



An
Bord
Pleanála

Inspector's Report

ABP-304077-19

Development	Construction of restaurant with a drive through collection and service point.
Location	Skerries Point, Barnageeragh Road, Skerries, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F18A/0340
Applicants	Marbleside Ltd
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellants	Irish Heart Foundation Kelly Bay Resident's Association Board of Management of Skerries ETNS The Skerries Community Association CLG Michael and Susan Hodnett Louise O'Reilly TD
Observation	Cllr. Tom O'Leary Senator James O'Reilly
Date of Site Inspection	6 th June 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at Skerries Point, Barnageeragh Road, Skerries, Co Dublin. The site immediately adjoins and is to the north - east of, the Dublin Belfast railway line. Skerries Point Shopping Centre is to the west and the municipal waste water treatment plant is further west. A distributor road (the Townspark distributor road), which extends from the R127 west of the town (Coast Road), to the R127 south of the town (Dublin Road), a distance of almost 2km, separates the site from the large residential area on the opposite side of the road. The site is roughly triangular in shape with the railway line forming the largest boundary; it narrows from its western end, where it runs along the access road to the shopping centre. At its eastern end it merges into the grass verge along the roadside. All the residential lands on the opposite side of the road are served by access roads. There are no dwellings fronting the road and access is limited to the junctions of residential roads, the neighbourhood centre and an access to the WWTP. On this the southern side of the road, because of the railway line running alongside, there is no access/development for a considerable stretch.
- 1.1.2. The site is given as 0.1252 hectares.

2.0 Proposed Development

- 2.1.1. The proposed development comprises construction of a restaurant with a drive through collection and service point.
- 2.1.2. The proposal provides for a double height single-storey café with a stated floor area of 50.119 square metres and a drive-through restaurant totalling 274.114 square metres. It includes a drive-through lane, external yard, bin storage, illuminated signage, external seating, car parking, and ancillary works. Details submitted with the application include a covering letter setting out an overview of the proposal and a transportation assessment.
- 2.1.3. The total floor area is given as 527m².
- 2.1.4. The application is accompanied by:
- A planning statement
 - An urban design statement

- An engineering report.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided (6th March 2019) to grant permission subject to 22 conditions, including:

2) Prior to commencement of development the applicant/developer shall submit to the Planning Authority for its written agreement a revised site layout clearly indicating outdoor seating for a maximum of 15 no. patrons within the paved area directly adjacent to the main entrance to the building hereby permitted. The outdoor seating area shall only be used in conjunction with the restaurant use operated within the building and shall not be used after 2130 hours. Any and all furniture (seating/tables etc.) shall be demountable in nature and shall be removed from this area by 2130 hours.

Reason: In the interests of clarity and to protect the amenity of the area.

8) The following requirements in relation to access and car parking for the proposed development shall be carried out in full;

- (i) The alterations to the existing road layout and lining on Barnageeragh road to provide a right turn pocket shall be implemented at the cost of the applicant/developer and to the satisfaction of the Planning Authority. These alterations shall be implemented in full prior to the operation/opening of the restaurant/drive-through.
- (ii) The 2 no. existing slanted spaces directly south of space No. 65 shall be retained for use as set down spaces. The 4 no. existing slanted spaces further south shall be removed to allow for the disabled space as detailed on Drawing 1730-P-102 received as additional information on the 8th February 2019.

Reason: In the interests of traffic safety.

12) The restaurant / drive-through (including any take-away use) shall not operate outside the hours of 0630-2330 Monday to Sunday including Bank/Public Holidays.

Reason: To protect the amenities of the area.

13) Goods deliveries to the restaurant /drive through shall not be permitted between the hours of 2330 and 0630.

Reason: In the interests of amenities of the area.

18 No music or other amplified sound shall be broadcast externally. Noise emanating from the premises shall be such as not to cause nuisance to the occupants of adjacent properties and users of the public road.

Reason: To protect the amenities of the area.

3.1.2. The decision was in accordance with the planning recommendation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning report on the file.

The first, which recommends a further information request, includes:

- The site is part of the newly developing area to the north-west of Skerries town which entails an extensive mixed use scheme including commercial, office and retail uses (including a fast food take-away) adjacent to extensive residential development. Kelly's Bay and Barnageeragh Cove housing estates are situated to the north and north-west of the subject site. Skerries Educate Together National School is located c 300m to the NW. The recently constructed Barnageeragh Road which connects Kelly's Bay to the Coast Road/ Balbriggan Road (R127) is located to the west.
- There is an indicative cycle / pedestrian route along the road.
- Compliance with zoning objective - Uses permitted.
- Would not lead to a proliferation of take-aways or the loss of retail opportunity - ED54, DMS107.
- The scale and design are considered appropriate.
- The planning history is noted.
- The development will provide for a scale of development commensurate with the catchment it will serve and its setting.
- The closest residence is c 30m to the north, separated by a busy distributor road.

- Intended hours of operation are 0630 am to 1130 pm; considered reasonable.
- Amendments required re overlooking of play areas associated with creche/Montessori to the west.
- Public Health – there is no national guidance in relation to minimum separation distances between schools and fast food outlets. Objective DMS 108 requires that careful consideration is afforded to the appropriateness and location of fast food outlets in the vicinity of schools. Skerries Educate Together National School is located c 300m to the north-east. One would reasonably expect that direct access by pupils of a primary school to the proposal would generally not be permitted in the everyday functioning of the school and that responsibility for access would lie with parents/guardians primarily. The applicant notes the proximity to the Educate Together National School and notes that pupils in primary schools are not permitted to leave during lunch breaks. The Planning Officer notes that the closest secondary school, Skerries Community College, is c 2km from the subject site and on this basis it would not be practical for students to visit during lunch. Having regard to the suitability of the site to accommodate such a use, specifically its LC zoning, under which both restaurant / café and fast food outlet/take away use classes are permitted in principle, the distance to the closest school(s) and the nature of the closest school (a primary school), where the pupils are typically not permitted to leave during lunch break, it is considered that the proposed development accords with Objective DMS 108 of the development plan. Notwithstanding this however, noting the proximity of the subject site to a primary school, c 300m to the north west of the subject site and Objective DMS 108 of the development plan which requires that careful consideration is afforded to the appropriateness and location of fast food outlets in the vicinity of schools, the applicant should be requested to provide a justification for the site selection, including whether consideration has been given to any alternative sites.

3.2.2. Other Technical Reports

3.2.3. Water Services: additional information request:

- The proposed surface water diversion will not eliminate the silting which is currently occurring due to its very small gradient. The requirement for such a large diameter sewer is also questioned. The applicant is requested to liaise with the

Operations Dept and to submit an approved revised surface water sewer diversion accordingly.

- The maximum allowable site discharge shall be 2l/s/ha or Qbar, whichever is the greatest. For the proposed development site of 1300m² this equates to 0.3l/s. The proposed discharge of 2l/s is therefore considered excessive. If due to practical considerations the required rate of 0.3l/s cannot be achieved through the use of a Hydrobrake or similar flow control device, the developer shall, in accordance with item 6.8.2.3 of the GDSDS, 2005, either consider an integrated catchment approach, or alternative SuDS devices with inherent slow release characteristics such as swales, filter drains, permeable pavements, etc.

