



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320486-24

<b>Development</b>	Construction of Phase 2 of Lusk Community Cultural Centre with all associated site works
<b>Location</b>	Lusk Community Cultural Centre, Church Road, Lusk, Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F24A/0459E
<b>Applicant(s)</b>	Lusk Community Council
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Lusk Community Council
<b>Observer(s)</b>	Joe O'Brien TD Cllr. Corina Johnston Cllr. Robert O'Donoghue Cllr. Eoghan Dockrell Shay and Siobhan Larkin Foroige Coastal North Dublin

**Other – Public Representation**

Cllr. Paul Mulville

Cllr. Cathal Boland

**Date of Site Inspection**

4<sup>th</sup> December 2024

**Inspector**

Emma Nevin

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## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated area of 0.360 ha, is located on the northern side of Church Road in the centre of Lusk Village. On site is an existing single storey stone cottage, which has been renovated, extended, and refurbished “Lusk Community and Cultural Centre”, which is known as Phase 1 of the overall development. There is a hard surfaced parking area to the side of the existing building. To the rear stands existing agricultural sheds, in a derelict condition with undeveloped associated lands.
- 1.2. There is an entrance gate onto Church Road along the southern boundary of the site. St MacCullin's Church of Ireland and Graveyard is located to the south-east of the site. There are existing dwellings along the north and north-east boundary of the site. To the west is an existing two-storey building with refurbished barn structure.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises Phase 2 of the Lusk Community Cultural Centre to include:
  - (i) Demolition of existing steel barn structure, proposed site levelling with protection of selected trees and removal of a number of trees,
  - (ii) Alterations to the existing carpark area to accommodate 3 disabled spaces with new vehicular ramp, new pedestrian ramp and stairs access from existing paved area to new upper paved area,
  - (iii) Construction of a two storey barrel roofed building, similar in shape to existing barn structure, to accommodate community office suites linked to a single storey reception area and ancillary uses that is linked to a proposed new two storey barrel roofed multi-use auditorium with stage and projection area linked to single storey toilet areas and coffee dock with external seating area and solar panels,
  - (iv) Biodiversity area adjoining existing trees and ditch,
  - (v) 5 no. of light weight market stalls,

- (vi) Proposed formal hornbeam pleached trees and proposed multi-use market area / parking area (19 spaces) with landscaped buffer zone planting to the northern site boundary,
- (vii) Informal planting to the south boundary,
- (viii) Proposed soakaway to BRE 365 & C697, connection to existing services,
- (ix) proposed bicycle stands (32 bicycles),
- (x) proposed light fixtures,
- (xi) proposed 1m high trellis with creeper over the western boundary wall, landscaping, and.
- (xii) all associated ancillary site and other works.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. The Planning Authority refused permission on the 12<sup>th</sup> of July 2024 for the following reasons:

*“1. The subject site is located within the Lusk Architectural Conservation Area (ACA), within a zone of archaeological notification and is also located immediately adjacent to a number of protected structures and national monuments. Thus, the subject site is highly sensitive from an archaeological and built heritage perspective and is also very visually sensitively as it forms the immediate backdrop to the St. MacCullin's Church and Church tower and historic graveyard. The proposed development has not fully considered the potential impact on buried archaeological sites and features in this area. Furthermore, the proposed development is substantial in scale and would be a significant intensification of the overall land use. It is considered that the proposal would have an overwhelmingly detrimental impact on the character of the setting of the ecclesiastical centre of Lusk and would be seriously injurious to visual amenities and to the historical character of the area. As such, the proposed development would contravene materially Objective HCAO10, Policy HCAP12, Policy HCAP14 and Policy HCAP15 of the Fingal Development Plan 2023 - 2029*

*and would be contrary to the proper planning and sustainable development of the area”.*

*2. The proposed development, by reason of its scale, proposed use and proximity to existing dwellings located to the north and north-east boundaries of the site would be seriously injure the amenities of property in the vicinity. Furthermore, given the significant intensification of land use and the deficient lack of car and bike parking, the proposal would be detrimental to the wider amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

*3. Insufficient information has been submitted to enable the Planning Authority to assess whether the development would have a detrimental impact on roosting habitat of a population of bat species listed under Annex IV of the EU Habitats Directive (Council Directive 92/43/EEC) and nesting birds protected under S.22 of The Wildlife Act 1976 (as amended). The development would materially contravene Objective DMSO148 of the Fingal County Development Plan 2023-2029 and would therefore be contrary to the proper planning and sustainable development of the area”.*

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

3.2.1. A planning Report dated 11<sup>th</sup> July 2024 has been provided.

3.2.2. The original planning report concluded that *“Having regard to the proposals, whilst the principle of providing new community facilities in Lusk is welcomed, the development as currently proposed is considered unacceptable. The Planning Authority have significant concerns around the impact of the proposed development on the adjacent ecclesiastical site which is of major importance and historical and archaeological significance. The Planning Authority are of the opinion that proposed development would be quite an intensive use of the land, particularly given the sensitive nature of the site and the proposed scale and design of development would be unacceptable in its current format. Furthermore, internal departments have raised a number of concerns in relation to parking and access, boundary treatments and landscaping works and the impact on the impact of the proposal on bird and bat populations within the subject site. Based on the foregoing, it is recommended that*

*planning permission be refused*”, and as such permission was refused for three reasons as noted in Section 3.1.1 above.

3.2.3. Other Technical Reports:

- Water Services Department: Conditions recommended.
- Transportation Planning Section: Additional information requested.
- Parks and Green Infrastructure: Additional information requested.
- Heritage Officer / Archaeologist: Refusal recommended.
- Conservation Officer: Conditions recommended.

3.3. **Prescribed Bodies**

3.3.1. The Planning Authority indicated that the following prescribed bodies were consulted.

- Uisce Eireann: Conditions recommended.
- Heritage Council: No report received.
- Department of Housing, Planning and Local Government: No report received.
- Department of Housing, Local Government and Heritage: Conditions recommended.

3.4. **Third Party Observations**

3.4.1. Two (2 no.) third party submissions were received within the statutory timeframe. One of submission, was received from Councillor Robert O'Donoghue, was in support of the application.

3.4.2. The other third party submission raised a number of concerns as follows:

- Rationale and justification for the proposed development, in particular the proposed auditorium.
- Negative impact on the surrounding residential amenities in terms of noise and disturbance, loss of privacy and light pollution.



- The scheme would have an adverse impact on the visual amenities of the area due to the scale and height of the proposed auditorium/ community facility.
- The loss of trees; it would also impact on the setting and character of the protected structure and monument adjacent the site.
- Parking and access to the site.

