



An
Bord
Pleanála

Inspector's Report PL06F.247787

Development	154 residential units, retail, take away, drive through, gym, service station in 7 blocks.
Location	Station Road, Lusk, County Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F15A/0565
Applicant(s)	Station Construction Limited
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party vs Grant
Appellant(s)	See report
Observer(s)	None
Date of Site Inspection	14 th April 2017
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The proposed site comprises 7.2ha on the eastern side of Lusk, it is bounded on the east by the R127 or Lusk ring road, to the north largely by housing, to the south by Station Road and the western boundary abuts development close to the village centre. The OSI maps show the site as bisected by a road linking Station Road to housing at Norseman Walk but this road is closed. To the south of Station Road is housing development comprising largely two storey semi-detached houses with front and rear gardens in the Orlynn Park and The Close developments. On Station Road and just off the roundabout on the R127/Lusk ring road is a HSE nursing home – ‘Lusk Community Unit’.
- 1.2. The site can be divided into three parts. The first and more eastern element of the site adjoins Station Road, the R127/Lusk ring road and a further parcel of undeveloped land to the north. This element is generally in rough pasture. There is a drain through it which marks the boundary with a house, shown on the site location map, but now demolished. Some builders spoil has been deposited on this element of the site. It is separated from the R127/Lusk ring road by a post and rail fence. There is an entrance on the north-western corner at the beginning of Norseman’s Walk but this is closed off by security fencing. There is a bungalow and motor factors business which have access to Station Road on the southwestern corner of this element of the site.
- 1.3. The second/middle section of the site comprises a functioning sports ground with a club house and parking area for Lusk United Football Club. This area has direct vehicular and pedestrian access to Station Road.
- 1.4. The third section is largely rough pasture but has a number of trees close to Saddlers Place. There is an unoccupied bungalow proposed for demolition with an access to Station Road. The northern boundary is largely fenced off with a wooden post and rail fence from the public open space immediately south of Saddlers Place housing. The western boundary adjoins an area undergoing works; beyond this is an access off Station Road serving a row of shops including ‘Supervalu’ and a pharmacy.

2.0 Proposed Development

This proposed development comprises;

- the demolition of all existing buildings and structures, including 2 no. dwellings to facilitate the comprehensive redevelopment of a site measuring approximately 7.2ha in extent.
- the construction of a mixed use development arranged in seven blocks ranging in height from single storey to 3-storeys and comprising of 154 no. new dwellings (terraced, semi-detached, detached and apartments), to include 67 x 2 bedroom dwellings, 79 x 3 bedroom dwellings and 8 x 4 bedroom dwellings,
- a total of 12,320 sq.m. of non-residential floor space, comprising of an anchor retail store of 4,324 sq.m., discount food store of 1,660 sq.m., Retail units totalling 1,044sq.m. (inclusive of 136 sq.m. of petrol filling station shop); food and drink/retail service units totaling 1,828 sq.m. (including 2 no. hot food take away units); and non-retail service uses of 3,026 sq.m.
- in addition to the above, a drive-thru restaurant of 258 sq.m.; crèche of 438 sq.m.; Gym of 1,521 sq.m. and petrol filling station fronting Station Road,
- all with ancillary car parking provision and the provision of new vehicular and pedestrian accesses onto the site from Saddlers Place, Scholars Walk, Joyces Road, Norsemans Walk and Raheny Lane together with new vehicular and pedestrian accesses onto the site from Station Road;
- all associated works; landscaping and infrastructure services provision (including alterations to the layout at Saddler's Place to provide sub-surface attenuation tank) at Lusk and Lough Commons, Station Road, Lusk, Co. Dublin.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 33 conditions.

Condition 2 required a phasing plan. Condition 3 omitted 6 housing units.

Condition 5 amended some apartments. Condition 6 required redesign of block 6 (crèche and drive through). Condition 7 required details of the boundary (referred as a 'green wall') between Block 4 and Block 7 to be agreed with the planning authority. Condition 15 require internal road amendments to be agreed with the planning authority.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **planner's report** initially sought further information require the applicant to;

- Reduce the quantum of retail space.
- Submit a visual assessment of the proposed development.
- Submit a detailed phasing plan.
- Submit an archaeological assessment.
- Reduce the scale of buildings along Station Road, have more regard to the single storey scale of the village and vernacular forms.
- Relocate proposed playground away from roads, redesign Scholar's Square, relocate Block 3 to avoid blocking views of the Round Towers from the pedestrian street. Rearrange surface car parking in relation to Block 6 and rearrange commercial/service parking in relation to Blocks 7A and B.
- Amend the landscaping Plan to retain trees/hedges. Revise open space to comply with the County Development Plan.
- Improve landscaping along Station Road.
- Amend apartment access to prevent access via decks. Revisions to floor plans must comply with the Design Standards for New Apartments. The rear gardens of houses 34 and 35 are unacceptably short.
- Amend the elevation of Block 4 onto the pedestrian street because it is unacceptably poor.

- Show rain water goods on the plans, chimneys in houses should be non-functioning. Flues/air handling goods for the commercial uses must be shown.
- Submit clarification of the use of the gym doors when they access the deck to apartments.
- Submit an improved design for the 'Discount Retail' building.
- Submit amended details of surface water attenuation including run off from residential areas to the north of the application site.
- Amend parking for houses 39-42 and 12-14 to be within their curtilages. Submit details of parking/night-time parking for the restaurant/café/bar.
- Submit evidence of a right to access Saddlers Place, Scholars Walk, Joyce Road, Norseman's Walk and Raheny Lane.
- Demonstrate compliance with DMURS.
- Submit details of public lighting.
- Reconsider the areas to be taken in charge over those to be retained; the pedestrian street may be appropriately taken in charge.

3.2.2. Other Technical Reports

The **Environmental Health Officer** Reported no principled objections subject to conditions.

Transport Planning Section (25th January 2016) reported that residential parking provision was 283; there is a deficit of 4 visitor spaces.

There is permeability through the site but some of the junctions may not meet DMURS standards. Crèche parking may not be acceptable. The play area is poorly located in the middle of surrounding roads.

Goods delivery to smaller retail units on pedestrian street is unclear. A road safety audit should be submitted. A taking in charge drawing should be submitted. Further information should be submitted.

A second **Transport Planning Section's** report (dated 28th November 2016) reviewed the further information concluded, subject to conditions, that the proposed development was acceptable.

Irish Water recommended a grant subject to conditions.

The **Water Services Section** (26th January 2016) sought additional information showing compliance with SUDS, show that surface water from the developments to the north can be accommodated, separation distances to be confirmed with GDSDS and permeable surfaces should be provided where possible.

A second report (28th November 2016) reviewed the further information submitted and recommended permission subject to conditions.

Architects Department/Conservation Office reported (27th January 2016) that the site adjoins the Lusk ACA. The proposed develop shifts the town centre from its present historic core, an archaeological assessment should be provided, the Station Road frontage should be substantially revised, signage details, materials and finishes should be provided.

Heritage Office reported (1st February 2016) that an archaeological assessment be provided.

Architects Department reported (3rd February 2016) that the proposed development has the potential to overwhelm Lusk village, the design is not well thought out, the balance between retail and residential provision may not be acceptable, building heights are not reflective of the context.

3.3. **Prescribed Bodies**

The Department of Arts, Heritage and the Gaeltacht sought to have an archaeological assessment of the site carried out.

3.4. **Third Party Observations**

There were submissions from third party observers which were reflected in the eight appeals received by the Board.

4.0 Planning History

There is no relevant planning history for the site.

5.0 Policy Context

5.1. **Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities** and accompanying Urban Design Manual (DOEHLG 2009) makes the points;

- Development should be plan led whereby LAPs and County Development Plans should designate areas close to city, town and village centres where public services are available or may be more easily provided as appropriate for development.
- The plans should provide a settlement hierarchy within a regional hierarchy where appropriately scaled development may be provided.
- Connectivity and permeability should be encouraged.
- Different types of streets should serve different needs.
- Private and communal open space are key factors of high quality residential development.

