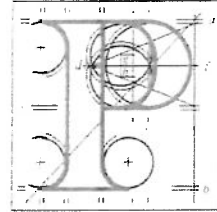


Our Case Number: ABP-320164-24



**An
Bord
Pleanála**

BH Imports Ltd
c/o Tony Bell
Coney Hill
Bremore

Date: 06 November 2024

Re: DART + Coastal North Railway Order 2024 - Northern Line between Dublin City Centre and Drogheda including the Howth Branch
Dublin City Centre and Drogheda, located in counties Dublin, Meath and Louth

Dear Sir / Madam,

An Bord Pleanála has received your recent submission and oral hearing request in relation to the above mentioned case. The contents of your letter have been noted. Please accept this letter as a receipt for the fee of €50 that you have paid.

More detailed information in relation to strategic infrastructure development can be viewed on the Board's website: www.pleanala.ie.

If you have any queries in relation to the matter please contact the undersigned officer of the Board at laps@pleanala.ie

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Aisling Reilly
Executive Officer
Direct Line: 01-8737131

RA03

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Baile Átha Cliath 1
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64 Marlborough Street
Dublin 1
D01 V902

Aisling Reilly

From: LAPS
Sent: Thursday 24 October 2024 14:58
To: Aisling Reilly
Subject: FW: Your Observation Reference: SID-OBS-002378
Attachments: Submission to ABP Dart Extension Railway Order 23Oct24.pdf

From: SIDS <sids@pleanala.ie>
Sent: Thursday, October 24, 2024 9:03 AM
To: LAPS <laps@pleanala.ie>
Subject: FW: Your Observation Reference: SID-OBS-002378

From: Rachel Kenny <rmkplanning@icloud.com>
Sent: Wednesday, October 23, 2024 4:46 PM
To: SIDS <sids@pleanala.ie>
Subject: Fwd: Your Observation Reference: SID-OBS-002378

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

A Chara,

Apologies, this is my first time using the on-line submission system and while i can see that the submission appears to be received, as per confirmation below, the client has asked that i just double check that the attachment went through, as it is important to him, and relates to both the Railway Order and CPO part of the Dart+North rail project (electrification of line to Drogheda).

I'm not sure if there is a separate submission required for the CPO element, which relates to his lands, and whether you need other details, although the folio number is included with the general planning submission.

thanks in advance for your patience on this,

Regards
Rachel

From: An Bord Pleanála <no-reply@pleanala.ie>
Subject: Your Observation Reference: SID-OBS-002378
Date: 23 Oct 2024 at 13:57
To: Rachel Kenny <rmkplanning@icloud.com>

Strategic Infrastructure Observation Confirmation

Your reference	SID-OBS-002378
An Bord Pleanála case number or brief development description as provided	320164
Name	Rachel Kenny
Fee	€50.00
What happens next?	Our staff will process your observation. This will take up to seven working days. We will send a letter in the next few days to you if your observation is valid — or not.
Further information	You can get further information on Strategic Infrastructure Observations on the An Bord Pleanála website . This includes the Infrastructure Applications Public Guidance Document .

The Secretary

An Bord Pleanála

61-64 Marlborough Street

Dublin 1

Re: DART+ Coastal North Railway Order Application
ABP Ref No: NA29N.320164
Objector ref: Folio Number DN484F
TONY BELL, Coney Hill, Bremore, Balbriggan
Date: 23.10.24

To whom it concerns,

RMKPLANNING has been engaged by Mr. Tony Bell, BH Imports Ltd., Coney Hill, Bremore, to provide advice and assistance in the review of the DART+ Coastal North Railway Order Application, ABP Ref No: NA29N.320164 and to make this submission on his behalf.

Mr. Bell fully supports the national and local policies that support the extension of the DART to Balbriggan and onwards to Drogheda and is not objecting to the principle and strategic benefits attached to the proposed *“Implementation of the DART Expansion Programme which proposes the provision of high frequency DART services including the electrification of the existing Maynooth and M3 Parkway rail lines and the northern rail line to Drogheda”*. In making this submission, we have focussed solely on the area of concern that Mr. Bell has, and that is the location of one of the substations on his lands (Folio Number DN484F). We are objecting to this element of the proposed development only, and the related CPO of his lands.

Unfortunately, with a project of this scale, the smaller ancillary elements and the local impacts associated with the enabling pieces of infrastructure are not given the attention and analysis that would be typically required if these elements were proposed in isolation. We believe this to be a fundamental flaw in both the EIAR and NIS, as well as resulting in non-compliance with the County Development Plan objectives and policies relating to the subject lands (upon which one of the substations is to be located).

Given the very limited focus and attention afforded Mr. Bell's farm and farming practices in the EIAR and NIS submitted, we would ask the Board to consider not only the general impacts and benefits of the DART+ Coastal North Railway Order proposal, but to specifically and explicitly consider the adverse impact on Mr. Bell's farmlands and farming practise, as well as the ecology in the area (much of which is designated for protection and/or endangered).

To assist the Board, and to ensure the points and areas of concern we have are given due attention, we have considered the Mr. Bell's concerns by theme; and to allow ease of access and navigation of the submission, a table of contents is provided.

yours sincerely



A handwritten signature in black ink, appearing to be 'RK', is written over a horizontal line. A long, thin horizontal line extends from the end of the signature to the right, ending in a small triangle.

Rachel Kenny, BE (Civil), MRUP, FIPI, Dip IoD,

TABLE OF CONTENTS

1. SITE DESCRIPTION AND LOCATION.....	4
1.1 Proposed Development	5
2. SUMMARY OF CONCERNS	8
3. PROCESS - LACK OF CONSULTATION.....	9
Table 3.1 Consultation	10
4. AGRICULTURAL USE OF THE LAND	11
4.1 Development Plan Objectives	12
4.2 Sustainable Agricultural Practices	15
4.3 Farming at Bremore.....	15
4.4 Production methods	16
4.5 Supporting Vulnerable Ecosystems & Habitats	20
5.6 Ecological Data Ignored	23
5. LANDSCAPE & VISUAL IMPACT.....	28
5.1 Development Plan Zoning – High Amenity	28
5.2 Coastal Character Type	34
5.2.1 Requirement for LVIA	35
6. AA SCREENING & NIS	37
7. EIAR.....	46
7.1 Alternatives.....	46
7.2 LVIA.....	48
7.3 Farming, Soils	51
7.4 Rural & Agricultural Policies	52
7.5 Biodiversity	52
8. CONCLUDING COMMENTS.....	54
Oral Hearing Request.....	54

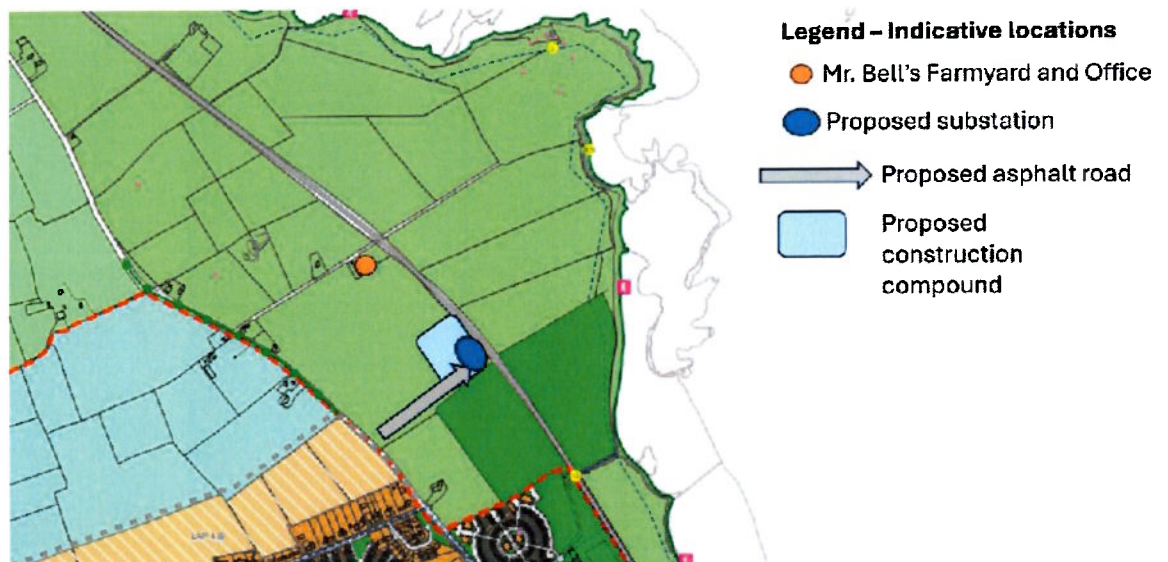
1. SITE DESCRIPTION AND LOCATION

Mr. Bell currently farms c.600 acres in the Balbriggan area, of which some c.160 acres are in his ownership and are sited at Bremore. The particular lands in question, i.e. subject of the CPO is noted as Folio Number DN484F.

Mr. Bell's farm is located on lands zoned High Amenity in the Fingal Development Plan, 2023-2029.

They are in active agricultural use, and have always been farmed. The lands have been farmed by the Bell family for three generations.

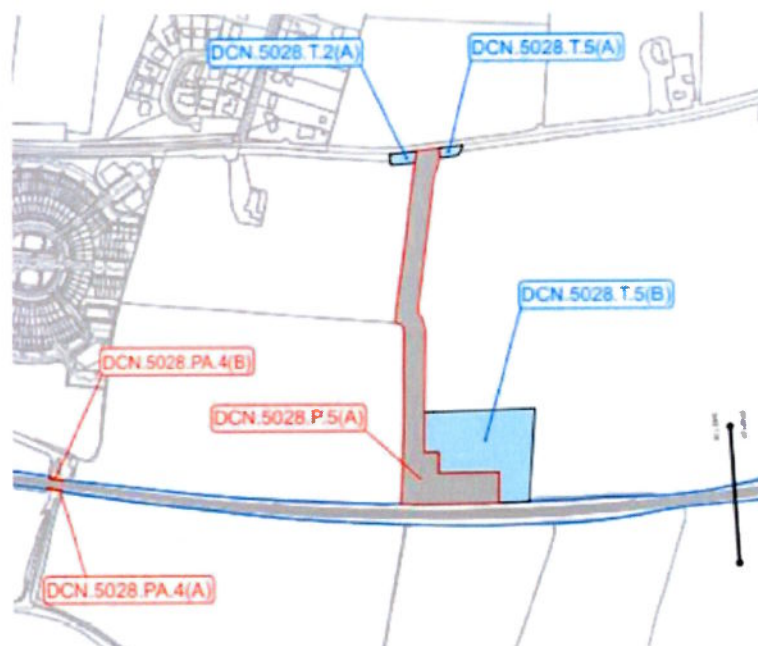
Figure 1.1 - Site location Map



1.1 Proposed Development

Iarnród Eireann wrote to Mr. Bell at the time of lodging the Draft Railway Order to An Bord Pleanála (on the 7th October, 2024) as follows – “The extents of impact on DN484F are presented in Figure 1 below. The grey hatch referenced as DCN.5028.P(A) represents the extents of permanent land take proposed by DART+ Coastal North, and the blue hatch referenced as DCN.5028.T.5(A) and (B) represents the extents of temporary land take proposed. The full extent of this drawing is enclosed with this letter (PROPERTY LAYOUT PLAN_No.28). The permanent landtake, grey hatched area, in Figure 1 [below] consists of an access road linking the R132 with the substation as well as the substation itself including substation buildings, parking facilities, drainage infrastructure, fencing and associated vegetation slated to screen the substation. The temporary landtake, blue hatched area, relates to a proposed construction compound (CC-37700) required to facilitate the construction of the substation, and to support the line wide construction works associated with the extension of electrification of the Northern Line between Malahide and Drogheda”.

