



An
Bord
Pleanála

Inspector's Report

ABP-303155-18

Development	Petrol filling station comprising demolition of existing structures and the provision of six no. pump islands with canopy over, pump island for HGV's, underground fuel storage tanks, shop building.
Location	Tullagreen, Carrigtwohill, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	1706934
Applicant(s)	Petrogas Group Limited
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Petrogas Group Limited
Observer(s)	
Date of Site Inspection	16 th April 2019 & 7 th December 2019
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The site with a stated area of 1.788ha is located at Cobh Cross, Carrigtwohill to the south of the N25 and consists of a low lying agricultural field, below the level of the adjacent regional road R624. There is roundabout junction directly adjacent which provides access onto Great Island, the N25 and local roads serving Carrigtwohill and Glounthaune.
- 1.2. The site is bounded by trees and hedgerow on all sides with one mature tree in the centre of the site. There are existing agricultural structures in the north east corner of the site with Tullagreine House directly to the north, the access of which currently provides access to this field. The Merck Millipore facility is located directly east of the site which holds an integrated pollution prevention and control (IPPC) licence and to which the major accident regulations apply (Seveso Site).
- 1.3. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail

2.0 Proposed Development

- 2.1. An application for planning permission was submitted to Cork County Council on the 14th November 2017 seeking permission for a petrol filling station. The development will comprise of the demolition of existing structures and the provision of six no. pump islands with canopy over, one no. pump island for HGV's (with canopy over), underground fuel storage tanks, shop building of 672.28 sqm (including shop/retail sales area, ancillary off licence, food offers, ancillary service areas and drive-thru), external play area, car parking, bicycle spaces, brush wash, air/water services area, signage, landscaping and all associated development works including a new access/alterations to the R624.
- 2.2. The following documents were submitted with the application:
 - Architects & Engineering Drawings
 - Landscape Plan
 - Appropriate Assessment Screening
 - Traffic & Transportation, Engineering Report & Public Lighting

- Preliminary Ecological Assessment and Bat & Bird Surveys
- Risk Based Land Use Planning Assessment

2.3. Following a request for further information a 3-month time extension up to 16th October 2018 was sought and granted by Cork County Council. Further information was submitted on 12th October 2018 and may be summarised as follows. It is noted that much of the further information is presented in reports as set out below.

- Ecology - A Bat and Bird Survey was carried out by Greenleaf Ecology for the purpose of the planning application. This report recommended a number of mitigation measures in relation to bats and avifauna. There is a loss of broadleaf woodland resulting from site clearance. The post-construction site includes planting of trees including some standard (semi-mature) trees.
- Storm Water - There is a separate stormwater network (aqua drain) to serve the forecourt area and the site as a whole. The drainage for the forecourt area will be subjected to a full retention hydrocarbon interceptor prior to connecting with the stormwater network for the greater site. A retention pond with a permanent depth of water will provide the final treatment of surface water prior to discharge to estuary.
- Traffic - The Traffic and Transportation Assessment submitted as part of the planning application shows that the proposed roundabout junction serving the development will not interfere with the operation of the Cobh Cross interchanges. In the absence of a TII scheme for the Cobh Cross interchange, the applicant has developed a possible upgrade comprising a fully grade separated interchange which would provide significant capacity enhancements to cater for anticipated growth in the Cobh and Carrigtwohill areas.
- Retail Impact - The Retail Impact Assessment indicates that there is ample capacity in the catchment area to support the proposed development, in addition to sustaining existing convenience floorspace at the projected turnover per square metre. The proposed development is consistent with Retail Planning Guidance.
- Flood Risk - A Flood Risk Assessment has been undertaken in accordance with The Planning System and Flood Risk Management Guidelines. The

development resides in Flood Zone C and is in agreement with the core principles contained within.

- Aquatic - The measures to protect the aquatic environment have been outlined in a number of reports submitted with this planning application. These include:
 - a) Engineering Design Report by MHL and Associated Limited.
 - b) Drawing number ACC-DD-P01 prepared by MHL.
 - c) The Ecological Impact Assessment Report prepared by JBA.
 - d) The Appropriate Assessment Screening Report prepared by JBA.
 - e) The Demolition and Construction Environmental Management Plan prepared by JBA.
- Consent - A letter of consent from the landowner was already included with the planning application given consent to Petrogas for the making of a planning application.
- Odour - The implementation of odour mitigation systems will provide a high level of odour control as required by the guidance documents which should be sufficient to remove nuisance odours.
- Car Wash - This discharge is subject to Trade Effluent Licensing from Irish Water and full details of the separator will be submitted with the licensing application.
- Food Preparation - This discharge is subject to Trade Effluent Licensing from Irish Water and full details of the grease trap will be submitted with the licensing application.
- Septic Tank - The existing septic tank outfall will be connected to the proposed foul network.
- Refuelling Areas - Surface water from refuelling area will pass through a Class 1 full retention interceptor while the rest of the surface water run-off from the site will pass through a Class 1 by-pass interceptor. The treated surface water from the interceptors will then pass through a retention pond prior to discharging into the estuary.
- Tullagreine House - To mitigate the proposed development, it is recommended that the landscape treatment of the revised development should reinforce the planting that buffers Tullagreine House to the north.

- Visual Impact Assessment - The VIA concludes that the proposed development reflects acceptable and appropriate change in a high value landscape on a busy route to and from Cork City.

2.4. The following documents were submitted with the application

- Appropriate Assessment Screening Report
- Waterbird Survey Report
- Ecological Impact Assessment
- Environment Report
- Flood Risk Assessment
- Demolition and Construction Environmental Management Plan
- Emergency Response Plan
- Traffic & Transport Report
- Retail Report
- Engineering Design Report
- Historic Landscape Appraisal
- Arborist Report & Tree Survey
- Landscape & Visual Impact Assessment
- Kitchen Odour Management Plan
- Landscape Masterplan
- Drainage Report
- Landowners consent form
- Photomontages

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. Cork County Council issued a notification of decision to refuse permission for the following 4 no reasons (future road scheme, capacity and safety of the N25, lack of Natura Impact Assessment and area designated “existing built up area” and proximity to a Serveso site) :

- 1) *It is an objective under TM 3:1 of the County Development Plan 2014 to support the National Roads body in the implementation of key infrastructural upgrades. The N25 and the Cobh Cross roundabout are identified as important pieces of infrastructure that have been prioritised for investment. The site of the proposed development is located in an area considered for a future road scheme. The proposed development, if permitted, could prejudice plans for the design of this scheme. Therefore, the proposed development would be contrary to objective TM 3:1 of the current County Development Plan and the DoECLG Spatial Planning and National Roads Guidelines, would be premature pending the determination of the road authority of a road layout for this area.*
- 2) *The proposed development, by reason of its scale and form would adversely impact on the capacity and safety of the N25 and associated Cobh Cross Junction and would generate an adverse impact on the National Road network. The proposed development would therefore endanger public safety by reason of a traffic hazard.*
- 3) *It is an objective under HE 2-1 of the County Development Plan 2014 to ensure that all European designated sites are protected from inappropriate development. On the basis of the documents lodged and the lack of a Natura Impact Assessment, it cannot be stated with certainty that the proposed development will not generate a significant impact on a European Designated site. Accordingly to grant permission would contravene this objective and would be contrary to the proper planning and sustainable development of the area*
- 4) *The site is located within an area designated “existing built up area” under the provision of the Cobh Municipal district Local Area Plan (LAP) 2017. It is a stated objective ZU 3-1 to “normally encourage through the LAP’s, development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of the primary use of these existing built up areas will be resisted”. On the basis of the traffic and environmental deficiencies with the proposed development, and having regard to the proximity of a SERVESO site on adjoining lands, the proposed development has failed to meet the*

requirement of objective ZU 3-1 and is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** in their first report recommended that further information be sought in relation to the submission of a Natura Impact Statement, an Ecological Impact Assessment Report, Construction and Environmental Management Plan, Emergency Response Plan, a review of surface water proposals having regard to the designated status and environmental sensitivities pertaining to the receiving coastal system, confirmation from Transport Infrastructure Ireland on whether the proposed development, including mitigation, is compatible with any likely upgrade of the N25 interchange, revised TTA taking account for planned growth at Cobh/Marino Point, consent from the appropriate landowner re the proposed roundabout on R624, Retail Report which specifically considers the impacts on the vitality and viability of Carrigtwohill Town Centre and other nearby settlements, Flood Risk Assessment, measures for the protection of the aquatic environment, Odour Management Plan, final destination of the discharge from the car wash, clarification on the foul drainage arrangements, plans to decommission the septic tank and any associated pipe work, plans for the monitoring of groundwater, details of retention interceptors, Construction and Demolition Plan, Historic Landscape Report and a Visual Impact Assessment. A request for further information was issued on the 16th January 2018.
- The **Case Planner** in their second report and having considered the further information submitted recommended that permission be refused subject to 4no reasons relating to (1) future road scheme, (2) traffic impact, (3) impact on a European Designated site and (4) land use and proximity of Serveso Site. this recommendation was endorsed by the Senior Planner. The notification of decision to grant permission issued by Cork County Council reflects this recommendation

