

# An Bord Pleanála



## Inspector's Report

**PL 06F.245989**

**DEVELOPMENT:-**

Construction of a two-storey building including supermarket, two retail units, one café unit, two office units, lobby areas, circulation and services spaces.

**Planning Authority:**

Fingal County Council

**Planning Authority Reg. No:**

F15A/0265

**Applicant:**

Rossdon Ltd.

**Application Type:**

Permission

**Planning Authority Decision:**

Grant

**Third Party Appellants (4 no.)**

Sabrina Joyce  
Portmarnock Community  
Association  
Laura Fingleton and Others  
Concerned Portmarnock  
Village Traders

**First Party Appellant**

Rossdon Ltd.

**Type of Appeal:**

Third Party –v- Grant and  
First Party - v - Conditions

**Observers:**

Yes – 10 no.

**Date of Site Inspection:**

25 February 2016

**INSPECTOR:**

**Patricia Calleary**

## 1.0 INTRODUCTION

PL06F.245989 relates to a **third party appeal** v a decision to **grant permission** and a **first party appeal** v **conditions** in relation to a mixed use retail development for a two storey building which would include a supermarket, 2 no. retail units, a café, 2 no. office units with a stated height of 11.1m and a gross floor area measuring c. 2,740 sq.m. The supermarket would also include an off-licence sales area, storage and staff and customer facilities. The proposed development would also provide for part surface level and part undercroft / covered car parking and bicycle parking at ground floor level. The retail element would be located across the first floor level, accessed by stairs, lift and travelator. Signage is proposed including 2 no. pole mounted signs and 4 wall mounted illuminated signs.

The extent of the development was amended during the planning application by way of further information and clarification of further information which included proposals to reduce the smaller retail element from 2 no. retail units to 1 no. retail unit with a stated floor area of 99 sq.m and provision of an additional 10 parking spaces to provide a total of 85 spaces.

## 2.0 SITE LOCATION AND DESCRIPTION

The appeal site, with a stated area of 0.38 Ha, is a vacant site located in Portmarnock, in North County Dublin. The site is stated to have been historically occupied by a Church hall, known as the 'Tin Church' and there is evidence of remains of an old building footprint within the middle of the site. The site is located in a 50km/hr speed limit on the R106 Strand Road fronting the site. This Regional route serves as the main thoroughfare / local access road for Portmarnock and also as a wider regional route connecting Portmarnock and Malahide to the city. The site is bounded by access roads along the other 3 boundaries, i.e. Church Avenue to the East, St. Brigid's Avenue to the North and St. Lawrence O'Toole Avenue/St. Anne's Square to the West. These roads predominately serve established residential development and there is a small shopping mall and crèche located along St. Lawrence O'Toole Avenue/St. Anne's Square<sup>1</sup>. The site is enclosed with low level walls

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<sup>1</sup> St. Lawrence O'Toole Avenue and St. Anne's Square relate to the same road which lies West of the site and is accessed off Strand road. Where used, these names are interchangeable in this report.

and fences with current access through a metal gate on the Strand road boundary. There is a grassed area located to the rear of the main site which it appears has been recently fenced in and is intended to form part of the site of the proposed development. St. Anne's Square which serves c.120 dwelling houses lies North West of the site. St. Marnock's Primary school and St. Anne's Church occupy lands to the east of the site on the opposite side of Strand road. There are a range of mixed retail and commercial uses in the immediate locality such as Jus de Vine Off-licence, Golf Links Inn, Stafford's funeral home and other local retail services. Portmarnock Hotel and Golf Links is located c.1.3km northeast of the site. Dunnes stores shopping centre lies c.1.3km north of the site. The boundary of Malahide golf club lies c.200m from the rear site boundary. The wider area is predominately residential in nature.

### 3.0 PROPOSED DEVELOPMENT

**Permission** is sought for a mixed use retail development for a two storey building with a stated gross floor area of 2740 sq.m (*reduced by c.99 sq.m at clarification of further information stage*) which would include:

- A supermarket with ancillary off-licence sales area, staff and customer facilities and storage at first floor level. The net sales area is stated to be 1185 sq.m.
- 2 no. retail units (104 sq.m and 83 sq.m) - (*reduced from 2 no. to 1 retail unit of 89 sq.m size*) and a café unit (76 sq.m) at ground level fronting onto Strand road.
- 2 office units (46 sq.m and 79 sq.m) on first floor and shared WC and staff area (14 sq.m) and accessed separately off Strand road.
- Undercroft/covered parking area and surface parking to the rear of the proposed building consisting of 75 spaces (*increased to 85 spaces at clarification stage*)
- Landscaping and boundary treatment.
- Signage to consist of 2 no. pole mounted signs and 4 wall mounted illuminated signs.

Vehicular access is proposed off St. Lawrence O' Toole Avenue/ St. Anne's Square. The building footprint is shown as c.51m long x 35-48m wide with an overall height of 11m at the front (Strand Road) side, reducing to 8.6m to the rear of the site towards St. Brigid's Avenue.

The anchor retail unit is a supermarket, which is stated would be occupied by Lidl GmbH. It would be located across the first floor level, accessed by stairs, lift and travelator.

## 4.0 PLANNING APPLICATION

In addition to the planning drawings, the application is also accompanied by the following supporting reports, summarised under:

### 4.1 Planning Report

- Sets out planning policy basis for the retail proposal.
- Presents population statistics of Portmarnock (North and South) and some neighbouring EDs. Notes population decline in Portmarnock North (-10.42%) and Portmarnock South (-1.7%) from 2006-2011 but considers development will be accessible to an expansive population catchments including neighbouring EDs which have experienced population growth.
- Submits the proposed development is well positioned and of a high quality design with appropriate mass and scale which will integrate well with the streetscape.
- Development would provide a positive addition to and increase retail choice in Portmarnock reducing the need to travel to neighbouring towns.
- Subject site is highly accessible by foot and public transport.
- Appropriate in the context of a vacant site in the urban centre.
- Supports the policies and objectives of the Fingal Development Plan, particularly the '**TC**' - **City/Town/Village Centre** zoning objective, where the stated use is listed as a category which is '**permitted in principle**'. Also supports the delivery of the Urban Centre Strategy for Portmarnock.
- Includes detail on Retail Impact Assessment and a rationale as to why a full retail impact assessment is not required based on the assertion that the development accords with policies and objectives for the site and Section 4.4 of the Retail Planning Guidelines with regard to compliance with sequential approach.
- Development does not conflict with neighbouring land-use objectives including '**RS - residential**'.
- Sets out parking provision and calculations.
- Presents reasons for omitting a residential element including the requirement to build higher.

#### **4.2 Design Statement**

- Design will provide an attractive and modern development which will integrate with and improve the physical character and environment.
- Development will provide a sustainable response to the site and will be highly accessible.
- A number of 3D visualisations are also presented.

#### **4.3 Traffic and Transport Assessment**

- Located on the R106 regional route which runs from Swords to Sutton cross via Malahide and the coast road through Portmarnock and Baldoyle.
- Proposed to construct a standard priority controlled junction to access the site from St. Anne's Road (Square).
- Deliveries to the Lidl supermarket will use a 16.5m articulated truck using a dedicated loading bay. Tested using Autotrack package and considered acceptable.
- Concludes that the traffic generated by the development can be accommodated within the existing road network.
- An analysis of the junction demonstrates that there will be no significant negative impacts as a result of the proposed development.

#### **4.4 Infrastructure Design Report**

- Foul Water Drainage proposed via gravity flow to an existing 225mm Local Authority Sewer on Strand road.
- Surface water will be attenuated and discharged via a tanked permeable paved system to the existing 150mm diameter Local Authority sewer located within St. Anne's square northwest of the site. Design in accordance with Greater Dublin Strategic Drainage study and the SUDS document by CIRIA. Allowance for climate change of 20% is proposed. On-site retention and attenuation of surface water proposed.
- Water supply will be provided from an existing watermain within the footpath on St. Lawrence O'Toole Avenue.

#### **4.5 Lighting Impact Assessment**

- Lighting scheme will fit within regulatory requirements in respect of light intrusion/spill and sky glow and any resultant glare from the development will have minimal impact on the surrounding area.
- Lighting will be have high energy efficient long life LED luminaries.

