



An
Bord
Pleanála

Inspector's Report

ABP-313836-22

Development	A single storey retail development consisting of 1 no. retail supermarket
Location	Lands at Turvey Avenue, Donabate, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0708
Applicant(s)	Parkside Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	1) Anthony Cunningham 2) Gerard Ronan and others.
Observer(s)	None.
Date of Site Inspection	22 nd November 2023.
Inspector	Lucy Roche

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1.0 Site Location and Description

- 1.1. The appeal site is located at the southern side of Turvey Avenue in Donabate, c250m west of Donabate train station. Turvey Avenue connects the centre of Donabate and the M1, via the R132 Regional Road, c2.7km to the east.
- 1.2. The appeal site comprises an area of greenfield that is bounded to the south and west by a mix of mature trees and hedges. The northern boundary is delineated by a low stone wall with mature trees and sparse hedging to the rear. Tree growth in proximity to the northern boundary has resulted in damage to the wall. The eastern boundary is open to adjoining greenfield lands. Lands within the site rise above the public road. The site has a high point in the centre and falls from there with levels varying between 8.60m AOD and 12.7m AOD. The site is served by an existing entrance off Turvey Avenue, this entrance is positioned at the northwest corner of the site proximate to the location of a proposed pedestrian access. Turvey Avenue, at the location of the appeal site is bounded on its southern side by a public footpath. It has a continuous white line and traffic calming (speed ramps).
- 1.3. The site and adjoining lands to the east originally formed part of the Church of Ireland lands; St. Patricks Church (protected structure) is located c40m to the east while The Old Vicarage, also a protected structure is located on the neighbouring lands to the west. The site is within the Architectural Conservation Area of Newbridge House Demesne and The Square.
- 1.4. Existing development in the vicinity of the site comprises mainly residential, with a mix of low density residential (detached dwellings) to the south, medium density residential to the north (semi-detached dwellings) and higher density residential (apartments) to the northeast. Newbridge Demesne (protected structure) and its extensive curtilage is located to the west of the site, these lands are zoned open space. There is a service station, c150m to the southwest on Hearse Road. Donabate has experienced substantial housing development in recent years and extensive areas of undeveloped residential zoned land remains to the east and south of the town.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a single storey retail development consisting of 1 no. retail supermarket with a stated gross floor area of 1,835sqm and a net retail floor area of 1,320 sqm (including ancillary off-licence). The structure incorporates ancillary storage, staff facilities, plant room, loading bay and signage. The structures design includes a green roof and 100sqm photovoltaic panels at roof level. A deposit return scheme recycling unit (DRS) is proposed as a separated, detached structure to the front of the supermarket building.
- 2.2. The proposal, as originally presented, includes for the provision of 80 no. car parking spaces at surface level and 16 no. bicycle parking spaces at surface level. The proposal also includes landscaping, boundary treatments and all associated site and engineering works necessary to facilitate the development, including moving of proposed bus stop on Turvey Avenue.
- 2.3. The proposed scheme was amended at further information stage. The amendments include the following:
- The front (roadside) boundary set back 5m from the road edge.
 - The finished floor level of the supermarket lowered by 1m from +11m to +10m. Surrounding ground levels also reduced thereby removing the need for steps along pedestrian route at site entrance.
 - The car park along the western boundary sunken between 0.5m and 1.8m below ground level of the neighbouring lands.
 - Car parking reduced from 80 spaces to 77 spaces.
- 2.4. For ease of reference, Table 2.1 below provides a schedule of the key development details and statistics associated with the proposed development (as amended):

Table 2.1: Site / Development Details		
Site Area	1.2ha (<i>as per planning application form</i>)	
	0.6571ha (<i>as per site location plan - this would appear to be the correct measurement</i>)	
	Gross	1,835sqm

Supermarket Floor Area	Net	1,320sqm
Dimensions	Length	64.8m
	Width	34.73m
	Height	5.6m extending to 7.4m at roof plant location.
FFL	+10m proposed at further information stage. 1.4m above ground level at proposed site entrance.	
Finishes	Rubble stone, board marked concrete, white and grey render, zinc copping	
Access	Separate pedestrian and vehicular accesses proposed of Turvey Avenue.	
Parking	Car	77
	Bicycle	19

2.5. In addition to the planning drawings, the application is also accompanied by the following supporting documents:

- Supporting Planning Statement
- Retail Impact Assessment
- Natura 2000 Impact Screening Report (Downey Planning)
- Architectural Design Statement
- Architectural Heritage Impact Assessment
- Archaeological Impact Assessment Report
- Traffic and Transport Assessment
- Flood Risk Assessment
- Engineering Assessment Report
- Landscape Specifications

2.6. The following additional supporting documentation was submitted at further information stage:

- Appropriate Assessment Screening Report (Panther Environmental Solutions Ltd)
- Technical Report – Noise Source consideration
- Arboricultural Report
- Architectural Design Statement
- AI Photomontage Views
- Outdoor Lighting Report
- Traffic and Transport Assessment

3.0 **Planning Authority Decision**

3.1. **Decision**

Following an initial request for further information, Fingal County Council decided to grant permission for the proposed development subject to 16 Conditions. The majority of conditions are standard for retail development of this nature, the following conditions are of note:

Condition 2 Restricts the use of the entire premises as a single retail unit.

Condition 3 Requires the FFL of the proposed building be reduced to 9.5m and that site levels be revised accordingly.

Condition 4 Requires amendments to the western elevation (external finishes)

Condition 6 Regulates noise emissions from the roof top plant.

Condition 7 Requires the submission of a revised landscaping plan with additional planting provided within the car park and along the northern boundary.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The initial report of the case planner (February 2022) has regard to the locational context and planning history of the site, to relevant local and national policy and to the departmental reports and third-party submissions received.
- The primary issues considered in the report include: the principle of development; level of retail development; layout, design, and scale; impact on visual and residential amenity; impact on Natural 2000 site and EIA Screening.
- As detailed in the report, the case planner is satisfied that the proposed retail use is permissible within the “TC’ zoning. They consider that the proposal would form contemporary block which has potential to positively contribute to the streetscape and enhance the retail offering in Donabate. However, it is considered that prior to determination of this planning application there are matters which the applicant should be requested to address including conservation issues; matters relating to transportation landscaping, ecology and appropriate assessment. The report concludes with a request for further information.
- The second report of the case planner (May 2022) has regard to the further information received (28th April 2022). The report has regard to the location of the site within and ACA and within proximity to protected structures; however, it is considered that subject to the proposed building being lowered within the site, amendments to the western façade, additional landscaping being provided within the car park, the building would enhance the character of the surrounding area.
- The report concludes with a recommendation to grant permission substantially in accordance with the Planning Authority’s decision.

3.2.2. Other Technical Reports

Transportation:

- Feb 2022: Requests further information on matters relating to Traffic and Transport Assessment, boundary set-back and bicycle parking.
- May 2022: This report addresses the applicant's response to Item 1 of the further information request and recommends conditions regarding front boundary set-back; delivery times, relocation of underground/overhead services, and the submission of a final construction management plan.

Parks and Green Infrastructure:

- Feb 2022: Requests further information on matters relating to tree surveys, landscaping, and ecology.
- May 2022: This report addresses the applicant's response to Item 4 of the FI request on matters relating to landscaping, green infrastructure, and ecology. No objection subject to condition.

Conservation Officer:

- Feb.2022: The report of the Architectural Conservation Officer expresses reservations regarding the introduction of a commercial building into this sensitive location due to its large footprint, mass and level of hard surface area / car parking required.
- May 2022: This report addresses the applicant's response to Items 2, 3 and 8 of the further information request. The report raises various issues regarding the proposal and recommends a number of amendments / conditions in the event of a grant of permission.

Community Archaeologist / Heritage Officer:

- Feb 2022: This report recommends preservation in-situ of architectural remains on-site. Where this is not possible either in whole or in part a full architectural survey of the site would be required.

3.3. **Prescribed Bodies**

Uisce Eireann: No objection

Department of Housing, Local Government and Heritage – DAU:

Recommends condition (archaeological mitigation and pre-development testing) to achieve appropriate mitigation of the impacts to Architectural Heritage.