Figure 1.2 -
Iarnrod Eireann
‘Figure 1’



The development is described as follows –

- The proposed access road connecting the substation and the R132 is approximately 300m in length [*although we believe it to be closer to 380m*] and has a proposed cross section width of 5.0m. The access road will be asphalt surfaced and all necessary fencing and landscaping will be provided on both sides of the road to ensure it is secure and appropriately screened to fit with the surrounding landscape. All necessary sight lines will be provided at its junction with the R132.
- Two infiltration basins are proposed as part of the proposed development works to ensure that all rainfall run-off is attenuated appropriately, and the development does not result in any negative impacts on the receiving watercourses or environment.
- The substation buildings themselves extend over an area of approximately 35m in width by 12m in length. They are approximately 4.3m in height. The finish proposed for the substation is grey render on all elevations with pressed metal roof sheeting, keeping the same architectural finishes as other existing Iarnród Éireann substations. The buildings are flanked by some carparking spaces and a turning area. They will have a similar appearance to the substation shown in figure 2 below. [*Albeit of a larger scale, than the sample image depicts*]

Figure 2



While it was suggested by the applicant that landscaping would be provided to the substation, it is unclear what landscaping is proposed to soften the fencing and the proposed asphalt road, and how this would blend with the environment. Equally, as the substation is surrounded by a construction compound for 3 years, it is unclear what the intended visual impact will be during that time, and thereafter while a planting plan is developed and implemented. There is a notable lack of clarity regarding the existing hedgerow along the boundary with O'Dwyer's GAA, and how this will be maintained in between two sets of palisade fencing. In fact, it would appear that the applicant proposes to remove existing hedgerow in this area, without survey or regard to the evidence of Badgers at this location, i.e. within and along these hedgerows.

Construction impacts are noted as:

The general duration of the works associated with the proposed Balbriggan Substation at this location will be as follows:

- Civil works 3 months;
- Equipment installation 3 months; and
- The construction compound temporary landtake will be potentially required for the full duration of the DART+ Coastal North project. This is proposed to be used as a compound servicing line-wide works during the construction of the project (circa 36 months).

Again, no assessment of the impact of this on Mr. Bell's farming practices have been considered, and it appears to Mr. Bell that his lands were selected as how could one individual be as influential as a Local Authority (who own the lands where the optimal engineering solutions would be). The adverse impact on the environment, and technical challenges associated with developing the least favourable option in respect of the substation and compound do not appear to have been detailed in the EIAR.

2. SUMMARY OF CONCERNS

While Mr. Bell is fully supportive of the overall and general objectives of the Irish Rail, with respect to the improvement of rail services to the various towns along the northern rail line between Donabate and Drogheda, and understands that this is considered to be best achieved through the electrification of this line, and the extension of DART services to Drogheda, a transparent and robust assessment of the impact on his lands has failed to take place.

In the absence of any meaningful engagement with Irish Rail prior to the making on the draft railway order and submission of the proposal to the Board, Mr. Bell finds himself with no alternative but to make this submission, objecting to the Railway Order and the proposed CPO of his lands.

In summary, Mr. Bell has serious concerns in respect of –

- The manner in which the **consultations** were conducted as they relate to Mr. Bell, and the proposed CPO of his lands.
- The lack of regard or weight attached to Fingal County Council's objectives relating to **food security, sustainable farming**, and ensuring that the agricultural industry is supported, as it is of both local and national importance.
- Failure to have any or appropriate regard to the presence of **protected and/or endangered species** on Mr. Bell's farm.
- Inadequacy of the **Appropriate Assessment** process.
- The lack of regard and adverse impact on designated views, lack of protection of **High Amenity zoned lands**, and associated 'exceptional landscape' that is highly sensitive to developments such as that proposed (being light industrial in nature and design).
- Lack of a detailed or comprehensive **Landscape & Visual Impact Assessment** in respect of the substations and construction compounds, contrary to the requirements of the Fingal Development Plan.
- The flaws and gaps in the **EIAR**, in respect of alternatives considered, re. siting of substations and construction compounds and the lack of transparency and rationale behind the weighting attached to site selection in respect of the substation at Bremore, which is sited on Mr. Bell's and in the most sub-optimal location from a DART/IE operational perspective.

3. PROCESS - LACK OF CONSULTATION

Mr. Bell was afforded very limited opportunity to engage with Irish Rail, with what he felt was a very non-transparent and dismissive approach taken by the applicant, which of course led to a nervousness and lack of trust on the part of Mr. Bell. While the applicant's sought to enter his lands to determine the engineering requirements, no effort was made to engage a horticulturalist, farming expert, or ecologist to visit the site, which we believe would have allowed the appropriate level of assessment to take place in respect of the current proposal to site the Bremore substation and compound in the least optimal location from an operational perspective, albeit keeping it off local authority lands. We do not believe adequate justification has been given in this regard, and there has been an inadequate and ill-informed decision made in respect of possible alternatives and ultimately the preferred alternative.

Gary Keegan, liaison officer for Iarnród Eireann initially engaged with our client, Mr. Bell, in order to gain access to his lands which abut the rail line, and to enable them to drill bore holes along the tracks (left and right) which were needed to develop the general overall electrification plan. Mr. Bell agreed to that as he has no objection to the overall plan to electrify the line. Iarnród Eireann drilled both directions with no mention of a substation at this stage.

The first Mr. Bell heard of Iarnród Eireann's intention to locate a substation on his lands after the decision was already taken by them and he was informed by email of the 'fait accompli' decision was made. This occurred on 22/05/23, and from this time there has been no meaningful engagement or evidence that Irish Rail understood or wanted to understand the impact their proposal was having on his farming activities.

Table 3.1 provides a brief outline as to the level of consultation and lack of engagement, which we also believe feeds into the inadequacy of various chapters in the EIAR, as well as in respect of the Appropriate Assessment.

Table 3.1 Consultation

DATE	Consultation Event
22/5/23	Irish Rail emailed Mr. Bell to inform him of their decision to locate substation on his lands
May 23	Irish Rail issued incorrect maps – so impossible for Mr. Bell to engage and understand the proposals
09/10/2023	Request to access Mr. Bell's land to survey up to the R132. But no understanding, engagement or clarity provided to assist Mr. Bell
20/10/23	Mr. Bell emailed Irish Rail to initiate a meeting to clarify 8 areas for discussion namely in relation to the selection process that led them to this site.
25/10/23	Gary Keegan proposed a Teams meeting to clarify matters
27/10/23	Prior to agreeing to such a meeting, Mr. Bell asked for clarification and an Agenda – None provided.
31/10/23 – 04/11/23	Unscheduled archaeology visit – No ID, Health & Safety pass or equipment, and no explanation as to the purpose or extent of investigations proposed.
7/11/23 & 9/11/23	C Bradish (Stakeholder Manager, Iarnród Eireann) email to advise that they will meet and explain, but only after access to his lands is facilitated. No further engagement.
17/6/24	Mr. Bell receives a registered letter of Irish Rail's intent to issue a railway order to CPO his land for a substation
10/7/24	Mr. Bell receives a letter of intent to apply for a Railway Order for his lands ref 000013. Deadline to reply was 20/9/23
Sept 24	Efforts made by Mr. Bell to discuss the matter with Irish Rail, but Irish Rail advised that only written submissions would be accepted.
18/9/24	Mr. Bell emailed Irish Rail seeking clarification on the proposed substation and request meaningful engagement.
30/9/24	First face to face meeting at Bremeore, Balbriggan. With G Keegan, C Bradish, Brian (Engineer), David (Property manager IR)
30/09/24	Email summary/Minutes of meeting sent by Mr. Bell

4. AGRICULTURAL USE OF THE LAND

We believe the proposed development is in Material Contravention of the Fingal Development Plan 2023-2029 Policies and Objectives as they relate to their support for farming, food security and protection of the rural environment; and additionally that the EIAR, in particular Chapters in respect of Soils, Lands & Geology; Population & Human Health; Material Assets and Biodiversity are fundamentally flawed in respect of their assessment of the proposed substation, road and compound on Mr. Bell's lands at Bremore.

In order to provide some context and understanding regarding the scale of non-compliance with the Development Plan, understanding Mr. Bell's 'sustainable' farming practice is critical and at no stage did Iarnród Eireann or their consultants engage in a meaningful way regarding Mr. Bell's farming operations, and were in fact highly dismissive of them. Given how little regard Iarnród Eireann have had to the nature of farming taking place on site, as is evident by the absence of any meaningful reference to this in their EIAR or application documentation, we would suggest in respect to this aspect of the EIAR, the application and EIAR are fundamentally flawed. While we understand that in respect of the EIAR process, notwithstanding adverse impacts, it is open to the Board to grant permission, this must be done in a clear and transparent manner (and full engagement with submissions, and robust and transparent reasons given). In order to make a balanced and informed decision, the decision maker must have all the facts before them. Iarnród Eireann have not done this, and it is difficult to see on the basis of the application documentation submitted, how An Bord Pleanála could make an informed decision.

4.1 Development Plan Objectives

Chapter 7 of the Fingal Development considers agricultural sector, and specifically section 7.5.3.5 considers Agriculture, Agri-food and Farm diversification. The Plan states (with emphasis added) –

“Fingal is the principal County within the Dublin region for agricultural activities and has a national reputation for its horticultural sector. The agricultural profile of the County is characterised by mainly tillage and beef production operators, with a number of horticultural farms engaged in specialist fruit and vegetable production. Agriculture and agri-food are not significant employers to the County at present, but the industry is still underdeveloped. The quantum of agricultural land available and favourable zonings for the sector create significant potential opportunity to grow the sector and its employment base into the future. Fingal has a well-established agri-food sector with a number of successful agri-food companies. This sector is well placed to play a significant role in the economy into the foreseeable future. The agricultural sector must adapt to the challenges posed by modernisation, restructuring, market development and the increasing importance of environmental issues. It is recognised that there is a need for diversification from traditional agricultural practices. The Council will encourage farming practices and production methods that have regard to conservation, landscape protection, the protection of wildlife habitats, endangered species, flora and fauna and water quality. Sustainable agricultural practices will be encouraged to ensure that development does not impinge on the visual amenity of the countryside or on the architectural heritage of the County and that watercourses and areas of ecological importance are

protected from the threat of pollution. The Council will continue to support and facilitate agriculture and new agricultural initiatives.”