#### **4.6 Noise Impact Assessment**

- Recognises that building services and mechanical plant have potential to generate noise. Considers that once noise mitigation measures are put in place, the noise levels will not be significant.
- If construction stage is managed in accordance with good practice and hours of operation are limited, noise emissions will not exceed recommended limits.
- No unacceptable noise will result from traffic on public roads, car parking or deliveries.

#### **4.7 Flood Risk Assessment**

- Site is located within Flood Zone B where a Flood Risk Assessment is required. As the land use is 'less vulnerable', no justification test is required. Design has ensured that no flood risk issues arise.

#### **4.8 Natura Impact Statement/Appropriate Assessment Screening**

- Negligible Impact predicted on the nearby Baldoyle Bay SAC and SPA based on the successful implementation and monitoring of mitigation measures for potential disturbance during over wintering period and suspended solids run-off.
- The site is removed from the other SACs and SPAs and no impact predicted on Natura 2000 sites.

### **5.0 PLANNING AUTHORITY'S DECISION**

The planning application was lodged with Fingal County Council on 5 June 2015. Requests for Additional Information and Clarification issued. A decision to **grant permission** issued subject to 20 conditions issued on 2 December 2015.

#### **5.1 Additional Information**

Additional Information was submitted by the applicant which included revised drawings, landscape details, details of materials, a Tree Survey report, a Site Lighting Layout, Autotrack drawing, Additional Site and Building planning drawings and a supporting written response.

#### **5.2 Clarification of Additional Information**

Information was submitted by the applicant in response to Fingal County Council's clarification of further information request. The response dealt with matters on car parking in which a reduction of retail space was

presented (by amalgamating Retail Units 1 and 2) and an increase in car parking to 85 spaces. It also clarified delivery times and presented a brochure of Polished Stone finish which it is proposed to utilise on part the building.

### 5.3 Planning report by Planning Authority

The planning report sets out the nature of the development and the main planning considerations are summarised under:

- States 157 objections/submissions received, summarises issues and states that all submissions have been fully considered in the assessment of the application.
- Site is located within a **'TC'** zoning objective which seeks to ***'Protect and enhance the special physical and social character of town and district centres and provide for and/or improve urban facilities'***. Considers the proposed development is acceptable in principle within this zoning objective.
- Site is located within **'The Portmarnock Urban Centre Strategy' (2010)** study area. Subject site identified as an opportunity site.
- **Fingal County Retail Strategy & RPGs 2012** apply. Portmarnock is a Level 4 centre, a level which generally provides for one supermarket / discount store of up to 2500 sq.m, together with supporting shops. Considers that the proposed retail use will contribute to the vitality and viability of the retail core. Notes that the distinction between 'discount stores' and 'other convenience good stores' which was contained in the RPGs 2005, no longer apply.
- Recognises the significant scale of the proposal but considers that the development can be accommodated within the town centre site.
- Considers increase in noise and traffic would not be unreasonable in the context of town centre development.
- Considers that location of access relative to existing entrance are acceptable.
- Initially was not satisfied that sufficient parking was provided for but considers this was resolved following request for additional information and a follow on clarification of Additional information request.
- Design, scale, mass considered acceptable and supermarket will act as a key anchor.
- Considers Water & Drainage issues are acceptable subject to condition.
- Considers boundary treatment and signage outstanding requirements can be resolved by way of condition.
- Considers a condition should apply relating to a closing time of 9pm to take into account the proximity of established residential development in the area.

A recommendation to **Grant Permission** was made subject to 20 conditions.

#### **5.4 Submissions/Observations**

157 submissions were received by the Planning Authority, all which raise objections to the development. The collective planning concerns are summarised under:

- Size of building constitutes overdevelopment of a restricted site and fails to reflect the low/medium density of the sensitive area.
- Visually obtrusive, cause overshadowing and negative impact on residential amenity for adjoining properties and reduce property values; loss of views and loss of light will result.
- Contrary to policies of the Fingal County Development Plan including the zoning objectives and the Urban Centre Strategy.
- Incorrect address on site notice (St. Lawrence O'Toole Avenue instead of St. Anne's Square).
- Works beyond redline proposed but no letter of consent for works in this area.
- Loss of open space area to the rear of the site which has been utilised by the residents since these houses were built in the 1940s until fence was very recently erected.
- Incorrect lighting layout used in Lighting Assessment report.
- Poor public realm response.
- Inappropriate signage proposals (especially pole mounted sign proposed).
- Poor quality materials proposed.
- Insufficient car parking and undercroft parking proposal not appropriate.
- Traffic congestion would result from increased volume of traffic (including HGVs) likely to be generated. Children attending adjacent primary school and crèche would be at risk due to traffic hazard. Traffic will cause negative impact on St. Anne's residents.
- Road is not suitable for supermarket and delivery traffic and would generate a conflict between pedestrian and HGV movements.
- Inadequate access proposed and traffic survey was carried out in March which is not appropriate for a coastal village.
- Negative Impact on viability of smaller local traders.
- Noise pollution will result due to extended hours of Lidl - up to 22.00. Opening hours should be limited to 9.00-20.00 if permitted.
- Air emissions from bakery element is not considered in AA Document. AA does not consider assessment of traffic on bird population. Concern regarding bats and red squirrel population.



Mallard ducks currently reside in the green space at the rear of the site.

- Flood Risk assessment contains errors.
- Bin storage, odours and litter not properly addressed.
- There are already 4 coffee shops/cafés in immediate area and addition of another will not compliment these.
- Due to the off-licence element of the proposal, it would likely lead to anti-social behaviour.
- Concern raised regarding loss of trees.

## 5.5 Interdepartmental reports

### Water Services

- No objection subject to conditions (surface water)

### Transportation Planning Section

- Initially required further information in relation to inadequate parking.
- Following revisions to design and an increase in parking to 85, considered acceptable.
- Recommends conditions including (among others), Mobility Management Plan, Construction management Plan, Stage 2 Road Safety Audit, provision to adjust lighting of car park post installation to reduce glare which may arise)

### Heritage Officer

- No adverse impacts on Natura 2000 sites in relation to foul and surface water management.

### Parks

- No objection subject to conditions

### Environmental Health Officer

- No objection subject to conditions / information to be agreed.

## 5.6 Prescribed Bodies

### Irish Water

- No objection subject to conditions (Water and Foul Sewer)

## 5.7 Planning Authority Decision

On 2 December 2015, a decision to **Grant Permission** was made subject to 20 conditions, including the following of note:

- Condition No.2 – Trading and deliveries restricted to between 8am and 10pm Monday to Saturday and between 10.30 am and 7 pm Sundays and Bank Holidays.
- Condition No.5 – Lightning not to cause excessive glare and adjustments shall be made to satisfaction of Planning Authority from time to time.
- Condition No.7 – Proposed Totem sign to be omitted.
- Condition No.9 – Provide for a piece of Public Art.

## 6.0 PLANNING HISTORY

The following planning history is referred to in the Planning Officer's report.

### **F06A/0280**

Permission was **granted** to for a part 3 and part 2 mixed use development at Strand Road, Portmarnock as bounded by Strand Road, St. Marnock's Avenue, Church Road and small green taken in charge by Fingal County Council. It included 29 dwelling units, 4 retail units, 1 office, a service bay, 19 surface parking spaces and 96 basement parking spaces.

### **F06A/0280/E1**

Permission was **refused** for **extension of duration** of F06A/0280 because it did not comply with Objective RD07 of the Fingal County Development Plan 2011-2017, was considered sub-standard and did not meet with 'Sustainable Urban Housing - Design Standards for New Apartments Guidelines' (September 2007).

### **F06A/0280/E1**

Permission was **refused** for **extension of duration** of F06A/0280 for similar and additional reasons stated above under **F06A/0280/E1**.

### **F03A/1225**

Permission was **refused** for a mixed use development to consist of 3 storeys residential and retail complex at the corner of Strand Road and St.Marnock's Avenue all over a basement car park. It was considered that the residential road on 3 sides did not have capacity to cater for the existing residential units. It was also considered that the lack of sufficient car parking would have potential to lead to on-street parking and create serious traffic congestion and conflict on adjoining residential streets.