3.2.2. Other Technical Reports

3.2.3. Planning Application

- **Environment** – Further information sought in relation to construction and demolition programme, hydrocarbon interceptors, groundwater monitoring, existing septic tank, grease traps, car wash, air abatement and flooded area and existing lagoon.
- **Area Engineer** – No objection subject to 8 no conditions as set out in their report relating to sightlines, utility infrastructure, surface water, drainage, construction safeguards and methods and storm attenuation.
- **Traffic & Transport** – Recommended that further information be sought in relation to obtaining confirmation from Transport Infrastructure Ireland on whether the proposed development, including mitigation, is compatible with any likely upgrade of the N25 interchange; revised TTA to take full account of planned growth at Cobh/Marino Point and that the applicant's proposed roundabout on R624 is not contained within applicant's red line boundary and as such is outside the applicant's direct control.
- **Ecologist** – Given the nature of what is proposed, the connectivity to both the Great Island Channel SAC and to the Cork Harbour SPA, and the potentially significant implications of any pollution event associated with this site for the SAC and / or the SPA, stated that the proposed development should be subject to Appropriate Assessment. Recommended that the applicants submit a Natura Impact Statement in respect of the proposal.

3.2.4. Further Information

- **Environment** – Having assessed the further information submitted recommended that further clarification was sought as follows:
 - 1) Clarity as to how the permanent depth of water in the pond is to be maintained outside times of high tide
 - 2) Clarity on the location of groundwater monitoring point BH03
 - 3) Demonstration of the condition of the septic tank in accordance with the EPA guidelines.
 - 4) Details for a class 1 full retention interceptor to serve all areas of the site.
- **Ecologist** - Having assessed the further information submitted recommended that further clarification was sought as follows:
 - 1) Natura Impact Statement

- 2) CEMP to be assessed by a properly qualified technical expert to assess the adequacy of the proposed measures.
- 3) Proposals in relation to surface water and emergency response procedures be reviewed by a technical expert to determine whether this development as proposed is appropriate to this site.

3.3. Prescribed Bodies & Others

3.3.1. Planning Application

- **Gas Networks** – There is a Gas Transmission Pipeline within an 18m wide GNI Wayleave in the vicinity of the appeal site. Map attached. No excavation may take place within any such wayleave unless consent in the form of a valid excavation permit has been granted by Gas Networks Ireland.
- **Irish Water** – No objection subject to conditions including a requirement that the existing 400mm watermain running through the site is diverted to allow construction. Details to be agreed.
- **Transport Infrastructure Ireland (TII)** – The N25 and this interchange are important enabling national roads infrastructure. There are severe traffic capacity constraints in this area taking account of existing, permitted and planned future development. It is therefore reasonable to exercise caution in the assessment of any development proposal impacting on the operation of national routes and associated junctions.
- **Health & Safety Authority** – The Authority currently has insufficient information to provide technical advice on this application. Requested that the Land Use Planning Assessment document as prepared by AWN Consulting is made available to the HSA.

3.3.2. Further Information

Transport Infrastructure Ireland (TII) -TII is of the opinion that:

- (a) The proposal, if approved, would create an adverse impact on the national road and associated junction and would, be at variance with national policy.
- (b) The site of the proposed development is located within an area considered for a future national road scheme. The proposed development could prejudice

plans for the design of this Scheme by Cork County Council, therefore, a grant of permission, would be at variance with the provisions of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January, 2012)

3.4. Third Party Observations

- 3.4.1. There are 5 no observers on file form (1) Gillian & Finbarr Kearney (Bramley Lodge), (2) Fota Wildlife Park, (3) Topaz Energy Ltd, (4) Merck Millipore Ltd and (5) Bird Watch Ireland.
- 3.4.2. The issues raised relate to inadequate site layout, scale, design, visual impact, proliferation of service stations, destination development, traffic impact, environmental concerns, incompatible lands use, impact to Fota restaurant, traffic and national roads impact, proximity to Seveso site, impact to Tullagreine House, impact to Great Island SAC and Cork Harbour SPA, compromise expansion at Merck Millipore Ltd, Assessment of site major hazard scenarios on proposed adjacent service station development, legal holdings, flood risk assessment, Gas Networks Ireland Pipeline, foul pumped mains, boundary treatment, appropriate assessment and Environmental Impact Assessment.

4.0 Planning History

- 4.1. There is no evidence of any previous planning application or subsequent appeal at this site. It is noted that there have been several applications at the Merck Millipore Ltd facility to the east of the appeal site which all related to continued operations.

5.0 Policy Context

5.1. National Development Plans

- 5.1.1. The National Development Plan 2018 - 2027 (NDP) indicates that the N25 Carrigtwohill to Midleton is identified for immediate progression through *pre-appraisal and early planning during 2018 to prioritise projects which are proceeding to construction in the National Development Plan.*

5.2. Development Plan

5.2.1. The operative plan for the County is the **Cork County Development Plan 2014** and the area is the **Cobh Municipal District Local Area Plan 2017**.

5.3. Cork County Development Plan 2014

5.3.1. The County Development Plan designates Carrigtwohill as a Metropolitan Town within the Cork Gateway (County Development Plan Objective CS 3-1: Network of Settlements: Higher Order Settlements Gateway, Hub and Main Settlements refers).

Objective TCR 4-7 states:

Smaller Metropolitan Towns: Strengthen and consolidate the retail role and function of the smaller metropolitan towns and to provide retail development in accordance with their planned population growth to serve their local catchments.

5.3.2. Section 10.3.5 **Motorway Service Areas** states:

The “NRA Service Area Policy” (August 2014) sets out the policy basis on which service areas will be provided to meet the needs of road users on the national road network. In relation to offline facilities it states that provided offline facilities are in close proximity to the roadway and of sufficient standard, the NRA will take these locations into account when evaluating the level of provision and prioritisation of development for online NRA service areas.

5.3.3. Key National Road Network Infrastructure Projects are listed in **Objective TM 3-1: National Road Network** where the objective is to seek the support of the National Roads Authority in the implementation of major projects including the N 25 (Carrigtwohill – Midleton – Youghal). **Objective TM 3-1: National Road Network** also seeks inter alia:

(b) Support and provide for improvements to the national road network, including reserving corridors for proposed routes, free of inappropriate development, so as not to compromise future road schemes.

(e) Prevent the undermining of the strategic transport function of national roads and to protect the capacity of the interchanges in the County from locally generated traffic.

