



An  
Bord  
Pleanála

## Inspector's Report PL06F.246628

<b>Development</b>	Revised proposals for one-way traffic circulation system for the Supervalu Centre. Demolition of 15 Howth Road, reconfiguration of layout and boundary, extension to carpark and associated works at Sutton Cross Dublin 13
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F15A/0195
<b>Applicant(s)</b>	Musgrave Operating Partnership Limited (MOPI)
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Appellant(s)</b>	<ol style="list-style-type: none"><li>1. Fergal and Ruth Marrinan and Others</li><li>2. Howth Road Sutton Residents Action Group</li></ol>
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Sorcha and Nicholas Redmond</li></ol>
<b>Date of Site Inspection</b>	9 <sup>th</sup> September 2016
<b>Inspector</b>	Fiona Fair

## 1.0 Site Location and Description

1.1. The appeal site with a stated area of 1.56 ha is located at Sutton Cross Village Centre, Dublin 13. The site is located on the northern side of Sutton Cross junction and includes the the Supervalu Centre with the main supermarket building set back / recessed from the road frontage with car parking located to its east, west and north. The site also includes lands to the rear of no. 1 Howth Road and adjoining properties at No.'s 15-16 Howth Road.

In addition to the supermarket building the site accommodates a number of small retail units all of which are set behind a row of commercial premises that front onto Sutton Cross Junction.

The appeal site is bounded by residential development to the west, high amenity land to the north and retail units to the east and south. No's 1 – 3 Howth Road, Sutton Cross comprising coffee shop, Higgins Family Butchers the Bank of Ireland, respectively, are located to the south of the supermarket building, to the east of the access off Station Road and north of Sutton Junction. A rear yard area and car parking area associated with these units bounds the supermarket building to its south.

St. Catherine's Terrace a row of 6 houses is located to the east of the retail units and to the west of No.'s 15 and 16 Howth Road, these units have rear gardens and a cul de sac vehicular access lane bounding the south eastern boundary of the existing shopping centre car park. There is an access gate from the car park to the rear of St. Catherines Terrace and No. 15 Howth Road. No 15 is currently vacant with windows boarded up. It has a long rear garden which is partially in use for car parking and part grassed, the garden of No. 15 is separated from the commercial car park by a high block wall. From my site visit No. 16 appeared habitable and in good condition, it also has a long rear garden which is entirely laid in grass.

The appeal site has two dedicated vehicular access / egress points. The primary access to the car park (278 no. car spaces) associated with this site is to the east of

the supermarket buildings, east of Sutton Cross Junction off Howth Road. The secondary access is located west of the supermarket building and west of Sutton Cross junction off Station Road.

## 2.0 Proposed Development

2.1. The proposed development will comprise:

- Revised proposals for traffic circulation for the existing Supervalu Centre consisting of a proposed one-way circulation system involving inbound customer and delivery access via existing Howth Road and Station Road entrances and all outbound customer and delivery traffic via a new vehicular exit from the car park located at No. 15 Howth Road;
- Reconfiguration and extension of the existing car park to provide a total of 304 no. parking spaces (278 no. parking spaces are currently provided on site), to include the rear gardens of numbers 15-16 Howth Road;
  - Inspectors Note: Amended to 303 by way of Additional Information (A.I)
- Revisions to the service yard layout (previously permitted under Reg. Ref F13A/0373, Board Ref. PL 06F.243198), including new boundary treatment, screen walls and layout adjustments to facilitate the enlarged service yard which now includes lands to the rear of No. 1 Howth Road.
- This development includes the demolition of No. 15 Howth Road (vacant former beauty salon - 171 sq.m.) to facilitate the new vehicular exit from car park onto Howth Road and revisions to the entrance arrangements, size and layout of the site of existing dwelling at no. 16 Howth Road.
- Permission is also sought for additional advertising signage including the replacement and relocation of the existing totem sign at Main Howth Road entrance, 'welcome' and 'thank you' signs at entrance and exit of car park and

7 no. billboards affixed to car park boundary walls - a total of 10 signs measuring 66.35 sq.m.;

- Revised road markings and directional signage;
- Landscaping/boundary treatment;
- All associated site and development works.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission Granted subject to 12 no. conditions; conditions of note are summarised as follows:

2 (a) Details of the works to Sutton Cross Junction to provide for road widening and median to be submitted for written agreement.

3 & 4 Car park lighting

8. Landscaping

9 (a) boundary walls and noise mitigation

9 (b) Noise

9 (c) Emissions

9 (d) restriction of delivery hours

10. Signage

#### **3.2. Planning Authority Reports**

The initial report of the area planner concluded that a more holistic approach to the provision of a revised access arrangement to the subject site, taking greater cognisance of the future requirements of both the proposed site and the future

demands on the road network with particular regard to Sutton Cross, is required. The report subsequent to A.I request considered that the proposed amendments to the scheme provide a more appropriate solution to the access arrangements at the site. It was concluded that the proposed development would not detract from the visual and residential amenity of the area.

### 3.3. **Other Technical Reports**

**Irish Water** – No objection subject to condition

**Water Services**– No objection subject to condition

**Transportation**– No objection subject to condition

**Parks and Green Infrastructure Division**– No objection subject to condition

**Heritage Officer**– No objection subject to condition

**Environmental Health Officer**– No objection subject to condition

**Public Lighting Section** – No objection subject to condition

### 3.4. **Third Party Observations**

A number of submissions / objections were submitted to the proposal. The grounds of objection are similar to those raised in the third party appeal and are summarised below.

## 4.0 **Planning History**

**4.1 PL06F.243198 / Reg. Ref F13A/0373** Permission Granted for Extension to and internal configuration of existing supermarket, removal of temporary storage sheds and container, new ESB substation and 12 no. staff parking spaces at Superquinn, Sutton Cross, Dublin 13.

