generate significant adverse effect upon the climate. The proposed development forms a back-up form of energy supply intended to complement renewable energy supply and does not conflict with policies or objectives under the Development Plan, with no significant adverse effects arising with respect to air quality outside of the subject site. Overall, the principle of the proposed development is compatible with the relevant European, National, Regional and Local; legislation, guidance, and planning policies / objectives.

8.3. **Transport**

8.3.1. An assessment of potential effects upon the local road network with respect to traffic impacts is set out as part of my EIA in section 10 below. This section of my report considers other transportation related concerns raised in the third party appeals.

8.3.2. <u>Accessibility</u>

8.3.3. I note that Damien and Sorcha Kelly's appeal grounds raise matters in relation to the safe accessibility of the site from public transport or by bicycle, stating that such access would be hazardous.

8.3.4. The closest bus stops for the subject site are situated on the R135 to the east of the site. While only c.10mins walk from the site, the walking route is not pedestrianised, with sections lacking footpath infrastructure. There are also no existing cycle lanes on Kilshane Road and the carriageway width is confined, given little space for road cyclists. The submitted EIAR outlines that is assumed workers will drive in private vehicles to the site due to the site location and lack of access from public transport, pedestrian and cycling infrastructure.

8.3.5. The proposed development includes improvement works to 493.34m of Kilshane Road (L3120) with realignment of a portion (263m) of the road including the provision of new footpaths and off-road cycle ways (refer to drawing no.P110 'Road Surfacing Layout). The new alignment runs through the subject site, creating a new access to residential units to the north west of the site, roundabout and improved carriageway with pedestrian footpaths connecting to existing provision at the Kilshane Road bridge over the N2, as well as cycle lanes for those portions of the road within the subject site area. These works are intended to be carried out in advance of the proposed power plant; however, these works in themselves would not improve the overall accessibility of the site to public transport by foot or bike as existing infrastructure does not extend the entire length to bus stops on the R135.

8.3.6. The Planning Authority notes the capacity constraints of the Kilshane Cross junction and that it is not within the scope of this development to upgrade it at this time. Both the applicant and the Planning Authority acknowledge that any future development to the wider site lands (for industrial units) would necessitate wider upgrade works of the Kilshane Road and Kilshane Cross junction.

8.3.7. It is acknowledged in the EIAR that access to the site during both construction and operation is likely to be by private car due to the site characteristics. Mitigation is described by the applicant (as addressed in the traffic and transportation section of my EIA in section 10 below) that will facilitate access to the site via public transport for construction workers, to encourage a reduction in the number of private vehicles associated with the site. During the operational phase, the applicant has confirmed that due to the back-up nature of the power station, only 1-2 people would be operating on the site on a daily basis (increasing to 50 during outage – only once every few years). As such, the number of private vehicles that would be attracted to

the site would be low, despite the poor accessibility to public transport via foot or bike.

8.3.8. From my visit to the site, it was apparent that conditions are currently hazardous for pedestrians and cyclists. However, the proposed development incorporates a realignment of the Kilshane Road with enhanced pedestrian/cycle infrastructure provision. The proposed upgrades will undoubtedly improve the safety of this section of the road as it aligns with the subject site. While I note that further upgrade works are required to Kilshane Road / Kilshane Cross junction to improve accessibility for pedestrians and cyclists in future, that existing condition is not exacerbated by the proposed development. The operation of the proposed development would not attract significant movements to/from the site and therefore would not generate a hazard on the surrounding road network. During construction phase, mitigation measures are outlined to manage worker movements to/from the site, and I am satisfied that with this mitigation in place, the proposed development would be acceptable in terms of accessibility.

8.3.9. Haulage route

8.3.10. Concerns are raised in the appeal grounds submitted by Damien and Sorcha Kelly concerning the haulage route for the site, as well as potential damage to roads/bridge due to increased use by HGVs and the proximity of the construction access to a residential dwelling.

8.3.11. In terms of site access, this will be provided via the existing entrance for the duration of site clearance, with construction traffic then proposed to access the site from the west via a priority-controlled junction. The Planning Authority concluded that there would be temporary negative effect upon the road network during construction which would be minimised through the CEMP.

8.3.12. The scale of activity and occupation attracted to urban areas invariably means that construction works result in the temporary disturbance to nearby residential uses. Such disturbance is unavoidable but can be controlled and mitigated through implementation of a CEMP. Whilst the use of the existing entrance for site clearance works opposite the vehicular access to a residential dwelling will generate disturbance, this will be for a temporary, short-term period, and only during the initial site clearance phase of the works. I am also satisfied that application of a CEMP with

associated Construction Traffic Management Plan (CTMP) will appropriately manage HGV movements for the site. There is no evidence to suggest that surrounding road infrastructure is unsafe for use by HGVs, and indeed the existing character of the area for heavy industrial use attracts HGV movements through the area already.

8.4. **Other Matters**

8.4.1. Lack of Consultation and Developer Credentials

8.4.2. The extent to which the applicant carried out any informal community consultations with the local community is not a matter for the Board. The applicant has complied with statutory consultation requirements set out under the Planning and Development Act and the third parties, as is their statutory right, submitted observations in respect of the proposal which have been duly taken into consideration by the Inspector and the Board in determining the application. With regard to the experience of the developer in undertaking power station developments, this is also not a matter for the Board, and I note that the final contractor for any development of the site and operator of the use should it be permitted, is not required to be assessed as part of the planning application stage.

8.4.3. Property Values

8.4.4. I am not aware of any evidence to support the assertion that the proposed development would negatively impact property values in the area, and nothing has been submitted to demonstrate that this would be the case. While I note the previous proposal on the site and related reason for refusal, that related to a specific assessment of the individual parameters of the development as presented at that time, and each planning application must be assessed on its own merits.

8.4.5. Lighting

8.4.6. I note concerns raised in Damien and Sorcha Kelly's appeal grounds with respect to lighting. There is mitigation set out with respect to lighting during construction phase in the submitted EIAR. During the operational phase, the development includes provision of security lighting columns to serve the development (along with installation of CCTV) for security purposes. Condition no.17 of the Local Planning Authority's decision requires all lighting to be cowled and of a type that ensures deflection of lighting downwards.

8.4.7. The proposed realignment of Kilshane Road, pushes the boundary of the site edge further away from the closest adjacent residential dwellings to the north. Similarly, to the east, residential receptors are located sufficiently distant and beyond the N2. The secure line for the proposed gas power station is close to the proposed structures themselves and to the eastern side of the site. The inclusion of lighting will therefore be situated a significant distance from the closest sensitive receptors and, with application of condition no.17, be designed to prevent overspill. As such, I am satisfied that the lighting as part of the operation of the proposed development will not be excess in terms of residential amenity impact.

8.4.8. Emissions to Air

8.4.9. I note third party appeal grounds relating to methane emissions. I have set out an assessment of likely effects arising from operation of the proposed development upon air quality as part of my EIA in section 10 below. In addition, it should be noted that emissions arising from the operation of the facility would be managed and monitored by the EPA Industrial Emissions Licence. As set out in the 'principle of development' section 8.2 of this report above, while it is acknowledged that the proposed development will increase emissions, there is no significant adverse impact upon the surrounding area as a result, and this should be balanced against wider climate action objectives relating to security of energy supplies.

8.4.10. Overall, it has been demonstrated that the proposed developments impact upon air quality is within acceptable parameters (refer to section 10 below) and the operation of the development would require adherence to IE Licence limit values.

9.0 Screening for Appropriate Assessment

9.1. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening submitted with the application, as revised in January 2023 and in light of the subsequent clarification of information submitted.

9.2. The Project and Its Characteristics

9.3. See the detailed description of the proposed development in section 2.0 above.

9.4. The European Sites Likely to be Affected (Stage I Screening)

9.5. The subject site is largely comprised of arable agricultural lands and agricultural grasslands, with boundaries made up of hedgerows and treelines. Other habitats on the site include spoiled and bare ground, pockets of buildings and artificial surfaces. The site is not located within or adjacent to any European site.

9.6. I have had regard to the submitted Appropriate Assessment Screening Report, which identifies that while the site is not located directly within any European site, there are European sites sufficiently proximate or linked to the site that require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

- Malahide Estuary SAC 000205 (9.48km);
- South Dublin Bay and River Tolka Estuary SPA 004024 (9.51km);
- Malahide Estuary SPA 004025 (9.57km);
- North Dublin Bay SAC 000206 (11.83km);
- North Bull Island SPA 004006 (11.83km);
- Rye Water Valley / Carton SAC 001398 (11.84km);
- South Dublin Bay SAC 000210 (12.19km);
- Rogerstown Estuary SAC 000208 (12.32km);
- Baldoyle Bay SAC 000199 (12.42km);
- Baldoyle Bay SPA 004016 (12.42km); and
- Rogerstown Estuary SPA 004015 (12.98km).