- (f) *Consider the most up to date guidance in relation to the provision of Service and Rest Areas on the National Road Network (Section 2.8 of the Department of the Environment Community Heritage and Local Government 'Spatial Planning and National Roads Guidelines' (2012) and 'NRA Service Area Policy' (August 2014)).*
- (h) *Ensure that in the design of new development adjoining or near National Roads, account is taken of the need to include measures that will serve to protect the development from the adverse effects of traffic noise for the design life of the development.*

5.3.4. **Section 14.5 Control of Major Accidents Hazards (Seveso II)** of the Development Plan seeks to ensure that other developments proposed near to existing establishments, all take into account the need to prevent major accidents involving hazardous substances and safeguard both the public and the environment. **Table 14.1** List of Industries affected by the Seveso II Directive includes Merck Millipore Ltd at Tullagreen, Carrigtwohill, Co. Cork. **Objective ZU 5-3: Proposed Development Adjacent to Existing Establishments** sets out the following:

- a) *The Health and Safety Authority have established consultation distances surrounding establishments designated as containing hazardous substances. Ensure in addition to normal planning criteria that development within these distances complies with the requirements of the Major Accidents Directive (Seveso II). The Council will consult with the Health and Safety Authority regarding any such proposals.*
- b) *In areas where Seveso sites exist in appropriate locations ensure that proposed uses in adjacent sites do not compromise the potential for expansion of the existing Seveso use and in particular the exclusion of developments with the potential to attract large numbers of the public.*

5.4. **Cobh Municipal District Local Area Plan 2017**

5.4.1. The site is located within the Carrigtwohill development boundary and designated as existing built up area within the Cobh Municipal District LAP. Cork County Development Plan Objective ZU 3-1 therefore applies as follows:

ZU 3-1 Existing Built Up Areas – *Normally encourage through the Local Area Plans development that supports in general the primary land use of the*

surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built up areas will be resisted.

5.4.2. The Development Plan proceeds to state that within the development boundaries of the main towns, in areas that are not subject to specific zoning objectives, proposals for development will be considered in relation to the following:

- The objectives of this plan;
- Any general or other relevant objectives of the relevant local area plan;
- The character of the surrounding area; and
- Other planning and sustainable development considerations relevant to the proposal or its surroundings.

5.5. National Guidance

5.5.1. **Retail Planning Guidelines for Planning Authorities (2012)**

- **Section 4.11.9 Retailing and Motor Fuel Stations**

The floorspace of the shop should not exceed 100 M2 net; where permission is sought for a floorspace in excess of 100 M2, the sequential approach to retail development shall apply, i.e. the retail element of the proposal shall be assessed by the planning authority in the same way as would an application for retail development (without petrol/diesel filling facilities) in the same location.

- **Section 4.11.10 Online and Off-Line Motorway Service Areas**

Online and off line motorway service areas are not considered in these guidelines. Guidance in relation to the provisions which apply to these facilities are contained in the Spatial Planning and National Roads Guidelines for Planning Authorities DECLG 2012.

5.5.2. **Spatial Planning and National Roads Guidelines for Planning Authorities (2012)**

- **Section 2.7 Development at National Road Interchanges or Junctions**

Planning authorities must exercise particular care in their assessment of development/local area plan proposals relating to the development objectives and/or zoning of locations at or close to interchanges where such development

could generate significant additional traffic with potential to impact on the national road.

In certain circumstances, additional junctions, or enhancements to existing junctions on national roads, may become necessary to service development needs of national and strategic importance or in cases where a proposed development is demonstrated by the planning authority to be more appropriately located proximate to such junctions.

▪ **Section 2.8 Service Areas**

Off-line Motorway Service Areas at National Road Junctions: *A proliferation of private off-line service area facilities at national road junctions should be avoided. It is therefore important that a coordinated approach between planning authorities should be undertaken in consultation with the NRA as part of the drafting of development plans.*

In addition, facilities proposed for inclusion in service areas should be of a type that avoids the attraction of short, local trips, a class of traffic that is inconsistent with the primary intended role for motorways and other national roads and associated junctions in catering for strategic long-distance inter-urban and inter-regional traffic.

Furthermore, to permit a service area to become a destination for local customers would be contrary to Government planning policy on retail and town centres as set out in Retail Planning Guidelines 2005. The consequence of this would be to threaten the viability of businesses in cities, towns or other local centres.

Roadside Service Facilities at Non-Motorway National Roads and Junctions: *A proliferation of service area facilities along rural sections of national roads and/or associated junctions, where the maximum speed limit applies, would create significant safety risks and affect the level of service available to road users, as well as impact on the viability and vitality of existing urban settlements. In general sufficient road side facilities exist on non-motorway national road network, which also passes through or is in close proximity to a significant number of urban towns and villages where such facilities can be provided for in a sustainable manner*

5.5.3. NRA (TII) Service Area Policy August 2014:

- *This policy covers the provision of service areas on the national road network. It identifies locations for service areas on sections of the existing dual carriageway roads in Ireland.*

5.5.4. Locations for off-line services stations in Cork are identified as follows:

- Type 1 service station at N28 Port of Ringaskiddy
- Mitchelstown to Fermoy on the M8

The proposed location and National Route (N25) is not identified as a location for an off line service station.

5.5.5. Noted that a Review of Service Area Policy (2014) Consultation Paper issued in September 2019.

5.6. **Natural Heritage Designations**

5.7. The site is not located within or directly adjacent to any Natura 2000 site. There are 2 no European sites within 15km of the appeal site that overlap as follows:

- Great Island Channel SAC
- Cork Harbour SPA

5.8. **EIA Screening**

5.8.1. The proposed development is not of a class specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended) and in accordance with the Schedule 7 of the Regulations the proposed development does not require sub threshold EIA. Having regard to the nature and scale of the proposed development comprising a new petrol filling station, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The first party appeal against the decision to refuse planning permission has been prepared and submitted by Cunnane Stratton Reynolds on behalf of the applicant and may be summarised as follows:

6.1.2. **Ground One - Prematurity of Proposed Development**

- The proposed development cannot be considered to be premature pending the determination of the road authority of a road layout for this area as the proposed scheme has been designed to allow for the future upgrade of the Cobh Cross Interchange.
- Following an assessment of the possible future limited range of options available for upgrade works to the Cobh Cross Interchange it was decided to allow for a buffer setback of 17.5m at its widest point to be reserved to cater for a future slip-off to Cobh. What became particularly evident during the assessment was the constraint of the existing access to Tullagreine House, which is directly onto the R624 just south of the N25, on any future upgrade. The proposed development provides a solution to this through the creation of an alternative access to Tullagreine House.
- The applicant contacted Transport Infrastructure Ireland to determine if they were currently developing an upgrade to this N25 Interchange. The feedback received was that the upgrade of this junction is not included in the current TII's five-year capital programme and there has been no appointment of Consultants to look at developing a scheme.
- The proposed development has been designed to allow a buffer setback for the future upgrade of a junction similar to the N25/M9 Interchange on the Waterford Bypass.
- The proposed development will not prejudice the implementation of future upgrade works at this location and will in fact help to facilitate these and this is confirmed by the reports that accompanies this appeal

6.1.3. **Ground Two - Availability of Capacity and Safety of the N25 and associated Cobh Cross Junction**

- Traffic and Transport Assessment which was carried out for the proposed development was scoped in advance with Cork County Council. It has been demonstrated that the proposed roundabout access on the R624 to serve the proposed development does not result in a back-up of traffic onto the N25.
- There are no road safety issues nor adverse impact on the National Road Network as a result of the proposed development.
- The provision of the roundabout provides a traffic calming effect on the N25 approach thus allowing more 'gaps' for right turners from the L7008. This would substantially reduce delays and queueing at this junction. The further information response has also indicated the possibility of a future potential exit only for the Merck Millipore site through the proposed development which would also alleviate capacity and road safety issues at the Bramley Lodge Junction.
- The proposed development will generate traffic that will have to be safely and satisfactorily assimilated into traffic generated by the Urban Expansion Areas (UEA's) as required by TII and therefore will require the provision of mitigation measures such as the proposed upgraded interchange. In order to comply with strategy and national objectives TII have already identified the need to provide for these upgrade works and have proposed to include these in the N25 Carrigtwohill to Midleton scheme.

6.1.4. **Ground Three - Impact on European Designated Site**

- A Natura Impact Statement accompanies the Appeal. It concludes that given the proposed management of surface water on site the water discharged will have negligible hydrocarbon content and therefore there will be no negative impacts on the habitats or species of the Natura 2000 sites. There is therefore no significant effect on site integrity.

6.1.5. **Ground Four - Concerns regarding Traffic and Environmental Deficiencies and Proximity of Seveso Site**

6.1.6. Land Use

- The site is located within the Carrigtwohill development boundary and designated as existing built up area within the Cobh Municipal District LAP. Cork County Development Plan *Objective ZU 3-1 Existing Built Up Areas* refers. Existing built up areas include all lands within a development boundary which do not have a

specific zoning objective attached. There are a mix of uses within the surrounding area including industrial and hotel and restaurant area and the principle of the proposed development is considered to be acceptable.