Conditions of Note Include:

3. (a) The proposed two metre high wall along the eastern boundary, and the proposed wall around the Electricity Supply Board substation adjoining the parking and delivery access route, shall be omitted.

(b) The layout of the delivery area shall be amended to maintain the existing access to the rear of the adjoining commercial units. This will require the removal of the proposed walls along the eastern boundary and between the staff car parking and the delivery area. Details of the revised layout shall be submitted to, and agreed in writing with, the planning authority prior to construction of the proposed development.

4. The entrance from Station Road shall be for access only, solely for staff car parking and deliveries, with no exit arrangements permitted at this location. No customer access to the main car parking or staff car parking area shall be provided through this entrance. This shall be controlled by a suitably located barrier, signage and lining. The delivery area shall be for deliveries only (other than as provided for in condition 3 (b) above of this order). No pedestrian access shall be permitted through the delivery area. Details of the access arrangements, including barrier, signage and lining, shall be submitted to, and agreed in writing with, the planning authority prior to construction of the proposed development.

5. The noise level from the development, including any noise arising from compressors, air handling units and loading/unloading operations associated with the development, shall not exceed 55 dB(A) rated sound level, as measured at the nearest dwelling. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

6. No deliveries shall be taken at or dispatched from the premises outside the hours of 0700 hours and 2100 hours, Monday to Saturday inclusive, or outside the hours of 1030 hours and 1900 hours on Sundays or public holidays.

**4.2 PL 06F.242632 / Reg. Ref. F13A/0300** – Permission Granted for change of use from banking use to coffee shop use, installation of a new window, erection of fascia, signage and retractable awning. At 1 Howth Road, Sutton Cross, Dublin 13

## 5.0 Policy Context

## 6.0 Development Plan

The appeal site is located within two zoned areas, the majority of the appeal site is located within lands designated 'TC', the zoning objective of which states: *'To protect and enhance the special physical and social character of town and district centres and provide and / or improve urban facilities'* in the statutory Fingal County Development Plan 2011 – 2017.

The two residential units No.'s 15 and 16 Howth Road and their rear gardens located to the east of the overall site are zoned 'RS', the zoning objective of which states: *'provide for residential development and protect and improve residential amenity'*.

There is an objective in the Fingal Development Plan to prepare an Urban Centre Strategy for Sutton Cross. A further objective is shown for an indicative pedestrian / cycle route along the Howth Road which runs to the south of the site.

## 7.0 Natural Heritage Designations

There are no natural heritage designations associated with the site itself. This is a serviced, town centre site with established retail / commercial uses. Baldoyle Bay SAC & SPA is located a short distance to the north of the appeal site. North Dublin Bay SAC and North Bull Island SPA are located a short distance to the south of the appeal site. Howth Head SAC is located to the east and Irelands Eye SAC & SPA are also located to the east.

A screening report for Appropriate Assessment (AA) was carried out by OPENFIELD Ecological Services in November 2015. The matter of AA is dealt with in detail in section 9.6 of this report.

## 8.0 The Appeal

### 8.1. Grounds of Appeal

Two third party appeals have been lodged, by Fergal and Ruth Marrinan and Others and Howth Road Sutton Residents Action Group. The grounds of appeal can be summarised as follows:

#### **Contravention of residential zoning objective**

- Proposed main entrance and exit is located on lands zoned residential
- Retail Supermarket greater than or equal to 2,500 sq. m and car park – non ancillary are Not permitted in ‘RS’ zoned areas
- The site is contiguous to lands zoned HA and where the long established use is as a golf course. Transitional zone policies apply – proposal is contrary to the provisions of objective Z04 which deals with transitional zones. High netting would materially conflict with the two zoning objectives for the area ‘RS’ and ‘HA’.
- The car parking spaces and the new access arrangements are intrinsically linked and part of the wider supermarket development and cannot be considered in isolation. Supermarkets are not permitted under the RS zoning.
- The proposed development is not a development which can be considered ‘open for consideration’. All of the proposed development is supermarket development, and the proposed main access to the supermarket is through



zoned residential lands and cannot be considered ancillary to the parent development on the site.

- Section 37 of the Planning and Development Act 2000, is relevant and should be invoked.
- The p.a. appears to have considered the matter under guidance of section 9.3 i.e. Transitional Zonal Areas, this is fundamentally flawed. The development is located on 'RS' zoned lands.
- Appellants are entitled to the zoned residential buffer between the 'TC' lands and their residential properties.

### **Negative Impact Upon Residential Amenity**

- Devaluation of residential property in the vicinity
- Proposal encroaches on the amenity of existing residential properties issues of intensification of use, car park lighting, refuse and proposed signage will destroy the ambiance of the area.
- Signage proposed gives rise to visual clutter
- Increase security hazards – adjoining properties more accessible to intruders
- Hazard from stray golf balls from the adjoining golf course, high screen netting will be required to prevent golf balls travelling into the site.
- Increase in car borne and commercial traffic is unnecessary and would negatively and materially affect the residential amenity of residents

- Increased potential for flooding to adjoining lower level gardens as the existing site ground level is to be raised.
- Negative impacts to St. Catherine's Terrace, cut off from the residential area to the east
- Removal of trees in existing car park undesirable as removal of buffer
- Serious traffic hazard for residents using the lane to the rear of their houses. This lane is the only parking area for residents of St. Catherine's Terrace and their visitors
- 2m high wall will destroy the openness of the lane, create enclosures and raise safety and security concerns
- Signage is obtrusive and detrimental to residential character of the area.
- Large signage at the entrance from the lane could create a serious traffic hazard impacting sight lines.
- Wrap around curbing at the entrance would cause difficulty for residents.
- Noise Impact Assessment recommended a 3m high boundary wall to be provided along site boundaries and at the new exit point to act as a noise barrier for neighbouring properties. Would create a serious dis-amenity for residents.

