



An  
Bord  
Pleanála

## Inspector's Report ABP317980-23

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<b>Development</b>	Permission for intensification of use of existing trailer depot for the storage of 20 no. empty trailers
<b>Location</b>	Stockhole Lane, Cloghran, Swords, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F23A/0358
<b>Applicant(s)</b>	Stateline Transport Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Stateline Transport Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> November 2023
<b>Inspector</b>	Andrew Hersey

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## 1.0 Site Location and Description

- 1.1. The subject site is located on Stockhole Lane, Cloghran, Swords, Co. Dublin . The site comprises part of a field of 2.54ha with hedgerow barrier along the eastern roadside boundary, and on the southern and northern boundary. There is a barrier and farm gate across the entrance. The M1 motorway is located to the west.
- 1.2. There was one truck trailer parked on the site on the day of the site visit. There is also a detached shed which appears to be outside of the red line boundary of the site.
- 1.3. To the north lies a detached house which appears to be used as a B& B. To the south there is what appears to be a builder's yard with a sports pitch to the rear. There is a surface water gully on the roadside boundary.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of the following: Permission for
  - The intensification of use of the trailer depot for the storage of 20 empty trailers
  - A revised entrance arrangement which includes for setting back the gate from the roadside and the setting back of the hedgerow to facilitate visibility splays to the north along Stockhole Lane.
  - The construction of a 2.4 metre galvanised steel fence along the roadside elevation
  - A turning circle for trucks internally and ancillary site works

## 3.0 Decision

Fingal County Council refused permission for the said development for the following reasons:

1. *The proposed use as a heavy vehicle park would materially contravene the GB 'Greenbelt Zoning Objective of the Final Development Plan 2023-2029 which seeks to Protect and provide for a Greenbelt and by virtue of the inappropriate use, fails to accord with Objective SPQHO102 of the Fingal Development Plan 2023-2029 which seeks to Promote development within*

the Greenbelts which has a demonstrated need for such a location, and which protects and promotes the permanency of the Greenbelt, and the open and rural character of the area.

2. *The proposed removal of the existing boundary treatment and replacement with a galvanised steel fence would introduce an incongruous boundary treatment which would fail to integrate with the established rural character of the area and if permitted would be detrimental to the visual amenities of the*
3. *The proposed development is located within an area of the county with the zoning objective 'GB' -Green Belt, the objective of which is to 'Protect and provide for a Greenbelt'. The applicant in seeking permission for the provision of a Heavy Vehicle Park has not adequately demonstrated that the current proposal is a reasonable intensification of, extension to and/or improvement of a premises accommodating a non-conforming use. On this basis, it is considered that the development would materially contravene the zoning objective for the area, set an undesirable precedent for similar inappropriate development in the area and would be contrary to the proper planning and sustainable development of the area.*

### **3.1. Planning Authority Reports**

#### **3.1.1. Planning Reports**

- 3.1.2. The report of the Planning Officer (dated 14<sup>th</sup> August 2023) reflects the decision of the planning authority

#### **3.1.3. Other Technical Reports**

##### **3.1.3.1. Transportation Planning Section (31<sup>st</sup> May 2023)**

- Sightlines proposed are acceptable.
- Further information required with respect to entrance details, signage and pedestrian routes within the site, staff car parking and lighting.

#### 3.1.3.2. Water Services (26<sup>th</sup> July 2023)

- No objection subject to conditions
- No issues regarding flooding

#### 3.1.3.3. Irish Water (11<sup>th</sup> July 2023)

- No objection subject to conditions

#### 3.1.3.4. DAA(12<sup>th</sup> June 2023)

- No observations

### 3.2. **Submissions/Observations**

- None received

## 4.0 **Planning History**

- FS5/017/21 in the name of Stateline Transport for the provision of a replacement gate and new wing walls – further information required by the Planning Authority but the applicant failed to respond and thus the application was automatically withdrawn.

## 5.0 **Policy and Context**

### 5.1. **Development Plan – Fingal County Development Plan 2023-2028**

5.1.1. The Fingal County Dublin Development Plan 2023-2028 is the relevant County Development Plan for the area.

5.1.2. The site is zoned with the objective GB ‘Green Belt the objective of which is “To protect and provide for Greenbelt” in the Fingal County Development plan 2023-2029

5.1.3. The vision of the objective is to “Create a rural/urban Greenbelt zone that permanently demarcates the boundary (i) between the rural and urban areas, or (ji) between urban and urban areas. The role of the Greenbelt is to check unrestricted sprawl of urban

areas, to prevent coalescence of settlements, to prevent countryside encroachment and to protect the setting of towns and/or villages. The Greenbelt is attractive and multifunctional, serves the needs of both the urban and rural communities, and strengthens the links between urban and rural areas in a sustainable manner. The Greenbelt will provide opportunities for countryside access and for recreation, retain attractive landscapes, improve derelict land within and around towns, secure lands with a nature conservation interest, and retain land in agricultural use. The zoning objective will have the consequence of achieving the regeneration of undeveloped town areas by ensuring that urban development is directed towards these areas”

