



An
Bord
Pleanála

Inspector's Report

ABP-306963-20

Development	Amendments to part of Block 4 of approved development PL 06F.247787/Reg. Ref F15A/0565. Reduce Commercial accommodation and reduce apartments by 10.
Location	Station Road, Lusk, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0469
Applicant(s)	Station Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Robert Casey
Observer(s)	None
Date of Site Inspection	5 th of August 2020
Inspector	Angela Brereton

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1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.6407ha and is located at Station Road, Lusk Co. Dublin. It comprises the central part of a previously permitted mixed use development (Reg.Ref. F15A/0565 & ABP.Ref. PL06F.247787 refers) of a wider development on a 7.2ha site, which is currently under construction. The greater development area, is bounded to the south by Station Road; Rathmore Road to the east; with housing estates to the north and west. Large parts of this greater holding are currently under construction. A number of residential units to the east and central part of the site are complete and part of Block 7 to the north of the site is complete.
- 1.2. On the day of the site visit, I noted that construction works were ongoing on the greater land holding. In view of recent heavy rain the central area of the site was partly flooded. Temporary unsurfaced access routes have been formed in the vicinity to facilitate construction vehicles for the surrounding works. Some of the housing including 2 storey dwellings and apartments to the north and west of the site construction area have been completed or are under construction. Some areas of open space have been laid out particularly relevant to the housing areas in the northern part of the wider land area. The units immediately to the north of the site (Block 7A) have not as yet been constructed.
- 1.3. The proposed entrance from Station Road has not as yet been opened. There is a company hoarding along the Station Road frontage and a telegraph pole which needs to be relocated to allow for the proposed access. There are footpaths along Station Road but no cycle lanes.
- 1.4. Supervalu, Lusk is accessed via Station Road further to the west of the wider site area. It is within a parade of commercial uses/shops and includes an on-site parking area.

2.0 Proposed Development

- 2.1. This includes the following:
 - Revisions to part of Block 4 of approved development PL06F.247787/Reg.Ref. F15A/0565 on lands at Station Road, Lusk, Co. Dublin.

- This application is being lodged concurrently with a separate application which seeks to omit the remainder of the permitted block 4. The cumulative effect of both these applications will be to reduce the permitted 6644sq.m of commercial accommodation in Block 4 by 3029sq.m and to omit 2no. 1 bed apartments and 9no. 2 bed apartments in Block 4.
- The amendments sought in the application comprise the removal of part of the existing two storey commercial Block 4 and replacement with new two storey commercial Block 4A, containing 3no. commercial units totalling 363sq.m, 48 undercroft car parking spaces and sundry plant facilities at ground floor, with a single licensed foodstore unit comprising 2525sq.m gross at first floor; 80 surface carparking spaces; in a revised layout that includes access to a delivery ramp up to the first floor loading dock; minor revisions to vehicular access from Lough Common Lane, ancillary minor amendments to associated landscaping, site works and infrastructure.

2.2. Documentation submitted includes the following:

- Conway Crowe Kelly Architects & Urban Designers' drawings, drawings schedule and Design Statement;
- SDS drawings and report as per CCK drawing list;
- Austen Associates Landscape Architects drawings;
- AWN Noise Impact Statement;
- Consent letter from McGarrell Reilly Homes.

3.0 Planning Authority Decision

3.1. Decision

On the 25th of February, Fingal County Council granted permission for the proposed development subject to 18no. conditions. These include relative to compliance with permission Reg.Ref. F15A/0565 & ABP Ref.PL06F.247787, restriction of the usage of the units to retail, and hours of operation, archaeology, landscaping, infrastructural works including regard to parking layout and surface water drainage and inclusion of a grease interceptor. Regard is also had to external finishes, restriction on

advertising signage, control of emissions (noise, odours, dust etc), no additional development above the roof parapet and development contributions.

3.2. **Planning Authority Reports**

Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the interdepartmental reports and the submissions made. Their Assessment included the following:

- The proposed development results in a rationalisation/reduction in the provision of retail/commercial development.
- They have regard to the quantum of commercial/retail floorspace in the overall development and do not consider the proposal would undermine the achievement of the zoning objective.
- The wider development also remains compliant with the provisions of the Fingal Retail Strategy in relation to Level 4 centres and would comply with the Retail Planning Guidelines.
- Having regard to the design of the proposal and its relationship to adjoining permitted/proposed development (including residential property, permitted and proposed), no undue impacts are anticipated.
- They consider that it would be beneficial for the facades of the building to be amended to reflect the finer grain and a more vertical emphasis fitting the urban location.
- They have regard to the Transportation Section comments and note the parking shortfall.
- Having regard to the location of the proposed development and the nature of the proposal no negative impacts on the Natura 2000 sites are anticipated.
- They concluded that the applicant has not submitted sufficient information in relation to a number of elements of the proposal, specifically car parking/access, drainage issues, the potential for archaeology on the site and discrepancies submitted and recommended that F.I be submitted.

Further Information request

This includes in summary:

- Taking into account, the concurrent application Reg.Ref. F19A/0479 the applicant is required to address the current parking shortfall.
- To clarify the location and provision of car parking to serve Block 5.
- To indicate cycle parking spaces to serve Blocks 4A and 4B.
- To address HGV delivery movements relative to operating hours and taking into account pedestrian safety.
- To provide a Mobility Management Plan for the proposed development.
- To carry out an archaeological assessment of the site (including test excavation).
- To submit drainage details to demonstrate the minimum 3m clearance distance is maintained, surface water drainage relative to the carparking area.
- To submit revised proposals for the southern and eastern elevations of Block 4A which reflect a more vertical articulation and a finer urban grain suited to the location. Details of external finishes for Block A, of screening of roof plant, and elevations of the proposed ESB substation.

Further Information Response

Conroy Crowe Kelly Architects and Urban Designers have submitted F.I on behalf of the applicants. This includes the following:

- They refer to CCK Masterplan drawing – *Lusk Village Quarter – Proposed Planning Context* which shows aggregate amendments to the parent permission.
- They provide a table showing a breakdown of commercial floorspace and details of parking space provision.
- They provide details of parking and relative to the parking deficit.
- They provide details of cycle parking provision.

- They refer to a revised Site Layout Plan relative to re-location of the ESB substation, provision of a pedestrian crossing and regard to the usage of the loading ramp.
- A Mobility Management Plan from DBFL Consulting Engineers has been submitted.
- SDS have submitted revised drawings showing revised elevation details and external finishes of Block 4A. Regard is had to the relationship with Block B.
- The applicant confirms there is no roof plant.
- Elevations have been submitted of the proposed ESB substation.
- An Archaeological Assessment carried out by Archer Heritage Planning has been submitted.
- Revised Public Notices.