9.7. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site, as well as by the information on file, including observations on the application and the Appellant's grounds, and I have also visited the site.

9.8. The qualifying interests of all European sites considered are listed below:

Table 9.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
Malahide Estuary SAC (000205) To maintain and restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]
South Dublin Bay and River Tolka Estuary SPA (004024) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Wetland and Waterbirds [A999]
Malahide Estuary SPA (004025)	Great Crested Grebe (Podiceps cristatus) [A005] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048]

To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Pintail (Anas acuta) [A054] Goldeneye (Bucephala clangula) [A067] Red-breasted Merganser (Mergus serrator) [A069] Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Wetland and Waterbirds [A999]
North Dublin Bay SAC (000206) To maintain and restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395]
North Bull Island SPA (004006) To maintain the favourable conservation condition of	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054]

qualifying interests/species of conservation interest for which the SPA has been selected.	Shoveler (Anas clypeata) [A056] Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Turnstone (Arenaria interpres) [A169] Black-headed Gull (Chroicocephalus ridibundus) [A179] Wetland and Waterbirds [A999]
Rye Water Valley / Carton SAC (001398) To maintain and restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Petrifying springs with tufa formation (Cratoneurion) [7220] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]
South Dublin Bay SAC (000210) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]

Rogerstown Estuary SAC (000208) To maintain and restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]
Baldoyle Bay SAC (000199) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410]
Baldoyle Bay SPA (004016) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Ringed Plover (Charadrius hiaticula) [A137] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Bar-tailed Godwit (Limosa lapponica) [A157] Wetland and Waterbirds [A999]
Rogerstown Estuary SPA (004015)	Greylag Goose (Anser anser) [A043] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048]

To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Shoveler (Anas clypeata) [A056] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Redshank (Tringa totanus) [A162] Wetland and Waterbirds [A999]

9.9. The above Table 9.1 reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

9.10. Potential Effects on Designated Sites

9.11. The submitted report identifies any pathways or links from the subject site to European sites considered in this screening assessment, and I summarise this below.

9.12. The subject site does not overlap directly with any European site and therefore there is no risk of direct habitat loss or fragmentation to occur as a result of the development. There are also no Annex I habitats or supporting habitats for Annex II species on the site.

9.13. The site is comprised mainly of agricultural land that is intensively managed for the production of crops, which are left as rotated open soil over the winter period and are not suitable grazing habitat for SCI species. The areas of agricultural grassland are minor in size and overgrown, and therefore also unsuitable for ex-situ foraging. In addition, the context of the site is characterised by significant visual and noise disturbance as a result of the Huntstown Quarry to the south, the N2 dual carriageway to the east and continual low flying aircraft over the site. The submitted Screening report also notes the abundant availability of suitable foraging habitat for ex-situ species in surrounding areas. As a result, it can be concluded that the subject site does not support populations of any fauna species linked to the qualifying interest (QI) populations of European sites.

9.14. The submitted Screening Report outlines that there is a drainage ditch running along the eastern boundary of the site, that has been dry for a long time. This drain connects to the Huntstown Stream to the south of the site, which joins the Ward River and then reaches Malahide Estuary (c.9.48km from the subject site). It is identified in the report, that during times of heavy rainfall, it is possible for surface water to drain into this ditch and outflow into the Huntstown Stream. This represents a potential indirect hydrological connection between the subject site and European sites at Malahide Estuary. However, given the infrequency of rainfall events that have the potential to create this indirect hydrological link, alongside the significant distance between the subject site and European sites at Malahide Estuary, over which distance dispersals would be diluted, there is no potential for likely effects identified that would require specific mitigation. The proposed development by design will incorporate best practice SUDS and connections to networks and this is considered further below.

9.15. Given the lack of direct hydrological connections or significant indirect connections and the intervening distance between the subject site and European sites listed above, (including sites at Malahide Estuary), alongside inclusion of best practice surface water management measures, the possibility of any effects arising upon European sites as a result of hydrological links during either the construction or operational phases of the proposed development on the appeal site can be excluded.

9.16. The proposed development will be connected to the existing surface water network and incorporates best practice sustainable urban drainage systems. This would also prevent any significant effect upon any European site from run-off sediment or hydrocarbons in surface water. These measures are not designed or intended specifically to mitigate any putative potential effect on European sites. They constitute the standard approach for construction works in an urban area and are incorporated into development design as part of necessary surface water management systems through SUDs. Their implementation would be necessary for any substantial development on any site in order to protect the surrounding environs regardless of proximity or connections to any European site or any intention to protect a European site. It would be expected that any competent developer would deploy them for works on a site whether or not they were explicitly required by the terms or conditions of a planning permission.

9.17. With respect to groundwater, the Screening report highlights that while the Rye Water Valley/Carton SAC is sensitive to groundwater interactions, the subject site is situated circa 11.84km away and is located in a different water framework directive catchment. Therefore there is no pathway for potential significant effects via groundwater connections.

9.18. For all of the European sites listed in table 9.1 above, sensitivity to emissions to the air and disturbance from noise must be considered. There is the potential for emissions to the air during both the construction and operational phases of the proposed development. During construction dust and noise will result, however this will be for a short-term duration and given the intervening distance between the subject site and surrounding European sites, as well as the context of the site characterised by industrial and strategic transportation infrastructure, no likely potential effects upon European sites are identified. The submitted Screening report also cites analysis that disturbance effects to SCI species can be ruled out at distances beyond 2km and there are no European sites within a 2km radius of the subject site. During operation, the Screening report outlines that emissions of NO_x within 20km of the proposed development and existing emission points on ambient ground level concentrations within the range of European sites were assessed using AERMOD, with details described in Chapter 9 of the submitted EIAR for the application. After a 20km distance, emissions form the facility are imperceptible. The result of this assessment demonstrates that impact associated with emissions from the operation of the proposed development would be negative, but imperceptible upon European sites. As such, emissions resulting from operation of the proposed development do not have the potential to significantly affect the QIs or SCIs of any European sites.

9.19. Therefore, there are no connections, linkages, or pathways from the subject site that have the potential to effect European sites, their habitats or species associated with them.

9.20. <u>In combination / cumulative effects</u>

9.21. The submitted report examines the potential for in-combination effects in section 3.5 of the submitted screening report. The report identifies developments permitted in the last 5 years in the vicinity of the appeal site. There are no projects or plans identified

that in-combination with the proposed development, could cause any likely significant effects on European sites.

9.22. I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any significant effect to any European Sites.

9.23. AA Screening Conclusion

9.24. In conclusion, having regard to the nature and scale of the proposed development, the nature of the receiving environment, the distances to the nearest European sites, the lack of direct hydrological or other pathways and/or the dilution effect alongside best practice treatment of any discharges from the site, it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not give rise to significant effects on any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.25. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites**.**

10.0 **Environmental Impact Assessment**

10.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for construction of a new Gas Turbine Power Generation Station with an output of up to 293 Megawatts. The proposed power station includes a gas turbine, exhaust stack, acoustic wall, admin building and warehouse, electronic control compartment, continuous emission monitoring system, fuel oil tank, water tanks and associate plant equipment. The proposal includes the demolition of a detached residential dwelling and associated farm buildings to the north west corner of the site, road improvement works and ancillary works. The site is located within the area of Fingal County Council in the west of County Dublin. A number of topics and issues raised in appeals and by observers that concern environmentally related matters have already been addressed in the wider planning assessment described above, and where relevant I have cross-referenced between sections to avoid unnecessary repetition.

10.2. Part 1 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) sets out the classes of development and thresholds for undertaking EIA. Category 2(a) 'A thermal power station or other combustion instillation with a heat output of 300 megawatts or more' is of relevance to the current project. The application includes an Environmental Impact Assessment Report (EIAR) (Revised January 2023) which identifies that the heat output from the proposed gas power station is unquantified, and therefore it corresponds to aforementioned project type 2(a). Accordingly, an EIAR has been submitted for the project and an EIA is required.

10.3. The EIAR (Revised January 2023) comprises a non-technical summary (Revised April 2023), a main volume and supporting appendices. Chapter 1 of the main volume identifies the contributors to the report and their expertise in the preparation of the EIAR, and a description of mitigation measures is set out in each chapter. In response to a request for clarification of additional information from the Planning Authority, the applicants 'Clarification of Additional Information Response Report' (April 2023) also provides supporting information to be read alongside the EIAR.

10.4. As is required under Article 3(1) of the amended Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

10.5. I am satisfied that the information contained in the EIAR (and supporting documents) has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application and appeal, including the EIAR (inclusive of supporting documents), and to the planning assessment completed in section 8 above, as well as the submissions received from the

prescribed bodies and the Local Authority which are summarised in sections 3 and 6 of this report above.