- The area is characterised by commercial, industrial, residential, hotel and restaurant and amenity/recreational uses. Whilst it is acknowledged that Merck Millipore occupies a substantial site to the east of the proposed development, it cannot be said that it is the main use in the area and that it is in any way incompatible with the proposed use. The proposed development of a petrol filling station at this location does not threaten the vitality or integrity of Merck Millipore.
- The Council has approved other developments close to the Merck Millipore development. Under Cork County Council Ref. 07/6749 permission was granted for Bramley Lodge Restaurant. Under Ref. 11/6137 Cork County Council permitted the construction of an extension to Bramley Lodge Restaurant.

6.1.7. Traffic Deficiencies

- A comprehensive traffic assessment was carried out for the proposed development that clearly demonstrated that the proposed roundabout access on the R624 to serve the proposed development does not result in a back-up of traffic onto the N25.
- There are no road safety issues nor adverse impact on the National Road Network as a result of the proposed development. The new junction proposed would result in a positive impact for the Bramley Lodge junction and has the potential to significantly improve road safety at this junction.
- The assessments have shown that given the existing physical constraints in the area the provision of a petrol filling station at this location would have no impact on the Authorities ability to provide future upgrade works. Further noted that the proposal has been designed to facilitate the future upgrades with the setback which has been reserved for a future slip off to Cobh and the closure of the existing Tullagreine access and provision of a new access through the development site.

6.1.8. Environmental Deficiencies

- A Natura Impact Statement has been submitted with the appeal.

6.1.9. Proximity to Seveso Site

- AWN Consulting carried out a Risk based Land Use Planning Assessment of the proposed petrol station to accompany the planning application. The assessment considered potential impacts of major accident hazards at the Merck Millipore site on the proposed petrol station. The land use planning methodology recommended by the HSA in the Policy & Approach of the Health and Safety Authority to COMAHG Risk-based Land-Use Planning (HSA, 2010) was applied.
- With reference to the HSA COMAH land use planning guidance the proposed development would be 'sensitivity level 2 – developments for use by the general public' and would be in Category DT2.4 (Indoor Use by Public).
- The HGV parking and fuelling area falls within the inner zone. The Applicant is willing to look at options for the relocation or removal of the part of the HGV refuelling and parking area within the Inner Zone if considered necessary and this is something that could be conditioned as part of a decision.

6.1.10. The appeal was accompanied by the following documents:

- Land Use Planning Assessment prepared by AWN Consulting. The assessment considers the potential impacts of major accident hazards at the Merck Millipore site on the proposed petrol station. The report outlines the following:
 - a) Overview of proposed petrol station and Merck Millipore Sites
 - b) Assessment methodology and criteria
 - c) Land use planning assessment of major accident hazards
 - d) Societal risk assessment
 - e) Conclusions
- Report by MHL & Associates Ltd Consulting Engineers in response to Refusal Reason No 1
- Natura Impact Statement prepared by JBA Consulting
- Demolition & Construction Environmental Plan for Applegreen Development prepared by JBA Consulting
- Appeal to ABP prepared by JBA Consulting. JBA reviewed the Environmental and Ecological Assessment Reports prepared by Cork County Council on the further information responses provided by JBA to a request for further

information. The review systematically addresses the queries and comments raised by Cork County Council.

- Petrogas Group Emergency Response Plan

6.2. **Planning Authority Response**

6.2.1. No response recorded on the appeal file.

6.3. **Observations**

6.3.1. There is one observation recorded on the appeal file from DJF Engineering Services Ltd on behalf of Merck Millipore Ltd. The submission was accompanied by the original submission to Cork County Council and an Assessment of Site Major Hazard Scenarios on Proposed Adjacent Service Station Development.

6.3.2. The issues raised relate to incompatible land use / compromise the potential for expansion at Merck Millipore Ltd, assessment of site major hazard scenarios on proposed adjacent service station development, site access and traffic impact assessment and findings, legal holdings, flood risk assessment, Gas Networks Ireland Pipeline, foul pumped mains, boundary treatment, appropriate assessment and Environmental Impact Assessment.

6.3.3. It is further stated that the possibility of a future potential exit only for the Merck Millipore site through the proposed development has already been rejected by Merck Millipore on the basis of the solution not being feasible as it would involve significant costs to Merck Millipore (in terms of additional infrastructure, security etc) and landowner / rights of way complications and internal site modifications.

6.4. **Further Responses**

6.4.1. The observation from Merck Millipore Ltd above was cross circulated to the relevant parties. The following additional comments as summarised was received from the applicant:

- The Risk Based Land Use Planning Assessment considered potential impacts of major accident hazards at the Merck Millipore site on the proposed petrol station. The HGV and fuelling area falls within the inner zone. The Applicant is willing to

look at options for the relocation or removal of the part of the HGV refuelling and parking area within the inner zone if considered necessary and this is something that could be conditioned as part of the decision.

- The level of individual risk at the amenities building is less than 1E-06 per year. The level of societal risk at the proposed fuel station is acceptable.
- The proposed development will not compromise the potential for expansion at Merck Millipore. It is on an adjoining site which is zoned existing built up with a presumption that this site will be developed.
- The factors affecting the probability, magnitude and effect of a vapour cloud explosion are given in the Land Use Planning Report. The vapour cloud explosion scenario following a solvent spill presented by the observer is not considered credible.
- The Traffic and Transport Assessment clearly demonstrates that the provision of the roundabout access on the R624 serving the development does not result in a backup of traffic onto the N25, implying that there would be no adverse impact on the National road network.
- A letter of consent provided to the Applicant by the landowner, Cork County Council, was included with the further information.
- A Flood Risk Assessment (FRA) was submitted with the further information response to Cork County Council. The failure of stormwater systems has been accommodated in the over-design of the pond.
- The Applicant is prepared to accept any condition obliging the applicant to contact Gas Networks and that all works in the vicinity of the Gas Transmission Pipeline be carried out in compliance with the Gas Networks Ireland 2015 Code of Practice 'Working in the Vicinity of the Transmission Network'.
- The disruption to the proposed foul pumped main works is a construction matter and will be dealt with in the Construction Management Plan prepared by the appointed Contractor.
- The boundary screen planting is to be undertaken in agreement with the adjacent landowner.
- There will be no negative impacts on the habitats or species of the Natura 2000 sites.

- The proposed development does not require sub threshold EIA.

7.0 Assessment

7.1. This is an application for a petrol filling station comprising demolition of existing structures and the provision of six no. pump islands with canopy over, pump island for HGV's, underground fuel storage tanks, shop building at Tullagreen, Carrigtwohill, Co. Cork. Cork County Council issued a notification of decision to refuse permission for 4 no reasons relating to, as summarised, (1) future road scheme, (2) traffic impact, (3) impact on a European Designated site and (4) land use and proximity of Seveso Site.

7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings (in order of the reasons of refusal)

- Principle
- Refusal Reasons No 1 - Future Road Scheme
- Refusal Reason No 2 - Traffic Impact
- Refusal Reason No 3 - Appropriate Assessment
- Refusal Reason No 4 – Seveso Site
- Other Issues

8.0 Principle

8.1. The applicant is seeking permission for a petrol filling station. The development will comprise of the demolition of existing structures and the provision of six no. pump islands with canopy over, one no. pump island for HGV's (with canopy over), underground fuel storage tanks, shop building of 672.28 sqm (including shop/retail sales area, ancillary off licence, food offers, ancillary service areas and drive-thru), external play area, car parking, bicycle spaces, brush wash, air/water services area, signage, landscaping and all associated development works including a new access/alterations to the R624.

8.2. The site is located within the Carrigtwohill development boundary and designated as existing built up area within the Cobh Municipal District LAP. There is a presumption therefore that the site will be developed. Cork County Development Plan Objective ZU 3-1 therefore applies.

ZU 3-1 Existing Built Up Areas – Normally encourage through the Local Area Plans development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built up areas will be resisted”.