3.2.4. Planning & Strategic Infrastructure, Transportation Planning Division

- The proposed development is located in a 50km/hr speed limit.
- Parking – the GFA of the proposed development is 527sq m. At a rate of 1 space per 15 sqm for a restaurant/café use, the car parking requirement is 35 spaces. This requirement may be reduced due to the location of the proposed development which being a neighbourhood centre would attract a significant proportion of its clientele from within walking distance. The applicant proposes to provide one disabled parking bay and the existing car park for the Skerries Point development would be used as parking for the proposed development. Given the complementary uses of the existing and proposed development, it is considered acceptable that the existing car park is shared and no additional parking is proposed. The dimensions of the proposed parallel disabled bay do not meet the standards required. The kerb would also need to be tapered at each side of the bay to allow easy access and egress. Consequently, the proposed location for the disabled parking bay may not be suitable.
- The internal layout is generally acceptable. However, pedestrians should have priority at all times when in conflict with motorised traffic. Site plan drawing no. 1730-P-102 indicates that a pedestrian crossing facility would be provided across the existing entrance. However this crossing is not shown on the site plan drawing showing the proposed road layout, drawing no. 3920 -P-111. In order to provide a safe pedestrian route to the proposed development a pedestrian crossing facility, as shown on the site plan drawing no. 1730-P-102, should be provided by the applicant as part of the proposed development. There is a set down area shown east of the proposed restaurant. It is not clear if this area is to be accessed for deliveries or a

set down/ parking area for customers. Details of the access and egress from this area should be agreed prior to commencement of works.

- The right turn pocket and new access into the proposed development is not ideal as it would be preferable to utilise the existing entrance to the Skerries Point. However given the nature of the proposed development, it is acceptable.

- Recommending conditions.

3.2.5. A further information request issued on 13th August 2018 on 7 points, including:

1 objective DMS108 of the Fingal Development Plan 2017-2023 requires that careful consideration is afforded 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. Noting the proximity of the subject site to a primary school c300 metres to the north-west, the applicant is requested to provide a justification for the site selection, including whether consideration has been given to any alternative sites.

2 re foul sewer and surface water discharge.

3 the applicant has not submitted sufficient information in relation to access and parking. Accordingly the applicant is requested to address the following:

(i) Details of the set down area to the east of the restaurant, including details of the vehicles which are intended to access the area and provision of a suitable means of access and egress for vehicles.

(ii) Details of a pedestrian crossing and of an internal pedestrian crossing with a pedestrian friendly ramp (i.e. kerb to kerb).

(iii) The dimensions of the proposed parallel disabled bay do not meet the standards required. The kerb would also need to be tapered at each side of the bay to allow easy access and egress. Consequently, the proposed location for the disabled parking bay may not be suitable. The applicant is requested to submit details of an appropriately sized disabled parking bay and its location, (and advised to contact the Transportation Planning Section, prior to submitting).

4 The applicant is requested to undertake a comprehensive acoustic assessment carried out by a suitably qualified and competent person. The assessment should examine the cumulative operation of plant equipment, air handling units, delivery vehicles etc.

5 The applicant is requested to submit details (a site layout plan) indicating the location and extent of the proposed outdoor seating area. Details of any measures to visually screen this area should also be submitted. Allied to item 4, the use of any outdoor area should be factored into the acoustic assessment.

6 Re the 3D visuals of the signage: not referred to in the notices...

7 The applicant is requested to submit detailed proposals to ameliorate overlooking from the first floor seating/dining area of the play area associated with the child care facility to the west in Skerries Point Shopping Centre.

3.3. Further Information

3.4. A response to the further information request was received on 8th February 2019.

3.4.1. The response, which has attached a separate civil engineering report re items 2 & 3, and a noise impact assessment re item 4, includes:

3.4.2. Re item 1 the response cites the assessment of the issue as set out in the planner's report and agrees with this assessment: that students will not be allowed to leave the primary school during school hours and outside those hours responsibility should fundamentally lie with parents and guardians. The site selection represents the most natural and best option for the development having regard to the positive economic impact it will bring to the local economy within Skerries Point Shopping Centre and that it will contribute to the viability and vitality of the centre, will serve the increase in population projected for the area, boost jobs in proximity to residential areas and ensure sustainability of mobility patterns.

3.4.3. Revised drawing re item 5.

3.4.4. Re item 6, it states that signage at the entrance is not proposed and an amended 3D image is provided.

3.5. Further Reports

3.5.1. The second planning report which recommends permission, includes:

- Re item no 1 the response includes: the subject site is the only remaining site in the vicinity that is suitably zoned, etc. The proposal is not considered to conflict with DMS108 of the Fingal Development Plan 2017-2023.

- Re item no 5 – outdoor seating area – the response refers to drawing no. 1428_300 Rev 3 Landscape Plan, but the area has not been indicated on this

drawing. It is stated that outdoor seating will be temporary. The paved area at the entrance would be the most obvious area for outdoor seating, where it would be screened by a hedge. Condition to be attached. It is not considered that it would result in any significant diminution in the amenity of the adjoining area, will provide a desired level of vibrancy to the area, and enhance amenity.

- Re item no 6 – the signage is acceptable.
- Re item no 7 - overlooking – revised plans have been submitted omitting glazing from the west elevation.

3.5.2. The second Transportation Planning Section report, includes:

- Responses generally acceptable. The proposed disabled parking bay is acceptable.
- The 2 parallel parking spaces, particularly the space to the north, would involve difficult manoeuvres given the close proximity to space 65. There are 6 existing slanted spaces south of space No. 65. The 2 existing slanted spaces to the north should be retained and used as set down spaces. The 4 to the south should be removed to allow for the disabled space as detailed on Drawing 1730-P-102.
- Recommending conditions.

3.5.3. The second Water Services report: no objection.

3.6. **Prescribed Bodies**

3.6.1. Irish Water: records may be outdated. Foul sewer may have been diverted along the Barnageeragh Rd towards the wastewater treatment plant, ie. bypassing Kelly's Bay pumping station. The applicant is requested to liaise with IW to establish the exact route of the foul sewer and to submit an approved revised diversion proposal.

3.6.2. The second Irish Water response post FI – conditions.

3.7. **Third Party Observations**

3.7.1. Observations on the file have been read and noted.

4.0 **Planning History**

F16A/0602 drive through restaurant to the west.

F18A/0257 application withdrawn, for permission for a 527 sqm two storey restaurant with a drive through collection and service point...

F09A/0057 permission granted for alterations to previously approved two storey commercial and community facilities (F03A/0586, F05A/0365, F06A/1703, F08A/0038, F08A/0093, F08A/0498, F08A/0555 F08A/0629, F08A/1033, F08A/1034, F08A/1123), consisting of a two storey restaurant building (818 sq m) on triangular portion of site to the south east of the approved neighbourhood centre and all associated site works including the addition of 11 parking spaces, incorporating previously approved bring centre. Extended to 30 November 2019 (F09A/0057/E1).

F08A/0093 – permission refused for a new two storey restaurant building (1,553 sq m) on triangular portion of site to the south east of the approved neighbourhood centre, for 2 reasons:

- 1) Overdevelopment.
- 2) Would give rise to parking on the distributor road.

and permission granted for two storey commercial and community facilities as extension and alterations, including: to provide 20 additional car parking spaces in the basement car park, provide a disabled toilet, change of use of first floor restaurant, reduction in ground level car parking spaces, etc.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Fingal Development Plan 2017-2023 is the operative plan. Relevant provisions include:

The site is zoned LC to protect provide and or improve local centre facilities.

Vision: Provide a mix of local community and commercial facilities for the existing and developing communities of the County. The aim is to ensure local centres contain a range of community, recreational and retail facilities, including medical/dental surgeries and childcare facilities, at a scale to cater for both existing residential development and zoned undeveloped lands, as appropriate, at locations which minimise the need for use of the private car and encourage pedestrians,

cyclists and the use of public transport. The development will strengthen local retail provision in accordance with the County Retail Strategy.