## 7.0 GROUNDS OF THIRD PARTY APPEALS

Third party appeals were received from:

1. Sabrina Joyce
2. Portmarnock Community Association
3. Laura Fingleton and Others
4. Concerned Portmarnock Village Traders (prepared by O'Neill Town Planning and accompanied by a supporting document by Trafficwise Ltd.)

The collective grounds of appeal are summarised under the following headings:

1. Failure to comply with Planning Policy
2. Contrary to Retail Planning Guidelines and Retail Strategy
3. Traffic safety and Car parking provision
4. Residential Amenity
5. Other

### 7.1 Failure to comply with Planning Policy

- Site is zoned for mixed use development but development proposes only retail and commercial development and not mixed use.
- Due to scale of the development proposed, no protection is offered for established residential property. Therefore does not meet the requirements for **transitional zones and Objective Z04**.
- Development will have a negative impact on the vitality and viability of Portmarnock village and the current retailers by displacing existing trade.
- Development does not reflect the policy set down in the Urban Centre strategy for the site in terms of the requirement to provide an attractive mix of uses and a public space. The recommended generous setback to extend the public domain has not been provided.

### 7.2 Contrary to Retail Planning Guidelines and Retail Strategy

- Portmarnock is considered a '**Level 4**' centre which generally provides for one supermarket **or** discount store ranging in size from 1000-2500 sq.m. – Given that Portmarnock has a supermarket, considers that there is a need to question the requirement of a further 2200 sq.m of convenience shopping.

- Not in compliance with the Retail Strategy for the GDA 2008-2016 where Portmarnock is designated as a level 4 retail centre.
- Retail assessment is required.

### **7.3 Traffic Safety and Car Parking**

- Will exacerbate the traffic congestion in the village.
- Insufficient room to manoeuvre a HGV on narrow roads and will negatively impact on residents and traders. Traffic safety issues because of HGVs and increase in traffic movements in an established residential zone.
- HGV reversing over a pedestrian route and the entrance to the covered car park will give rise to conflicts with other vehicles and pedestrians.
- Simple priority junction on Strand road is unlikely to accommodate the increased volume of traffic.
- No Road Safety Audit was undertaken.
- Traffic Counts taken at the incorrect time in the mornings (8.00 hrs) and at a time of the year (10, 21 March) where there are low traffic volumes and growth forecasting of 7.4% is insufficient.
- Entrance to the car park conflicts with other existing access points (to a retail development, public health centre and crèche).
- Risk of safety of children who have to pass by the entrance to attend local primary school.
- Supermarket development at Strand road would increase risk of road traffic collision.
- Insufficient car parking provided and addition of double yellow lines along local roads will reduce parking around the site by 15 spaces.
- Impact on major proposed cycling specific route (from Baldoyle, through Portmarnock and on to Malahide) as this will be developed on Strand Road directly in front of the development.
- Will impede the delivery of 'Fingal Coastal Way' tourism project because of traffic congestion.
- Level of detail regarding servicing is insufficient.

### **7.4 Residential Amenity**

- Noise pollution impacts will increase as a result of refrigerated trucks and refrigerated plant and equipment.
- Loss of amenity because of loss of public open space and trees.
- Parking along entrance road will be lost because of double yellow lines proposed. Considers this is unfair on the residents and conflicts with the existing crèche which has no other parking.

- Building is too high and will overshadow, overlook and visually dominate the surrounding houses.
- Site is too constrained and development is proposed to be located too close to the established residential area.
- Properties will be devalued.

## 7.5 Other

- Potential to increase flood risk in Portmarnock.
- The planning application does not comply with Articles 18,19 or 23 of the Planning and Development regulations.
- Poor design quality which is overly monolithic.
- Undercroft car parking not appropriate for village setting, basement parking would allow a building of reduced height to be developed.
- Reference is made to a precedent where planning permission was refused for a similar scheme proximate to an apartment development under PL29.244821. Note: This application sought *permission for 'the construction of two storey convenience store with ancillary undercroft and surface car parking and all associated site works'* at Newtown, Malahide Road, Dublin 17.

In conclusion, the appellants request An Bord Pleanála to overturn the decision of the Planning Authority and to refuse planning permission for the proposed development.

## 8.0 OBSERVATIONS

10 no. observations were received from the following observers: Tommy Cullen, Deirdre O'Farrell, Portmarnock Community Centre, Mark & Naomi McManus, Nina Bennet, John Lonergan, Brenda Rooney, Frances Keegan Sex, Vincent Sex and Peter Coyle.

The collective concerns raised are summarised under as follows:

- Traffic congestion and increased street parking will result.
- Adverse to streetscape improvement.
- Contrary to policy for neighbourhood level retail appropriate to a village centre.
- Will not support the vitality and viability of Portmarnock because of displacement of trade.
- Insufficient car parking especially in the context of insufficient parking in the village.

- Access in close proximity to junction will cause a traffic hazard.
- Scale of development is inappropriate.
- Will negatively impact on estuary at Portmarnock and Baldoyle Bay.
- Flood risk issues will arise (provided a photograph of flooding on St. Laurence O'Toole Avenue).
- Constitutes over development.
- Development not required due to existing services in Portmarnock.
- Loss of residential amenity due to noise and air pollution and traffic safety issues from manoeuvring of delivery trucks.
- Proposal is contrary to policies of the Portmarnock Urban Centre Strategy.

## **9.0 FIRST PARTY APPEAL v CONDITIONS**

A first party appeal against Condition 2 (Trading and delivery hours), Condition 7a (totem pole signage) and Condition 9 (provision of public art) was lodged by McCutcheon Halley Walsh on behalf of the applicant and the grounds of that appeal are summarised under.

### **9.1 Condition 2**

Condition 2 is overly restrictive and unreasonable and would affect the viability of the development. Requests that the trading hours and delivery hours are amended to:

#### Trading

Monday to Saturday 08.00 – 22.00 hours

Sunday – 09.00-21.00 hours

#### Delivery hours

Monday to Saturday 07.30 – 22.00 hours

Sunday – 10.30-22.00 hours

Also requests that deviation from these hours would be allowed with written approval from the Planning Authority.

### **9.2 Condition 7(a)**

Requests that Condition 7(a) relating to the 'totem pole' sign be omitted as the proposed sign is well-designed and provides for normal controlled advertising. Provides a design modification for the Board to consider.

### **9.3 Condition 9**

States that this condition relating to public art provision is not appropriate and that it should be omitted or amended to read more specific detail and should take into account that the applicant would pay significant development contributions to the Council, including 23% for Community & Parks facilities and amenities.

Considers that the inclusion of a quality plaza with associated planting meets the relevant objectives.

## **10.0 FIRST PARTY'S RESPONSE TO GROUNDS OF THIRD PARTY APPEAL**

A response to the third party appeal, prepared by McCutcheon Halley Walsh was submitted. At the outset of the response, the applicant highlights that the development is a sustainable proposal, with an appropriate scale and mixed-use, sited within a village centre accessible site which would serve to rejuvenate the village core. It is stated that detail design solutions and high quality finishes are proposed to ensure that there would be no resultant detrimental impact on neighbouring amenities.

The applicant's response is accompanied by a detailed response on traffic issues, prepared by Stephen Reid Consulting (SRC) and this SRC response is accompanied by drawings of a Road Layout and Swept path analysis for the 16.5m HGV delivery truck and of an alternative 10m HGV truck.

The specific rebuttal grounds contained within the response submitted (including the SRC response) are summarised under the respective headings below.

### **10.1 Procedural Matter (Compliance with the Planning and Development Regulations 2001-2015)**

- Site notice was erected on site.
- New notices were published and erected on site as part of the Clarification of Additional information submitted in which the address was clearly stated to include "St. Lawrence O'Toole Avenue (Also known as St. Anne's Square)"

### **10.2 Fingal County Development Plan 2011-2017**

- Planning Authority considers that the proposal is in compliance with the statutory county development plan.

- Addition of a residential element to increase the mix of uses would require a higher building form.
- Proposal falls within a permitted use under the ‘**TC**’ – ‘**Town and District Centre**’ zoning category where a supermarket of 2500 sq.m floorspace is ‘**permitted in principle**’. Current proposal is for a supermarket of 2038 sq.m. Other elements (retail, café and office uses) are also ‘permitted in principle’.
- Development does not represent a material contravention of the County Development Plan for Fingal.