10.6. Vulnerability of Project to Major Accidents and/or Disaster

10.7. Chapter 16 Accident & Disaster Risks describes the likely significant effects on the environment arising from the vulnerability of the project to risks of major accidents and/or natural disasters.

10.8. The project itself relates to a gas power station, with proposals to store 5,000 tonnes of fuel oil in a bulk storage vessel. The Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (COMAH Regulations 2015) sets out quantities of dangerous substances for which lower and upper tier COMAH status apply. The proposed power plant will be classified as a lower tier COMAH establishment (falling within the range of 2,500-25,000 tonnes) and a COMAH Land Use Planning Assessment report is submitted with the application. An assessment of Major Accidents to the Environment is covered in the COMAH report. The proposed development would also be subject to an Industrial Emissions (IE) Licence prior to operation. This will include measures to address potential accident sources in the proposed facility. Operation of the facility would also be subject to continued compliance with EPA approved accident prevention measures.

10.9. The EIAR identifies that there is no risk of flooding affecting the site and very low risk of seismic activity. During construction, with the application of mitigation measures identified in the submitted preliminary Construction and Environmental Management Plan (CEMP), no significant potential for significant adverse effects on the environment is anticipated with respect to major accidents and disasters. The principal risks relate to the operation of the proposed development as described in the submitted COMAH report. The EIAR refers back to the conclusions of the COMAH report with respect to risks from major accidents and/or disasters. The COMAH report identifies the following major accident scenarios:

- Vapour Cloud Explosion (VCE) within the turbine enclosure;
- Jet fire following a leak or rupture of the natural gas pipeline at the proposed development.

- Flash fire following a lead or rupture of the natural gas pipeline at the proposed development.
- Major Accident to the Environment (MATTE) resulting from a spill from the Diesel Oil Storage Tank.

10.10. Other risks associated with the use of natural gas pipelines are identified as including instantaneous release and release through pipe hole. The COMAH report includes consideration of the location of the proposed gas power station in the Outer Public Safety Zone for the airport, and likelihood of an aircraft strike leading to a major accident scenario. The COMAH report outlines that with respect to societal risk, that being risk to persons permanently located outside the establishment, there are no fatalities anticipated with the risk of any of the above listed major accident scenarios. In the event of a jet or flash fire, no injuries or fatalities are expected to occur outside of site boundaries. Due to the low level of employment associated with the operation of the development and the site size, it is permitted in the outer Public Safety Zone. The report concludes that individual risk on and off-site is within acceptable parameters.

10.11. There is an existing background level of societal risk to residential and non-residential receptors in the vicinity of the proposed gas power station due to the location of the area in the Dublin Airport Public Safety Zone, however the report outlines that this will not be increased as a result of the construction and operation of the proposed gas power station. The report also gives consideration to the location of the existing Huntstown Power Station approximately 650m to the south of the subject site. Due to the distance to that existing power station, as well as the distance to the airport itself, no knock-on effects are anticipated in the event of a major accident scenario.

10.12. With respect to MATTEs, the COMAH report considers 2 scenarios, the first being a catastrophic rupture of diesel storage tank with bund overtopping and migration to ground or surface water, and the second being a spill in an uncontained area on hardstanding that may drain to the surface water drainage system and into groundwater (non-drinking water source). In relation to the first scenario, the tank design represents industry best practice for fuel oil tanks with a double containment tank design, therefore the likelihood of catastrophic failure is primarily associated

with the tank location in the Public Safety Zone for the airport and the risk of aircraft strike. In relation to the second scenario, it is concluded to be a 'broadly acceptable' risk of the project.

10.13. On the basis of the COMAH report, the EIAR concludes that the potential for environment effects due to accident and disaster risks is considered to be long-term, imperceptible and neutral, with no specific mitigation described.

10.14. I note that one of the appeal grounds raised by Damien and Sorcha Kelly concerns with respect to risk of damage and/or impact upon nearby residents from accidents associated with operation of the proposed gas power station. As outlined above, the COMAH report sets out a detailed analysis of risks, which has been formulated according to methodology described in the UK's Health and Safety Authority's Guidance on technical land-use planning advice. The report identifies potential risks and concludes that the major accident scenarios assessed are not anticipated to lead to facilities at off-site receptor locations and will not increase the background level of societal risk due to the Dublin Airport Public Safety Zone. I also note that the HSA stated in their observation on the planning application that they did not advise against the granting of planning permission in the context of major accident hazards.

10.15. I am satisfied that unacceptable levels of risk have not been identified, and that the likelihood of risk of injury/fatalities associated with operation of the power station, does not extend to residential properties in the surrounding area. Measures to control risk of accident and major disaster associated with the operation of the proposed gas power plant are embedded in the design and operational regulations for the station.

10.16. <u>Alternatives</u>

10.17. Chapter 3 Alternatives in the submitted EIAR considers reasonable alternatives. This explains the factors that were fundamental to determining site selection, including electricity demand, ability to connect to the network, proximity to sensitive uses (residential), zoning of the site and commercial availability. This narrowed the site selection down to the subject site as the only viable option within the timelines required. Alternative layout options for the site were considered, and the final layout selected was informed by DAA restrictions on stack height, the proximity requirements of infrastructure, minimising impact upon sensitive receptors

(residential uses), maximise retention of boundary planting and use of the site efficiently.

10.18. I note that one of the appeal grounds raised by Damien and Sorcha Kelly relates to the site layout and alternatives considered by the developer, stating that alternative layout no.1 as described in the EIAR would be more appropriate. Alternative layout no.1 situates the power station further to the south of the site. The appeal grounds highlight that moving the proposed power station further south into the site would locate it further away from residential properties on the other side of the N2 and closer to similar industrial uses to the south at Huntstown. The EIAR states that the location of the proposed power station close to the N2 minimises potential noise nuisance from the operation of the plant upon nearby sensitive residential receptors. However, the applicant's 'Clarification of Additional Information Response Report' outlines that the alternative layout option no.1 would have the least potential to cause adverse noise effect to nearby sensitive receptors (residential properties), and additional considerations (as outlined below) meant that alternative option was not preferred.

10.19. The applicants 'Clarification of Additional Information Response Report' provides further detail regarding the selection of the site layout (Appendix 3 Response to 4(b)). This identifies that in consideration of safeguarding elements of Dublin Airport operational requirements, the maximum stack height for the proposed development on the site is 105m (AOD). Ground levels on the subject site reduce towards the east of the site. Therefore, to achieve the minimum required height of the stack, while also satisfying Dublin Airport operational requirements, it is necessary to locate the stack towards the east of the site. Stack height requirements relate to the need for adequate release height for emissions to aid dispersion of plume and ensure compliance with air quality requirements. In addition, there are also overhead power lines transversing the centre and south of the site, as well as a major trunk water main, with associated wayleaves. These combined factors inform a north easterly position on the site for the proposed layout. The proposed layout also responds to noise, visual and biodiversity considerations as outlined in the applicant's report, resulting in a greater retention of hedgerow area and tighter footprint which ensures screening is more effective. With respect to the proposed layout and proximity to properties to the east, I note that the N2 itself forms a barrier between the site and

residential properties. The proposed development also incorporates a 12m high acoustic screen wall (refer to drawing no.22045-CAI-79 'Proposed Acoustic Wall / Barrier Plan and Elevations'). Overall, I am satisfied that the EIAR and supporting information sets out a clear explanation as to the constraints that have informed the selected layout for the site. I am also satisfied that the design has been informed by consideration of the protection of residential amenities alongside operational requirements.

10.20. I note that the observation from Sustainability 2050 on the appeal suggests (with reference to a legal judgement) that the consideration of alternatives in the EIAR is insufficient, and that different generation plant technologies to inform on efficiency should have been considered, as well as that decisions were made on the application prior to consultation. The EIAR itself refers to the EPA 2022 Guidelines addressing alternatives under three key headings, hierarchy, non-environmental issues and site-specific issues. This is not entirely accurate, and while the guidelines do address these broad matters, the text set out in the EIAR is not extracted from the guidelines themselves. However, in any case, the EPA 2022 Guidelines are clear that some alternatives will not be applicable depending upon the circumstances of the project and that higher level alternatives may already have been addressed as part of higher-level plans (page 33). For the current appeal, the application responds to the Governments statement on energy security and the Climate Action Plan which supports at least 2 GW of new flexible gas-fired generation and expanding the gas network to accommodate 2 GW of new gas-fired generation (section 12.3.2).

10.21. The EPA 2022 Guidelines also state on page 34 that:

"Analysis of high-level or sectoral strategic alternatives should not be expected within a project level EIAR. Types of high-level strategic alternatives include electricity generation from renewables rather than fossil fuels in the case of a proposal for expansion of an existing power station, for example, or extraction of stone from another location outside the control of the developer in the case of a proposal to extend a quarry. It should be borne in mind that the amended Directive refers to 'reasonable alternatives… which are relevant to the proposed project and its specific characteristics'."