## 4.0 Planning History

### 4.1. Subject site:

- Reg. Ref. F18A/0696: Permission granted by Fingal County Council on 25<sup>th</sup> June 2019 for (1) Refurbishment of the existing derelict cottage for use as a new tourism centre and exhibition space, (2) single storey extension to the rear, (3) alterations to front boundary wall, (4) relocation of existing steel gate, new vehicular entrance, (5) carpark area, landscaping and all associated ancillary works and site works. This permission related to phase 1 of the Lusk Community Cultural Centre and is completed on site.

### 4.2. Adjoining site to the west:

- PARTXI/003/20: The construction of 5 no. dwellings, curtilage parking and associated site development works.

## 5.0 Policy Context

### 5.1. Fingal Development Plan 2023 – 2029

- 5.1.1. The subject site is zoned “TC” - ‘Town and District Centre’, with a stated objective *“Protect and enhance the special physical and social character of the town and district centres and provide and/or improve urban facilities”*.

*With a vision to “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”.*

- The site is located within a zone of archaeological notification. The subject is also located within the Lusk Architectural Conservation Area (ACA). There are two protected structures located to the east of the site (RPS: 298 - Tower of Former St. MacCullin's (Church of Ireland) Church and RPS: 297 - Former St. MacCullin's (Church of Ireland) Church). The Graveyard associated with St. Mac Cullins Church is indicated as 'Historic Graveyard'.
- There are a number of Recorded National Monuments located to the east of the subject within the grounds of St. MacMillans Centre (DU008-076, DU008-010003, DU008-010009, DU008-010008, DU008-010010, DU008-010006, DU008-010005).
- The landscape character of the site is defined as 'Low Lying Agricultural'. The site is located on lands indicated as being part of Framework Plan for Lusk (FP. 6A).

5.1.2. The following Sections/Policies of the Development Plan are of particular relevance:

- Section 1.4 Strategic Objectives *“Continue to develop a strategic approach to town centre regeneration through Town Centre First: A Policy Approach for Irish Towns and by utilising existing buildings and unused lands for new development, promote residential occupancy in our rural towns and villages and provide for a mix of uses within these areas. Address vacancy and dereliction to create compact attractive, vibrant and safe environments in which to live, work, visit and invest”.*
- *“Objective CSO23 – Town Centre Regeneration Continue to develop a strategic approach to town centre regeneration through Town Centre First: A Policy Approach for Irish Towns within settlements forming part of the Dublin City and Suburbs Area by utilising existing buildings and unused lands for new development, promoting residential occupancy and providing a mix of*

*uses within these areas, including cultural and community uses and residential uses, as appropriate”.*

- Section 3.5.2 Successful Public Realms including Town Centre First Policy.
- *“Policy SPQHP4 – Town Centre First: A Policy Approach for Irish Towns Promote a strategic approach to town centre regeneration through the Town Centre First: A Policy Approach for Irish Towns by utilising existing buildings and unused lands for new development, promote increased residential occupancy in rural towns and villages, support high quality design of the public realm and provide for a mix of uses within these areas, including arts, educational, cultural, community and residential uses as appropriate”.*
- “Objective CSO59 – “Historic Core of Lusk: Protect and conserve the special character of the historic core of Lusk including the area of archaeological notification in the centre of the town having regard to the physical and social character of the core area particularly in the vicinity of St. MacCullin's Church and Main Street, and to promote a conservation-led approach to the consolidation and redevelopment of the town core”.
- Objective CSO60 – “Monastic Site and St. MacCullin's Church: Maintain the valued distinctive views of the monastic site and St. MacCullin's Church from all approach roads into Lusk, from significant areas of open space and from surrounding areas”.
- Objective CSO51 - Support Growth of Self-Sustaining Towns
- Objective CSO52 - Safe and Convenient Road, Pedestrian and Cycle Systems
- Objective CSO61 - Hedgerows in Lusk
- Objective HCAO7 - Archaeology and Development Design
- Objective HCAO8 - Archaeological Impact Assessment
- Objective HCAO10 - Context of Archaeological Monuments
- Policy HCAP11 - Conservation of Architectural Heritage
- Policy HCAP12 - Interventions to Protected Structures
- Policy HCAP14 - Architectural Conservation Areas

- Policy HCAP15 - Character of Architectural Conservation Areas
- Objective HCAO24 - Alteration and Development of Protected Structures and ACAs
- Objective HCAO25 - Architectural Heritage Impact Statement
- Objective DMSO149 - Protection of Bats
- Objective DMSO148 - Ecological Impact Assessment
- *“Section 14.4.4 Town and Village Centres Town, Village, District and Local Centres are the primary focus of economic, community and residential development throughout the County. This Plan promotes a Town Centre First: A Policy Approach for Irish Towns and seeks to implement a strategic approach to town centre regeneration by utilising existing buildings and unused lands for new development and promote residential occupancy”.*

## 5.2. Lusk for Life Town Centre First Plan 2024 – 2032

### 5.2.1. The following are of relevance:

- Key Sites for Development *“2. Community Cultural Centre Lusk Community Council have been developing this site adjacent to the Round Tower over a number of years and have delivered the Cultural Centre and Cottage Community Centre. Phase 2 of the Cultural Centre offers a chance to create more community rooms near the centre of the town. A series of community buildings clustered in the area connecting back to the town’s focal point, the Round Tower, offers cultural and community amenities for all age groups and visitors”.*
- Project 24 – Lusk Community Cultural Centre *“The development of Lusk Cultural Centre involved the conversion of an old cottage into a community space at the heart of Lusk, directly beside the Round Tower. It has been very well used in its first year open as a space for meetings, exhibitions, music events, cultural exchange evenings, classes and talks. Lusk Community Council have initiated Phase 2 of the project for the Cultural Centre which includes community options under consideration. These new community and cultural spaces would be a welcome resource for Lusk, enabling the potential for the further development of enterprise and community connections”.*

- *“The existing Cottage Community Centre, Lusk Community Cultural Centre and St MacCullins Centre already work collectively to provide a community and cultural campus for Lusk. This will be strengthened with the addition of Project 24 - LUSK COMMUNITY CULTURAL CENTRE - Phase 2. When complete, these facilities will provide a much-needed amenity for cultural activities and a visitor attraction for Lusk”.*

### 5.3. Ministerial Guidelines

#### 5.3.1. Section 28 Guidance

- Architectural Heritage Protection Guidelines for Planning Authorities, 2011.

