



An
Bord
Pleanála

Inspector's Report

ABP-320940-24

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| Development | Construction of a vehicle test centre and associated site works. |
| Location | Ballyhack, Kilsallaghan, Swords, Co. Dublin |
| Planning Authority | Fingal County Council |
| Planning Authority Reg. Ref. | F24A/0631E |
| Applicant | Breffni Asset Holdings Ltd |
| Type of Application | Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party |
| Appellant | Breffni Asset Holdings Ltd |
| Observer | None |
| Date of Site Inspection | 14 th January 2025 |
| Inspector | Matthew O'Connor |

Contents

| | |
|--|----|
| 1.0 Site Location and Description | 3 |
| 2.0 Proposed Development | 3 |
| 3.0 Planning Authority Decision | 4 |
| 3.1. Decision | 4 |
| 3.2. Planning Authority Reports | 5 |
| 3.3. Prescribed Bodies | 6 |
| 3.4. Third Party Observations | 7 |
| 4.0 Planning History | 7 |
| 5.0 Policy Context | 8 |
| 5.1. Development Plan | 8 |
| 5.2. Natural Heritage Designations | 12 |
| 5.3. EIA Screening | 12 |
| 6.0 The Appeal | 12 |
| 6.1. Grounds of Appeal | 12 |
| 6.2. Planning Authority Response | 14 |
| 6.3. Observations | 14 |
| 7.0 Assessment | 14 |
| 8.0 Appropriate Assessment (Screening) | 32 |
| 9.0 Recommendation | 32 |
| 10.0 Reasons and Considerations | 32 |

Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The appeal site is 0.51 ha and is located in the townland of Ballyhack, to the south of Killsallaghan and some 8.5km to the west of Swords. The area to which the subject development relates is part of an undeveloped parcel of lands and part of the rear garden of a residential property and adjoining a larger complex that is currently occupied by an established construction-related business, Breffni Group.
- 1.2. The appeal site is to be accessed via an existing gated entrance on the eastern side of the R122 serving the Breffni Group complex. The overall site is relatively well screened with a planted berm along the southern (side) boundary; a grassed berm to the eastern (rear) boundary; and an established mixed hedgerow with trees to the northern (side) boundary. The west (front) boundary is undefined as it forms part of the garden area of an existing dwelling.
- 1.3. The surrounding area is primarily rural and characterised by agricultural lands with associated farm buildings and one-off rural dwellings of varying styles and patterns. The subject site is within close proximity to a number of established one-off dwellings to the northwest and southwest. Corstown Golf Club is also located to the southwest of the site. There are no Protected Structures or Recorded Sites and Monuments located within or immediately adjacent to the application site.

2.0 Proposed Development

- 2.1. The development subject to this appeal comprises:
 - Demolition of existing single storey stables (approx. 90sq.m).
 - Construction of a detached vehicle test centre building (approx. 1249sq.m with mezzanine plant area (approx. 201sq.m) and ancillary staff/client facilities.
 - Elevational signage.
 - Construction of a Marshall's hut (approx. 7sq.m).
 - Removal of 9 no. existing car parking spaces to facilitate new access.
 - New boundary treatments and associated landscaping.
 - Car, motorcycle and bicycle parking.
 - Connection to existing surface water attenuation pond and foul drainage waste water treatment plant.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Fingal County Council refused planning permission for the following 4 no. reasons:

1. *Having regard to the nature and location of the development and the zoning of the site as 'RU' Rural under the Fingal Development Plan 2023-2029, with the objective to 'Protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape and the built and cultural heritage' it is considered that the proposed vehicle testing centre would not accord with the objective of the area, would diminish and detract from this rural area. The proposed development would therefore materially contravene the zoning objective for this site and would be contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the,*
 - a) *Nature and scale of the development*
 - b) *Location of the development in a rural area adjacent to a row of houses.*
 - c) *Intensification of traffic movement in the area because of the development*
 - d) *Reliance on private vehicles to use the development.*
 - e) *Lack of information on days and hours of operation*
 - f) *Lack of information on the number of expected visitors to use the development*

It is considered that the proposed development is inappropriate at this location, would impact negatively on the residential amenity of the neighbouring dwellings, would detract from the rural amenities of this rural. The proposed development is therefore considered to be in discordant with the proper planning and sustainable development of the area.
3. *Based on the information submitted, the applicant has failed to demonstrate the proposal would not have a negative impact regarding likely noise (acoustic reports), light (light design details) and air (air report) which are a requirement under the Fingal Development Plan 2023-2029. Therefore, the proposal would be contrary to proper planning and sustainable development of the area.*

4. *Based on the information submitted, it is considered the proposed development fails to demonstrate compliance with Objective DMSO138 and Objective DMSO148 of the Fingal Development Plan 2023-2029 regarding Net Biodiversity Gain and Ecological Impacts.*

3.2. Planning Authority Reports

3.2.1. Planning Report

- Planner's Report forms the basis for the decision to refuse permission.
- The report provides a description of the site, planning history, identifies the land use zoning designation and associated policy context from the Fingal Development Plan 2023-2029.
- The assessment considered the principle of development deemed the proposal to deviate from the use classes for a 'RU' – Rural area and contravenes Policy EEP23 and EEP26 of the Development Plan.
- A breakdown of the proposed elements of the development is provided and it is considered that there may be negative impacts on the rural setting. The appropriateness of development in principle to be located in the rural area have not been adequately considered by the applicant.
- The Planning Authority (PA) considers an urban, established industrial or commercial zone as a more appropriate location.
- A further justification and break down is required for visitor parking spaces given the estimated 250 tests per day (over 2 shifts). The proposed development is considered to be a significant intensification of the site access in a rural location on a regional road generating an additional 3,000 trips per week (six days).
- Additional details is required on vehicle turning movements from the public road and an alternative access layout should be considered where priority access is brought in line with the edge of the internal road leading from the main access. Pedestrian connectivity should be considered.
- No lighting details were submitted for the proposal which is not compliant with Objective DMSO150 of the Development Plan regarding impact of lighting at sensitive locations.

- The proposal has potential to generate a significant nuisance noise given the proximity to dwellings and recommends that an acoustic impact assessment be submitted.
- No tree survey has been provided and there are a number of trees along western and southern boundary which are worthy of retention. There is conflicting information on the Green Infrastructure Plan and Landscaping Plan with the same trees to be retained listed as proposed native planting. There is no way to determine that the development will result in a Net Biodiversity Gain.
- No ecology reports have been submitted. No description of the current habitats on-site or links to waterbodies on/off site and no indication if any rare, protected or invasive species are occurring on the site which require mitigation. An Ecological Impact Assessment is required as per Objective DMSO148.
- Not apparent if the existing building on site to be demolished has potential to support roosting bats or nesting birds.
- No objections in principle raised with respect to water services connections.
- No issues raised with respect to AA or EIA.