The Plan includes the following Policies and Objectives to give meaning to their vision, and the overall aspirations regarding the agricultural sector. We would argue that the Plan must be more than words and the policies must be meaningfully implemented. Mr. Bell is fully committed to and has demonstrated over the last two decades his dedication to “**encourage farming practices and production methods that have regard to conservation, landscape protection, the protection of wildlife habitats, endangered species, flora and fauna and water quality**” and “**sustainable agricultural practices [that] will ensure that development does not impinge on the visual amenity of the countryside or on the architectural heritage of the County and that watercourses and areas of ecological importance are protected from the threat of pollution**”.

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.

Objective EEO63 – Sustainable Agricultural Practices

Encourage the development of environmentally sustainable agricultural practices, to ensure that development does not impinge on the visual amenity of the countryside and that watercourses, wildlife habitats and areas of ecological importance are protected from the threat of pollution.

Policy EEP28 – Agriculture

Safeguard the agricultural identity of North Fingal, promoting the rural character of the County and supporting the agricultural/horticultural production sectors.

Policy EEP29 – Regenerative Farming and Community Support

Agriculture Support and encourage Organic and Regenerative Farming and Community Supported Agriculture in the Fingal Area.

Objective EEO78 – Protection of Agricultural Lands

Support and facilitate the protection of agricultural lands in the County, ensuring that new development does not irreversibly harm or compromise the commercial viability of existing agricultural land.

We believe that the proposed development materially contravenes the following policies and objectives, names **Policy EEP23, Policy EEP24, Policy EEP28, Policy EEP29, Objective EEO63 and Objective EEO78**, which are intended to support sustainable farming, and to prevent inappropriate development in the rural areas of Fingal.

4.2 Sustainable Agricultural Practices

We believe, in order to understand the impact of the proposed CPO of Mr. Bell's lands, it is essential that the Board understand the farming credentials of Mr. Bell, and the type of farming carried out, which is focussed on 'sustainability' and the long term viability of the lands and the soils; all of which will be seriously and adversely impacted by the proposal to construct a road, a substation (with permanent land take) and a temporary land take in respect of the compound, ultimately setting the soil quality back 18 years.

4.3 Farming at Bremore

Mr. Bell has over 30 years' experience in the farming and agri-food sector, and is a full-time tillage farmer and owner/managing director of BH Imports Ltd (which is an agri-food business linked to the farm) and is based in Bremore, Balbriggan, Co Dublin.

Mr. Bell has a B.Agr.Sc. (Hons) degree from UCD (having qualified in 1991). Mr. Bell worked for many years in ruminant nutrition and farm machinery in Germany and across mainland Europe. By taking this knowledge and expanding it with more regenerative farming methods, he has evolved his current system of producing sustainable feed. The focus of the farm and business at Bremore has been in producing sustainable feed for sale to the dairy industry. While that sounds quite straightforward, it is anything but, and requires commitment over decades. Mr. Bell's approach to regenerative farming encompasses all the environment and sustainable systems available in order for the farm to produce a low carbon, low emission, non-GM, native feed. That in turn offsets the need to import GM feed to feed our national herd.

4.4 Production methods

Mr. Bell's farm production methods have been developed so as to enhance and sustain the soil, and Mr. Bell's motivation is to ensure that the soil is of such a quality that will allow future generations the opportunity to still be able to farm the lands. This is Mr. Bell's primary motivation - striving to improve the lands he farms, resulting in better economic and environmental returns. The process of improving the health of soil is gradual and slow, but the benefits are enormous. For example, in respect of the farm and specifically the soil at Bremore, has an exceptionally good organic matter content, which is up at 8-10% from approx. 2-4% 18 years ago. As Soil Carbon is a percentage of organic matter, i.e. in that they are intrinsically linked, this means that the results demonstrate how pure CO₂ is taken from the air, converted and stored in the soil. This seriously and significantly reduces our carbon footprint, and farmers should be encouraged and supported in this endeavour. This is a recognised important feature and is seen as the future of farming by Teagasc, and regard should be had to - [Soil Carbon - Teagasc | Agriculture and Food Development Authority](#)

For ease of reference for the Board and to assist in their understanding of the importance of what our client is doing, and why it should be supported in practise as well as in the words of Government Policy, we have outlined hereunder the views of Teagasc, who should be considered as relevant experts in this field -

“Carbon sequestration is a biological process that takes place as part of the carbon cycle. Carbon sequestration occurs when carbon dioxide (CO₂) is absorbed from the atmosphere by plants during photosynthesis. Carbon is then assimilated into its organic form and can either be respired (by plants or microbes) or stored more permanently in the terrestrial biosphere i.e. in soil or in woody biomass.

Gross carbon sequestration equates to the difference between respired and stored carbon. If the rate of ecosystem respiration is greater than storage, then the ecosystem is acting as a source of CO₂. Conversely, if more carbon is stored than respired, an ecosystem will act as a CO₂ sink. Globally, soils and forests store vast amounts of carbon with agricultural ecosystems such as grasslands, peatlands and woodlands acting as important sinks.

Irish grasslands

In Ireland, temperate agricultural grasslands have significant potential to sequester CO₂ as part of root biomass and in the soil. This could potentially aid in offsetting some of the methane and nitrous oxide emissions associated with agriculture. Therefore, enhancing carbon sequestration is vital for climate change mitigation and meeting greenhouse gas reduction targets. There are a number of factors that influence the rate of carbon sequestration in agricultural ecosystems including:

- *climate*
- *soil type*
- *land-use*

To understand the importance and success of this, a [National Agricultural Soil Carbon Observatory](#) has been established.

The first phase of a national soil sampling campaign was undertaken in 2021/22 across 104 Signpost Programme farms. Extensive soil sampling was performed on each farm to inform on the general nutrient status and gather preliminary information on soil organic carbon stocks. These analyses will act in tandem with the data from eddy covariance towers to help

quantify soil carbon stocks and carbon sequestration rates on Irish farms. In turn, this will allow for a greater knowledge of sustainable land use management and will allow farmers to implement emission-reducing farming systems.

We would ask that Mr. Bell be not only permitted to carry on his sustainable farming practices but that he would be supported in this endeavour, and that the electrification of the rail line, which is undoubtedly of significant benefit to the environment, be facilitated and provided in a way that does not undermine this type of farming, and further erodes agricultural high amenity lands, that supported endangered and protected species, as well as reducing our carbon footprint.

Bremore farm was originally farmed by Mr. Bell's father (and grandfather before that). Prior to taking over the farm in 2006 Mr. Bell immediately started to change the practices and move away from traditional methods employed by his father which would have involved ploughing and tiling the soil along and using traditional amounts of inorganic fertilisers. Mr Bell's initial approach was to use spent mushroom compost which is a waste product from the local mushroom industry. It has large amounts of organic matter to feed the soil microbes as well as having good sinks of Phosphate, Potash and lime which are essential crop nutrients. He combines this with a crop establishment system called 'strip tillage' where there is no requirement to plough the fields, and instead only the strip of soil where the seed is planted is tilled. The benefits of this (compared to traditional methods) are that a farmer can get the same crop yield using only 20% of the diesel, as well as saving on the farmer's time. Mr. Bell also uses cover crops and double crops to keep living roots in the soil. There are also significant benefits in soil management where the structure of the soil is enhanced by not intensively tilling it.

Both the EPA and Teagasc recognise the value of farming, and its critical role in the health of our environment and rural landscape. The applicant has failed to address these policies and the important role that lands such as Mr. Bell's have. Instead, they prioritise the fact that it has no 'development potential' or 'conflicts with humans' as an indicator that it is lying idle waiting to be utilised for 'industrial' operations like theirs.

Irish Soil Information System (Refer to Teagasc.ie)

Agricultural activities have long been recognised as being a shaper of the rural landscape and environment which exist in Ireland today. Historically, farmers have engaged in protection of the land out of necessity to maintain their production capacity through generations. Our knowledge and appreciation of soils is continually growing however. The role of soils and the key functions they provide is increasingly being recognised and there is a new impetus from all soil users for enhanced protection of a key natural resource. This is reflected in recent times by the way in which environmental protection must be implemented at increasingly more local levels: we have now entered a new era where the maintenance of environmental sustainability is supported by legislation at a global, European scale and national level.

Critical to the successful management of our soil resource is knowledge on the location of our soils, and their associated properties. The Irish Soil Information System project has gathered together existing information and data from previous soil survey work in Ireland and augmented it with a new field campaign, leading to the production of a new national soil map at a scale of 1:250,000, as well as a collection of tools to access and interact with the data.

An extensive range of soil types (or ‘series’) have been identified in Ireland, each of them different in properties, with different environmental and agronomic responses. For each, the properties have been recorded in a database that can now be used to satisfy the information required both for soils management and effective policy implementation. Importantly the database can also be used to provide the public with the means to enquire and learn about the precious soil resources of Ireland.

4.5 Supporting Vulnerable Ecosystems & Habitats

While one might suggest that the benefits in Mr. Bell’s approach to farming are short term, i.e. reducing diesel usage, saving time, and improving CO2 take from the air, we would argue that the main benefit is in soil health, and ensuring its availability for food production for future generations. On Mr. Bell’s farm at Bremore, by not disturbing the soil, too much, the worm populations have increased by 10 -20 fold which means that all other life in the soil is growing. It’s said that one spoonful of soil has more microbes in it than people on the earth!

This farming practice has benefited the local bird populations (as there is an abundance of worms available to feed these birds). The NPWS park ranger has been recorded the following flocks on Mr. Bell’s farmlands, including the lands comprising the subject site –150-200 curlews; flocks of yellow hammer; Linnet, and less blade backed gulls, as well as turns (both common and arctic) flying over the field. These species are of significant importance and of conservation concern (see section 4.6 below). Given the proximity of these lands adjacent to the ecological buffer and the Natura site, it was incumbent on Irish Rail to understand the positive benefits of Mr. Bell’s farming practice on those species of birds that are part of the conservation objective associated with the adjacent Natura site. There is no evidence of any of this in their consideration of potential impacts in their Natura Impact Assessment, and

we believe this is due to their lack of engagement with Mr. Bell and that they made no effort to understand his farming practices.

Additionally, Mr. Bell's lands support badgers, there **is evidence and data regarding badger sets and paths noted within the hedgerow on the subject field and adjacent fields in Mr. Bell's farm. Badgers are a Schedule 5 protected species** under the Wildlife Act, 1976, as amended and there has been no attempt to assess this, and no effort by Irish Rail to install trail cameras which would verify what has been noted by the NPWS Bremore Head Ranger. Instead, the applicant proposes to remove these hedgerows without assessment or meaningful mitigation.