10.22. I am satisfied that the EIAR adequately describes the parameters informing site selection and the site layout proposed. While a wider examination of alternatives might have been included, it is not required in my view, with the focus in the Directive upon 'reasonable alternatives'. I am also satisfied that public consultation has been effective with reference to the EPA 2022 Guidelines which highlight that some development decisions are driven at a strategic level. The appeal grounds raised by Damien and Sorcha Kelly contend that it is financial considerations that are directing the site layout, and such considerations are not of relevance in the EIA process. However, regardless of non-environmental factors that may be considered by a developer, the focus of this EIA is upon the potential impacts of the proposed development upon the environment, and in this context, and in light of the Directive requirements and EPA 2022 Guidelines, I am satisfied that the developers' obligations with respect to presenting 'reasonable alternatives' has been met.

10.23. Consultations

10.24. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

10.25. Likely Significant Direct and Indirect Effects

10.26. The likely significant indirect effects of the development are considered below and reflect the factors set out in Article 3 of the EIA Directive 2014/52/EU.

10.27. Population and Human Health

10.28. Population and Human Health is considered in Chapter 5 of the EIAR. This chapter describes the baseline characteristics of the study area in terms of population demographics (including health), the identification of infrastructure in the area (including social infrastructure) and the location of other uses proximate to the site, including business, residential, education and health facilities. Potential impact is then described from section 5.6 with cross reference to other chapters/topics in the EIAR. During the construction phase, there will be impact upon air quality and from noise, these impacts while negative, will not be significant and will be over a short-term period. Moderate beneficial impacts will result in relation to employment during construction, as well as upon goods and service providers in the local area. During operation, long-term, negative and imperceptible impact upon air quality and climate

is anticipated and described in detail as part of the assessment of Chapter 9 of the EIAR. There will also be noise associated with the operation of the development, with negative, imperceptible to slight and long-term impact. There would be minor beneficial impact with respect to employment and the provision of a reliable power supply for the area. There are also no unacceptable risks to health and safety identified either during construction or operation. Impacts associated with restoration and reinstatement of the site will be similar to the construction phase.

10.29. Section 5.7 describes proposed mitigation measures, which during the construction phase, largely relate to the implementation of measures set out in a Construction Environmental Management Plan (CEMP) for the development. Specific measures to control surface water run-off and contain discharges, leaks or spillages, as well as to control dust, noise and vibration, are also described. During operation, the proposed development features designed-in mitigation, including kerbing to uploading areas designed to contain leaks from the tanker truck and from unloading/fill/maintenance activities. The stack height of the gas fired generation facility is also designed to ensure adequate height to achieve compliance with EU ambient air quality standards beyond the site boundary. Visual monitoring is also described. Oil storage system tanks are designed to include a secondary wall for leak containment. SuDS will also be installed. An Environmental safety and health management (EMS) will also be implemented at the proposed development. The design also intends to minimise noise during operation. With the application of mitigation, the EIAR concludes that the residual effects of the proposed development are expected to be limited to minor or insignificant. The cumulative effect of the proposed development alongside other development is anticipated to be long-term, significant and positive.

10.30. I note grounds in the appeal submissions related to health. I have addressed matters in relation to risk of major accident and disasters as they interact with potential impact upon residential properties surrounding the site above. With respect to air quality / emissions arising from the proposed development, I address this in detail as part of the air quality section of my EIA below. In summary, no significant adverse effects are anticipated with respect to human health as outlined in the preceding paragraphs in this section of my report. I also note that the observation submitted by the HSE EHS stated that it was satisfied with the methodology presented with respect to the assessment of population and human health.

10.31. Overall, I concur with the conclusions of the EIAR with respect to population and human health.

10.32. Biodiversity

10.33. Chapter 6 of the EIAR addresses potential effects of the project upon biodiversity. The existing site condition is largely composed of intensively managed crop systems (BC1) overgrown agricultural grassland (GA1), with hedgerows (WL1) and treelines (WL2). There is also more minor areas of spoiled and bare ground (ED2) and pockets of buildings and artificial surfaces (BL3). There is an old agricultural drainage ditch, which could flow to the Huntstown Stream to the east of the site. The drain is dry for most of the year, only having a flow from surface run off during heavy rainfall events. Potential impact upon designated European sites is set out as part of an Appropriate Assessment in section 9 above. The EIAR also considered Natural Heritage Areas (NHAs) and proposed NHAs (pNHAs), as well as the Malahide Estuary RAMSAR site. No invasive species have been recorded on the subject site.

10.34. With respect to fauna, surveys of the site support the conclusion that it is not of significant ecological value to terrestrial mammals, with no evidence of badger or any other species of conservation importance. Low levels of bat activity were recorded, with only two potential roost features observed and no activity at these features, buildings for demolition were also inspected with no evidence of bats observed. This is in keeping with the low ecological value of the site, with fragmented hedgerow and treelines combined with high levels of disturbance from the N2 road to the east and Huntstown Quarry to the south. The scrub and hedgerow habitats to the north east of the subject site provide high local value for birds, with other hedgerows on the site bounding agricultural crop systems and remnant agricultural grassland having lower ecological value for local birds, due to their sparse and fragmented character. No red list (Birds of Conservation Concern in Ireland) birds were observed on the site, with a total of 8 different species recorded (6 green and 2 amber list). A wintering bird survey was not deemed necessary for the site, as described in section 9 of this report above.

10.35. The following potential impacts are identified: Augmentation of existing habitats, as well as the removal of some small areas of hedgerows/treeline; construction and earthworks; lighting during construction; noise/vibration; emissions/air pollution;

hydrology via surface water run-off; and climate. Mitigation is set out in section 6.6 of the EIAR. During construction, implementation of measures set out in the CEMP for the project will control potential impact associated with construction and earthworks, as well as noise and vibration. Other measures include the avoidance of vegetation removal during bird breeding season (1st March to 31st August), or where unavoidable, supervised by a suitably qualified ecologist. Precautionary pre-construction bat roost surveys of potential roost features will also be undertaken. Control of lighting to minimise impact. Implementation of best practice SuDS will ensure protection of the hydrological quality of waterbodies. During operational phase, a Landscaping Plan and Green Infrastructure Plan will provide for improvement of the site, as well as providing suitable replacement for habitat loss on the site. Overall, with the implementation of mitigation, residual medium to long-term impact upon biodiversity and ecological integrity is anticipated of negligible magnitude. No significant cumulative effects are anticipated during the construction or operational phases of the project.

10.36. While I note William McFarland's appeal grounds with respect to adverse impact upon green infrastructure, biodiversity and ecology, I am satisfied that the EIAR has identified potential impacts and incorporated mitigation to limit impact to acceptable parameters. I have also set out an AA Screening with respect to potential effect upon European sites in section 9 above. Overall, I concur with the conclusions of the EIAR in relation to biodiversity and I am satisfied that the proposed development will not result in any long-term significant negative impact upon biodiversity.

10.37. <u>Land, soil, water, air and climate</u>

10.38. Chapter 7 of the EIAR addresses Land, Soils, Geology & Hydrogeology. This describes site investigation works to determine the baseline characteristics of the site. In the absence of mitigation, during construction, short-term, slight and negative effect from excavation and infilling, and accidental spills and leaks is anticipated. No impact to land resource from the loss of agricultural land is anticipated due to the availability of agricultural land in the region and the small size of the site in this context. During operation, there is risk of potential contamination if accidental spills were to occur and enter the soil or groundwater environment. Increase in hardstanding area could also impact local recharge to groundwater. In the absence of mitigation, long-term, slight and negative impact is anticipated. Mitigation is set out

in section 7.5 of the EIAR and largely comprises implementation of measures set out in the CEMP for the project. Measures concerning the control of soil excavation, fuel/chemical handling, water during construction and monitoring is also described. Operational phase mitigation comprises designed-in features, as previously outlined with respect to population and human health above. Overall, with the application of mitigation, impact is concluded to be negligible during both construction and operation.