Planner's response

The Planner had regard to the F.I submitted and their response included the following:

- Justification for the number of car parking spaces is considered reasonable and is acceptable to the Transportation Planning Section.
- The Archaeological Impact Assessment recommends that any future groundworks within the site area be monitored by a suitably qualified archaeologist.
- A report has been received from the Water Services Engineering Section and Irish Water stating that the applicant's response is considered acceptable.
- They note and list the amendments provided by the F.I submission. They also have regard to the table indicating floor space at each level within Block 4A.
- The applicant's response to the elevational treatment and external finishes of Block 4 is considered acceptable.
- They consider that the applicant has addressed the outstanding issues.
- They consider that the proposed development by virtue of its scale and design would not unduly impact on the amenity of neighbouring property or the area.

- They provide that it will integrate with the permitted scheme and accords with Fingal CDP policies and the proper planning and sustainable development of the area. Permission was recommended subject to conditions.

3.3. **Other Technical Reports**

Transportation Planning Section

They provide this report should be read in conjunction with the parent permission and consider that that proposed amendments will not have a significant impact on traffic volumes. They provide details on parking and ask that the parking deficient be addressed in the current application. They advise that bicycle parking be clarified and that the applicant ensure that a safe pedestrian route is provided from the parking area and a Mobility Management Plan be submitted. Also, that service deliveries should take place outside of normal opening hours.

They have regard to the F.I and have no objections subject to conditions regarding surface parking areas, mobility management, a revised Construction Management Plan and a Construction Traffic Management Plan.

Water Services Department

No objections subject to conditions.

Parks Division

No objection subject to the implementation of the landscape plan.

Community Archaeologist

They note the archaeological significance of this area of Lusk and recommend an archaeological assessment of the site including test excavation and assessment of impact of works by a suitably qualified archaeologist, should be undertaken.

3.4. **Prescribed Bodies**

Department of Culture Heritage and the Gaeltacht

They have regard to the Archaeological Impact Assessment submitted and recommend a condition that archaeological monitoring be carried out.

Irish Water

They have no objections subject to conditions.

3.5. **Third Party Observations**

A number of Submissions have been received, including from local residents, Lusk Community Sports, public representatives and the subsequent Third Party Appellant. These have been considered in the Planner's Report and their concerns include the following:

- The no. of alterations now proposed to the parent permission will result in piecemeal development to the detriment of the concept and design and layout of the original scheme.
- Reduction in the level of commercial development now being provided within the scheme.
- Lack of compliance with phasing of the development as per condition no. 4 of the parent permission.
- Overdevelopment of the site, including lack of compliance with open space provision and car parking shortfall.
- Non compliance with Objective 11 – Station Road Masterplan.
- Need for an up to date Retail Impact Assessment.
- Concern that it will impact adversely on traffic and parking in the area.

4.0 **Planning History**

The Planner's Report had regard to the extensive planning history of the site and this includes:

- Reg.Ref. F15A/0565 – PL06F.247787 – Planning permission was granted by the Board subject to conditions for:
The demolition of all existing buildings and structures, including two number dwellings to facilitate the comprehensive redevelopment of a site measuring approximately 7.2 hectares in extent. The proposed mixed use development is arranged in seven blocks ranging in height

from single storey to three-storeys and comprising 154 number new dwellings (terraced, semi-detached, detached and apartments), to include 67 number two bedroom dwellings, 79 number three bedroom dwellings and 8 number four bedroom dwellings and a total of 12,320 square metres (gross floor area) of non-residential floor space, comprising an anchor retail store of 4,324 square metres, discount food store of 1,660 square metres, retail units totalling 1,044 square metres (inclusive of 136 square metres of petrol filling station shop), food and drink/retail services units totalling 1,828 square metres (including two number hot food take away units) and non-retail services uses of 3,026 square metres. In addition to the above, a drive-thru restaurant of 258 square metres, crèche of 438 square metres, gym/fitness centre of 1,521 square metres 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 Saddler's Place, Scholar's Walk, Joyce's Road, Norseman's Walk and Raheny Lane together with new vehicular and pedestrian accesses onto the site off 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), all at Lusk and Lough Common (townlands), Station Road, Lusk, County Dublin.

Condition no. 2 of this permission omitted the proposed drive-through restaurant and discount retail unit in Block 6 and the proposed petrol filling station in Block 5B, with these areas being conditioned to be the subject of the future planning application.

The parent permission permitted 141no. residential units and 9,987sq.m of commercial floor space.

A copy of the Inspector's Report and Board Decision is included in the History Appendix of this Report.

- Reg.Ref. F19A/0479 – Permission subject to conditions was granted by the Council for amendments to parts of Blocks 4 & 7 for approved development PL06F.247787/Reg.Ref.F15A/0565. This application was lodged concurrently with the current application. The cumulative effect of both these applications is to reduce the permitted 6644sq.m of commercial accommodation in Block 4

by 3,029sq.m and to omit 2no. 1 bed apartments and 9no. 2 bed apartments in Block 4. The amendments comprise the construction of a 3.5 storey mixed use block 4B to contain 4no. commercial units totalling 618sq.m and 1no. café of 109sq.m at ground floor with 11 no. 1 bed and 14 no. 2 bed apartments over, with amenity space to the rear. The description also includes the alterations to Blocks 7A & 7B.

This site is adjoining and to the north of the subject site.

- Reg.Ref. F19A/0454 – Permission granted subject to conditions by the Council for revisions to part of previously permitted development PL06F.247787/Reg.Ref.F15A/0565 to omit 2 storey commercial Block 2 (642sq.m food-drink use) and 3 storey mixed residential Block 3 (1 and 2 bed apartments over 259sq.m retail use, 157sq.m non-retail services use and 217sq.m food-drink use) and provide 12no. houses.

This site while part of the original site area is to the west of and does not overlap with the subject site.

- F19A/0633 – Permission granted subject to conditions by the Council for amendments to Blocks 5A,5B & 6 of the approved development PL06F.247787/Reg.Ref.F15A/0565. This application was lodged alongside the aforementioned recent applications to revise parts of Blocks 2&3 (F19A/0454), part of Block 4 (F19A/0469 – the subject of this appeal) and the remainder of Block 4 and part of Block 7 (F19A/0479).

There is no record that the Council's decisions of the more recent aforementioned concurrent applications have been the subject of an appeal to the Board. Copies of these decisions are included in the History Appendix of the Report.

5.0 Policy Context

5.1. National Policy

Project Ireland 2040 – National Planning Framework

This aims to provide a broad ranging guide to development and investment over the coming years and seeks to empower national, regional and spatial planning in

economic, environmental and social terms to 2040. In conjunction the National Development Plan seeks to provide a ten-year strategy for public investment.

They seek to deliver a greater proportion of residential development within existing built-up areas of cities, towns and villages to provide urban and rural regeneration.

Section 28 Ministerial Guidelines

The following list of section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Regional Planning Guidelines for the Greater Dublin Area 2010-2022
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) 2009
- Design Manual for Urban Roads and Streets 2013
- The Retail Planning Guidelines for Planning Authorities 2012
- The Planning System and Flood Risk Management 2009 (including the associated Technical Appendices)
- Design Manual for Urban Roads and Streets 2019.