### **Traffic Hazard**

- Reorganisation of commercial and customer traffic movements within the confines of the supermarket lands can be done without the requirement for extra lands and a new egress point.

- Unnecessary increase in car parking spaces will lead to an intensification of car borne traffic onto a road system already suffering from congestion.
- A more pragmatic approach to deliveries and collections would be the most sustainable solution long term.
- No requirement for additional car parking spaces – the site is well served by public transport (DART) and a proximate catchment population.
- Requirement for additional car parking flies in the face of national and local policies with regard to sustainable transport
- Contravention of policy on sustainable transport and modal change
- FCC should be encouraging development that increases the walk in market and not supporting development that expands the drive in market.
- LIDL Portmarnock was granted permission both by FCC and The Board with 75% of the maximum car parking required under the FCC Development Plan 2011 – 2017.
- The new exit would move congestion into the residential area. Traffic survey shows that majority of traffic exiting the supermarket turns right further adding to the congestion at Sutton Cross.
- Conflict with Sutton Lawn Tennis Club which is located diagonally across from the proposed egress.
- Sutton Lawn tennis club intend providing a right turning box for their proposed commercial gym, only, 36m from the exit from the Supervalu site.

- Safety concern for young children who use the Tennis Club and Santa Sabina School (to the east) and St. Fintan's (to the west)
- Conditions 4, 5 and 6 of PL06F.243198 are of relevance with respect to controlled egress, noise and delivery hours.
- Increase of 26 car parking spaces is at least 60 spaces in excess of the gross requirement – the total demand for all of the uses would be 241. Proposal contrary to Objective TO58 and TO63, to balance car parking requirements required against provision of accessible public transport and promote road safety measures in conjunction with the relevant stakeholders and avoid the creation of traffic hazard.
- Replacement of a less than perfect existing traffic and access arrangement with another less than perfect solution does not make sense.
- Concern with respect to lack of Road Safety Audit and Traffic Impact Assessment
- Concern with regard to deficiencies in the capacity assignment and in the design of the proposed access arrangement
- New proposed egress is located within 10m of an existing bus stop, in the east bound lane. Any vehicles attempting to overtake a bus would be hidden from view of any vehicle exiting the site at no. 15.
- The bus stop would undoubtedly be required to be moved, off set from the junction to provide a safe arrangement. Moving a bus stop further walking distance from the town centre would not be appropriate.
- Access point generates a high degree of safety risk for cyclists, pedestrians and motorists on the Howth Road in the immediate vicinity of their houses

- The arrangement of the car park and its function as a through route for HGVs generates both a safety risk and operational conflicts.

### **Premature in the absence of a strategy for Improvement of Sutton Cross Junction**

- The development is premature piecemeal and could make achievement of the best outcome more difficult.
- From the planners report on file prior to Additional Information request FCC itself considered that the development does not represent the best achievable outcome in terms of traffic congestion.
- A wider strategy for the junction, taking account of all of the contributing factors, all affected stakeholders and all of the impacts (both positive and negative) of the potential alternative solutions is needed.

### **Procedural Matters**

- Approach taken by the planning authority in requesting an Appropriate Assessment and Flood Risk Assessment by way of additional information excludes some third parties from making considered observations on same and affords listed observers very little time to make comments.
- Subsections of Section 34 (1) (a) and (b) of the Planning and Development Act 2000, as amended, have not been complied with, the Board should refuse permission on the grounds it has been invalidly made.
- Legal Title Issues of No.'s 15 and 16

### **Appeals accompanied with:**

- Letters from residents in support of the appeal lodged.
- A report by NRB Consulting Engineers – demonstrates deficiencies in the capacity assessment and in the design of the proposed access arrangement
- Photographs
- AutoTRACK Drawing No. NRB-SK-001 – of a delivery vehicle entering and exiting the proposed layout.
- Drawing No. NRB-SK-002 Proposed Exit
- Aerial Image of Proposed site access in context of existing accesses.

### **8.2. Planning Authority Response**

The planning authority response was submitted late and was returned.

### **8.3. Other Party Responses**

**The first party response can be summarised as follows:**

#### **Roads and Parking**

- There is a need to facilitate a permanent and acceptable solution to the Station Road Delivery Area
- The legal rights of way enjoyed by the Higgins property (No. 1 Howth Road) prevent the applicant complying with Conditions 3 and 4 of the earlier permission for a storage extension and reconfiguration of the delivery area (reg. ref. F13A/0374 / PL06F.243198)

- The proposal represents an opportunity to improve the public road network in the Sutton Cross Junction Area
- The do nothing scenario is not preferable
- Most of the changes within the site itself are minor changes which will not impact adjoining properties
- If the current application is granted it facilitates the permanent resolution of the applicant and Higgins legal issues which have prevented progress on the site. 6 car parking spaces are to be provided to the Higgins property in lieu of the spaces to the rear (with access and egress for these spaces only)
- Planning gain associated with enlarged footpath at station road entrance for public realm improvements
- No. 16 is to be retained as a dwelling with the rear garden being reduced to facilitate the road layout and parking / landscape buffer.
- Positive impact on Sutton Cross Junction due to the increased distance of exiting traffic from the busy junction.
- The points made in relation to proliferation of entrances, traffic safety and conflicts with the entrance to Sutton Cross Tennis Club could apply to any commercial node within an urban area
- Sutton village is historically underprovided for in terms of car parking – any opportunity for additional car parking should be seized.
- The application proposes a net increase of 10 no. parking spaces.
- Measures are being put in place to address the issues of commuter parking and staff parking.