### **10.3 Portmarnock Urban Centre Strategy**

- Mix of uses is appropriate and in accordance with the strategy and reasons for omission of residential development are stated which include: would require a higher building form, constraints from increased residential development standards, viability.
- Development proposal needed to have regard to commercial realities and engineering requests [from Fingal County Council] regarding car parking and states that there has been considerable market interest in all proposed units.
- Design proposal was cognisant of the transitional zone as well as town centre location and protection of residential amenity.

### **10.4 Retail Impact Assessment**

- Assessment by applicants demonstrated that the proposal would address undersupply of floorspace in Portmarnock and positively address major trade leakage.
- Full retail impact assessment was not required as development complies with the planning policies and objective for the site. (Refers to Section 4.4. of the Retail Planning Guidelines). Fingal Co Council agreed that a full retail impact assessment was not required given the town centre site location.
- Provides justification for a second supermarket. States that there is a receiving population of 5,400 within a 15 minute walk and a total catchment population of 10,400 within a 20 minute drive.
- Development mix will provide for improved consumer retail choice and improve the vitality and viability of the town centre.

### **10.5 Traffic Impact and Road Safety**

- Restates position that only 1 delivery by HGV is proposed per day which is not significant. Refers to accompanying Traffic Report which includes further information including a swept analysis for the proposed 16.5m truck (preferred) and a 10m truck (alternative).



- Access proposed from St. Anne's square, set away from the junction with Strand road is the preferred option. Deliveries will not impact on car parking capacity.
- Emphasises that the delivery truck can physically enter and exit the site in forward gear, with the reversing manoeuvre performed within the site.
- TRICS data used was based on established 'discount retail' sites in Ireland and UK, which is wholly appropriate.
- Recognised peak traffic activity but considers that this is short lived and is not a reason to reject a village centre retail development.
- Development contribution of (Condition 2 of FCCs decision) provides for payment of €154,418 which can offer potential to upgrade infrastructure in area, including St. Anne's Square roadway.
- The set back arrangement of the development would allow for the delivery of a pedestrian /cycle route along Strand road as part of the National Cycle Plan and referenced by Objective in the Fingal County Development Plan.
- Existing Parking activity between Church Avenue and the site boundary will not be affected by the development as it lies outside of the site.
- A review of Road Safety Authority (RSA) data submitted shows that there is not a significant issue with collisions in the vicinity of Strand Road junction and an analysis shows that the majority of collisions on a 0.8km stretch of road between 2005 and 2013 occurred at hours when the retail development would not be opened.

## **10.6 Car Parking**

- Sufficient car parking is proposed. Calculations took the retail sales area, bakery preparation area, office, staff facilities, WCs and storage areas (total of 1551 sq.m) into account.
- Potential for many shoppers to walk to the development.
- Parking arrangement for the crèche and adjoining commercial development is a matter outside the scope of this application. The crèche planning application presented car parking spaces and a compliance submission made a justification for reducing the spaces from 7 to 2.
- States that double yellow line road marking would be welcomed by First Party/Applicant.

- Offers the use of the proposed car park by parents for dropping off and picking up children, recognising that they may also be customers of the uses or café.

## **10.7 Design Issues**

- Basement parking was not advised based on findings of flood risk assessment; Surface car parking would not be sufficient to meet the needs of the development.
- Building height onto Strand road replicates similar heights for Stafford's funeral home. Building height reduces to 8.6m to the rear to protect residential amenity.
- High quality design and use of materials proposed.
- Proposal provide for protection of 6 existing trees (out of 24) and addition of 27 new trees.
- Area of site at the rear is not a 'public' open space but rather is privately owned.
- Flood risk assessment conclusions restated.

## **11.0 RESPONSE TO APPEALS BY PLANNING AUTHORITY**

Fingal County Council submitted a response to the grounds of both the **first party appeal v conditions** and the **third party appeal v grant**.

### **11.1 Planning Authority's Response to First Party Appeal v Conditions**

The response by the Planning Authority to the first party appeal states as follows:

#### Condition No.2

- Due to the proximity to residential properties, the PA considers that it is reasonable to protect residential amenity by limiting the hours of operation and deliveries to 0800-2100 hours Monday to Saturday and 1030-1900 hours on Sunday.

#### Condition No.7

- PA is not supportive of either a totem pole sign or flag pole sign or any additional acrylic sign attached to the wall of the building as would result in visual clutter.
- Given central location of building, signage is considered unnecessary.

### Condition No.9

- States that the requirement for public art is to comply with Objective UD11 of the County Development Plan.

## **11.2 Planning Authority's Response to Third Party Appeal**

In relation to the third party appeals, the Planning Authority responded as follows:

- PA are satisfied that there is adequate capacity at the junction of Strand road and St. Anne's road (square).
- The PA would welcome a condition to require a banksman to supervise deliveries.
- Consider that deliveries would not pose traffic safety or conflict with operation of existing crèche.
- Restates the view that sufficient parking is proposed.
- States that there is no requirement under the Fingal CDP or the Fingal Retail Strategy for a residential element to satisfy a mixed use zoning objective.
- Considers the proposed uses will contribute to the vitality and viability of the retail core.
- Considers building design is appropriate and will provide a focal point along the streetscape.
- While building is significant in scale, PA consider it can be accommodated in the context of a town centre site.

## **11.3 Third Party Responses to First Party and Planning Authority's responses.**

Response were received from Sabrina Joyce, Portmarnock Community Association, Laura Fingleton & Others and Concerned Portmarnock Village Traders. The main new points of the collective responses are summarised under.

- Public Transport rarely used for weekly shop which instead relies on the use of a car.
- Provides a list of existing retail services in the vicinity, supported by photographs, which is considered would be adversely affected (inc. Local bakery, butcher, Off-Licence, Sportwear, Greengrocer, Newsagent, Coffee Shop, café). States that there is more than adequate floorspace already in Portmarnock.
- Provides photographs of 6 vacant retail properties (as of 29 March 2016) in Kingsford Cross development and 3 other

existing vacant properties. Considers that the proposal could also deter businesses from taking up these vacant properties.

- Seated terrace area proposed lends itself to outdoor seating use by the café rather than a public plaza.
- Conflicts with crèche drop off and parking; provides a response from crèche owners stating that 5 vehicles are parked on the road outside of the crèche on a daily basis.
- Flood risk has increased in the area. Provides 2 maps of Flood Extents.
- Refers to previous decisions made under PL29N.244821 and PL06F.236405 citing comparison with the subject site.
- Reference is made to various planning policy, objectives and vision.
- Considers development is contrary to Portmarnock Urban Centre Strategy and is not suitable to the transitional zonal location.
- Scale inappropriate to the site and would dwarf nearby buildings
- Restated and emphasises traffic issues and insufficient car parking.
- Daily HGVs deliveries should not be considered 'occasional'.
- Highlights omission of analysis of left turning vehicles.
- The alternative 10m HGV has not been supported by information on increased number and frequency of deliveries
- No traffic management plan presented
- No detail presented regarding servicing.
- Parking inadequate and no parking provision for motorcycles.
- Impact on cycle way from Baldoyle to Portmarnock.
- Site can accommodate a genuine mixed use development.
- Proposal will have severe impact on residential amenity.
- Incorrect to discount basement parking on flood risk.
- Petition enclosed with 100 signatures.

#### **11.4 First Party's Response to the Planning Authority's response**

- No further comment.

#### **11.5 Planning Authority's Response to the First Party response**

- No further comment

## 12.0 POLICY CONTEXT

### 12.1 Fingal County Development Plan 2011-2017

The site is governed by the policies and provisions contained in the **Fingal County Development Plan 2011-2017**.

The Development Plan recognises that the urban structure of Portmarnock needs to be strengthened through definition and upgrading of the streetscape. Portmarnock is considered a '**TC - Town and District centre**' whose functions '*offer a range of services, facilities and retail for their immediate hinterland*'.

The Development Plan states that '*It is intended to encourage more intensive commercial development, to provide good linkages to lands at south Portmarnock adjacent to the rail line, and to **rejuvenate the existing village core***'.

The subject site is zoned '**TC - City/Town/Village Centre, central area**' with a stated objective to:

*'Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities'*.