5.2. Fingal County Development Plan 2017-2023

Zoning

As shown on Zoning Map 6A, the site is within the TC Town and District Centre zoning where the objective is to: *Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*

The function of Town and District Centre (TC) is to offer a range of services, facilities and retail for their immediate hinterland. This zoning objective seeks: *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’.

Table 2.1 provides the Regional Planning Guidelines Settlement Hierarchy for the GDA and Lusk is included as a *Moderate Sustainable Growth Town*.

Objective SS20 seeks to: *Manage the development and growth of Lusk, Rush and Skerries in a planned manner linked to the capacity of local infrastructure to support new development.*

Chapter 4 refers to Urban Fingal and includes a number of Objectives relative to the sustainable development of Lusk.

Masterplans

5.3. Objective Lusk 11 seeks to: Prepare and/or implement the following Masterplans during the lifetime of this Plan:

- North Lusk Masterplan (see Map Sheet 6A: MP 6.A)
- Minister’s Road Masterplan (see Map Sheet 6A: MP 6.B)
- Station Road Masterplan (see Map Sheet 6A: MP 6.C)

The main elements to be provided in the Masterplan are included in Urban Fingal – Chapter 4. Reference is had to the Station Road Masterplan which in summary seeks to provide for mixed use development to be delivered in a phased integrated and sustainable manner and to provide a strong streetscape.

5.4. **Natural Heritage Designations**

The impacts on Natura 2000 sites is discussed under the Screening for AA heading below.

5.5. **EIA Screening**

Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, the absence of any connectivity to any sensitive location, 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

Braniff Associates Chartered Town Planners have submitted a Third Party Appeal on behalf of Mr Robert Casey of Supervalu, Lusk. The grounds of appeal are considered under a number of headings and include the following:

Phasing Strategy of An Bord Pleanala

- The application is in breach of planning conditions set down by the Board for the proper planning and sustainable development of these lands.
- Despite being subject to an O.H. in April 2017 the applicant has chosen to ignore important conditions attached to the Board's overarching parent permission (PL06F.247787) for this Masterplan development.
- The Board outlined its phasing strategy in Condition no.4 of the parent permission. They are concerned that the first phase is far from complete.
- It is arguable that the subject application to develop Block 4 is contrary to condition 4(iii) of the parent permission. Blocks 2 and 3 are not substantially complete. Over half of the residential units in Block 3 are not developed (Fig.1 and Map.1 refer).
- The subject application is patently contrary to Condition 4(ii) of the Board's phasing strategy. In the absence of Block 5A not being developed (Fig.3) Block 4 has to be built in conjunction with housing in Blocks 5A and 5B.
- Rather than comply with this the applicant has proceeded to construct Block 7B, which is an 18 unit apartment block further removed from the centre of Lusk (Figs. 4.5. and Map 1). This was granted by the Council under Reg.Ref. F18A/0686.
- The phasing strategy stipulated by the Board in Condition no.4 of the parent permission was made so that the town would grow in a sequential manner.

- The Design Statement by Conroy Crowe and Kelly makes no reference to Condition no. 4 and the stipulated phasing strategy. Nor does the Planner's Report. Although they note condition no. 2 of the Council's permission.
- From an urban design perspective Block 4 would be isolated and lacks a street frontage to Station Road.
- The Board's prudent insistence for phasing reflects the aspirations of the Fingal CDP and has regard to the Station Road Masterplan.
- The Board should consider the attachment of a condition stipulating that the remainder of Blocks 3 and 5A, or at the very least those houses within these blocks fronting Station Road, should be constructed before Block 4 is developed.

Open Space Provision

- The developers have disregarded the prerequisite to provide open space in advance of constructing new homes. They refer to Condition no.26 of the parent permission and include the drawing in Appendix 1.
- They note the need for this area of open space which has not been provided and refer to it being part of Lusk Recreational Hub. They also refer to the submission from Lusk Community Sports.
- Block 1 has still not been provided in the first phase.
- Not only has Block 7B been constructed in total disregard for the Board's phasing strategy, the prerequisite delivery of the Class 1 Public Open Space conditioned as part of the parent permission is still not forthcoming.

Conclusion

- It is clear that the applicant has chosen to disregard the explicit phasing and open space conditions set down by the Board for the proper planning and sustainable development of Lusk.
- The Council's treatment of subsequent applications in relation to the Masterplan has vindicated the original decision of the Board to adopt this stance.

- If the Board decides to grant the development of Block 4 should not commence until Block 3 of Phase 1 is completed and Block 5A of Phase 2 is developed.
- An application is currently pending with the Council for revisions to Block 5A together with Block 5B and Block 6 (Reg.Ref. F19A/0633).
- The necessity for the substantial completion and prior development of Block 3 and 5A featured in the original Board decision in order to ensure the town developed in a sequential manner.
- The completion and development of these Blocks would give a greater urban design definition to Scholars Road, which together with Loughcommon Lane, is the main access road to Block 4.
- The development of these Blocks would strengthen the sense of enclosure along Station Road and thereby mitigate the isolation of Block 4. Without their development the development of the Lidl and accompanying units in Block 4 will be isolated and not be integrated with the rest of the town.
- The Board also has the opportunity to reiterate Condition no.26 of the parent permission to ensure the timely provision of Class 1 Public Open Space.
- This open space would be provided as part of the Lusk Recreational hub, prior to the construction of Block 7a (as 7b has already been built in non-compliance with the Board's phasing scheme), or the residential units within Block 6 whichever is the sooner.
- If the Board considers that the red line boundary of the application site inhibits its ability to attach conditions, then they submit the subject application should be refused. They include relevant Appendices.
- A recommendation could then be made to the Board to re-submit the application to include Blocks 3 and 5A so that they can be phased for development in conjunction with Block 4.

6.2. Applicant Response

Conway Crowe Kelly Architects and Urban Designers have submitted a First Party response on behalf of the applicants. This includes the following:

- An Executive Summary of the appeal response prepared by McCutcheon Halley Planning.
- A response to the Third Party Appeals prepared by Conroy Crowe Kelly Architects.

Their response to the grounds of appeal includes the following:

Rationale for Proposed Development

- Regard is had to the planning history of the site in particular the conditions of the parent permission – Reg.Ref. F15A/0565 and Ref. PL06F.247787.
- They provide details of the amendments sought in the current application and of the proposed Anchor Retail Store with Lidl as the operator.
- They have engaged extensively with the Local Authority, the public and local community groups in respect of its plans for Lusk village centre and environs, including the revisions to the Masterplan and proposed amendments to the permitted supermarket premises which is the subject of this application.
- The development of a dedicated website at Lusk Village Quarter provides a detailed suite of information regarding the Masterplan and progress in relation to existing and planned residential, retail and community uses.
- They recognise the importance of the local community as key stakeholders in the project and the pivotal role the village centre will play in creating a new sense of identity for Lusk. They note community support for the project.
- They consider that the grounds of appeal are vexatious and reflect an attempt by a local commercial competitor to stall delivery of the planned supermarket.
- The Planning Authority provides a comprehensive assessment of the proposal and demonstrates its compliance with the relevant national and local planning policies.