Objective PM31 - Promote excellent urban design responses to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the Urban Design Manual – A Best Practice Guide (2009).

Objective PM32 - Have regard to the joint Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government's Design Manual for Urban Streets and Roads (DMURS), (2013) and the National Transport Authority's Permeability Best Practice Guide (2015), in the provision of good urban design.

Objective ED54 – prevent over supply of take-away's on main shopping streets.

Objective DMS 107 – strictly control fast food/ take-away outlets.

Objective DMS 108 – consider the appropriateness and location of fast food outlets in the vicinity of schools, to restrict the opening of new fast food/takeaway outlets in close proximity to schools so as to protect the health and wellbeing of school going children.

Objective DMS 03 – design statements for commercial development in excess of 300 sqm outlining compliance with development plan.

Various objectives for Skerries are relevant such as: promote and ensure a safe and convenient road, pedestrian and cycle system highlighting accessibility and connectivity (Skerries 10); promote and facilitate increased permeability and accessibility for those using active travel modes, prams, wheelchairs, personal scooters and other similar modes, (Skerries 11); continue to support the delivery of enhanced recreational, community, social, youth and educational facilities in the area, (Skerries 12).

5.2. Local Area Plans Guidelines for Planning Authorities, Department of the Environment, Community and Local Government, June 2013

These guidelines provide guidance on the preparation and content of local area plans, which includes:

Regardless of the physical or locational context for local area plans, planning also has an important role to play in promoting and facilitating active and healthy living

patterns for local communities. For example, the local area plan can promote active and healthier lifestyles by ensuring that:

- future development prioritises the need for people to be physically active as a routine part of their daily lives;
- pedestrians, cyclists and users of other modes of transport that involve physical activity are given the highest priority in transport and mobility strategies, policies, and objectives;
- public open spaces are located and delivered in a way that ensures they are capable of being easily reached on foot or bicycle by routes that are secure and of a high standard and that take biodiversity issues into account in their design;
- any new workplaces are linked to walking and cycling networks;
- play areas are designed to encourage varied and physically active play; and
- exposure of children to the promotion of foods that are high in fat, salt or sugar is reduced such as the careful consideration of the appropriateness and or location of fast food outlets in the vicinity of schools and parks.

5.3. Natural Heritage Designations

- 5.3.1. The nearest Natura site is Skerries Islands SPA (site Code 004122) which is less than 2.5 km, straight line distance, from the subject site.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Six third party appeals against the planning authority's decision to grant permission have been received from:

- Irish Heart Foundation
- Kelly Bay Resident's Association
- Board of Management of Skerries ETNS
- The Skerries Community Association CLG
- Michael and Susan Hodnett
- Louise O'Reilly TD

6.1.2. The issues raised in the Irish Heart Foundation appeal include:

- Tackling obesity in schools requires a whole of society approach: school health policies, the physical environment, the social environment, school/community relationships, the development of personal health skills and school health services.
- In the short term a poor diet can affect a child's behaviours, concentration, learning ability and mood, as well as causing problems with bone health, breathing difficulties and insulin resistance.
- The modern world makes unhealthy choices the easy default choices: heavy promotion of fast food outlets and high sugar drinks, low cost, and urban design which inhibits physical activity.
- Foods high in fat, sugar and salt (HFSS) are a lead contributing factor to the burgeoning obesity crisis, which has major public health implications.
- Medical experts have warned of an epidemic in childhood obesity, and these children are more at risk of morbid obesity and cardiovascular ill-health in adulthood.
- Figures from W82GO! Weight Management Service at Temple Street Children's University Hospital and from the World Obesity Federation are cited.
- According to the WHO 65% of the diabetes burden, 23% of heart disease and between 7% and 41% of certain cancers are attributable to overweight and obesity. Similarly the risk of coronary heart disease, ischaemic stroke and type 2 diabetes grows steadily with increasing body mass.
- Figures for estimated direct healthcare associated costs are presented.
- Fingal has the youngest population in Ireland and it grew at more than twice that of the state overall. Estimates of premature deaths as a result of childhood overweight are given for Fingal.

- Obesogenic environment – the WHO definition of an obesogenic environment is ‘an environment that promotes high energy intake and sedentary behaviour. This includes the foods that are available, affordable, accessible and promoted; physical activity opportunities; and the social norms in relation to food and physical activity’. Easy access to energy dense foods and sugar sweetened beverages and the tacit encouragement to ‘go large’ through commercial promotions, have contributed to the rising caloric intake in many populations. ‘The promotion of potentially unhealthy food and beverage products is now widely recognised in Europe as a significant risk factor for child obesity and for the development of diet-related noncommunicable diseases’ (WHO); it is necessary to both limit the exposure of children to HFSS food marketing and to reduce the power of such marketing. They are a vulnerable audience.
- Connect, Collaborate, Create Stakeholder Forum on the Built Environment, 2018 is referred to, citing Minister of State Catherine Byrne: ‘under Healthy Ireland, we are committed to creating a healthier environment for all citizens and all communities. The physical environment and community in which we live, work and play can have a big impact on our health and that is why it is so important that we have good quality design, open space, and ease of access in our homes as well our public spaces. Through today’s event, we are engaging and working together to ensure that everyone, young and old, has the opportunity to easily make healthier choices within their own communities. Supporting families, especially children, to have a healthy weight and to gain all of the physical and mental health benefits from being active every day is a priority for me and for Healthy Ireland.’
- No Fry zones – improving the quality of the food environment around schools has the potential to influence children’s food purchasing habits and influence their future diet. Ireland has the third highest increase in fast food transactions per capita 1998-2008. Those countries with more stringent market regulations of the fast food industry had the lowest increase in fast food consumption and body mass index.
- Various policy papers in Ireland, British-Irish and UK in which No Fry zones are recognised as an integral part of reducing the obesogenic environment, are listed. UK local authority responses are referred to, in particular Gateshead and St Helen’s.
- Precedent for refusals for fast food outlets based on their proximity to schools are referenced.

- The pursuit of a healthy and nutritious diet can be hindered by accessibility, awareness, availability and affordability. Although personal and parental responsibility are important, obesogenic environments create dangerously high levels of obesity in the population.
- Schools within the catchment of the site are listed. Not only is the fast food outlet a producer/distributor of HFSS foods, it also has the associated purpose or creating branding and promotion for junk food. It will increase exposure of children, particularly young impressionable children, to the sights and smells of HFSS foods that have been proven to be bad for their health.
- They welcome the commitment to improving public health in the Fingal Development Plan. This must be respected and upheld in decisions.

6.1.3. The issues raised in the appeal on behalf of Kelly's Bay Residents Association by Hughes Planning & Development Consultants include:

- It contravenes the zoning.
- Due regard has not been given to the retail strategy.
- The location is poor and does not fit the scale of the proposed building.
- The entrance to Skerries Point shopping centre has existing traffic issues and hazards and the proposed vehicular entrance and exit will cause further hazard.
- Serious loss of residential amenity by noise, litter and anti-social behaviour.
- The vision for the zoning is to provide for the needs of the area and reduce car dependency, this does not. Retail strategy and ED 54 seek to prevent oversupply of fast food outlets. There are two existing facilities at Skerries Point. This would represent 25% of the floor space, therefore is excessive.
- A further two fast food outlets have opened recently in the vicinity.
- It contravenes objective DMS 108. School locations are shown on map and walking distances, given in tabular form, are less than those stated by the applicant.
- Marketing – advertising is of concern.
- The impact on health is not just the type of food sold and promoted but also creating hazardous conditions which make walking and cycling in the vicinity a dangerous activity.