5.2. The **Retail Planning Guidelines for Planning Authorities** (2012) and accompanying Retail Design Manual (DoECLG) set out advice in relation to assessment of retail floor space requirements. Annex 5 sets out criteria for assessing retail impacts. The Guidelines require that proposals should be must be subject to the **Sequential Approach**. The order of priority for retail development is; city and town centres, edge of centre sites and out of centre sites.

5.3. **The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DoECLG December 2015)** set out advice and minimum standards in relation to dual aspect for apartment units, storage, private amenity space, communal space and other issues in relation to apartment development.

5.4. **Regional Planning Guidelines for The Greater Dublin Area** (RPGs) at Table 8 establishes a settlement hierarchy which designates Lusk as a “moderate sustainable growth town”.

5.5. **Development Plan**

The site is zoned “TC - town and district centre” in the Fingal County Development Plan 2017 to 2023. This zoning objective is ‘to build on the accessibility, vitality and viability of the existing urban centres and to 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’.

5.6. **Natural Heritage Designations**

The impacts on Natura 2000 sites is discussed under appropriate assessment heading below.

6.0 **The Appeal**

6.1. There are 8 third parties (1) Robert Casey, (2) Brian Hennessey, (3) Lynda and Pierce Hederman, (4) Rush and Lusk Educate Together, (5) Ken Farrell, (6) Glen Keating/Leda Egri, (7) Lusk Community 2020 Sports Plan Committee and (8) Lusk Community Council.

6.2. **Grounds of Appeal**

The grounds of appeal may be summarised as follows;

- The proposed development should have been subject to EIA.
- The retail impact assessment overestimates the required retail floor space required in the catchment, the population projection figures are overstated, the housing forecasts are over stated. The proposed development fails to meet the sequential test for retail development as there are sites closer to the town centre. The quantum of retail provision is excessive.

- The urban design quality is unacceptably poor. The proposed building heights are excessive and out of character with the established pattern in Lusk. The proposed layout is haphazard.
- The proposed development is too close to schools and will encourage unhealthy eating habits.
- The residential density is too high and the mix of unit types is unsatisfactory.
- The proposed development will give rise to traffic hazard, particularly on Norseman's Walk. The proposed development will negatively impact on access to Rush and Lusk Educate Together school.
- The archaeological impact of the proposed development has not been properly assessed.
- The application does not properly address tree protection and does not preserve hedgerows.
- Open space provision is inadequate.

6.3. Applicant Response

The applicant's response to the appeal may be summarised as follows;

- The application followed on the Masterplan which in turn reflects the earlier LAP.
- The planning authority amended the proposal by way of condition reducing the number of residential units and retail floor space. Additional information made amendments to layout, parking and design aspects.
- The Regional Planning Guidelines for the Greater Dublin Area (RPGs) designate Lusk as 'Sustainable Moderate Growth Town'. The draft Fingal Plan more accurately reflects the RPGs by designating Lusk as a Level 3 town in the retail hierarchy.
- In relation to the amount of retail floor space proposed the application applies the advice set out in Annex 4 of the retail planning guidelines. The proposed floor space is consistent with the Regional Planning Guidelines

and the core strategy established in the draft County Development Plan. There is about 956m² of convenience floor space within the catchment whereas the RIA submitted demonstrates that between a minimum of 2282.8m² required, depending on the level of expenditure leakage from the catchment.

- A comparison of Lusk (to be designated as a level 3 town centre in the new plan) and other similar level centres (see table 4 in submission) makes the point that retail provision is very poor in Lusk.
- The proposed development complies with the sequential test set out in the Retail Planning Guidelines.
- The proposed drive through restaurant is in excess of 578m walking distance from the Rush/Lusk Educate Together school.
- The application proposes a reasonable mix of residential unit types. The gross density is low at 21.8units/ha but when the commercial uses are excluded density rises to 32 units/ha.
- Phasing of development may be subject to condition.
- Traffic calming measures comply with DMURS through appropriate street widths and horizontal deflections so as to minimise speeds.
- The scope of the traffic and transport assessment (TTA) is adequate to assess the traffic impact of the proposed development, no more junctions in the wider area will be affected and the planning authority's traffic section was satisfied with the methodology.
- The urban design elements of the proposal were predicated on the LAP and Masterplan.
- The application does not require an EIS.
- Trees have been retained where possible.
- Car parking provision is adequate.
- An archaeological assessment was prepared and condition 14 of the planning authority's decision deals with this point.

6.4. **Planning Authority Response**

The planning authority responded to the appeal as follows;

- The site is the optimal site for a mixed use town centre, identified in the County Development Plan 2005-2011 and the Lusk LAP 2009.
- The site is considered the appropriate location to meet the deficiency in retail space for Lusk.
- Lusk United Football was relocated by the County Council to facilitate the proposed development.
- General principals of a new urban street along the Station Road public transport corridor, new internal street focussing on the medieval tower, good vehicular and pedestrian connectivity to newer housing to the north are incorporated into the scheme.
- Construction phase access to the Lusk bypass will keep traffic away from sensitive areas.
- The development reflects the east long-term interest of Lusk and the contribution conditions and bond condition are recommended to the Board.

6.5. **Observations**

There are no observers on file.

6.6. **Further Responses**

There are no further submissions.

7.0 **Assessment**

7.1. **Oral Hearing Report**

- 7.2. The oral hearing opened at 10am on 25th April, 2017 at the Board's offices at 64 Marlborough Street, Dublin 1. The hearing closed at 17.00pm. The third parties in attendance were Brian Arnold Lusk Community Council, Mark McCann Lusk Community Sports Plan 2020 and Dr Tony Quinn of Braniff Associates on behalf of

Robert Casey/Supervalu Lusk. The applicant Station Construction Limited was represented by Nap Keeling, Michael Crowe, Declan Brassil, Marion Chalmers and Thomas Jennings. The planning authority was represented by Sean McGrath, Paul O'Brien, Peter Byrne and Patricia Cadogan.

- 7.3. Michael Crow for the applicant stated that previous County Development Plans and Action Plans recognised the centrality of St MacCullins tower to Lusk, that its prominence should be recognised in future development within the town, that the town needed to be consolidated within a new ring road. The LAP 2009 identified the application site as a key development site which would provide both civic/commercial uses and residential development. The County Development Plan 2017-2023 zones the site for town centre and residential uses. The Masterplan required by the planning authority emphasised the importance of street frontage onto Station Road, a mix of land uses including residential, commercial and community uses. Public realm and landscaping would break up the development blocks and access and movement through the overall site would be prioritised. The masterplan informed the evolution of the application to provide for seven blocks as follows; (1) Scholars Walk, Scholars Court and Joyces Road, (2) Saddlers Place, Scholars Walk, Burgage Lane, (3) Station Road, Scholars Square, Burgage Lane, (4) Scholars Walk, Loughcommon Lane, Scholars Court, Pedestrian Street, (5) Scholars Square, Station Road, Loughcommon Lane, Pedestrian Street, (6) Loughcommon Lane, Rathmore Green, Loughcommon Court, (7) Norsemans Walk, Loughcommon Lane, Scholars Green.
- 7.4. Declan Brassil for the applicant stated that the regional planning guidelines (RPGs) for the Greater Dublin Area designated Lusk as a moderate growth town and the County Development Plan 2017-2023 repeats this designation. The plan states that future development must conserve and enhance the town core paying special regard to its archaeological heritage, consolidate growth within town boundaries, and ensure that retail and local services are concentrated in and adjacent to the town core. The current plan restates the objectives of the original master plan as follows;
- Provide for a mixed use development, to be delivered in a phased manner having regard to the appropriate quantum of retail development for the town in an integrated and sustainable manner and have full regard to the function of the town core.