### **Residential Amenity**

- Perceived negative impacts

- Relationship between the car park and the residents is reasonable in the circumstances
- Transition zone respected
- LED lighting is proposed designed to minimise light spill to neighbours
- Impact of car lights will not be significant given the urban environment
- Noise and vibration matters have been designed into the boundary treatment and landscaping proposed, there will be no run off into neighbouring properties, a new surface water drainage system is proposed.
- Issue of stray golf balls is an issue for the golf course to address

### **Visual**

- Inclusion of a 4m landscape / planted buffer addresses the potential impacts on the amenity of rear gardens of houses 16 and 17 Howth Road.
- The wall dividing the proposed car park and house no. 17 will be 2.4m high rendered and not 3m high as suggested.
- The applicants have no problem building the new 2.4m high wall behind the existing hedge and a condition to this effect is welcomed.
- A double stagger line of trees (3.5 – 4m high) is proposed along the boundary with no. 17 Howth Road

### **Development Plan Zoning**

- Provision of an access road and extension of ancillary car parking does not contravene the County Development Plan.
- While no. 15 Howth road is zoned 'RS' it has been in a commercial use for a considerable period of time.



- The FCC Draft Plan 2017 – 2023 reflects the use and includes No. 15 Howth Road within the TC zone.
- The applicants have made a submission on the Draft Plan, that the zoning of no. 16 Howth road be amended to reflect the layout supported by the planning authority in this application.

### **Legal / Procedural Matters**

- AA was carried out by BMA Planning as part of the original application
- FCC requested that AA be carried out by a qualified ecologist so the applicant commissioned Openfield Ecology to independently review the application.
- Their report confirmed that an AA is not required.
- The Planning authority and An Bord Pleanála as competent authorities have sufficient information to determine that no impacts will arise in terms of designated Natura 2000 sites
- No evidence to demonstrate any entitlement or restrictive covenant
- Legal title issues are not matters over which the Board have competence or jurisdiction.
- Response accompanies with:
  - DBFL Consulting Engineers Response

### **Quantum of car parking**

- The car park is used by many local businesses in the Sutton Cross Area
- There is potential for both existing and future parking demand levels to overflow onto the public road network in the absence of any additional on-site car parking being provided.

- DBFL analysis reveals that 339 car parking spaces are required. Accordingly, it is established that the applicants proposed car parking provision is actually 22 spaces under the recommended maximum to be provided.

### **Access Strategy and Road Safety**

- The implementation of the subject proposals will result in delivery vehicles travelling only an extra 63m approx. internally along a one-way system through the car park
- Delivery vehicles will not be travelling at peak traffic / pedestrian times.
- The designated delivery route of HGV's will not travel past the tennis club access. Survey results show that during peak hour 315 vehicles currently exit the appeal site of which 187 travel in an eastbound direction (towards the tennis club) which equates to an average of 3 vehicles per minute.
- All deliveries take place using 15.5m long articulated goods vehicles (dry and chilled trailers) which enables the maximum amount of goods to be consolidated into a single vehicle.
- Only 2 articulated goods vehicles deliveries every week day either late evening or early morning, coordinated by Supervalu management.
- It is not envisaged that the introduction of the proposed new egress junction will result in any increased conflict when compared to the current situation.
- The new egress junction on Howth Road will give rise to pedestrians spending less time in direct conflict with vehicular traffic at crossing points.
- Pedestrians wishing to cross the access and egress junctions on Howth Road will only have to cross one-way traffic systems
- The revised access egress arrangements fully address the p.a.'s previous concerns regarding specific vehicle manoeuvres through this junction and

also provides improvements to the operational performance of the neighbouring Sutton Cross signal controlled junction.

- The proposal will not generate any additional traffic but does involve relocating / reassigning existing outbound traffic flows
- The concerns of vehicles exiting the subject site across a busy pedestrian / cyclist environment is directly comparable to the existing on site arrangement with no material change.
- The proposed two lane egress arrangement provides the opportunity for a HGV to straddle the two existing (internal) lanes allowing the vehicles to perform the westbound manoeuvre safely and without encroaching into the westbound cycle lane.
- In the majority of cases the bus stopped at the bus stop will act as a traffic calming measure resulting in reduced traffic speeds.
- The bus stop is used infrequently – suggests that in the majority of instances full clear unobstructed visibility will be provided.

### **Intensification of Use**

- The permitted extension to the Supervalu store includes an increase in GFA of 370 sq. m and an increase in retail sales area of 218 sq. m.
- The modest increase in the floor area is not expected to generate any additional significant trips.
- The proposed additional car parking will result in drivers spending less time searching for spaces, resulting in reduced vehicular time within the car park.
- The car park is at or over capacity at certain times

#### 8.4. Observations

An Observation was received from Sorcha and Nicholas Redmond it is summarised as follows:

- Contrary to zoning
- Traffic Hazard
- Negative impact upon residential amenity
- Contrary to policy

#### 9.0 Assessment

I consider the key issues in determining this appeal are as follows:

- **Development Plan Policy/Principle of the Proposed Development**
- **Traffic**
- **Car parking provision**
- **Residential Amenity**
- **Miscellaneous Matters**
- **Appropriate Assessment (AA)**

#### 9.1 Development Plan Policy/Principle of the proposed development

Permission is sought to carry out a series of amendments to the traffic circulation, servicing and parking arrangements for the Sutton Cross retail centre and a new egress at Number 15 Howth Road. No. 15 Howth Road a detached property formerly in use as residential and more recently a beauty salon is to be demolished. Number

16 Howth Road is a residential property, in the applicant's ownership, which is to be retained with some changes to the front and rear gardens to accommodate the new traffic circulation and parking proposals. I note that no additional floorspace is proposed in the subject planning application. However, cognisance is had to PL06F.243198 on foot of which an increase in GFA of 370 sq. m incl. an increase in 218 sq. m retail sales area was permitted. This development has not been carried out to date.