3.2.2. Other Technical Reports

- Water Services: No objection, subject to conditions
- Transportation Planning: No objection, subject to conditions
- Public Lighting: Additional Information required.
- Environmental Health (Waste & Enforcement): No objection, subject to condition
- Air & Noise Unit: Additional Information required.
- Parks & Green Infrastructure: No objection, subject to conditions

3.3. Prescribed Bodies

- Uisce Eireann: No objection, subject to conditions
- Environmental Health Officer: No response received
- Transportation Infrastructure Ireland: Response received
- National Transport Authority: No response received

- Dublin Airport Authority: Recommend consultation with IAA and AirNav Ireland.
- Irish Aviation Authority: No response received
- Inland Fisheries Ireland: No objection, subject to conditions
- Health and Safety Authority: No objection
- PEHO: No response received

3.4. **Third Party Observations**

- None.

4.0 **Planning History**

4.1. The following relevant planning history is associated with the appeal site and adjoining lands

F21A/0667 Permission GRANTED for the construction of 1 no. new Storage Building (c. 1,643 m2 GFA) and 1 no. Store (357 m2 GFA) to facilitate the storage of plant machinery and maintenance equipment together with associated hard standing areas, hard and soft landscaping works and all associated site and engineering works necessary to facilitate the development. Breffni Assets Holdings Ltd.

F14A/0214 Permission GRANTED for demolition of an existing two storey dwelling and the construction of a re-oriented replacement two storey dwelling, single storey garage, installation of a replacement waste water treatment unit with percolation area, associated site development works and accessed via the existing domestic vehicular entrance. Applicant: Nora O'Gara Flynn.

F14A/0214/E1 Extension Of Duration Of Permission GRANTED

F07A/1676 Permission GRANTED to remove palisade fence, demolish existing security hut and maintenance shed, construction of a new maintenance shed, provision for 50 car parking spaces; provision of an ESB substation and switch room, wheel wash area, weighbridge, underground diesel tanks, modifications to existing site entrance inclusive of new set back piers and gates and construction of a new 2.4m

high timber fence, installation of WWTS and landscaping/associated site works on this site. Applicant: Breffni Plant Hire

F07A/1676/E1 Extension Of Duration Of Permission GRANTED

F03A/1389 Permission REFUSED for the temporary retention of an area of compacted hard core with a total area of 3,100m², including a concrete wash bay area (13.8m x 6.5m), located to the east of existing buildings. Applicant: Sean Flynn.

F02A/1455 Permission REFUSED for the retention of an area of compacted hard core with a total area of 3,200 metres squared, including a concrete wash bay area (13.8m x 6.5m) located to the south and east of existing buildings. Applicant: Sean Flynn.

The above development was appealed to An Bord Pleanála under Ref. PL 06F 201923 and the decision to refuse was upheld.

F02A/1453 Permission GRANTED for the erection of a 2-metre high timber boundary fence to roadside, and modifications to gateway to include wider splay walls to accommodate sight lines (in accordance with local authority requirements), and resurfacing of entrance area. Applicant: Sean Flynn.

F02A/0029 Permission REFUSED for retention of an entrance gateway and boundary fence. Applicant: Rory Flynn.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Fingal Development Plan 2023-2029 is the relevant Development Plan for the appeal site.

5.1.2. The appeal site is zoned 'RU' – Rural which has an objective to *seeks to 'protect and promote in a balanced way, the development of agriculture and rural related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'.*

5.1.3. The Objective Vision for this zoning designation is as follows:

'Protect and promote the value of the rural area of the County. This rural value is based on:

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

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

Chapter 6: Connectivity and Movement

5.1.4. Section 6.5.2 of the Development Plan relates to ‘Demand Management’ and seeks to ensure that future development is accompanied by appropriate levels of sustainable transport. There are a number of priority measures to manage the demand for travel which include:

- land use policies which reduce demand for travel by bringing people and the activities they need to access closer together;
- improved transport options (walking, cycling and public transport); and,
- control measures such as mobility management, parking management and traffic management.

5.1.5. The following policies are of note:

- Policy CMP 2 – Managing Demand for Travel
- Policy CMP 3 - Integrated Land-Use and Transport Approach

Chapter 7: Employment and Economy

5.1.6. Section 7.5.3 of the Development Plan relates to ‘Rural Economy’. The rural economy is driven by a number of minor towns and villages and there are currently a variety of small, medium and larger-scale commercial enterprises operating in rural areas. These enterprises provide important sources of employment and contribute to the diversification of the rural economy. The Planning Authority support existing rural employment and commercial enterprises and will promote and encourage appropriately scaled enterprises. The Planning Authority acknowledge that the development of rural enterprise and employment opportunities will be vital to sustaining the rural economy. The following policies are considered to be relevant:

- *Policy EEP23 - Rural Economy:*

Support and protect existing rural economies such as valuable agricultural lands to ensure sustainable food supply, to protect the value and character of open countryside and to support the diversification of rural economies to create additional jobs and maximise opportunities in emerging sectors, such as agri-business, renewable energy, tourism and forestry.

- *Policy EEP24 - Protecting the Rural Landscape And Natural Heritage:*

Balance protecting the landscape and natural heritage of rural Fingal with the need to harness and promote economic opportunities associated with rural life such as agricultural, horticultural, tourism and rural-related economic uses.

5.1.7. Section 7.5.3.3 of the Development Plan relates to 'Rural Enterprise' and it is acknowledged that the development of rural enterprise and employment opportunities will be vital to sustaining the rural economy. Employment, servicing the rural areas, should generally be directed to local employment centres of small towns and villages and rural business zones which cater for local investment and small-scale industry so as to accord with the economic strategy for Fingal. The Development Plan informs that within the rural countryside, horticulture, agriculture, equine, recreational, tourism, energy production and rural resources based enterprise is promoted in addition to positive consideration for home-based economic activity. The following policy is relevant:

- *Policy EEP26 - Rural Enterprise:*

Encourage and support local enterprise within Fingal's small towns, villages and rural business zones by facilitating the provision of space for small scale employment including office development.

