



An
Bord
Pleanála

Inspector's Report

ABP-321196-24

Development	Demolition of two houses and associated structures to use the site as a storage container depot consisting of 1,270 containers and all associated site works.
Location	Bloomburn Cottage, Kilshane, Dublin 11, D11 F1WB and Kilmonan Lodge, Kilshane, Dublin 11, D11 XP89.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW24A/0339E
Applicant(s)	Stateline Transport Limited
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party against refusal
Appellant(s)	CWPA Planning and Architecture Ltd. On behalf of Stateline Transport Ltd.
Observer(s)	None

Date of Site Inspection

6/3/25

Inspector

Ronan Murphy

1.0 Site Location and Description

- 1.1. The appeal site is in the Kilshane Cross area which is located c. 10km to the north of Dublin City Centre and c. 4.6km to the southwest of Dublin Airport. It is located on the northern side of Kilshane Road, which is a local road (L-3120), and is a narrow, curving, two-way road which links the Northwest Business Park to the M2 /N2.
- 1.2. The character of the area is in transition from semi-rural with one off houses to a more industrial / commercial area as evidenced by existing industrial estates at the Northwest Business Park and permitted Gas Turbine Power Generation Station under construction to the south of the site (on the opposite side of Kilshane Road).
- 1.3. The appeal site which has a stated area of 2.53 ha is an irregularly shaped parcel of land which sits slightly below the L-3120 and at present is primarily in use for agricultural purposes, however there are two uninhabited dwellings known as 'Bloomburn Cottage' and 'Kilmonan Lodge' to the southern end of the site.
- 1.4. The site is bound by agricultural lands to the immediate west and beyond that is a residential dwelling. The site is bound by extensive vegetation to the south, an access road to a storage yard to the southeast and by the M2 / N2 including its embankment to the east, northeast and north.

2.0 Proposed Development

- 2.1. The development comprises of the demolition of two dwellings known as 'Bloomburn Cottage' and 'Kilmonan Lodge' including associated garages and shed structures and the development of a container storage depot with a maximum capacity of 1,270 containers.
- 2.2. The storage containers are to be arranged in 9 blocks which range in height from 3 containers high (c.8.7m) to 6 containers high (17.4m). The container storage would be serviced by two reefer gantries.
- 2.3. Finally, the proposal includes an ancillary lighting, detached office and workshop building, a security hut, and the provision of 9 no. car parking spaces, motorbike parking, truck parking spaces, wastewater treatment facility, landscaping, and vehicle entrance onto Kilshane Road.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 Fingal County Council decided to refuse planning permission by order dated 10/10/24, for three reasons:

1. *The proposed development, by virtue of nature of the operation proposed and design and layout of development on the site, would seriously injure the amenities, and depreciate the value, of property in the vicinity, would be seriously injurious to the visual amenities of the area and adjoining property, contrary to Section 14.15.1, Table 14.15, Objective DMSO89 and Policy EEP2 of the Fingal County Development Plan 2023-2029 in respect of design in industrial areas, set an inappropriate precedent for other similar development and would therefore be contrary to the proper planning and sustainable development of the area.*
2. *The Planning Authority is not satisfied, based on the information submitted, that the proposed development would not adversely affect the operation and safety of the N2 National Route. The development would therefore be contrary to the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) which have been issued to Planning Authorities under Section 28 of the Planning and Development Act 2000, as amended, and to Objective DMSO114 of the Fingal County Development Plan 2023-2029 which seeks to reserve the efficiency and safety of National Road infrastructure and would therefore, be contrary to the proper planning and sustainable development of the area.*
3. *The applicant has not demonstrated to the satisfaction of the planning authority that it has sufficient legal interest with regard to the execution and completion of the proposed development over the entirety of the site.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 There is one planning report on file dated 10th October 2024. The area planners report assessed the application in terms of Appropriate Assessment, principle of development, design and visual impact, impact on the surrounding area, landscape

and green infrastructure, traffic and transportation, impact on national roads, water services infrastructure, Dublin Airport, Archaeology and Environmental Impact Assessment.