10.39. Chapter 8 of the EIAR addresses Water & Hydrology. This describes the baseline characteristics of the site with respect to water and hydrological aspects. With respect to potential impacts, in the absence of mitigation and during the construction phase, short-term, significant and negative effect could result on the local and regional hydrological environment in the event of accidental spills and leaks resulting in suspended solids, cement/concrete, hydrocarbons and wastewater emissions from the site. Short-term, moderate and negative impact would also be anticipated from increased sediments loading in run-off in the absence of mitigation and related to surface water runoff containing increased silt levels of pollution from construction activities. During the operational phase, neutral impact is anticipated with respect to surface water drainage/discharge from the site and any accidental emissions of oil, petrol or diesel, which would be intercepted by petrol interceptors. Mitigation is set out in section 8.5 of the EIAR and during construction largely relates to the application of a CEMP for the project. Measures are outlined to manage run-off during construction, minimise impact from spillages, prevention of negative impact associated with soil removal and compaction, alongside monitoring measures. During operational phase, designed-in features limit the potential for adverse effects, including kerbing design to contain leaks, automation systems to prevent overfill and onsite monitoring of activities. Oil storage tank includes a secondary wall for leak contamination and an attenuation system also prevents risk of accidental discharge, alongside petrol interceptors as part of SuDS measures. An EMS will also be implemented. Following the implementation of mitigation, construction phase residual impact is anticipated to be short-term, imperceptible-neutral, and of negligible impact. Operational phase residual impact is anticipated to be long-term-imperceptible-neutral, and of negligible impact.

10.40. Chapter 9 of the EIAR addresses Air Quality & Climate. This describes the applicable legislation, standards and regulations with respect to air pollutants and climate considerations. Baseline conditions are also outlined. In terms of predicted impacts, during construction, the greatest potential impact upon air quality would arise from dust emissions. With respect to climate, there is also potential for greenhouse gas emissions to the atmosphere from construction vehicles and generators.

10.41. During operational phase, the proposed development will result in a breach of the ambient air quality standards as a result of air emissions from the proposed gas power station. However, the stack heights ensure an adequate release height for all emission points to aid dispersion of the plume and ensure compliance with the ambient air quality limit values beyond the site boundary. Emission modelling results are included in the EIAR and demonstrate that emissions of NO_2, CO, SO_2 and PM_{10} are either below or in compliant with ambient ground level concentrations for the relevant air quality standard. With reference to the EPA Guidelines, the EIAR predicts impact upon air quality for the operation of the proposed gas power station to be long-term, negative and imperceptible.

10.42. In relation to climate, the EIAR describes that CO_2 emissions from electricity generation at the facility will not be significant in relation to Ireland's national annual CO_2 emissions. The EIAR also highlights that the proposed gas power station is intending to replace operations of higher emitting power plants (particularly oil-fired units) resulting in an overall reduction of carbon emissions in the Single Electricity Market (SEM) area overall (refer to Appendix 9.3 of the EIAR). The proposed gas power station will require a greenhouse gas emission permit, which is regulated under the EU-wide Emission Trading Scheme (ETS) and the new electricity provider will be required to purchase allocations via the European Energy Exchange. The revised EU ETS Directive enshrines in law that at least 50% of the auctioning revenues or the equivalent in financial value should be used for climate and energy related purposes. It is predicted that the proposed development would have direct, long-term, positive and slight impact on climate as a result. With respect to human health, as the air dispersion modelling demonstrates, emissions from the site are compliant with all National and EU ambient air quality limit values and will not result in a significant impact on human health. The EIAR also notes that ambient

concentrations will decrease significantly with distance from the site boundary. No significant effects are anticipated with respect to regional air quality or sensitive ecosystems.

10.43. Mitigation is set out in section 9.5 and comprises adherence to best practice guidance to prevent significant nuisance as well as construction management measures to prevent dust nuisance. During operation, the proposed development is designed to reduce impact, with the stack height designed to ensure compliance with air quality standards beyond the site boundary, no additional mitigation is proposed.

10.44. I note that Damien and Sorcha Kelly's appeal grounds refer to the prevailing west to south west winds bellowing toxins across the N2 towards 6 properties. The EIAR does acknowledge the prevailing westerly to south-westerly wind direction (page 134), and as illustrated in figures 9.2-9.8 (from page 147) of the EIAR, this disperses emissions generally to the west of the site and away from the N2 to the east, with only low concentrations recorded in the vicinity of residential properties. This is supported by the modelling of emissions described above. In relation to the 'significance' of impact, the EIAR demonstrates that impact upon air quality during operation of the proposed development would be negative but to an imperceptible degree. While the study and concerns regarding health, and children's health (as well as other vulnerable groups) in particular, are noted as raised in the appeal grounds (Damien and Sorcha Kelly's, as well as Sean Loughran), the EIAR presents modelling to support the conclusions reached and that impact would be imperceptible i.e. 'An impact capable of measurement but without noticeable consequences' (page 7 of the EIAR). This means that there would be no consequential impact upon human health. I also note that the observation on the planning application from the HSE EHS which states that the EIAR is correct in that the proposal is predicted to meet the current Statutory Health Protection Standards.

10.45. I note the concerns raised in Sean Loughran's (on behalf of Fingal One Future) and William McFarland's appeal grounds with respect to emissions and consequential impact upon the climate, as well as consistency with the Government's obligations with respect to responding to climate change. As described above, I am satisfied that the EIAR addresses potential effect upon the climate and demonstrates that no significant adverse effect results from emissions. I have also addressed the

compatibility of the proposal with legislative and policy requirements in section 8 above as part of my consideration of the principle of the development.

10.46. Impacts associated with restoration and reinstatement of the site will be similar to the construction phase.

10.47. Consideration of cumulative effect is set out in sections 7.7, 8.7 and 9.7 of the EIAR. With respect to land, soil and water, this considers 6 no. developments granted planning permission in the recent past (as well as development integral to the operation of the proposed power station but subject to a separate consent process). Other planning permissions identified in appendix 17.1 of the EIAR do not have any potential for cumulative effect with the proposed development with respect to land, soils, geology and hydrogeology, and/or are already in operation and are therefore reflected in the current environmental baseline. No significant adverse cumulative effect is identified. With respect to air quality and climate, the NO2 emissions associated with the proposed development alongside emissions from existing licenced facilities within 1km of the proposed facility are considered (table 9.17 of the EIAR). While any emissions will be negative, the EIAR anticipates impact to be imperceptible in terms of significance, as the overall emissions are below the relevant air quality standards. No significant cumulative impact is identified with respect to air quality and climate. I note that Damien and Sorcha Kelly's appeal grounds refer to the cumulative effect of the proposed development in relation to emissions alongside the Huntstown Power Station, however that existing power station forms part of the baseline conditions for the area, and therefore is considered in the modelling results presented.

10.48. While I note there is some inconsistency in the EIAR with respect to the inclusion of demolition works as part of the development (page 141), it is clear to me that that the proposed development does include demolition (as set out in the project description chapter 4 and confirmed in the Clarification of Additional Information Response Report). These demolition works are considered in the EIAR and the intended mitigation measures.

10.49. I concur with the EIAR with respect to land, soil, geology and hydrogeology; water and hydrology; and air quality and climate, that no significant residual impact is predicated.

10.50. Noise and vibrations

10.51. Chapter 10 of the EIAR addresses Noise and Vibration, it includes a description of a baseline noise survey of the site area, as well as relevant applicable guidance with respect to noise and vibration. Surrounding residential properties on Kilshane Road, north of Kilshane Cross / on R135, south of Kilshane Cross and at Ravenswood, as well as a commercial property on Kilshane Road are highlighted as the most proximate sensitive receptors surrounding the site (figure 10.5 and table 10.14 of the EIAR).

10.52. The main noise and vibration impact arising from the proposed development will occur during the construction phase, over a temporary short-term period. At the closest noise sensitive receptors to the site (approx. 50m distance), noise levels during construction will be within acceptable levels (table 10.15 of the EIAR), with noise level decreasing further away from the site. No significant impact is anticipated with respect to noise, vibration or traffic noise during construction. During the operational phase, the primary source of outward noise would arise from power plant noise and additional vehicular traffic on the public road. With respect to noise arising from the operation of plant for the proposed gas power station, table 10.16 of the EIAR demonstrates that this will comply with relevant noise standards and criteria. There are no sources of vibration associated with the operation of the proposal. Impacts associated with restoration and reinstatement of the site will be similar to the construction phase.

10.53. Mitigation is set out in section 10.5 of the EIAR and comprises adherence to guidance and best practice measures for the control of noise and vibration during demolition and construction activities. During operation, noise from plant will be minimised through the selection of low noise generating equipment and incorporation of line attenuators where necessary. A 12m high barrier is also designed to reduce noise levels to surrounding noise sensitive receptors (as illustrated in drawing no.22045-CAI-79 ‘Proposed Acoustic Wall / Barrier Plan and Elevations’ and Appendix 10.2 of the EIAR). With the implementation of mitigation, no significant impact is anticipated during either construction or operational phases with respect to noise and vibration arising from the proposed development. In relation to cumulative impact, the EIAR considers related projects to the proposed development, a future

substation and grid connection, other developments and the location of the site within the airport noise zone. No significant cumulative effects are identified.