- It does not achieve safe sightlines. Traffic will not have sufficient sight of the entrance to safely adjust to the hazards of the new junction. There are frequent collisions at the entrance to the centre.
- It will cause congestion on the public road. The filter lane is too narrow to allow traffic to pass. Its addition adds to the existing traffic issues on a bend.
- The drawings are misleading. The road becomes too narrow to readjust road markings to create a new filter lane, drawings provided in a traffic report with the grounds indicate the true situation. This inaccuracy was a factor in invalidating an earlier application.
- The increase in delivery servicing in the vicinity of the Montessori fire exit is of concern.
- The car parking requirement per Development Plan standards is 17.5 spaces, 6 are to be provided. This may cause parking on roads and verges and in adjacent housing estates.
- Outdoor seating will generate anti social behaviour; operator discretion is not acceptable.
- Litter – extracts from the (Tidy Town's) judicator's assessment are cited.
- Board precedents are cited.
- Attached to the grounds are letters from:
 - Prof Donal O'Shea HSE Clinical Lead for Obesity and Co-Chair of the Royal College of Physicians of Ireland Policy Group on Obesity.
 - Sarah O'Brien National Lead Healthy Eating & Active Living Programme Health & Wellbeing Strategic Planning and Transformation, HSE (addressed to An Bord Pleanála), supporting measures to be put in place to restrict development of fast food restaurants within 400m of the gates or site boundary of schools, parks or playgrounds, excluding premises zoned town centre.
 - Chairperson of 'NoFryZone4Kids'.
- Attached to the grounds is a Traffic & Transport Assessment:

- The application documents contain very limited information dealing with the potential impacts of the proposed development in relation to the following traffic and transport related issues:

- Trip generation,
- Junction capacity,
- Network capacity,
- Parking requirements,
- Pedestrian facilities, and
- Safety.

- Trip generation based on TRICS data is set out. Parking required is set out. Under provision will result in use of the main Skerries Point centre car park which will then require good pedestrian links which have not been shown. No allowance has been made for deliveries.

- The 32m 'queue length' represents a deceleration length which should be a min 25m, a queue length which should be a min of 10m, and a turning length which should be a min of 10m : total, min 45m. The proposal will lead to potential rear shunt accidents.

- The right turn lane is only 2.45m. A right turn lane of only 2.5m is only recommended where the 85% speed is less than 30kph. The speed limit of 50kph applies. There are 3.5m wide lanes and 3m turning lanes along this road, substandard turning lane will increase the risk of accidents.

- The proposal requires the relocation of the existing kerb, which is not detailed. The drawings do not accurately show the extent of works required.

- The required 49m min forward visibility is not shown.

- Pedestrians will be required to walk across the main delivery access to the shopping centre. No facilities are detailed. There are no proposals re pedestrians requiring access from the south. A footpath along the entire frontage is required.

- A stage 1 / 2 Road Safety Audit should be carried out.

- There is very obvious deficiency in the provision of facilities for vulnerable road users.

6.1.4. The issues raised in the Board of Management of Skerries Educate Together National School appeal include:

- Skerries Educate Together National School is a DEIS Band 2 school.
- HSE have stated that rates of childhood overweight and obesity are socio-economically patterned, with those in lower socio-economic groups more likely to be overweight or obese.
- It is an over-simplification to lay the blame solely with parents and guardians.
- The report of the Joint Committee on Children and Youth Affairs, 2018, in which recommendation 8 is that the Government should enhance local planning powers and consider the implementation of measures, nationwide, to prevent the opening of new fast-food outlets within a defined vicinity of schools, is referred to.
- They have serious safety concerns re the proposed drive-through at a bend on the Barnageeragh Road compounding the existing safety concerns about increased traffic. It would contravene the LC zoning, that any retail facilities should minimise the need for car use. It would function as a car-based destination for Skerries.

6.1.5. The issues raised in the Skerries Community Association CLG (Muintir na Tíre) appeal include:

- They support the fair and transparent application of planning policies that seek to develop and improve, in a sustainable manner, the social, economic, environmental and cultural assets of the community; which they do not believe to be the case here.
- The setting and zoning – it is not zoning compliant and is intended to serve a larger catchment. The zoning, development management, Objectives DMS 107, ED54 and Skerries 12, of the CDP are cited.
- Proximity to a school - Objective DMS 108 is the method by which parental responsibility is supported. The facility is likely to be operated by a fast food franchise with significant marketing reach.
- It conflicts with active modes of transport/ pedestrian accessibility – it will not only attract more vehicular traffic, it will frustrate cycle and pedestrian access to other zone compliant amenities, including the adjacent child care facility. There is a specific objective to develop a greenway through this zone. It may block any future opportunity to facilitate a cycleway parallel to the railway track for a safe and

uninterrupted cycle/pathway along Barnageeragh Road to the railway station.

Objective Skerries 10, MT 17, Skerries 11, Skerries 13, and Skerries 21 are cited.

6.1.6. The issues raised in the appeal on behalf of Michael and Susan Hodnett by Corrigan Hodnett Consulting include:

- Zoning – the drive through will result in a substantial increase in traffic, not in compliance with the zoning. The existing fast food premises in the area will be impacted, not in compliance with the zoning.
- A local centre serves the locality – the proposed development would be unsustainable without attracting large numbers of customers, multiples of existing local customer base.
- A transportation report is referred to in the planning statement but is not on the planning file.
- There is no demonstration of compliance with parking standards. Re-allocation of spaces in the shopping centre would require planning permission, as they have already been allocated to the centre. They are outside the site boundary and render the application invalid. The disabled parking space is substandard and the actual vehicle space, as opposed to the circulating area, is set behind the line of the adjacent spaces to the east, increasing the difficulty of manoeuvring into the space.
- Trip generation – none given. The total queue length within the site for the drive through is 50m and an additional queue length on the right turn lane of 32m total in excess of 80m, without any TRICS evidence.
- Junction capacity assessment should have been carried out.
- Transport Assessment, based on the thresholds which trigger such assessments, should have been carried out. The foul sewer hydraulic loading is based on a pe/day of in excess of 1500, exclusive of drive through traffic. There is no modal breakdown of trips or details of their origin.
- Works are required to public areas without letters of consent, invalid. Final details and dimensions to be agreed is unacceptable, particularly re. proximate housing, where no public involvement is available.
- Surface Water Drainage & Management – A discharge rate of 2l/s is given. In actuality the rate will vary depending on the pressure head behind the flow control device. While GSDS permits a linear calculation it requires that a factor be applied

to account for the deficit in storage as a result of linear calculations. It is unclear if the GDSDS requirements have been met. The attenuation tank is given as 30 cubic metres and also as 40 cubic metres. In the absence of any detailed calculations, dimensions or details for the tank, it is unclear which is being applied.