- Ensure, in relation to the phasing and siting of development within the Masterplan boundary area, that the main retail anchor be developed within the central section of this area in a manner which provides for appropriate sustainable integration with the existing town core.
- Consider a second smaller retail anchor, as well as local commercial/office development, at the eastern end of the Masterplan area, which shall be designed as a nodal gateway building with a strong streetscape urban edge at the eastern approach to Lusk town and which shall only be developed in tandem with a comprehensive development and expansion of the town centre, commencing with the delivery of the main retail anchor centrally within the scheme.
- Provide for a strong streetscape urban edge at the eastern approach to Lusk town.
- Ensure that no development takes place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the Council. The Management Plan shall incorporate a timescale for the implementation of management measures.

7.5. The County Development Plan 2017-2023 is the current plan. Condition 12(c) of the decision to grant permission required that take-away uses in mixed use blocks be subject to separate planning application. The applicant is satisfied that this condition be repeated by the Board. The appeals are concerned by the proximity of take-away uses close to schools. Development Plan objective DMS108 seeks to prevent these uses 'in close proximity to schools'. The application site is 490m as the crow flies from the Rusk/Lusk Educate Together National School and between 550m and 720m walking distance depending on the route chosen. The application is based on an arboricultural impact assessment, a tree protection plan, a tree survey and a drawing. The applicant's assessment is that the trees on site are low value and in poor condition. The request for additional information allowed for amendments such that some trees and hedgerow along Station Road will be retained. The appeals make the point that some conditions are inappropriate in requiring agreement between the applicant and the planning authority; this is a common feature of grants of planning permission and is provided for in the Development Management Guidelines. The appeals make the point that the application should have been subject to EIA. The application does not exceed the thresholds for triggering the

requirement for EIA set out in Part 2 of Schedule 5 of the Planning and Development Regulations.

7.6. Michael Crow for the applicant responded to points raised in the appeals. In relation to the size, location and impact of Block 4 (anchor food store) it may be said that this block is centrally located in accordance with the agreed masterplan to allow a gradual reduction in height and scale outward towards the edge of the site and to protect vistas. Blocks 7A and 7b provide a buffer along Norseman's Walk and Raheny Close, Blocks 1 and 2 do the same for Saddlers Place and Blocks 2, 3 and 5 for Station Road. Block 4 is raised above the ground level car parking to minimise its visual impact, the service yard and access has an acoustic wall and densely planted strip to minimise noise. While block 7A and 7B will impact on views of existing open space from the houses on Norseman's Walk the area is zoned for residential development and the proposed blocks will screen the commercial centre of the development from neighbouring residential uses. The Station Road frontage is a mix of landmark buildings at the eastern end of Station Road and at the junction of Scholars Walk. Trees/grass verge are retained and one and two storey buildings reflect the village setting of the proposed development. Class 2 open space is provided in accordance with the masterplan and includes small local parks, pocket parks serving groups of houses and hard landscaped civic spaces in a sequence of shared surface streets and courtyards. 0.3245ha of class 2 public open space is provided. This is made up of the minimum standards of 5m² of public open space per bed (393 spaces/5 for 1,965m²) plus 298m² related to an adjoining grant of planning permission and another parcel of previously designated open space at the western end of Norseman's Walk.

7.7. Marion Chalmers TRC Planning and Economics Ltd., made a submission on behalf of the applicant. Table 3.1 illustrates population growth in Fingal which significantly exceeds that of the country or region generally. New information is available from the preliminary results of the 2016 census since the preparation of the original RIS submitted with the application. Table 3.2 shows that there has been a 49.1% increase in population of the electoral districts which are largely within the catchment of the application site. Correcting for the areas within the EDs but outside the catchment Table 3.3 illustrates a 36.5% population growth within the catchment in the period. Table 4.1 offers a projection of convenience and comparison expenditure

for both high and low growth scenarios within the catchment up to 2024. Two points are factored into estimating turnover within the area, *market share* or the part of expenditure retained within the catchment and *trade draw* or expenditure by persons from outside the catchment shopping within the catchment. Table 4.2 gives projected turnover within the catchment in the period up to 2024. There is a surplus of potential expenditure within the catchment which can sustain additional floor space. Table 4.4 sets out the distribution of net floor space proposed within the proposed development as convenience 2,744m² and comparison 2,001m². In the scenario where all the houses provided for in the development plan are built and occupied (see table 4.8) and in a high growth scenario there will be a requirement up to the year 2024 of 5,486m² net convenience retail floor space capacity and 4,032m² net comparison retail floor space capacity. Therefore, it may be concluded that there is capacity within the catchment to accommodate the proposed development.

- 7.8. The sequential test may be applied to the proposed development. There were seven sites identified as potentially suitable for the proposed form of development and table 6.1 sets out a summary of the findings in relation to their suitability. The chosen application site is the most suitable on grounds of zoning, location, viability and availability.
- 7.9. Thomas Jennings for the applicant stated that the masterplan and subsequent application envisages a user hierarchy with pedestrians at the top followed by cyclists, public transport, local residents' traffic, local business service traffic, other village destination traffic and non-essential village centre vehicular traffic. In terms of traffic safety there are three links through the proposed development to the development to the north of the site. The introduction of a one-way system on Norseman's Walk and traffic calming measures will discourage non-local traffic from the area. The internal road system encourages commercial traffic generated by the proposed development to access it over Station Road. The geographical scope of the TTA is sufficient to assess the proposed development. The proposed development has been designed in accordance with DMURS. Adequate car parking is being provided.
- 7.10. The hearing broke between 1.00pm and 2.pm.

- 7.11. Patricia Cadogan for Fingal County Council stated that the planning authority had sought additional information in relation to quantum of retail space, archaeology, visual impact/design, phasing, landscaping and access/traffic and were satisfied on these issues. The Regional Planning Guidelines for the Greater Dublin Area 2010 to 2022 designate Lusk as a moderate sustainable growth town. While the Fingal Country Development Plan 2011-2017 designated Lusk as moderate sustainable growth town the planning authority took the view that additional retail space over and above that envisaged by a level 3 designation would be acceptable where a retail impact assessment demonstrated that greater levels of retail space is required. This remains largely unchanged in the 2017-2022 Plan whereby the level 4 centres should generally provide one supermarket and a limited range of supporting shops. The proposed development complies with the County Development plans and with Station Road Masterplan. The design of the proposed development evolved from discussion with the planning authority having particular regard to the historic character of Lusk and views of St MacCullins church and the submitted additional information contributed to improved design. An appropriate mix of apartments and houses has been provided for. Open space provision is adequate and private open space in all the residential units meet the standards. Phasing has been addressed by condition 2 imposed in the grant of permission. Traffic issues were considered by the planning authority and considered satisfactory. The retail uses comply with the town centre zoning of the proposed development.
- 7.12. Dr Tony Quinn of Braniff Associates on behalf of Robert Casey/Supervalu Lusk made the point that the submitted RIA over-estimates the population growth in the catchment in the period 2011 to 2016 as being 31.6% against an actual growth of 9.2%. In contrast to the applicant's case that household size is declining thereby giving rise to a larger number of household budgets to be spent actual household size is increasing. Housing development should be encouraged rather than saturating the areas with retail space. In response to the appeals the application has been reverse engineered to provide a rationale for the proposed quantum of retail space. The RIA is deficient in that existing petrol station retailing has not been factored into it. The applicant and the planning authority are unclear as to the status of Lusk as a level 3 or level 4 town. The planning authority requested a larger element of residential development and the applicant ignored this request.