### 5.4. Natural Heritage Designations

5.4.1. The subject site is not located within a designated European Site.

5.4.2. However, the nearest designated sites located to the north, south-west and west are:

- Rogerstown Estuary SPA
- Rogerstown Estuary SAC
- Skerries Island SPA
- Rockabil SPA
- Rockabil to Dalkey SAC
- North-West Irish Sea SPA

5.4.3. The proposed development however, is not connected with any European site and there is no pathway between the proposed development and the aforementioned designated sites and therefore there is no likelihood of any significant negative effects during construction or operation of the proposed project.

### 5.5. EIA Screening

5.5.1. I refer the Board to the completed Form 1 Appendix 1. 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.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A first party appeal has been received by the applicant's agent against the decision of Fingal County Council to refuse permission under Reg. Ref. F24A/0318E. The appeal the following revised plans and subsequent reports and documents, etc., in response to the Planning Authority's reason for refusal, for consideration of the Board:

- Bat/Bird Survey and Assessment from Gerard Tobin, BSc, MA., Ecological Consultant
- Revised Site Layout Plan (Drawing reference A.03.01.4)
- Correspondence dated 17<sup>th</sup> April 2024
- Correspondence dated 17<sup>th</sup> May 2024
- Archer Heritage Planning report dated 31<sup>st</sup> May 2024
- Archer Heritage Planning report dated 18<sup>th</sup> January 2024
- Archer Heritage Planning report dated 12<sup>th</sup> September 2017
- SCEG Engineering Design
- Lusk For Life Town Centre First Plan 2024-2032
- USB with MP4 videos of three trenches re: 31 May 2024 report excavations.

6.1.2. The appeal includes a detailed report on the local authority decision, including background to the Lusk Community Council and responds to each reason for refusal as follows:

- In response to reason for refusal 1 the appellant states:
  - The applicant and its consultants have been fully cognizant of the historical context of the site and have been instrumental in the restoration of Katie Hunts Cottage, now Lusk Community Cultural Centre.

- At all times Lusk Community Council and its team have had a clear understanding of the importance of the subject site and its surroundings.
- Archer Heritage Planning prepared an Archaeological Impact Assessment Report which made several recommendations in respect of the proposed design, all recommendations have been considered.
- Additional archaeological site investigations were undertaken with further recommendations made and these have also been considered in the design.
- A Visual Impact Assessment was undertaken covering extensive viewpoints.
- The proposal has been sensitively designed with a view to minimizing adverse visual impact on both the neighbouring protected structures and neighbouring properties.
- 3D lidar surveys of the three trench excavations were undertaken.
- All investigations have been undertaken following discussions with the National Monuments Service and Fingal County Council.
- The proposed development will make a hugely positive contribution to the ecclesiastical and historic centre of Lusk in line with priorities for the Lusk for Life Town Centre First Plan.
- Both Phase 1 and Phase 2 are sensitive and respectful of the site context.
- Phase 2 has been carefully considered from many vantage points external to the site and the proposed design will create a sensitive new design harmony between medieval and modern.
- Regard is had to the report from the Department of Housing, Local Government and Heritage with respect to archaeology.
- The proposed development is integral to the Town Centre First policy and the Town Centre First Plan.
- The project will represent a step in change in the development of the needs of the town in a sensitive, modern style and sustainable design.
- A copy of the comments received from a public consultation day held in respect to the proposed development have been submitted.

- In response to reason for refusal 2 the appellant states:
- The Planning Authority are prioritising the concerns raised by one neighbour over the broader concerns and needs of the community.
- It is not the intention of the proposal to create negative issues.
- The proposal seeks to address community needs in the interest of the common good.
- The planner implies a range of negative outcomes from the proposed development.
- The Planning Authority has undergone a long, detailed, and extensive consultation, analysis and development process to create the Lusk for Life Town Centre First Plan 2024 – 2032.
- This Phase 2 project is referenced as project number 24 in the Project Bundle 02 -Spatial Strategy for the town.
- The questioning of the proven need for the proposed development is ignoring the Town Centre First Plan and Government policies and is based on incorrect commentary by the Heritage Officer who suggests that other facilities within the town can address the needs of the proposed Phase 2.
- The Community Council is agreeable to the removal of the market stalls from the layout and attach a revised layout (Drawing reference A.03.01.4) of the courtyard area with the market stalls removed.
- The comments with regards to "intensification" are considered personal views.
- As per the architects cover letter the application includes a Plot ratio and Site coverage, of 23% and 0.2 respectively. These metrics illustrate that the site is not being over developed and the masterplan has in fact sought to both address and balance the sensitivity of the site, the needs of the community and minimisation of the visual impact of the proposed development.
- The issue of car parking and cycling deficits is addressed by the architect.
- In response to reason for refusal 3 the appellant states



- It is noted that Nature Conservation was highlighted by the Department of Housing, Local Government and Heritage. This consultation report recommended conditions to be included in any planning permission.
  - However, Fingal County Council decided to use the lack of information as a reason for refusal.
  - Lusk Community Council has commissioned a Bat/Bird Survey and Assessment from Gerard Tobin, BSc, MA., Ecological Consultant, details of which are as part of the appeal.
  - It is clear from the survey that no bats were detected within the proposed development site.
  - The consultant has also made welcome recommendations regarding bird conservation and mitigation measures.
  - The consultant's report addresses all concerns regarding bats and bird conservation on site.
- Other elements of the planners' report addressed in the appeal:
    - The absence of Town Centre First policies in the analysis of the application.
    - The failure to recognise the Lusk for Life Town Centre First Plan 2024-2032 in the analysis and the fact that this Phase 2 project is identified as Project 24 and is strategically important to the town.
    - The failure to recognise the recommendations of the Department of Housing, Local Government and Heritage consultation report in the planning analysis.
    - The referencing of the Heritage Officer as the Archaeologist / Heritage Officer.
    - The incorrect suggestion by the Conservation Officer that existing facilities in the town could cater as community multi-use auditorium.
    - The failure to seek clarifications by way of additional information before making a recommendation on the application.

- The incorrect statement that insufficient archaeological information was available on which to base a design.
- The misrepresentation of the market stalls as being "commercial" with further incorrect assumptions regarding "waste storage/disposal".
- The assumption that changes in character is negative and failure to recognise the positive contribution that the phase 2 would have for the community of Lusk.
- The misrepresentation of the proposed courtyard car park as a "large parking area" with negative visual impact.
- The incorrect suggestion that the root systems of any proposed perimeter planting would impact sub-surface archaeology.
- The misrepresentation of the proposed community office suites as an "office block".
- The failure to recognise the importance of Cultural Infrastructure objectives in the Fingal Development Plan.