- The green roof – delayed time of entry amounting to 44 l/square metre total 12 cubic metres. It is unclear if the delayed time is relevant for the critical event or one of the two events referred to. It is unclear if the calculations are stating that 44 l of rain per sq m will fall on the roof in the critical event, which is unlikely. The real volume for the delayed time of entry is the rainfall per sqm for the critical event. The primary function of the green roof is treatment and not attenuation as suggested. It is however noted that the green roof attenuation was ignored in the calculations.
- The 10mm intercepted storage location is not given.
- The type of permeable paving is not detailed. It is concerning, given the likely nature of the soil at this location, and in the absence of any infiltration test, that the impermeable area used for calculation is 760 sqm, since the whole site area amounts to 1300 sqm. Over 90% of the site is impermeable, the applied volumetric runoff coefficient factor of 0.8 is extremely high. The green roof and impermeable paving should be classified as impermeable with appropriate factors applied to recognise delayed time of entry.
- 20 cubic m of attenuation is proposed in permeable paving: no details of make up, how fed, drained etc.
- A min freeboard of 500mm must be maintained: unclear.
- The outfall invert level of the flow control manhole is approximately level with the middle of the culvert into which the surface water is proposed to discharge. In the event that water level in the culvert is above this level (S1.005), surcharging of the attenuation tank from the culvert would occur and the adjoining underground carpark is noted as a flood risk concern.
- No internal drainage network is shown.
- Culvert diversion works are outside site boundary and no consent is included. The engineering report states a fall for the diverted culvert of 1/5500, the drawings state a fall for the diverted culvert of 1/300: a severe conflict.
- The proposed foul sewer diversion proposes decreasing the gradient to 1/400 and increasing the pipe diameter from 300mm to 350mm. The report states that the

foul drainage is to IW standards. The IW CoP is cited. It is clear that the proposed diversion cannot meet IW standards regarding self cleansing velocities.

- The architectural design statement refers to town centre, this is not town centre. There is no cognisance of adjacent land uses; and no public lighting design.
- Approval / comment from Irish Rail re embankment stability should be required re the Irish Rail commuter line.

6.1.7. The issues raised in the appeal by Louise O'Reilly TD include:

- The proposal is in contravention of government policy re creation of a healthier environment. The Minister of State Catherine Byrne speaking at Connect, Collaborate, Create Stakeholder Forum on the Built Environment, 2018 is quoted 'under Healthy Ireland, we are committed to creating a healthier environment for all citizens and all communities. The physical environment and community in which we live, work and play can have a big impact on our health and that is why it is so important that we have good quality design, open space, and ease of access in our homes as well our public spaces. Through today's event, we are engaging and working together to ensure that everyone, young and old, has the opportunity to easily make healthier choices within their own communities. Supporting families, especially children, to have a healthy weight and to gain all of the physical and mental health benefits from being active every day is a priority for me and for Healthy Ireland.'
- It is inappropriate to continue to address the issue of new takeaways beside schools on a case by case basis at local level requiring parents/schools to organise to appeal planning applications which are in opposition to national policy.
- The Irish Heart Foundation is quoted.
- The 2013 Planning Guidelines are quoted.
- Distances to schools are listed.
- It is not only the fast food outlet, a producer/distributor of HFSS foods, it also has the associated purpose of creating branding and promotion for junk food. It will increase exposure of children, particularly young impressionable children, to the sights and smells of HFSS foods that have been proven to be bad for their health.
- The health implications go far beyond the accessibility of children at their lunch breaks to the food on offer. Recent studies show that watching one extra junk advert

a week is associated with an average increase of 18,000 calories to a child's diet per year and teenagers are more than twice as likely to be obese if they can remember seeing a junk food advert every day, compared to those who couldn't recall any over a month; this includes TV, Billboards, social media. It is regrettable that the planning officer's assessment is that it accords with Objective DMS 108, based on the fact that the proximate school is a primary school where children are not permitted to leave at lunch break. The Irish Heart Foundation would contest this and the argument made by the applicant that the responsibility for access should fundamentally lie with the parents.

- It is clear that it contravenes the objectives of the development plan and the relevant policies highlighted in Section 5.2.

6.2. Applicant Response

6.2.1. Corr & Associates have responded on behalf of the applicant to the grounds of appeal, the response includes:

- Under the headings:
 - Compliance with LC zoning objective and development plan objectives
 - Public health
 - Site selection
 - Traffic and transportation
 - Surface water drainage & management
 - Works to be carried out outside red line
 - Architectural design
 - Requirement to engage with Irish Rail.
- Permitted in principle in LC zone.
- Fast food - No operator has yet been determined; these are health matters not planning matters.
- Applicant has no other site.
- Traffic and transportation – DMURS a visibility splay of 49m is required to inside the kerb, set back 2.4m from the carriageway edge. Drawing No. 1730-P-110 shows 70m and 90m sightlines, 1.05 to 2m viewing height, existing

junction. A viewing height obstruction, a wall, is to be removed. The development is compliant. A stopping distance of 49m is recommended; in excess of 120m available from the south. There are forward sight distances of in excess of 49m to the existing junction from both north and south: Drg no. 1730-P-111.

- Surface water attenuation: the maximum allowable discharge rate of 2l/s for a 1:100 year storm was agreed with the local authority. Attenuation storage was modelled and final flow control device selected. It takes account of the varying discharge rate of the flow control device and the varying heads of water. Storm durations were modelled for both the 30 and 100 year return periods, ranging from a 15min to a 10080min duration. The final tank size and levels were determined from the worst-case scenario, 1440 min storm for both 30 year and 100 year return periods. The tank invert level is 12.95m OD and max water level of 13.85m OD, total storage 30cu.m. The 100 yr storm level of 13.85m is 650mm below FFL, and has 300mm freeboard. The permeable paving is designed as tanked but is to be constructed to allow seepage. The green roof is for treatment. Delayed entry and storage will benefit shorter term events. The diverted storm culvert is based on an average fall of 1:5500.
- Foul Sever Diversion – this was a requirement of the local authority and is designed not to have an adverse effect on existing capacity or velocity as shown in the calculations.
- Architectural design – it is considerably smaller than permitted in 2009, when a 2 storey restaurant of 818 sq m was permitted. The current proposal follows a refusal for a 1,550 sqm building. It is designed to complement, enhance and complete the overall retail centre whilst being significantly smaller than previously permitted.
- All works outside the red line will be on Local Authority road and drainage works. Those within the blue line will be the responsibility of the applicant.
- Re Irish Rail – it is normal practice for the planning authority to approach prescribed bodies.

6.3. Planning Authority Response

6.3.1. The Planning Authority have responded to the grounds of appeal, the response includes:

- The issues raised have been dealt with in the planner's report.

6.4. Observations

6.4.1. Cllr. Tom O'Leary, has made observations on this appeal, which include:

- Disproportionately large
- Located very close to a school attended by about 400 children, beside a pre-school with 100 pre school children attending.
- The drive-through element will catch families who collect children.
- There is no need. There are local retail units unoccupied.
- The LC zoning is to meet the basic day to day needs of surrounding residents; the development doesn't fulfil this objective.
- Concerns re marketing on the building façade and its impact on children.
- Joint Committee on Children and Youth Affairs, recommends measures to prevent the opening of new fast-food outlets within a defined vicinity of schools.
- The FI re pedestrian crossing, it will be actively used as the junction becomes overwhelmed with increased traffic volume and endanger pedestrian safety at a poorly lit junction. This goes against Local Centre walkable neighbourhood.
- The FI re acoustic assessment – variables queried – noise monitoring location on the roof of the shopping centre and furthest away from noise at ground level; it does not identify whether it takes account of the operator leaving seats out at night.
- The FI re outdoor seating area – it will contribute to further loitering and noise. The response re. taking in the furniture, that it will be left to the operator's discretion, is unacceptable.
- Two fast food outlets have opened recently in the vicinity.
- This is overdevelopment, with inadequate traffic management.
- The Barnageeragh road will open at Easter 2019, and operate as the main route to and from Balbriggan, when traffic will increase by 40% and the shopping centre business will increase. The 30 cars that park twice a day at

the local school may not be able to continue doing this. The spaces at the shopping centre will not be available.

- The pedestrian access and drive through arrangements are unacceptable.
- 1000 new homes are planned for the Skerries side of Balbriggan which will contribute to traffic on this road.