Chapter 11: Infrastructure and Utilities

5.1.8. Section 11.9 of the Development Plan relates to 'Air, Noise, Light Policies and Objectives'. The following policies and objectives are relevant:

- Objective IUO62 – Noise Sensitive Developments
- Policy IUP44 – Light Pollution
- Objective IUO64 – Design of Lighting Schemes

Chapter 13: Land Use Zoning

- 5.1.9. This chapter outlines the land use zoning objectives and includes a table for each zoning designation regarding the Use Classes 'Permitted in Principle' or 'Not Permitted'.
- 5.1.10. Section 13.3 of the Development Plan relates to 'Non-Conforming Uses'. The Development Plan states that *'throughout the County, there are uses which do not conform to the zoning objective of the area. These are uses which were in existence on 1st October 1964, or which have valid planning permissions, or which are unauthorised but have exceeded the time limit for enforcement proceedings. Reasonable intensification of extensions to and improvement of premises accommodating these uses will generally be permitted subject to normal planning criteria'*. The following Objective is relevant:

- *Objective ZO3 - Non-Conforming Uses:*

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

- 5.1.11. Section 13.4 of the Development Plan relates to 'Ancillary Uses'. It is stated in the Development Plan that *'planning permission sought for developments which are ancillary to the parent use, i.e. they rely on the permitted parent use for their existence and rationale, should be considered on their merits irrespective of what category the ancillary development is listed in the zoning objectives, vision and use classes section of this chapter'*. The following objective is considered relevant:

- *Objective ZO4 - Ancillary Uses:*

Ensure that developments ancillary to the parent use of a site are considered on their merits.

Chapter 14: Development Management Standards

- 5.1.12. This chapter sets out the development standards and criteria to ensure development occurs in an orderly and efficient manner. Proposals must comply with the standards and criteria that apply to particular development types, be consistent with the objectives:

- Objective DMSO125 – Management of Trees and Hedgerows
- Objective DMSO126 – Protection of Trees and Hedgerows during Development
- Objective DMSO138 – Protection and Enhancement of Biodiversity
- Objective DMSO148 – Ecological Impact Assessment
- Objective DMSO150 – External Lighting and Noise at Sensitive Locations

5.1.13. Table 14.17 refers to Bicycle Parking Standards and Table 14.19 refers to Car Parking Standards.

5.2. Natural Heritage Designations

- The appeal site is not located within any designated Natura 2000 sites. The nearest designated sites are the Malahide Estuary Special Area of Conservation (Site Code: 000205) and Malahide Estuary Special Protection Area (Site Code: 004025) which are located approximately 7.3km to the east of the site.

5.3. EIA Screening

- Having regard to the nature and scale of the subject development, which is for the construction of a vehicle test centre in a rural area, there is no real likelihood of significant effects on the environment arising from the subject development. The need for Environment Impact Assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The first party appeal has been prepared and submitted on behalf of the applicant against the Planning Authority's decision to refuse. The grounds of appeal can be summarised as follows:

Refusal Reason No. 1

- The RU – Rural zoning and vision do not reflect the reality of what is on ground at this specific location.

- The development will be sympathetic to and consistent with the existing warehousing and plant hire development on site as previously approved by Fingal County Council
- The Planning Authority's assessment of the principle of development was fundamentally incorrect when considering the proposal against the zoning objective.
- The proposed development does not fall within the scope of any defined permissible and non-permissible use classes in the development plan and is therefore an open for consideration use .
- The Planning Authority determined the development akin to a 'Vehicle Service/Maintenance Garage' however, the proposed vehicle test centre facility operate independent of the motor industry and will not engage in any garage services and repair activities of any kind.

Refusal Reason No. 2

- The design is sensitive to the area and with the established plant hire development on site.
- The proposed development will not negatively impact on residential amenity on the basis of reports conducted in respect of air, noise and lighting.
- Updated drawings have been provided introducing a screen to minimize any potential impacts on adjacent residential dwellings.
- There will be an acceptable level of impact on the road network in terms of traffic and transport.
- The sole use of the development is for testing the road worthiness of private vehicles where the customer uses their personal car for travel to the NCT centre for testing.
- The operating hours have been revised to Mon-Fri (07:00-21:00), Saturday (08:00-15:00) and Sunday (Closed).

Refusal Reason No. 3

- A Noise (Acoustics) Report, Light Design Details and an Air Report have been provided. As the proposed development is neither a permitted use or non-permitted use, such reports were not deemed to be a requirement for the application submitted to Fingal County Council.

Refusal Reason No. 4

- An Ecological Impact Assessment Report has been provided to address PA concerns on ecological impacts and a lack of Net Biodiversity.

6.2. Planning Authority Response

- A response from the Planning Authority has been received on file and reaffirms its 4 no. reasons for refusal. The response indicates that should the appeal be successful that provision be made for a financial contribution for shortfall in open space and/or any Special Development Contributions; the inclusion of a Bond/Cash Security (for residential developments of 2 or more units) and inclusion of conditions where a tree bond or contribution in respect of a shortfall of play provision facilities are required.

6.3. Observations

- None.

7.0 Assessment

Having examined the application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Land Use Zoning & Principle of Development
- Traffic and Transportation
- Noise, Air and Lighting Impacts
- Biodiversity Gain & Ecological Impacts
- Appropriate Assessment

7.1. Land Use Zoning & Principle of Development

7.1.1. The Planning Authority's first refusal reason is based on the proposed vehicle testing centre not according with the 'RU' Rural zoning objective of the area and would diminish and detract from the rural area due its nature and location. The Planning

Authority continue to state that the proposal would materially contravene the zoning objective for this site.

- 7.1.2. As per the Development Plan's zoning designations, the subject site is zoned 'RU' – Rural. I have reviewed the 'RU' - Rural zoning matrix and note there is no specific use implicitly listed as being "Permitted in Principle" or "Not Permitted". I have also reviewed Appendix 7 (Technical Guidance Notes for Use Classes) of the Fingal Development Plan 2023-2029 and note that there is no definition which strictly relates to a "vehicle test centre" use class. I do not consider that the proposed NCT Centre is comparable or relatable to any permissible uses in 'RU' – Rural zones.
- 7.1.3. The First Party notes the proposed development does not fall within the scope of any of the defined use classes in the development plan or the associated Technical Guidance Notes for the Development Plan (pertained in Appendix 7). The grounds of the First Party claim that the assessment of the Planning Authority was fundamentally incorrect when assessing the proposal against the zoning objective. Reference is made to the Planning Authority's determination that the proposal was akin to a 'Vehicle Service/Maintenance Garage' which is "Not Permitted" in the 'RU' - Rural zoning designation and defined as *"the use of a building and/or land for the maintenance and repair of small motor vehicles and vans (excluding HGVs and buses)"*. The First Party claims that the proposal is for a vehicle test care facility to provide NCT vehicle inspection services on behalf of the Road Safety Authority (RSA) which is totally independent of the motor industry and will not engage in any garage services and repair activities of any kind. It is also the view of the First Party that the proposed development will be sympathetic and consistent with the existing warehousing and Plant Hire business currently operating at this location which is not reflective of the objective and vision of the 'RU' – Rural zoning designation.
- 7.1.4. I do not accept the argument of the First Party in terms of the zoning consideration. There are only two categories – 'Permitted in Principle' and 'Not Permitted' in the Development Plan for assessing use classes related to a zoning objective. There is no 'Open for Consideration' class and so the development cannot be considered on this basis. The fallback or default principle of the Development Plan states that uses which are neither 'Permitted in Principle' nor 'Not Permitted' 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. With this in mind, the objective under the 'RU' – Rural zoning designation seeks to protect and promote the development of agriculture and rural related enterprise, biodiversity, the rural landscape, and the built and cultural heritage. The vision seeks to protect and promote the value of the rural area of the County. These values are based on agricultural and rural economic resources; visual remoteness from significant and distinctive urban influences; and, a high level of natural features'. In effect, the vision for rural areas is that agriculture/rural-related resources will be employed for the benefit of the local and wider population and require a balanced approach to protect and promote biodiversity, the integrity of the landscape, and enhancement of built and cultural heritage.