3.2.2. Other Technical Reports

- **Parks and Green Infrastructure Department:** Report dated 6/9/24 outlining no objection subject to conditions.
- **Water Services Department:** Report dated 16/9/24 outlining no objection, subject to conditions.
- **Environment, Climate Action, Active Travel and Sports Department:** Report dated 17/9/24 outlining no objection subject to conditions.
- **Heritage Officer:** Report dated 25/9/24. Outlining no objection subject to conditions.
- **Transportation Planning Section:** Report dated 1/10/24 seeking further information relating to details of the proposed 6m buffer and its effectiveness to protect the N2 embankment, the dimensions between the post and rail fence and the 2.4m high palisade fence and the operation procedures for staking and removing containers adjacent to the N2 boundary.

3.3. Prescribed Bodies

- **Transport Infrastructure Ireland:** Response dated 17/9/24 outlining that TII would not entertain any future claims in respect of noise and visual impacts due to the presence of the existing or future planned roads and recommending that the proposed development include arrangements for access to the N2, if necessary, for motorway maintenance and renewal contacts.
- **Dublin Airport Authority:** Response dated 23/9/24. Recommending that the planning authority has regard to the ERM report when assessing the proposed development.
- **Uisce Eireann:** Response dated 1/10/24 outlining no objection, subject to conditions relating to connection agreements and the development complying with Uisce Eireann's *Standard Details and Codes of Practice*.

3.4. Third Party Observations

3.4.1 There are no third-party observations on file.

4.0 Planning History

Subject site

4.1 There are a number of planning applications on the appeal site, the most pertinent are set out below:

Reg. Ref. FW24A/0045. Application for (inter alia) the demolition of existing dwellings (Bloomburn Cottage, Kilshane, Dublin 11, D11F1W8) and (Kilmonan Lodge, Kilshane, Dublin 11, D11 XP89) and associated garages, and shed structures, and permission for the use of the subject site (c 2.52 ha) as a storage container depot with a maximum capacity of 1,596 no. Containers and associated works. Permission refused for the following reasons:

- 1. The proposed development, by virtue of nature of the operation proposed and design and layout of development on the site, would seriously injure the amenities, and depreciate the value, of property in the vicinity, would be seriously injurious to the visual amenities of the area and adjoining property, contrary to Section 14.15.1, Table 14.15, Objective DMSO89 and Policy EEP2 of the Fingal County Development Plan 2023-2029 in respect of design in industrial areas, set an inappropriate precedent for other similar development and would therefore be contrary to the proper planning and sustainable development of the area.*
- 2. The Planning Authority is not satisfied, based on the information submitted, that the proposed development would not adversely affect the operation and safety of the N2 National Route. The development would therefore be contrary to the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) which have been issued to Planning Authorities under Section 28 of the Planning and Development Act 2000, as amended, and to Objective DMSO114 of the Fingal County Development Plan 2023-2029 which seeks to reserve the*

efficiency and safety of National Road infrastructure and would therefore, be contrary to the proper planning and sustainable development of the area.

Reg. Ref. FW23A/0322. Application for (inter alia) the demolition of existing dwelling (Bloomburn Cottage, Kilshane, Dublin 11, D11 F1W8) and associated garage, and shed structure to the east of the existing house, and permission for the use of the subject site (c.2.07 HA) as a storage container depot with a maximum capacity of 1,734 no. containers and associated works. Permission refused for the following reasons:

- 1. The Planning Authority is not satisfied, based on the information submitted, that the proposed development would not adversely affect the operation and safety of the N2 National Route. The development would therefore be contrary to the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) which have been issued to Planning Authorities under Section 28 of the Planning and Development Act 2000, as amended, and to Objective DMSO114 of the Fingal County Development Plan 2023-2029 which seeks to reserve the efficiency and safety of National Road infrastructure and would therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development, by virtue of nature of the operation proposed and design and layout of development on the site, would seriously injure the amenities, and depreciate the value, of property in the vicinity, would be seriously injurious to the visual amenities of the area and adjoining property, contrary to Section 14.15.1, Table 14.15, Objective DMSO89 and Policy EEP2 of the Fingal County Development Plan 2023-2029 in respect of design in industrial areas, set an inappropriate precedent for other similar development and would therefore be contrary to the proper planning and sustainable development of the area.*
- 3. Having regard to the proposed layout, the content of the ERM Public Safety Zone Report in respect of Dublin Airport and lack of information submitted in respect of aviation impacts arising from and on the proposed development, the development would contravene Objectives DMSO15, DAO18 and DMSO11 and DMOS105 of the Fingal Development Plan 2023-2029, endanger or*

interfere with the safety of aircraft or the safe and efficient navigation thereof and would therefore be contrary to the proper planning and sustainable development of the area.