- 5.1.4. Objective SPQHO102- Development within the Greenbelts: Promote development within the Greenbelts which has a demonstrated need for such a location, and which protects and promotes the permanency of the Greenbelt, and the open and rural character of the area.
- 5.1.5. Objective SPQHO91 – Retention of Hedgerows and Other Distinctive Boundary Treatments: Ensure the retention of hedgerows and other distinctive boundary treatments in rural areas. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary/provision of agreed species of similar length will be required within the site.

## **5.2. Natural Heritage Designations**

- 5.2.1. The site is located 5.0km to the west of Baldoyle Bay SAC and Baldoyle Bay SPA and 5.0km to the south west of Malahide Estuary SAC and Malahide Estuary SPA There is a stream on the northern boundary of the site. It is not clear as to where this outfalls to.

## **5.3. EIA Screening**

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. First Party Appeal**

6.1.1. A first party appeal prepared by CWPA Planning & Architecture on behalf of the applicants was lodged on the 8<sup>th</sup> September 2023.

### **6.2. Grounds of Appeal**

- It is accepted that the site is located on lands zoned as Greenbelt, however there is an existing trailer storage facility on site there is clear policy in the Fingal County Development Plan 2023-2029 under Objective ZO3 which allows for the reasonable intensification of extensions to and improvement of premises accommodating non-conforming uses.
- Aerial photographs of different years (earliest 2018) have been submitted with the appeal showing up to 11 trailers on the site. The case officer states that there was no trailers on the site at the time of the site visit but that is because all of the trailers were off site at that time
- That the proposed development complies with the 'RS' zoning objective and does not impact upon the residential amenities of the adjacent property.
- That a more discreet method of boundary treatment other than the galvanised fence proposed can be provided and it is recommended that a condition be imposed to reflect this.

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

- The Planning Authority lodged a response to the appeal on the 27<sup>th</sup> September 2023 which states that the applicant has failed to demonstrate that the proposal is a reasonable intensification of extensions to and improvement of premises accommodating non-conforming uses.
- That a shed and trailers on the site are as shown on the aerial photography are outside of the red line boundary of the site

- The Planning Authority requests that the Board uphold the decision to refuse permission

#### 6.4. **Observations**

- None received

#### 6.5. **Further Responses**

- None received

### 7.0 **Assessment**

#### 7.1. **Introduction**

7.1.1. I am satisfied the substantive issues arising from the grounds of this first party appeal relate to the following matters-

- Principle
- Visual Amenities/Biodiversity
- Traffic Safety

#### 7.2. **Principle**

7.2.1. The proposed development is located on lands zoned as GB in the current County Development Plan where it is the objective of the council “To protect and provide for Greenbelt”

7.2.2. The proposed development is for, in part, the intensification of use of an existing trailer depot for the storage of 20 no. empty trailers. The applicants planning consultant in the documentation submitted with the planning application and on appeal states that there is an existing storage facility for trailers on the site. In this respect aerial photographs of the site dated from June 2018 to March 2022 show trailers strewn throughout the field in random locations. A photograph from April 2021 shows for 12



trailers on the site. The applicants agent in the documentation submitted states that there is an established use. No planning consent exists for such a use.

- 7.2.3. It is also stated that there is a shed on the site which is present more than 20 years and is therefore statute barred from enforcement action by the council
- 7.2.4. I note that there is no enforcement files open on the said site. I further note that the photographic evidence on the file shows for trailers on site since June 2018 which is circa 5 years and 6 months ago.
- 7.2.5. Section 157 (4) (a) of the Planning & Development Act 2001, as amended states :*No warning letter or enforcement notice shall issue and no proceedings for an offence under this Part shall commence— (i) in respect of a development where no permission has been granted, after seven years from the date of the commencement of the development.* On this basis that the evidence suggests that there are trailers on the site for only 5 years and 6 months , the Planning Authority can still issue enforcement proceedings with respect of the storage of trailers which requires the benefit of planning permission
- 7.2.6. I do not agree therefore that the storage of trailers is an established use and on this basis the proposal cannot be viewed as an intensification of this use as per the development description. In this respect, I would consider that the proposed development should be assessed on the basis that the site is a greenfield development site rather than on the basis of the intensification of an existing use
- 7.2.7. The proposed use – the storage of trailers can be described as a ‘Heavy Vehicle Park’ which is a use which is not permitted in the land use zoning matrix as set out in page 474 and page 475 of the Fingal County Development Plan 2023-2029.
- 7.2.8. In this respect, the principle of the storage of trailers on this site is not an appropriate use on lands zoned ‘Green Belt’.