10.54. I note William McFarland's appeal grounds raise concern regarding noise, and that Damien and Sorcha Kelly's appeal grounds refer to the DAA noise zones being under review and that the developer states noise will be negative and long-term. However, the EIAR sets out the detailed results of a noise survey for the proposed development which demonstrates that applicable levels will be adhered too. While the EIAR anticipates negative impact, this is at a not significant to slight degree, which means 'An impact which causes noticeable changes in the character of the environment without affecting its sensitives' and therefore while there will be a change to the noise environment, surrounding noise sensitive receptors will not be affected. I also note that the night-time operation of the proposed gas power station is specifically addressed as part of the noise assessment set out in the EIAR (section 10.4.2.2).

10.55. Overall, no significant residual effects are predicted to result in the EIAR with respect to noise and vibration arising from the project and I concur with this conclusion.

10.56. Material assets (energy, water, waste)

10.57. Chapter 12 of the submitted EIAR covers built services (energy and water services). The proposed development will rely upon energy and water resource during both construction and operation. Separate network agreement will be required with service providers. No significant effects are identified in the EIAR.

10.58. Chapter 14 considers waste management. This outlines the waste streams associated with the proposed development, during demolition, construction and operational phase. Mitigation measures are described in section 14.5 and comprises a range of measures to minimise and manage waste production and disposal associated with the proposed development. With the implementation of mitigation measures imperceptible and neutral effect is anticipated over a short-term period during construction and a long-term period during operation.

10.59. Impacts associated with restoration and reinstatement of the site will be similar to the construction phase. No significant cumulative effects are identified.

10.60. Overall, no significant residual effects are predicted to result in the EIAR with respect to energy, water and waste arising from the project and I concur with this conclusion.

10.61. Material assets (traffic and transport)

10.62. Chapter 13 of the submitted EIAR addresses traffic and transportation. It details the baseline characteristics of the area for the subject site in terms of traffic, transport infrastructure, public transportation, pedestrian and cycle routes. I also address transportation matters raised in the appeal submissions in section 8 above.

10.63. In relation to traffic, during the construction phase there will be impact upon the local road network from construction related traffic/vehicles associated with the proposed development. In terms of site access, this will be provided via the existing entrance for the duration of site clearance, with construction traffic then proposed to access the site from the west via a priority-controlled junction. During the operational phase, traffic movements will be associated with staff and deliveries for the site. During both construction and operation, the EIAR outlines that is assumed workers will drive in private vehicles to the site due to the site location and lack of access from public transport, pedestrian and cycling infrastructure. The EIAR also accounts for the proposed roundabout and realignment of the Kilshane Road in the traffic modelling for the scheme. Potential future development of the wider site area for industrial units is also accounted for in the predicted traffic analysis.

10.64. In terms of potential impact, 2 existing key junctions are assessed at the site entrance and Kilshane Cross, as well as 1 proposed junction within the site. During construction the site entrance will operate well within capacity, however Kilshane Cross will be over capacity. During the operational phase, the proposed junction within the site (roundabout) will operate within capacity, however Kilshane Cross will operate at near capacity in the future scenario. The EIAR outlines that this relates to the worst-case scenario (expected to only occur every few years). Section 13.5.2 of the EIAR sets out proposed mitigation and monitoring measures. During construction phase, the main mitigation forms implementation of a Construction Environmental Management Plan (CEMP) for the proposed development. In addition, a Construction Traffic Management Plan (CTMP) will also be prepared and implemented to manage construction activities that impact the surrounding road network. To reduce the volume of construction traffic movements, the excavated

material will be entirely used for landscaping and regrading within the site. During the operational phase, staff will be informed and encouraged to utilise alternatives to private vehicular transport, to support a model shift towards more sustainable transport forms. Impacts associated with restoration and reinstatement of the site will be similar to the construction phase.

10.65. With the implementation of the CEMP and CTMP it is anticipated that a slight effect will result upon the surrounding road network from construction traffic for a short-term period. In the worst case scenario (which imagines a failure of mitigation measures) significant and long term effects to the area would result. During the operational phase, residual impact is anticipated to permanent but not significant. In the worst case scenario, this effect would be slight and result in delays at nearby junctions. Cumulative impact is addressed at section 13.7, with the identification of relevant projects in the vicinity of the site that have been considered, as well as associated development works for the proposed gas power station, no significant cumulative effects are identified.

10.66. Overall, it is apparent from the modelling presented in the submitted EIAR that heavy traffic will result during the construction phase, with Kilshane Cross junction operating over capacity. However, this will be for a short-term period associated with construction works and can be suitably managed through implementation of a CEMP and CTMP. The applicant's response to the appeal also notes that if needed, a shuttle system from the site to the bus stops, or a temporary footpath along the 75m of the western arm along Kilshane Cross Junction that lacks footpaths, could be provided. These additional measures during construction will support the intended model shift towards sustainable transport forms and can be enshrined in a condition requiring a final CEMP and CTMP for the development.

10.67. In light of the mitigation set out above, I concur with the EIAR that given that this is a short-term impact associated with the construction phase, this adverse effect upon the local road network will not be significant. Similarly, during the operational phase, near capacity traffic at Kilshane Cross junction only results every few years as a worst case scenario of traffic volumes associated with the site. With junctions operating within capacity for general day-to-day operation. The future development of industrial units on the site would also negatively effect capacity at junctions but

would require separate proposals for rectification at the time that proposals are submitted in relation to such potential development of the site.

10.68. With the implementation of mitigation measures, the EIAR does not anticipate permanent, long-term, significant adverse effect occurring upon the local road network from traffic generation associated with the proposed development. While short-term negative effect is outlined during construction, and periodic (every few years) significant negative effect during operation, the pervasive effect is not significant, and I concur with this conclusion.

10.69. Archaeology and cultural heritage

10.70. Chapter 15 of the submitted EIAR concerns archaeology and cultural heritage. It sets out the archaeological characteristics of the site and surrounding area. Previous archaeological assessments on the site identified the presence of archaeological remains in the form of an enclosure and other archaeological activity on the site. Consequentially, test trenching was undertaken under licence on the site confirming the presence of the enclosure and additional features of archaeological significance. The area is rich in previously unknown monuments that were identified as a result of archaeological investigations. There are no effects on architectural heritage anticipated as there are no protected structures or sites listed within the NIAH located within the subject site. The existing structures on the site have no architectural or cultural heritage merit. Given the characteristics of the surrounding area, there is also no wider impact upon cultural heritage identified.

10.71. Mitigation measures are outlined in section 15.6 of the EIAR. Measures include the preservation by record through full archaeological extraction of the enclosure and features of archaeological significance on the site. Monitoring of groundworks by archaeologists; time for archaeological excavation as needed; a report on completion of archaeological excavation; and archaeological mitigation measures to be reflected in the CEMP for the proposed development. The EIAR concludes that with the implementation of mitigation, the residual effect is likely to be neutral and none to imperceptible. No significant cumulative effects are identified.

10.72. I concur with the EIAR with respect to archaeology and cultural heritage, that no significant residual impact is predicated.

10.73. Landscape and visual

10.74. A landscape and visual impact assessment is described in Chapter 11 of the EIAR. This describes the existing baseline condition of the area surrounding the site with photomontages used to illustrate the visual change that would result from the proposed development using computer generated images. Of the 8 views assessed, all except VP3, are predicted to experience not significant or imperceptible impact as a result of the proposed development during both construction and operational phases. In relation to VP3, this is taken from the Kilshane Road as it bridges over the N2 dual carriageway. Due to the elevation of this view, there is expansive visibility of the surrounding area and taller construction equipment and some structures for the proposed development will be visible. There is also partial visibility of structures on the site in view VP2. While the EIAR finds there to be a moderate or significant impact with respect to VP3, it does not categorise this as negative. Appendix 11 of the EIAR illustrates the predicted appearance at years 1 and 5 taking account of the establishment of screening planting. Mitigation is set out in section 11.5 and refers to the layout of the proposal alongside the retention of existing perimeter vegetation to provide visual screening. The EIAR concludes that the residual impact is reflective of existing patterns of intensification of change of agricultural land into development for industry and infrastructure, as envisaged by the zoning of these lands, and therefore in compliance with the orderly development of the area. Similarly, with reference to cumulative impact, the proposal represents a continuation and consolidation of the established land-use patterns of the area as envisaged under the Development Plan. No negative impact is highlighted.

10.75. I note William McFarland's appeal grounds raise concern regarding visual impact, and that Damien and Sorcha Kelly's appeal specifically refers to the significant effect with respect to Kilmonan Lodge. With respect to the Kilmonan Lodge, this is a property situated to the west of the Kilshane Road bridge over the N2, and proximate to VP2, not VP3 where a moderate to significant impact is anticipated. The impact at VP2 is predicted to be not significant. I note that there will be partial visibilities in this view of the proposed development, but this is mitigated in part by boundary vegetation screening to the road. I also note that the area is not a designated sensitive landscape and is characterised by urban patterns of development in the wider area, most notably by industrial and warehouse structures to the west. I concur with the EIAR that there will be significant impact at VP3 due to the visibility of the

proposal, however given the context of the area, the zoning of the site and the patterns of industrial and infrastructure development in the area, this impact is within acceptable parameters in my view.