7.1.5. I consider the First Party has not provided any reasonable case or justification demonstrating how the proposed NCT Centre is consistent with the 'RU' - Rural zoning objective and vision. There are no details on the appeal file to conclude that the proposed development would contribute towards protecting and promoting the development of agriculture and rural related enterprise, biodiversity, the rural landscape, and the built and cultural heritage of the area as per the 'RU' – Rural zoning objective. Moreover, I am not satisfied from the content provided by the First Party that the proposed NCT Centre for testing the roadworthiness of vehicles accords with the overall rural vision for the 'RU' – Rural area which is based on agricultural and rural economic resources; visual remoteness from significant/distinctive urban influences; and, a high level of natural features for the benefit of the local/wider population so as to promote rural biodiversity and the integrity of the landscape. Therefore, I consider that the proposed NCT Centre is at a variance to the 'RU' - Rural zoning objective and vision of the Development Plan and I recommend that permission be refused on this basis.

Matter of Material Contravention

7.1.6. Refusal reason No. 1 of the Planning Authority's decision states that the subject development is would materially contravene the zoning objective for this site. I am satisfied that a material contravention of 'RU' – Rural land use zoning of the Development Plan arises for the above-mentioned reasons regarding the significant lack of consistency with the vision of the zoning objective for the site.

7.1.7. Should the Board be minded to consider a grant of permission, I would draw their attention to Parts (i) to (iv) of Section 37(2)(b) of the Planning & Development Acts 2000 (as amended) which would need to be considered in order to grant permission if the Board agrees that a material contravention of the Development Plan arises.

7.1.8. I have reviewed the above criteria and I am not of the view that the subject development meets these criterion for the following reasons:

- the subject development, at this location, is not of strategic or national importance;
- there are no conflicting objectives in the Development Plan, or objectives which are not clearly stated, insofar as the subject development is concerned;
- there are no reasons to grant permission for the subject development in this location having regard to regional planning guidelines (RSES), Section 28 guidelines or policy directives under Section 29, the statutory obligations of Fingal County Council in this area, or, any relevant Government policies; and,
- there are no reasons why permission should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the relevant Development Plan.

7.1.9. In this regard, I do not recommend that the Board considers a grant of permission using the material contravention powers that are available to it.

Non-Conforming Use and Ancillary Use

7.1.10. In the interests of completeness of assessment, I note the First Party refers to previous applications at the adjacent complex which have been approved by the Planning Authority which have facilitated the expansion and intensification of the existing plant hire operation. I note from review of the appeal file that there is extensive planning history associated with the adjacent facility which is currently under the control of the Breffni Group. I am satisfied that relatively recent applications associated with those site operations have been considered in the context of the development constituting non-conforming uses in that complex however, I do not consider that the proposed NCT Centre is relatable to the operations of the existing facility.

7.1.11. In the context of the proposed development, I note that the operative Development Plan acknowledges non-conforming uses as those which do not conform to the zoning

objective of the area and Objective ZO3 seeks to '*generally, permit reasonable intensification of extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria*'. I am not satisfied that the proposal can be considered against Objective ZO3 (Non-Conforming Uses) of the Development Plan. I have formed this view as the First Party has clearly stated that the purpose of this application is for a totally independent vehicle test care facility which will provide NCT vehicle inspection services on behalf of the Road Safety Authority (RSA). Therefore, proposed development would not be an extension or associated with the established Plant Hire facility but would be its own operation that is separate to the permitted parent use of the adjacent plant hire facility.

7.1.12. Additionally, and for similar reasons as set out above, I am of the view that the subject development cannot be considered as an 'Ancillary Use'. Objective ZO4 of the Development Plan seeks to '*ensure that developments ancillary to the parent use of a site are considered on their merits*'. The proposed development would not be ancillary to the permitted parent use of the adjacent plant hire facility as the proposal relates to a separate facility that will operate independently of the Breffni Group complex.

7.1.13. To conclude, I am of the view that the proposed development cannot be considered as either a non-conforming or ancillary use. I recommend that the development be refused for its contravention of the 'RU' - Rural zoning objective as set out in the Fingal Development Plan 2023-2029.

7.2. Traffic and Transportation

7.2.1. Part of the Planning Authority's second refusal reason states that the proposal would be inappropriate at this location, would impact negatively on the residential amenity of the neighbouring dwellings and would detract from the amenities of the rural area on the basis of the intensification of traffic movement in the area, the reliance on private vehicles to use the development and the lack of information on days and hours of operation along with the number of expected visitors.

7.2.2. As part of the First Party appeal, a Civil Engineering report has been received in response to items c-f of Refusal Reason 2. In the interests of clarity and completeness, I will consider each of the response items as follows:

Item C - Intensification of traffic movement in the area

- 7.2.3. According to the submitted report, the proposal will facilitate 250 no. vehicle tests per day which equates to 34 no. vehicle movements per hour or 17 no. vehicles in and 17 no. vehicles out. Car testing will only generate private cars for “customers” and such a testing facility will generate a traffic equivalent irrespective of its location.
- 7.2.4. The subject site is located on the R122 (Regional Road); is c. 4km from the old N2 (National Road) now R135 at Ward Cross; and, is c. 6km from the M2 (Motorway) at Cherryhound. The First Party claims that the site is located in an area where capacity exists in road network to facilitate the generated traffic for the development. The proposal will generate a traffic increase greater than 10% of the baseline traffic (estimated at 12% max of peak trips). However, it is contended by the First Party that no modelling would normally be required to be carried out given the low baseflows generating the increased percentage impact. The existing road junction to the site from the R122 is claimed to be able to perform well within its capacity from software modelling carried out.
- 7.2.5. I am not satisfied with the response to refusal reason 2(c) regarding the matter of intensification of traffic movements. The proposed development will generate considerable vehicle movements, estimated at approximately 2,400 journeys (based on daily 200 tests X 6) excluding staff movements to a location outside of any designated settlement for the sole purpose of vehicle testing. I acknowledge that NCT Centres require vehicles to be driven to testing centres specifically for their assessment thus generating vehicle trips however, I do not consider that the First Party has justified a site specific rationale for siting the proposed facility in this rural area. I am of the view that the development would necessitate substantive unsustainable trip generation to a rural location. I am not satisfied that sufficient traffic and transportation data have been provided to conclude that the development would not adversely affect the efficiency or safety of the road network.
- 7.2.6. I also note that the nearest NCT Centre is located at Northpoint in Ballymun some 9km to the south of the site. I am not satisfied that the First Party has demonstrated the need or merit of locating the proposed development at the subject site in light of existing NCT provision in the region or how the subject site represents an ideal location for NCT services.