The Vision for the TC zoning Objective is stated to:

*'Maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these Centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation and sustainable development. **Retail provision will be in accordance with the County Retail Strategy**, enhance and develop the existing urban fabric, emphasise urban conservation, and ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car based traffic. In order to deliver this vision and to provide a framework for sustainable development, Urban Centre Strategies will be prepared for centres in accordance with the Urban Fingal Chapter objectives'*.

The Development Plan promotes high quality design achieved '*by the way we arrange streets and spaces and how we plan the mass, scale and position of buildings.*' P. 229.

Uses which are '**permitted in principle**' include, among others, the following:

- Retail - Local of <150 sq.m
- Retail Supermarket <=2500 sq.m nfa
- Office
- Restaurant/café,

The lands are located within the 'Outer Airport Noise Zone' within which the Council aim to control inappropriate development and require noise insulation within the Outer Noise Zone.

Within the CDP, the following specific objectives are relevant:

**Objective Portmarnock 1:**

Develop Portmarnock as a centre providing services for both the residential population and for tourists.

**Objective Portmarnock 2:**

Implement the Portmarnock Urban Centre Strategy including the design guidelines for Portmarnock's urban centre.

**Objective Portmarnock 15:**

Facilitate the development of retail and services to meet local needs.

**Objective EE45**

Implement the Fingal Retail Strategy.

**Objective Z04**

Have regard to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals for lands in the vicinity of zoning boundaries.

**Objective UD01**

Submit a detailed design appraisal for retail developments in excess of 300sqm. Among other requirements, the design appraisal should *'Demonstrate how the twelve urban design criteria have been taken into account when designing schemes in urban areas'*.

**Objective UD02**

Encourage and promote the use of contemporary architecture for new developments except where such architecture is incongruous for a particular location.

**Objective UD04**

Encourage a mix of uses in urban centres where appropriate.

**Objective UD11**

Require new residential developments in excess of 100 units and large commercial/retail developments in excess of 2000 sq m to provide for a piece of public art to be agreed with the Council.

**Objective UC09**

Implement the Urban Centre Strategies prepared for Castleknock, Clonsilla, **Portmarnock**, Donabate, Howth and Rush.

**Section 9.3 – Transitional Zonal Areas**

While the zoning objectives and control standards indicate the different uses permitted in each zone, it is important to **avoid abrupt transitions** in scale and use in the boundary areas of **adjoining land use zones**. In dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting residential areas or abutting residential development within predominantly mixed use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of residential property.

**Objective Z04**

Have regard to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals for lands in the vicinity of zoning boundaries.

The site is located within the 'Outer Airport Noise Zone'.

**Objective EE51** of the plan aims to 'strictly control inappropriate development and require noise insulation where appropriate'.

**Objective RS01** Ensure that retail development within the County is informed by and implements Fingal's Retail Strategy.

**Parking Standards**

**Car parking** standards are set out in TO3a and TO3b and the relevant elements are presented under:

Unit	Plan Standard
Supermarket	1 per 20 sq.m GFA
Office	1 per 25 sq.m GFA
Retail	1 per 20 sq.m GFA
Café	1 per 10 sq.m dining area

### **Objective TO58**

Balance the car parking requirements required under Tables TO3a and TO3b against the provision of accessible public transport.

### **Objective TO63**

Promote road safety measures in conjunction with the relevant stakeholders and avoid the creation of a traffic hazard.

In relation to advertising **signage** proposals, Fingal's development Plan (P.242) states that advertising signs should be '*simple in design, sympathetic to its surroundings, non-illuminated and not unduly obtrusive*'.

### **Objective UC25**

Ensure that corporate logos, lighting, designs and colours are not used at the expense of the streetscape.

## **12.2 Portmarnock Urban Centre Strategy**

The site is located within the area in which the 'Portmarnock Urban Centre Strategy' 2010 (UCS) applies in accordance with Objectives **UC09** and **Portmarnock 2** of the current development Plan for Fingal. The UCS notes that there is a lack of sufficient services and facilities to meet the population of Portmarnock. It further notes, under constraints listed, that there is a supermarket in the northern residential area but none in the village core.

The subject site is identified as 1 of 8 opportunity sites (**Site C**) within this strategy in which it is stated:

*'Potential site for a new development comprising new neighbourhood level retail, offices and residential. Architecture should address St. Anne's square as an entrance point to the village core'*

The UCS includes an urban design plan for the site (See copy in Appendix)

In relation to the site, the Plan also states:

*'Any new scheme at this site should include neighbourhood level retail and other uses appropriate for a village centre ... Ground floor uses facing the public plaza should integrate with that space (i.e. coffee shop with outdoor seating) rather than solely serve as functional access to space for the stores'*



In terms of the specific site, the UCS states '*building design should contribute towards the creation of a civic space at the junction of St. Anne's Square and Strand road. Due to its configuration, the corner of the site will enjoy a good aspect to natural light. The site is also situated where pedestrian routes converge making it suitable for the location of a civic space - a small plaza with seating area, public art and planting*'.

The site specific recommendations for the development of the site are listed under.

- The street frontage could be addressed by providing active uses and key entrances to the premises at ground floor level.
- Building design should contribute towards the **creation of a civic space at the junction of St. Anne's Square and Strand Road**. Due to its configuration, the corner of the site will enjoy a good aspect to natural sunlight. The site is also situated where pedestrian routes converge making it suitable for the location of a civic space – a small plaza with seating area, public art and planting.
- A potential **public plaza** could include a visitors information point provided as an information board or a small interpretative centre.
- The urban form of any new development should signify an entry point to the village centre. This articulation can be achieved by a combination of an increase in height, detailing, and use of high quality materials. A setback with public plaza, could be provided to create a suitable forecourt for the accented corner.
- The development of the site should seek to **provide a robust, mixed-use scheme including a commercial and retail element and residential uses**. The residential use should be provided as a mix of different typologies including apartments and townhouses.
- Landscaping including planters and trees should be located at the Strand Road frontage in order to increase the quality of the streetscape.

The overall strategy for the design of a public realm is presented as Fig. 6.7 of the Strategy. The design recommends a generous set back at the junction between Strand Road and St. Anne's Square, in order to extend the public realm.

### 12.3 Fingal County Retail Strategy

Appendix 2 of the County Development plan includes a Retail Strategy which provides guiding principles for retail development in the County.

The strategy seeks to mirror regional retail planning policy and adopt an evidence based approach, recognising the changed economic circumstances and lower consumer demand so as to avoid overprovision of retail floorspace. When considering requirement for additional retail floorspace, a precautionary and pragmatic approach is advocated.

There are 21 specific policies listed within the strategy, underpinned by the requirement that retail development will be accommodated in a way which is *'equitable and sustainable, in optimal locations, which is accessible to all sections of society, allows the continued prosperity of traditional town centres and existing retail centres and facilitates a competitive and healthy environment for the retail industry'*.

The strategy requires to ensure that retail provision is commensurate with the centre's position within the retail hierarchy.

In terms of retail hierarchy of levels 1-5, Portmarnock is identified within **Level 4** of the County Retail Strategy under the heading '**Small Towns and Villages**', which can accommodate **one** supermarket **or** discount store ranging in size from 1000-2500 sq.m with a limited range of supporting shops, cafés and services.

The Retail strategy recognises the retail offer is limited in Portmarnock to a small parade of retail units along Strand road, a small shopping centre on the Coast road and Dunnes Shopping Centre in Carrickhill. It considers that increase in retail offer will by way of intensification or redevelopment of existing floorspace and expansion will be on infill sites within the village on sites including the 'Tin Church site'.

#### **Retail Objective 15**

Facilitate the development of retail and services to meet local needs.

### **12.4 Retail Planning Guidelines for Planning Authorities 2012**

The government's Retail Planning Guidelines (DECLG, 2012) provide the framework to guide the development planning of retail and as a means of assessing planning applications.

The Guidelines set out a retail hierarchy. Small Towns lie within the 4th tier of the hierarchy comprising a towns in the 1500 to 5000 population category. These towns provide basic convenience shopping in small supermarkets or convenience shops and some low level comparison shopping in some cases. The guidelines state that **the role of small**

**towns and villages in provision of retail, should be identified in development plans.**

The guidelines require retail development to be appropriate to the scale and function of the settlement within which it is located. It also requires development to promote city/town centre viability through a sequential approach to development, with the overall preferred location for new retail development within city and town centres. Unlike earlier guidelines, the Guidelines do **not differentiate** between '**discount stores**' and other '**convenience**' good stores.