8.3. Existing built up areas include all lands within a development boundary which do not have a specific zoning objective attached. Therefore, it includes a mix of land uses which may have existing buildings in place, brownfield lands and undeveloped greenfield lands. As documented by the applicant it is not best planning practice to locate petrol filling stations in town centres and in proximity to existing or proposed residential developments. In this case the appeal site is located on the periphery of Carrigtwohill in an area that is characterised by commercial, industrial, residential, hotel and restaurant and amenity/recreational uses at a location where one might expect to find such a development. Overall, I am satisfied that the proposed development will make use of an underused site and that its location accords with the requirements of the Development Plan and Objective ZU 3-1 Existing Built Up Areas. Accordingly I am satisfied that the principle of the development is acceptable at this location subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

8.4. As documented Tullagreine House (a structure listed on the NIAH) is located to the north of the site. in terms of visual impact and proximity to this house I refer to the Historic Landscape Report and Visual Impact Assessment available to view on the appeal file. The Historic Landscape Report concluded that:

- The site consists of a parcel of a former demesne landscape associated with Tullagreine House.
- The subject site has been radically altered and only fragmentary elements of the former historic landscape survive.

- The public road that bounds the southern side of the development site has been raised above the former ground level and had formed a hard boundary to what would have been an open visual connection to the inlet.
 - The traditional southern access to Tullagreen House was via what is now Bramley Lodge. Little or trace of this connection survives.
- 8.5. As documented the presence of a large industrial operation (Merck Millipore) to the east and a traffic interchange to the west and north west has eroded the overall visual amenity of Tullagreen House to a large extent. To mitigate the proposed development, re-enforced boundary planting has been proposed though it is accepted that some mature trees may need to be lost to facilitate the proposed development. Replacement trees are proposed. Overall, I agree with the Planning Case Officer that the proposed development will be adequately insulated from Tullagreen House such that it will not be detrimental to its setting.
- 8.6. A retail / restaurant operation typical of fuel service stations has also been proposed. The shop building has a stated floor area of 672.28 sqm and includes shop/retail sales area, ancillary off licence, food offers, ancillary service areas and drive-thru. The “Retail Planning Guidelines” (RPG’s) set out floor space caps (100sqm net) with respect to fuel service station. If this figure is exceeded, a retail impact assessment would be required as the proposal may be detrimental to the vitality of a town core. In terms of the RPG’s the subject site be considered “out of centre site”.
- 8.7. The applicant has posited that the proposed retail offering is under the 100sqm cap despite the fact that the overall floor area is almost 700 sqm and includes 3 food offerings, a drive through and an off licence. Further the circulation area as set out in Table 1 of the Retail Assessment is stated as being 107.85sqm. In all likelihood this will serve both the retail and food element of the scheme. Therefore, there may be some ambiguity with the stated retail floor area and whether it breaches the 100 sqm cap. Notwithstanding these concerns I agree with the Case Planner that this will be a fuel station more akin to a motorway service station and has the capacity to become a destination in its own right and that it could potentially affect the viability of the town core.
- 8.8. To this end a Retail Report was prepared and submitted by way of further information. It is stated that the proposed development will help to enhance the retail

provision in Carrigtwohill which is noted as a town with potential for further provision considering its planned population growth and the fact that it is planned to become a larger metropolitan town. The assessment indicates that there is sufficient capacity in the catchment area to support the proposed development, in addition to sustaining existing convenience floorspace at the projected turnover per square metre. The report concludes that no negative impact is therefore expected on the existing stores as there is more than sufficient available expenditure within the catchment area.

- 8.9. Having regard to the information available I am satisfied that the scheme is unlikely to have an adverse impact on the vitality and viability of Carrigtwohill as the primary function of the scheme is to serve passing traffic based on the retail and food offering proposed.

9.0 Refusal Reasons No 1 - Future Road Scheme

- 9.1. Cork County Council in their first reason for refusal referenced Objective TM 3:1 of the County Development Plan 2014 that seeks to support the National Roads body in the implementation of key infrastructural upgrades and that includes the prioritised N25 and the Cobh Cross roundabout. Cork County Council stated that the proposed development, if permitted, could prejudice plans for the design of this scheme and would be premature pending the determination of the road authority of a road layout for this area.
- 9.2. The subject site is located on a critical junction of the N25. The N25 and this interchange are recognised as important enabling elements of national roads infrastructure for the Southern Region. While I note the applicant's position that the proposed development has been designed to allow a buffer setback for the future upgrade of the Cobh Cross Interchange and that the proposal will help to facilitate these upgrade works it remains that the National Development Plan (NDP) indicates that the N25 Carrigtwohill to Midleton in the vicinity of the site is identified for immediate progression through pre-appraisal and early planning process.
- 9.3. While I accept that every effort has been made by the applicant to address the issues raised the future upgrade of the prioritised N25 and the Cobh Cross roundabout are of major significance, particularly having regard to the strategic importance of this roundabout in serving as the main entry point to two important

urban areas which have received significant growth allocations as part of “urban expansion” set out under the current CDP 2014. In this context, a properly planned upgrade of this roundabout and indeed the adjoining N25 is a key priority in terms of successfully delivering the envisaged long term growth of both city and county.

- 9.4. Accordingly I agree with TII and Cork County Council that the proposed development could prejudice plans for the design of this Roads Scheme by Cork County Council, therefore, a grant of permission, in this instance, would be considered to be at variance with the provisions of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January, 2012) and the National Development Plan. Refusal is recommended.

10.0 Refusal Reason No 2 - Traffic Impact

- 10.1. Cork County Council in their second reason for refusal stated that the proposed development, by reason of its scale and form would adversely impact on the capacity and safety of the N25 and associated Cobh Cross Junction and would generate an adverse impact on the National Road network. The proposed development would therefore endanger public safety by reason of a traffic hazard.
- 10.2. This is a significant application relative to its close proximity to the existing interchange on the N25 at Cobh Cross. The Cobh Cross junction is the point at which the R624 Cobh Road joints with the N25. This roundabout serves as the main entry point to two important urban areas which have received significant growth allocations as part of “urban expansion” set out under the current CDP 2014. In addition to this population growth, the Industrial lands at Marino point are also likely to play a crucial role in accommodating the relocation of Port based Industrial users from the city thereby facilitating the ongoing development of the city docklands.
- 10.3. As documented above and as stated by Cork County Council this junction is in need of a major upgrade if it is to be able to perform its strategic function to cater for the stated planned development in Cobh/Marino Point and in Carrigtwohill. To this end the applicant has undertaken a detailed Traffic and Transport Assessment and devised an access arrangement from the proposed development which seeks to minimise the impact of the proposed development on the local road network with the introduction of a new roundabout which will also see the existing entrance to

Tullagreine House closed and a new entrance developed along the eastern boundary of the appeal site.

- 10.4. As pointed out by Cork County Council the Traffic Report does not take into account anticipated traffic volumes from Cobh / Marino point. Further TII raise concerns that the junction analysis identifies capacity constraints at the roundabout junction which have not been satisfactorily addressed by proposed mitigation; that there are a number of Urban Expansion Areas in the vicinity of the site, some of which will impact upon movements along the site boundary and the N25 corridor, that have not been taken into account, that the rationale in relation to the turn in rates is not clear and may be underestimated and that there is limited detail on the parking provision and justification of the same.
- 10.5. Having regard to the foregoing together with the information available I am concerned that it can be satisfactorily concluded that the proposal, if approved, would not create an adverse impact on the national road and associated junction. However in view of the overriding constraints in relation to the national key infrastructural upgrade of the N25 and the Cobh Cross roundabout as documented above I am reluctant to recommend refusal on traffic impact at this time. It is however strongly recommended that any future application at this site would consider to address the matters raised by both Cork County Council and TII.

11.0 Refusal Reason No 3 - Appropriate Assessment

- 11.1. Refusal Reason No 3 outlined the lack of a Natura Impact Assessment in concluding that it cannot be stated with certainty that the proposed development will not generate a significant impact on a European Designated site.
- 11.2. The planning application was accompanied by a Screening Statement for Appropriate Assessment (November 2017) with a further Appropriate Assessment Screening Report submitted by way of further information (October 2018). The first party appeal was accompanied by a Natura Impact Statement (December 2018). Having regard to the information available on the appeal file I am satisfied that the information submitted is sufficient to allow the Board to carry out an Appropriate Assessment.