Ecosystems are extremely complex, and we as a nation are at the very early stages of fully understanding the obligations and benefits (direct and indirect) associated with 'sustainable farming'. It is therefore essential that if we are to give real meaning to the policies of the Government in documents such as our **Food Vision 2030 – A World Leader in Sustainable Food Systems (gov.ie - Food Vision 2030 – A World Leader in Sustainable Food Systems (www.gov.ie)**, as well as those in the Development Plan (refer to section 4.1 of this document), then it is incumbent on our decision makers to give due weight to this type of farming where it is threatened, and where no consideration has been given to its benefits.

The process to get to this point on the Bremore farm has taken time. We have been advised that it is not something one can just spread or spray on and it works. It has taken 18 years to achieve the results currently being experienced on Mr. Bell's lands. It should also be noted that the improvements have not plateaued and if allowed to continue farming and if those in power recognise the merits of this farming, then there is no reason to believe further improvements to soil health, associated ecosystems including protected bird populations can't be realised. But for this to happen, farmers like Mr. Bell, must be assured that having spent 18 years getting the soil into this health, that the as yet unjustified needs of Irish Rail (in selecting this site in lieu of a

brownfield site) will be allowed to wipe this good work away. It is difficult to imagine how one could have the motivation to start again and put another 18 years into the soil if this can happen so easily and without any consultation or understanding of the impact.

We would ask that before any decision is taken that the fields and the ecosystems that they support are visited and fully understood - every available square meter of soil is needed and should be farmed in such a way so that we improve our air quality, our ecosystems, and our food security, while also improving quality of life for farmers, improving economic returns and reducing our carbon footprint.

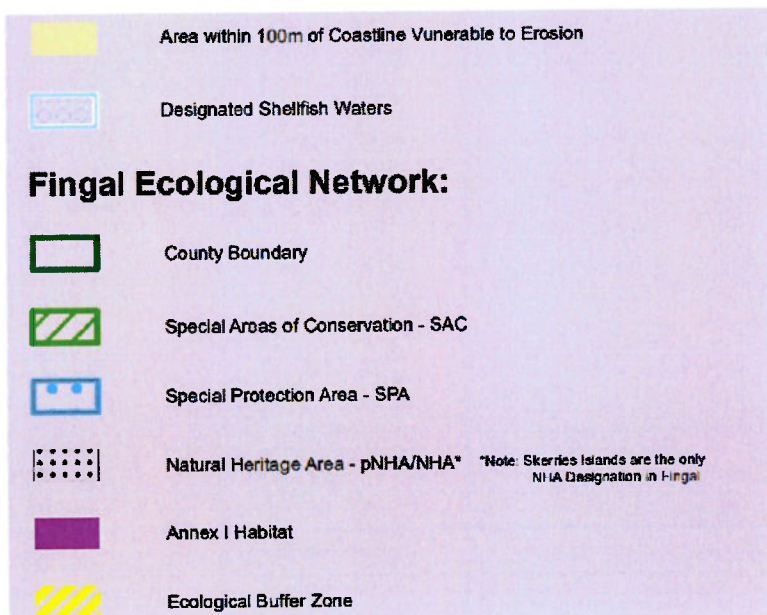
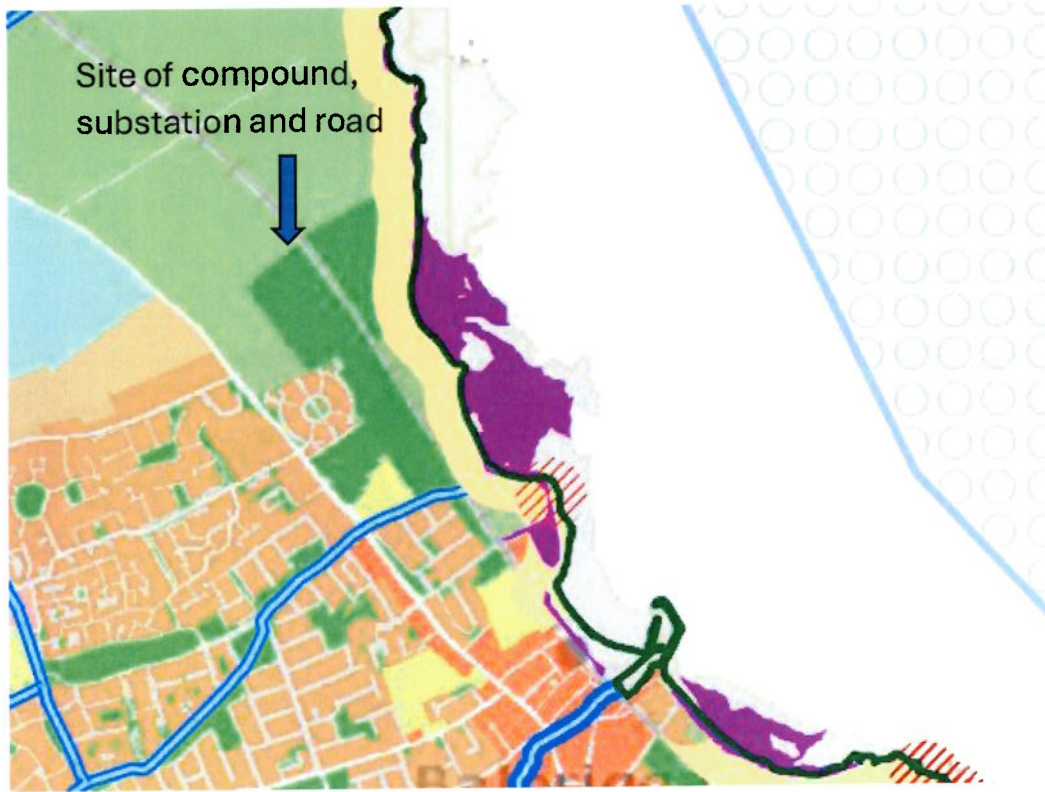
From our analysis of the submitted EIAR Chapter 16 Agricultural properties 'See *Section 16.3 Potential Impacts and Mitigation Measures* 'it is noted with concern that the applicant is acknowledging that there will be "*medium to long term damage to soil structure* 'where land is 'temporarily taken for line works/ substation works the implication is that after decades of sustainable investment in the lands, Irish Rail will opt to degrade it. Furthermore, the applicant acknowledges that '*Permanent landtake is required for the construction of fixed infrastructure such as stations and associated infrastructure and represents a permanent reduction in the area of land parcels.*'

It is unclear to our client, and to us, how lands to the immediate south owned by Fingal County Council (comprising O'Dwyer's GAA Club) have not been selected for the substation compound. Unlike Mr Bells land holding, the integrity of the Fingal County Council/GAA lands has been compromised by the recent construction of a GAA training facility building and associated pitches. We suggest that from both a farming and ecological perspective these lands (which are already compromised ecologically, and appear to be underutilised immediately adjacent to the track) would be a more suitable location for the proposed works / CPO.

5.6 Ecological Data Ignored

Mr. Bell works with the NPWS park ranger for the area, who in the last two years has begun to survey this area, and Mr. Bell's lands in detail. This data is submitted to the IWeBS data collection portal, and is essential component of understanding such important areas. Each winter over 400 skilled volunteers, NPWS Rangers and BirdWatch Ireland staff monitor wintering waterbird populations at their wetland sites across the Republic of Ireland. The Irish Wetland Bird Survey (I-WeBS) is coordinated by BirdWatch Ireland and funded by the National Parks and Wildlife Service. We can find no evidence that the EIAR or the NIS has had any regard to the data that has been collated in respect of the subject site under this scheme.





The Bremore Head area is recognised as being an invaluable resource from an ecological perspective, and the subject site is only c.7km from the newly designated candidate SPA in the Irish Sea. It is also within the zone of influence of the Rogerstown SPA. Not only has it been a feeding area for birds the conservation and protection of which is included in the European Sites Statutory Instruments, it also includes birds that are noted as being under threat in the Birds of Conservation Concern Ireland (BoCCI).

In the various Bird surveys carried out under IWeBS, the following has been noted, and recorded by Bird Watch Ireland and the NPWS.

Sightings on Mr. Bell's farmlands, including the lands comprising the subject site include-

- Curlews (150-200 flock size) - Curlew (*Numenius arquata*) [A160] (Birdwatch Ireland Red List, BoCCI) - Feeding
- Lesser black-backed Gull (*Larus fuscus*) [A183] – Feeding
- Common Tern (*Sterna hirundo*) [A193] – Flying over subject field
- Arctic Tern (*Sterna paradisaea*) [A194] – Flying over subject field
- Flocks of yellow hammer (Birdwatch Ireland Red List, BoCCI) - Feeding
- Flocks of Linnets (Birdwatch Ireland Amber List, BoCCI) - Feeding

These species are of significant importance and of conservation concern, and pasture lands and maze stubble are a vital source of food for these species. The quality of the soil and availability of the crops supports these birds in their winter feeding.

Birds of Conservation Concern in Ireland 2020-2026

Red-list species (high conservation concern)

Breeding

Ouzal
Gray Partridge
Red Grouse
Black-necked Grebe
Stock Dove
Nightjar
Swift
Corncrake
Leach's Storm-petrel
Woodcock
Red-necked Phalarope
Kittiwake
Puffin
Razorbill
Barn Owl
Golden Eagle
White-tailed Eagle
Red Kite
Kestrel
Wood Warbler

Breeding continued

Ring Ouzel
Common Redstart
Whinchat
Meadow Pipit
Gray Wagtail
Twite
Yellowhammer

Passage

Turtle Dove
Balearic Shearwater
Curlew Sandpiper

Wintering

Bewick's Swan
Long-tailed Duck
Velvet Scoter
Goldeneye
Scaup
Slavonian Grebe

Wintering continued

Gray Plover
Bar-tailed Godwit
Black-tailed Godwit
Knot
Purple Sandpiper
Snowy Owl
Redwing

Breeding and Wintering

Eider
Common Scoter
Pochard
Shoveler
Oystercatcher
Golden Plover
Lapwing
Curlew
Lunlin
Snipe
Redshank



Birds of Conservation Concern in Ireland 2020-2026

Amber-list species (medium conservation concern)

Breeding

Goosander
Garganey
Spotted Crake
European Storm-petrel
Fulmar
Manx Shearwater
Gannet
Shag
Little Ringed Plover
Common Sandpiper
Mediterranean Gull
Little Tern
Roseate Tern
Common Tern
Arctic Tern
Sandwich Tern
Great Skua
Black Guillemot
Common Guillemot
Short-eared Owl
Marsh Harrier
Hen Harrier
Goshawk
Kingfisher
Merlin
Chough
Skylark
Bearded Reedling
House Martin

Breeding continued

Swallow
Sand Martin
Willow Warbler
Starling
Spotted Flycatcher
Northern Wheatear
Goldcrest
House Sparrow
Tree Sparrow
Greenfinch
Linnets
Pied Flycatcher
Western Yellow Wagtail

Passage

Cory's Shearwater
Ruff
Spotted Redshank
Wood Sandpiper
Little Gull
Black Tern
Wryneck
Tree Pipit

Wintering

Brent Goose
Barnacle Goose
Greylag Goose
Greater White-fronted Goose

Wintering continued

Smew
Pintail
Black-throated Diver
Great Northern Diver
Bittern
Turnstone
Brambling

Breeding and Wintering

Mute Swan
Whooper Swan
Red-breasted Merganser
Shelduck
Tufted Duck
Gadwall
Wigeon
Mallard
Teal
Great Crested Grebe
Coot
Red-throated Diver
Cormorant
Ringed Plover
Black-headed Gull
Common Gull
Lesser Black-backed Gull
European Herring Gull



Additionally, the subject site is located within Bremore Head which is a designated Duck and Geese Sensitive area by Teagasc, as well as in respect of other species.