## **6.2. Planning Authority Response**

- 6.2.1. Report received 29<sup>th</sup> August 2024, confirming that the Council notes that the planning application was assessed in line with the relevant statutory documents. The Planning Authority notes the changes proposed and the additional reports submitted as part of the appeal, however, concerns raised in the assessment of the planning application, are still considered pertinent. The Planning Authority requests that An Bord Pleanála upholds the decision of the Planning Authority to refuse permission.
- 6.2.2. In the event that this appeal is successful, provision should be made in the determination for applying the following:
- A financial contribution and/or provision for any shortfall in open space and/or any Special Contribution required in accordance with Fingal County Council's Section 48 Development Contribution Scheme.

### 6.3. Observations

6.3.1. Six (6 no.) observations and two (2 no.) public representations were received in support of the first party appeal from Cllr. Paul Mulville, Cllr. Cathal Boland, Joe O'Brien TD, Cllr. Corina Johnston, Cllr. Robert O'Donoughue, Cllr. Eoghan Dockrell, and Foroige Coastal North Dublin and have noted the following:

- An Bord Pleanála are urged to grant permission for Phase 2 of the Lusk Community Cultural Centre, subjected to conditions.
- The grounds for refusal lack merit and are inconsistent with the planning standards.
- The proposal respects the setting and location while delivering strategic value to the area and community.
- Lusk is a rapidly growing town with a clear shortfall of social and cultural amenities available.
- The proposal provides an opportunity to enhance the cultural offering in the town by allowing the expansion of the cultural centre.
- The Lusk Town Centre First Plan highlights the site for the development of phase two of the community cultural campus and project 24.
- The proposal is stewarded by the local community council who have a fantastic track record in delivering and managing community facilities in the town as outlined in the appeal.
- The existing cultural centre has been used extensively since it was opened for a wide variety of community events meetings and music events classes talks and exhibitions.
- The Lusk Town Centre First Plan notes there are several community buildings in the town there are the small to medium scale which cannot facilitate the growing ambition of a number of larger community groups.
- The proposed facilities would be welcome addition to Lusk and enable further improvement of community resources and enterprise for clubs and businesses alike.

- The site for the application sits at the center of the town historic core near the centre of the town.
- There is nowhere in the town that is not accessible to the site of the proposed cultural campus more than a 15 minute walk.
- The site is served by bus routes which are to see increase as part of Bus Connects plan in 2025.
- The site is easily accessible from public transport.
- The Board are requested to take the recommendations of the Archer heritage planning report on recommendations by the Department of Housing local government and heritage in their submission regarding the site with regard to the reference material negative visual impacts and implications in their report.
- The applicant is agreeable to the removal of the market stalls.
- The applicant has commissioned an included a Bird/Bat survey and assessment as part of the appeal response in relation to insufficient information submitted to enable the planning authority to assess whether development would have a detrimental impact on roosting habitat of a population of bat species or nesting birds.
- The appellant has detailed the justification for this much needed community facility with a lack of space available and lust for certain activities.
- The rationale for the proposed parking given the site is located within proximity of a bus stop and is within walking distance of the town centre.
- Projects carried out by Lusk Community Council have at their core the preservation and promotion of the heritage of the site. The Board is requested to pay heed to the efforts carried out as part of this application to preserve the heritage of society but also to consider very clear evidence from Phase 1 of this development.
- The planner's report is over the top and inaccuracies that indicate a lack of familiarity with the sight and how the proposed plan will fit within it.

- Government has adopted a town centre first policy which aims to reinvigorate the centre of towns and villages across the country by improving public infrastructure and amenities in the centre of towns and strengthening active travel infrastructure among other measures. Lusk recently completed its town centre first plan with the support of the council and there is no acknowledgment by the council and the refusal that this application will go a long way to implement government planning and town centre first policy.
- The issues raised under reason 3 have been fully addressed since the planning refusal.
- Lusk Community Council appealed that the organisation has engaged in good faith and in detail throughout the development of the project and has responded effectively when given the opportunity to the very issues various issues raised about the sensitivity of the site.
- The existing space in the town is not sufficient to serve the needs of the young people and the Lusk community in general.
- The proposed multi-functional performance space will create a major new resource for youth development in the town.
- There has been a dramatic increase in the number of young people living in the area but no appropriate it's best to meet their needs.
- The proposed community office suite will offer Forogie staff office space in the centre of the community.
- This facility will enable youth workers to understand that every project starts and more effectively to the needs and challenges this building people.
- It will allow collaboration with other community organisations to enhance the support network available to the youth.

6.3.2. One detailed observation has been received from Shay and Siobhan Larkin which raise the following issues:

- The decision of the planning authority states that the development will amount to a material contravention of various policies and objectives of the Development Plan.
- Reference has been made to the first party appeal and its contents, which includes a justification for the proposed development.
- The bat/bird survey was undertaken over one night only.
- No evidence of bats roosting or foraging on the site has been provided.
- The assessment in respect to swifts was from 2016, eight years ago, and should be dismissed as irrelevance to the consideration of this appeal.
- There is no reasoning and justification for overturing this decision.
- Consideration of material contravention which has not been addressed by the applicant as part of the first party appeal.
- The objectives for which the proposed development was deemed to be a material contravention area Objective HCAO10, Policy HCAP12, Policy HCAP15 and Objective DMSO148 of the Development Plan in respect to the impact of the proposal on the setting and character of the Recorded Monument, Protected Structure and Architectural Conservation Area and failure to undertake an ecological impact assessment.
- The observers dwelling will be 2-6 metres of the market stall stands, there is no indication as to the use and operation of these stalls, and external seating area that will negatively impact on residential amenities.
- The removal of the stalls as per the first party appeal is welcomed.
- Noise and disturbance.
- Negative impact on residential amenities because of street lighting around the car park and impact on the setting of Protected Structure.
- Intensification of community type activities at this location.
- Overbearing impact of the proposed development on adjoining residential dwelling.

- Light pollution and increase in activity in the area will have a negative and detrimental impact on the roosting habitat of a population of bat species and would materially contravene Objective DMSO148 of the Development Plan.
- The applicants have calculated the car parking based on the site being within Zone 1, which applies to Major Town Centres and locations with excellent bus services, which is not the case.
- Having regard to the proposal, car parking requirements should have regard to the site being within Zone 2.
- The proposal will result in inadequate car parking provision and will result in a traffic hazard.
- Negative impact on trees and loss of trees which will be contrary to Objective DMSO125 and DMSO126 of the Development Plan.
- Inappropriate and unjustified development with no justification for the development.
- The proposed development will negatively impact on the immediately adjoining residential community and setting of the Protected Structure, ACA and Scheduled Monuments.
- Permission should be refused based on the well-considered decision of the Council in that the proposed development would remain a material contravention.