The Evolution of the Masterplan

- The masterplan needed to be adapted holistically to incorporate a revised design which was coherently integrated into the wider urban design framework.
- The revised masterplan is indicated in Fig. 2 of the CCK Revisions. It proposes a strongly defined residential edge along Station Road.
- They include a number of Visualisations showing the vista of the Lidl relative to the surrounding development.
- They note the subsequent applications granted with the majority without appeal. Figs. 6 & 7 show the current Masterplan status.

Phasing

- The specific concerns regarding phasing of the permitted development are addressed in detail in the accompanying CCK submission, wherein it is demonstrated that the construction of the permitted development presently underway, is being undertaken in accordance with the parent permission.
- They have regard to Condition no. 4 of the parent permission relative to phasing. In accordance with this the applicant provided a phasing plan in a compliance submission dated 7th of August 2018, which was subsequently agreed by the Planning Authority in its correspondence of 26th of October 2018.
- They provide that the agreed phasing plan is consistent with the sequencing arrangement set out in Condition no. 4 of the parent permission and had been progressed in accordance with the requirements of the PA.
- To consider that seeking to amend a proposed development is in breach of a phasing condition is to fail to realise that amending the proposed development does not prejudice the phasing of the development.
- Details are provided relative to Condition no. 4, to the Phasing Plan and relative to the current situation. A table is provided relative to Phases 1-4.

- They note that the current application has not sought to provide amendments to the Phasing Plan. Regard is also had to the permissions granted subsequent to the parent permission.
- The mixed-use block 4B as permitted is due to commence imminently, with a construction programme closely linked to the subject supermarket.
- The requirements of phasing plan as agreed will continue to apply to the development as amended.

Open Space issues

- They provide that the applicant has engaged extensively with the Council, in respect of open space provision on these lands. They note that open space proposals are currently the subject of compliance submissions to the Council for some of the earlier applications.
- The Applicant currently controls only the northern part of the site at Lusk North, having handed over the southern portion of the lands which comprise approx. 60% of the total lands zoned for open space purposes to the Local Authority.
- This open space has been developed and is currently in use as Class 1 open space and provides children's playground, playing fields and a jogging track.
- They note that there are no new homes required in the subject application. The current application does not affect the open space and similarly to the comments on the phasing is not relevant to the current application.

Conclusion

- As frequently occurs with complex large-scale urban developments, the permitted scheme has been the subject of several approved amendment applications.
- It is their view that any perceived breach of Condition nos. 4 and 26 of the parent permission is therefore without merit and bears no weight in relation to the current application to the Board. They refer to and provide a discussion of case law in this respect.

- They consider that the matters raised by the Appellant are without merit, and ultimately not relevant to the current application before the Board and request that permission be granted.

6.3. Planning Authority Response

Their response includes the following:

- As the current proposal is an amendment of Reg.Ref. F15A/0565 & ABP.Reg.Ref.PL06F.247787 the conditions of the parent permission will continue to pertain in the event of a grant of permission by the Board. The issue of compliance with specific conditions attached to the parent permission is a matter for the Planning Authority's Inspectorate Division.
- They request the Board to uphold their decision and request that Condition no. 18 (development contributions) be included in the Board's determination.

6.4. Observations

None.

7.0 Assessment

7.1. Policy Considerations

- 7.1.1. Lusk is defined as a Moderate Growth Town in the Fingal CDP 2017-2013. Objective ED37 notes: *As part of any future review of the Retail Planning Guidelines for the GDA, the Council will seek to align the retail destination of Donabate, Lusk and Rusk as Level 3 Major Town Centres to reflect the status of these settlements as Moderate Growth Towns, as defined by the RPGs.* Table 6.1 provides the Retail Hierarchy and includes Lusk as a Level 4 – Small Towns and Village Centres and Local Centres.
- 7.1.2. The site is zoned 'TC' town and district centre in the Fingal County Development Plan 2017-2023. The zoning objective seeks to: *Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*

- 7.1.3. The current application seeks amendments to part of Block 4 of the parent permission (Reg.Ref.F15A/0565 and ABP Ref. PL06F. 247787). In essence, it seeks to provide an anchor Lidl store and ancillary retail on the subject site. It is seen in the context of the parent permission which provided for the demolition of all existing structures/buildings and construction of a mixed residential and commercial development arranged in seven blocks across a site of 7.2ha. Therefore, it is considered that the principle of a mixed-use development has been established on this site. Note is also had to the amendments made to the parent permission in the subsequent applications, all made in this context.
- 7.1.4. The First Party provide that the subject application is part of an integrated masterplan to enhance the commercial, residential and amenity infrastructure of Lusk to stand to the benefit of the village community as a whole. They consider that the revisions proposed greatly enhance the scheme, offering a more unified extension of the existing village.
- 7.1.5. Submissions made consider that the original planning application should not be altered and that it would provide for greater permeability in a more compact and sustainable scheme. They also consider that the proposal will further reduce the overall commercial/retail element to the detriment of the original scheme and in combination with the other concurrent applications (recently decided by the Council) will lead to piecemeal poorly integrated development. In addition, that the proposal would result in the creation of a Lidl store and 3 commercial units that are isolated from the housing that is partly intended to sustain them.
- 7.1.6. Consideration of lack of adherence to phasing (condition no. 4) and to concerns regarding the completion of public open space (condition no.26) as permitted in the parent permission and the overall impact of piecemeal development, such as the current proposal, is of particular concern to the Third Party. This proposal is being considered *de novo* and these issues are considered further in the context of the Council's reasons for refusal and the Assessment below.

7.2. **Background and Phasing**

- 7.2.1. The subject application to develop Block 4 is one of a range of applications for the Station Road Masterplan development of a large part of Lusk. The Site Layout Plan

shows the central location of the subject site relative to the surrounding permitted development. The red line boundary as shown on the current application relates only to that area which the applicant's are proposing to amend and excludes that part of the site (shown within the blue line boundary) to which the subject amendments do not pertain. The lands surrounding the application site are all within the development area of the original (parent) permission.