- 7.13. Lusk Community Council set out development plan policy in relation to the site and made the point that the planning authority seeks high quality design reflective of the historic context of Lusk.
- 7.14. Lusk Community Sports 2020 stated that open space was not being transferred to the County Council in a manner to meet the needs of the community, that open space within the development is inadequate, the compliance conditions prevent meaningful public involvement in the planning process. A safe, high quality pedestrian/cycle way should link Station Road to the bypass. Increasing population in the area requires additional recreational and community facilities. The applicant has a history of delaying the provision of public open space associated with housing development. Lusk Community Sports submitted additional material (submission from Anne Sheridan/Angela Rogers) which makes the point that the TRICS data used in the TTA is unreliable because it does not follow the methodology set out in the package. The sites chosen for comparison in the TTA are inappropriate.
- 7.15. Thomas Jennings for the applicant commented on the Anne Sheridan/Angela Rogers submission and stated that TRICS methodology is not entirely applicable because the landuse matrix used did not reflect the reality in Lusk, that comparisons with a site in London and another in Fingal were inappropriate and the output data was altered. Mr Jennings for the applicant responded to these points and stated that while some technical points in the TTA were incorrect overall the TTA was robust.
- 7.16. The planning authority was asked if it was satisfied with the trip calculations offered in the TTA. Mr S. McGrath of the planning authority's transport planning department made the point that traffic modelling is not precise and not always directly applicable to each situation. There were two rules of thumb when predicting trip generation and these are that (a) each house or apartment would generate 0.5 trips in the morning and evening peak hours and (b) commercial car parking (retail/office) that 50% of the spaces turnover in the AM and PM periods. The traffic impact assessment is sound in its projected figures. Furthermore, the application fully reflects DMURS through its prioritisation of pedestrians and cyclists, slowing traffic by design, and permeability; these are the critical foundations of DMURS.
- 7.17. Brian Arnold Lusk Community Council asked why open space was calculated without reference to the commercial development. Mr Crowe for the applicant stated that

open space is required at 25m² per person in relation to residential development and the proposal meets this requirement. Brian Arnold Lusk Community Council asked the applicant if the quantum of retail/takeaway food provision was excessive in the context of a level 4 town in the County Development Plan. The applicant replied that there were slight differences in designation between the Retail Planning Guidelines, the Regional Planning Guidelines and the County Development Plan but the applicant's assessment supported by the planning authority is that the proposed development complies with planning policy for the area.

- 7.18. Dr Tony Quinn of Braniff Associates on behalf of Robert Casey/Supervalu Lusk asked the applicant why they did not provide a phasing plan. The applicant stated that a phasing plan was incorporated in the applicant's submission to the oral hearing and the proposal will be built out within the 5-year permission. Dr Tony Quinn asked if the county architect/conservation officer was requested to attend the hearing. The planning authority stated that submissions are on file from these officers. Dr Tony Quinn stated that the applicant had not presented amendments to the proposal in accordance with the further information requests. The planning authority stated that it was satisfied with the further information response.
- 7.19. Mark McCann made a closing statement that the open space should be provided in tandem with population growth and that open space promised by the applicant was still not available to schools and sporting organisations. Brian Arnold in his closing statement made the points that; this site is strategically important for Lusk, the proposed development is excessive in scale and does not reflect the historic context of Lusk. The treatment of Station Road is poor. The request for additional information was not responded properly by the applicant. The 'discount food store' is not a landmark building. Dr Tony Quinn of Braniff Associates on behalf of Robert Casey/Supervalu Lusk in a closing submission stated that the level of retail floor space is grossly excessive and remains unjustified. A phasing strategy has not been submitted. The planning authority made a closing statement stating that the proposed development complies with development plan policy.
- 7.20. The hearing closed.

7.21. Environmental Impact Assessment

7.22. The planning authority took the view that the proposed development does not require an EIA. This view is supported by the applicant. The relevant provision is Class 10 in Part II of Schedule 5 of the Planning and Development Regulations 2001, as amended. This class states that an EIS is required for “urban development which would involve an area greater than 2ha in the case of a business district, 10 hectares in the case of other parts of a built up area and 20 hectares elsewhere”. A business district is defined as an area where the predominant land use is retail or commercial.

7.23. The site is 7.2ha and the planning authority concluded that the proposed development is not a ‘business district’ since the predominant land use is not retail or commercial. The site is not in commercial/business use, has residential uses to the north and south with undeveloped agricultural land to the east on the other side of the R127/ring road. I agree that the site is not a business district and I conclude that the proposal is not subject to EIA.

7.24. Planning Assessment

7.25. Planning Policy

7.26. The current county development plan for the area is the Fingal County Development Plan 2017 to 2023. The application site is zoned “TC - town and district centre” with the zoning objective ‘to build on the accessibility, vitality and viability of the existing urban centres and to 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’.

7.27. The site had two zoning designations in the Lusk LAP 2009; a town centre zoning and a residential zoning. The objective LP19 in the LAP sought “to secure the development of a vibrant mixed-use village quarter north of Station Road from the proposed civic square to the eastern approach roundabout, to include a substantial retail element mainly on the western section zoned SC, and appropriate parking provision for the various uses proposed, in accordance with a Masterplan to be approved by the planning authority in advance of any development”.

7.28. This zoning has now been overtaken by the new County Development Plan zoning but the current Development Plan retains an objective (Lusk 11) which requires the implementation of the Station Road Masterplan and the zoning map retains a local objective MC6 which refers to the implementation the Masterplan. Therefore, development of the site should have regard to the Masterplan. Having regard to the zoning provisions of the current County Development Plan and the site specific objective MP 6C in relation to the implementation of the Masterplan I conclude that the proposed development complies with the zoning objectives of the County Development Plan.

7.29. **Retail Policy**

7.30. The appeals make the case that the proposed development makes excessive provision for retail space and this will make other retailers unviable.

7.31. The Regional Planning Guidelines for The Greater Dublin Area (RPGs) at Table 8 establishes a settlement hierarchy which designates Lusk as a “moderate sustainable growth town”. The guidelines recommend that in the future “moderate sustainable growth towns” in the hinterland area develop in a self-sufficient manner in the longer term and that the continued basis for growth is that they do not become dormitory towns. These towns should provide a full range of local services adequate to meet local needs at district level and for the surrounding rural areas, but not attract long distance travel patterns. Population growth should be in tandem with community facilities particularly in relation to schools and leisure facilities, key sites be identified that are fully serviceable and available for encouragement of economic investment opportunities. Phasing of housing lands should be sustainable, clearly

linked to natural increase, and do not create significant increases in long distance commuting patterns.

- 7.32. The recently adopted Fingal County Development Plan 2017 to 2023 closely reflects the RPG and includes Lusk as a 'moderate sustainable growth town' and table 2.8 lists the available residentially zoned lands for this category of town and the area zoned within Lusk at 45ha is comparable to other similarity categorised town such as Rush (58ha) and Skerries (43ha). I conclude therefore that the development potential of Lusk as identified in the RPGs is properly reflected in the settlement strategy set out in the current County Development Plan.
- 7.33. The Development Plan at Table 6.1 establishes a retail hierarchy for the county. Lusk is designated as a Level 4 Small Town/Village centre in this hierarchy and the plan states that "level 4 centres should generally provide for one supermarket ranging in size from 1,000-2,500m² with a limited range of supporting shops (low order comparison), supporting services, community facilities or health clinics grouped together create a focus for the local population. This level of centre should meet the everyday needs of the local population and surrounding catchment'. The retail planning guidelines defines a supermarket as having a net retail floor area as 2500m² whereas the proposed development provides a supermarket with a net retail floor area of 2,779m². I do not consider that the additional 279m² of retail floor space materially contravenes the provisions of the County Development Plan in relation to the size of supermarket acceptable in level 4 centres nor does it fundamentally undermine the advice set out in the Retail Planning Guidelines. It may be noted, furthermore, that the County Development Plan has left a certain margin of judgement to be applied in that the advice is that the cap on retail space should be 'generally' applied. It is open to the Board to reduce the scale of the supermarket by way of condition but having regard to factors such as the relatively small scale of retail floor space available in Lusk at present, the additional housing proposed in this application and the projected population growth within the catchment and wider area I do not recommend such a reduction by condition.
- 7.34. The appeals emphasised perceived flaws in the RIA submitted with the application particularly in relation to population growth projections, likely spend within the catchment and omission of existing retail uses from the floor space calculations - including several petrol filling stations within the catchment which have not been

factored into the RIA. The planning authority sought additional justification for the size of the proposed development in its request for additional information (point 1 of the FI request).