Agri-Climate Rural Environment Scheme (ACRES)

ACRES is Ireland's new agri-environment climate scheme under Ireland's CAP Strategic Plan. This new €1.5 billion flagship agri-environment scheme is a farmer-friendly scheme to help address biodiversity decline while delivering an income support for up to 50,000 farm families in Ireland. Due to the high level of biodiversity, and its importance for rare and protected species, Mr. Bell's farm (including the subject field) is eligible for this scheme. Again, we would question the absence of any consideration in respect of its importance in the EIAR, and that in effect, the current proposal is in direct conflict with Government policies in respect of CAP (Climate Action Plan).

Farmers undertaking the waders and geese and swans measures in ACRES allocate undisturbed foraging areas to support overwintering these birds (which include the whooper swan, Greenland white-fronted goose, barnacle goose, and Brent goose). They arrive in Ireland in September before returning north to breed.

The area in which Mr. Bell's farm is located is understood to be included in the relevant mapping, which shows 'certain geese and swan and breeding wader hotspot mapped areas that ACRES participants can apply for this part of the scheme (and thus be eligible for Tier 1 priority entry to ACRES)'. The applicant states that in the field adjacent brent geese were noted, however, on the other side of the hedge notwithstanding the availability of feeding ground (with environmentally managed arable fallow) no such birds were noted. The applicants never accessed Mr. Bell's 160 acres at this location to verify such a conclusion.

5. LANDSCAPE & VISUAL IMPACT

5.1 Development Plan Zoning – High Amenity

The subject lands, in respect of the proposed substation are located on HA (High Amenity) zoned lands, and along Mr. Bell’s site boundary, i.e. along the roadside boundary of the field in which the substation, road and compound are to be located, there is a designated protected view.

Figure 5.1 - Site location on HA zoned lands

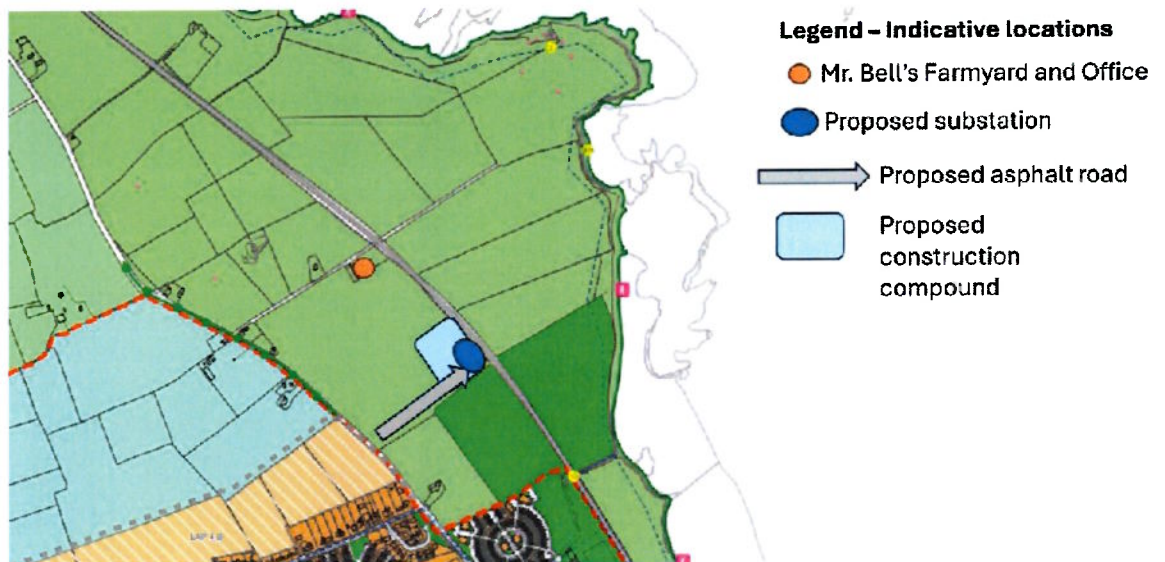
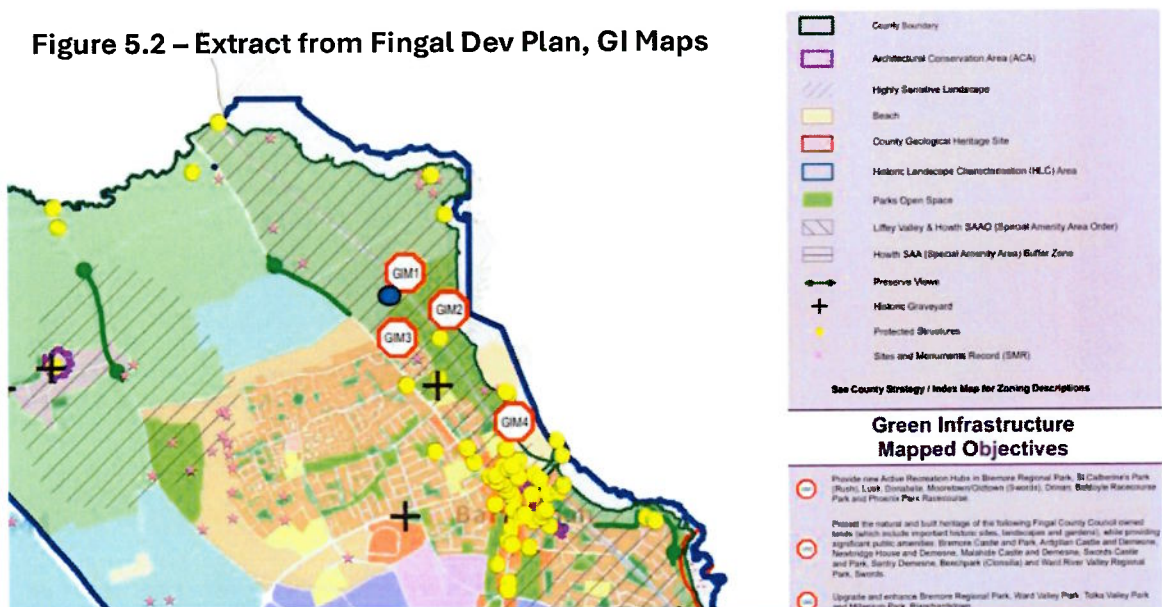


Figure 5.2 – Extract from Fingal Dev Plan, GI Maps



The subject lands are zoned, 'HA' and to this end it is an objective to 'protect and enhance high amenity areas'. The Council's Vision, as outlined in the Development Plan is to *"Protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to explore these areas will be explored."*

Chapter 9 of the Fingal Development plan 2023-2029, and specifically section 9.6.17 considers High Amenity Zoning. It states that "A High Amenity zoning (HA) has been applied to areas of the County of high landscape value. These are areas which consist of landscapes of special character in which inappropriate development would contribute to a significant diminution of landscape value in the County. These landscape areas meet one or more of the following criteria:

- " Contain scenic landscape of high quality,*
- " Afford expansive or interesting views of surrounding areas,*
- " Are components in important views and prospects,*
- " Are unique or special within the County,*
- " Are important elements in defining the coastal character of the County,*
- " Act as a backdrop to important coastal views,*
- " Contain important groups of trees or woodland,*
- " Are elevated or ridge sites on which development would be obtrusive,*
- " Provide public access to interesting attractive landscapes or to semi-natural areas."*

Policy GINHP28 – Protection of High Amenity Areas

Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.

Objective GINHO67 – Development and High Amenity Areas

Ensure that development reflects and reinforces the distinctiveness and sense of place of High Amenity areas, including the retention of important features or characteristics, taking into account the various elements which contribute to its distinctiveness such as geology and landform, habitats, scenic quality, settlement pattern, historic heritage, local vernacular heritage, land-use and tranquillity.

To this end, a very limited level of development is ‘Permitted in Principle’. The proposed development is not ‘permitted in principle’.

While we note that the very specific use proposed is not explicitly identified, uses and development types which are akin to the subject development, and which relate to elements of the proposed development as it relates to our client’s lands are in the ‘not permitted’ category. We therefore consider that in respect of the subject development to be sited on our client’s lands, the proposed development materially contravenes the development plan. That the applicant in their consideration of alternatives, deemed our clients the land the most suitable for this development as it had limited development potential or land use value is of serious concern and demonstrates a material misunderstanding of this zoning objective.

For the Board’s convenience full extracts of Zoning Matrices has been included. However, we would highlight the following ‘uses’ which are similar in their characteristics to the development proposed and which are ‘NOT PERMITTED’ in the HA zoning; and which

therefore render **Option 3 with respect to the substation north of Balbriggan on our client's lands a MATERIAL CONTRAVENTION of the HA Zoning, in the Fingal Development Plan, 2023-2029.**

Not Permitted uses include

- Builders' providers/Yards and/or Road Transport Depot – i.e. construction compound', for which temporary permission is sought (for min. 36 months post its construction)
- Concrete/asphalt - the proposed permanent road through Mr. Bell's lands is intended to be constructed of asphalt (as per IE's letter to Mr. Bell)
- Light industry and/or Plant Storage - which is in terms of building typologies is similar to the substation.
- Notwithstanding the merits of public transport, infrastructure normally associated with public transport is also in the 'not permitted' use class, e.g. park and ride facilities and also railway or public transport stations.

Noting the development types/uses that are 'not permitted' on High Amenity zoned lands, it is challenging to see how the proposed development comprising those types/elements of development 'not permitted' in the zoning matrix could be considered anything other than materially contravening the Development Plan in respect of the Zoning.

The applicant had viable options, that were operationally favourable to locate the subject development on brownfield lands owned by Fingal County Council but seems to consider the zoning to be such as to sterilise these lands for any other purpose or value, thus making them the most appropriate for this visually incongruous and materially contravening element of the development.