The appeal site is located within two zoned areas, the majority of the appeal site is located within lands designated 'TC', the zoning objective of which states: *'To protect and enhance the special physical and social character of town and district centres and provide and / or improve urban facilities'* in the statutory Fingal County Development Plan 2011 – 2017. Numbers 15 and 16 Howth Road and their rear gardens located to the east of the overall site are zoned 'RS', the zoning objective of which states: *'provide for residential development and protect and improve residential amenity'*.

Under Development Plan policy use classes related to the zoning objective 'access', is neither 'Not Permitted' nor 'Permitted in Principle' and 'car park – non-ancillary' is noted as being 'Not Permitted'.

The subject application proposes ancillary car parking and implementation of a new Exit Only junction on Howth Road (facilitated by the demolition of the existing building on Plot Number 15 and repositioning of the front boundary wall of number 16.

The appellants have raised concern that the proposal incorporates a main egress from the commercial centre via lands zoned 'RS'. It is submitted that retail supermarket greater than or equal to 2,500 sq. m and car park – non ancillary are Not permitted in 'RS' zoned areas. The planning authority are of the opinion that the proposed works being nether 'Not Permitted' nor 'Permitted in Principle' must be assessed on their own merits. I note the submission by the first party that the Board

should have regard to the Draft Fingal County Development Plan 2017 which proposes a change to the zoning of number 15 to 'TC', however, I highlight that the Board may, only, have regard to the statutory Development Plan for the area, which is the Fingal County Development Plan 2011 -2017 on foot of which number 16 Howth Road is zoned 'RS'.

The application proposes a net increase of 10 number parking spaces (cognisance being had to the permitted development ABP PL06F243198 which results in the removal of 15 number existing on site car parking spaces). I consider, given the quantum, that car parking, is ancillary to the existing permitted supermarket use. No additional retail floor space is proposed therefore I am satisfied that the proposed development is an extension of existing facilities and is ancillary to the existing and primary use on site, which is the Supervalu retail centre.

Therefore, the car parking proposed and the egress from the shopping centre may be considered on merit 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.

It is the contention of the first party that the proposals for improved roads and parking arrangement accords with Objective TO73 of the Fingal County Development Plan 2011 which states:

*'Implement the road improvement schemes indicated in Table TO4 within the six year*

*period of the Plan'*. Table T04 entitled Road Improvement Schemes includes the objective to construct R105 Sutton Cross Improvements.

One of the appellants raises the issue that the proposal is located in a transitional zone in regards to zoning and notes that the proposal due to impact on the amenities of the area would be contrary development plan policy. The site zoned 'TC' and 'RS' adjoins lands zoned 'HA' and also lands zoned for residential use and the proposed egress and car parking is located in close proximity with the eastern boundary of the site and adjacent to residential properties. The impact of the development on the amenities of adjoining properties is to be examined later in this report. As it stands I would note that the proposed development is consistent with land use policy under

the Development Plan and is acceptable in principle subject to a satisfactory impact in relation to the amenities of adjoining properties, traffic safety and the general proper planning and sustainable development of the area.

## **9.2 Traffic**

Sutton Cross is a highly trafficked junction providing the only access to the Howth Peninsula. It is acknowledged by all parties that this heavily trafficked junction experiences periods of prolonged heavy congestion. The volumes of background traffic, particularly at the traffic peaks, combined with the traffic generated by the existing development leads to regular conflicts and congestion at Sutton Cross junction.

The Fingal County Development Plan, identifies this junction as being of strategic importance and seeks, as an objective, to safeguard the operational performance of the junction.

The Supervalu site currently benefits from two dedicated vehicle access / egress connections. Access one located on Howth Road c.60m from the lights at Sutton Cross, functions as the primary vehicle access / egress to and from the existing car park. The site access benefits from a ghost island arrangement for inbound traffic turning right. It also has a short section of two on-site exit lanes for left turning and right turning vehicles seeking to exit the site onto Howth Road.

Site Access 2 is located on Station Road. It accommodates both inbound and outbound movements to / from the delivery / collection area located along the western elevation of the Supervalu building, the service yard to the rear of No. 1 Howth Road and the Supervalu car park to the rear of the site.

Both access points are located on the regional road network and are subject to 50 Kph speed regulations. During peak periods vehicle queues are known to be generated back into the site due to difficulties / delays incurred by vehicle drivers

seeking the exit out onto the Howth Road which are predominantly right turning vehicles.

In 2014 Superquinn Ltd received planning permission subject to 12 number conditions (PL06F.243198) for the extension of the on-site foodstore and modifications to the existing Station Road access route including formalisation of the existing 'service' area. The permitted scheme if implemented would result in the Station Road entrance being restricted to access, only, for staff car parking and deliveries, with no exit permitted, see condition number as set out in detail in section 4.0 of this report above.

If the permission (PL06F.243198) is activated, it would result in all Supervalu customer traffic being routed through the Sutton Cross signalised cross roads to the Howth Road site access junction. It is submitted by the first party that established legal right of way issues arise and operational conflict arises with respect to private parking / loading bays and egress for traffic associated with the adjoining Higgins family premises (butchers) at No. 1 Howth Road.