3.4. **Third Party Observations:**

Multiple third-party submissions were received by the Planning Authority including submissions from local representatives, residents and An Taisce. A summary of the issues raised in these submissions has been provided within the report of the Local Authority Case Planner. The concerns / issues raised in the submissions are similar to those raised in the third- party appeals which are summarised later in this report. It is noted that a number of the submissions received express support for the proposed development and / or the provision of additional retail offerings within Donabate.

4.0 **Planning History**

4.1. Subject site and adjoining greenfield lands to the east:

FCC Ref: F19A/0128 Permission granted (2019) for residential and community development comprising 10no two storey dwellings, community hub (395sqm) and caretakers' accommodation (45sqm). The scheme included for two new vehicular accesses onto Turvey Avenue, one serving the residential element (approximate location of the entrance proposed under this current application) and one serving the community hub to the north of St. Patricks Church.

4.2. Part of the Subject site

FCC Ref: F18A/0403 Permission refused (2018) for a residential development consisting of 4 no. two storey detached five-bedroom houses with vehicular and pedestrian access from Turvey Avenue. Refusal Reasons: (1) Inefficient use of zoned and serviced lands in town centre and (2) The proposed development, by

reason of its design, scale and prominence would compromise and negatively impact on the established integrity and character of the Architectural Conservation Area.

4.3. Greenfield lands to the east of the appeal site and to the north of St Patrick's Church:

FCC Ref: F06A/1395 Permission refused (2006) for car park area adjacent to the existing church with new access, gates, boundary wall and associated site works. Refusal Reasons: (1) The proposed development would have a significant negative impact on the existing architectural, historic, landscape and heritage character of St Patrick's Church and its associated archaeology, which is located within Newbridge Demesne Architectural Conservation Area and (2) Lack of information related to the exact number of car parking spaces proposed, intended management of the car park, hours of operation and public lighting.

4.4. Lands at Turvey Walk, fronting Turvey Avenue, Adjacent to Donabate Train Station & the residential development of The Gallery, Donabate, Co. Dublin.

- FCC Ref: F20A/0630 Permission granted (May 2021) for a mixed-use development in 2 Blocks comprising retail convenience foodstore (1,187m²net floor area including an off licence) 4 retail units and a café unit.
- ABP Ref: PL06F.245572 / FCC Ref: F15A/01/81 Permission granted (May 2016) for a mixed-use development in 3 Blocks comprising retail convenience foodstore (1,217m²net floor area including an off licence) 4 retail units and café/restaurant units. Appropriate period extended in October 2020 (FCC Ref: F15A/0181/E1) up to and including the 25th of May 2024

5.0 Policy Context

5.1. Development Plan

5.1.1. Fingal County Development Plan 2023-2029 (FCDP 2023)

The application was assessed by Fingal County Council in accordance with the policies and objectives of the Fingal County Development Plan 2017-2023. The

Fingal County Development Plan 2023-2029 was made on the 22nd of February 2023 and came into effect on the 5th of April 2023. I have assessed the proposal under the provisions of the operative Development Plan, namely the Fingal County Development Plan 2023-2029.

Zoning: **'TC' Town and District Centre**

Objective: Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities

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

Permitted in Principle: Retail – Supermarket ≤ 2,500 sqm nfa

Settlement Type:

Donabate (including Portrane) is identified as a **Self-Sustaining Growth Town**. Self-Sustaining Growth Towns with a moderate level of jobs and services – includes sub-county market towns and commuter towns with good transport links and capacity for continued commensurate growth to become more self-sustaining.

5.1.2. **Fingal County Retail Strategy**

Retail Hierarchy: Donabate is designated a **Level 4: Neighbourhood Centres**, Local Centres-Small Towns and Villages. These centres should generally provide for one supermarket ranging in size from 1,000–2,500 sqm with a limited range of supporting shops (low order comparison), supporting services, community facilities or health clinics grouped together to create a focus for the local population. This level of centre should meet the everyday needs of the local population and surrounding catchment.

5.1.3. Policies / Objectives

The following Policies / Objectives of the FCDP 2023 are noted:

Policy EEP32: Retail

Support and reinforce the retail strategy within the County having regard to the RSES, or any superseding regional retail strategy, and explore the opportunity to strengthen the retail function in Fingal's towns and villages.

Objective EEO90: New Retail Development

Ensure that applications for new retail development are consistent with the retail policies of the Development Plan, in particular with the Fingal Retail Hierarchy, and are assessed in accordance with the requirements of the Guidelines for Planning Authorities: Retail Planning, including, where appropriate, **the application of the Sequential Approach, and requirements for retail impact assessments and transport impact assessments** for retail developments which due to their scale and/ or location may impact on the vitality and viability of major town, town, local and village centres, while having regard to the impact such directions/ developments may have on the existing businesses operating within the area

Objective CSO46 – Donabate Town Centre

Channel and concentrate the development of additional commercial, social, community and civic facilities within Donabate town centre and promote high quality urban design in such development.

Objective EEO96 Level 4 Centres

Ensure the development of Level 4 Centres as sustainable, vibrant, and prosperous Small Towns, Village Centres and Local Centres performing at a level within the Fingal Retail Hierarchy to meet the retailing needs of immediate local populations and catchment populations.

Objective EEO97 Retail Provision in Level 4 Centres

Where a gap in the retail provision of a Level 4 Centre is identified and established, facilitate appropriately scaled improvements to the retail offer and function in Level 4 Centres and ensure their sustainable development by enhancing the existing Centre for each and directing new retail opportunities into the Centres.

Objective EEO98 Ensure Sufficient Retail Offer in Level 4 Towns and Centres

Ensure that the Level 4 Small Towns, Village Centres and Local Centres have a retail offer that is sufficient in terms of scale, type, and range without adversely impacting on or diverting trade from the higher order retailing locations.

5.1.4. Development Management Standards

The Development Management Standards for Fingal are set out in Chapter 14 of the FCDP 2023. The following standards are noted:

Car Parking:

- Table 14.9 Car Parking Standards allows for a maximum of 1space per 20 m² for food stores (incl. Discount food store).
- A minimum of 5% of car parking spaces provided should be set aside for disabled car parking in non-residential developments.
- Non-residential development shall be required to provide functioning EV charging points at a minimum of 10% of all spaces and all other spaces shall incorporate appropriate infrastructure (ducting) to allow for future fit out of a charging point at all spaces.

5.2. Donabate Urban Centre Strategy 2010

The Donabate Urban Centre Strategy (UCS) is a non-statutory document prepared by Fingal County Council in 2010 as per the objectives of the Fingal County Development Plan 2005-2011. The aim of the UCS was to create a structured development strategy for the town centre. It identifies key sites, examines their future development potential, and provides guidance on future layout and design. The appeal site is located within Area 1 with a vision to establish a cluster of low-density housing in keeping with the rural character of the site.

5.3. Donabate Local Area Plan 2016 (extended to March 2026)

The Donabate LAP covers approx. 138 hectares (340 acres) of undeveloped land in four parcels at Corballis (c. 65 ha), Ballymastone (c. 50.2 ha), Rahillion (c. 5.5 ha) and at Turvey (c. 16 ha). No specific requirements or recommendations are made with regard to the appeal site which is located on designated town centre lands outside of the proposed development lands.

5.4. National Policy and Guidance

- Project Ireland 2040 National Planning Framework (Feb 2018)
- Retail Planning Guidelines for Planning Authorities – April 2012
- Architectural Heritage Protection Guidelines for Planning Authorities

5.5. Built Heritage Designations:

5.5.1. Architectural Conservation Area

The appeal site is within the Donabate - Newbridge House Demesne & The Square
ACA

5.5.2. Protected Structures:

There are a number of protected structures within the vicinity of the appeal site. The following are of note:

RPS No:	Structure	Description	Location
863	The Old Vicarage	Early 19th century detached three-bay two-storey former vicarage	Lands to the west of appeal site
508	St. Patrick's Church of Ireland Church	Mid-18th century Church of Ireland church with medieval doorway and remains of square pre-1700 tower, set within enclosed graveyard (containing historic grave memorials)	C35m to the southeast
507	Water pump	19th century cast-iron pump with rounded profile set on limestone plinth.	C80m to southeast
495	The Lodge	Early 19th century single-storey former gate lodge to Newbridge House, at gates on west edge of Newbridge Demesne	C80m to southwest
494	Newbridge House	Main house plus outbuildings, walled gardens, gates & gate piers	C60m to the west

5.5.3. Recorded Monuments.

There are a number of national monuments recorded on lands to the east of the appeal site and within the grounds of St. Patrick's Church of Ireland Church.