- 7.35. These issues are set out in written submissions and were discussed in the course of the oral hearing as summarised above. In my view the more important factors when considering the retail impacts on other centres and other individual retail uses are compliance with the policy and objectives of the development plan and compliance with the sequential approach. In the present case the application site has been designated for retail and associated town centre uses over at least two Development Plan cycles and the application complies with the retail strategy set out in the current plan and with the zoning objective mapped in the current plan. Additionally, the application site meets the sequential test; it is a large site contiguous to the village centre and is confined within the R127 ring road. The Retail Planning Guidelines make the point (paragraph 4.4) that where it is demonstrated to the satisfaction of the planning authority that an application for retail development complies with the policies and objectives of the development plan and/or relevant retail strategy additional supporting studies, including retail impact studies, are not required.
- 7.36. The 'discount food store' has a net retail area of 1,296m² and is located on the junction of Station Road and the R127/roundabout. This building is referred to only as a 'local landmark building' in the Masterplan and it is not clear that the Masterplan envisaged a further major retail use sited here and additional to the 'large retail store' illustrated on figure 3.0 of the Masterplan. However, the current County Development Plan in the section devoted to Lusk includes a reference to the masterplan and that the planning authority will "consider a smaller retail anchor at the eastern end of the masterplan area...". The applicant states that the proposed floor area is justified by population and spending capacity in the catchment set out in the retail impact statement augmented by the further submissions – especially that set out in the oral hearing. The appellants contrariwise state that excessive retail floor space is being proposed. The planning authority did not address this building specifically in its decision order.
- 7.37. Discount food stores are features of edge of town sites and the population in the catchment of Lusk is growing and projected to grow further, notwithstanding disagreement as to the strength of that growth. The location of the discount food

store will facilitate a certain amount of car dependent trips but there is also a substantial number of existing and proposed housing units within walking distance. The hierarchy refers to level 4 towns as “generally” providing a single supermarket which provides some space when considering additional retail units. I set out a draft condition below requiring agreement on a phasing programme for the site development which will allow some flexibility as to the timing of construction. On balance I do not recommend omitting the ‘discount food store’ by way of condition.

7.38. The appeal makes a further point in relation to the proximity of the drive through to schools and the potential for the encouragement of unhealthy eating patterns. The Local Area Plans Guidelines for Planning Authorities (DoECLG 2013) (paragraph 5.2) make the point that planning authorities may include an objective in LAPs in relation to reducing the exposure of children to unhealthy foods. The planning authority has not adopted a LAP in relation to Lusk including such an objective. However, there is an objective in the Development Plan (objective DMS108) to “give careful consideration to the appropriateness and location of fast food outlets in the vicinity of schools so as to protect the health and wellbeing of school-going children”. The applicant makes the case that the Lusk/Rush educate together school is in excess of 500m away and that the drive through will not impact on the school going children. Having regard to the foregoing, the zoning of the site for town centre activities and the location of the Lusk/Rush educate together on the outside of the R127 ring road I consider that the drive through restaurant is acceptable.

7.39. **Urban Design**

7.40. The appeal makes the point that the urban design quality of the proposed development is poor and that the development is too high when compared to the established pattern or low rise development in Lusk.

7.41. The proposed layout of the residential and retail/commercial blocks is well flagged in the Masterplan. The Masterplan states (see figure 1.1) that north of Station Road “a mixed use development shall take place around shared surface streets and courtyards that are interlinked along an axis focussed on the former St MacCullins Church and Round Tower and integrated into the proposed new civic Square”. I conclude that the overall layout reflects the Masterrplan layout and that the aim of a

more informal, less rigid layout reflects the medieval development pattern pertaining within the village core.

- 7.42. The planning authority in its request for further information sought additional visual assessment of the proposed development (point 2 of the FI request reflected the queries in the Architects Department/conservation officers report dated 27th January 2016). The applicant responded with 3d model images illustrating the views from the locations required by the planning authority. The applicant states that minor amendments were proposed to blocks 4 and 5a. The issue of views from within the site towards St MacCullins Church and Round Tower was raised and discussed at the oral hearing and the applicant made the point that straight or uninterrupted lines of sight from within the application site towards the church and round tower are not the most interesting method, in urban design terms, of integrating the proposed development into the village centre. I consider that this is a reasonable point and the final layout submitted on 4th November 2016 appears to allow for a variety of vistas in keeping with the vision set out in the Masterplan. Additionally, it may be noted that the existing 'supervalu' supermarket, pharmacy and adjoining development located on the western edge of the application site will impact somewhat on views from within the application site towards the village centre.
- 7.43. Lusk is a low rise village and predominantly one and two storeys although there are examples of three storey apartment buildings along Norseman's Walk. The planning authority in the further information request (point 5) sought amendments to blocks 2, 3 and 5 from three storeys to two storeys. The applicant responded that block 2 is already two storey and need not be amended. Furthermore, the applicant makes the point that the LAP provides that "new buildings shall not exceed 2 or 3 storeys in height" and that blocks 3 and 5 are acceptable. Point 5(b) of the further information request required a common building line along Station Road for Block 3 and Block 5. The additional information response (see 10004 P 03 Rev A 4th November 2016) moved the gable of block 5 north to align with block 3. House G45 was set back to meet the planning authority's requirement in additional information point 5 (b). The realignment of block 3 (numbers 46-48 – it appears the further information request miss-numbered these houses) would contravene the masterplan as it would undermine the 'character area' objective for the application site. There will be a common building line along Block 3, block 5A and houses 95 to 99.

- 7.44. Having regard to the planning authority's further information request at point 5 (a) and (b) and the applicant's response I conclude that the amendments to the building line proposed as further information represent improvements to the original application and are acceptable. Furthermore, given the width of Station Road, its urban design function as the major link between the R127 and the village core, the two storey housing in the Orlynn Park and The Close developments I consider that there is no objection to three storey buildings where they occur on Station Road. It is noteworthy that these matters were not subject to additional conditions in the planning authority's decision to grant permission.
- 7.45. Point 5(c) of the further information request sought the removal of projecting bays on houses 95-99 on Station Road. The applicant submitted a revised drawing giving effect to this requirement. Point 5(d) sought revisions to the solid/void ratios in blocks 3 and 5 and omission of intrusions by windows into the eaves. The applicant lodged these amendments. Point 5(e) sought details of signage; the applicant made the point that this is better left to a compliance condition – I agree with this point and attach a draft condition providing for same below. Point 5(f) sought details of materials and finishes for the proposed development; the applicant submitted additional drawings providing for these. Point 5(g) sought details of boundary walls were visible from the public realm; the applicant made the point that these were included in landscaping drawings included in the application. Point 5(h) sought confirmation that the layout reflected the burgage plots; the applicant responded that the application reflects figure 3.2 of the masterplan which in turn reflects the burgage plots. Point 5(i) of the request for additional information stated that the gate lodge beside block 5A lacks amenity. The applicant responded that this residential unit has been revised and private open space in the form of a terrace over the car port has been provided. Point 5(j) expressed disaffection with the location of the block 4 (the anchor retail store) in the centre of the site. The applicant countered that this replicated the provisions of the masterplan, allowed most of the parking to be hidden from the public realm and preserved the finer grain which characterises the village. Point 5(k) required mitigation of overlooking of the rear of houses in block 5. The applicant responded that separation distance between the terraces in block 5 and the houses onto Station Road is between 28 and 33m and that the provision of screen planting would address this issue. Point 5(l) points to the poor arrangement of

space at the eastern end of the site and that the restaurant and play area are surrounded by roads. The applicant responded that this open space is bordered by pavement and tree lined walkway, not roads. The final point, point 5(m) stated that the proposed development should be high quality in terms of urban design. The applicant responded that the application provided such a high quality environment.