The development proposed under the subject application provides for retaining the left in vehicular manoeuvre directly from Station Road into the Supervalu car park via a reconfigured Station Road access junction. Such arrangement would require less traffic to travel through the Sutton Cross signalised junction and thereby safeguard the operational performance of the junction. It is submitted that from survey work carried out, evidence exists, that a vast number of vehicles (74% on Saturdays) currently enter the Supervalu site, from the north west, via the Station Road site access. The applicants have made a strong argument to retain a direct left in vehicle arrangement from Station Road, in particular, to facilitate customers travelling from the north west thereby negating the need to travel through the heavily trafficked Sutton Cross junction. Access from the east (Howth Road or Greenfield Road) would be prohibited by the introduction of a raised traffic island which eliminates right-turning movements into the site and would allow for free flowing traffic west. There are also proposals to provide an enlarged footpath area at the Station Road entrance



for public realm improvements. Delivery trucks would arrive to the site from Station Road, only, by way of left hand turn into the site. The proposal also offers a resolution to the applicant's / Higgins legal issues, by agreed access via the applicant's lands, relocation of parking spaces from the rear of No. 1 Howth Road to the area adjacent to Insomnia where 6 customer spaces are to be allocated to insomnia / Higgins. The proposed arrangement at Station Road is left in left out only. It omits customer traffic exiting onto Station Road, with the exception of the 6 no spaces allocated to insomnia / Higgins.

The development proposes conversion of the sites existing Howth Road junction (currently two way) to an 'Inbound', 'only', arrangement and construction of a new 'Exit', 'only', Junction on Howth Road facilitated by the demolition of No. 15 Howth Road. It is submitted that while this house is zoned 'RS' in the current statutory County Development Plan, it has been in commercial use for a considerable period of time, originally as Sutton Post Office and more recently for other commercial / retail uses including as a beauty salon.

I note that the majority of the appellant's concerns are in respect of traffic impact on Howth Road and the public road network generally (particularly Sutton Cross Junction) arising from the proposed new exit arrangement at No. 15 Howth Road.

While the application is accompanied with a Site Access and Car Parking Strategy as well as Further Information Response and Mobility Management Plan prepared by DBFL Consulting Engineers and Transportation Planners, (I note traffic surveys, junction surveys and car parking surveys) no Traffic Impact Assessment (TIA) or Road Safety Audit (RSA) has been carried out / submitted. Cognisance is had that the proposal subject to this application does not include any additional floor space and that a RSA could be the subject of condition should the Board consider planning permission be forthcoming for the proposed development.

Given the rationale for the proposed development which seeks to optimise site access, addressing the sites constraints in addition to minimising the impact upon

the local road network incl. Sutton Cross Junction, providing safe access and egress vehicle routes, for all customers, visitors, staff and 'service' trips travelling to and from the Sutton Cross centre. I am of the opinion that the proposed development is acceptable in principle. I tend to agree with the applicant that the points raised in relation to proliferation of entrances, traffic safety and conflicts with the entrance to Sutton Cross Tennis Club could apply to any commercial node within an urban area. The proposal does not generate any additional traffic but seeks to relocate existing outbound exiting traffic flows. The one-way traffic circulation system proposed for the Supervalu centre and the revised access and car park extension is an improvement on the existing situation and I agree the concerns of vehicles exiting the site across a busy pedestrian and cyclist environment is no change on the current situation. I note that delivery vehicles will not be travelling at peak traffic / pedestrian times and that the designated delivery route of HGV's will not travel past the tennis club access.

On balance given the current traffic situation I am of the opinion that the proposals put forward would lead to improvements to the internal operation of the site in terms of traffic circulation and would also lead to an improvement to operation of the public road network in the Sutton Cross junction area. Should the Board agree and permission is forthcoming I recommend that conditions be attached with respect to an RSA being carried out prior to commencement of development and agreed in writing with the planning authority. Also that the RSA deal specifically with the location of the existing Bus Stop location on Howth Road. Agreement in writing with the planning authority, prior to the commencement of any development, to relocate the bus stop or measures being put in place to ensure safety for vehicles and pedestrians (at the egress from Howth Road junction with the subject site) from overtaking of stationary buses at the bus stop.

### **9.3 Car Parking**

The permitted scheme (PL06F.243198) when implemented would result in the reduction of on-site parking within the Supervalu car park from the existing 278 bays to 263 spaces (nett decrease of 15 spaces). Musgraves Operating Partners Ireland

(MOPI) have procured a number of neighbouring properties (No. 15 and 16 Howth Road). The subject proposal seeks an extension of the Supervalu car park eastwards increasing car parking spaces from 263 up to 303 (299 general spaces and 5 disabled spaces). It is submitted that the subject application proposes a net increase of 10 no. parking spaces.

Third parties have raised concern with respect to sustainable transport policy, parking policy and residential amenity impacts of the car parking spaces located within lands zoned 'RS' proximate to neighbouring residential dwellings. Impacts upon residential amenity shall be discussed in detail in the subsequent section of this report.

A lot of disagreement has arisen with respect to compliance with minimum car parking standards set out in the County Development Plan. Third parties argue that the quantum of car parking proposed and proposals to extend same is contrary to policies in favour of accessible public transport and would create a traffic hazard. The first party submits that the approx. 300 car parking spaces would support approx. 6,000 sq. m of commercial / retail floor space, equating to a standard of 1 car space per 20 sq. m. It is submitted that there is in the region of some 7,000 sq. m of commercial floorspace at Sutton Cross which would support up to 339 car spaces.

Cognisance being had to maximum commercial car parking standards set out in Table TO3b: of the County Development Plan, which in particular I note states the following:

- Restaurant/Café 1 space per 10sq m dining area
- Retail – food store 1 space per 20sq m GFA
- Retail – shopping centre 1 space per 20sq m GFA
- Retail – comparison 1 space per 20sq m GFA

Overall and having cognisance to the arguments put forward I am of the opinion that the proposal would give rise to a modest increase in ancillary car parking to serve an established permitted retail / commercial centre. The proposal is considered reasonable in light of the framework mobility management plan and measures proposed to deal with commuter parking and staff parking. The subject proposal

does not increase the floor space of the established shopping centre, it is recognised that the majority of customer trips to / from the Supervalu store and the adjacent commercial premises will be undertaken by private car due to nature of bulky goods associated with grocery shopping and geographical characteristics of the subject Sutton Cross Center. The increase in ancillary car parking and revised proposals for amended layout and one-way traffic circulation system would in my opinion enable customers and staff of the Supervalu centre, enter the site, park and exit the centre in a safer and more effectual manner, diminishing traffic congestion on the surrounding road network.