### 7.3. Visual Amenities

- 7.3.1. The proposed development includes for the removal of hedgerow along the roadside boundary in order to set it back for the purposes of achieving visibility splays in a northerly direction along the adjacent public road. It is proposed to replace this with a galvanised sheet fence.
- 7.3.2. The existing character of the roadside boundaries along Stockhole Lane is predominantly defined by hedging and trees. Objective SPQH091 of the current development plan seeks to: *Ensure the retention of hedgerows and other distinctive boundary treatments in rural areas. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary/provision of agreed species of similar length will be required within the site.*
- 7.3.3. The proposed galvanised sheeting fence is clearly therefore not appropriate in this area and is contrary to Objective SPQH091 of the current development plan. It is therefore recommended that the proposed development be refused on this basis and on the basis that the proposed galvanised fence does not accord with the context of the area.

### 7.4. Traffic Safety

- 7.4.1. The proposed development includes for the upgrading of the existing entrance to the site and the setting back of boundaries in a northerly direction to achieve safe sight visibility splays.
- 7.4.2. I note a solid white line in the centre of the road which means no overtaking is allowed on this road. Visibility splays are taken to the centre of the road rather than the edge as is usual where the centre line is broken and overtaking is accepted.
- 7.4.3. On the basis of the above, the proposed upgrading of the entrance and the setting back of the hedgerow will allow for adequate visibility splays being achieved.

7.4.4. I note that the report from the Transportation Planning Department on file (dated 22<sup>nd</sup> June 2023) has no objection in principal to the proposal.

7.4.5. In this context therefore I do not consider that there are any traffic safety issues arising as a consequence of the proposed development.

#### 7.5. **Appropriate Assessment Screening**

7.5.1. Baldoyle Bay SAC (Site Code 000199) and Baldoyle Bay SPA (Site Code 004016) is located circa 5.0km east of the proposed development site. Malahide Estuary SAC (Site Code 000205) and Malahide Estuary SPA (Site Code 000205) is located circa 5.0km to the north east. There is a stream on the northern boundary of the site which outfalls to a gully on the roadside. It is not clear where the outfall of the stream falls to. On this basis and on the basis that an AA screening report was not submitted with the application it is possible to screen out the requirement for the submission of an NIS.

#### 8.0 **Recommendation**

8.1. I recommend that permission is refused for the following reasons;

1. The proposed development is for permission for the intensification of use of the trailer depot for the storage of 20 empty trailers. Having regard to the same, and having regard to the submissions made in connection with the planning application and the appeal, and having regard to the fact that only a single trailer was visible on the day of the site visit, it is considered that an established use of the site as a trailer depot has not been proven. With respect of the same, it is considered appropriate that the proposed development is assessed on the basis that the site is a greenfield development site rather than a site with an established trailer depot use.

A 'heavy vehicle park' is a use which is not permitted in the land use zoning matrix on lands zoned as GB 'Greenbelt' in the Fingal Development Plan 2023-2029. The proposed development which comprises of a trailer depot is therefore not considered an appropriate use on these lands, does not accord with the zoning objective for the site which seeks to *'Protect and provide for Greenbelt'*. and fails

to accord with Objective SPQHO102 of the Fingal Development Plan 2023-2029 which seeks to *Promote development within the Greenbelts which has a demonstrated need for such a location, and which protects and promotes the permanency of the Greenbelt, and the open and rural character of the area.* The proposed development therefore contravenes these objectives and is therefore contrary to the proper planning and sustainable development of the area.

2. The proposed removal of the existing roadside hedgerow and its replacement with a galvanised steel fence would introduce an incongruous boundary treatment which would fail to integrate with the established rural character of the area and if permitted would be detrimental to the visual amenities of the area. Furthermore, the proposal to remove the hedgerow would contravene Objective SPQH091 of the Fingal Development Plan 2023-2029 which in part seeks to *Ensure the retention of hedgerows.* The proposed development would therefore contravene this objective, would be detrimental to the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.
3. The proposed development site is located circa 5km from
  - Baldoyle Bay SAC (Site Code 000199)
  - Baldoyle Bay SPA (Site Code 004016)
  - Malahide Estuary SAC (Site Code 000205) and
  - Malahide Estuary SPA (Site Code 000205)

Having regard to the same and having regard to the presence of stream on the northern boundary of the site which outfalls to a drain in the road and the lack of clarity with respect of the final outfall of waters from the stream, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that adequate information has been provided on the impact of the proposed development on the habitat and the resulting implications for wildlife and flora.

It is therefore considered that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the proposed development will not adversely affect the integrity of a

European Site and it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

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

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Andrew Hersey  
Planning Inspector

28<sup>th</sup> November 2023