The guidelines state that where a proposed retail development demonstrates to the Planning Authority that it complies with the objectives of the development plan and/or the Retail Strategy, the demonstration of compliance with the sequential approach or additional retail impact studies are **not required**.

#### **12.5 Retail Design Manual 2012**

The Retail Design Manual 2012, is intended to work with and compliment the Retail Planning Guidelines 2012 in terms of guiding design and promoting the attractiveness and competitiveness of city and town centres. The guidelines require that the form, scale and mass of the development should have regard for integrating the scheme into its urban context but recognise that this does not mean that the design has to replicate existing built traditions.

The following provision is stated:

*'The design, form, scale, mass and materials of new retail development should be visually attractive and appropriate to its context' and in 'its overall contribution to the character of its locality'. p.58*

#### **12.6 Regional Planning Guidelines for the Greater Dublin Area 2010-2022**

The Guidelines provide a long term planning framework for the overall development of the Greater Dublin Area, including Fingal. They state that **Neighbourhood/Small Town/Village Centres (Level 4** within the retail hierarchy) generally provide for **one** supermarket **or** discount foodstore ranging in size from 1000-2500 sq.m with a limited range of supporting shops and services with a focus on the local population.

## 12.7 Retail Strategy for the Greater Dublin Area 2008-2016

This document seeks to guide the activities and policies for retail planning across the Greater Dublin region. While setting out specific city/towns within Level 1 and 2 of the hierarchy, the strategy states that it is up to each Local Authority to set out the detail of the towns/districts which form Levels 3, 4 and 5 in the retail hierarchy.

*Section 6.25 'Neighbourhood/Small Town/Village Centre- These centres generally provide for **one** supermarket or discount foodstore ranging in size from 1,000-2,500 sq.m with a limited range of supporting shops (one or two low range clothes shops with grocery, chemist etc.) and retail services (hairdressers, dry cleaners, DVD rental) cafés and possibly other services such as post offices or community facilities or health clinics grouped together to create a focus for the local population'.*

## 12.8 Planning System and Flood Risk Management

These Guidelines seek to provide for the comprehensive consideration of flood risk in the preparation of regional, development and local plans and in the determination of planning applications. They also take account of climate change, biodiversity, the EU Directives on Flooding and the Water Framework Directive.

## 13.0 ASSESSMENT - THIRD PARTY APPEAL

I have read and considered the contents of the application, grounds of appeal, planning policy and observations on file. I have also attended the site and environs. The following assessment covers my considerations on the key planning issues and also encapsulates my *de novo* consideration of the application. I consider the key issues in determining the application and appeal before the Board are as follows:

- Principle of the development including Retail Impact
- Design, layout and visual amenity
- Amenity of Adjoining properties
- Traffic and Access
- Parking Provision
- Appropriate Assessment
- Other Issues

### 13.1 Principle of the Development including Retail Impact.

In order to assess whether or not the development is appropriate in principle, I am guided by the relevant planning and retail policy context. At the outset, I note the appellants argue that a full retail impact

assessment was required. The applicants put forward a rationale for not including one based on pre-planning discussions and their assertion that the development accords with policies and objectives for the site and Section 4.4 of the Retail Planning Guidelines with regard to compliance with the sequential approach and this was accepted by the Planning Authority. In any case, I note that the applicants have provided detailed information on retail impact throughout the application and further information submitted which I consider to be sufficient.

The appeal site is located in a prominent location within the village core of Portmarnock. Within the Fingal County Development Plan 2011-2017, the site is zoned '**TC - Town and District Centre**' which seeks '**to protect and enhance the special physical and social character of town and district centres and provide / improve urban facilities**'. All of the uses proposed (supermarket, café, retail and office space) are uses which are '**permitted in principle**' within this zoning objective category. I consider that the proposed development is not contrary to the stated zoning objective for the area.

The Fingal County Development Plan has 2 no. statutory objectives to support and implement the Urban Centre Strategy for Portmarnock. The Urban Strategy identifies the site as an opportunity site with **recommendations** which include that the development of the site should seek to provide '*a robust **mixed-use** scheme including a **commercial and retail** element and **residential** uses.'*

The strategy specifically states that '***Any new scheme at this site should include neighbourhood level retail and other uses appropriate for a village centre.***' The proposed development includes a large supermarket as an anchor store together with small retail, café and office uses and a large car park. I consider that a residential element would be desirable to help create a well overlooked development with natural surveillance and provide a level of vibrancy and vitality. I note however, that the 'TC' zoning objective within the Fingal County Development Plan does not specifically refer to residential use as a mandatory requirement and therefore I do not consider the absence of a residential element is a reason for refusal.

The stated vision for **TC** zoning seeks that '*Retail provision will be in accordance with the County Retail Strategy.*' The applicants submit that the development, including a supermarket which is proposed to be operated by Lidl GmbH will provide for the local needs and prevent retail leakage to other towns. They submit that there is an under-provision of retail development in Portmarnock and that it can sustain a new

supermarket. The appellants and observers to the appeal submit that there is **no** need for the supermarket element based on the fact that there is already one provided in the Carrickhill area of the town (Dunnes Stores). The Planning Officer's assessment is supportive of an additional supermarket at this town centre location.

The Retail Strategy for Fingal identifies Portmarnock as fitting within a **Level 4** centre under the heading '**Small Towns and Villages**'. It is stated that this category can accommodate **one** supermarket **or** discount store ranging in size from 1000-2500 sq.m with a limited range of supporting shops, cafés and services. Noting the limited retail provision, it considers that retail expansion will be by way of infill sites, including the appeal site.

In respect of Portmarnock, **Retail Objective 15** of this strategy requires to '*Facilitate the development of retail and services to meet **local** needs*'.

In relation to the location, I concur with the applicants that the location is within a town centre site, which is the preferred location for new retail development.

However, the strategy clearly states that Portmarnock can accommodate **one** supermarket **or** discount store. It does not state that an additional supermarket would be appropriate or desirable in respect of Portmarnock. [I note that there is such a direct stated provision listed within the same Strategy for Castlenock]. The strategy has identified opportunity for retail expansion but not for a second supermarket. Section 6 of the strategy (Requirement for Additional Retail Floorspace) advocates for a precautionary and pragmatic approach to be taken when assessing the requirements for additional floorspace in Fingal in light of changed economic circumstances and reversal of additional retail floorspace requirement indicators. Given that the shopping provision in this Level 4 town is required to serve local need and that there was a 7% decline in population in Portmarnock (North and South) from 2006-2011 from 8079 to 7589 (Census 2011), I concur with the appellants who consider an additional supermarket would not be warranted for Portmarnock. Having regard to the stated policy, I consider that a total of one supermarket is appropriate and is already in place by virtue of the Dunnes Stores supermarket within a small shopping centre in the Carrickhill area of Portmarnock.

The Retail Planning Guidelines for Planning Authorities 2012 require retail development to be plan led and appropriate to the scale and function of the settlement within which it is located. This policy is mirrored in the Regional Planning Guidelines for the GDA and the Retail

Strategy for the GDA. In the absence of any stated policy supporting more than one supermarket for Portmarnock, I consider, notwithstanding the appropriate town centre location, that the proposed quantum of retail floorspace proposed within the anchor supermarket building would also conflict with the retail hierarchy for the Greater Dublin Area as set out in the Regional Planning Guidelines for the Greater Dublin Area 2010-2022 and the Retail Strategy for the Greater Dublin Area 2008-2016, where it is stated that 'Small Towns and Villages', can accommodate one supermarket **or** discount store ranging in size from 1000-2500 sq.m. Accordingly, I consider that the principle of the supermarket element of the development would not in accordance with the proper planning and sustainable development for the area and I recommend that the development should be refused for this reason.

I note that the additional elements (small retail outlet, café and offices) are of a smaller scale and in accordance with the planning policy for the site but these units are intrinsically linked to the proposed anchor supermarket and are part of the overall scheme which I recommend refusing permission for the reasons and rationale outlined above.