5.6. **Natural Heritage Designations**

The site is not located within nor is it adjacent to any designated European sites. The closest Natura 2000 sites are: the Malahide Estuary SPA (site code:004025) and SAC (site code:000205) c1.1km to the south of the subject site and the Rogerstown

Estuary SPA (site code:004015) and SAC (site code:00208) c1.3km and 1.4km respectively to the north of the subject site.

5.7. EIA Screening

Having regard to the nature, size, and location of the proposed development and to the criteria set out in schedule 7 of the regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required. See completed Form 2 on file.

6.0 The Appeal

6.1. Grounds of Appeal:

Two third-party appeals have been lodged against the decision of Fingal County Council to grant permission for the proposed development at Turvey Avenue, Donabate Co. Dublin. The appellants in this case are:

- Anthony Cunningham
- Gerard Ronan on his own behalf and on the behalf of other residents of the area. This appeal submission is accompanied by supporting letters.

The issues raised in the third-party submissions can be summarised as follows:

Anthony Cunningham

- The proposed development of a single retail unit does not accord with the Town Centre Zoning for the site which intends for a mix of uses including commercial, recreational, culture and leisure.
- The proposal does not accord with Fingal's Retail Hierarchy which states that Level 4 settlements such a Donabate should generally provide for one supermarket ranging in size from 1,000–2,500 sqm with a limited range of supporting shops and services. Permission has already been granted in the settlement for a retail development including supermarket. The proposed development if permitted would result in a second retail development on the narrow access Rd. Which will result in overdevelopment in the area.

- The site is within Donabate - Newbridge House Demesne & The Square ACA. The proposal due to its size, nature and proposed large surface car park would create an overbearing visual impact and would adversely affect the character of the area.
- The proposed development is likely to generate significant amount of traffic on Turvey Avenue, a single carriageway road. The traffic assessment was conducted in March 2020, during Covid when traffic volumes were at their lowest, this would not give an accurate representation of traffic volumes in the area.
- The proposed development will result in traffic congestion and dangerous turning movements for HGV traffic.
- Reference is made to the planning history of the site noting that all previous applications on the site were refused on conservation grounds due to the location of the site within the ACA.

Gerard Ronan

- The Town Centre zoning for the site is at odds with the nature of the site and its designation as an ACA. The proposal would represent a significant and precedence-setting material contravention of the stated objectives of the ACA, and of Council policy with respect to protected monuments and the architectural, historical, and archaeological setting of this site.
- The proposed development would be contrary to the Donabate Urban Centre Strategy (FCC 2010) which envisaged the site being developed for low density housing.
- The site is located outside of the Core Retail Area of Donabate.
- The proposed retail provision would exceed the requirements of FCC's Retail Strategy.
- The assessment of Fingal County Council is not in compliance with the Retail Planning Guidelines in that it failed to establish that there are not more suitable sites for the proposed development i.e., appropriately zoned lands

that would not have an adverse effect on ACA, visual amenity, traffic congestion.

- This is not a suitable location for the proposed retail development / car park, it should be located away from the historic heart of the village and accessible to new developments via the Donabate Distribution Road (DDR). All previous attempts at large scale development on site have been refused.
- The proposed building is too high and too prominent for this sensitive location close to protected structures.
- The proposed car park would represent a scar on the landscape and historical setting. The impact of the car park has not been appropriately considered. Planning permission was previously refused for a car park on this site.
- The proposed development due to its location on the eastern side of Donabate, away from the majority of existing / proposed residential development, will only serve to increase the number and distance of motor vehicle journeys, and do little to promote a modal shift to public transport, walking cycling etc.
- Turvey Avenue is narrow and ill-equipped to deal with current traffic levels. The current proposal would only serve to increase traffic levels and congestion within the village centre.
- The proposal will increase HGV traffic on Turvey Avenue. The impact of increased commercial traffic on Turvey Avenue on cyclists has not been given appropriate weight. Turvey Avenue is a narrow road unsuited to the coexistence of commercial traffic and cycle traffic.
- Proposed car parking will be used as overflow parking for the train station.
- The traffic study for this site is fundamentally flawed. The traffic audit was carried out during Covid restrictions. The assessment fails to consider traffic generated by the mixed-use development permitted under GF15A/0181 (ABP 245572)

- There are no cycle lanes and little public transport on Turvey Avenue. Access to the supermarket by public transport will not be possible for residents of Portrane.
- The proposed off-licence will result in an increase in anti-social behaviour in the area.
- The application documents are lacking in detail/information and include a number of discrepancies / misleading information.
- The application pays little regard to the topography of the site and the history of flooding on both sides of the hill on Turvey Avenue.
- The cover letter with the application refers to a 'letter of consent from Fingal County council'; this letter is absent from the documents available of FCC website. The content of this letter is queried. It should have been available to potential observers.
- The planning notice was not published in a newspaper approved by Fingal County Council.

6.2. Applicant Response

The first-party response to the issues raised in the grounds of appeal is set out in correspondence received on the 19th of July 2022. The submission includes a response document from Waterman Moylan Engineering Consultants on the traffic issues raised in the appeal along with verified photomontages to demonstrate how the proposal retail development will fit within the context of the site and surrounding area. The response is set out under various headings and can be summarised as follows:

Impact on Architectural Conservation Area

- A design statement in accordance with FCDP Objective DMS03 was included with the application.
- The boundary with the Church owned lands will be lined with hedgerows and the car park will be sunken c1m below ground level.

- The proposed store does not interfere with existing views of St. Patricks Church from Turvey Avenue. It therefore retains the legibility of the historic urban grain of the rural streetscape and does not interfere with existing sightlines.
- There is no totem signage. Signage will be displayed on the building façade and at the entrance to the site on the local stound boundary wall.

Design and Scale:

- The design of the building is sensitive to the architectural area and does not detract from the architectural heritage in the site's vicinity.

Traffic and Accessibility

- The application is accompanied by a Traffic and Transport Assessment (updated at FI stage) and operation traffic management plan. Delivery vehicles will not cross Donabate Town Centre but will travel to the site from the west via the M1 and R132 regional road.
- The 33E bus route from Dublin city Centre to Skerries passes bus stop 7721 opposite the subject site. This route allows people from Portrane to access the development.
- The subject site is well served by public transport.

Level of Retail and Zoning

- The site is zoned 'Town and District Centre'. The proposed development is permitted in principle under zoning objective TC.
- The traffic associated with the development is within the carrying capacity of the local road network and would not lead to traffic congestion or adversely impact on the operation of the network.
- At present residents of Donabate and Portrane either have to shop at Supervalu (the only supermarket on the peninsula) or travel to Swords. The current proposal will enable residents to reduce distance travelled to carry out their shopping needs.

Impacts on Visual and Residential Amenity

- No overlooking or loss of daylight is anticipated through the orientation of the building on site.
- The building will have minimal visual impact when viewed from Turvey Avenue, St. Patricks Church and from the Square.
- The Planning Authority's decision requires further amendments to external finishes. The applicant agrees to requirements and submits that this is sufficient to address the concerns of the appellants regarding the finish of the western elevation.

Archaeology

- An Archaeological Impact Assessment Report accompanied the application. Site testing, in both 2017 and 2021, confirmed that there is considerable multi-phased archaeological activity including substantial ditches, linear features surfaces spread pits and at least two burials. These deposits are primarily located on the eastern and central part of the study area which is outside of the application itself. In light of the significant archaeological testing that was carried out at the site it can be confirmed that the proposed development is in accordance with the guidelines and would not give rise to significant adverse archaeological impact.

Flood Risk

- A Flood Risk Assessment accompanied the application. This confirmed that the subject site is not prone to flooding and that the proposed development will not give rise to flooding either within the site or on 3rd party lands. SuDs have also been incorporated into the overall design ensuring that surface water will be treated and will not increase as a result of the proposed development. In light of this it is respectfully submitted that the grounds of the appellant are unfounded and not backed up by any evidence base.