Surrounding sites

The most recent and pertinent applications are set out below:

ABP-317480-23: Planning approval is sought under the provisions of section 182A of the Act for the development of a 220kV Gas Insulated Switchgear (GIS) substation and associated Air Insulated Switchgear (AIS) compound. Permission granted, subject to conditions. This application was concurrent to an application to Fingal County Council FW22A/0204 described below.

Reg. Ref. FW22A/0204. Application for (inter alia) The construction of a new Gas Turbine Power Generation Station with an output of up to 293 Megawatts and associated works. Permission granted, subject to conditions. This decision was the subject of a third-party appeal to An Bord Pleanála, who upheld the decision of the local authority.

Similar developments

The first party appeal highlights a similar development which was granted planning permission by Fingal County Council:

FW19A/0101. Application for storage and logistic use comprising stacked shipping container storage, an ancillary office building of c.183sq.m. and associated development. Permission granted, subject to conditions. This site is in the GE zone.

5.0 Policy Context

5.1. Development Plan

5.1.1 The *Fingal County Development Plan 2023-2029* is the operational plan for the area. The appeal site is zoned GE with the associated land use objective to provide opportunities for general enterprise and employment. The vision for the GE zone is to facilitate opportunities for compatible industry and general employment uses including appropriate sustainable employment and enterprise uses, logistics and warehousing

activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable, and legible.

5.1.2 The site is within the boundary of Framework Plan 12A (Kilshane Cross). This framework plan has yet to be finalised / adopted at the time of writing this report.

5.1.3 In addition to this, the site is within Airport Noise Zones. The site is partially within the Inner Public Safety Zone with the bulk of the site within the Outer Public Safety Zone associated with Dublin Airport.

5.1.4 The development plan provides general policy support for employment generating development. Policies of relevance to the appeal site are set out below:

EEP2: Which seeks to maximise the potential of GE lands, ensuring that they are developed for intensive employment purposes.

DA011: Which seeks to strictly control inappropriate development and require noise insulation where appropriate in accordance with Table 8.1.

DAO18: Which seeks to promote appropriate land use patterns in the vicinity of the flight paths serving the Airport, having regard to the precautionary principle.

DMSO89: which seeks to ensure that the design and siting of any new Business Parks and Industrial Areas, conforms to the principles of Design Guidelines as outlined in Table 14.15.

DMS0105: Which seeks to strictly control inappropriate development and require noise insulation where appropriate in accordance with Table 14.16

Section 14.15: Which relates to enterprise and employment and encourages high quality design, materials and finishes and good quality landscaping for all commercial and industrial developments.

Section 14.15.1: The principal aims are to achieve high quality design, visual continuity and pedestrian/cycle friendly environments whilst ensuring the functioning of business and industrial locations.

Table 14.15 Design Guidelines for Business Parks, Industrial Areas (Enterprise and Employment lands)

DMS0114: Which seeks to restrict development requiring new or intensified access onto a national road.

5.2. Natural Heritage Designations

5.2.1 There are no designated sites in the immediate vicinity of the appeal site. The closest sites are the Malahide Estuary SAC and the Malahide Estuary SPA which are located c.9.4km from the site.

5.3. EIA Screening

5.3.1 See completed Form 1 attached by way of appendix to this report. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by CWPA Planning and Architecture Ltd. on behalf of Stateline Transport Ltd. against the Notification to Refuse Permission issued by Fingal County Council. I make the Board aware that this appeal is accompanied by the following:

- Land registry details (Appendix 1); and
- A report from Waterman Moylan Consulting Engineers relating to reason No.2 for refusal.

6.1.2 The grounds of the first party appeal can be summarised as follows:

- The planning authority has applied an incorrect development management standard when assessing the proposed development.

- The site abuts a heavy industry zoning and permission has been granted on the land for a power generating facility, this has not been considered by the planning authority.
- Similar developments on GE zoned lands not considered.
- There is no residential zoning adjacent to the subject site.
- Policy DMSO114 has been applied incorrectly as the subject site has an access and egress onto a local road and not the motorway.
- Access to the proposed development provided for in Spatial Planning and National Roads Guidelines for Planning Authorities (specifically Section 1.4)
- The Transportation Section of Fingal County Council accepted the findings of the Traffic assessment with respect to the impact of the proposed development on the junction with the M50 and did not object to the proposed development.
- The applicants have unencumbered title to the land. This matter could have been resolved by way of further information.