6.4.2. Senator James O'Reilly has made observations on this appeal, which includes:

- We have a serious problem with obesity in Ireland and in particular childhood obesity: 1/3 of our children are overweight and 1 in 10 are obese.
- It is important to form good eating habits early.
- Planning departments have a duty to take cognisance of government policy.
- The proposal, for a very large fast food unit, located very close to a growing national school (360 pupils approx.), flies in the face of national policy.
- It is not compliant with the development plan.
- The size is more suitable for a regional centre.
- Traffic hazard. Access egress arrangements are unsafe; and will cause a hazard for the Montessori unit. No footpaths are proposed.
- The drive through will create a serious litter problem all over Skerries, a national tidy town winner, and in particular adjacent to the premises.
- Such units attract anti-social behaviour.

6.5. Further Responses

6.5.1. Hughes Planning & Development Consultants on behalf of Kelly's Bay Residents Association have submitted a response to the other appeals supporting the issues raised.

6.5.2. Hughes Planning & Development Consultants on behalf of Kelly's Bay Residents Association have submitted a response to the HSE observations on the appeals supporting the observations. They point out, in relation to objective ED54 of the development plan, that the proposal would represent 25% of the total floorspace at Skerries Point Shopping Centre and would be excessive to meet local needs; they also note recently opened fast food counters in the vicinity.

6.5.3. The Skerries Community Association CLG have submitted a response to the HSE observations on the appeals supporting the observations.

6.5.4. Irish Heart Foundation have submitted a response to the HSE observations on the appeals supporting the observations. They note, in support of the HSE submission, evidence that exists linking increased risk of obesity among children of primary school age with the proximity of fast food outlets to schools and children's homes.

Much of the research that has been carried out relates to post-primary schoolchildren and establishes a clear link between the proximity of fast food outlets to schools and higher BMI and obesity levels, as well as a clustering of these outlets around schools. This is significant in the context of primary schoolchildren given evidence that the most popular time for purchasing fast food is after school. One major US study found that pupils patronising fast food outlets near their school consumed from 30% to 75% of the daily recommended allowance of calories for teens in a single after-school snack. In relation to children of primary school age, they refer to a number of studies linking proximity of homes and schools to fast food outlets and the density of such outlets in an area, to childhood obesity.

6.5.5. Corr & Associates have responded on behalf of the applicant to the HSE observations on the appeals. The response includes: the HSE's observations are based on presumptions about the type of restaurant that will be operating and expectations of the type of food and nutritional values which will be served within the premises. It has not been determined by the development proposer what restaurant operator will operate the premises as an anchor tenant, therefore the HSE's reference to provision of fast food 'which are likely to be high in fat, sugar and salt', is speculative and premature. The planning officer remarked that 'restaurant/café' and 'fast food outlet' use classes are permitted within the zoning and acceptable. The assumption that fast food is a bad thing and unhealthy may not be the case for the proposed development as many fast-food establishments now offer healthy alternatives. Several major chains focus exclusively on providing healthy fast food. Examples are given. The HSE's submission is primarily based on public health matters and therefore it does not constitute a planning matter. Their general opinion may be biased against all fast-food outlets, and should not be considered as part of the appeal as it is primarily regarding a personal choice by individuals as to whether or not they partake of a certain type of food.

6.5.6. The Planning Authority have responded to the HSE observations on the appeals, the response includes: the submission primarily raises the issue of obesity. The planning

authority notes that Objective DMS 108 provides that careful consideration is afforded to the appropriateness and location of fast food outlets in the vicinity of schools. The application site adjoins an existing neighbourhood centre and is zoned for this purpose - LC. It is acknowledged that the proposal is located c 300m from Skerries Educate Together National School, however one would reasonably expect that direct access by pupils of a primary school to the proposal would generally not be permitted in the everyday functioning of the school.

Having regard to the suitability of the site to accommodate such a use, specifically its LC zoning, under which both restaurant / café and fast food outlet/take away use classes are permitted in principle, the distance to the closest school(s) and the nature of the closest school (a primary school), where the pupils are typically not permitted to leave during lunch break, it is considered that the proposed development accords with Objective DMS 108 of the development plan.

The submission also raises the issue of cycling facilities, waste storage and water reuse. The planning authority notes that the proposal was considered acceptable to the Transportation Planning Section. There is an indicative cycle/pedestrian route to the north of the subject site along Barnageeragh Road. The proposal will ultimately tie into the existing road network where this route is located.

In relation to waste storage, the proposal was acceptable to the EHO, who had no specific requirements, and was similarly acceptable to the Water Services Engineering Section re water reuse.

The Planning Authority remains of the opinion that the development is acceptable subject to the conditions attached.

6.6. Board Correspondence - Prescribed Bodies

- 6.6.1. The Board issued notification of the appeal to Iarnród Eireann and the HSE.
- 6.6.2. Two submissions were received from the HSE.
- 6.6.3. The HSE Department of Public Health submitted an observation which includes:
 - Obesity is a major public health problem in Ireland. Currently six out of every ten adults and one in four children are either overweight or obese.
 - The main underlying modifiable behaviours that lead to obesity include the consumption of energy-dense and nutrient-poor diet high in levels of salt, fat

and sugar, reduced levels of physical activity during school, work and recreation and an over-reliance on mechanised forms of transport.

- The proposed facility is likely to have an adverse effect on the diet and physical activity levels in the local population, which in turn could have an adverse effect on childhood obesity levels. This is because the proposed development is designed to:
 - Provide a drive through facility.
 - Provide fast food which is likely to be high in fat, sugar and salt.
 - Be located in a convenient, accessible and prominent location close to childcare and educational facilities.
- Obesity prevention and control requires action from individuals and society across multiple sectors. An important role for planners is modification of the environment such that it does not promote sedentary behaviour or provide easy access to energy-dense foods.
- The importance of planners giving careful consideration to the location of fast food restaurants and the 'no fry zones' especially in relation to areas frequented by children and young people is widely recognised.
- They recommend the precedent set by Wicklow of excluding fast food restaurants from operating within 400m of schools and playgrounds.
- In line with their Healthy Ireland policy they recommend that planning permission be refused for the reasons:
 - Planning should facilitate the preservation and development of environments that promote healthy behaviours.
 - The role of planning in improving health and wellbeing has been identified in a number of national policy reports.
 - There could be consistency and the Co Wicklow policy is cited.
 - Government and society have a moral and legal responsibility to act on behalf and in the best interests of children in reducing the risk of obesity through protecting children's rights to health.
- The submission is supported by appendices which refer to national policy for prevention of obesity, that childhood obesity is preventable; and the problem of overweight and obesity among children in Ireland.

6.6.4. The HSE Environmental Health Officer submitted an observation which includes:

- Currently six out of every ten adults and one in four children in Ireland are either overweight or obese. According to WHO forecasts Ireland could top the European Obesity League Tables in the coming years.
- Overweight and obesity are conditions that develop over a number of years in both children and adults. The determinants are multiple and include the environment, access to healthy and affordable food, physical activity, exercise and leisure activity, cultural and societal norms, education and skill levels, genetic makeup and lifestyle choices.
- Various documents are cited:
 - Healthy Ireland, - A Framework for Improved Health and Wellbeing 2013-2025;
 - Healthy Weight for Ireland, Obesity Policy and Action Plan 2016 – 2025. A crosssectoral approach to be taken to address and reduce overweight and obesity issues. The document sets out ten action steps, of which step 2 is to regulate for a healthier environment.
- The inclusion of provision of restaurants in retail strategies and in the Guidelines for Local Area Plans is cited, as is the Fingal Development Plan.
- Changing the obesogenic environment is recognised as a critical factor underpinning the success of maintaining the population at a healthy weight.
- WHO advice on Planning for Health and Sustainable Cities is cited – providing easy access to food that is not only healthy but affordable will be crucial in improving the diets of people who live in towns and cities; often fast food and sugary drinks are cheaper, more convenient and more available to buy, compared to fresh, locally-produced and nutritious foods.
- Public Health England ‘Obesity and the Environment Regulation the Growth of Fast Food Outlets’, is cited.
- The observation also makes recommendations related to the site, such as assessment of fast food outlets, cycling connectivity, segregation of waste, avoidance of water waste and energy efficiency.