Compliance

- The newspaper notice was placed within the Irish Daily Star which is a national newspaper that circulates with in the Donabate area and which is available for purchase in local shops and retail outlets. FFC have confirmed

that the Irish Daily Star is accepted by them for planning notices relating to applications in the Fingal area.

6.3. **Planning Authority Response**

The response of the Planning Authority is set out in correspondence received on the 26th of July 2022 and can be summarised as follows:

- The issues raised in the appeal submissions are generally addressed in the Planner's report relating to the planning application and as such the Planning authority has no further comment to make.

6.4. **Observations**

None received.

6.5. **Further Responses**

Gerard Ronan and Others received 24th August 2022:

This submission addresses the applicant's response to the grounds of appeal. The submission reiterates many of the issues / points of concern raised in the grounds of appeal and summarised in section 6.1 above. The following points are also noted:

- The applicant's submission fails to adequately address the substantive issues of the appeal, in terms of impacts on road safety, pollution, nuisance, the visual amenities of the area and in particular the protection of the ACA.
- There is no bus 'route' that serves Turvey Avenue. Bus stops on Turvey Avenue serve only school buses. The train does not provide a public transport link to the proposed supermarket.
- The appellant raises concerns regarding the applicant's description of the site and surrounding development pattern which they consider to be misleading; the failure of the applicant to reference previous relevant planning refusals pertaining to the at the site and the applicant's failure to address the previous reasons for refusal. The appellant fails to see what has changed since these

decisions were made, and why the rationale for refusal would not equally apply to this application.

- The submitted photomontages are highly selective and potentially misleading in that the majority of photographs are taken from viewpoints from which the elements of the ACA cannot be seen even at present and in which the true impact of the car park and supermarket cannot be properly assessed.
- The commercial viability of the site should not influence a decision regarding the suitability of the site especially when within an ACA.

Fingal County Council (30th August 2022):

- No further comments to add.

7.0 **Assessment**

7.1. **Introduction**

Having examined the application details and all other documentation on file, (including the submissions received in relation to the appeal), and inspected the site, and having regard to relevant local/regional/national policies and guidance, and to the planning history of the site, I consider that the main issues in this appeal are as follows:

- Zoning
- Compliance with Donabate's Urban Centre Strategy
- Compliance with County Retail Strategy:
- Impact on Built Heritage
- Impact on Archaeology
- Traffic
- Other Matters
- Appropriate Assessment

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. Accordingly, the issues for consideration are addressed below.

7.2. Zoning

7.2.1. This appeal relates to the proposed construction of a supermarket (1,320sqm nfa) at Turvey Avenue in Donabate. The appeal site is on lands zoned “TC’ Town and District Centre’ in the Fingal County Development Plan 2023-2029 (FCDP2023) with the objective *‘to protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.’* The proposal comes within the category of ‘Retail - Supermarket ≤ 2,500 sqm nfa’, which is listed as a use class that is permitted in principle within the ‘TC’ zone.

7.2.2. Each land use zoning objective of the FCDP 2023 has a supporting vision which elaborates on the zoning objective and which sets the context for the type of development which would be acceptable. The ‘vision’ for the ‘TC’ zoning seeks to develop and consolidate town and district centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses. It is the contention of the third-party appellant (A Cunningham) that the development of the appeal site solely for retail use would not accord with the ‘TC’ zoning as it fails to deliver an appropriate mix of uses. In response, I note that the appeal site forms only part of a much larger town centre zoning in Donabate, with sufficient lands available to provide the mix of uses envisaged for the centre. In my opinion, the development of the appeal site as proposed would help to develop and consolidate the town centre while also improving facilities for existing and future residents. I am therefore satisfied that the development of the appeal site solely for retail use would not undermine the TC’ zoning objective.

7.2.3. In respect of retail development, the vision for the ‘TC’ zone states that 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. These matters will be considered in greater detail in the following sections of this report.

7.3. Compliance with Donabate's Urban Centre Strategy (2010)

- 7.3.1. It is the contention of the third-party appellant (G Ronan) that the proposed development would be contrary to the Donabate Urban Centre Strategy (UCS). The UCS is a non-statutory document prepared by Fingal County Council in 2010 to fulfil the objectives of the Fingal County Development Plan 2005-2011. The aim of the Donabate UCS was to provide a development strategy for the town centre. It is of relevance to note that the Donabate UCS is separate to the Donabate LAP (2016-2023) which provides a framework for the development of c138ha of undeveloped lands at Corballis (c. 65 ha), Ballymastone (c. 50.2 ha), Rahillion (c. 5.5 ha) and at Turvey (c. 16 ha); these lands do not include the appeal site.
- 7.3.2. The UCS identifies Key Areas for development within the centre and includes site design and development briefs for each area. The appeal site forms part of 'Key Area 1' which is envisaged as a low-density residential development area (4units /ha). The Fingal County Development Plan 2011-2017, adopted following the preparation of the Donabate UCS, included an objective (Objective UC09) to implement the UCS. This objective was not reiterated in subsequent plans. The current FCDP does not reference the Donabate Urban Centre Strategy, instead the plan proposed in accordance with Table 2.19 and *Policy CSP9 – Framework Plans*, to prepare a Framework Plan for Donabate Town Centre (Sheet 7 Donabate-Portrane of the FCDP 2023). It is stated in the FCDP 2023 that '*pending the preparation of Framework Plans, development at these locations will be guided by the policies and objectives of the County Development Plan and National and Regional Planning Policy and planning applications will be assessed on their merits having regard to the proper planning and sustainable development of the area.*' Therefore, having regard to the location of the proposed development on lands zoned "TC" Town and District Centre, and the objectives for the area as set out in the FCDP 2023, including Objective CSO46 – Donabate Town Centre which seeks to *Channel and concentrate the development of additional commercial, social,*

community and civic facilities within Donabate town centre...” I am satisfied that the development of these lands for retail use as proposed is acceptable in principle.

7.4. Compliance with County Retail Strategy:

7.4.1. FCDP 2023 Objective EEO90 in relation to ‘New Retail Development’ seeks ‘*to ensure that applications for new retail development are consistent with the retail policies of the Development Plan, in particular with the Fingal Retail Hierarchy, and are assessed in accordance with the requirements of the Guidelines for Planning Authorities: Retail Planning, including, where appropriate, the application of the Sequential Approach, and requirements for retail impact assessments and transport impact assessments for retail developments which due to their scale and/ or location may impact on the vitality and viability of major town, town, local and village centres, while having regard to the impact such directions/ developments may have on the existing businesses operating within the area.*’

7.4.2. The retail strategy for Fingal identifies Donabate as a Level 4 Centre under the heading ‘Neighbourhood Centres, Local Centres-Small Towns and Villages’. It is stated that Level 4 Centres should ‘generally’ provide for one supermarket ranging in size from 1,000–2,500 sqm with a limited range of supporting shops (low order comparison), and services to meet the everyday needs of the local population and surrounding catchment. Donabate is currently served by one supermarket (Supervalu), located on town centre lands c400m to the east of the appeal site (as the crow flies). There is also an extant permission (FCC Ref: F20A/0630) for a mixed-use retail / commercial development including supermarket also on town centre lands, c 160m to the east of the appeal site. If permitted, the proposal would result in the potential for two additional supermarkets in Donabate, exceeding what the FCDP 2023 has (generally) deemed necessary for Level 4 settlements. It is therefore necessary to ensure that Donabate can accommodate the level of retail floorspace proposed. In this regard I refer the Board to the government’s Retail Planning Guidelines (DECLG, 2012) which requires new retail development to be appropriately located (Sequential Approach) while also being appropriate to the scale and function of the settlement within which it is located.