6.2. Planning Authority Response

6.2.1 Letter dated 28/11/24 stating that the Planning Authority has no further comment to make but requests that An Bord Pleanála upholds the decision of the planning authority and requests conditions relating to financial contributions / cash bonds if permission is granted.

6.3. Observations

6.3.1 There are no observations on file.

6.4. Further Responses

6.4.1 There are no further responses on file.

7.0 Assessment

7.1. Having examined the appeal details and all other documentation on file, including the first party appeal, the report of the local authority and inspected the site. I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Demolition
- Layout /design
- Traffic safety
- Wastewater
- Flood Risk
- Legal interest in the land
- Other matters
- Appropriate Assessment

7.2. Principle of Development

7.2.1 The appeal site is zoned GE 'General Employment' with the associated land use objective to provide opportunities for general enterprise and employment. The vision for the GE zone is to facilitate opportunities for compatible industry and general employment uses including appropriate sustainable employment and enterprise uses, logistics and warehousing activity in a good quality physical environment.

7.2.2 I note that there is no specific land use type for shipping container storage. However, Appendix 7 of the *Fingal County Development Plan 2023-2029* includes definitions for land uses. The proposal is for the storage of empty shipping containers and in my opinion, the proposed development is most closely defined as a Road Transport Depot which is defined as *Use of a building or land as a depot associated with the operation of road transport business to include parking and servicing of vehicles, particularly HGVs.*

7.2.3 A Road Transport Depot is permitted in principle in the 'GE' Zone. In addition to this, I consider that the office and workshop are ancillary to the overall use of the land. Having considered all the foregoing, I am satisfied that the proposed uses are in accordance with the zoning of the site and are acceptable in principle.

7.3 Demolition

7.3.1 The proposed development seeks to demolish the two existing dwellings on the appeal site known as Bloomburn Cottage and Kilmonan Lodge. I note that this application

does not include a Demolition Justification Report as required by Section 14.21.1 of the *Fingal County Development Plan 2023-2029*.

- 7.3.2 Notwithstanding this, I am satisfied that the demolition of the dwellings is acceptable in this case. Both dwellings are vacant and in a poor state of repair and in an area that is zoned for employment generating uses.

7.4 Layout / Design

- 7.4.1 Reason No.1 for refusal states that (inter alia) the design and layout of the proposed development, by virtue of its nature and operation, would seriously injure the amenities and depreciate the value, of property in the vicinity and would be seriously injurious to the visual amenities of the area.
- 7.4.2 In assessing the application, the area planner noted that permission has been previously refused for similar development on the land. The area planner's report concludes that the proposed development would be contrary to Objective DMSO89 and Section 14.15.1 of the *Fingal County Development Plan 2023-2029*.
- 7.4.3 The first party appellants state that the planning authority have incorrectly applied Section 14.15.1 of the development plan and that there are no buildings other than a single storey modular building proposed as part of this application. The first party appellants also state that the planning authority has not taken account of the context in which the appeal site is located or significant planning history on the land to the south of the land.
- 7.4.4 The appeal site is zoned for employment generating purposes and I note that the permitted Gas Turbine Generation Station on the opposite side of Killshane Road. I believe the character of the area will be significantly altered into the future. In addition to this, I consider that the use of the land for a Road Transport Depot is permitted in principle in the 'GE' Zone. The design and layout of the proposed development should be considered in this context.
- 7.4.5 I have read Section 14.15.1 and objective DMSO89 of the *Fingal County Development Plan 2023-2029* and I would agree with the first party appellant that the proposal could not reasonably be considered a Business Park. However, the subject land could be considered as an enterprise and employment land as referenced in Table 14.15. Therefore, the requirements of Table 14.15 do apply in this instance.

Visual impact

- 7.4.6 I refer the Board to the verified photomontages prepared by Digital Dimensions submitted as part of the initial application. View 1 shows that the shipping containers would be visible from the south-west of the site from Kilshane Road, view 2 shows that the proposed development would be highly visible from the front of the site, while view 7 shows that the proposed development would be partially visible from the southwest of the site (from the M2/ N2 flyover). I also refer to the contiguous elevation drawings and the landscape plans submitted with the application show a 6m wide planted buffer along perimeter of the site.
- 7.4.7 Having considered all the above, on balance, I do have concerns that the proposed development would not fully comply with the guidelines set out in Table 14.15. My concerns relate to the maximum height of the container stacks at c.17.4m. The massing / form and appearance of the proposed development would not, in my opinion, enhance the character of the area and the landscaping proposed does not adequately screen the proposed development from west.
- 7.4.8 These concerns could be mitigated by limiting the stacking of containers to 4 containers to the centre of the site and 2 containers along the boundaries of the site. This matter could be dealt with by way of condition, should the Board be of a mind to grant planning permission.