7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, the neighbourhood centre, urban design, traffic safety, public health policy, residential amenity, and litter the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

7.3. Neighbourhood Centre

- 7.3.1. The site is located in a neighbourhood centre where the zoning objective (LC local centre) is to protect provide and or improve local centre facilities; and where the vision for the zoning is to provide a mix of local community and commercial facilities for existing and developing communities with the aim to ensure local centres contain a range of community, recreational and retail facilities, including medical/ dental surgeries and childcare facilities, at a scale to cater for both existing residential development and zoned undeveloped lands, as appropriate, at locations which minimise the need for use of the private car and encourage pedestrians, cyclists and the use of public transport; and where the development will strengthen local retail provision in accordance with the County Retail Strategy. Development plan objectives in relation to fast food/take away outlets, is to strictly control them and limit their availability.
- 7.3.2. Whether the scale of the proposed development is or is not appropriate to the needs of the local-community is contested. Appellants and observers state that the scale is excessive for the area and that in addition the area is well served by take away outlets. The applicant, in the response to the further information request, has stated that the development will serve current and future demand from the projected increase of population to occur in the area.
- 7.3.3. Appellants and observers consider that it is intended to serve a larger catchment.
- 7.3.4. The scale and design of the proposal and in particular the inclusion of the drive through element, is not, in my opinion, intended to cater for the immediate area but

would draw car borne customers from a very much larger catchment and this would not align with the vision for the zoning.

- 7.3.5. The Board will note that the vision refers to minimising the need for use of the private car and encouraging pedestrians, cyclists and the use of public transport. The proposed development, by encouraging private car use, and by creating a destination for car borne customers, is clearly at odds with this vision. As pointed out in the planner's report, the uses proposed: restaurant café and take away are permitted in principle in the (LC) local centre zoning, but this is dependent on the proposal according with the vision for the zoning; and in this case the proposal does not accord with the vision for the zoning.

7.4. **Urban Design**

- 7.5. A neighbourhood centre is normally considered 'a place' where pedestrians have priority over motorised traffic. The road which separates the neighbourhood centre from the rest of the community is not pedestrian friendly, rather it is like a relief road, and functions as such; nevertheless the shopping centre is referred to as a neighbourhood centre and is provided with a pedestrian crossing, opposite the school, which facilitates pedestrian users of the centre.

- 7.6. The Development Plan objectives including those relevant to local centres are directed at developing high quality, sustainable urban environments, which work for people, are in accordance with best urban design principles, and promote active travel modes in preference to the use of private vehicles.

- 7.7. The provision of an additional right turning pocket and an additional entrance at this location, and the development of a drive through take away, will serve to increase the priority for vehicles, and will place pedestrians and cyclists at greater disadvantage.

- 7.8. In relation to the movement of pedestrians from the centre to the proposed development, with which it is functionally linked in terms of vehicular access/parking, the provision of pedestrian crossing was a subject of the further information request, but remains unresolved. As is pointed out in submissions, there is no footpath along the subject site, and the relationship with the neighbourhood centre is poor for potential customers of both.

- 7.9. Although the presence of the distributor road facilitates the vehicular access required for a drive through takeaway, the objectives for this area relate to its function as a

neighbourhood centre and promoting priority for vehicular movement/access is in conflict with these objectives.

7.10. Any interventions into this already traffic dominated local centre should be directed at reducing the impact of traffic and establishing pedestrian priority. In my opinion this is a reason to refuse permission.

7.11. **Traffic Safety**

7.11.1. Various concerns have been raised by appellants and observers in relation to traffic safety. It is stated that the entrance to Skerries Point shopping centre has existing traffic issues and hazards which the proposed vehicular entrance and exit will exacerbate. It is stated there are frequent collisions at the entrance to the centre; that the proposed entrance does not achieve safe sightlines; that traffic will not have sufficient sight of the entrance to safely adjust to the hazards of the new junction; and that it will cause congestion on the public road. Detailed comments have been made in submissions about the insufficient width of the filter lane, which it is stated, is too narrow to allow traffic to pass safely. The right turn lane is only 2.45m; a right turn lane of only 2.5m being recommended only where the 85% speed is less than 30kph; whereas a speed limit of 50kph applies. It is also noted that there are 3.5m wide lanes and 3m turning lanes along this road, and further that the 32m 'queue length' proposed represents a deceleration length - min 25m, a queue length - min 10m, and a turning length - min of 10m: total min required 45m; such that the proposal will lead to potential rear shunt accidents. The trip generation, TRICS data, is challenged, including that the figures do not include the drive through. The total queue length within the site for the drive through is given as 50m and an additional queue length on the right turn lane of 32m total, in excess of 80m, without any TRICS evidence. It is stated that junction capacity assessment should have been carried out.

7.11.2. There are internal issues, within the site, such as the pedestrian access between the subject development and the shopping centre, which requires crossing a roadway which is the delivery access and parking access for the shopping centre and the exit lane for the take away, regarding which satisfactory proposals have not been made.

7.11.3. The applicant response refers to proposals to improve sightlines by removing a wall.

7.11.4. In my opinion the traffic safety issues indicate that this proposal is unacceptable. I would have particular concern that, as stated in grounds of appeal, a Road Safety

Audit has not been carried out. This concern is compounded by the fact that this road is part of a new road layout, having only opened as a through road on the 17th May 2019, subsequent to the planning authority's decision dated 13th March 2019. As previously noted, the use of this road as a distributor road, which separates the community served from the local centre, is problematic, and the creation of a destination for car borne customers, runs counter to facilitating pedestrian and cyclist movements, including the specific objective to develop an indicative pedestrian / cycle route crossing the road to the west of the shopping centre and to run along the opposite side of the road.

7.11.5. In my opinion the creation of a driver destination at this location runs counter to the objective of providing a safe environment for pedestrians and cyclists, and the layout has serious road safety shortcomings and is not supported by a road safety audit, accordingly the proposed development would endanger public safety by reason of traffic hazard.

7.12. Public Health Policy

7.12.1. The impact of the proposed development on the eating habits and long-term health outcomes of vulnerable children is the concern most expressed in the appeals. A body of evidence, emerging on this issue, is referred to and there are various studies cited in the appeals and observations.

7.12.2. The fact that foods high in fat, sugar and salt are a lead contributing factor to the obesity crisis, and that this has major public health implications, has not been contested. It is stated that one third of Irish children are overweight and one in ten are obese, and that these children are more at risk of morbid obesity, cardiovascular ill-health and type 2 diabetes in adulthood. Short term adverse impacts of a poor diet are also stated.

7.12.3. The evidence cited includes studies which show a link between the proximity of fast food outlets to schools, and higher body mass index and obesity levels of children, and also of a link between the density of such outlets in an area and childhood obesity.

7.12.4. The Irish Heart Foundation submission refers to the 2003 Hastings Review which shows that the promotion of potentially unhealthy food & beverage products is now widely recognised in Europe as a significant risk factor for child obesity, that children

as young as 18 months can recognise brands, with preschool children demonstrating preferences for branded products.