Item D - Reliance on private vehicles to use the development

- 7.2.7. In respect to the Planning Authority's concerns regarding the reliance on private vehicles to use the subject development, the submitted grounds of the appeal makes the assumption that this matter only relates to staff traffic as it is obvious the NCT Centre will generate private vehicle trips due to the requirement for vehicles to drive there for assessment.
- 7.2.8. From a staff perspective, there is a relatively low number of staff i.e. 24 no. personnel in 2 shifts (7am and 2.30pm) who generate no traffic at peak periods due to the shift nature of the facility. 80% of staff are indicated as travelling by car with an average occupancy of 1.2 persons per car with bicycle parking provided for persons who may cycle to work.
- 7.2.9. I am not satisfied with the response to refusal reason 2(d). The response of the First Party has focused only on the reliance of private vehicles for staff and effectively claims that there is an unavoidable requirement for private vehicles to use the NCT Centre for testing. I consider that the First Party has again failed to rationalise the siting of a NCT Centre in a location outside of any designated settlements whereby vehicles will need to drive to a rural area for the purpose of a road worthiness test. I consider that the character of rural areas would be better preserved by avoiding travel to this countryside location and that such a facility would be more appropriately suited to an urban location.

Item E - Lack of information on days and hours of operation

- 7.2.10. The grounds of appeal note the initially proposed operating hours of the facility (07:00hrs – 23:00hrs between Monday and Saturday which equated to 250 tests per day) and makes reference to the times of the 2 no. staff shifts. However, on foot of the Noise Impact Assessment Report submitted with this appeal, the operating hours will be reduced to 07:00hrs – 21:00hrs on Monday and Friday and 08:00hrs – to 15:00hrs on Saturdays with no testing on Sundays.
- 7.2.11. I acknowledge the clarification provided by the First Party in terms of the operating hours and that those hours will be reduced to avoid significant adverse impacts during the nighttime period between 23:00hrs - 07:00hrs. Whilst I acknowledge that such hours of operations would be generally consistent with NCT Centre operations, I am of the view that the activity of the proposed development, which relates to the testing

of vehicles into the evening period would detract from the surrounding residential amenity and the amenities of the rural character. I do not consider that the proposed location of the NCT Centre to be suitable for the subject area.

Item F - Lack of information on the number of expected visitors

7.2.12. The report outlines that the revisions to the operation hours, submitted as part of the subject appeal will reduce the average daily visitors down from the initially proposed 250 tests per day to 200 tests per day. According to the report, this equates a 20% reduction from the original proposal.

7.2.13. I note the clarity provided by the First Party in terms of the expected numbers of visitors. There is, however, inconsistency in the submitted report as only this section is the refers to a reduction in daily tests from 250 per day to 200 per day on account of reduced operating hours. In consideration of the expected number of visitors to the proposed NCT Centre, I have previously outlined my concerns that the numbers of average daily visitors to this premises would be excessive for such a facility in a rural location and would disrupt and detract from the surrounding rural character on account of the intended operations and associated movements of visitors to and from the site.

Other Transportation Matters

7.2.14. In addition to items c-f of Refusal Reason No. 2, the appeal submission addresses a number of other issues that were raised in the technical report of Transportation Planning Section. Whilst these issues did not form a specific basis of a refusal reason, the applicant has sought to address these concerns in the interests of completeness. These matters include justification/break down of parking spaces; indication as to whether a right turning lane from the R122 is necessary; and, consideration of an alternative access layout with the internal road and pedestrian connectivity.

7.2.15. In terms of car parking demand, the Transportation Planning Section queried the parking provision for the subject development which included 64 no. visitor car spaces on the site (excluding 10 no. staff spaces) which was considered to be excessive. The First Party has submitted a revised car parking arrangement with 34 no. visitor car parking spaces and 4 no. EV parking spaces. Additionally, 8 no. staff parking spaces, excluding 2 no. disabled spaces, adjacent to the building are also included. Therefore, the gross total of car parking spaces has reduced from 74 no. car parking spaces as

originally proposed to 48 no. car parking spaces. 12 no. bicycle spaces and 8 no. motorcycle spaces will also be provided on the site.

7.2.16. In considering the car parking requirements, an NCT Centre is not a defined land use category in the Development Plan and therefore I would consider it reasonable to assess parking provision on a first principles basis. From my review of Table 14.19: Car Parking Standards of the Development Plan, I note that many maximum car parking spaces in Zone 2 for Retail/Employment uses range of between 1 per 30sq.m and 1 per 50sq.m. If applied to the subject development for comparison purposes, maximum car parking provision would be between 25 no. and 42 no. spaces. I am of the view that the reduced number of visitor parking spaces, demonstrated by the First Party as 36 no. spaces, would to be broadly acceptable with Development Plan standards but also on account of the car-based nature of the proposal. Therefore, I am satisfied that the gross number of car spaces at 48 no. car parking spaces inclusive of visitor and staff parking would be sufficient given the expected number of tests to be conducted.

7.2.17. With respect to internal circulation, I have no concerns with layout as indicated which should enable sufficient and safe turnabout and manoeuvrability. The submitted drawings have also included pedestrian walkways which in my view are acceptable in reducing conflict between pedestrians and vehicle users. The Transportation Planning Section indicated that an alternative access layout should be considered with the priority access being brought in line with the edge of the internal road along with consideration of pedestrian connectivity. The response of the First Party has indicated that such a layout amendment could be incorporated at the site however, no such details have been included for consideration in this appeal. Given that the proposed development is to be accessed from within the internal road of the adjacent Breffni Group complex, I am of the view that this amendment could be achieved to the satisfaction of the Planning Authority. That said, based on the lack of information submitted I cannot consider this matter in detail to form a reasoned conclusion as part of my assessment.