Employment generation

- 7.4.9 Reason No. 1 for refusal also states that the proposed development would be contrary to policy EEP2 of the *Fingal County Development Plan 2023-2029.*, which seeks to ensure that GE zoned lands are developed for intensive employment purposes. The first party appellant states that this policy relates to a business park or industrial area.
- 7.4.10 I believe that Policy EEP2 relates to all lands within the General Employment Zone irrespective of it being a business park or industrial area. While I note that the planning report submitted with the initial application states that there would be no more than 8 employees on site at any given time and this could not be considered to be intensive, the planning authority has zoned the appeal site for employment generating purposes and the proposal would provide for employment. In addition to this, the proposed development is permitted in principle in the GE zone. Considering the above, I am satisfied that the proposed development is acceptable in the zone.

7.4.11 While the intensity of the employment on site is low, a more intensive employment use could be considered in the future. Therefore, I would consider it reasonable to include a temporary condition of 5 years, this would allow for any impacts that the proposed use may have on the surrounding area and to allow for more employment intensive developments to be considered in the future.

7.5 Traffic Safety

7.5.1 Reason No. 2 for refusal relates to impacts of the proposed development on the operation and safety of the M2/ N2 and that the proposed development would be contrary to the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and Objective DMSO114 of the Fingal County Development Plan 2023-2029.

7.5.2 The first party appellants state that the reason No.2 for refusal is vague and does not explain the rationale to support the reason for refusal. It is further stated that the reason for refusal sets aside the consultee report from Transport Infrastructure Ireland in their assessment. In addition to this, the first party states that, as the proposed development does not directly access the M2/ N2 that policy DMSO114 has not been applied incorrectly.

7.5.3 The initial application included a Traffic Impact Assessment which outlined that the proposed HGV Trip generation for the development would be 300 movements in a 24-hour day, with a peak hour movement of 30 trips in the AM peak and that the additional traffic flow will have minimal impact on the behaviour of signalised Kilshane Cross junction.

7.5.4 These conclusions were accepted by the Transportation Planning Section of Fingal County Council. I make the Board aware that on the date of my site visit, there was a tailback at Kilshane Cross junction with the M2/ N2, although there was roadworks being undertaken in the area.

7.5.5 Having considered all the foregoing and noting that neither the TII nor the Transportation Planning Section of Fingal County Council objected to the proposed development, I am satisfied that the proposed development would not unduly impact on the operational capacity of the M2/ N2.

7.5.6 In terms of traffic safety, I note that the proposed development includes one access to the site. The proposed access would have a bell mouth width of c. 14m. In addition to this, sightlines drawings has been included with the application which shows adequate sightlines from both the eastern and western directions on the L3120 on both the existing road and a future realignment which may be constructed as part of the development permitted on the opposite side of Kilshane Road (Reg. Ref. FW22A/0204) . I am satisfied that the proposal would not lead to an unsafe traffic environment on the L3120.

7.5.7 In addition to the above, the area planners report outlines concerns relating to the potential impact of the proposed development on the safety and operation of the M2/ N2. These concerns can be broken down into two specific areas: 1. The impact of the proposed development on the stability of the embankment and 2. The potential for containers to collapse from the site to the M2/ N2 below.

Embankment stability

7.5.8 The first party appeal includes a statement prepared by Waterman Moylan in relation to the stability of the embankment, it is stated that a buffer zone is proposed between the proposed development and the M2 / N2 embankment. This proposed buffer zone would be planted, which would improve its stability. Further to this, the loads associated with the proposed development would be less than the foundations for a farm shed, industrial building or dwelling and would be negligible in the context of the stability of the embankment.

7.5.9 I note that the Transportation Section of Fingal County Council requested further information in relation to this issue. However, having considered the applicants response, I am satisfied that the proposal would not unduly impact the stability of the embankment. In any case, should the Board be of a mind to grant planning permission, a condition could be included which requires the applicant to agree embankment stability protocols with the operator of the M2/ N2 prior to the commencement of development.