#### **6.4. Further Responses**

None received.

### **7.0 Assessment**

- 7.1. As part of the grounds of appeal, the appellant submitted the following revised plan, and documents in response to the Planning Authority's reasons for refusal of planning permission and the commentary of the planner within their assessment, for the consideration of the Board:

- Bat/Bird Survey and Assessment from Gerard Tobin, BSc, MA., Ecological Consultant
- Revised Site Layout Plan (Drawing reference A.03.01.4)
- Correspondence dated 17<sup>th</sup> April 2024
- Correspondence dated 17<sup>th</sup> May 2024
- Archer Heritage Planning report dated 31<sup>st</sup> May 2024
- Archer Heritage Planning report dated 18<sup>th</sup> January 2024
- Archer Heritage Planning report dated 12<sup>th</sup> September 2017
- SCEG Engineering Design
- Lusk For Life Town Centre First Plan 2024-2032
- USB with MP4 videos of three trenches re 31 May 2024 report excavations.

7.2. The appellant has requested that the revised plans be read in conjunction with the original reports submitted with the planning application. It is noted that the revised plans submitted with the appeal introduce no new elements or issues which may be of concern to third parties in the context of the proposed development, they result in the following amendments:

- Removal of the market stalls from the layout and revised layout (Drawing reference A.03.01.4) of the courtyard area with the market stalls removed.

7.3. Accordingly, this assessment is based on the plans and information received by Fingal County Council on 21<sup>st</sup> May 2024, and the further plans and particulars received by the An Bord Pleanála on 7<sup>th</sup> August 2024.

7.4. The Board may wish to consider the alternative proposal submitted to An Bord Pleanála on 7<sup>th</sup> August 2024, and/or possibly could consider the alternative proposal by way of a condition.

7.5. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- I. Principle of Development
- II. Impact on character and setting – Reason for Refusal 1



- III. Impact on adjoining amenity – Reason for Refusal 2
- IV. Impact on Bats/Birds – Reason for Refusal 3
- V. Material Contravention,
- VI. Appropriate Assessment, and
- VII. Other Matters.

## **7.6. Principle of Development**

- 7.6.1. The appeal site is located in the centre of Lusk village adjacent to an existing community structure and is zoned as 'TC - Town and District Centre', the objective of which is to *'Protect and enhance the special physical and social character of town and district centres and provide and/ or improve urban facilities'*. The proposal comprising Phase 2 of the Lusk Community and Cultural centre includes a multi-functional community space with a range of uses including an auditorium, office space, toilet facilities, coffee/food offering, meeting room, car parking, installation of 5 no light-weight outdoor market stalls and a multi-use outdoor area for community events, market stalls and overflow parking. Accordingly, I note that community and cultural facilities are uses permitted in principle under the zoning objective, and therefore the principle of the development as proposed is acceptable under the zoning for this site.
- 7.6.2. The planners report notes the location of similar community facilities in the vicinity and questions the rationale for the proposal, in particular the auditorium with a capacity to hold up to c.150 people given the existing facilities in Lusk and environmental sensitivities associated with this site and states that a justification and rationale for the scale of the proposal would be required. The observer in their submission also questions the justification and rationale for the proposed development.
- 7.6.3. As part of the first party appeal the applicant states that “the Phase one Cultural Centre development transformed a derelict site associated with significant anti-social activities to a state of the art community cultural facility. The phase two proposal forms part of a larger community campus project, clearly identified as a priority in the Town Centre First plan”. The appellant also considers that “*the Phase 2 proposal is*

*integral to the Town Centre First policy and Town Centre First plan, consideration of which has not been recognised in the Planning Officer's assessment of the planning application”.*

- 7.6.4. I also note the observations received in support of the proposed development and the associated community uses and the suggested benefits to Lusk as a result of the proposed development.
- 7.6.5. Notwithstanding the zoning objective for the site, I reference the relevant Development Plan objectives pertaining to this site and the reference to the site within the Lusk Town Centre First Plan, which highlights the suitability of the site for the development of a community and cultural centre as part of the plan.
- 7.6.6. I also consider that this site could be utilised to further extend and enhance the community facilities provided for in Lusk town as identified in the Town Centre First Plan and the Development Plan, subject to an appropriate scale and design approach.

#### Conclusion

- 7.6.7. Again, I reference the zoning objective for the site and the reference to this development as part of the Town Centre First Plan which supports the principle of the proposed community cultural centres. I also consider that the proposal is similar to the uses found in such a setting and will complement the existing uses in the immediate location, and therefore I am satisfied that the principle of this development would be acceptable, subject to other issues including the site content, impact on character and setting, impact on amenities, use and parking provision, which will be assessed in the following sections.

#### **7.7. Site Context and Impact on character and setting – Reason for Refusal 1**

- 7.7.1. The planning authority considers that given the sensitivities surrounding the site in particular the impact of the proposed development on buried archaeological sites and features in the area and given the substantial scale and significant intensification of the use associated with the proposal, that it would have an overwhelmingly impact on the character of the setting of the ecclesiastical centre of Lusk and the historical character of the area. It is considered therefore that the development would

materially contravene Objective HACO10, Policy HCAP12, Policy HCAP14 and Policy HACP15 of the Development Plan.

- 7.7.2. The appellant contests the reason for refusal and states that the applicant have been fully cognisant of the historical context of the site, have participated in the ACA and have been instrumental in the redevelopment of the former cottage on site. The appellant states that at all times there has been a clear understanding of the importance of the subject site in this context. The appellant further states that the proposed development will make a hugely positive contribution to the ecclesiastical and historical centre of Lusk in line with the priorities of the Lusk for Life Town Centre First Plan. It is argued that the design concept has been carefully considered from many vantage points external to the site and the proposed design will create a sensitive new design harmony between medieval and modern. The appellant does not consider that that the proposal contravenes the aforementioned Development Plan policies and objectives.
- 7.7.3. While I note that development has occurred on the directly adjoining site to the west in the form of a residential two storey contemporary building (under PARTXI/003/20), I consider that the site context to be of particular relevance in the assessment of this appeal given the location of the site within the Lusk Architectural Conservation Area (ACA), and a zone of archaeological notification and the proximity of the site and the directly adjoining burial ground, round tower and church grounds and the open nature, site level (relative to the adjoining road level) and visual impact of any development at this site in this context in particular adjoining St. MacCullins Church, church tower and historic graveyard to the east and southwest of the site.
- 7.7.4. As noted in the forgoing, the principle of the proposed development would be acceptable at this site and this site has been identified for Phase 2 of the Lusk Community Cultural Centre. I also acknowledge the conversion, upgrade, and extension of the existing cottage on site as referenced by the appellant. In addition, I further note the works to the directly adjoining site to the west. However, any development at this site should be designed to have minimal impact on the adjoining ecclesiastical site and should have regard to and assimilate sensitively into this unique site context.