7.2.18. The Transportation Planning Section noted that the applicant did not indicate if a right turn lane from the R122 is necessary or required to facilitate the subject development. The First Party states that modelling carried out was on the basis of no right turn provision and that the access would continue to operate satisfactorily with estimated

traffic travel in a 70/30 south-north split. I note that the current entrance to the Breffni Group complex is not served by a right turn lane, however this access arrangement is to serve those specific site operations. It is unclear from the response of the First Party as to whether or not the modelling is attributable only to the proposed NCT Centre or inclusive of the entire 'Breffni Group' complex which will share this entrance. Given the extent of vehicle movements proposed as part of the NCT Centre, I consider that a Traffic and Transport Assessment (TTA) should have been provided to fully demonstrate the effects of travel demand, the capacity of the road network and cumulative effects of the existing entrance. In the absence of affirmative information, I have residual concerns that the proposal could adversely affect both the efficiency and safety of regional road infrastructure. Moreover, complete reliance upon the First Party's modelling projections alone presents a difficulty for the Board in fully determining traffic impacts.

Conclusion on Traffic and Transport

7.2.19. I consider that the proposed development would result in the generation of a significant volume of vehicle travel and would necessitate unsustainable trip generation to a rural location. I consider that insufficient evidence has been provided by the First Party to conclude that the existing entrance and supporting road network is capable of safely accommodating additional traffic movements to and from the site without giving rise to traffic impacts. Therefore, I cannot be satisfied that the traffic generated by the proposal would not endanger public safety by reason of a traffic hazard or obstruct road users.

7.2.20. Furthermore, given my overarching concerns regarding the principle of the NCT Centre in this 'RU' – Rural area, I am of the view that the volume of additional traffic movements would interfere with and detract from the rural amenities of the area and would not promote the proper planning and sustainable development of the area. I recommend that the second refusal reason should be upheld generally, albeit modified.

7.3. Noise, Air and Lighting Impacts

7.3.1. The Planning Authority's third refusal reason considered that the applicant failed to demonstrate that the proposed development would not have negative impacts in respect of noise, light and air which are required to be assessed under the

Development Plan. The First Party has indicated that such technical considerations were not deemed to be a requirement as the proposed development is neither a 'Permitted in Principle' use or a 'Not Permitted' use. I will consider each of the response items regarding Lighting, Noise and Air below:

Noise

- 7.3.2. Part of refusal reason No. 3 relates to the applicant failing to demonstrate that the proposed development would not have negative impacts in respect of noise. In response to the Planning Authority's decision, the First Party has submitted an Noise Impact Assessment (NIA) for the subject development.
- 7.3.3. I have reviewed the NIA which describes the development and identifies noise sources arising from the operations; assesses the character of the noise sources; identifies noise sensitive receptors and the prevailing noise environment; outlines relevant noise standards; calculates operational noise impact; and evaluates noise effects and their significance along with any mitigation.
- 7.3.4. The NIA states that the baseline noise survey was carried out over 4 no. consecutive days (Friday to Monday) across Day/Evening/Night – with only day time for Monday. This time selection was made to capture typical noise conditions. The result of the survey indicates relatively low ambient noise levels that are consistent with a rural location. The NIA indicates nearby noise sensitive receptors as being 2 no. residential properties to the north of the subject development and 1 no. residential development to the southwest of the subject site.
- 7.3.5. A noise prediction model was created based on a comparable NCT facility and considered a worst-case scenario with roller doors open for the proposed activities. The scenario modelled included the provision of a noise barrier. The results of the modelling found that noise from the operations of the proposed facility would result in a minor increase (+1dB or less) above the baseline at nearby noise receptors during daytime hours and a moderate increase (up to 5dB) during the evening. These increases are deemed to be within the acceptable limits. The grounds of appeal state that the operational noise from the proposed facility may cause a change in character in the prevailing noise environment, but such a change is not deemed to result in an adverse impact on any nearby residential property.

7.3.6 Mitigation measures proposed include the provision of an 'L' shaped acoustic barrier along the boundary with acoustic fencing at 5 metres in height; reduced operating hours to prevent annoyance during late evening and night-time hours; operational restrictions on sounding car horns, as required for NCT testing, only within the building; and, the preparation of a Noise Management Plan (NMP). Acoustic analysis for mechanical noise was not undertaken but can be reviewed to consider accumulative noise on completion of works.

7.3.7. I note the findings of the NIA however, in review of same, some items are of concern to me. Firstly, the assessment has not correctly identified the most sensitive noise receptor, namely the existing residential property situated to the immediate west of the proposed development which is to be part located in the garden area of this residence. I consider the assessment to be significantly flawed as this property is evidentially the most significant noise sensitive receptor given its immediate proximity to the proposal and would be impacted upon the most from the operations. The dwelling has been deliberately excluded from the noise assessment and I have been unable to find any information or explanation on the appeal file giving reason for its omission. Secondly, the baseline noise measure was conducted using a microphone placed roughly midway along the northern (side) boundary of the appeal site. I have significant concerns with the placement of this microphone for accurate testing as – it is immediately adjacent to a dense hedgerow; is at the further point from the neighbouring plant hire facility; and, is in an area where the proposed NCT Centre will not be located. I cannot be satisfied that a robust study/assessment could be determined. Thirdly, no details have been provided with respect to the proposed 5 metre (16 feet) high acoustic timber screen to be erected atop of the proposed berm, also undefined, in the northwestern corner of the site. I consider that such a screen is suggestive of significant noise effects arising from the proposal to include such a mitigation measure. I consider that a sectional drawing of this acoustic barrier would have been beneficial to assess this element of the proposal, but it has not been provided.

7.3.8. Whilst I acknowledge the reduced operational hours proposed, noise reduction measures for day-to-day operations, and the nature of the established activity on the neighbouring complex; I am not satisfied, based on the submitted information, that the proposed development would not result in significant amenity impacts on both the

residential properties and the character of the rural area in terms of noise. The Board however may wish to seek further information in terms of clarifying the status of the neighbouring residential residence to the immediate west of the site and details of the proposed acoustic screen, however, I do not consider this necessary, having regard to the substantive reason for refusal in relation to the principle of development.

Public Lighting

- 7.3.9. The First Party has submitted a Public Lighting Report and Plan as part of the appeal to address part of Refusal Reason No. 3. The key objectives outlined in the Site Lighting Overview of the report seek to provide adequate lighting illumination to contribute towards the safe use of the public roads/paths used by vehicles and bicycles and all walkways/footpaths by pedestrians; contain lighting within the site boundary; minimise light pollution and visual glare to residents and neighbouring areas; and, provide a visually stimulating environment and enhance security. The proposed lighting layout comprises 17 no. luminaires in the form of poles at the car parking and pedestrian area and fixtures mounted from the proposed building. The submitted report outlines the various light classifications in the context of road junctions and pedestrian areas and that the lighting will be focused/directed within the site.
- 7.3.10. I note the proposed lighting layout however, I am not satisfied that the submitted information has adequately addressed potential residential impacts arising from the proposal. The submitted report refers to specific guidelines for controlling light spills from lighting to protect neighbouring residential areas but contains no assessment of any impacts to residential properties. A single surface result has been provided with the appeal however, there are no details demonstrating lighting contours or light spill outside the boundary of the appeal site. There is no information regarding potential obtrusive light or any mitigation against same. There are residential dwellings to the north of the appeal site and as indicated, the nearest dwelling that would be affected by the proposed development is to the immediate west with the proposed development partially sited in the existing rear garden area of this residence. The proposed NCT Centre is to be located approximately 22 metres from the rear of this dwelling.
- 7.3.11. Based on the lack of information submitted, the potential impacts from the proposed development is unclear and I cannot be satisfied that the proposed lighting would not

have adverse amenity impacts on the neighbouring residential properties in the immediate vicinity on account of the proposed lighting.