- 7.2.2. The Planning History relevant to the site has been noted in the appropriate section above and this includes regard to adjacent sites Reg.Refs.F19A/0454 and F19A/0479 refer. A Map has been submitted showing the current application site relative to the more recent applications, now granted subject to conditions, all within the blue line boundary of the parent permission. Also of note is F19A/0633 where permission was recently granted subject to conditions by the Council for amendments to Blocks 5A,5B & 6 of the approved development PL06F.247787/Reg.Ref.F15A/0565.
- 7.2.3. The Third Party concerns about phasing and piecemeal development relative to the original concept of the parent permission including Condition no. 4 have been noted in their grounds of appeal. They submit that the application needs to comply with the phasing requirements set down by the Board. To do otherwise would result in the creation of a Lidl store and 3 commercial units that are divorced from the housing that is partly intended to sustain them. If Block 4 is permitted and built in isolation and in non-compliance with the phasing scheme stipulated by the Board in the parent permission, they consider that it will clearly not be integrated into the existing town centre.
- 7.2.4. Regard is had in Section 7.49 of the Inspector's Report (Ref. PL06F.247787 refers) to Phasing. Condition no. 4 of this permission describes/stipulates the phasing of the construction of the blocks in three phases 4(i), (ii) and (iii). It appears that there have been some amendments to this phasing relative to the amendments in the subsequent permissions granted on this site. It is submitted that these are detrimental to and change the concept of the permission as originally granted.
- 7.2.5. The Conroy Crowe Kelly response to the grounds of appeal refers to revisions to the Masterplan. The First Party provide that owing to the scale and complexity of the site, a number of factors have necessitated a continued evolution of the masterplan

from that approved under the parent permission. Fig. 6 shows the Masterplan Planning Status, approved development in green, live applications in yellow and the subject site in red. Fig.7 shows the Construction Status. The completed development is shown in dark blue, that under construction in light blue, construction to commence pending compliance confirmation in green, live application in yellow and the subject site in red.

- 7.2.6. The First Party response to the Appeal provides details relative to the Phasing Plan agreed with the Council as a compliance submission to the parent permission. Discussion is had of amendments relative to 4no. separate phases which they contend will serve to strengthen and consolidate the village core. It is noted that the current application is for amendments to Block 4 (and associated car parking, landscaping and access) of the permitted development. It is submitted that the Applicant has not sought to alter the agreed phasing plan by means of the current application and continues to progress construction works at the site in accordance with the parent permission (as amended) by the subsequent permissions including as noted in the Planning History Section above.

7.3. Open Space Provision

- 7.3.1. Regard is had in Section 7.68 of the Inspector's Report (Ref. PL06F.247787 refers) to Open Space and a discussion is had relative to Class 1 and Class 2 open space categories. Section 3.5 of the Fingal CDP refers to the variety and accessibility of open space and provides the relevant policies and objectives. I note the Appellant's concerns about the provision of Class 1 Public Open Space as per Condition no. 26 of the parent permission. They are concerned that Condition no.26 relative to Class 1 Public Open Space of the parent permission is not being implemented in accordance with the phasing strategy then agreed. They consider that this will impact adversely on the explicit phasing and open space conditions set down by the Board for the proper planning and sustainable development of Lusk. They also have regard to the Masterplan and have concerns about the integration and timely provision of open space.
- 7.3.2. This application is one of several planning applications that are interlinked with the Class 1 Open Space located north of the Lusk ring road (R127/Rathmore Road) and

west of the Lusk Community College and Rusk & Lusk Educate Together secondary and primary schools. This is to be part of an active recreational area to serve as part of Lusk recreational hub. There is concern that the applicant has disregarded the prerequisite to provide open space in advance of constructing the new homes. Regard is had to Condition no. 26 of the parent permission and to the provision of Class 1 public open space. Note is also had of Condition no. 3 relative to concurrent application Reg.Ref. F19A/0479. Regard is also had to the Lusk Station Road Masterplan - Objective Lusk 11(C).

7.3.3. Condition no. 26 is of note and is as follows:

The Class 1 Public Open Space at Lusk North, which is under the ownership/control of the developer and which is attributable to the proposed development, as indicated on drawing number 1004P 06, submitted to the planning authority on the 7th day of December 2015, shall be laid out and provided, to the written satisfaction of the planning authority, prior to the commencement of construction of Block 7, or the residential units within Block 6, whichever the sooner.

Reason: To ensure the timely provision of this area of Class 1 public open space, in the interests of proper development and residential amenity.

7.3.4. The First Party response has regard to the open space provision within the scheme and relevant to applications subsequently permitted by the Council. They have regard to control of part of the lands and provide that 60% of the lands zoned for open space purposes has been handed over to the Local Authority. Open space has been developed and is currently in use as Class 1 open space and provides children's playground, playing fields and a jogging track. They provide that similarly to the phasing issue raised, comments regarding the open space are not relevant to the current amending application, as the proposal does not seek to alter the required open space within the wider site, as permitted under the parent permission.

7.3.5. It is noted that the current application does not include open space provision. Nor was the site located in an area originally allocated for open space in the parent permission. The Parks Division has no objection subject to the implementation of the landscape plan in the first planting season following completion of construction. They also recommend tree planting. I would consider that the landscaping shown is minimal and that additional landscaping should be provided on site including within

the car parking area. Should the Board decide to permit it is recommended that the submission of a revised landscaping scheme be conditioned.

7.4. Regard to Case Law

7.4.1. The First Party refer to case law and in particular to the *South-West Regional Shopping Centre Promotion Associated Limited & Anor -v- An Bord Pleanala (2016) IEHC 84* and to the judgement of Costello, J relative to amending applications. They consider that the current application should be considered under this remit. A copy of this decision is included in the Appendix to this Report. Notwithstanding that the Applicant has complied with Condition nos. 4 and 26 of the parent permission, they argue that it is not within the remit of the Board to revisit the required phasing arrangements and open space provision in its assessment of the current application, having regard to the judgement of the High Court, as these are not proposed to be modified by the proposed amendments to Block 4.

7.4.2. Nevertheless, while regard is had to this judgment, it must be noted that there are variations in case law depending on the circumstances and each application is considered on its merits. Also, the wide range of issues brought up in the case referred to are relevant to a larger more complex case for a different location and development plan and scheme of development.

7.4.3. It is also noted that Council permissions relative to all of these subsequent permissions which relate to amendments to various parts of the scheme have included Condition no.2 relative to the parent permission i.e:

The conditions of the permission made under Reg.Ref. F15A/0565 & ABP Ref.PL06F.247787, including phasing arrangements, shall be complied with in full in the course of the development herein permitted, save for the changes to the plans permitted under this application. This permission will expire on the 3rd September 2022.

Reason: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.

7.4.4. The lifetime of the parent permission is until September 2022, in two years time, with all works programmed to be complete in advance of this date. Therefore, in the

interests of clarity and to prevent piecemeal development, if the Board decides to grant permission it is recommended that this condition be included.