- 7.4.3. In terms of location, I note that the appeal site is within the designated town centre for Donabate, which as per the Retail Guidelines, is the preferred location for new retail development. The location would also accord with FCDP 2023 Objective EE097 on retail provision in Level 4 Centres which seeks to direct new retail development into the centres. It is of relevance note, in light of the concerns raised in the grounds of appeal, that the objectives of FCDP 2023 do not seek to direct new retail development in Level 4 settlements into the core retail area as they do with higher-level centres (Levels 2 and 3).
- 7.4.4. A Retail Impact Assessment (RIA) was submitted with the application. The RIA includes a quantitative assessment which evaluates the capacity for additional net retailing provision in Donabate and its surrounding area. This includes identification / consideration of the catchment area and its population, household projection, the expenditure available and the capacity for the proposed retail floor space. The RIA assumes a design year of 2025.
- 7.4.5. The RIA estimates the pool of expenditure on “convenience goods” in the Donabate Electoral Division to be €41.1m by 2025. This figure is based on an anticipated household increase in the ED to 3,422 by 2025 and estimated annual household expenditure of up to €12,024. The estimated turnover of existing convenience retail provision (Supervalu Donabate) in 2025 is stated at €12.7m, which in accordance with the RIA, suggests a significant under provision of convenience floor space in the area. The RIA estimates that an additional 3,544sqm of convenience retail floorspace would be required to meet the overall estimated expenditure of €41.1m. The extant permission under FCC Ref F20A/0630 includes 1,187sqm nfa (as stated) which when combined with the current proposal (1,320sqm nfa), amounts to 2,507sqm of additional net retail floorspace that could be provided in Donabate by 2025, with scope for further retail development in the catchment. The RIA therefore indicates that the proposal would not result in an over-provision of retail floor space in the catchment area. The RIA further states that there should be adequate additional available expenditure generated from the survey area to support the proposed development by 2025 without incurring impact on the trading performance of existing retail provision.

7.4.6. I would consider that the submitted Retail Assessment has adequately demonstrated that there is sufficient capacity for the proposed retail development in Donabate.

7.5. **Impact on Built Heritage:**

7.5.1. The appeal site forms part of the former glebe lands associated with St. Patrick's Church of Ireland Church and graveyard, a Protected Structure (RPS No. 508) and Recorded Monument (RMP Ref. DU0012-005001 to DU0012-005004) and the former Glebe House, now in private ownership and known as The Old Vicarage, also a Protected Structure (RPS No. 863). The appeal site is within the boundary of the Architectural Conservation Area (ACA) for Newbridge Demesne and The Square. The impact of the proposal on the Architectural and Archaeological heritage of the area are therefore key considerations in the assessment of this application. It is of relevance to note that the extant planning permission, granted under FCC Ref: F19A/0128, encompasses the appeal site and, if implemented, would see the lands in question developed for residential use in the form of 10 no detached two-storey dwellings served by a new access of Turvey Avenue. Therefore, the development of the appeal site has already been deemed acceptable.

7.5.2. Fingal County Council's Architectural Conservation Officer, in reports to the Planning Authority, expresses reservations regarding the introduction of a commercial building at this location due to the large footprint and mass of the retail structure, the level of hard surface carparking, the nature and volume of traffic to be generated and the level of lighting and signage required. The incursion for the development into an area containing known archaeological remains and necessitating the removal in part of these remains was also raised as an issue of concern and is addressed separately in this report. The reservations expressed by the Architectural Conservation Officer reflect those cited by third parties.

7.5.3. The application was accompanied by an Architectural Heritage Impact Assessment, an Architectural Design Statement (updated at FI Stage) and Photomontage Views. I have considered these documents and visited the site and surrounding area. For ease of assessment, I propose to consider the impact of the development on the

character and setting of the ACA and on the protected structures of St. Patrick's Church of Ireland Church (RPS No. 508) and The Old Vicarage (RPS No. 863) under separate headings as follows.

Impact on Architectural Conservation Area:

7.5.4. The appeal site comprises c0.66ha of greenfield towards the northeastern corner of the Newbridge Demesne and The Square ACA. The lands in question are elevated above and open to views from Turvey Avenue, the public road which extends along the site's northern boundary. It is evident from site inspection that the development of these lands would alter the character of the area and the streetscape along Turvey Avenue with potential to detract from the character and appearance of the ACA. Therefore, while the development of these lands is acceptable in principle, as evidenced by the town centre zoning and planning history of the site, I consider it necessary to ensure that the development currently proposed is compatible, in terms of design, layout etc with the special character of the area. I refer the Board to FCDP Policy HCAP14 which, in respect of Architectural Conservation Areas, states *that development within or affecting an ACA must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting wherever possible.*

7.5.5. The proposed retail development comprises a single storey, flat roofed structure with a GFA of 1,835sqm and a ground to ridge height of 5.6m (increasing to 7.4m at the location of roof plant). While it could be argued that a single storey development would not represent the most efficient use of serviced town centre lands, a low-profile structure as proposed is I consider appropriate in the context of the site. The proposed structure is c64.8m in length and c34.7m in width. It is positioned on the western portion of the site, backing onto the site's western boundary, and facing onto the proposed surface car park. The proposed development, including hard surfaced areas (internal roads/car parking) is to be built into the site. The FFL of the supermarket structure is proposed at +10m (as amended), c1.4m above the level of the public road at the proposed site entrance. A retaining wall structure is proposed along the sites eastern boundary to accommodate the level change between the appeal site and adjoining lands to the east (c1.1m to1.8m). Building into the site as

proposed allows the development to 'sit' within the landscaping thus reducing its dominance and visual impact. I refer the Board to Photomontage View 1 (December 2021) which provides a visual representation of how the proposed structure will be viewed from Turvey Avenue. The Planning Authority, under Condition 3 of the grant of permission, require that the FFL of the proposed building be reduced by an additional 0.5m to 9.5m, to protect the character of the conservation area. In my opinion any additional benefit from this amendment would be minimal, particularly if the site is suitably landscaped; however, the Board may wish to consider this matter further in the event of a grant of permission.

- 7.5.6. The proposed structure is of a contemporary design that is reflective of commercial buildings of this nature. Material finishes include a mix of stone, board marked concrete, render and zinc. The northern elevation, the elevation fronting onto Turvey Avenue, incorporates extensive glazing, and would I consider contribute positively to the streetscape. Stone is utilised as an external finish on both northern and eastern elevations as well as on boundary / retaining walls. The use of stone as an external finish is I consider an important feature of the proposed scheme as it provides a link with existing stone structures within the ACA, thus contributing to the character and setting of the area. The mix of material finishes together with the profile of the building helps to soften the overall mass of the structure and with appropriate landscaping, I believe that the proposed structure could be adequately assimilated into the site without detracting from the amenities of the area or the character of the ACA.
- 7.5.7. A separate detached 'Deposit Return Scheme Unit' is positioned to the front of the main retail building. This is simple prefabricated structure that should not in itself have any significant impact on the visual amenities of the area. However, any signage / advertising associated with this structure should be carefully considered, this may be addressed by way of condition in the event of a grant of permission.
- 7.5.8. Vehicular and pedestrian access is proposed off Turvey Avenue to the north. As requested by Fingal County Councils Transport Planning Section, the existing roadside boundary is to be set back 5m from the nearside edge of the public road to facilitate the provision of improved cycle facilities along Turvey Road. The revised

roadside boundary comprises a stone wall and railing to match the existing boundary along Turvey Avenue. While I accept that the type and volume of traffic likely generated by the proposed retail development would differ from that generated by the permitted residential development on site, I do not agree with the contention of the Architectural Conservation Officer, that introduction of retail traffic to the area would unduly impact the character of the ACA, in this regard I note the location of the proposed development within the designated town centre and adjacent to a busy urban street.

7.5.9. In relation to the impact of the proposed carpark on the visual amenities and character of the area, I again note that the proposed car park and adjoining internal road network is to be constructed into the site below the level of the adjoining lands to the east. This will help to screen hard surface areas in views from Turvey Avenue and the surrounding area. The provision of planting throughout the parking area and along northern and eastern site boundaries (sufficient to form dense continuous screens) would further mitigate any potential impact from the parking area.

Reference is made in the grounds of appeal to a previous decision Fingal County Council (FCC Ref: F06A/1395) to refuse permission for a carpark within the ACA, in part due to the significant negative impact it would have on the existing architectural, historic, landscape and heritage character of the area. The Board will note however that the development proposed under FCC Ref: F06A/1395 was situated on lands to the east of the appeal site, adjacent and to the north of St Patrick's Church. In my opinion the car parking proposed as part of this retail development is materially different in terms location, design, and function etc to that proposed under FCC Ref: F06A/1395. The proposal should be considered on its own merits.