Air

- 7.3.12. In response to refusal reason No. 3, the First Party has submitted an Embodied Carbon Assessment considering air quality impacts from the subject development. The report provides an overview of the existing air quality baseline, identifies relevant air quality policies/guidelines, sources of air emissions associated with the proposed development and its potential impacts, defines mitigation measures implemented to minimise air quality impacts and any residual effects.
- 7.3.13. In terms of baseline air quality, data has been derived from air quality reports from the Environmental Protection Agency. The appeal site is located in 'Zone D' which represents rural Ireland and all towns with a population of less than 15,000. Air quality is indicated as generally good with concentrations of the key pollutants generally below the relevant limit values.
- 7.3.14. Potential impacts to air quality as a result of the development will arise during the construction phase from dust emissions and potential nuisance dust. The extent of dust generation depends its nature (soils, peat, sands, gravels, silts etc.) and the nature of construction activity. According to the report, there is at most a 'medium' risk of dust soiling effects and a low risk of human health effects associated with the proposed works. The potential effects from traffic emissions will be short term during the construction phase and have been screened out. At operational phase, the report states that traffic does not meet the screening criteria.
- 7.3.15. In terms of mitigation measures, the proposed development is assessed as being a medium risk of dust soiling effects at construction phase. Mitigation will be drawn on best practice guidance and includes the following:
- Communications: Develop a Stakeholder Communications Plan to explain nature and duration of works; and, develop and implement a Dust Management Plan (DMP)
 - Site Management: Dust control measures will be monitored during work hours and as appropriate depending on meteorological conditions; a complaints register in connection with dust nuisance or air quality concerns will be maintained; any exceptional incidents that cause dust/air emissions on or off site will be recorded

with the resolvable action(s); liaison meetings with other high-risk construction sites will be conducted so that dust and or air emissions are minimised.

- Preparing and Maintaining the Site: Machinery and dust causing activities be located far from receptors; erection of screens/barriers around dusty activities; avoidance of run-off/mud; keeping materials clean; removal of materials which have potential to cause dust as soon as possible from the site or re-cover where necessary.
- Operating Vehicles/Machinery and Sustainable Travel: No idling vehicles; avoid use of fuel generators; impose 15kmph speed restriction; prepare a Construction Logistics Plan for sustainable delivery of goods; and, implementation of a Travel Plan to support sustainable modes of transport.
- Operations – Utilising tools/equipment with dust suppression and having water available for dust mitigation; enclosed conveyors and covered skips; and, ensure equipment is available to clean spillages
- Waste Management – no bonfires or burning of waste materials.
- Measures Specific to Earthworks: Re-vegetate earthworks and/or soil stockpiles as soon as practicable; use of hessian/mulches/trackifiers where it is not possible to re-vegetate; only remove covers in small areas; during dry/windy periods, a bowser will operate to ensure moisture content is high to suppress dust.
- Measures Specific to Demolition: Preparation of a building appraisal and demolition plan; preparation of a building survey; and, dust suppression measures.
- Measures Specific to Construction: Ensure sand/aggregates are stored in bunded areas and not allowed to dry out unless required; bulk cement and fine powder materials to be delivered in enclosed tankers and stored in silos with suitable emission controls; and, smaller supplies of fine powder materials to be in sealed bags after use and stored appropriately.
- Measures Specific to Trackout: Speed restrictions applied on-site vehicles; the avoidance dry sweeping of large areas; ensure that vehicles entering/leaving the site are covered to prevent escape of materials during transport; inspection of haul roads and keeping of records of conditions; installation of hard-surfaced haul routes and regular dampening down; implementation of wheel washing systems; ensure adequate hard-surfacing between wheel wash facility and site exit; and, locating access gates at least 10 metres from receptors (where possible).

- Monitoring: The undertaking of on-site and off-site inspections to monitor dust and record inspections.

7.3.16. The report indicates no significant residual impacts on air quality are anticipated. Effects from fugitive emissions of dust and particulate matter will be imperceptible in nature posing no nuisance at nearby receptors.

7.3.17. Having reviewed the available information on the appeal file, having conducted a site inspection where there is existing Plant Hire operations on adjoining lands and given the nature of the proposed operations, I am satisfied that the proposed development is unlikely to give rise to any significant impact on air quality considerations, subject to implementation of relevant mitigation measures and would not give rise to adverse impacts on the amenities of the surrounding area.

Conclusion on Noise, Air and Lighting Impacts

7.3.18. Based on the information submitted, I do not consider that the First Party has satisfactorily demonstrated that the proposed development would not result in negative amenity impacts, particularly in relation to noise and lighting, on the residential amenity of neighbouring dwellings in the immediate vicinity of the appeal site. Moreover, I am not satisfied that the proposed NCT Centre development is appropriate at this location and would likely negatively impact and detract from the rural amenities of this area. I recommend that permission be refused.

7.4. Biodiversity Gain & Ecological Impacts

7.4.1. The Planning Authority's fourth refusal reason is based on the consideration that the proposed development failed to demonstrate compliance with Objective DMSO138 and Objective DMSO148 Development Plan 2023-2029 regarding Net Biodiversity Gain and Ecological Impacts. For ease of reference, I shall set out each item under their own separate sub-headings.

Ecology

7.4.2. The First Party has submitted Ecological Impact Assessment Report (EclAR) with the appeal to address the concerns of the Planning Authority. I have reviewed the EclAR which has set out the subject development; locational overview of the site; legislative context and relevant guidance; details of surveys carried out including a desktop survey and field surveys including amphibians, birds, bats or terrestrial mammals and

plant species; and a summary and assessment of ecological features and any effects/mitigation required.