10.76. The interaction between the above factors

10.77. Chapter 17 of the submitted EIAR is entitled 'Interactions and Cumulative Effects'. Table 17.1 of the EIAR highlights the potential for interactions between topic areas. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures contained in the EIAR, I am satisfied that residual impact resulting from interaction between all factors is minimised.

10.78. Cumulative impacts

10.79. The proposed development would occur in tandem with the development of other sites that are in the area. Such development would reflect land uses envisaged under the county development plan which has been subject to Strategic Environment Assessment. A number of developments in the surrounding area have been specifically identified as being considered in Appendix 17.1 and individual chapters of the submitted EIAR. I also note that the proposal itself is associated with other development proposals for the site as outlined in section 3 of above, including ABP Ref.314894-22 approved in 2023. The applicant is required under the provisions of s34 and s182 of the Planning and Development Act 2000 (as amended) to lodge separate applications for the developments, with each adjudicated separately. However, these developments are considered as part of cumulative effects in the submitted EIAR. Furthermore, I note concern with respect to the cumulative effect of the proposed development alongside existing uses in the area, including the Huntstown Power Station to the south of the subject site. These existing uses, including the Huntstown Power Station, are considered in the baseline / existing condition, against which effects of the proposed development are measured in the submitted EIAR. As such those existing operating uses are also accounted for in the EIAR alongside proposed developments as part of potential cumulative effects.

10.80. Each topic chapter in the submitted EIAR has considered cumulative impacts and I have highlighted these where most relevant to my assessment. The potential

cumulative impacts primarily relate to nuisances (such as emissions, traffic etc) arising from the construction and operation of the development, with other planned or existing projects, and each of the EIAR chapters has regard to these in the assessment and mitigation measures proposed. It is concluded that the culmination of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment, other than those that have been described in the EIAR and considered in this EIA.

10.81. Reasoned Conclusion on the Significant Effects

10.82. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submissions from the planning authority, prescribed bodies and observers in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

10.83. **Population and human health** – With the implementation of mitigation, in the form of a Construction and Environmental Management Plan (CEMP) during construction and design-in features during operation, including stack height to ensure compliance with air emission values, the residual effects of the proposed development are expected to be limited to minor or insignificant. The cumulative effect of the proposed development alongside other development is anticipated to be long-term, significant and positive, with respect to employment and the provision of a reliable power supply for the area. There are also no unacceptable risks to health and safety identified either during construction or operation.

10.84. **Biodiversity** – With the implementation of mitigation, including a CEMP and Landscaping Plan and Green Infrastructure Plan for the project, residual medium to long-term impact upon biodiversity and ecological integrity is anticipated of negligible magnitude. No significant cumulative effects are anticipated during the construction or operational phases of the project.

10.85. **Land, soils, geology, water, air quality or climate** - With the implementation of mitigation through management measures in a Construction Environmental Management Plan, as well as surface water management, and designed-in features

such as stack height and a secondary wall to oil tanks, no significant negative impacts are predicted.

10.86. **Noise and vibration** – No significant residual effects are predicted with respect to noise and vibration. Mitigation includes adherence to regulations for the control and abatement of noise during construction and selection of low noise generating equipment during operation, as well as a 12m high barrier.

10.87. **Material assets (energy, water, waste)** – Separate network agreements will be undertaken with service providers. Mitigation includes minimising and managing waste streams. No significnat residual effect is predicted.

10.88. **Material assets – traffic and transportation** – Heavy traffic will result during the construction phase, with Kilshane Cross junction operating over capacity. This will be for a short-term period associated with construction works and can be suitably managed through implementation of a CEMP and construction traffic management plan CTMP. During the operational phase, near capacity traffic at Kilshane Cross junction results every few years as a worst case scenario of traffic volumes associated with the site. With junctions operating within capacity for general day-to-day operation. With the implementation of mitigation measures, short-term negative effect is outlined during construction, and periodic (every few years) significant negative effect during operation, the pervasive effect is not significant.

10.89. **Archaeology and cultural heritage** – No direct impact upon cultural heritage and direct impact identified with respect to archaeological features of significance previously identified on the site. Mitigation includes archaeological monitoring, recording of features, and reporting on the completion of archaeological excavation. With the application of mitigation, no predicted significant effects are anticipated.

10.90. **Landscape and visual impacts** – Effects ranging from imperceptible, not significant, for most views assessed, with moderate or significant effect for one view. The residual impact is reflective of existing patterns of intensification of agricultural land into development for industry and infrastructure, as envisaged by the zoning of these lands. In light of the context of the area, the zoning of the site and the patterns of industrial and infrastructure development in the area, this impact is within acceptable parameters.

10.91. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed in this EIA. I also consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

11.0 Conclusion

11.1.1. The Climate Action Plan 2023 sets out key measures to ensure security of electricity supply and to reduce emissions, intended to maximise the output of renewables through increased flexibility. This includes delivery of at least 2 GW of new flexible gas-fired generation and network expansion to accommodate this. The Policy Statement on the Security of Electricity Supply 2021 describes development of new conventional generation (incl. gas-fired) as a national priority, which should be permitted and supported, to ensure security of electricity supply. The Fingal County Development Plan 2023-2029 contains policies and objectives that require the implementation of national objectives with respect to climate change (CAP1)

11.1.2. The proposed development for a gas turbine power station is designed as a 'Flexible Peaking Plant' which would act as 'backup generation' for operating times of high electricity demand and low renewable electricity supply, in order to avoid power outages and ensuring security of electricity supply. The national planning policy framework seeks to support the development of new conventional energy generation (including gas fired generation) to support security of electricity supply, linking this to facilitating increased renewable electricity generation.

11.1.3. Following a planning assessment of the proposed development, which has been informed by an EIA and AA of potential effects, it has been determined that there would be no permanent, long-term, significant adverse effects arising from the proposed gas turbine power station. The proposal is strategic, short term, transitionary, and will not generate significant adverse effect upon the climate.

12.0 Recommendation

12.1. I recommend that planning permission should be GRANTED for the proposed development for the reasons and considerations set down below, and subject to the attached conditions.

13.0 **Reasons and Considerations**

Having regard to:

a. The National Planning Framework – Project Ireland 2040;

b. National Development Plan 2021-2030;

c. Climate Action Plan 2023;

d. Government Policy Statement on Security of Electricity Supply, Nov. 2021;

e. Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031;

f. Fingal County Development Plan 2023-2029;

g. the nature, scale, and extent of the proposed development;

h. the separation distances between the proposed development and dwellings or other sensitive receptors;

i. the submissions made in connection with the application; and

j. the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the absence of likely significant effects of the proposed development on European Sites.

It is considered that subject to compliance with the conditions set out below the proposed development would accord with European, national, regional and local planning and related policy, be consistent with the obligations of the Climate Action and Low Carbon (Amendment) Act 2021 it would not have an unacceptable impact on the environment or ecology, it would not seriously injure the residential amenities of the area or of property in the vicinity, and it would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European sites, taking into account the nature and scale of the proposed development on serviced lands, the

nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have an effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

13.1. Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

(a) the nature, scale and extent of the proposed development,

(b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,

(c) the submissions from the Planning Authority, the observers and prescribed bodies in the course of the application,

(d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submissions from the planning authority, prescribed bodies and observers in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

Population and human health – With the implementation of mitigation, in the form of a Construction and Environmental Management Plan (CEMP) during construction and design-in features during operation, including stack height to ensure compliance with air emission values, the residual effects of the proposed development are expected to be limited to minor or insignificant. The cumulative effect of the proposed development alongside other development is anticipated to be long-term, significant and positive, with respect to employment and the provision of a reliable power supply for the area. There are also no unacceptable risks to health and safety identified either during construction or operation.

Biodiversity – With the implementation of mitigation, including a CEMP and Landscaping Plan and Green Infrastructure Plan for the project, residual medium to long-term impact upon biodiversity and ecological integrity is anticipated of negligible magnitude. No significant cumulative effects are anticipated during the construction or operational phases of the project.

Land, soils, geology, water, air quality or climate - With the implementation of mitigation through management measures in a Construction Environmental Management Plan, as well as surface water management, and designed-in features such as stack height and a secondary wall to oil tanks, no significant negative impacts are predicted.

Noise and vibration – No significant residual effects are predicted with respect to noise and vibration. Mitigation includes adherence to regulations for the control and abatement of noise during construction and selection of low noise generating equipment during operation, as well as a 12m high barrier.

Material assets (energy, water, waste) – Separate network agreements will be undertaken with service providers. Mitigation includes minimising and managing waste streams. No significnat residual effect is predicted.