7.5.10. In relation to signage, it is stated in the Architectural Design Statement, that because of the site's location within an Architectural Conservation Area, any signage on the building or its grounds will be kept to a minimum. There will be no totem signage, instead the store name will be displayed on the building's façade and at the entrance to the site. Store opening hours will be displayed on a poster inside the entrance lobby. No other advertising / signage is to be used behind the glazing. Specific details regarding the proposed signage have not been provided; however, the plans and imagery submitted with the application and appeal detail the use of simple steel

lettering affixed directly to walls, which I would consider appropriate. I agree with the opinion expressed by the Case Planner, that standard corporate signage for the retailer may not be appropriate given the sensitive location of the development.

Impact on St. Patricks Church (RPS: No.508)

7.5.11. St. Patrick's Church of Ireland Church (RPS: No.508), comprises a detached structure dating back to the mid-18th century (c1775) and the remains of square pre-1700 tower, set within enclosed graveyard (containing historic grave memorials). The Church structure is orientated south facing onto The Square. The Church site is bounded to the east, south and west by residential development (housing). A commercial (crèche / childcare facility) is located on lands to the immediate west while lands to the north and northwest are greenfield. The rear of the Church and the adjoining tower are visible from Turvey Avenue.

7.5.12. The appeal site is located on greenfield lands to the northwest of the Church, an area of green field is to be retained between the Church grounds and the proposed development site. Any future development on these lands would be subject to a separate planning application. The proposed supermarket structure is removed from the Church and is immediate curtilage (separation distance c80m) and thus would not block or significantly impede views of the Church. As evidenced by the applicants' photomontages, the proposed supermarket structure will be visible (in part) from within the grounds of the Church; however, having regard to the separation distances available, the design and layout of the proposed development and subject to appropriate landscaping, the proposed development would not in my opinion have a significant negative impact on the character of setting of the protected structure.

Impact on The Old Vicarage (RPS No. 863):

7.5.13. The Old Vicarage (RPS No. 863) is located on lands to the immediate west of the appeal site and comprises a large, detached dwelling on substantial grounds bounded by mature trees and vegetation. The front elevation of the house is orientated to the east, toward the appeal site and St. Patrick Church beyond.

However, mature planting along the eastern boundary (boundary with the appeal site) restricts views both into and out of the property such that the structure is not visible to any great extent from Turvey Road or from surrounding lands. As per Photomontage No.5 (submitted as further information 28th April 2022), the upper part proposed supermarket building would be partially visible in views from The Old Vicarage, particularly during the winter months when vegetation is less abundant. The development of the site as proposed would therefore alter the outlook from the protected structure; however, given the low ridge level of the structure, the inclusion of a green roof and extent of mature vegetation along the site boundary, the impact of the proposed development would not in my opinion be so significant to warrant a refusal or redesign.

Conclusion:

- 7.5.14. Overall, I am satisfied that the proposed development has been designed with due consideration to its location within the Newbridge Demesne and The Square ACA and within proximity to protected structures and that it would contribute positively to the character of the ACA.

7.6. Archaeology

- 7.6.1. An Archaeological Impact Assessment report, prepared under licence (NMS Licence ref. 21E0273) by John Ó Néill of IAC Ltd. (dated December 2021) was submitted with the application. The report details the results of a programme of archaeological testing undertaken at lands at Turvey Avenue, Donabate, including the appeal site. It follows a previous assessment report also by IAC Ltd (dated 2017) which in accordance with the details provided, included a geophysical survey (NMS. Licence Ref. 16R0049) and archaeological test-excavation (NMS Licence Ref. 17E0239). The report states that the results of the test excavation undertaken 2021 are consistent with those undertaken in 2017 and that collectively, testing confirms that there is considerable multi-phased activity within the central and eastern areas of the site, dating from early medieval to post medieval periods. Features identified include ditches, linear features, surfaces, spread pits and at least two burials.

- 7.6.2. Construction related activity will adversely impact on the archaeological features identified and any additional ground disturbance may negatively impact on previously unrecorded features of archaeological significance that survive outside the excavated trenches. The submitted archaeological impact assessment recommends preservation in by record. Proposed mitigation is for all topsoil stripping associated with the proposed development to be monitored by a suitably qualified archaeologist. The archaeological impact assessment states that if any features of archaeological potential are discovered during the course of the works, further archaeological mitigation, such as preservation in situ or by record, may be required and that any further mitigation will require approval from the National Monument service of the Department of Housing, Local Government and Heritage (DoHLGH).
- 7.6.3. The Development Application Units of the DoHLGH, in their report to the Planning authority (February 2022) recommends detailed measures for archaeological mitigation and pre-development testing in the event of a grant of permission. This approach is I consider reasonable and appropriate as it would ensure the continued preservation (either in situ or by record) of features of areological interest. This matter may be addressed by condition in the event of a grant of permission.

7.7. Traffic and Parking:

- 7.7.1. It is proposed to access the site via a new priority junction on Turvey Avenue. Turvey Avenue is a 7m wide, single carriageway road with an assigned speed limit of 50km/h. Turvey Avenue, at the location of the appeal site is bounded on its southern side by a public footpath. It has a continuous white line and traffic calming (speed ramps). In 2019, Fingal County Council displayed plans for the Turvey Avenue Enhancement Project, which includes for the construction of a 2-metre-wide footpath on the northern side of Turvey Avenue on lands opposite the appeal site. The planned works, if implemented, would see the carriageway width along Turvey Avenue reduced to 5.5m.
- 7.7.2. It is the contention of the appellants that the proposed development would give rise to additional traffic on Turvey Avenue, in particular HGV traffic, resulting in traffic

congestion, dangerous turning movements, and conflict with vulnerable road users (cyclists).

- 7.7.3. A Traffic and Transport Assessment (TTA) was submitted the application and amended at further information stage to address issues raised by Fingal County Council. The TTA determines the volume of traffic likely to be generated by the proposed development and assesses the impact of this additional traffic on the operational capacity of local road network. The TTA includes an analysis of Turvey Avenue and the proposed new priority junction that will serve as access to the proposed development. The updated document, submitted at further information stage, also includes analysis of the junctions between The Square (Sycamore Hill) and Turvey Avenue, Hearse Road and Turvey Avenue and Hearse Road and The Square.
- 7.7.4. A traffic survey was carried out on the 11th of March 2020 during the hours of 07:00 and 19:00. The survey was carried out at road junctions in proximity to the development site. The results of the survey indicate that the peak traffic levels through the junctions occurred between the hours of 08:00 - 09:00 in the morning with a total of 141 traffic movements, and 17:00 – 18:00 during the evening with a total of 155 traffic movements. The third-party appellants have queried the accuracy of results on the grounds that the survey was taken during the Covid outbreak. In response the applicants have confirmed that survey was carried out prior to the introduction of Covid restrictions, at a time when traffic was operating as normal.
- 7.7.5. The volume of traffic expected to be generated by the proposed development was derived using a survey from a 'typical' store. The store surveyed has a net retail floor area of 1,140sqm, a gross internal area of 1,530sqm and 115 carparking spaces. The survey recorded the AM peak hour occurring between 11:00 - 12:00 with a total of 121 traffic movements, and the PM peak hour occurring between 16:00 - 17:00 with a total of 133 traffic movements. The results of the survey were then adjusted by +16.87% to account for the additional net retail floor area proposed under the current scheme. As different peak times were identified between the traffic survey on the local road network and the traffic survey on a typical store, 2 scenarios were considered for AM and PM to determine the worst-case scenario:

- Scenario 1: AM 8:00-9:00 and PM 17:00-18:00
- Scenario 2: AM 11:00-12:00 and PM16:00-17:00

7.7.6. Scenario 1, with a combined 2-way traffic in the AM of 752 vehicles and in the PM of 740 was determined as the worst-case scenario. In the worst-case scenario (Scenario 1) the trips generated by the proposed development are predicted at 54 arrivals and 25 departures for the AM Peak Hour and 76 arrivals and 69 departures for the PM Peak Hour. Trip distribution to and from the site was formulated based on existing travel patterns within the local network, assuming an 80/20 distribution in favour of traffic arriving from an easterly direction as recommended by Fingal County Council. A detailed analysis of the 4 junctions was carried out using PICADY. The results indicate that the analysed junctions will operate within capacity during both the peak hours for the opening year 2024 and will operate with satisfactory capacity for the future assessment year of 2029 (the +15-year scenario) and 2039 (worst case scenario). On the basis of the information available, I am satisfied that the local road network can accommodate the volume of traffic likely generated by the proposed development.