- 7.46. I consider that some of the points raised by the planning authority were reasonable and have been addressed by the applicant in a manner which has improved the proposed development. I agree with the applicant that the anchor supermarket is best placed on the centre of the site as this reflects the masterplan layout and the removes the proposed large block away from the finer grain of the traditional village core. Overall I consider that the application is acceptable in terms of the standard of urban design.
- 7.47. The planning authority raised the issue of the design of the discount retail building in the request for further information (see point 15) and made the point that it did not provide a strong streetscape feature as required by the Masterpan. The appellants in the course of the oral hearing made the point that the amendments to the discount retail building did not sufficiently improve this element of the proposal.
- 7.48. The revised drawing 1004-P-BLOCK 6-04 Rev A submitted on the 4th November 2016 illustrates the discount food store. It has a maximum height of 9.4m. The masterplan was not prescriptive in relation to building height at this eastern end of the application site. The HSE nursing home opposite the discount retail building is single storey with a somewhat similar roof profile while the housing in Orlynn Park and The Close developments is two storey. Having regard to these factors I do not recommend refusal on this point.
- 7.49. **Phasing**
- 7.50. The appellants make the point that the application is deficient in not addressing the phasing of the build out of the proposed development. This issue was raised by the planning authority in the request for further information (see point 3) and the applicant's response set out a phasing scheme. This matter is the subject to the

planning authority's condition number 2. The matter was raised further at the oral hearing.

7.51. Having regard to the material lodged in connection with the application and appeal, to the advice of the Development Management Guidelines for Planning Authorities and subject to a condition requiring the agreement with the planning authority of a detailed phasing plan I conclude that the proposed development is acceptable on this point. I attach a draft condition 19 in relation to this matter below.

7.52. **Traffic**

7.53. The appeal makes the point that the traffic and transport assessment TTA is inadequate and the proposed development will give rise to traffic hazard particularly on Norseman's Walk, Raheny Close, Joyce Road.

7.54. The main access to the proposed site is Station Road which links Lusk village centre to the R127 ring road. The application originally provided for four access points from the site onto Station Road and a further three points to the north at Scholars Walk, Joyce's Road and Norseman's Walk. The TTA based its assumptions on 283 residential car parking spaces and 452 commercial car parking spaces within the proposed development. Table 5.2 estimates the trip generation capacity of the various uses proposed and predicts about 445 in/out vehicular movements in the AM and 658 in/out movements in the PM. The capacity of all four junctions onto Station Road are analysed for a period up to 2034 and are found to operate within capacity or have reserve capacity. The planning authority had no principled objections to the proposed arrangements for the main access to the site from Station Road and having reviewed the TTA broadly agreed with its conclusions.

7.55. A number of technical flaws in the methodology underpinning the TTA were set out at the oral hearing. In summary these were that landuse matrix for assessment of trip generation adopted by the applicant was inappropriate. The applicant responded that the site is unique since it adjoins both rural/undeveloped land and a village centre in a context where a standard matrix is a poor fit. Nonetheless all landuses within the study area were factored in for trip generation rates with the exception of rural sites

which were deemed to have no trip generation value. The appellant makes that case that the London site under in the TTA is not appropriate and the applicant agreed that a London site was not appropriate but this would not have impacted on the overall assessment of the junction capacity set out in the TTA. The appellant makes the point that the TRICS modelling comparison between the subject application and a previous application (PL06F.247458) is not comparable and the applicant made that point that it only looks different because in the previous case an earlier version of TRICS was used (version 7.11) whereas in the present case a more up-to-date-model TRICS 7.22 is used. Finally, the appellant makes the case that output data has been altered from that shown in the appendix to the TTA to the body of the text and the applicant stated that this occurs where whole hour values are extrapolated from the raw data and traffic counts averaged out accordingly.

7.56. The planning authority raised as further information the issue of rights of access over Saddlers Place, Scholars Walk, Joyce Road and Norseman's Walk which have not been taken in charge. The applicant by way of a response to the further information request confirmed that he has sufficient interest in these roads to carry out the proposed development and the planning authority accepted this. The planning authority sought clarification that roads/street would be a maximum of 5.5m wide and that junction radii would be comply with DMURS. The applicant confirmed that this would be the case.

7.57. A number of roads related issues in relation to the proposed development are noteworthy. Firstly, the final version of the junction of Loughcommon Lane with Station Road was raised by the planning authority (see point 17(e) in the further information request). The reconfigured junction is shown on drawing 092089-2201 received by the planning authority 4th November 2016 (there is a typographical error in the applicant's response to the further information which incorrectly states that it is shown on site layout drawing number 1004 P 03 Rev A). Secondly the exact configuration of the footpath and cycle path along Station Road was addressed by the planning authority in the request for further information (see point 17p) but the transport section reported on the further information submission that it remained unclear if the footpaths and cycle paths on Station Road could be accommodated without further amendment (see condition 15 of the decision to grant). It would have been preferable had this issue been resolved at application stage but I consider that

a condition generally reflective the planning authority's condition 15 is appropriate and will allow resolution of the matter. Draft condition 8 below refers to a cycleway along Station Road.

7.58. Station Road has a speed limit of 50kms which may be reduced to 30kms and already provides access to a number of residential estates, sports facilities and commercial uses as well as the village centre. Both the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and the Design Manual for Urban Roads and Streets supports the concept to vehicular, pedestrian and cycle permeability through developments and this principle has been applied in the present case. I agree with the planning authority that the internal layout of streets and ease of access to Station Road combined with traffic calming on the northern edge will act as a disincentive to access the development through the housing to the north of the proposed development. It may be noted that the planning authority's transport planning section raised issue of concern as a further information request, commented on the information submitted and made a submission at the oral hearing which was very supportive of the proposed development.

7.59. The appeals make the point that that the proposed development will exacerbate traffic and access problems, particularly on Norseman's Walk. Although Norseman's Walk is relatively narrow it is not meant to be a distributor road the application includes traffic calming measures along the access points on the northern edge of the site which will discourage higher speeds. The application envisages, and this appears reasonable, that the majority of vehicular traffic will access the development from Station Road – not through the residential, development to the north. I conclude, therefore, that the proposed development is acceptable in terms of traffic safety and convenience.

7.60. **Parking**

7.61. The parking standards for the site are set out in table TO3A and TO3B in the County Development Plan 2011-2017 and these were used to calculate a residential provision of 283 spaces and 452 commercial spaces. With relatively minor caveats the planning authority was satisfied with this provision. Table 12.8 of the current plan sets out the standards now applicable and there is no material difference in the quantum of spaces required.

- 7.62. The planning authority requested that parking for housing units 39 to 42 and 12 ,13 and 14 be provided within the curtilage of the proposed development. The amended further information (see site layout 1004 P 03 rev. A) provided for the incorporation of parking into curtilages (see original site layout 1004 P 03). The planning authority required (see further information request point 17(b)) that commercial parking for the café/bar/restaurant uses would be available at night time as well as daytime and that there be disabled parking. The applicant clarified that these spaces are open (not locked/undercroft) and available round the clock and that revisions have been made to provide 5 disabled spaces accessible round the clock. The planning authority's traffic and transport section reviewed the further information as was satisfied.
- 7.63. Having regard to the development plan provisions in relation to parking provision, the amendments submitted by way of further information and reports on file I consider that parking space provision within the development is adequate.

7.64. Landscaping

- 7.65. The appeal makes the point that the application does not properly address the issue of tree protection.
- 7.66. The County Development Plan (objective NH27) seeks to protect existing woodlands, trees and hedgerows which are of amenity or bio-diversity value and/or contribute to landscape character and ensure that proper provision is made for their protection and management. The planning authority was initially dissatisfied with the landscaping aspect of the application and requested submission of an Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement. In response the applicant took the views that much of the information had already been submitted and listed (see point 8 in the Conroy Crowe Kelly response to FI request) the trees (13 trees) to be retained.
- 7.67. It is the case that the information concerning tree protection could have been more clearly presented however having conducted a site inspection I consider that there is only a small number of trees which require special protection and these are shown on drawing 1004 P03 Rev A (submitted to the planning authority 4th November 2016). These trees are to the rear of 38 Mews Court, beside number 42 Burgage Court, between numbers 99 and 98 and Station Road and between 95 and Station

Road. I attach a draft condition number 6 providing for their retention and protection during construction works.