- 7.7.5. The proposed development has taken its design cue from the existing agricultural barn on site and the existing roof structure to the single storey cottage. The proposed development provides for an L-shaped building extending along the west side and rear (north) portions of the site with a part flat part barn styled roof to an overall height of 8 metres approx. and length of 29 metres to the northern boundary. I have serious concerns in respect to the scale, height and ad-hoc design of the proposed development, in particular the extent and height of barn type barrel roof to both the side and rear buildings, relative to its location within an ACA and adjoining the protected structures to the east of the site.
- 7.7.6. While I note the design response having regard to the existing barn structure and single storey renovated cottage on site, I consider that the proposal represents an ad-hoc and disjointed arrangement of the proposed buildings and that the design response is not appropriate or sensitively scaled for this site context and therefore would visually detract from the setting and context of the ACA and the adjoining protected structures.
- 7.7.7. I further consider that the design, scale, and height of the proposed building would significantly detract from the setting and visual appearance of the area and would therefore, have a negative impact on the overall character and distinctiveness of the site.
- 7.7.8. In addition, the proposed development will be visible to the rear of the existing cottage from the adjoining Church Road and the adjoining Church site, while the proposed development will be set back from the existing cottage it will be clearly visible and will be to an increased height and a much larger scale and as such will detract negatively from the visual amenity of the existing streetscape at this location.
- 7.7.9. In respect to the Visual Impact Assessment, I note that not all vantage points have been documented in the planning application or appeal documentation, in particular the views of the proposed development looking towards and from the adjoining church and burial grounds.

Archaeological Heritage Issues:

- 7.7.10. Concerns have been raised in the planners' report and reason for refusal in respect to the information submitted as part of the planning application and the lack of information to fully assess the extent of excavation and the clearance of land for use

as a car park which is considered detrimental to the setting of this area and would contravene Objective HCAO10 – Context of Archaeological Monuments.

- 7.7.11. As part of the appeal the applicant states that the submitted Architectural Impact Assessment Report made several recommendations and following these recommendations engineers were commissioned and additional archaeological testing was carried out on site in addition to trench excavations, which have been submitted as part of the appeal. In this regard, lidar surveys of the three trench excavations were undertaken in May 2024, which gave the applicant a comprehensive understanding of the topsoil profile which was confirmed typically ranges from 1.5m to 1.8m in depth above the subsoil. The appellant further states that all investigations have been undertaken following discussions with the National Monuments Service and Fingal County Council.
- 7.7.12. Following site visit and having reviewed the planning application, the recommendations made as part of the Archaeological Impact Assessment report prepared by Archer Heritage Planning, and the information submitted by way of the appeal, I am satisfied that, subject to specific conditions pertaining to archaeology and excavation that the development at this site including ground works, foundations, services and changes in site levels, would not significantly impact on buried archaeological sites and features in the area. Accordingly, should permission be granted, I recommend the inclusion of specific conditions in this regard.
- 7.7.13. Noting the planners report, additionally, I have concerns in respect to the extent of hard landscaping and car parking proposed in close proximity to the burial grounds associated with the protected church grounds and the negative impact this will have on the setting and visual appearance of the church. I welcome the removal of the proposed stalls as part of the appeal, however given the site context I am not satisfied that the proposed overflow parking area at this location would not seriously detract from the setting of the adjoining burial grounds and protected structures and therefore would contravene Objective HCAO10 – Context of Archaeological Monuments.

Conclusion:

- 7.7.14. Therefore, while I acknowledge that the site has been identified for a proposed community cultural building, I consider that the development as proposed is not

sympathetic, sensitive, appropriately scaled and designed relative to this site context and does not contribute positively to the character of the and setting of the Architectural Conservation Area and adjoining Protected Structures and would therefore materially contravene Objective HCAO10 – Context of Archaeological Monuments, Policy HCAP12 – Interventions to Protected Structures and Policy HCAP14 – Architectural Conservation Areas and Policy HCAP15 – Character of Architectural Conservation Areas of the Fingal County Development Plan, 2023 – 2029.

## **7.8. Impact on adjoining amenities and intensification of use and parking – Reason for Refusal 2**

7.8.1. The second reason for refusal considers that the scale, proposed use and proximity to existing dwellings located to the north and north-east boundaries in particular would seriously injure the amenities of property in the vicinity. The planning authority also considers that the development would result in a significant intensification of land use given the deficient lack of car and bike parking, which would be detrimental to the wider amenities of the area.

7.8.2. I will consider each item raised in the reason for refusal independently.

### Residential Amenity

7.8.3. In respect to the impact of the proposal on the residential amenities the appellant states that it is not the intention or desire of the Community Council to seek to create negative issues for the community, in fact the objective of the Community Council is the complete opposite, as we seek to address community needs in the interest of the common good.

7.8.4. The observer expresses concerns in respect to the impact of the proposed development on the adjoining residential amenity in particular overbearing impact, noise and disturbance, street lighting and intensification of use at this site.

7.8.5. At the outset I note that the site is zoned Town and District Centre and as such community facilities would be considered appropriate on this site and again, I note the identification of this site for community development under the Town Centre First Plan.

- 7.8.6. Given the open nature of the site relative to the adjoining dwellings to the north, northeast and east, in particular, any proposed development at this site will be visible from the adjoining residential dwellings. However, I note the separation distance of 25 metres from the rear of the observers dwelling, in particular, to the proposed structure. I also note that as part of the appeal that the previously proposed stalls in the multi-use and parking area have been omitted, which is welcomed in respect to adjoining amenity. Given the separation distance I do not consider that the proposed development would impact negatively on the adjoining residential amenity.
- 7.8.7. Potential impacts on residential amenities as a result of use of the building, noise, and lighting, etc. have been raised. I am satisfied that matters pertaining to use of the community centre, noise and lighting can be appropriately dealt with prior to construction by way of condition should the Board be inclined to grant planning permission in this instance.