#### **9.4 Residential Amenity**

The issue of residential amenity has been raised as an issue of concern in the appeal submissions. It is submitted that the proposal negatively impacts on the amenity of existing residential properties by way of intensification of traffic, car park lighting, noise, refuse, security hazards and proposed signage will destroy the ambiance of the area.

The residents of St. Catherine's Terrace are concerned that they would be cut off from the residential area to the east. It is also submitted that the new egress from the shopping centre at No. 15 Howth Road would give rise to a serious traffic hazard for residents using the lane to the rear of their houses. Concern is expressed that the proposed height of the wall will destroy the openness of the lane, create enclosures and raise safety and security concerns. The lane is the only parking area for residents of St. Catherine's Terrace and their visitors.

The laneway which is located between No. 15 Howth Road and 6 St. Catherine's Terrace provides two-way vehicular access to / from the rear of Plot 15 in addition to the six number third party dwellings located within the adjoining St. Catherine's Terrace. The existing right of way is to be retained as per existing arrangements, visibility splays of 2.4m x 49m are proposed at the new 'exit only' junction through plot number 15, immediately to the east of the cul de sac. To accommodate the visibility splays the boundary wall of plot number 16 is to be realigned. Given the

foregoing it is not envisaged that the proposal would negatively impinge upon the right of way access.

Regard being had to permitted development on foot of PL06F.243198 I note that the subject proposal does not propose additional retail / commercial floorspace, it seeks to optimise site access and put in place a parking strategy which addresses the sites existing constraints in addition to minimising the impact generated upon the local road network including the strategically important Sutton Cross junction.

As set out earlier in this report the proposed development is located within lane-use zoning objectives 'TC' and 'RS'. I highlight that the six number dwellings in St. Catherine's Terrace are zoned 'TC'. The third party property at no. 17 Howth Road is located within the land use zone 'RS' and I agree that the lands to the east of the appeal site, including plot 15 and 16 may be considered within a transitional zone. Regard is had that if permission is forthcoming for the development, as proposed, the houses in Saint Catherine's Terrace would be surrounded by two vehicular access / egress points to the Supervalu shopping centre. However, this is an urban location, the existing Supervalu premises is located on lands in the main zoned 'TC' as is Saint Catherine's Terrace. I note the existing permitted uses on the site and Objective Sutton 3 set out in Section 1.6 of the Fingal County Development Plan 2011 – 2017 which seeks to 'enhance traffic management in Sutton Village and the immediate environs.' I am of the opinion that the subject proposal has potential for greater benefits in terms of the alleviation of traffic congestion in this area and that on balance the proposal is acceptable in terms of impact upon residential amenities, subject to condition.

The proposed height of the boundary wall adjoining the right of way, plot 15 and house number 16 was amended by way of drawings submitted via further information. While initially a 2.0 m high boundary wall with render finish on both sides was proposed, this was revised by way of A.I to 3.0m where it directly abutted the side gable elevations of number 6 St. Catherine's Terrace and dwelling number 16. The reasoning for the 3m height was linked to noise mitigation along the access and stems from the Awn Consulting Noise Impact Assessment Report submitted by way

of further information. While I note condition 9 of the notification of decision to grant planning permission Reg. Ref. F15A/0195, given the concerns raised by third parties, I am of the opinion a two-meter-high solid block wall (as initially proposed) suitably sound proofed, would be preferable, being less visually obtrusive and having less of an overbearing impact to neighbouring properties and the cul de sac right of way. I recommend that this be subject to condition should permission be forthcoming from the Board.

I consider that the 2.4m high boundary wall dividing the proposed car park and house number's 16 and 17 is acceptable. The boundary treatment and security proposals are desirable and will alleviate concerns of anti-social behaviour. LED Lighting is proposed across the site and the applicant has submitted a lux diagram and submits that lighting would be designed to minimise light spill to neighbouring properties.

Cognisance is had to the 4 meter landscaped strip / planted buffer (a double stagger line of trees (3.5 – 4m high) proposed along the eastern boundary with house number 17. I note the submission by the first party that they have no objection to building the new 2.4m high wall behind the existing hedge with number 17 and a condition to this effect is welcomed.

I am satisfied that the issue of noise (regard being had to Noise Impact Assessment carried out by AWN Consulting), refuse, security and lighting can be dealt with by way of condition. Regard is had that new car parking proposed along the eastern boundary is to be reserved for staff parking.

Having regard to the scale of development and subject to appropriate conditions, I am satisfied that proposed development would have no significant or adverse impact on the amenities of adjoining properties.

## **9.5 Miscellaneous Matters**

### 9.5.1 Procedural Matters

I see no issue with the approach taken by the planning authority in requesting an Appropriate Assessment (AA) and Flood Risk Assessment by way of additional information. I also note the response of the first party that AA screening (by BMA Planning) was submitted as part of the original planning application.

### 9.5.2 Legal Title

The first party submits that Arthur Cox solicitors have reviewed the title issues raised for properties numbers 15 and 16 Howth Road and that on the basis that Musgrave acquired the freehold interest in both plots they are the party to whom any restrictive covenant would be owed.

Legal title issues are a civil matter and not matters which An Bord Pleanála have competence or jurisdiction. The applicant has sufficient interest in the site for the purpose of applying for and being granted planning permission. The applicant is advised, however, that under the provisions of Section 34 (13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a permission to carry out any development.