Material assets – traffic and transportation – Heavy traffic will result during the construction phase, with Kilshane Cross junction operating over capacity. This will be for a short-term period associated with construction works and can be suitably managed through implementation of a CEMP and construction traffic management plan CTMP. During the operational phase, near capacity traffic at Kilshane Cross junction results every few years as a worst case scenario of traffic volumes associated with the site. With junctions operating within capacity for general day-to-day operation. With the implementation of mitigation measures, short-term negative effect is outlined during construction, and periodic (every few years) significant negative effect during operation, the pervasive effect is not significant.

Archaeology and cultural heritage – No direct impact upon cultural heritage and direct impact identified with respect to archaeological features of significance previously identified on the site. Mitigation includes archaeological monitoring, recording of features, and reporting on the completion of archaeological excavation. With the application of mitigation, no predicted significant effects are anticipated.

Landscape and visual impacts – Effects ranging from imperceptible, not significant, for most views assessed, with moderate or significant effect for one view. The residual impact is reflective of existing patterns of intensification of agricultural land into development for industry and infrastructure, as envisaged by the zoning of these lands. In light of the context of the area, the zoning of the site and the patterns of industrial and infrastructure development in the area, this impact is within acceptable parameters.

Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed in this EIA. I also consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

14.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as per the additional information received by the planning authority on 11th January

	2023 and clarification of additional information received by the planning authority on 24th April 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. **Reason:** In the interest of clarity.
2.	Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report and additional information / clarification of additional information submitted with the application, shall be carried out in full, except where otherwise required by conditions attached to this permission. **Reason:** In the interest of protecting the environment and in the interest of public health.
3.	For the avoidance of doubt:- (a) The output from the gas turbine power generation station shall not exceed 293 megawatts. (b) The development shall be used solely as described in the application documentation as a back up energy supply system and shall not be used on a continuous basis. The developer shall maintain records of the usage of the plant and output which shall be made available on request by the Planning Authority. (c) The operational lifespan of the proposed gas turbine power generation station shall be 25 years, and the facility shall be decommissioned and the site reinstated in accordance with condition 4 below.

	Reason: In the interest of clarify and the proper planning and sustainable development of the area.
4.	Subject to the implementation of this grant of planning permission, within 5 years form the date of grant of permission (or as otherwise may be agreed in writing with the Planning Authority), the developer shall submit detailed plans and proposals for the restoration and reinstatement of the entire site following decommissing of the plant and with details of all necessary statutory consents. The restoration works shall be completed within two years of the closure of the plant site or cessation for a period of 5 years or more. **Reason**: To ensure the satisfactory restoration of the site.
5.	The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including (but not limited to): a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; b) Location of areas for construction site offices and staff facilities; c) Details of site security fencing and hoardings; d) A Construction Traffic Management Plan (CTMP) which shall include provisions for a temporary works speed limit at the developers expense; e) Details of on-site car parking facilities for site workers during the course of construction; f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; g) Measures to obviate queuing of construction traffic on the adjoining road network; h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; i) Arrangements to be put in place for construction workers to encourage and facilitate use of public transport during the course of site development works, to include the use of shuttle transportation and/or temporary footpath provision to bus stops, or equivalent alternative;

	j) Details of appropriate mitigation and monitoring measures for noise, dust and vibration, and monitoring of such levels; k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. o) A programme and schedule of all environmental protection measures to be employed and timing of such measures, and the name of the person(s) responsible for implementation of these measures. p) All mitigation measures set out in the EIAR (Jan 23), the application documentation, responses to request for further information and request for clarification of further information, as may be amended by conditions attached hereto and all other applicable conditions. q) A system for receiving and investigating complaints. r) A Construction and Demolition Resource Waste Management Plan. s) Works to be carried out between the hours of 0700 to 1900 Monday to Saturdays inclusive, and not at all on Sundays and Public Holidays. t) A record of daily environmental checks, complaints received, investigation of complaints and outcomes, including corrective action, to be maintained and made available to the council on request. u) The approved plan shall be fully implemented in the course of the construction works. **Reason:** In the interest of amenities, public health and safety.
6.	A detailed Operational Environmental Management Plan (OEMP) shall be prepared and submitted for the written agreement of the Planning Authority prior to the commencement of works, including enabling works. The OEMP shall set out all proposed operational activities and include a schedule of all environemntal protection measures to be employed, the timing of such measures, an the role(s) responsible for implementation of these measures. The OEMP shall include all the operational stage mitigation measures set out in the EIAR (Jan 23), the application documentation, responses to request for further information and request for clarification of further information, as may be amended by conditions attached hereto and all other applicable conditions.

	Reason: In the interests of environmental protection and the protection of the amenities in the area.
7.	The Kilshane Road upgrade and realignment works shall be completed and available for use by traffic prior to commencement or operation of the permitted gas turbine power plant unless otherwise agreed in writing with the Planning Authority. **Reason**: in the interests of orderly development.
8.	Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed buildings and overground tanks shall be submitted for the written agreement of the planning authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. **Reason:** In the interest of visual amenity.
9.	The proposed development shall be amended as follows: (a) the combined height of the proposed butt wall and railing shall be 1.8m. No palisade fencing shall be used as an external site boundary. (b) elevation and cross section drawings (including above ground) to illustrate the sump containment pit and water wash drains tank and eastern elevation of the inlet air filter. (c) a piece of public art or sculpture or architectural feature to be designed in consultation with the council. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanala prior to commencement of development. **Reason:** In the interests of visual and residential amenity.

10.	Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement. **Reason:** In the interest of public health and surface water management.
11.	The developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann (formally Irish Water), prior to commencement of development. **Reason**: In the interest of public health.
12.	Provision shall be made for the Kilshane Road upgrade and realignment works within the development. Details of such provision, phasing, construction, demarcation and treatment of the old roadway, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details shall include a taking in charge drawing. The new road / upgraded road shall be a public road with works meeting standards for taking in charge and maintained by the developer to taking in charge standards, until taken in charge by the council. **Reason:** In the interest of sustainable transportation.
13.	Prior to the operation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public

	transport, cycling, walking and carpooling by staff employed in the development and to reduce and regulate the extent of parking. Provision also to be included for EV charging points to be operational prior to commencement of the use. A Mobility Management Coordinator shall be appointed to ensure implementation and monitoring of the plan. **Reason:** In the interest of encouraging the use of sustainable modes of transport.
14.	All underground and overhead services and poles where necessary shall be relocated underground to a suitable location. **Reason:** In the interests of visual and residential amenity.
15.	The site shall be landscaped (and earthworks carried out) in accordance with the submitted details, including Green Infrastructure Plan (April 23), which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. **Reason:** In the interest of residential and visual amenity
16.	Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. All external lighting for the development during both construction and operation shall be cowled and of a type that ensures deflection of lighting downwards. The design of lighting to serve the operational development shall accord with guidelines with respect to lighting sensitive to bats. The agreed lighting system shall be fully implemented and operational, before the proposed development is operational. **Reason:** In the interest of public safety, amenity and biodiversity.
17.	The number of employees and visitors in the development hereby permitted shall comply with the restrictions for the Dublin Airport Outer

	Public Safety Zone stipulated in the Public Safety Zones Report (ERM 2003) or any superseding publication. **Reason**: In the interest of public safety.
18.	The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall: (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination. **Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

19.	Clearance of vegetation from the development site shall only be carried out between September and February (outside the main bird breeding season). **Reason**: To avoid the destruction of bird nests, eggs and nestlings and promote the biodiversity of the area.
20.	(a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed. (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained. (c) No trench, embankment or pipe run shall be located within three metres of any trees / shrubs / hedging which are to be retained on the site. (d) All retained trees / shrubs / hedges and new planting shall be maintained in accordance with the submitted landscape plans for the application and following the completion of the development, any tree or hedging plants with within a period of two years die, are removed, or become seriously damaged or diseased shall be replaced with equivalent size/species. (e) Works to be supervised by a Landscape Architect.

	Reason: To protect trees and planting during the construction period in the interest of visual amenity.
21.	Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of two years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination. **Reason:** To secure the protection of the trees on the site.
22.	Prior to any additional development taking place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, details to be submitted to, and approved in writing by, the Planning Authority. **Reason:** To protect the visual amenities of the area.
23.	Prior to the commencement of development, the developer shall submit for the writing agreement of the Planning Authority, details of, and evidence of liaison with the Dublin Airport Authority and the Irish Aviation Authority, of the following: (a) strategy for the use of cranes on site; (b) strategy to ensure appropriate wildlife hazard reduction techniques and management; and

	(c) details of appropriate aeronautical obstacle warning lighting/marking (if required). **Reason**: In the interest of aircraft safety.
24.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme. **Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Rachel Gleave O'Connor
Senior Planning Inspector

13th February 2024