USE CLASSES RELATED TO ZONING OBJECTIVE

Permitted in Principle

Agri-Tourism	Bed and Breakfast ³	Boarding Kennels ³
Burial Grounds ²⁹	Childcare Facilities ³	Farm Shop ²⁰
Guest House ³	Health Practitioner ³	Holiday Home/Apartments ⁷
Office Ancillary to Permitted Use	Open Space	Residential ⁴
Restaurant/Café ¹³		

Not Permitted

Abattoir	Advertising Structures	Aerodrome/Airfield
Agribusiness	Agricultural Farm Supplies	Agricultural Machinery Sales and/or Maintenance
Air Transport Infrastructure	Amusement Arcade	Betting Office
Builders Provider/Yard	Car Hire Holding Area	Caravan Park – Residential
Cargo Yards	Casual Trading	Civic Waste Facility
Concrete/Asphalt	Conference Centre	Dancehall/Nightclub
Data Centre	Enterprise Centre	Exhibition Centre
Fast Food Outlet/Take-Away	Food, Drink and Flower Preparation/Processing	Fuel Depot/Fuel Storage
Funeral Home/Mortuary	General Aviation	Health Centre
Heavy Vehicle Park	High Technology Manufacturing	Hospital
Industry – General	Industry – Light	Industry – High Impact
Logistics	Office ≤ 100 sqm	Office > 100 sqm and < 1,000 sqm

Not Permitted contd.

Office ≥ 1,000 sqm	Park and Ride Facilities	Petrol Station
Place of Worship	Plant Storage	Public House
Public Transport Station	Remote Work Hub	Research and Development
Residential Care Home/ Retirement Home	Residential Institution	Retail – Local < 150 sqm nfa
Retail – Convenience ≤ 500 sqm nfa	Retail – Comparison ≤ 500 sqm nfa	Retail – Comparison > 500 sqm nfa
Retail – Supermarket ≤ 2,500 sqm nfa	Retail – Superstore > 2,500 sqm nfa	Retail – Hypermarket > 5,000 sqm nfa
Retail – Factory Outlet Centre	Retail Warehouse	Retail – Warehouse Club
Retirement Village	Road Transport Depot	Sheltered Accommodation
Taxi Office	Training Centre	Traveller Community Accommodation
Vehicle Sales Outlet – Small Vehicles	Vehicle Sales Outlet – Large Vehicles	Vehicle Servicing/ Maintenance Garage
Veterinary Clinic	Warehousing	Waste Disposal and Recovery Facility (Excluding High Impact)
Waste Disposal and Recovery Facility (High Impact)	Wholesale	

³ Where the use is ancillary to the use of the dwelling as a main residence

⁴ Subject to compliance with the Rural Settlement Strategy

⁷ Only permitted where the development involves conversion of a protected structure

¹⁵ Ancillary to tourism uses or conversion of protected or vernacular structures where appropriate

²⁰ Only where the bulk of the produce is produced on the farm

²⁵ And appropriately scaled ancillary facilities

Note: 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.

5.2 Coastal Character Type

“Coastal Character Type is categorised as having an exceptional landscape value. The type forms the eastern boundary of the County and contains a number of important beaches, islands and headlands that together create a landscape of high amenity and landscape value. A number of important settlements are located within this area, including Balbriggan, Skerries, Rush, Malahide, Portmarnock and Howth. The land is generally low lying, with the exception of some prominent headlands and hills in the northern part of the area, Howth and the offshore islands.

The Coastal Character Type is categorised as having an exceptional landscape value. This value is arrived at due to the combination of visual, ecological, recreational and historical attributes. The area has magnificent views out to sea, to the islands and to the Mourne and Wicklow mountains and contains numerous beaches and harbours. The area’s importance is highlighted by the High Amenity zoning covering substantial parts of the area. The area is rich in archaeological, architectural and natural heritage and is of high ecological value”.

Objective GINHO73 – New Development and the Coast

Prevent inappropriate development along the coast, particularly on the seaward side of coastal roads. New development for which a coastal location is required shall, wherever possible, be accommodated within existing developed areas.

Objective DMSO223 – Location of Telecommunications Based Services

Encourage the location of telecommunications-based services at appropriate locations within the County, subject to environmental considerations and

avoid the location of structures in fragile landscapes, in nature conservation areas, in highly sensitive landscapes and where views are to be preserved.

The proposed development, in respect of the substation, road and compound, are inappropriate development, and should be located 'within existing developed areas'.

While not a telecommunications Based Service, this objective none the less furthers the Council's position regarding the balance between much needed infrastructure and the sensitivity of this landscape to absorb such infrastructure. The subject site could hardly be more fragile a landscape, seriously under threat from urban development from Balbriggan itself. Breaching the development boundary and town envelop at this location will set an undesirable precedent for further creep into this landscape character type. The area is proximate to, and we believe integral to, the conservation status of the nearby nature conservation areas, and is undoubtedly in a highly sensitive landscape where views are to be preserved.

We fail to understand how this option could be the preferred option, except to say that it is likely to be the case as the application documentation pays so little attention to this part of the development and the development plan objectives relating to it.

5.2.1 Requirement for LVIA

There is a significant obligation on any applicant to robustly assess the visual impact of a development on visually sensitive landscapes and HA lands.

Objective GINHO56 – Visual Impact Assessments

Require any necessary assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas.

Objective GINHO58 – Sensitive Areas

Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks, and campsites, and large agricultural/horticulture units which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve.

Objective GINHO60 – Protection of Views and Prospects

Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.

Objective GINHO61 – Landscape/Visual Assessment

Require a Landscape/Visual Assessment to accompany all planning applications for significant proposals that are likely to affect views and prospects.

The subject development as it relates to that element on our client's lands should have been accompanied by a comprehensive Landscape/Visual Impact Assessment, and while one was carried out for the development as a whole very little attention was afforded this element of the development, with only two distant vantage points being considered. The lands are High Amenity, they are Coastal, with uninterrupted views to the Coast from the area designated a protected view and are highly sensitive in that unlike neighbouring lands or lands in the town they are unspoilt and have not been developed. **We are not satisfied that the applicant in respect of this element of the proposed development has complied with Objective GINHO56, Objective GINHO58, Objective GINHO60, Objective GINHO61, or Objective GINHO73, et al.**

6. AA SCREENING & NIS

The applicant's NIS concluded that *'that the Proposed Development does not pose a risk of adversely affecting (either directly or indirectly) the integrity of the Rogerstown Estuary SPA, Malahide Estuary SPA, Lambay Island SPA, Skerries Islands SPA, Baldoyle Bay SPA, North Bull Island SPA, South Dublin and River Tolka Estuary SPA, River Nanny Estuary and Shore SPA, Boyne Estuary SPA, River Boyne and River Blackwater SPA, Howth Head Coast SPA, Dalkey Island SPA, Ireland's Eye SPA, Rockabill SPA, The Murrough SPA, and Stabannan-Braganstown SPA, and the North-West Irish Sea SPA.'* We do not concur with this statement or conclusion.

Figure 6.1 Extract from NPWS map data

([Special Protection Areas \(SPA\) | National Parks & Wildlife Service \(npws.ie\)](#))

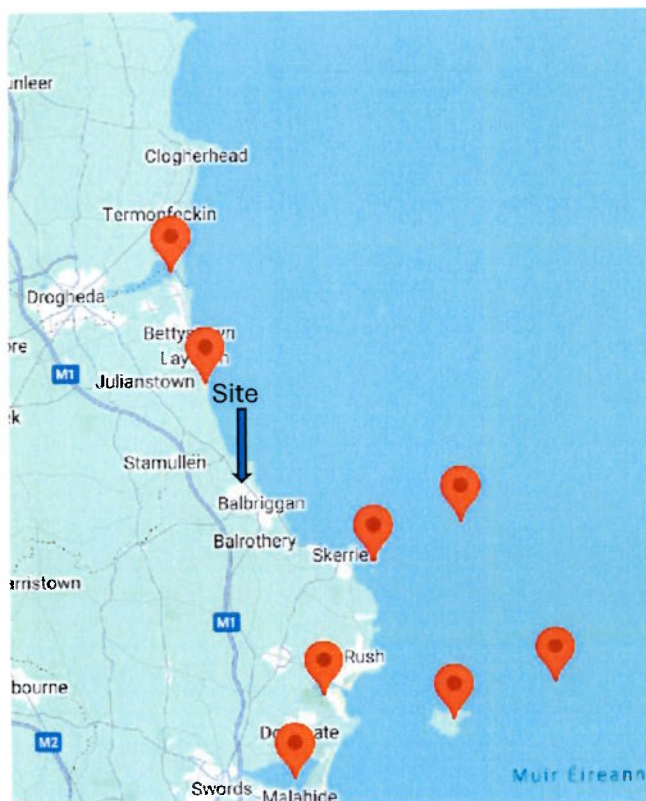
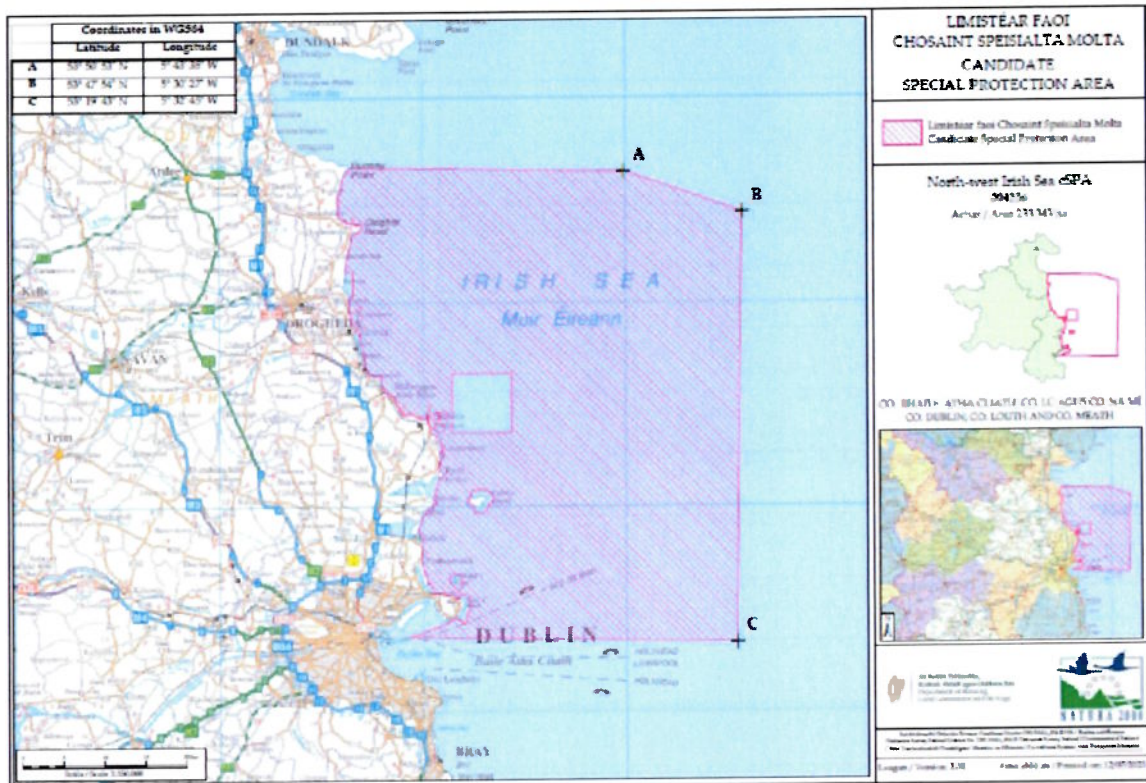


Figure 6.2 North-West Irish Sea SPA



The new site adjoins twelve existing SPAs already designated for the protection of birds along the coast. These are:

- Lambay Island SPA
- Skerries Island SPA
- Ireland's Eye SPA
- Howth Head SPA
- Rockabill SPA
- South Dublin Bay and River Tolka Estuary SPA
- Boyne Estuary SPA
- River Nanny Estuary and Shore SPA

- Rogerstown Estuary SPA
- Malahide Estuary SPA
- Baldoyle Bay SPA and North Bull Island SPA

The identification and designation of this SPA demonstrates the link between the various neighbouring SPAs and reflects that fact that the protected wildlife species do not limit their travels and feeding to one SPA alone, and can be found throughout the area. For the purposes of our review, we have focused on the protected birds on Mr. Bell's lands.