### **13.2 Design, Layout and Visual Amenity**

The Fingal County Development plan and the Urban Centre Strategy (UCS) for Portmarnock promote high quality design. The **TC** zoning objective within which the site is located, requires development to *'enhance and develop the urban fabric of these Centres in accordance with the principles of urban design, conservation and sustainable development.'*

The Retail Design Manual which accompanies the Retail Planning Guidelines 2012 requires that the design, form, scale, mass and materials should be *'visually attractive and appropriate to its context in its relationship to adjoining buildings and structures'*.

I have serious concern that the design of the proposed development is capable of satisfactorily assimilating into its local context. I consider that the architectural expression is not sensitive to the established modest building forms either along Strand road or along the surrounding internal roads which are dominated by 2 storey and dormer houses with pitched roofs. While accepting the height of the structure proposed would be generally acceptable both along the streetscape (11m) and at the rear (8.6m) towards St. Brigids Avenue, I consider the inflated scale and

mass bears no relationship to the established architectural merit of the existing street and surrounding mix of buildings. The Retail Design Manual discourages increased density where design would be detrimental to the overall character and quality of urban places and where the scale and mass of structures would be incompatible with the receiving environment. I consider that the development as proposed, by virtue of its scale and mass, would be visually obtrusive and incompatible with the established urban form and architectural character of the area.

The Urban Centre Strategy envisages the **creation of a civic space at the junction of St. Anne's Square and Strand Road** as part of the building design.

I consider that the design does not sufficiently address St. Anne's Square as an entrance point to the village as envisaged in the Urban Design Strategy for Portmarnock for the site. The public realm proposed reads as a functional space which would benefit customers of the development, facilitating an inviting entrance to the supermarket and providing outdoor seating area for the café element but falls short of a civic space / public plaza. In my view, the form of the layout would not serve to draw pedestrians into a public plaza or civic space.

In conclusion, I consider that the design, form and mass of the building proposed would constitute overdevelopment and would provide an inappropriate and an abrupt urban design response to the site. It would be visually obtrusive and out of keeping with the size and scale of existing buildings and houses in the vicinity and would seriously injure the visual amenities of the area. It would not deliver the objectives or the vision for the site as set out in the Urban Centre Strategy for Portmarnock and would therefore be contrary to objectives **UC09** and **Portmarnock 2** of the Fingal Development Plan which seek to implement the Portmarnock Urban Centre Strategy. I recommend that the development be refused on reasons of design.

### **13.3 Amenity of Adjoining Properties**

The development is sited adjacent to an established residential area to the North, East and North West of the site and which has a zoning objective '**RS**' - **Provide for residential development and protect and improve residential development.**

The building itself would be sited on an island site surrounded by roads on all sides. It would be located c.41m from the dwellinghouses on St.



Brigid's Avenue to the North, c.15.5m from the dwelling houses on Church Avenue to the East and c.22m to the crèche and local shopping centre to the West. The houses along St. Brigid's Avenue currently overlook an open site, part of which is landscaped at the end closest to St. Brigid's avenue. The applicants state that this landscaped portion of land is in private ownership and will be included in the scheme.

Under **Objective Z04**, the development is required to have regard to this adjoining, more environmentally sensitive zoning. Section 9.3 of the Development Plan sets out the policy of the Planning Authority in relation to contiguous transitional zones, whereby *"it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone."*

I consider that the development poses an abrupt increase in scale and mass which would be out of character with the existing pattern of development and would be visually dominant. In turn this would give rise to negative impact on existing houses along the internal roads which bound the appeal site. The rear and side elevations of the proposed building are large and inactive, made up of part covered car parking at ground floor and predominately blank walls dominating upper floors. I am not satisfied that the proposed development is overall of a quality appropriate to a transitional zone, including the architectural treatment of the side and rear elevations, particularly facing the existing houses on St. Brigid's Avenue and Church Avenue. I consider the form of development is not what is envisaged under the provisions of the Fingal Development Plan and its Urban Centre Strategy document for the subject site proximate to an established residential zone (extracts included in appendix).

I am not satisfied that the development would not be injurious to the adjoining residential amenities by virtue of the abrupt increase in scale and excessive density of the development proposed which, I consider, represents overdevelopment on a restricted site and a diminishment of existing residential amenities. Accordingly, I am of the opinion that the proposed development would not support the **RS** zoning objective for the neighbouring and established residential areas, nor would it have been in accordance with Objective **Z04** or **Section 9.3** (Transitional Zones) of the development plan which require the avoidance of developments that would be detrimental to the amenities of the more environmentally sensitive zone. Accordingly, I consider that the development should be refused as it would be contrary to the stated objectives and policy and

accordingly would be contrary to the proper planning and sustainable development of the area.

#### **13.4 Traffic and Access**

The main points raised by the third parties and observers in relation to this traffic include that the development will exacerbate traffic congestion, give rise to traffic safety issues from manoeuvring of HGVs together with traffic movements and insufficient capacity at the junction onto Strand road. Reference is made to the dropping off of children to the nearby primary school. A detailed report (prepared by Traffic wise) was submitted with one third party appeal which outlined concerns regarding road safety & servicing, traffic impact and car parking. This report raises concerns that the applicant's Autotrack assessment shows that St. Anne's Square could not safely accommodate HGV manoeuvring without occupying the full width of the public carriageway which in turn would endanger public safety. Further concerns that HGVs will be required to reverse within a public car park and across a pedestrian route are also raised as is the capacity of the junction to accommodate the development.

The applicants have provided a detailed response to the traffic issues raised in the appeals which includes a report by Stephen Reid Consulting Traffic and Transportation Ltd (SRC). In order to mitigate concerns over servicing of vehicles access and manoeuvres using a 16.5m HGV, an alternative proposal to use a 10m truck is put forward in their response for consideration by the Board.

In assessing this application and appeal, I am cognisant that the proposed development will undoubtedly contribute to the generation of additional traffic within Portmarnock. I would accept that it is likely that most customers of the anchor supermarket would travel by car to transport their weekly shop. I consider however that traffic build-up is an enduring feature of life for those living, working and visiting cities, towns and villages. I do not consider it is a reason to refuse planning permission.

A detailed transportation assessment accompanied the application using the TRIC Database to determine the level of traffic likely to be generated by the proposed development. A detailed analysis of the staggered junction (Strand road/St. Anne's Square and Strand Road / Old Golf Links Road) was also carried out using PICADY to assess the capacity of the overall staggered junction which was found to operate well below capacity when taking the development into account.

Objections were raised by the appellants and observers in relation to the proposed entrance which lies directly opposite to an established small shopping centre on St. Lawrence O'Toole Avenue/St. Anne's road.

In terms of HGV deliveries, I note that there is only 1 no. delivery by HGV proposed per day and that this would occur out of peak hours, thus would have low impact on traffic along Strand road or St. Anne's Square. With the proposal for an alternative 10m HGV, deliveries may increase but I consider that even if there were 2 deliveries per day, it is not significant in a built-up area. The applicants have presented a swept analysis for the proposed 16.5m truck and the 10m truck alternative proposal which demonstrates that the delivery truck can physically enter and exit the site in forward gear, with the reversing manoeuvre performed within the site. Having examined both options, I am satisfied that the use of a 10m truck alternative would be the preferred option and should the Board be minded to grant permission, I recommend that a condition specifying this alternative should attach. Overall I am satisfied that the development can be accommodated and would not result in the generation of an unacceptable traffic hazard or excessive levels of traffic congestion within Portmarnock.

### **13.5 Parking Provision**

In relation to car parking, I note the proposed scheme has provided for 85 car parking spaces laid out as part surface car parking and part undercroft/covered parking, both at ground floor level. The appellants considered this to be a shortfall of at least 11 spaces even allowing for a reduced calculation methodology. It is noted that the car parking provision is acceptable to the Transportation Department of Fingal County Council. I am also mindful of **Objective T058** which allows a balance of the parking requirements against the provision of public transport. The site is accessible by public transport including buses and taxis and also by foot and bicycle. I am also mindful that car parking standards set out in the development plan refers to the standards as **maximum**. A reduction in parking provision below the maximum requirement therefore seems acceptable in principle. I am satisfied that the proposed development makes an adequate provision for on-site car parking to cater for the development.