Stage 1 Screening for Appropriate Assessment

11.3. **Project Description and Site Characteristics**

11.4. The site location and proposed development are as described in Sections 1 and 2 above. The main phases of the project include:

- Site clearance and preparation including the demolition of existing structures
- A construction phase using standard building materials.
- Hydrocarbon interceptors to treat contaminated surface water run off
- An operation phase whereby the buildings will be occupied

11.5. The site is currently classified as a greenfield site under agricultural use. The appeal lands are surrounded by roads and other artificial land uses including commercial and industrial development. Slatty pond is located to the south of the site.

11.6. The site is not located within any Natura 2000 site but is directly adjacent to 2 no Natura 2000 sites. There are 2 no European sites within 15km of the appeal site and that overlap with each other as follows:

- Great Island Channel SAC
- Cork Harbour SPA

11.7. The subject site is located c18m from these two Natura sites. While the entire project site is outside the European Sites but within the catchment area of these sites there is potential for significant indirect effects on the sites arising from contaminant in surface water. On the basis of the information provided with the application I recommend that it cannot be concluded that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Great Island Channel SAC and / or Cork Harbour SPA and that submission of an NIS and carrying out of an Appropriate Assessment is necessary.

Stage 2 Appropriate Assessment

11.8. **Natura 2000 Sites, Qualifying Interests and Conservation Objectives**

11.9. The NIS sets out the conservation objectives for the two European sites identified. Detailed conservation objectives for these sites are available on the NPWS website. The conservation objectives and qualifying interests including any relevant attributes and targets for the relevant 2 no sites are set out below:

Site Name and Site Code	Conservation Objectives and Qualifying Interests (Habitats and Species)	Location / distance to European site and Potential Pathways
Great Island Channel Special Area of Conservation (Site Code 001058)	<p>Conservation Objectives</p> <p>The overall aim of the Directive is to maintain or restore the favourable conservation status of habitats and species of community interest.</p> <p>The habitats that are qualifying interest are;</p> <ul style="list-style-type: none"> ▪ Tidal Mudflats and Sandflats ▪ Atlantic Salt Meadows <p>As stated, the site is of major importance for the two habitats listed on Annex I of the E.U. Habitats Directive, as well as for its important numbers of wintering waders and wildfowl. It also supports a good invertebrate fauna.</p> <p>The site is an integral part of Cork Harbour which is a wetland of international importance for the birds it supports.</p>	<p>c18m at the closest point to the east and south of the project site (directly across from the appeal site; divided by the existing public road</p> <p>Construction Pollution</p> <p>Discharge of surface water containing hydrocarbons</p>
Cork Harbour Special Protection Area (Site Code 004030)	<p>Conservation Objectives</p> <p>The overall aim of the Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. The NPWS has set out specific</p>	<p>c18m at the closest point to the east and south of the project site (directly across from the appeal site; divided by the existing public road</p>

	<p>conservation objectives for the qualifying interests which comprise habitats and species for which the SPA has been designated.</p> <p>The species that are qualifying interests are</p> <p>The species that are qualifying interests are</p> <ul style="list-style-type: none"> ▪ Little Grebe ▪ Great Crested Grebe ▪ Cormorant ▪ Grey Heron ▪ Shelduck ▪ Wigeon ▪ Teal ▪ Pintail ▪ Shoveler ▪ Red-breasted Merganser ▪ Oystercatcher ▪ Golden Plover ▪ Grey Plover ▪ Lapwing ▪ Dunlin ▪ Black-tailed Godwit ▪ Bar-tailed Godwit ▪ Curlew ▪ Redshank ▪ Black-headed Gull ▪ Common Gull ▪ Lesser Black-backed Gull ▪ Common Tern 	<p>Construction Pollution</p> <p>Discharge of surface water containing hydrocarbons</p>
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	<p>The habitats that are qualifying interest are;</p> <ul style="list-style-type: none"> ▪ Wetlands 	
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11.10. Assessment of Likely Effects

11.11. All of the proposed works take place outside the SAC and SPA and therefore there are no direct effects on the integrity of these European Sites. There will be no land take from any Natura 2000 sites. I refer to Table 5.3 and 5.4 of the NIS.

11.12. Sources of Impact

11.13. Pollution Events During Construction

11.14. The spill of chemicals or transport of large volumes of sediment could have a significant impact on the habitat used by bird species by introducing a large volume of foreign or toxic material that would damage feeding areas.

11.15. The construction site will involve various pieces of temporary infrastructure and plant that will require inter alia fuel, lubricant, portable toilet chemicals. The construction will involve the use of wet concrete. The earthworks will create large volumes of loose soil material.

11.16. Discharge of Contaminated Surface Water

11.17. Surface water could contain hydrocarbons collected from the surface of the site and would be exacerbated if an accidental spill occurred. Whilst most of these are likely to evaporate and quickly disperse, some would be picked up by surface water and transported in to the surface water network.

11.18. There is likely to be a constant, very low concentration of hydrocarbons in untreated surface water. This would be exacerbated where spill incidents occur, and larger volumes are leaked. In a worst case scenario such as mistakes during tanker delivery or leaking fuel tanks on vehicles would be limited to tens of litres. The surface water drainage collects the contaminated surface water through a series of drains.

11.19. Sources of in-combination impacts

11.20. Pollution Events During Construction

11.21. None of the potential in-combination projects are likely to be undergoing construction of the same time and would also result in discharge of construction material into the same part of the estuary. Therefore, the potential for in-combination impacts is considered negligible.

11.22. Discharge of Contaminated Surface Water

11.23. There is only one in-combination project identified in Section 4 of the NIS that could also impact on the Natura 2000 sites via discharge of contaminants into the estuary. This application Reg Ref 166791 for construction of an extension to the waste water treatment plant laboratory / control building, 3 no aeration tanks complete with access platform and a chemical store enclosure. This project is located 430m north-east of the proposed petrol filling station. It is stated that details of the project show a carefully designed site which will prevent any spillage from impacting on land outside the site boundary and therefore the potential for in-combination impacts is considered negligible.

11.24. Pathway to Designated European Sites

11.25. The release of construction pollution or discharge of contaminated surface water runoff into the estuary could lead to deterioration in habitats including the death of plants that make up the Atlantic Salt Meadows and the invertebrate fauna of the mudflats and sandflats. This negative impact would reduce the area and condition of these habitats within the SAC. This would also impact on bird species which forage for food in both habitats, and the loss would result in reduced food availability and therefore have an impact on the ability of birds to survive and raise young.

11.26. Receptors

11.27. The qualifying interests potentially affected through surface water pathways are as follows:

- Cork Harbour SPA – Breeding birds, wintering birds and bird assemblage
- Great Island Channel SAC – Mudflats and sandflats not covered by seawater at low tide and Atlantic salt meadows.

11.28. Measures to Avoid or Reduce Potential Impacts

11.29. Detailed environmental protection measures are set out in Section 7 of the NIS to reduce the risk of pollutants reaching Cork Harbour SPA and Great Island Channel SAC include inter alia:

11.30. **Construction Pollution**

11.31. The proposed scheme will implement a range of proven and effective measures during construction to make sure there is no release of pollutants from site during the construction phase. These measures are contained within a preliminary Construction Environment Management Plan (CEMP). This will be developed into a full CEMP by the in-site contractor. Within this the measures necessary to prevent pollution entering the Natura 2000 sites are:

- A temporary surface water settlement pond or lagoon should be provided at the lowest point on the construction site. Any surface water or groundwater generated during the demolition stage will be directed to the pond / lagoon. Any suspended material will be allowed settle out into the pond before overflow to the discharge point to the estuary. Soil will be placed around the pond / lagoon to ensure enough surface water holding capacity. The main contractor will be required to provide details on the settlement lagoon and how they propose to handle surface water during the demolition work.
- Concrete will be brought to the site in dedicated concrete trucks. Concrete truck washouts will be undertaken in a dedicated portion of the site that will be determined by the Main Contractor. The site will be remote from any water courses. The washout areas can either be a lined skip or a depression in the ground lined with an impermeable material. Surplus concrete remaining in the concrete trucks will be poured out in a dedicated area and allowed to harden.
- The Site Manager will organise and supervise the delivery of oil and chemical to the site. The Site Manager will be responsible for determining the storage capacity of the fuel tanks on site to ensure no spill over could occur during filling.
- All liquids, solids and powder containers will be clearly labelled and stored appropriately in sealable containers.
- All liquid and hazardous materials will be stored in a designated and temporarily bounded area with appropriate signage. This area should be within the

construction compound or at an alternative location agreed with the Main Contractor.