7.5. Regard to Commercial/Retail Usage

- 7.5.1. The Fingal County Development Plan 2017-2023 contains relevant population housing projections for retail impact analysis. The parent permission PL06F.247787 was granted permission in 2017 and there are concerns that there will be a reduction of retail/commercial in the scheme. While the principle of development is acceptable it is submitted that an up to date RIA should have been submitted to reflect current circumstances on the ground. In this respect it is noted that this is a building site, and no development has as yet been constructed on the subject site.
- 7.5.2. Regard is also had to the proposal for an anchor Lidl store and to the Retail Planning Guidelines 2012 which includes reference to supermarkets as small convenience stores. This notes that the distinction between 'discount stores' and other convenience goods stores which was contained in the 2005 Retail Planning Guidelines will no longer apply. Annex 1 provides a Glossary of Terms. A.1.3 refers to Types of Retailing and this includes Supermarket which is defined as a *Single level, self service store selling mainly food, with a net retail floorspace of less than 2,500sq.m.* It is noted that the proposed discount supermarket was omitted by the Board from the parent planning permission - condition no. 2 refers.
- 7.5.3. It is submitted that the current proposal results in a rationalisation in the provision of retail/commercial development in Block 4 as submitted under Reg.Ref. F15A/0565 & ABP Ref. PL06F.247787. At that time plans included a gym and a larger supermarket area. Details submitted provide that the current proposal which relates to the eastern part of the block now referred to as Block 4A taken together with concurrent planning application (Reg.Ref.F19A/0479) which concerns the western part of the Block (now referred to as Block 4B) will result in a reduction in commercial/retail floor space of this block of 3,029sq.m. (i.e from 6,644sq.m to 3,615 sq.m). The wider development as per the parent permission entailed 9.987sq.m of commercial/retail floor space.
- 7.5.4. There is concern that the level of commercial development within the scheme is being reduced and that the increase in population in the Lusk area and as a result of

this development had resulted in a greater demand for local retail and leisure options. The proposed supermarket is reduced in size from that permitted and the first floor gym is being omitted from the revised scheme. It is provided that these revisions are likely to reduce the attraction of facilities for people driving to facilities from the hinterland area, and thus there is a reduction in the overall parking provision/requirement.

- 7.5.5. Regard is had in the Planning History Section above, to the concurrent applications, now granted subject to conditions by the Council. Reference is had to the proposed development at Block 4A – i.e: 1no. Food Store (2525sq.m) at first floor level and Retail units (363sq.m) at ground floor within Block 4A – (current application Ref. F19A/0469). Also, to the concurrent application - 4no. retail units (618sq.m) and 1no. café (109sq.m) at ground floor within Block 4B – (now permitted by the Council – Ref. F19A/0479). The plans submitted at F.I stage show the subject site relative to the commercial quantum in current applications.
- 7.5.6. It is noted that the recently granted Reg.Ref. F19A/0479 taken together with the current proposal results in the omission of 3,029sq.m of commercial/retail floor space within Block 4. As noted in the Planner's Report the overall quantum of commercial/retail floorspace within the wider development taking account of the 3 recent planning applications, is being reduced by 4,304sq.m from 9,987sq.m to 5,683sq.m (i.e $9,987 - (1,275 + 3,029) = 5,683\text{sq.m}$).
- 7.5.7. Also, Reg.Ref. F19A/0454 omitted in total 1275sq.m of commercial/retail floorspace and the provision of residential in lieu. The Planning Officer then noted that there is significant commercial/retail element within the remaining permitted development including the provision of a supermarket and gym within Block 4 and further commercial/retail uses within Block 5.
- 7.5.8. The First Party response to the appeal provides that the applicant has secured an operator, Lidl, for the approved Anchor Retail Store in Block 4. The proposed modifications are being sought to ensure that the premises meet the operational and commercial needs of the operator, thereby securing the future viability of the supermarket, which will ensure delivery of a valuable asset for the wider development of the community of Lusk. They also note their plans for the village centre and provide a details relative to the progress of the Masterplan. They provide

that the masterplan as permitted required modification both to fill the gaps left from the removal of commercial provision in Blocks 5B & 6 and to revise the remaining commercial accommodation to ensure its viability. In this instance the current application relates solely to an area of 0.64 ha within the wider 7.2ha site and represents a rationalisation of the retail uses permitted in Block 4 which they provide accords with the demands of the retail sector.

7.5.9. The development permitted under the parent permission was considered to comply with the objectives of the Retail Planning Guidelines 2012. The proposed development is also considered to comply with the RPG. Note 2 of the Board's Direction relative to PL06F.247787 is of interest in that it notes that they had some concerns about Lusk exceeding its role within the retail strategy of this area of north County Dublin and noted their inclusion of Condition no. 2 relative to the omission of the drive-through restaurant and discount retail unit in Blocks 6 and the proposed petrol filling station in Block 5B.

7.5.10. Having regard to all the issues raised I would consider that while there will be some loss of commercial/retail on this site and some loss of facilities caused by the loss of the gym, that on balance the proposed development is acceptable and in accordance with the Retail Planning Guidelines 2012. It is not considered that the proposal would significantly undermine the achievement of the zoning objective which pertains to the subject site. The proposal in the wider context of the greater development site remains compliant with the provisions of the Fingal Retail Strategy in relation to Level 4 centres. However, I would be concerned about the cumulative impact of any further erosion of commercial/leisure facilities relative to that permitted in the parent permission and their impact on creating a sense of place and desirable destination including for residents in Lusk Village.

7.6. Design and Layout

7.6.1. A Design Statement has been submitted with the current application. In summary the amendments proposed in the current application (Reg.Ref.F19A/0469) now before the Board comprises the omission of the previously permitted two storey commercial Block 4 which was to contain a larger supermarket and a first floor gym. It is now proposed to replace this with a smaller new two storey commercial Block 4A

containing 3 no. commercial units totalling 363sq.m, 48 under-croft car parking spaces and sundry plant facilities at ground floor, with single licensed food store comprising 2,525sq.m g.f.a. at first floor level, 80 no. surface car parking spaces in a revised layout that includes access to a delivery ramp up to first floor loading dock, minor revisions to vehicular access from Loughcommon Lane, ancillary minor amendments to associated landscaping, site works and infrastructure.

- 7.6.2. It is noted that the red line boundary for the application area pertains only to that part of the site which is the subject of the proposed amendments with an area of 0.64ha. This includes the Anchor Lidl Store and associated car parking. Access is to be from Station Road via Loughcommon Lane. It is noted that the Supervalu who are the Third Party Appellants are located as part of a commercial development and have access to Station Road further to the west of the wider landholding area.
- 7.6.3. A full Schedule of the proposed revisions is provided in Section 4 of the Design Statement. Schedules have also been prepared to show the floor area of the proposed revisions, as well as those pertaining to commercial use in the concurrent application, in the context of the overall scheme – Appendix A refers. Schedules relative to car parking have also been submitted. Details are given of the Concurrent Planning Context. Fig. 4 shows the proposed development in the context of the concurrent adjacent application. Details are given of the Proposed Revised Development in the context of that previously permitted on this site.
- 7.6.4. It is considered that the design of the proposed Lidl is relatively standard and functional. There are concerns that the heavily fenestrated, box-like structure to accommodate Lidl is not a signature building befitting the New Street of Lusk. This pedestrian thoroughfare is the centrepiece of the Masterplan. A greater incorporation of solid materials into the façade would mitigate the blandness and improve the visual appearance in the streetscape.
- 7.6.5. In response to the Council's F.I request SDS consulting engineers have submitted drawings showing revisions to the elevations. The revised elevations propose a finer grain to the South elevation to the new commercial street by breaking the façade down into a series of smaller elements with a more vertical emphasis. These elements differentiated through use of different materials, including glazing, brick and stone clad elements. It is provided that this arrangement serves to similarly break the

east elevation down to a finer grain from that previously submitted. The south and eastern elevation for Block 4 are shown broken down into a series of alternating elements clad with vertical glazed openings to the sales hall behind. The north elevation is clad in white render and metal proprietary cladding panels, while the west elevation is clad in white render. Powder coated metal are provided at ventilation openings, while acoustic timber fencing panels are to be supplied along the vehicular ramp.