Noting the findings of the NPWS ranger for Bremore Head, and the IWeBS counts for wintering birds which were commenced 2 years ago, the following species were considered against the Qualifying Interests of nearby SPAs. These species are noted as –

1. Curlews (150-200 flock size) - Curlew (*Numenius arquata*) [A160] - Feeding
2. Lesser Black-backed Gull (*Larus fuscus*) [A183] - Feeding
3. Common Tern (*Sterna hirundo*) [A193] – Flying over subject
4. Arctic Tern (*Sterna paradisaea*) [A194] – Flying over subject field

Additionally, in smaller numbers, other protected gulls and wetland birds were noted, as per below. The site is also designated

Most Relevant Natura Sites for Mr. Bell's are listed below -

SPA	Qualifying Interests	Relevant to Site
<p>Rogerstown Estuary SPA</p> <p>Site code 004015</p> <p>Designation Special Protection Area (SPA)</p> <p>County Dublin</p>	<p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>	<p>Site included - Teagasc 'protected areas' and applicant notes them on adjacent site.</p> <p>Not credible that the adjacent lands are not relevant to this protected species.</p>
<p>Dundalk Bay SPA</p> <p>Site code 004026</p> <p>Designation Special Protection Area (SPA)</p> <p>County Louth</p>	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Mallard (<i>Anas platyrhynchos</i>) [A053]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Common Scoter (<i>Melanitta nigra</i>) [A065]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p>	<p>Applicant notes them on adjacent site.</p> <p>Not credible that the adjacent lands are not relevant to this protected species.</p>

	<p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Herring Gull (<i>Larus argentatus</i>) [A184] Wetland and Waterbirds [A999]</p>	<p>Curlews and Gulls recorded on site as part of IWeBS</p>
<p>North-west Irish Sea SPA</p> <p>Site code 004236</p> <p>Designation Special Protection Area (SPA)</p>	<p>Red-throated Diver (<i>Gavia stellata</i>) [A001] Great Northern Diver (<i>Gavia immer</i>) [A003] Fulmar (<i>Fulmarus glacialis</i>) [A009] Manx Shearwater (<i>Puffinus puffinus</i>) [A013] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Common Scoter (<i>Melanitta nigra</i>) [A065]</p>	

	<p>Little Gull (<i>Larus minutus</i>) [A177] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Herring Gull (<i>Larus argentatus</i>) [A184] Great Black-backed Gull (<i>Larus marinus</i>) [A187] Kittiwake (<i>Rissa tridactyla</i>) [A188] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Little Tern (<i>Sterna albifrons</i>) [A195] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204]</p>	<p>Curlews and Gulls recorded on site as part of IWeBS</p> <p>Arctic and Common Terns recorded on site as part of IWeBS</p>
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Sighting of Linnets, Yellow Hammer, Curlews, Lesser Black Backed Gulls, Arctic Terns and Common Terns and Gulls were noted by the NPWS ranger for this area, and we understand have been forward to Birdwatch Ireland as part of their IWeBS programme. We note that the NPWS will be a prescribed body in respect of this application, and we would hope that the Board would bring to their attention to this issue.

The applicant's wintering surveys have not captured the wintering activity of curlews, terns and gulls, all of which are protected species on Mr Bell's farmlands. In that the applicants have not served Mr. Bell's lands, unlike the NPWS ranger, it seems

incredulous to us that such a statement would be made in their Appropriate Assessment/NIS.

Additionally, we do not consider it correct or accurate to note or identify protected birds on the adjoining GAA pitches - See below findings which are disputed as incomplete:

Table 1-6 Vantage Point Records of Wintering Birds of Conservation Concern at the Balbriggan September 2021 – March 2023



Common name/Scientific name/BTO Code	Recorded activity, peak count		Conservation Importance				
	Sep 2021 – Mar 2022	Sep 2022 – Mar 2023	BoCCI (B – Breeding / W – Wintering)	Annex I	SPA designated for SCI species within ZOI	Threshold of Inter-national Population ¹	Threshold of National Population ¹
Oystercatcher <i>Haematopus ostralegus</i> (OC)	62 foraging on Balbriggan football pitches (16/02/2022)	112 foraging on Balbriggan football pitches (05/01/2023)	Red (B/W)	-	Malahide Estuary SPA, Rogerstown Estuary SPA, and River Nanny Estuary and Shore SPA within the Proposed Development	8,200	610
Redshank <i>Tringa tetanus</i> (RK)	8 foraging on Balbriggan football pitches and grassland next to Lambacher estate (20/01/2022, 16/02/2022)	7 foraging on Balbriggan football pitches (15/12/2023 & 09/02/2023)	Red (B/W)	-	Malahide Estuary SPA and Rogerstown Estuary SPA, within the Proposed Development	2,400 (Iceland & Faeroe Islands)/760 (Britain & Ireland)	240



Table 1-6 Vantage Point Records of Wintering Birds of Conservation Concern at the **Balbriggan** September 2021 – March 2023

Common name/Scientific name/BTO Code	Recorded activity, peak count		Conservation Importance			Threshold of Inter-national Population ^a	Threshold of National Population ^b
	Sep 2021 – Mar 2022	Sep 2022 – Mar 2023	BoCCI (B – Breeding / W – Wintering)	Annex I	SPA designated for SCI species within ZOI		
Black-headed gull <i>Chroicocephalus ridibundus</i> (BH)	59 foraging on Balbriggan football pitches (08/10/2021)	11 foraging on Balbriggan football pitches (02/12/2022)	Amber (B/W)	-	South Dublin Bay and River Tolka Estuary SPA, c. 500m south east of the Proposed Development	31,000	n/a
Light-bellied brent goose <i>Branta bernicla</i> (BG)	13 foraging on Balbriggan beach (04/03/2021)	None recorded during surveys in 2022/23 period	Amber (W)	-	Malahide Estuary SPA and Rogerstown Estuary SPA, within the Proposed Development	400	350
Common gull <i>Larus canus</i> (CM)	None recorded during surveys in 2021/22 period	1 flying over rail line (24/02/2023)	Amber (B/W)	-	Dundalk Bay SPA, c. 17.5km north of the Proposed Development	16,400	n/a
Curtlew <i>Numenius arquata</i> (CU)	2 flying over the rail line at Balbriggan pitches (02/12/2022)	15 foraging on Balbriggan football pitches (24/01/2023)	Red (B/W)	-	North Bull Island SPA, located c. 1km east of the Proposed Development	7,600	350
Grey heron <i>Ardea cinerea</i> (H.)	1 flying over the rail line at Balbriggan pitches (04/03/2022)	None recorded during surveys in 2022/23 period	-	-	Wexford slob or galway bay	5,000	25
Herring gull <i>Larus argentatus</i> (HG)	22 foraging on Balbriggan football pitches (08/10/2021)	41 foraging on Balbriggan football pitches (24/01/2023)	Amber (B/W)	-	River Nanny Estuary and Shore SPA, within the Proposed Development site	14,400	n/a

We have reviewed the AA screening and NIS, as well as the Biodiversity Chapter of the EIAR, and to this end, we are extremely concerned with the applicant's (Irish Rail's) failure to comprehensively assess the impact on biodiversity of Mr. Bell's land. Information contained with the application/Railway Order, suggests or states that there are no birds of interest on Mr. Bell's lands and/or they make no reference to them at all (e.g. in the NIS). However, the applicant has come to this conclusion without surveying Mr. Bell's lands, which includes the subject site (for the proposed substation, road and compound).

In addition, although not part of the Qualifying interests of the Natura sites, in terms of interactions with other designations, including Birds of Conservation Concern Ireland (BoCCI) is relevant. BoCCI is an assessment of the conservation status of all regularly occurring birds on the island of Ireland. The criteria on which the assessment is based include conservation status at global and European levels; and within Ireland, include historical decline, trends in population and range, rarity, localised distribution and international importance. The conservation status of species is signalled using a traffic light system. Of the 211 species assessed, 54 (26%) were placed on the Red list, 79 (37%) on the Amber list and 78 (37%) on the Green list. ([Birds of Conservation Concern in Ireland - BirdWatch Ireland](#)). In this regard flocks of curlews, yellow hammer and Linnets were all noted, and are identified as being endangered being on the red and amber lists.

7. EIAR

7.1 Alternatives

We do not believe the Draft Railway Order, and EIAR accompanying same adequately and comprehensively consider all of the alternatives available, and fail to have regard to key Development Plan objectives, and Environmental and Ecological Data regarding the site. Sites relating to Option 2 and 1 have in our opinion been dismissed too readily without full and fair analysis. Option 2 for example is served of the same access lane as Fingal's own Depot at Bremore Castle, therefore, to dismiss this location for 'safety' reasons seems to us disingenuous when the route is currently being used for vehicles of a similar nature. We do not purport to be experts in determining the optimum site, but we can see that the same criteria were not applied in an unbiased and fair manner.



Option 3 was identified as the preferred option using inadequate and incomplete information, rendering the comparative assessment of the three options against set criteria to be fundamentally flawed. While operationally preferable Options 1 and 2 were deemed comparatively to be less favourable as they were located within the proposed Bremore Park, however, once complete, the applicant in selected Option 3 claims that the visual impact will be negligible and access to the substation infrequent. As the construction period is only 36 months, and there are no definitive plans and insufficient funding for the proposed park, it is not clear to use that there are “disadvantages for public safety resulting from vehicle interaction (during both construction and operation phases) with the public visiting the park.” In particular, when we note the existence of Fingal’s work Depot in this area, that has so existed and without incident. In respect of Options 1 and 2, an alternative road access could be provided, but was not explored.