Container collapse

7.5.10 Regarding the potential for containers to collapse from the site to the M2/ N2 below, in my opinion, the proposed 6m set back from the M2 /N2 embankment initially proposed by the applicant should be increased to 12m and the height of container

stacks in proximity to this buffer should be limited to a maximum of 2. This would ensure the proposed development would not impact on the safe operation of the M2 / N2.

- 7.5.11 In addition to this, should the Board be of a mind to grant planning permission then a condition should be included which there should be no loading or unloading of containers within the 12m buffer area.

Light spill

- 7.5.12 Regarding lighting overspill, I note that the application material includes a lighting report. This report demonstrates that the LUX levels along the M2/ N2 drops to a maximum of 10 Lux. Therefore, based on the projected Lux Levels; it is considered that the proposal is unlikely to have any impacts on traffic safety on the M2/ N2 by the inclusion of floodlighting at this location.

7.6 Wastewater

- 7.6.1 The proposed development includes an onsite wastewater facility and percolation area. The treatment unit will be located under the grassed open space to the southwest of the site.
- 7.6.2 The area planner's report states that the application includes a completed site characterisation form, I have been unable to find such on the file. I make the Board aware that the Local Authority confirmed that no such site characterisation form was submitted with this application.
- 7.6.3 The report of the Water Services Department of Fingal County Council raised no objection to this element of the proposal, subject to conditions relating to the need for site suitability assessments and the construction of the wastewater facility should be undertaken by a suitably qualified professional and that the foul drainage must be in compliance with the Regional Code of Practice for Drainage Works Version 6.0, FCC April 2006 or the EPA Code of Practice for Domestic Wastewater Treatment Systems 2021.
- 7.6.4 I note that the subject site includes two dwellings both of which include septic tanks. The proposal would remove the two older septic tanks and replace these with one, modern wastewater treatment facility and percolation area. Given the reduction in numbers of wastewater treatment facilities and the less intense use, I am satisfied that

the proposed development would not be prejudicial to public health, subject to conditions.

7.7 Flood Risk

7.7.1 Regarding flood risk, the subject land is located within Flood Zone C (0.1% AEP). The application material includes a Flood Risk Assessment prepared by Waterman Moylan Consulting Engineers Limited.

7.7.2 The report states that as the flood risk from all sources can be mitigate, reducing flood risk to low or very low, the proposed development is acceptable in terms of flood risk. I note that the report of the Water Services Department of Fingal County Council acknowledges the applicants Flood Risk Assessment and there are no objections to same.

7.7.3 I have consulted the Flood maps (Flood Maps - Floodinfo.ie) and I note that the appeal site is not identified as having any flood risk.

7.7.4 I am satisfied that the proposed development is acceptable from a flood risk perspective.

7.8 Legal interest in the land

7.8.1 Reason No. 3 for refusal relates to sufficient legal interest in the land on which the application is made.

7.8.2 The area planners report states that this application does not include a letter of consent from the owners of Kilmonan Lodge for the development to proceed on their land. It was further noted that the eastern portion of the land is not included in the applicants site ownership as shown on the site location map.

7.8.3 In response to this the first party appellants state that their clients have unencumbered title to the land that is the subject of this application. The first party appellants also state that this matter could have been dealt with by way of further information.

7.8.4 I note that the first party appeal includes documents which confirm the ownership of the land within the red line boundary of the site location map an updated red line. This information includes the ownership details relating to Folio No. 207784F which pertains to Kilmonan Lodge. This shows that Stateline Transport Limited owns this land. Stateline Transport Limited are listed as the applicants on the application form submitted with the initial application.

7.8.5 I am satisfied that the applicants have sufficient legal interest in the land on which the application is made. In any case, I refer the Board to Section 5.13 of the Development Management Guidelines which state that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts and that the developer must be certain under civil law that he/she has all rights in the land to execute the grant of permission.

7.9 Other matters

Archaeology

7.9.1 The appeal site is in proximity to 21 recorded monuments. The application material includes an Archaeological report prepared by Archaeology and Built Heritage Limited which did not identify any archaeological remains. A report from the Heritage Officer of Fingal County Council did not object to the proposed development subject to conditions requiring archaeological monitoring of all works, halting of all works should any archaeological remains being found and the submission of a report on completion of commencement works to the Local Authority and the Department of Housing, Local Government and Heritage. I am satisfied that that, subject to compliance with these conditions that the proposed development would be acceptable.