7.7.7. In relation to delivery traffic, the proposed development, once operational, is expected to generate daily deliveries of 2no articulated trucks and 4-6no. small vans, with all delivery vehicles utilising Turvey Avenue via the M1 and R132, thus avoiding the town centre. The low volume of delivery vehicles generated by this development is unlikely to have a significant impact on Turvey Avenue and is, I consider, unlikely to discourage cyclists from utilising the road.

7.7.8. The applicants have presented swept path analysis for articulated vehicles, refuse vehicles and fire tenders which demonstrate that vehicles can physically enter and exit the site in forward gear. Swept path analysis indicates that the larger vehicles (articulated vehicles) may have to cross into the far lane when exiting the site; however, Waterman Moylan, acting as consulting engineers on the project, have confirmed that they are satisfied that this is standard procedure for all sites with articulated vehicles and they do not expect this to be an issue due to low operation

speeds when existing the site and the availability of sightlines, which will give all vehicles sufficient time to react to exiting movement of the articulated vehicle.

- 7.7.9. Given the nature of the proposed development, I anticipate that the majority of customers would travel by car to transport their weekly shop. Notwithstanding, I consider the location of the proposed development, within the town centre, in proximity to Donabate train station and within walking distance of a number of residential developments would facilitate and encourage the use of more sustainable transport modes.
- 7.7.10. In terms of parking, the FCDP allows for a maximum of 1 parking space per 20sqm for food store including discount food stores, for the proposed development this would equate to a maximum of c92 spaces. The proposed development (as amended) allows for the provision of 73 parking spaces, which given the proximity of the proposed development to the town centre and surrounding residential development, is I consider sufficient. The proposal also allows for the provision of 19no bicycle parking spaces which would accord with FCDP standards.
- 7.7.11. In conclusion, I am satisfied on the basis of the information available, that the proposed retail development can be accommodated and would not give rise to an unacceptable traffic hazard or excessive levels of traffic congestion within Donabate. Furthermore, I am satisfied that the proposal due to its nature, scale and location would not adversely affect the health and / or safety of residents or road users.

7.8. Other Matters

- 7.8.1. **Planning History:** Reference is made in the grounds of appeal to the planning history of the site, and the previous decisions of Fingal County Council to refuse permission for the development of these lands on conservation grounds due to the location of the site within the ACA. It is the contention of the appellants that the current application does not respect the precedence of previous decisions and does not represent any material amelioration of the issues which previous applications were refused. They consider the Planning Authority's decision to grant permission

should be reversed on this basis. However, in my opinion, An Bord Pleanála is not bound by previous decisions of the Planning Authority, and I consider that all appeal cases should be assessed and determined on their own merits. I note that the above represents my de-novo assessment of the key issues associated within the application.

7.8.2. **Public Notices:** The appellant (G Ronan) has queried the validity of the newspaper notice. On this issue, I note that the adequacy (or otherwise) of the public notices and the subsequent validation (or not) of a planning application, are the responsibility of the Planning Authority which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements. I am satisfied that any perceived irregularities in the public notices, did prevent the concerned party and others from making representations. Again, the above assessment represents by de novo consideration of all planning issues material to the proposed development.

7.8.3. **Inaccurate Information:** The appellant (G Ronan) has identified a number of inaccuracies in the information provided in the application, in its description of the site and in reference to the area being served by public transport. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and having inspected the site and surrounding area, I am satisfied there is sufficient information to assess the full extent of the proposal and to make an informed determination.

7.8.4. **Anti-social behaviour:** Third parties are concerned that the provision of an off-licence at this location would contribute to anti-social behaviour in the area particularly in the grounds of Newbridge Demesne. However, I note that no evidence has been provided to support this claim. I do not recommended that permission be reused on this basis.

7.8.5. **Flood Risk:** The proposed development site is located within 'Flood Zone C' with a low risk of flooding. A flood risk assessment accompanied the application. The FRA analyses the subject site for risks from tidal and fluvial flooding from the Malahide Estuary, pluvial flooding, groundwater and drainage systems failures due

to human error or mechanical system failure. The FRA concludes that as the flood risk from all sources can be mitigated, reducing the flood risk to low, or very low the proposed development is considered acceptable in terms of flood risk. Neither the Planning Authority or the Water Services Engineering Section of Fingal County Council raised any objection or concerns in relation to the proposed development on the issue of flood risk.

7.9. Appropriate Assessment

Introduction and Background:

- 7.9.1. An Appropriate Assessment Screening document, prepared by Downey Planning was submitted with the planning application. Screening concludes with a finding of no significant effects; however, the conclusion refers to mitigation which cannot be considered as part of this screening process. This issue was raised by the Planning Authority in their further information request of the 24th of February 2022.
- 7.9.2. In response to the further information request, the applicants submitted a new Appropriate Assessment Screening Report. This screening report was prepared by Panther Environmental Solutions Ltd and forms the basis of this assessment. The report includes a description of the proposed development, receiving environment and Natura 2000 Sites with the zone of influence. It also considers the likely impacts of the development on designated sites. The report concludes that there is no potential for significant effects on European Sites (Natura 2000 network) as a result of proposed development. This conclusion is not reliant upon mitigation.

Identification of European Sites:

- 7.9.3. The Screening report notes that there are no European sites located within or adjacent to the proposed development site. 16 European sites are located within a 15-kilometre radius of the site as detailed below:

Site Name	Designation	Site Code	Distance (Est)
Malahide Estuary	SPA	004025	1.1km S

Malahide Estuary	SAC	000205	1.1km S
Rogerstown Estuary	SAC	000208	1.3km N
Rogerstown Estuary	SPA	004015	1.4km N
Rockabill to Dalkey Island	SAC	003000	5.6km E
Lambay Island	SAC	000204	7.9km E
Lambay Island	SPA	004069	8.0km E
Baldoyle Bay	SPA	004016	9.0km SE
Baldoyle Bay	SAC	000199	9.0km SE
Skerries Island	SPA	004122	10.4km NE
Rockabill	SPA	004014	11.0km NE
Ireland's Eye	SPA	004117	11.0km SE
North Bull Island	SPA	004006	13.2km SE
Howth Head Coast	SPA	004112	13.2km SE
Howth Head	SAC	000202	13.2km SE
South Dublin Bay and River Tolka Estuary	SPA	004024	14.0km S

7.9.4. The Screening report identifies four sites within the zone of influence of the proposed development. The Malahide Estuary SPA (Site Code 004025) and SAC (site code 000205), due to the distance and potential hydrological connectivity with the proposed development site, and the Rogerstown Estuary SAC (site code 000208) and SPA (site code 004015) given the topography and location of the site has potential hydrological connectivity. Section 5.1 of the Screening Report provides a detailed description of each of these sites. All other sites are screened out due to separation distance and the considerable dilution effect of coastal waters. This is I consider reasonable.

Assessment of Likely Significant Effects.

7.9.5. With regard to direct impacts, the application site is not located with or adjacent to any SAC or SPA, there are no watercourses or drainage ditches on the site nor does the site contain any habitats or species linked to European sites within the zone of

influence, therefore there is no risk of habitat loss, fragmentation or any other direct impacts. No third schedule invasive species were noted during the site assessment. The risk of invasive species being introduced into the site during the operational period of the project is considered to be low with no material imports of materials with potential to contain invasive flora species.

- 7.9.6. With regard to indirect impacts, the proposed development is located within an urban setting. Fauna in the area would be accustomed to human generated noise from residential and commercial activities and from traffic. The lands themselves do not offer suitable breeding grounds for birds associated with the either Malahide Estuary SPA or the Rogerstown Estuary SPA nor does it offer suitable foraging habitat for protected species. In relation to construction phase pollution, it is noted that there are no watercourses on the site. Notwithstanding this, estuaries are not sensitive to sediment input should sediment enter the system and any level of sediment runoff is unlikely to have any effect on sensitive habitats or species in the eventuality that surface water enters either of the estuaries. Any disturbance during construction should not be significant given the transient nature and limited scale of the works proposed.
- 7.9.7. I note that surface water will enter the public surface water network. A SuDS strategy is proposed for the development; however, this is not related to the protection of any European Sites. Wastewater will connect to the mains urban sewer network on Turvey Avenue which discharges to the Portrane/Donabate wastewater treatment plant which serves development in this area, and which in turn discharges treated effluent to the Irish Sea under licence from the EPA. The proposed development would equate to a very small percentage of the overall licenced discharge and would not therefore have a significant impact on the water quality.
- 7.9.8. In combination impacts have been considered. As there are no anticipated significant risks from the development and proposed works and given the scale and nature of recent nearby developments, the type of development proposed (supermarket) and the distances of other developments in the area, it is considered that there would be no cumulative water noise or air impacts which would pose a significant risk to designated sites or species.