7.6.6. It is noted that the applicant confirms that there is no roof plant. Revised drawings show the proposed elevations of the ESB substation. The proposal also includes the upgrading of the site boundaries, comprehensive site landscaping and all associated site development and ancillary works to complete.

7.6.7. It is considered that the design and layout as submitted in the revised plans submitted at F.I stage will appear visually acceptable on this site. While the proposed design of the Lidl store is relatively standard it will not detract from the visual amenities of the area. Advertising signs as shown on the elevations are considered to be acceptable in this location. The proposed internally illuminated flagpole sign is shown 7m in height and is to be located proximate to the site entrance from Loughcommon Lane. It is recommended that if the Board decides to permit that conditions relative to external finishes and to restrictions on any further advertising be included.

7.7. Traffic and Parking

7.7.1. The subject development site is located immediately north of Station Road (R128). The access from this road to Loughcommon Lane has been included as part of the parent permission. There is concern that traffic volumes will increase as a result of this proposal. Also, that provision should be made by the developer for increased traffic calming measures including the inclusion of ramps on the Village Road, adjacent to Saddler's Place. Regard is also had to permeability and integration of the subject site with surrounding mixed-use development. It is submitted, that given the general lack of on-site parking and the proposed proximity to the new pedestrian street to undercroft and surface level parking (48 and 80 spaces respectively) it is

imperative that a Road Safety Audit be carried out and in view of the proposed road access off Loughcommon Lane.

- 7.7.2. While the application site, is in a town centre location and some relaxation in parking standards can be considered, Lusk, cannot rely on public transport, relative to frequent bus services etc. Although it is noted that a Dublin bus service runs along Station Road along the front of the mixed-use development. There is concern that against this background the size of the parking shortfall should generate concerns by the Council for the proper traffic functioning of the entire Masterplan area.
- 7.7.3. In response to the Council's F.I request the applicants provide a table showing the aggregate amendments to the parent application incorporating all 4 amendment applications and detailing retail floorspace to be provided and the number of parking spaces. They provide in a breakdown table that the amended masterplan arrangement, envisages a total of 147 commercial spaces to serve the commercial functions in Blocks 4A,4B, 5A and 5B.
- 7.7.4. Details are included of the maximum no. of spaces required 213 relative to the proposed development on the subject site and the no. of parking spaces provided - 147. It is provided that under this strategy, 100% of the maximum allowable provision under the development plan is provided for in the anchor retail store in block 4A. i.e (116 spaces) while provision for the remainder of the comparison retail is made at 50% of the maximum allowable standard. The 147 spaces proposed include 80 surface spaces in the primary car park in Block 4A; 6 on street undercroft spaces beneath Block 4A; 4 spaces between buildings C and D in Block 5B and 5 on-street pull in spaces adjacent to building D (creche). As noted on the Breakdown Table provided in Section 4.0 the creche is part of block 5B.
- 7.7.5. The F.I provides that the provision of the large pedestrian priority shared surface at the centre of the scheme allows for safe pedestrian permeability between the blocks and the commercial area. Separate provision is made for pull in loading along the shared surface outside of Block 4A, with this area reverting to pedestrian use outside of use for loading as per DMURS. Details of additional parking in the immediate area including on street parking are noted.
- 7.7.6. Details of cycle parking are given and it is noted that the proposed masterplan shows the provision of 52no. cycle spaces to serve blocks 4A,4B, 5A & 5B. It is provided

that this equates to 142% of the required parking spaces, reflecting the applicant's desire to promote cycle access to the scheme and details are given of where the spaces are to be allocated.

7.8. Regard to Operations

- 7.8.1. The proposed delivery route is via the site entrance adjoining Loughcommon Lane, from the new access to Station Road, the onsite parking area and a ramp that lies to the north of the Lidl building. Revised site layout drawings submitted, show the ESB substation moved to the east end of the site, to reduce visual hazard, a pedestrian crossing has been installed to provide a safe pedestrian route past the loading ramp to the back of the parking spaces along the northern boundary of the site. It is noted that there are on average 1-2 deliveries per day using this ramp.
- 7.8.2. It is noted that AWN Consulting have submitted a technical note relative to noise implication of this proposed development. Noise sources include waste management activities, loading bay activities and building services noise. Fig. 3 of this Report shows ground and first floor locations relative to plant. I would have some concerns about the proposed location of the ramp and the proximity to residential Block 7A (not yet constructed – Reg.Ref. F19A/0479 refers) and would recommend that it is important that if the Board decide to permit that adequate screening to include the loading bay ramp barrier be provided in order to screen the ramp from the residential properties to the north of the ramp and that there be no night time deliveries. In view of the proximity to residential development if the Board decides to permit, I would recommend, that conditions relative to hours of opening/ operation and noise mitigation be included.

7.9. Mobility and Permeability

- 7.9.1. A Mobility Management Plan for the proposed development by DBFL consulting engineers has been submitted. This has regard to the nature and scale of the proposed development, in the context of the surrounding mixed use permitted development and of the Masterplan for the area. The aim of the MMP is to seek to encourage sustainable travel practices of all staff and customers travelling to/from the proposed commercial development located on Station Road, Lusk. It is noted

that this plan relates also to the overall development. Regard is had to public transport options in the area and to cycle network proposals. The Rush & Lusk Train Station is located approx. 1km to the east of the subject site. I would consider it important that this MMP be implemented in accordance with the plans submitted.

- 7.9.2. There is concern that the proposal would unlike that originally granted in the parent permission be lacking in permeability and connectivity which includes short walking distances between living, commercial and recreational destinations as well as encouraging a positive destination. Also, that the proposed revisions would have a detrimental effect on each of the above and this should be taken into account when considering the amendments currently proposed. I note that in view of the scale of the proposal that permeability is restricted to the south eastern access. I would, recommend if the Board decides to permit that it be conditioned that a revised plan be submitted to show linkages and further pedestrian permeability to the site from the surrounding development areas.