7.68. Open Space

7.69. The appeal makes the case that open space provision in the proposed development is inadequate, that larger tracts of open space are necessary to meet the requirements of schools, sporting clubs and a growing population.

7.70. The County Development Plan 2011 to 2017 included an objective (OS02) to “require a minimum public open space provision of 2.5 hectares per 1,000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms”. This objective is repeated verbatim as objective PM52 in the current county development plan. The County Development Plan distinguishes between Class 1 open space and class 2 open space and relates this to the financial contributions which would be applicable; in accordance with Table 12.5 Class 1 open space essentially comprises larger parcels of open space in the form of public parks and playing fields. Class 2 open space comprises smaller facilities, pocket parks, and kick around areas. The applicant makes the point that only Class 2 open space is being proposed in the town centre area comprising the application site and that Class 1 space is being provided on the other side of the R127 right road contiguous to the Rush/Lusk Educate Together school.

7.71. The planning authority raised a number of queries in the request for additional information in relation to the issue of adequacy of open space provision. They stated that the open space in the north eastern corner (this should refer to north-western corner immediately south of Blackraven Court/Lusk village) had already been allotted to a previously permitted development, that there is a significant shortfall in class 2 open space, that only 10% of open space can be given over to SUDS and that much of the 0.7688ha open space being provided is hard surfacing which is not acceptable.

- 7.72. The applicant responded that the revised layout provided on Site Layout 1004 P03 Rev A submitted on the 4th November 2016 provided additional open space at Scholars Square (425m²) and Rathmore Green (54m²) for a total of 600m² at Scholars Square and 523m² at Rathmore Green and that there are no SUDS related works within the open space areas. The open space in the north-western corner is not included in the calculations and the Masterplan allowed up to 60% of the open space to be hard surfaced. In the course of the oral hearing the applicant presented calculations which he stated demonstrated that the proposed development application meets the minimum open space requirements. The planning authority's decision to grant effectively rejected the contention that sufficient open space had been provided and omitted by condition 2 omitted 6 houses on Scholars Court.
- 7.73. The Masterplan recognised that class 1 open space would be provided to the east of Lusk, outside the R127 ring road on lands adjoining Lusk educate together school and this is provided for drawing number 1004 P 06 submitted with the application. The appellants expressed dissatisfaction with the moves to provide class 1 open space in the form of playing fields and larger tracts in the course of the oral hearing.
- 7.74. The proposed development is located on lands zoned for town and district centre where residential development is a permitted use and in relation to which the zoning objective is to build on the accessibility, vitality and viability of the existing urban centres and to develop and consolidate these centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses. I do not consider that there is a compelling case to further reduce the residential density on the site by omitting 6 of 124 houses. This is a new urban quarter adjoining a village centre and extending that centre east is an objective of the County Development Plan. I conclude that the open space in this town/district centre development comprising a mix of hard and soft landscaping and pedestrian areas which are well overlooked by adjoining commercial and residential uses meets the qualitative and quantitative standards of the County Development plan and is acceptable.
- 7.75. The planning authority expressed concern (see additional information point 6(a)) in relation to the quality of the playground area between the drive through restaurant and block 5B. The applicant responded that this playground is designed to integrate with the surrounding civic spaces onto which the commercial uses open: it should not be viewed as class 1 open space (that is larger open space like football pitches).

I agree with the applicant on this point and attach a draft condition below requiring details of the treatment of this space to satisfy the requirements of the planning authority (this is covered in draft condition 6 below)

7.76. Residential Amenity

- 7.77. The planning authority expressed concern – see point 6(b) of the additional information request - in relation to the original civic space at Scholars Square (see the area immediately to the west of the anchor supermarket on the original layout drawing number 1004 P03). The applicant amended the layout (see the amended layout on drawing number 1004 P03 Rev A) which enlarged this area substantially and better integrated it into the main east/west pedestrian street through the application site.
- 7.78. The planning authority expressed concern – see point 6(d) of the additional information request - in relation to the buffer between the houses in block 6 and the car parking immediately to the east of block 4/the main anchor supermarket. The revised layout on drawing number 1004 P03 Rev A provided a widened landscaped buffer along Loughcommon Lane to mitigate this proximity of car parking to houses. The planning authority raised the issue (point 7 of the additional information request) of the proximity of the residential units in blocks 7 A and 7B to the service/parking area of block 4/the anchor supermarket. The applicant has amended the internal layout of the apartments to face them away from the service area, the establishment of a continuous planted strip along the boundary between the supermarket and the residential blocks and the provision of a noise reducing baffle screen along the delivery yard perimeter.
- 7.79. The planning authority (see point 9a of the further information request) makes the point that deck access to a number of apartment units is unacceptable and (see point 9b of the further information request) a number of units do not provide adequate private amenity space. I have reviewed drawings numbers 1004-P- BLOCK 3-01, Rev A, 1004-P- BLOCK 3-02 Rev A, 1004-P- BLOCK 3-03 Rev A and 1004-P- BLOCK 3-04 Rev A and I consider that the deck access arrangements are acceptable. Furthermore, the private open space provision by way of terraces meets the qualitative standards set out in Design Standards for New Apartments (paragraph 3.24 and following) and the quantitative standards set out in the appendix

to the guidelines. The further information amended the rear gardens of houses 34 and 35 as required by point 10 of the further information request.

7.80. Point 14 of the further information request sought a revision to the gym exit onto a deck access for Block 4 (apartments) this was omitted in drawing 1004-P- BLOCK 4-02 Rev A and replaced by a fire escape stairway. Finally, in relation to residential standards that planning authority sought revisions to Block 4 to include residential units. The applicant submitted revised elevations (see 1004-P- BLOCK 4-04 Rev A) but argued that residential use at ground floor is inappropriate onto this main commercial street within the development. I agree with the applicant on this point.

7.81. Having regard to the foregoing I conclude that the proposed development is acceptable in terms of residential amenity of the proposed units.

7.82. **Archaeology**

7.83. The appeals make the point that the archaeological potential of the site has not been properly assessed. The Department of Arts, Heritage and the Gaeltacht made a submission to the planning authority at application stage and sought to have an archaeological assessment of the site carried out. This was raised with the applicant at point 4 of the request for further information. The applicant responded that the site was part of an archaeological impact assessment undertaken in preparation of the Masterplan. In this context the “Archaeological & Architectural Assessment” prepared by Irish Archaeological Consultancy Ltd and submitted to the planning authority on 4th November 2016 is noteworthy. This report makes the point that the eastern element of the site is within a zone of archaeological potential and that this report informed the Masterplan which zoned the site for development. The Department of Arts, Heritage and the Gaeltacht reviewed that report and made a further submission to the planning authority recommending the employment of a suitably qualified archaeologist to oversee development works and carry out pre-development testing. The planning authority attached a condition (condition 14) requiring monitoring of the construction phase.

7.84. Having regard to the reports on file and, in particular, the submissions from the Department of Arts, Heritage and the Gaeltacht I conclude that the archaeological

impacts of the proposed development have been properly considered and I attach a draft condition number 15 requiring archaeological monitoring below.

7.85. **Appropriate Assessment**

7.86. The AA screening report submitted with the application identifies 7 European Sites within 10k of the application site. These are Rogerstown Estuary SPA (0004015), Rogerstown Estuary SAC (000208), Broadmeadow/Swords Estuary SPA (0004025), Malahide Estuary SPA (000205), Lambay Island SPA (0004049) and SCA (0000204) and Skerries Islands SPA (0004122). The Screening Report excludes from further consideration Lambay Island SPA (0004049) and SCA (0000204) and Skerries Islands SPA (0004122) there is no possible impact on these islands arising from the proposed development at Lusk. Furthermore, Broadmeadow/Swords Estuary SPA (0004025), Malahide Estuary SPA (000205) are excluded as these are located 5k south of the application site and there is no hydrological connection between them. Having regard to the nature of the proposed development, the availability of public piped services, the separation distances and absence of hydrological connection between the application site and agree with the application that it is reasonable to exclude the chosen site from further consideration.