Intensification of use and parking

- 7.8.8. As noted above concerns are raised in respect to the intensification of use at this site in particular the deficient lack of car and bicycle parking which would detract from the amenities of the wider area. Similar concerns have been raised in a third party observation in respect to the requirement of parking and the impact of the proposal on adjoining roads.
- 7.8.9. The appellant states that there is no Development Plan standard being referred to in respect to the intensification of use and considers these views to be personal. The plot ratio and site coverage is 23% and 0.2 respectively and therefore the site is not overdeveloped. In respect of car parking and cycling parking, the cover letter accompanying the planning application states that *“the development is in the centre of Lusk and is in close proximity to transport corridor (220m). The development will focus on prioritising pedestrian and cycle access. 10% of the parking will contain functional charging points and all other spaces will be ducted to allow for new connections”*.
- 7.8.10. While concerns have been expressed in the foregoing with respect to the scale, height and design of the development as proposed, I do not consider the site to be overdeveloped.
- 7.8.11. In respect of car and bicycle parking:

The applicant states that bicycle parking has been calculated as follows:

- Auditorium: 1 per ten seats: 150 seats => 15 bicycle spaces required
- Office: 1 per 200 sq. m. of office or 1 per 50 cultural centre => 3 bicycle spaces required Minimum total of bicycle spaces to be provided is 18.
- There are 24 bicycle spaces provided for on phase 2 site and 8 bicycle spaces on phase 1 site.

The applicant states that bicycle parking has been calculated as follows:

- Auditorium: 1 per 10 seats: => 15 car park spaces required
- Office: 1 per 80: 2 spaces Minimum total of carpark spaces to be provided is 17 for phase 2.
- There are 22 carpark spaces provided in total with three disable spaces on phase 1 site.

7.8.12. I note the report received from the Transportation Planning Section, which requires amendments to the proposed bicycle parking and amendments to the 6 metres wide access route in particular beyond the car parking spaces to facilitate the movement of vehicles within the site. I consider this to be reasonable to allow for the safer movement of vehicles within the site.

7.8.13. I acknowledge that the site is located within the Town Centre, and while the site is located within 220 metres approximately (as the crow flies) from two bus stops on Station Road, i.e. Stop 3764 and Stop 3854 serving the 33 and 33A routes, which has been referenced in the appeal, however, I concur with the concerns of the planning authority, in respect to the limited public transport and cycle infrastructure in the immediate vicinity of the site to serve the proposed development. I am not satisfied that the proposed development is located within 800m of what would be considered to be a high quality bus service and as such, I also consider that the proposed car parking standards applicable to the site to be within "*Zone 2: All other areas as per able 14.19: Car Parking Standards*" of the Development Plan. Given the scale of the development proposed, I concur with the planner's assertion that the quantum of car parking required to serve the development is 56 no. spaces, which accounts for the proposed and existing development. The proposed parking provision of 22 no. spaces would, therefore, be substandard and could potentially



lead to an overspill of inappropriate parking in the vicinity of the site in particular along Church Road/Barrack Lane, which may lead to a traffic hazard at this location.

Conclusion:

- 7.8.14. While I consider that some relaxation in the car parking standards would be acceptable, the proposal comprising 22 no. parking spaces would not be acceptable in this instance and may lead to a traffic hazard. I also note the concerns in respect to the extent of hard landscaping in close proximity to the adjoining graveyard and protected structures as per Section 7.7.13 above. Therefore, I concur with the concerns raised by the planning authority and recommend that permission be refused in this regard.

**7.9. Impact on Bats/Birds – Reason for Refusal 3**

- 7.9.1. The third reason for refusal states the planning authority is not satisfied, on the basis of the information submitted as part of the planning application as to whether the proposal would have a negative impact on roosting habitat of a population of bat species listed under Annex IV of the EU Habitats Directive (Council Directive 92/43/EEC) and nesting birds protected under S.22 of The Wildlife Act 1976 (as amended), and would therefore materially contravene Objective DMSO148 of the Development Plan. As such an ecology report was requested to ensure that no birds or bats are impacted by the proposed development.
- 7.9.2. I note Objective DMSO148 states it is an objective of the Council to “*Ensure ecological impact assessment is carried out for any proposed development likely to have a significant impact on proposed Natural Heritage Areas (pNHAs), Natural Heritage Areas (NHAs), Statutory Nature Reserves, Refuges for Fauna, Habitat Directive Annex I sites and Annex II species contained therein, or rare and threatened Flora Protection order and Red Data Book species and their habitats. Ensure appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment*”.
- 7.9.3. As part of the appeal submission a Bat/Bird Survey and Assessment (Gerard Tobin, BSc, MA., Ecological Consultant) has been submitted. The observer queries the details and references included within the survey.

- 7.9.4. The proposed development involves the demolition of an existing derelict barn on site and the removal of a number of trees to allow for the construction of the proposed development.
- 7.9.5. The report states that a site visit was carried out on the 25<sup>th</sup> and 26<sup>th</sup> July 2024. The survey states that *“The area, potentially, offers few opportunities for bat use, as there are few available foraging routes because of existing intrusive lighting...There is evidence that Common Pipistrelle bats, Soprano Pipistrelles ( P. pipistrelleus and P. pygmaeus) and Leislers Bats (Nyctalus leisleri) are currently located nearby in the graveyard. Bats were seen commuting within the adjacent area post dusk and foraging elsewhere. No bats were detected within the proposed development site”*.
- 7.9.6. It was determined that the proposed works would not adversely affect bats, and no bats were detected on site following survey, as such no derogation licence was required in this instance.
- 7.9.7. In respect to impact on bird fauna, the report states that the timing of the works for the autumn/winter period will ensure that there are no adverse impacts on nesting birds or bats. Mitigation measures in respect to the timing of works and demolitions such as bat-sensitive lighting to the development is proposed.

Conclusion:

- 7.9.8. I am satisfied that the works proposed will not have any undue impact on bat activity or bird fauna in the area and I am satisfied with the information provided within the submitted survey and assessment. The mitigation measures cited in the submitted Bat/Bird Survey and Assessment can be attached by way of condition should the Board be inclined to grant planning permission in this instance.