7.10. **Services**

- 7.10.1. A Services Design Report has been submitted with the application. This notes that the Lidl store development is part of a larger planning permission, however, this report solely applies to the Lidl store site only. It provides details relative to surface water disposal and attenuation/tank storage capacity. Appendix A includes surface water network design calculations.
- 7.10.2. The existing foul sewer system within the site is to be diverted and removed. Details are given of the proposed foul sewer system and of the overall daily wastewater loading. It is noted that the proposed new foul sewer system will be connected to the foul sewer network outside the southern boundary of the site.
- 7.10.3. The existing watermain crossing the site is to be diverted around the proposed building footprint. New connections to the public watermain are proposed to serve the proposed Lidl store and each of the three retail units.
- 7.10.4. It is noted that all redundant services of foul sewers, surface water sewers and watermains will be removed from the site. Summary conclusions are given in relation to Surface Water, Foul Water and Watermains. Details are also included relative to A Range of Fuel/Oil Separators.

7.10.5. It is noted that the Council's Water Services Department and Irish Water do not object subject to recommended conditions. If the Board decides to permit it is recommended that appropriate drainage conditions be included.

7.11. Archaeology

7.11.1. The Council's Community Archaeologist notes that the site corresponds with the southern extent of Plot 10 as identified within the desktop assessment and provide details of this. Bordered by the historic townland boundary of Lough Common the development site is within the zone of notification of the historic town of Lusk RMP: DU008-010 and according to cartographical analysis may have encompassed the outer enclosure of the early medieval monastery at Lusk. They note the archaeological significance of Lusk and recommend an archaeological assessment of the site including test excavation and assessment of impact of works by a suitably qualified archaeologist, should be undertaken.

7.11.2. In response to the F.I an Archaeological Impact Assessment carried out by Archer Heritage Planning has been submitted. This noted that the subject site is located within an area of high archaeological potential. However, following extensive groundworks and construction related activity, there remains low potential for the continued survival of buried archaeological deposits at this location. They recommend that any future groundworks undertaken in association with development works at this location be monitored by a suitably qualified architect. The Department of Culture, Heritage and the Gaeltacht had regard to this AIA and notes the proposed mitigation in the report (Section 7, page 14). They recommend a condition relative to archaeological monitoring.

7.11.3. It is noted that Section 7.82 of the Inspector's Report (PL06F.247787 refers) provided a discussion on Archaeology. The Inspector recommended a condition concerning archaeological monitoring. However, this was not included by the Board. Archaeological monitoring conditions were included by the Council in subsequent amending permissions Reg.Ref. F19A/0454 (condition no.7 refers) and in Reg.Ref. F19A/0479 (condition no. 6 refers). Similarly, the Council's decision relevant to the current application includes condition no. 5. In view of the archaeological significance of the area, and the recommendations of the Archaeological Impact

Assessment submitted with the current application, it is recommended that if the Board decides to permit that an appropriate condition relevant to the subject site be included.

7.12. Screening for AA

- 7.12.1. An Appropriate Assessment Screening Report was submitted with the parent application relevant to the wider development area (7.2ha) and regard was had to it in Section 7.85 of the Inspector's Report for Ref.PL06F.247787. An assessment was made relative to 7no. European sites within 10km of the application site. The Inspector considered the AA Screening carried out to be adequate, in order to issue a screening determination and provided: *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.*
- 7.12.2. The subject application is centrally located within the wider development site area. A subsequent AA Screening Report has not been submitted relevant to the subject site. Note is had to Condition no.1 of the parent permission for the overall mixed-use development. Reference is also made to Condition no.2 of the Council's decision relevant to the subject application relevant to compliance with the conditions of the parent permission. On the basis of the details submitted with the parent application (granted 2017) it is considered that the Inspector's conclusion reached above and relevant to the wider site area would still apply and that a Stage 2 AA (and submission of an NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the planning history of the site and to the mix of uses and the pattern of development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed

development would not materially contravene the current town and district centre zoning provisions for the site, as set out in the Fingal County Development Plan 2017-2023, would not seriously injure the amenities of the area or of property in the vicinity and would not give rise to a traffic hazard or to traffic congestion. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 27th day of January 2020 and by the further plans and particulars received by An Bord Pleanála on the 22nd day of June, 2020, 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. The conditions of the parent permission granted under planning register reference number F15A/0565 and An Bord Pleanála reference number PL06F.247787 shall be complied with, except as may otherwise be required in order to comply with the following conditions. This permission shall expire on the same date as the aforementioned permission, unless permission for the continuance of the use beyond that date has been granted.

Reason: In the interest of clarity and consistency and to enable the development to be reviewed, in the interest of proper planning and sustainable development of the area.

3. Details of the use of and signage for the proposed commercial/retail units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the proposed use.

Reason: In the interest of clarity and visual amenity.

4. Details of the materials, colours and textures of all the external finishes to 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.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs other than those provided for in this application (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This scheme shall include the following:-
 - (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths and parking area, kerbing and road surfaces within the development;
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - (c) details of proposed street furniture, including bollards, lighting fixtures and seating; and
 - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance within the agreed scheme.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

8. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

9. All access and parking arrangements, including any alterations to the public road, shall comply with the detailed requirements of the planning authority for such works and services. All such works shall be at the developer's expense.

Reason: In the interest of traffic safety and to ensure a proper standard of development.

10. Prior to the commencement of development, a revised Site Layout Plan showing details of additional pedestrian/cyclist linkages to the site shall be submitted for the written agreement of the Planning Authority.

Reason: In the interest of permeability

11. 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the proposed use. 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.

12. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

13. (a) Noise from the development shall not give rise to sound pressure levels (Leq 15 minutes) measured at noise sensitive locations which exceed 55 dB(A) between 0700 hours and 2200 hours and 45 dB(A) at any other time.
- (b) There shall be no clearly audible tonal component or impulsive component in the noise emission from the development at any noise sensitive location.
- (c) A detailed noise study, with recommendations, shall be carried out by a competent noise/environmental consultant within three months of the development being in full operation and at any other time as may be specified by the planning authority. The noise study shall be submitted to the planning authority for agreement.

Reason: In the interest of the proper planning and sustainable development of the area.

14. The hours of opening/operation shall be as follows:

- (a) The proposed retail units and anchor store shall not operate outside the hours of 08.00 to 20.00 Monday to Saturday inclusive, nor outside the hours of 10.00 to 19.00 on Sundays or public holidays.
- (b) No deliveries shall be taken at or dispatched from the premises outside the hours of 07.00 to 22.00 Mondays to Saturdays, nor outside the hours of 09.00 to 19.00 on Sundays or public holidays.
- (c) Site development and building works shall be carried out only between the hours of 08.00 and 19.00 Mondays to Fridays inclusive, between 08.00 hours and 14.00 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times shall only be allowed in exceptional circumstances where the prior written approval has been received from the planning authority.

Reason: In the interest of residential amenity.

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

Reason: In the interest of visual and residential 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. 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 traffic and plant movements and parking provision for site staff, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

18. 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, as amended. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Angela Brereton
Planning Inspector

7th of August 2020