- 7.12.5. A number of submissions refer to recommendation 8 of the report of the Joint Committee on Children and Youth Affairs, 2018, that the Government should enhance local planning powers and consider the implementation of measures, nationwide, to prevent the opening of new fast-food outlets within a defined vicinity of schools. Submissions also refer to Healthy Ireland, A Framework for Improved Health and Wellbeing 2013-2025; and Healthy Weight for Ireland, Obesity Policy and Action Plan 2016 – 2025, which emphasise the role of planning in a cross sectoral approach to tackling the problem.
- 7.12.6. The main government directives relevant to planning in relation to the public health policy implications of take-aways, are contained in the Guidelines on Local Area Plans, which point out that local area plans can promote active and healthier lifestyles by ensuring that future development prioritises the need for people to be physically active as a routine part of their daily lives; that pedestrians, cyclists and users of other modes of transport that involve physical activity are given the highest priority in transport and mobility strategies, policies, and objectives; that public open spaces are located and delivered in a way that ensures they are capable of being easily reached on foot or bicycle by routes that are secure and of a high standard and that take biodiversity issues into account in their design; that any new workplaces are linked to walking and cycling networks; play areas are designed to encourage varied and physically active play; and that exposure of children to the promotion of foods that are high in fat, salt or sugar is reduced by the careful consideration of the appropriateness and or location of fast food outlets in the vicinity of schools and parks. The latter directive is reflected in objective DMS 108 of the development plan which states: 'consider the appropriateness and location of fast food outlets in the vicinity of schools, to restrict the opening of new fast food/takeaway outlets in close proximity to schools so as to protect the health and wellbeing of school going children'. It is noted that no particular separation distance is recommended in the guidelines or stated in the development plan.
- 7.12.7. In addition to the location of the primary school in proximity to the site, there are also two creches in the vicinity: one immediately adjacent with its outdoor area on the opposite side of the proposed access road.
- 7.12.8. The argument is made in submissions that in some of the major take away outlets, marketing is targeted at very young children, and that it is apparent that even

children attending pre-school as well as those in after school care, will be aware of and drawn to such outlets by sophisticated marketing directed at their age group.

- 7.12.9. The applicant has responded to the various submissions pointing out that the assumption that fast food is a bad thing and that it is unhealthy may not be the case for the proposed development as many fast-food establishments now offer healthy alternatives and several major chains focus exclusively on providing healthy fast food. The response also points out that an operator has not yet been determined.
- 7.12.10. It has to be acknowledged that the precise nature of the operation and the menu details are not available, nevertheless it can be assumed that the use, at least in part, is intended to be for the sale of hot food for consumption off the premises, and therefore concerns in relation to foods high in fat, sugar and salt quite reasonably arise.
- 7.12.11. The potential for primary school pupils, attending the school on the opposite side of the road, to access the proposed development, is disputed by the parties. Good urban design can achieve built form that enables children's independent movement around their surrounding area at an early age. Even where urban design does not support safe pedestrian movement, as in this case, children gradually achieve greater independence and are likely to eventually make the journey to school on their own during primary school years. Notwithstanding that the road layout in this area with the siting of a school and neighbourhood centre on opposite sides of a busy distributor road, is less than well considered, and that the pedestrian accessibility between these two important neighbourhood activities is less effortless than might be desired, some primary school pupils will eventually achieve the level of independence necessary to make the journey to school and to the neighbourhood centre on their own. Therefore some children attending this primary school will have unsupervised access to the proposed take away.
- 7.12.12. It is not sufficient to state, as the planning authority have done, that potentially impacted children will be under adult supervision. The emphasis in public health promotion, as reflected in the Local Area Plan Guidelines, is that, in the interests of the public good, the built environment should be designed to support good health choices and that parents and guardians should be supported in their supervisory roles.
- 7.12.13. The reference in the guidance to careful consideration of the location of fast food outlets with regard to the exposure of children to foods that are high in fat, salt or

sugar, is an acknowledgement that supporting parents/guardians and protecting vulnerable children is in the interests of society. I note the applicant's response to the HSE's submission, that this is a public health matter and therefore is not a relevant planning issue. I cannot agree with this assessment. If any doubt existed as to whether or not the location of fast food outlets and the public health implications of such on children, was a relevant planning issue, the Local Area Plans Guidelines, with specific advice on this matter in relation to the preparation of Local Area Plans, should dispel such doubt.

7.12.14. Neither the guidelines nor the Fingal Development Plan 2017-2023 are specific as to distances. Reference has been made in the submissions to the Wicklow County Development Plan wherein a figure of 400m is used.

7.12.15. In the subject case the site of the proposed take away is located in close proximity to a primary school and two creches, which in my opinion is in breach of the Local Area Plans Guidelines and objective DMS 108 of the development plan, and this is a reason to refuse permission.

7.13. Residential Amenity

7.13.1. It is of concern to appellants that the proposed development will give rise to noise and odour nuisance and to anti social behaviour. There is concern that the provision of outdoor seating will generate anti social behaviour and that operator discretion regarding the after hours removal of the seating is not acceptable.

7.13.2. As previously noted the subject site is located adjacent to an existing shopping centre. The site is separated by a distributor road from the residential areas opposite. Noise assessments have shown that there will be no significant noise impact on residential properties.

7.13.3. Condition No 2 of the planning authority's decision requires that any and all furniture (seating/tables etc.) shall be demountable in nature and shall be removed from this area by 2130 hours. Therefore it is not a matter left to operator discretion. In my opinion residential amenity should not be a reason to refuse permission.

7.14. Litter

7.14.1. It is stated that the drive through will create a serious litter problem throughout the town, a national tidy town winner, and particularly adjacent to the premises.

7.14.2. Litter is a problem associated with takeaways and a drive through takeaway by its nature is likely to generate a more extensive spread of litter. However litter is a management issue and local authorities have powers under the Litter Pollution Act 1997 to control this nuisance. In my opinion litter should not be a reason to refuse permission.

8.0 Recommendation

8.1.1. In the light of the above assessment I recommend that planning permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1 The proposed development includes the provision of a fast food take away close to a school and two creches and it is considered that the siting of this development would expose children to the promotion of foods that are high in fat, salt or sugar, would be in conflict with objective DMS 108 of the current development plan and the Local Area Plan Guidelines to avoid such exposure, would be likely to have serious negative public health impacts on children in the area, and would be contrary to the proper planning and sustainable development of the area.

2 Having regard to the pattern of development in the vicinity of the site, including the location of the local centre along a distributor road with a primary school and residential areas on the opposite side, it is considered that the development of a drive through take away, which would create a destination for car borne customers, would exacerbate the barrier effect of the road, would fail promote and facilitate increased permeability and accessibility for those using active travel modes, and fail to achieve a high quality, sustainable urban environment, as required by the Development Plan, would accordingly be contrary to the proper planning and sustainable development of the area.

3 The site is located in an area where there are already conflicts between pedestrians/cyclists and vehicular traffic and the road and vehicular access layout as proposed, which are not supported by a road safety audit, have serious road

safety shortcomings; accordingly the proposed development would endanger public safety by reason of traffic hazard.

Planning Inspector

14th August 2019

Appendices

Appendix 1 Photographs

Appendix 2 Fingal County Development Plan 2017-2023, extracts.

Appendix 3 Local Area Plans Guidelines for Planning Authorities, Department of the Environment, Community and Local Government, June 2013, extract.

Appendix 4 Healthy Weight for Ireland, Obesity Policy and Action Plan 2016 – 2025, extracts.