- Bunding must have a minimum capacity of 110% of the volume of the largest tank or 25% of the total storage capacity, whichever is the greater. Bunding shall be impermeable to the substance that is being stored in the tank.
- Where a contractor is responsible for material stored in a bunded area, that contractor shall implement measures for the regular inspection of bunds and emptying of rainwater (when uncontaminated).

11.32. It is stated that these measures will not be subject to removal during change from provisional to final CEMP and will be implemented on site.

11.33. Operational Phase (Discharge of Contaminated Surface Water)

11.34. The surface water drainage scheme has been designed to catch the all flows of surface water from the 10,000m² of impermeable surface on the site and take them through a series of water purification measures to ensure that the water which is finally discharged from the site is as clean as possible.

11.35. The layout of this drainage is shown in Appendix B, Drg 2018s0870-003 in Figure B6. The water passed through a hydrocarbon interceptor and is then discharged into a pond. The design of the pond allows water to be filtered by vegetation and to settle out large particles before outflowing into the estuary.

11.36. The hydrocarbon interceptor will be a Klargestor NSFA200 full retention petrol interceptor. The interceptor will have an alarm system to ensure it is regularly cleaned and maintained and therefore fully functional at all times. The interceptor can store up to 2000L of oil in the event of a spill. This is significantly higher than the likely volume from an accidental spill.

11.37. The pond design is shown in Appendix B, Figure B4 (Drg 2018s0870-001). During times of high tide levels, a WaSTOP or other approved non-return valve will prevent inundation of the retention pond of the tide. As indicated on plans and details submitted the outlet pipe from the pond / wetland is set at 2.31mOD and will in effect form the permanent top water level within the pond / wetland. The depth of the permanent pond / wetland is 2.31m with an invert level of 1.31mOD. As such the water cannot be discharged directly to the estuary (as it is lower than the outlet invert level). To ensure no infiltration to the ground and to retain all water within the

permanent pond / wetland, a HDPE liner to specialist sub-contractor details and engineering specification will be provided as part of construction works and as outlined in Appendix B, figure B4. As indicated the pond / wetland will include the provision of native aquatic plants which will enhance the quality of the stormwater discharge to the estuary.

11.38. It is stated that the hydrocarbon interceptor and pond in combination would be able to deal with spills of tens of litres.

11.39. An assessment of the efficiency of the system was made based on guidance in the SuDS manual. The hazard index for the site (considered to have “heavy pollution”) is 0.9 for hydrocarbons. The wetland features of the pond have an index for cleaning the hydrocarbons from the water of 0.8 leaving a residual value of 0.1. However, as the water has passed through a hydrocarbon interceptor before entering the wetland it will be well below the 0.8 threshold and therefore the discharge from the pond would be “clean” water.

11.40. Conclusion (Integrity Test)

11.41. Having regard to the foregoing no direct or indirect significant impacts are expected to ensue from the proposed programme of works to be conducted at the project site. A description of the in-combination effects is set out in Section 4 of the NIS and include Development Management Plans and other planning applications post 2015 and within 1km of the project site and where they are of a scale that is likely to be significant beyond their site boundary. Taking into consideration the extensive measures detailed in Section 7 of the NIS, based on best scientific evidence, there is no predicted in-combination impact on Cork Harbour SPA and Great Island Channel SAC. With the implementation of these measures the proposed development either alone or in combination with the other plans and projects will not adversely affect the relevant European Sites, having regard to the sites’ conservation objectives.

11.42. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Cork Harbour SPA and Great Island Channel SAC or any other European site, in view of the site’s Conservation Objectives.

12.0 Refusal Reason No 4 - Seveso Site

- 12.1. Cork County Council in their fourth reason for refusal stated that on the basis of the traffic and environmental deficiencies with the proposed development, and having regard to the proximity of a SEVESO site on adjoining lands, the proposed development has failed to meet the requirement of objective ZU 3-1 and is therefore contrary to the proper planning and sustainable development of the area. Matters pertaining to land use, traffic and environmental deficiencies (appropriate assessment) have been dealt with in Sections 8.0, 9.0, 10.0 and 11.0 above respectively. The following section deals with the proximity of the development to the adjoining Seveso site (Merck Millipore Ltd)
- 12.2. The appeal site is directly contiguous to a large bio pharma facility; Merck Millipore located to the east. Table 14.1 of the County Development Plan sets out a list of industries affected by the Seveso II Directive that includes Merck Millipore Ltd at Tullagreen, Carrigtwohill, Co. Cork. In this regard I would also refer to the following objective set out in Chapter 14 of the current CDP

Objective ZU 5-3: Proposed Development Adjacent to Existing Establishments sets out the following:

a) The Health and Safety Authority have established consultation distances surrounding establishments designated as containing hazardous substances. Ensure in addition to normal planning criteria that development within these distances complies with the requirements of the Major Accidents Directive (Seveso II). The Council will consult with the Health and Safety Authority regarding any such proposals.

b) In areas where Seveso sites exist in appropriate locations ensure that proposed uses in adjacent sites do not compromise the potential for expansion of the existing Seveso use and in particular the exclusion of developments with the potential to attract large numbers of the public.

- 12.3. With regard to proximity to Seveso Site I note the Risk Based Land Use Planning Assessment submitted with the planning application. The assessment considered potential impacts of major accident hazards at the Merck Millipore site immediately to the east of the appeal site on the proposed petrol station. It is stated that the land use planning methodology recommended by the HSA in the Policy and Approach of

the Health and Safety Authority to COMAHG Risk-based Land-Use Planning (HSA, 2010) was applied.

- 12.4. With reference to the HSA COMAH land use planning guidance the proposed development would be 'sensitivity level 2 – developments for use by the general public' and would be in Category DT2.4 (Indoor Use by Public). These are food and drinks and retail establishments for use by the general public where the total gross floor space based on the shop area is between 250 and 5,000 square metres. As documented the shop building has a stated floor area of 672.28 sqm and includes shop/retail sales area, ancillary off licence, food offers, ancillary service areas and drive-thru. Therefore, the sensitivity level of the development is Level 2.
- 12.5. While developments of sensitivity level 2 are acceptable in the middle and outer zone it is noted that a portion of the proposed development site falls in the inner zone. As noted in the assessment, the HGV and fuelling area falls within the inner zone. However, the boundary of the inner zone does not extend to the amenities building. As noted, the Applicant is willing to look at options for the relocation or removal of the part of the HGV refuelling and parking area within the inner zone if considered necessary and requested that is something that could be conditioned as part of the decision. While I agree with the removal and relocation of part of the HGV refuelling and parking area within the inner zone, I am reluctant to recommend that same be dealt with by way of condition given the reasoning why i.e. proximity to the adjoining Seveso site. However, based on the substantive issues raised regarding the future upgrade to the N25 I do not consider that it is necessary to refuse permission based on the location of the HGV refuelling and parking area. It is however recommended that any future application at this site would have regard to the relocation of same.
- 12.6. With regard to Objective ZU 5-3 (b) where it is required that proposed uses in adjacent sites do not compromise the potential for expansion of the existing Seveso, I am satisfied, based on the information available that the proposed development is unlikely to compromise the potential for expansion at Merck Millipore. Regardless, it is important to state that any future planning application at Merck Millipore will be subject to the full rigours of the planning assessment process including assessment of location and proximity to adjoining developments.