7.87. The remaining sites subject to AA screening are Rogerstown Estuary SAC (000208) and Rogerstown SPA (0004015). The qualifying interests within the SAC are;

- Mudflats and sandflats not covered by seawater at low tide
- Salicornia and other annuals colonising mud and sand
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
- Mediterranean salt meadows (*Juncetalia maritimi*)
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)
- Fixed coastal dunes with herbaceous vegetation (grey dunes)*(that is Annex 1 Priority Habitat).

7.88. The NPWS has established specific conservation objectives relating to each of the qualifying interests within the SAC which are, generally, to maintain the habitats and

species within Natura 2000 site at favourable conservation condition which will contribute to the overall maintenance of the favourable conservation status of those habitats and species at a national level.

7.89. The qualifying interests for the SPA are;

- Greylag Goose (*Anser anser*)
- Light-bellied Brent Goose (*Branta bernicla hrota*)
- Shelduck (*Tadorna tadorna*)
- Shoveler (*Anas clypeata*)
- Oystercatcher (*Haematopus ostralegus*)
- Ringed Plover (*Charadrius hiaticula*)
- Grey Plover (*Pluvialis squatarola*)
- Knot (*Calidris canutus*)
- Dunlin (*Calidris alpina*)
- Black-tailed Godwit (*Limosa limosa*)
- Redshank (*Tringa totanus*)
- Wetlands.

7.90. The NPWS has established specific conservation objectives relating to the qualifying interests within the SPA which are, generally, to maintain the habitats and species within the SPA at favourable conservation condition which will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

7.91. The AA screening report identifies surface water run off during the construction phase as a potential likely significant effect because the site is linked hydrologically with the Rogerstown Estuary via the Balleally Stream. Potential contaminants are identified as concrete/cement run off and escaped hydrocarbons. The mitigation measures to be adopted in the construction management plan include sediment control measures including sediment traps, silt fences and sediment control ponds.

Wash water from exposed aggregate surfaces will be held in settlement ponds long enough to attain a neutral pH and all drainage channels will have oil/grit interceptors. Unused concrete will be removed from site. Measures to prevent spillage of fuels /lubricants will be adopted and waste fuels/lubricants will be removed from the site. Foul water from site offices will be removed to a suitable treatment facility or discharged to a septic tank completed to EPA standards.

- 7.92. The AA screening report also identifies operational phase surface water discharge from three distinct sources; the proposed service station, hard standing and parking areas and car wash area. Generally, within the development SUDS will provide for infiltration at near normal rates but in the specific cases where hydrocarbons may arise special features such as separators will prevent hydrocarbon release and in the case of the car wash after running a washdown separator the water will drain to the foul system. These measures and the separation distance of 2kms between the site and the Rogerstown Estuary is considered sufficient to obviate any significant adverse impact.
- 7.93. The AA screening report addresses the potential for long term impact on the bird species for which the SPA has been designated arising from the increased population arising from the proposed new development estimated at 424 people. The report concludes that this additional population will not be material in the context of a combined population of 21,000 between Lusk, Rush, Portrane and Donabate. Finally, the report addresses the in-combination effects of the proposed development and whereas there have changes in the local environment in recent decades such as housing development, coastal defence works, fishing/recreation related activity in the estuary it is not considered that the proposed development will give rise significant impacts on the SAC or the SPA.
- 7.94. Having regard to the location of the site in an urban area where public water supply and foul drainage are available, to the relatively low ecological value of the site as indicated by the recreational and housing uses and spoil deposition on site, to the separation distances between the application site and European sites at Rogerstown Estuary, to the material published by the NWPS in relation to the Rogerstown Estuary SAC (000208) and Rogerstown SPA (0004015), to the material submitted with the application and appeal and especially the AA screening report and the mitigation measures incorporated in the application, which I consider adequate in

order to issue a screening determination it is reasonable to conclude that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on Rogerstown Estuary SAC (000208) and Rogerstown SPA (0004015) in view of the sites' conservation objectives and that a stage 2 Appropriate Assessment is not therefore required.

8.0 Recommendation

8.1. Having regard to the foregoing I recommend a grant of permission for the reasons and consideration and in accordance with the conditions set out below.

8.2. Reasons and Considerations

Having regard;

- to the designation of Lusk as a moderate sustainable growth town in the settlement hierarchy set out in the Regional Planning Guidelines for the Greater Dublin Area 2010 to 2022,
- to the landuse zoning the site as a town and district centre in the Fingal County Development Plan 2017 to 2023,
- to the mix of residential and retail/commercial development proposed,
- to the location of the site close to the village centre and within the R127 Lusk ring road, and,
- to the pattern of development in the area

it is considered that the proposed development would provide an appropriate expansion of retail and town centre services in Lusk, would not seriously injure the amenity of residential property in the vicinity or give rise to traffic hazard and would accord with the County Development Plan and with the proper planning and sustainable development of the area.

9.0 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 lodged with the planning authority on the 4th day of November 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 Loughcommon Court shall be laid out and finished in a manner so as to facilitate connection to the adjoining lands to the east. Detail to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To facilitate permeability in the area in the interests of good urban design.

- 3 Details of the materials, colours and textures of all the external finishes within the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 4 With the exception of the drive through restaurant permitted by this application all dry cleaners, restaurants or takeaways for the sale of hot food for consumption off the premises shall be the subject of separate applications for planning permission.

Reason: In the interests of visual and residential amenity.

- 5 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction

practice for the development, including:

- a. Location of the site and materials compounds including areas identified for the storage of construction refuse;
- b. Location of areas for construction site offices and staff facilities;
- c. Details of site security fencing and hoardings;
- d. Details of on-site car parking facilities for site workers during the course of construction;
- e. Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f. Measures to obviate queuing of construction traffic on the adjoining road network;
- g. Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h. Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i. Provision of parking for existing properties at Norseman's Walk, Joyce's Road, Scholar's Walk and Saddler's Place during the construction period;
- j. Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- k. Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l. Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m. Means to ensure that surface water run-off is controlled such that no

silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

- 6 A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities within residential and/or commercial unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

- 7 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- A plan to scale of not less than [1:500] showing –
- Existing trees and hedgerows specifying which are proposed for retention as features of the site landscaping,
- The measures to be put in place for the protection of these landscape features during the construction period,
- The species, variety, number, size and locations of all proposed trees and shrubs.
- Details of screen planting which shall not include

cupressocyparis x leylandii.

- Details of roadside/street planting.
- Hard landscaping works, specifying surfacing materials, furniture including play equipment and finished levels,
- Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment,
- A timescale for implementation including details of phasing.

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 5 years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, 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 interests of residential and visual amenity

- 8 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

- 9 Provision shall be made for a cycleways within the development and long Station Road. Details of such provision, including construction and demarcation, shall be submitted to, and agreed in writing with, the

planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

- 10 Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house, apartment or retail/commercial unit.

Reason: In the interests of amenity and public safety.

- 11 All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, or by 1.8 metre high timber fences with concrete posts.

Reason: In the interests of residential and visual amenity.

- 12 Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

- 13 Details of all external finishes, signage, access, car parking and boundary treatment for Block 6 shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

- 14 Details of the proposed boundary treatment between Block 4 and Block 7 shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

- 15 No external security shutters shall be erected on any of the commercial

premises unless authorised by a further grant of planning permission.
Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

16 The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

17 (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential

units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

- 18 Water supply and drainage arrangements, including the attenuation and 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.

- 19 The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and access to the anchor store car park shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

- 12 The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

- 21 Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

Reason: In the interests of urban legibility.

22 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.

23 Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

24 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services

required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

- 25 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Hugh Mannion
Senior Planning Inspector

13th June 2017