- 7.4.3. The EclAR outlines the baseline ecological condition with 4 no. European sites identified within a 10km radius. Two of the sites have a hydrogeological connection via surface water and groundwater with the other two sites having a connection via groundwater. Having regard to the scale of construction/demolition phases and the distances from the Natura 2000 network there should be no potential impact from the proposal. The EclAR also noted that pNHA's are within a 10km zone of influence but that the proposal has no potential to impact same.
- 7.4.4. The habitat classification of the site has been identified as being mainly Recolonising Bare Ground (ED3) with other parts site indicated as Amenity Grassland (Improved) (GA2) and Buildings and Artificial Surfaces (BL3). The remaining part of the site includes limited areas of Earth Banks (BL2), Ornamental Non-Native Shrub (WS3) and Treelines (WL2). No other habitats of conservation significance were noted and the habitat evaluation broadly indicates the site to be of low ecological concern. The EclAR states that no plant species of conservation significance were identified on site. In terms of species, no terrestrial fauna or amphibians of conservation significance were identified on site. The only noted species identified, during the desk study, was a bat (Common Pipistrelle), from an observation in 2012 however, no species were recorded during the filed survey. No bird species were identified but are considered likely to utilise the treeline and hedgerow during breeding season – albeit limited.
- 7.4.5. The EclAR notes that the proposed development will result in the loss of trees which are considered suitable for breeding birds. Such impacts are likely to be restricted to breeding passerine birds which are commonly found in the local and wider area. The effect of the development on breeding birds would be significant at local level but would be reduced by landscaping measures to replant hedgerows and native trees. In terms of mitigation measures, the EclAR outlines that vegetation clearance should take place outside of nesting season (March 1st – August 31st inclusive). These measures are indicated as being standard, based on good practice. The residual effect on birds will not be significant.
- 7.4.6. The EclAR concludes that the proposal will result in temporary localised effects on biodiversity on the site through the loss of some tree habitat which will affect bird

species by loss of nesting habitat. Standard mitigation and recognised good practice will reduce the effects and impacts of the development and the proposed landscaping will enhance the site. The proposal will not result in significant residual effects.

Biodiversity

7.4.7. In relation to biodiversity, the First Party has submitted a revised Landscape Rationale Report and Green Infrastructure Strategy for the development with the appeal. The Landscape Masterplan indicates an increased area of landscaping from that initially proposed incorporating various native Irish tree planting, hedging, pockets of native wildflower seeding, whip planting and the provision of a soil berm along the northern boundary. The existing northern (side) boundary which contains mixed hedgerow and mature trees is to be retained and will not be impacted as a result of the proposed works. The revised drawings indicate that the existing berm to the east will not be impacted as it is not in the red line application site boundary.

7.4.8. The submitted EclAR also indicates biodiversity enhancements from the proposed development with non-native plant species and non-native ornamental trees being replaced with native species to replicate the existing habitat and create a habitat which will further support nesting birds and terrestrial animals.

Conclusion on Biodiversity Gain and Ecological Benefits

7.4.9. I am satisfied that the Ecological Impact Assessment Report (EclAR) is robust and thorough in its assessment of the appeal site. I am of the view that the appeal site is one which is not especially sensitive in terms of ecological value and I would consider that the mitigation measures applied are sufficient to protect breeding birds and that there would be no significant residual effects. In terms of biodiversity gain, I acknowledge the revisions submitted with the appeal and overall increase in landscaping across the appeal site. I am satisfied that the loss of existing vegetation on the site to facilitate the NCT Centre will be replaced and enhanced with the proposed supplementary planting of various native species.

7.4.10. Based on the information received with the appeal, I am of the view that the First Party has demonstrated the proposed development's compliance with both Objective DMSO138 and Objective DMSO148 of the Fingal Development Plan 2023-2029 in terms of the protection and enhancement of Biodiversity and Ecological Impact Assessment respectively. As such, I consider that it would be unreasonable to uphold

refusal reason No. 4 of the Planning Authority's decision. Notwithstanding, and as previously outlined, I consider that this matter to be somewhat irrelevant given my fundamental concerns about the principle of the development in the first instance.

8.0 Appropriate Assessment (Screening)

8.1. I have considered the subject development in light of the requirements S177U of the Planning and Development Act 2000 (as amended).

8.2. The subject development is located in a rural area approximately 7.3km from the Malahide Estuary Special Area of Conservation (Site Code: 000205) and Malahide Estuary Special Protection Area (Site Code: 004025) which are nearest European Sites respectively. The subject development comprises a NCT Centre.

8.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is as follows:

- The scale and nature of the development;
- The distance to the nearest European site and the lack of direct connections; and,
- Taking into account the screening determination of the Planning Authority.

8.4. I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore a retrospective Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

9.0 Recommendation

9.1. I recommend that permission be REFUSED for the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the rural location of the subject site outside any designed settlement development boundary, the 'RU' - Rural zoning with an objective to *'protect and promote in a balanced way, the development of agriculture and rural related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'*, the zoning vision which in short seeks to *'protect and promote the value*

of the rural area of the County' and, the requirement of the Fingal Development Plan 2023-2029 to assess proposed developments in terms of their contribution towards the achievement of this objective and vision where such a proposal is neither 'permitted in principle' nor 'not permitted'; it is considered that it has not been demonstrated that it is essential for the proposed NCT Centre to be located on this site in the rural area. The proposed development would, therefore, materially contravene the 'RU' zoning objective of the Fingal County Development Plan 2017-2023 and be contrary to the proper planning and sustainable development of the area.

2. Having regard to the information submitted, the Board is not satisfied that the First Party has demonstrated that the proposed development would not result in negative amenity impacts, particularly in relation to noise and lighting, on the residential amenity of the neighbouring dwellings. It is considered that the proposed NCT Centre development would not be appropriate at this location and would negatively impact and detract from the rural amenities of this area by reason of its on-site operations. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed NCT Centre would necessitate the generation of a significant volume of vehicle travel to and from the subject site which is located in a rural area. It is considered that insufficient information has been provided in respect of the intensification of traffic/vehicular movements to this area to satisfy the Board that the proposed development would not endanger public safety by reason of traffic hazard on account of the additional traffic and turning movements at the existing entrance.

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.

Matthew O Connor
Planning Inspector

30th January 2025

Form 1

EIA Pre-Screening

| | | | |
|--|--|--|---|
| An Bord Pleanála Case Reference | ABP-320940-24 | | |
| Proposed Development Summary | Construction of a vehicle test centre and associated site works. | | |
| Development Address | Ballyhack, Kilsallaghan, Swords, Co. Dublin | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | | Yes | X |
| | | No | |
| 2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)? | | | |
| Yes | | | Proceed to Q3. |
| No | X | | No further action required |
| 3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class? | | | |
| Yes | | | EIA Mandatory EIAR required |
| No | | | Proceed to Q4 |
| 4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]? | | | |
| Yes | | | Preliminary examination required (Form 2) |
| 5. Has Schedule 7A information been submitted? | | | |
| No | X | Pre-screening determination conclusion remains as above (Q1 to Q4) | |
| Yes | Tick/or leave blank | Screening Determination required | |

Inspector: _____ Date: _____