13.0 Other Issues

13.1. Surface Water

13.2. There is a separate storm water network (aqua drain) to serve the forecourt area and the site as a whole. The drainage for the forecourt area will be subjected to a full retention hydrocarbon interceptor prior to connecting with the stormwater network for the greater site which in turn will be subjected to a by-pass hydrocarbon interceptor upstream of the retention pond. The pond with a permanent depth of water will provide the final treatment of surface water prior to discharge to the estuary. The permanent water body acts as the main treatment and protects fine deposited sediments from re-suspension. Discharge will ultimately be to the estuary and it is stated that given the nature of the watercourse, no limitation on the discharge is required. During times of high tide levels, a WaSTOP or other approved non-return valve will prevent inundation of the retention pond by the tide. In addition, the retention pond has been designed to provide suitable inter-tidal storage during times of high tide when discharge from the retention pond will not be possible. The 1 in 200-year tide level at the point of discharge is c.2.7mOD, which is in line with the maximum event levels for the 200-year tide.

13.3. Flood Risk

13.4. I refer to the Flood Risk Assessment (FRA) submitted with the further information. The results of this assessment indicate that the site is within "flood zone C" i.e. at low risk of fluvial or coastal flooding. The OPW FRA Maps identify a small area within the site at possible risk of flooding. This coincides with the natural depression in the site which is to remain undeveloped. Pluvial flood risk has been mitigated in the design of the drainage system, which incorporates SuDS. The primary design feature is a retention pond which provides attenuation and water treatment. The pond has been designed with sufficient capacity to accommodate the 1 in 200-year tide. The proposed surface water system has been designed with reference to the GSDS whereby, a treatment volume equating to 15mm of rainfall is provided within the retention pond to enhance the water quality prior to discharge.

13.5. I am satisfied that the applicant has addressed any concerns regarding the flood risks associated with the scheme. Having regard to the information available on the appeal file there is no objection to the proposed development from a flooding perspective.

13.6. **Septic Tank**

13.7. The existing septic tank outfall will be connected to the proposed foul network as per MHL drawing ACC-DO-P01. The septic tank has been used to date to serve Tullagreine House. As part of decommissioning works for the septic tank, a number of construction activities will be undertaken including the diversion of the foul sewer line and that all sludge will be removed by a licensed contractor and tanked off-site to a suitable treatment plant works. These proposals are acceptable.

13.8. The concerns raised by the observer with regard to the disruption that the proposed foul pumped main works will have on the L7008 are noted. This is a construction matter and I am satisfied that same will be dealt with in the Construction Management Plan.

13.9. **Ecology**

13.10. I refer to the Preliminary Ecological Appraisal on file. The results of targeted survey work (bats and birds), are presented in a separate report which also includes an impact assessment focusing on these species groups. Further surveys were carried out for the purpose of the further information response.

13.11. The report identifies the following significant impacts and possible mitigation for same:

- Medium-term loss of broadleaved woodland.
- Fragmentation of bat community routes.
- Long-term loss of mature trees that may provide bat roost features in future.

13.12. **Broadleaf Woodland** - There is a loss of broadleaf woodland resulting from site clearance. The post-construction site includes planting of trees including some standard (semi-mature) trees. These take at least 10 years (medium-term to long-term) to reach mature status and develop features of mature trees that benefit

biodiversity. I agree with the applicant that this is an unavoidable consequence of the proposed works and no further mitigation is suggested.

13.13. **Bat Commuting Routes** - The potential fragmentation of bat commuting routes due to vegetation clearance will cause bats to have to find alternative pathways through the landscape. As stated by the applicant the landscaping will be implemented towards the end of the construction phase, and therefore there will be small, temporary impacts on commuting routes. Additional mitigation is proposed in relation to positioning and direction of floodlighting and boundary treatment. If both of these are implemented there will still be a small impact from the increased night-time light level but the impact will be reduced to not significant. The implementation of the boundary planting included in the landscape plan at the earliest opportunity will reduce the impact on commuting routes during the construction.

13.14. **Potential Bat Roost Features** - Bat survey work indicates that while bats of a range of species are using the area, that there are no significant roosts on the site. The loss of mature trees will result in the loss of potential bat roost features from the site. Although no confirmed roosts will be lost, mature trees are likely to develop roost features as they age. The replacement of mature trees with young planting means that there will be long-term impact on the availability of bat roosts. Additional mitigation measures comprise the provision of four bat boxes in sites that will be protected from disturbance. I agree with the applicant that if this is implemented successfully there will be an immediate small positive impact and in the long-term there will be no significant impact resulting from the loss of mature trees with their potential to develop bat roost.

13.15. **Birds** - The assessment concludes that the development site is used/likely to be used by small numbers of SCI species (Teal, Grey Heron and Redshank). Removal of this habitat is unlikely to cause significant impacts to the Cork Harbour populations of these species due to the small area of the site relative to the total area of habitat used by the species and/or the small number of birds using the site relative to the Cork Harbour populations of these species. It is stated that Slatty Pool and the Section of Slatty Water adjacent to the development site are used by significant numbers of a number of SCI species. However, these water birds are already likely to have a high degree of habituation to disturbance impacts due to the presence of busy roads and other activities in the area.

13.16. As documented by the Cork County Council Ecologist the conclusion of the Ecological Impact Assessment Report and the Water Bird Survey Report is that the development as proposed will not give rise to significant long term ecological impacts to habitats or species. I agree with the CCC Ecologist conclusions that the mitigation measures are proposed to minimise risk of impact and that I too have no reason to disagree with the conclusions of this report. Overall I am satisfied that the implementation of the site enhancement measures for ecology as outlined will add to the ecological value of the study area locally, contributing to a positive residual impact. There are no objection to the scheme in terms of ecology.

13.17. **Gas Networks Ireland pipelines**

13.18. As documented by Gas Networks Ireland there is a Gas Transmission Pipeline within an 18m wide GNI Wayleave in the vicinity of the appeal site. No excavation may take place within any such wayleave unless consent in the form of a valid excavation permit has been granted by Gas Networks Ireland. Recommended that should the Board be minded to grant permission that a condition be attached obliging the applicant to contact Gas Networks and that all works in the vicinity of the Gas Transmission Pipeline be carried out in compliance with the Gas Networks Ireland 2015 Code of Practice '*Working in the Vicinity of the Transmission Network*'.

13.19. **Legal Interest**

13.20. A letter of consent from the landowner was included with the planning application given consent to Petrogas to make the planning application. With respect the folio CK12375L, a letter of consent was provided to the Applicant by the landowner, Cork County Council, and was included with the further information response submitted to Cork County Council in October 2018. With regard to the potential future exit from the Merck Millipore site the applicant states that there are no landowner complications and that this has been clarified to Merck by the Applicant.

13.21. **Odour Management**

13.22. I refer to the Odour Management Plan submitted with the application. The Plan identified the closest sensitive receptor to the north of the site at approximately 60m

from the proposed building. Other sensitive receptors are present in the area but these are at a greater distance (over 100m) from the proposed development. The proposed cooking method has a high level of odour risk associated with it as it will be similar to most fast food restaurants with a high level of fried foods. The implementation of odour mitigation systems will provide a high level of odour control as required by the guidance documents which should be sufficient to remove nuisance odours.

13.23. Food Preparation

13.24. All wastewater from the food preparation area will pass through a suitably sized and manufactured grease trap, designed in accordance with IS EN 1825, prior to discharge to the foul network. This discharge is subject to Trade Effluent Licensing from Irish Water and full details of the grease trap will be submitted with this licensing application.

13.25. Development Contributions

13.26. Cork City Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended). The proposed development does not fall under the exemptions listed in Section 1.7 (Table 5 refers). It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition, be attached to the notification of decision to grant permission be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

14.0 Recommendation

14.1. Having considered the contents of the application, the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

15.0 Reasons and Considerations

- 1) It is an objective under TM 3:1 of the County Development Plan 2014 to support the National Roads body in the implementation of key infrastructural upgrades. The N25 and the Cobh Cross roundabout are identified as important pieces of infrastructure that have been prioritised for investment. The site of the proposed development is located in an area considered for a future road scheme. The proposed development, if permitted, could prejudice plans for the design of this scheme. Therefore, the proposed development would be contrary to objective TM 3:1 of the current County Development Plan and the DoECLG Spatial Planning and National Roads Guidelines, and would be premature pending the determination of the road authority of a road layout for this area.

Mary Crowley

Senior Planning Inspector

12th December 2019