Conclusion

7.9.9. Having regard to the nature and scale of the proposed development on fully serviced lands, to the intervening land uses and distances from other European sites, and lack of direct connections with regard to the source – pathway – receptor model, it is reasonable to conclude on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site nos. 000205 (Malahide Estuary SAC), 004025 (Malahide Estuary SPA), 000208 (Rogerstown Estuary SAC), 004015 (Rogerstown Estuary SPA), or any other European site, in view of the sites' conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

8.0 Recommendation.

8.1. I recommend that permission be granted subject to condition as outlined below.

9.0 Reasons and Considerations

Having regard to the provisions of the Retail Planning Guidelines issued by the Department of the Environment, Community and Local Government in May 2012, the objectives of the Fingal County Development Plan 2023--2029, and the 'TC' Town and District Centre zoning that applies to the site, and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the existing retail, residential or visual amenities of the area, would not seriously detract from the character and setting of the Newbridge Demesne and The Square ACA or the character and setting of protected structures in the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 28th day of April 2022 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The hours of trading shall be between 0800 hours and 2100 hours Monday to Saturday and between 10:30 hours and 1900 hours on Sunday. Deliveries shall not take place outside of the hours of trading and shall take place within the confines of the site only.</p> <p>Reason: In the interest of the residential amenities of property in the vicinity.</p>
3.	<p>Details, including samples, of the materials, colours and textures of all the external finishes, including external glass, to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In this regard, samples shall be erected on site where required by the planning authority.</p> <p>Reason: In the interest of the visual amenities of the area</p>
4.	<p>(a) Signage shall comprise the store name in solid steel lettering affixed directly to the building's façade and at the entrance to the site in</p>

	<p>accordance with the Architectural Design Statement and elevations received by the Planning Authority on the 28th day of April 2022. Details of signage shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.</p> <p>(b) No advertisement or advertisement structure (other than that permitted under Condition 4(a) above) shall be erected or displayed on the building or DRS Unit or within the curtilage of the site, in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.</p> <p>Reason: To ensure that advertising signs are kept to a minimum and designed to respect the location of the site within and Architectural Conservation Area.</p>
5.	<p>Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. All external lighting, including car park lighting shall be of a type that ensures the deflection of light downwards and such lighting on the building shall be cowled.</p> <p>The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.</p> <p>Reason: In the interest of public safety and visual amenity.</p>
7.	<p>Noise emissions from the rooftop plant shall not exceed the following: i. 45dB LAeq,T .00 as measured from the nearest noise sensitive location. ii.</p>

	<p>Once the plant has been installed an acoustic assessment of the fan shall be carried out from the nearest noise sensitive location and shall be submitted to the Planning Authority. Should the measurements exceed levels mitigations measures shall be provided to reduce noise levels.</p> <p>Reason: In the interest of protecting residential amenity and public health.</p>
8.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
9.	<p>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 commencement of development. This scheme shall include the provision of litter bins.</p> <p>Reason: In the interest of visual amenity.</p>
10.	<p>(a) A revised landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall provide for additional planting of trees, shrubs and hedging of indigenous species within the parking area and along eastern and northern site boundaries sufficient to form dense continuous screens.</p> <p>The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the commencement of construction works.</p> <p>(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the</p>

	<p>development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to screen the development, in the interest of visual amenity.</p>
11.	<p>The developer shall retain the services of a Landscape Consultant throughout the life of the site development works to oversee the implementation of the approved landscape plan. A completion certificate shall be signed off by the Landscape Consultant when all works are completed and in line with the submitted landscape drawings and in accordance with the Arboricultural Assessment Report in relation to tree/hedgerow retention, protection and monitoring. This completion certificate shall be submitted to the planning authority for written agreement upon completion of works.</p> <p>Reason: In the interest of amenity.</p>
12.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
13.	<p>A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of sustainable transport.</p>

14.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental 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 hours of working, appropriate mitigation measures for noise, dust and vibration, off-site disposal of construction/demolition waste, details of how it is proposed to manage excavated soil; and details of the timing and routing of construction traffic to and from the construction site.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
15.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
16.	<p>Prior to commencement of development, the applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
17.	<p>All service cables associated with the proposed development (such as electrical, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interest of orderly development and to protect the visual amenities of the area</p>

18.	<p>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 –</p> <ul style="list-style-type: none"> (a) Engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930–2004) to co-ordinate a programme of archaeological mitigation at the pre-construction stage of the proposed development. (b) The archaeologist will clarify the nature of the ground impacts in light of the final design proposals in advance of commencement of any archaeological excavations. (c) The archaeologist will provide detailed recommendations for archaeological mitigation and provide a schedule that will outline the archaeological investigations that will further clarify the extent of archaeological remains within the development site. The schedule will detail the arrangements for the excavation of human remains and the archaeological features that have been identified following the testing already carried out at the development site and any other features that are identified as a result of expanded archaeological testing. (d) The archaeologist will carry out further Pre-Development Testing at the site. No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. (e) The archaeologist is required to notify the Department of Housing, Local Government and Heritage in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work. (f) The archaeologist shall carry out any relevant documentary research and will excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans. 7. Having completed the work, the archaeologist shall submit the schedule of works in the form of a written report to the Planning
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	<p>Authority and to the Department of Housing, Local Government and Heritage.</p> <p>(g) Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and/or monitoring may be required and the Department of Housing, Local Government and Heritage will advise the Applicant/Developer with regard to these matters.</p> <p>(h) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with the Department of Housing, Local Government and Heritage.</p> <p>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.</p>
19.	<p>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 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Lucy Roche
Planning Inspector

5th December 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	313836-22		
Proposed Development Summary	Retail development consisting of 1 no. retail supermarket of 1,320 sqm net floorspace (1,835 sqm) (including ancillary off-licence)		
Development Address	Lands at Turvey Avenue, Donabate, Co. Dublin		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	
Yes	X	Class 10 (b) Infrastructure projects: (iii) Construction of a shopping centre with a gross floor space exceeding 10,000 square metres. (iv) Urban development which would involve an area greater than 2 hectares in the case of a	Proceed to Q.4

		business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 2 Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	313836-22	
Proposed Development Summary	Retail development consisting of 1 no. retail supermarket of 1,320 sqm net floorspace (1,835 sqm) (including ancillary off-licence)	
Development Address	Lands at Turvey Avenue, Donabate, Co. Dublin	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is located within an urban area, in the centre of Donabate, c300m west of Donabate Train Station. The area is served by public mains water and sewerage. The nature of the development (retail) is compatible with existing lands uses in the area (residential / community) and not exceptional within the context of the existing environment.</p> <p>The proposed development will necessitate the removal of approximately 5600+ cubic meters of soil for the site. The proposal is to be carried out in accordance with an approved Construction and Environmental Management Plan</p> <p>Localised construction impacts will be temporary.</p> <p>The proposed development would not give rise to waste, pollution or nuisances beyond what would normally be deemed acceptable within the town centre and within proximity to residential areas.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development</p>	<p>The size of the development is not exceptional in the context of the existing built-up urban environment.</p> <p>There is an extant permission for a supermarket</p>	No

<p>exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>on town centres lands c200m to the east of the proposed development site. development has not yet commenced. Permitted and proposed developments are unlikely to give rise to significant cumulative impacts. Should the construction phase of both developments co-inside it is noted that they would each be subject to approved construction management plans which would manage impacts during construction.</p>	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>There are no ecologically sensitive locations in the vicinity of the site. The site is not within a European site. Any issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive.</p> <p>The site is located within an ACA and within proximity to protected structures and recorded monuments. The application is accompanied by An Architectural Heritage Impact assessment report and Archaeological Impact Assessment report. Any issues arising can be adequately dealt with under the planning assessment.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>
<p>✓</p>		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____