The applicant stated that “Option 3 was identified as the preferred option for the Balbriggan Substation as -

- It is located outside of the Bremore Park development extents, therefore scoring highly for land use integration and public safety; and
- It scores well under a number of environmental parameters including landscape & visual quality and noise & vibration when compared with the other options.

It is unclear how the use of such high-quality agricultural land, that supports some many wintering birds, badgers and other ecosystems could be less environmentally sensitive than the brown fields sites of options 1 and 2. Equally, the preserved view is in respect of views across the field in which option 3 is located, and it is unclear to us how the visual quality of this landscape or this view is less sensitive. Only the subject site on which option 3 is located is zoned High Amenity, and yet very little weight is attached to this. In such circumstances where protected views and a high amenity zoning applies only to option 3, and option 3 being undeveloped and therefore highly

sensitive to change, it remains unclear how this option could score so favourably, unless there was an error in the application of the criteria. Again, with respect to the environment, no consideration has been given to the value of the soil and loss of such valuable farmland that has taken 18 years to get to the current state, and no or negligible consideration has been given to the Council's objectives relating to their support for sustainable farming, etc.

[Refer to <https://www.dartplus.ie/getattachment/46ab2efe-2a8e-4282-be78-8fdd838edb34/OSR-Volume-2-Technical-Report.pdf>]

7.2 LVIA

Having reviewed the documents submitted, it is clear to us that there is a lack of a comprehensive LVIA for new substation and associated works. As we have previously outlined this in breach of the Fingal Development Plan Objective "Objective GINHO56 – which states that: '*Visual Impact Assessments Require any necessary assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas.*'

The applicant's assessment consists of 2 CGIs and is not representative of the actual visual impact. The selected viewpoints are unsatisfactory and underplay the visual impact in this area of high amenity.

Chapter 15. Section 5. Potential Construction Impacts (P38) states inter alia that: '*The construction works for Balbriggan Substation will be visible from the preserved view at the R132 Bremore. The works will include removal of a section of hedgerow along the eastern side of the road, construction of a new access route and introduction of the substation in an adjacent field. The works will interfere with the sea views to the east. The sensitivity is **high** and the magnitude of change is **high**. The landscape / townscape and visual effect of the Construction Phase on these*

*preserved views will be **Significant, Negative, Temporary / Short-term.*** (refer to Potential Operational Impacts (p 55))

Section 15.5.2.2.5 considered “Amenity Designations” and states that ‘*There will be both extensive and localised impacts occurring within the designated High Amenity Areas in Fingal County. There will be provision of the prominent and extensive linear OHLE infrastructure along the existing railway line as it passes throughout this area. There will also be the provision of substations at Donabate (Refer to Photomontage DO2, Figure 15.3.16.2 in Volume 3B of this EIAR), Skerries (Refer to Photomontages S1 to S6, Figures 15.3.24.2 and Figures 15.3.29.2 in Volume 3B of this EIAR) and Balbriggan (Refer to Photomontages BR1 and BR2, Figures 15.3.34.2 and 15.3.35.1 in Volume 3B of this EIAR), as well as various temporary utility diversion proposals. The proposals will introduce new utilitarian structures into the landscape and will result in some degradation of the landscape and visual amenity. The sensitivity is **high**. The magnitude of change will be medium and the effect in the Operational Phase on this amenity designation will be **Moderate, Negative, Long-term.*** **It is clear from the applicants own assessment that the impact will be negative and long term.**

15.5.2.2 Impacts on Landscape / Townscape Fabric and Visual Impacts, and specifically **15.5.2.2.7 Preserved views / Scenic Views (p58)** is relevant, and states ‘*The construction proposals for Balbriggan Substation will be visible from the preserved view at the R132 Bremore (Refer to Photomontages BR1 and BR2, Figures 15.3.34.2 and 15.3.35.2 in Volume 3B of this EIAR). There will be continuing effects from the removal of a section of hedgerow along the eastern side of the road, provision of a new access route and provision of the substation in an adjacent field. **The proposals will interfere with the protected sea views for receptors travelling along the R132.***

*The sensitivity is **high** and the magnitude of change is **medium / high**. The landscape / townscape and visual effect of the Operational Phase on these preserved views will be **Moderate / Significant, Negative, Long-term.***

The only mitigation measures being proposed is to: *‘Provide space for new screen planting around north, west and south of sub-station at Balbriggan North including around infiltration basin;’*

The applicant is in effect materially contravening the following DP Objectives

Objective GINHO60 – Protection of Views and Prospects

“Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.”

A substation is an industrial type of development (involves storage of plant) and is not permitted in the development plan in areas of high amenity, with the asphalt road and yard/depot equally included in the ‘Not permitted category’. In this instance there are more suitable sites adjacent such as the Fingal Compound to the north or to the rear of the GAA lands to the south. Both areas are in the ownership of Fingal CC and therefore are publicly owned lands. It is unclear as to why the compulsory appropriation of private lands in an unspoiled high amenity area is preferable. It has not been justified in this instance and runs counter to the Objectives of Fingal’s own Development Plan.

Objective GINHO61 – Landscape/Visual Assessment

Require a Landscape/Visual Assessment to accompany all planning applications for significant proposals that are likely to affect views and prospects

A robust site specific LVIA is required to satisfy this objective, and it has not been carried out by the applicant. (Refer to below image of the substation structure proposed)-

existing Iarnród Éireann substations. The buildings are flanked by some carparking spaces and a turning area. They will have a similar appearance to the substation shown in figure 2 below, however it is important to note that the substation will be fully surrounded by landscaping to ensure it blends into the surrounding environment:



Figure 2 – Existing Malahide Substation.

7.3 Farming, Soils

Chapter 16 of the EIAR considered soils, and farming in supposed detail. However, in respect of the applicant's lands and farm we are not satisfied that a sufficiently detailed assessment has been carried out. The precedence that the proposed development establishes if permitted, would seriously undermine the zoning and agricultural objectives relating these lands and others in this area.

As outlined in our Section 4 above, we believe the applicant has failed to consider the quality of the soil that they are proposing to permanently remove, and the soil that they will set back by some two decades in terms of its quality and environmental and ecological benefits.

7.4 Rural & Agricultural Policies

See section 4 of this document for full details. In summary we believe that the proposed development fails to comply with the following Development Plan policies in respect of this matter, and that this has fed into inadequate consideration of the potential impact in respect of compliance with the development plan, soils, population, human health, biodiversity et al.

7.5 Biodiversity

In addition to issues with the Appropriate Assessment, we believe that there has been inadequate consideration of the issues relating to biodiversity and ecosystems generally on our client's land, irrelevant of whether they are explicitly protected.

In respect of protected and endangered species, we would draw the Board's attention to Birds of Conservation Concern in Ireland, and the lack of consideration of the species included in this publication, and noted on our clients' lands as part of IWeBS.

Schedule 5, Wildlife Act, 1976, as amended, is the principal national legislation providing for the protection of wildlife and the control of some activities that may adversely affect wildlife. The aims of the Wildlife Act, 1976, are to provide for the protection and conservation of wild fauna and flora, to conserve a representative sample of important ecosystems, to provide for the development and protection of game resources and to regulate their exploitation, and to provide the services necessary to accomplish such aims. Under the Act, the Minister responsible for nature conservation may afford protection to all wild species of fauna and flora. Full assessment, having regard to this Act is required.

Chapter 9, and specifically section 9.6.8 of the Fingal Development Plan considers the importance of "Ecological Corridors and Stepping-Stones Including Trees and

Hedgerows”. Ecological corridors are defined as “linear landscape features such as rivers, hedgerows and road verges that facilitate the movement of wildlife through the landscape.” We are not satisfied that there has been adequate consideration of the importance of the existing and well-established hedgerows on site, and which will be impact by the proposed development.

Policy GINHP21 – Protection of Trees and Hedgerows

Protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and/ or contribute to landscape character and ensure that proper provision is made for their protection and management in line with the adopted Forest of Fingal-A Tree Strategy for Fingal

Objective GINHO48 – Wildlife Act and Roads Act

The Council shall comply with the requirements set out in the Wildlife Act and Roads Act in the context of its maintenance programmes and housing, recreational and infrastructure developments

Objective SPQHO91 – Retention of Hedgerows and Other Distinctive Boundary Treatments

Ensure the retention of hedgerows and other distinctive boundary treatments in rural areas. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary/provision of agreed species of similar length will be required within the site.

8. CONCLUDING COMMENTS

Oral Hearing Request

Given the extent of issues inadequately addressed by the applicant, the lack of transparency and engagement with Mr. Bell to date, and the serious flaws in the AA/NIS, EIAR and with respect to the Wildlife Act, we would ask that an Oral Hearing be held to allow us and An Bord Pleanála an opportunity to fully consider all the impacts in the context of the complete facts.

[It is our considered opinion that -](#)

The proposed development materially contravenes the following policies and objectives, names **Policy EEP23, Policy EEP24, Policy EEP28, Policy EEP29, Objective EEO63 and Objective EEO78**, which are intended to support sustainable farming, and to prevent inappropriate development in the rural areas of Fingal.

Option 3 with respect to the substation north of Balbriggan on our client's lands represents a **MATERIAL CONTRAVENTION of the HA Zoning, in the Fingal Development Plan, 2023-2029**, in that the uses proposed, i.e. substation (being storage of plant/light industrial); road (being asphalt) and compound (being a yard/depot) are included in the **NOT PERMITTED uses** of the Zoning Matrix.

The proposed development materially contravenes the following objectives, names **Objective GINHO56, Objective GINHO58, Objective GINHO60, Objective GINHO61, Objective GINHO73, or Objective SPQHO91, and Policy GINHP21, etc.**

Inadequacy of EIAR and NIS – due to sparse and incorrect data analysis regarding Mr. Bell's lands, resulting in an **adverse Impact on Biodiversity, and protected and endangered species**, including in respect of -

- Curlews (150-200 flock size) - Curlew (*Numenius arquata*) [A160] (Birdwatch Ireland Red List, BoCCI) - Feeding
- Lesser Black-backed Gull (*Larus fuscus*) [A183] – Feeding
- Common Tern (*Sterna hirundo*) [A193] – Flying over subject
- Arctic Tern (*Sterna paradisaea*) [A194] – Flying over subject field
- Flocks of yellow hammer (Birdwatch Ireland Red List, BoCCI).
- Flocks of Linnets (Birdwatch Ireland Amber List, BoCCI).

These species are of significant importance and of conservation concern, and pasture lands and maze stubble are a vital source of food for these species. The quality of the soil and availability of the crops supports these birds in their winter feeding.

There would also appear to be certain failures in respect of obligations under Schedule 5, Wildlife Act, 1976, as amended, which seeks to protect wildlife and the control of some activities that may adversely affect wildlife; and to provide for the protection and conservation of wild fauna and flora, to conserve a representative sample of important ecosystems, including loss of hedgerows.

Inadequate and Poor/Irrational consideration of Alternatives (in the EIAR) – re. site selection process regarding the proposed substation, compound and road.