8 AA Screening

8.1 I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The proposed development is located in an area which is transitioning from a semi-rural character with one off houses set to a more industrial / commercial character. The proposal comprises the demolition of two dwellings known as 'Bloomburn Cottage' and 'Kilmonan Lodge' including associated garages and shed structures and the development of a container storage depot with a maximum capacity of 1,270 containers.

8.2 The subject land is not directly adjacent to a European site. The closest such sites to the appeal site are the Malahide Estuary SAC and the Malahide Estuary SPA which are located c.9.4km from the site.

8.3 Having considered the nature, scale, and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- The relatively small scale of the proposal; and
- The location of the development and its distance from the closest European Site.

8.4 I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9. Recommendation

9.1 I recommend that planning permission be granted, subject to conditions.

10. Reasons and considerations

10.1 Having regard to the zoning of the site under 'GE' General Employment *to 'Provide opportunities for general enterprise and employment'*, planning policies and objectives under the *Fingal County Development Plan 2023- 2029* and the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously, or disproportionately, injure the amenities of the area or of property in the vicinity, and therefore, be in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, 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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The storage container depot hereby permitted shall cease within 5 years of the date of this order save where permission for a further period shall have been granted by the planning authority or by An Bord Pleanála on appeal.

Reason: To allow for a review of the development having regard to the circumstances then pertaining.

3. The proposed development shall be amended as follows:
 - (a) The height of the container stacks shall be limited to 2 containers in proximity to the boundaries of the site and 4 containers within the centre of the site.
 - (b) the set back from the M2 /N2 embankment shall 12m.
 - (c) There shall be no loading or unloading in the set back from the M2 / N2 embankment.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual amenity

4. Prior to commencement of development written agreement shall be obtained in respect of the following:

- a) A site suitability assessment for on-site wastewater treatment systems. This assessment is to be carried out by a suitably qualified, experienced, and competent professional.
- b) An updated landscape plan to show enhanced planting along the western boundary of the land.
- c) Measures to protect the M2/ N2 embankment stability with Transport Infrastructure Ireland.

Reason: In the interests of public health, visual amenity, and road traffic safety

- 5. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development

- 6. The construction of the development shall be managed in accordance with a Construction 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

7. Lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

8. The wastewater treatment system and percolation area shall be in accordance with the Regional Code of Practice for Drainage Works Version 6.0 FCC April 2006, or the EPA Code of Practice for Domestic Wastewater Treatment Systems (2021), whichever is applicable.

Reason: In the interest of public health.

9. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

10. All ground works associated with the proposed development shall be monitored under licence by a suitably qualified archaeologist. Prior to construction all previously identified archaeological features and deposits should be conserved by record (full excavation) prior to any ground works under the terms of an agreed Method Statement agreed by the Department. All topsoil stripping associated with the archaeological monitoring should be carried out using a toothless flat grading bucket only. b) Should further archaeological material be found during the course of works, the work on the site shall be stopped pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department with regard to

any necessary mitigating action preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features, or other objects of archaeological interest

11. Hours of site development works shall be between 0700- and 1900-hours Monday to Friday, 0800 and 1400 on a Saturday and not at all on Sundays or bank or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

12. The developer shall engage with Uisce Éireann prior to the commencement of development and shall comply with their requirements regarding the proposed development.

Reason: To ensure a proper standard of development.

13. 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 the 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 the Board 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.

Ronan Murphy
Planning Inspector

28 March 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321196-24		
Proposed Development Summary	Demolition of two houses and associated structures to use the site as a storage container depot consisting of 1,270 containers and all associated site works.		
Development Address	Bloomburn Cottage, Kilshane, Dublin 11, D11 F1WB and Kilmonan Lodge, Kilshane, Dublin 11, D11 XP89.		
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	X	Demolition: Class 14	
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X		

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		<p>Class 14</p> <p>The demolition works associated with the project are considered to be minor in scale and comprise the demolition of two dwellings The works associated with the demolition activities will be small in scale and will be completed over a short timeframe and will not result in significant effects on the environment and as such the requirement for EIA is not triggered under Class 14 from Part 2 of Schedule 5 of the Regulations.</p>	

5. Has Schedule 7A information been submitted?		
No	Tick/or leave blank	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: _____ **Date:** _____