**7.10. Material Contravention**

- 7.10.1. The observer states that the proposal results in a material contravention and as such permission cannot be granted in this instance. Furthermore, it is noted that the first party appellant has failed to address the material contravention aspect of the decision.
- 7.10.2. As per my assessment outlined above, I consider that the proposed development comprising the construction of phase 2 of Lusk Community Cultural Centre with all

associated site works would be a material contravention of the Development Plan specifically Objective HCAO10 – Context of Archaeological Monuments, Policy HCAP12 – Interventions to Protected Structures, Policy HCAP14 – Architectural Conservation Areas and Policy HCAP15 – Character of Architectural Conservation Areas of the Fingal County Development Plan, 2023 – 2029.

7.10.3. Therefore, one or more of the criteria as set out in Section 37(2)(b) of the Planning and Development Act 2000, as amended (hereafter referred to as ‘the Act’), must be met in the event that the Board was minded to grant permission in this instance.

Section 37(2)(a) and (b) of the Act state the following:

*(2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*

*(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that— (i) the proposed development is of strategic or national importance, (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or (iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.”*

7.10.4. The criteria set out under Section 37(2)(b) are assessed as follows:

(i) ***the proposed development is of strategic or national importance,***

The observation considers that the development is not of strategic and national importance and there is no basis for considering the proposal as such.

Having regard to the nature and scale of the subject development, which pertains to the construction of phase 2 of Lusk Community Cultural Centre with all associated site works, I am satisfied that this development is not considered to be of strategic or national importance.

***(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,***

The observation considers that there are no conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned.

I am satisfied that the subject development does not meet the criteria set out under Section 37(2)(b)(ii) of the Planning and Development Act 2000, as amended.

***(iii) Permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or***

I do not consider that there are grounds under which permission for the subject development should be granted having regard to strategies, guidelines, policies, or statutory obligations outlined above.

***(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.***

The applicant has not provided examples of the pattern of development, and permissions granted, in the area since the making of the development plan, to demonstrate how Section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, is applicable in this case.

Fingal Development Plan 2023-2028 came into effect on 5<sup>th</sup> April 2023. With regard to permissions granted in the area since the making of the Development Plan, an online planning search on the planning authority's website do not indicate any planning permissions granted in the immediate area since the making of the

Development Plan. Accordingly, I consider that it has not been demonstrated that the subject development meets the criteria set out under Section 37(2)(b)(iv) of the Act.

7.10.5. Having considered the file, and the provisions of the Development Plan, I do not consider that any one or more of the criteria set out under Section 37(2)(b) of the Act are met, and I therefore conclude that there are no grounds for the Board to grant permission in accordance with Section 37(2)(a) when the refusal is on the grounds of it being a material contravention of the Development Plan.

### **7.11. Appropriate Assessment**

7.11.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000, as amended.

7.11.2. The subject site is not located within or adjacent to any European Site.

7.11.3. The proposed development is located within an urban area and comprises the construction of phase 2 of Lusk Community Cultural Centre with all associated site works.

7.11.4. Having considered the nature, scale, and location of the proposed development, I am satisfied that it can be eliminated from further assessment for the reason that it could not have any appreciable effect on a European Site.

7.11.5. The reason for this conclusion is as follows:

- The scale and nature of the proposed development.
- The location of the development in a serviced rural area, distance from European Sites and absence of ecological pathways to any European Site.

7.11.6. I consider that the development as proposed would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is, therefore, not required.

### **7.12. Other Matters**

7.12.1. Impact on Trees

7.12.2. The observer has expressed concerns in respect to the lack of an arboricultural impact assessment submitted as part of the planning application. The submitted landscaping plan indicates that extensive site landscaping works are proposed as part of the overall scheme (dwg no. A.03.01.5). This includes the installation of "medieval inspired" landscaping and screening along the site boundaries. It is also proposed to retain the existing tree group in the north-western corner of the site and protect it as a "biodiversity wildlife area". The drawings indicate that the existing trees and hedgerows along the northern site boundary are to be reenforced with additional planting to provide screening for the neighbouring property. I am satisfied that matters pertaining to the protection and retention of existing trees on site and the requirement for an arboricultural impact assessment can be appropriately dealt with prior to construction by way of condition should the Board be inclined to grant planning permission in this instance.

## **8.0 Recommendation**

I recommend that planning permission should be refused for the proposed development, as presented and amended by way of the revised plans and particulars submitted to An Bord Pleanála on 7<sup>th</sup> August 2024 with the first party appeal, for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

9.1. Having regard to the site context in particular the location within an Architectural Conservation Area, and a zone of archaeological notification and the proximity of the site to the adjoining site of architectural interest which is listed as a Protected Structure in the current Development Plan for the area, it is considered that the proposed development, by reason of its overall layout, and its scale, height, massing and ad-hoc and disjointed design and extent of hard landscaping, would be out of scale with its surroundings, would seriously detract from the architectural character and setting of St. MacCullin's Church, Church Tower and historic graveyard and of the streetscape generally. The proposed development would, therefore, materially and adversely affect the character of the Architectural Conservation Area and this Protected Structure, would seriously injure the visual amenities of the area and

would be contrary to Objective HCAO10 – Context of Archaeological Monuments, Policy HCAP12 – Interventions to Protected Structures and Policy HCAP14 – Architectural Conservation Areas and Policy HCAP15 – Character of Architectural Conservation Areas of the Fingal County Development Plan, 2023 – 2029, and would thereby be contrary to the proper planning and sustainable development of the area.

- 9.2. It is considered that the car parking provision for the proposed development and, in particular the lack of sufficient on-site car parking spaces, would be seriously deficient and would be inadequate to cater for the parking demand generated by the proposed development, thereby leading to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity and which would tend to create serious traffic congestion.

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.

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Emma Nevin  
Planning Inspector

29<sup>th</sup> April 2025

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	320486-24		
<b>Proposed Development Summary</b>	Construction of phase 2 of Lusk Community Cultural Centre with all associated site works.		
<b>Development Address</b>	Lusk Community Cultural Centre, Church Road, Lusk, Co. Dublin		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>		N/A	
<b>No</b>	X	The proposed development comprises the construction of a Community Cultural Centre – not listed as a class	Proceed to Q.3
<b>3. Does the proposed development equal or exceed any relevant quantity, area or limit where specified for that class</b>			
<b>Yes</b>			
<b>No</b>	X	The proposed development comprises the construction of a Community Cultural Centre – not listed as a class	Proceed to Q.4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
	<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>



<b>Yes</b>		N/A		
<b>No</b>	<b>X</b>	The proposed development comprises the construction of a Community Cultural Centre	not listed as a class	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
<b>No</b>	<b>X</b>	<b>Pre-screening determination conclusion remains as above (Q1 to Q4)</b>
<b>Yes</b>		

**Inspector:** \_\_\_\_\_

**Date:** 29th April 2024