### 13.6 Appropriate Assessment

The site lies 100m from the Baldoyle Bay SAC (Site Code: 000199) and 166m from the Baldoyle Bay SPA (Site Code 004016). The site is removed from the other SACs and SPAs listed in the Table 1 under.

Table 1 - SACs and SPAs in the vicinity of the site.

Site Code	Name	Separation Distance
004117	Ireland's Eye SPA	4.4km
004113	Howth Head Coast SPA	6.5km
004006	North Bull Island SPA	3.7km
004015	Rogerstown Estuary SPA	8.1km
004025	Malahide Estuary SPA	2.3km
004024	South Dublin Bay and River Tolka Estuary SPA	8.8km
000202	Howth Head Coast SAC	5.6km
000210	South Dublin Bay SAC	9.2km
000206	North Dublin Bay SAC	3.7km
002193	Ireland's Eye SAC	4.7km
000205	Malahide Estuary SAC	1.7km
003000	Rockabill to Dalkey Island SAC	4.2km
000208	Rogerstown Estuary SAC	8.3km

The conservation objectives for the Baldoyle site are '*To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA*' and '*To maintain and restore favourable conservation condition of the Annex 1 habitat(s) and/or the Annex II species for which the SAC has been selected*'.

The potential impacts which would result from the project would include the presence of silt in surface water run-off during the construction phase. This can be mitigated by the presence of filtration systems prior to discharge.

The Appropriate Assessment Screening report accompanying the application considers that the development, subject to the mitigation measure referred to above will have negligible impact on the nearby SAC and SPA.

I consider the conclusions of the report are reasonable given the infill, urban location of the development, that it once occupied a building (The Tin Church) and the nature of the development itself. The report findings have been accepted by the Planning Authority.

I consider therefore that it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the nature and scale of the proposed development and the nature of the receiving environment, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site in the vicinity of the site, in view of the sites Conservation Objectives. A Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required.

### **13.7 Other Matters**

#### Procedural

Arguments are put forward in relation to the address of the development used in the planning application in which it is stated that the entrance road to the estate is known as St. Anne's Square and not St. Lawrence O'Toole Avenue as was stated on the site notice. I am satisfied that this issue was dealt at during the planning application stage, particularly when the new site notice was published at clarification stage which referred to the site location boundary as 'St. Lawrence O'Toole Avenue (also known as St. Anne's Square)'. The development address was accepted by the Planning Authority in their validation of the planning application. It is also evident that third parties were well informed of the application by the public notice, given the significant number of submissions received and by virtue of the level of engagement at appeal stage. I am satisfied that the public notice served its purpose. Accordingly, I am satisfied that no procedural issues arise in relation to the address on the public notice.

#### Loss of Trees

Based on the Arboriculture report submitted with the application, there are currently 24 trees on or adjacent to the site. Proposals include the removal of 18 trees and the addition of 27 trees. Given the context that the site is suitable for development, I am satisfied that the loss and replacement of trees is acceptable.

#### Flood Risk

The proposed development site lies within Flood Zone B category which requires a site specific Flood Risk Assessment. A site specific flood risk assessment was carried out and included with the planning application.

The key findings include:

- Ground Floor levels of retail and café are above the 0.5% AEP climate change flood level with 300mm freeboard allowance.
- Access, egress and the car park are also above the 0.5% AEP flood level is available.
- Sustainable drainage proposals are included in the drainage design which will limit the runoff from the site to a greenfield runoff rate and volume in the 1% AEP Storm.

The report concludes that the development has been so designed to ensure it will be safe from flooding and will not increase flood risk elsewhere. Based on the information submitted, I am satisfied that the development will not likely give rise to unacceptable flood risk either on the site or as a result of the development.

#### **14.0 ASSESSMENT - FIRST PARTY APPEAL v CONDITIONS**

Notwithstanding my recommendation that permission should be refused, I have considered the first party appeal should the Board be minded to grant planning permission. 3 No. conditions have been appealed. My assessment and recommendation on each of the conditions are set out below.

##### **Condition 2**

Condition No. 2 regulates that the hours of trading and deliveries shall be between 08.00 hours and 21.00 hours Monday to Saturday and 10.30-19.00 hours on Sunday.

I agree with the applicants that Condition 2 is overly restrictive and unreasonable. I consider that the hours of trading and deliveries should be permitted as sought by the first party with an earlier time of 21.30 on a Sunday as listed under.

##### Trading

Monday to Saturday 08.00 – 22.00 hours

Sunday – 09.00-21.30 hours

##### Delivery hours

Monday to Saturday 07.30 – 22.00 hours

Sunday – 10.30-21.30 hours

However, I do not support deviation from these by way of an agreement between the applicant and Planning Authority as to do so would exclude third parties which would not be equitable.

### **Condition 7(a)**

Condition No. 7(a) requires that the 'totem pole' sign be omitted as the proposed sign is well-designed and provides for normal controlled advertising.

I accept that signage is a normal and necessary part of business advertising. However, I consider that the totem pole signs proposed would be visually intrusive, result in visual clutter and would seriously injure the visual amenities of the area and detract from the character of Portmarnock. This would be contrary to Objective UC25 set out in the current Development Plan for the area. I note that the applicants have provided a revised sign design alternative (Dwg No. 06-02) which they submitted with their first part appeal v conditions. This alternative presents a more modest signage proposal to be set in a low stone wall which I consider would significantly reduce the visual impact. Should the board be minded to grant permission, I consider that a condition should attach to allow for the inclusion of this alternative sign at both locations.

### **Condition 9**

Condition No.9 requires the provision of a piece of public art. Objective UD11 of the Fingal Development Plan 2011-2017 requires large commercial/retail development in excess of 2000 sq.m to provide for a piece of public art to be agreed with Fingal Co. Council. In the context of the objective enshrined in the adopted statutory plan for the area, I consider that Condition no.9 is reasonable and should attach.

## **15.0 CONCLUSIONS AND RECOMMENDATION**

Further to the above assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal, and also including my site inspection, I consider that the proposed development would not be in accordance with the proper planning and sustainable development of the area having regard to the relevant provisions of the 2011 – 2017 Fingal County Development Plan, The Portmarnock Urban Centre Strategy, 2010, the Retail Strategy for Fingal and also national and regional planning policy. I am therefore not satisfied that proposed development would be in accordance with the proper planning and sustainable development of the area.

I recommend that permission be **refused** for the development for the reasons and considerations outlined below.

## REASONS AND CONSIDERATIONS

1. The Retail Planning Guidelines 2012 require retail development to be plan led, to follow the settlement hierarchy of the State and to be appropriate to the scale and function of the settlement within which it is located. Within the Retail Strategy for Fingal, Portmarnock is listed as a **'Level 4- Small towns and villages'** centre where it is stated that this category can accommodate one supermarket or discount store. **Retail Objective 15** seeks to facilitate the development of retail and services to meet local needs. These policies and objective are considered reasonable. Having regard to the presence of an established supermarket in Portmarnock, the Board is not satisfied that the development of a second supermarket would support the delivery of the stated retail planning policy and objectives in respect of Portmarnock in its function as a Level 4 centre. Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.
2. The Retail Design Manual 2012 requires that the design, form, scale and mass of new retail development would be visually attractive and appropriate to its context in its relationship to adjoining buildings and structures. Policies **UC09** and **Portmarnock 2** of the Fingal Development Plan 2007-2011 seek to implement the Portmarnock Urban Centre Strategy which includes a requirement that any new scheme would include neighbourhood level retail and other uses appropriate for a village centre and the creation of a civic space at the junction of St. Anne's Square and Strand road. Section 9.3 of the Development Plan requires development in transitional zones to avoid abrupt transitions in scale. **Objective Z04** requires that development in the vicinity of zoning boundaries would have regard to adjoining zones, in particular more environmentally sensitive zones. These policies and objectives are considered reasonable. The Board considers that the proposed development by reason of its design, scale and mass would provide an inappropriate urban design response to the site in a village setting which would be incompatible with the established modest building forms in the vicinity including the established adjoining residential development. The Board further considers that the proposed development would conflict with the stated policies and objectives and accordingly would be contrary to the proper planning and sustainable development of the area.



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Patricia Calleary  
Senior Planning Inspector  
4 April 2016

**Appendix:**

Site Location Maps, Extracts from Portmarnock UCS, Retail Strategy for Fingal, Townland maps & photographs