### 9.5.3 Premature in the absence of a strategy for Improvement of Sutton Cross Junction

The planning authority are the competent authority for the Sutton Cross area and they have no objection to the proposed development in principle having granted planning permission for the proposal subject to 12 no. conditions. I note that the planning authority report states that 'No Urban Centre Strategy has been proposed for Sutton Cross to date'. I am of the opinion that the development subject to

condition is acceptable in principle and could go some way to minimising traffic impact upon the local road network.

#### 9.5.4 Signage

Third parties have raised concern that signage proposed gives rise to visual clutter. I note that in the main signage is confined within the site and not visible from the Howth Road / Sutton Cross Junction. Three main signs proposed would be visible if permitted. The main ID sign / totem (5.5m x 1.5m internally illuminated double sided) has been slightly recessed into the site in line with the building line of the centre at the Howth Road Access and the 'Thank You / Goodbye Sign' (1.2m x 1.8m up lighter illuminated double sided) has been relocated behind the building line of No. 16 Howth Road at the proposed new egress. A billboard sign (3.4m x 1.85m down lighter illuminated) located on the 2.0 m high block wall enclosing the service area to the west side of the site. On merit I consider that the signage proposed has purpose and functions as directional signage and is acceptable in principle.

#### 9.5.5 Flooding

The issue of flooding was raised by the appellants. However, no evidence has been submitted to support the claim that surface water / storm water is or may become an issue on the appeal site or on adjoining sites. I did not witness any evidence of flooding at the time of my site visit. I note that Irish Water and Water Services Department of the Council have been consulted on the proposal and have raised no objections, subject to conditions. The first party submit that the proposal will not give rise to flooding. The appeal site is not included as a site identified as a flood point, multiple / reoccurring flood point or an area flooded, in the OPW Flood Hazard Map.

Based on the foregoing I do not recommend a refusal of planning permission based on inadequate surface water disposal or flooding related reasons and considerations.

### 9.6 Appropriate Assessment (AA)



The appeal site is not located in a Natura 2000 site. The Natura 2000 sites located in the closest proximity to the subject site include North Dublin Bay SAC, North Bull Island SPA, Baldoyle Bay SAC and SPA, Howth Head SAC and Irelands Eye SAC and SPA. These designated sites are all coastal sites which are a mixture of Annex 1 habitats and play host to Annex II species (mainly bird species). The applicant has submitted a Natura 2000 Screening Report which has found that the proposed development will have no direct or measurable indirect impacts on any Natura 2000 site. The Heritage Officer has reported no objection to the development and agrees that the development will not have an impact upon any Natura 2000 sites subject to conditions.

Overall it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development, infrastructure in place and separation distances involved to adjoining Natura 2000 sites. The nature and scale of the proposal is such that it entails no discharges or emission which would impact upon the integrity and quality of the designated sites and associated habitats. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## 10.0 **Recommendation**

I recommend that planning permission should be granted, subject to conditions, as set out below.

## 11.0 **Reasons and Considerations/ Reasons**

Having regard to the pattern of development in the area, the zoning provisions of the site as set out in the Fingal County Development Plan 2011-2017, the planning history of the site, and the nature of the proposed development, it is considered that,

subject to compliance with the conditions set out below, the proposed development would be an appropriate form of development at this location, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 31<sup>st</sup> March 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive location, i.e. number 6 Saint Catherine's Terrace or number 16 Howth Road, between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Noise from goods delivery vehicles shall be controlled so they do not pose a noise nuisance at houses 1 – 6 Saint Catherine’s Terrace or number’s 16 and 17 Howth Road.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

3. (a) The boundary walls shall be installed as a noise mitigation measure on both sides of the EXIT road to a height of 2 m relative to the road and extending to meet the forward building line of No. 16 Howth Road, where the wall shall be reduced to 1.2m in height.

(b) The development shall be operated that there will be no emissions of malodours, gas, dust fumes or other delirious materials, no noise vibrations on site as would give reasonable cause for annoyance to any person in any residence, adjoining unit or public place in the vicinity.

(c) Deliveries to the development shall be restricted to the hours of:

Monday – Friday	07.30 – 20.00 hours
Saturday	08.00 – 20.00 hours
Sunday / Public Holiday	10.30 – 19.00 hours

**Reason:** To protect the residential amenities of property in the vicinity of the site.

4. The engineering requirements of the planning authority shall be strictly adhered to as follows:

(a) Prior to the commencement of development, the applicant shall carry out and submit a Road Safety Audit (RSA) for the written agreement of the planning authority.

(b) The RSA shall specifically assess the Bus Stop on the Howth Road, any recommendations shall be implemented by the developer.

(c) Details of the works to Sutton Cross junction to provide for road widening and median shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

(d) All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer’s expense.

- (e) The footpath and kerb shall be dished at the developer's expense to the satisfaction of the planning authority.
- (f) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm, which would interfere or obstruct over time the required visibility envelopes.
- (g) The new boundary treatment between the proposed new entrance on Howth Road and the existing site entrance to the west of the proposed entrance shall not impede the sightlines of the existing entrance to the west

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

5. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

6. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is operational.

**Reason:** In the interest of public safety and visual amenity

7. No advertisement or advertisement structure, other than those shown on the drawings submitted with the application, shall be erected or displayed on the building, or within the curtilage of the site, in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity

8. (a) The landscaping scheme shown on Drg no. 101, as submitted to the planning authority on the 31<sup>st</sup> March 2016, shall be carried out within the first planting season following substantial completion of external construction works.
- (b) The new 2.4 m high wall proposed along the eastern party boundary with number 17 Howth Road shall be constructed to the west of the existing hedge located on the party boundary.
- (c) The trees shown in Area A and the four Quercus robur adjoining three car park spaces in Area B as indicated on the Landscape Plan, drawing 101 shall be planted in construction tree pits.
- (d) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

11. All necessary measures shall be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

12. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interests of sustainable waste management.

21.09.2016