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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Louth County Council**

**Planning Register Reference Number: 17477**

**Appeal** by Thomas McMullan care of Property Resource Planning Management and Development of 70 Glengarriff Parade, Phibsborough, Dublin against the decision made on the 23<sup>rd</sup> day of October, 2017 by Louth County Council to grant subject to conditions a permission to Petrogas Group Limited care of David Mulcahy Planning Consultants Limited of 67 The Old Mill Race, Athgarvan, Newbridge, County Kildare in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Development consisting of a new filling station. The service station building (466.2 square metres) will contain three number food offers (offer 1- 19.8 square metres, offer 2- 16.5 square metres and offer 3- 14.8 square metres), a net retail area of 94.4 square metres (including ancillary off-licence, 4.1 square metres), a seating area (69.47 square metres) and back of house area for storage, toilets and food preparation (192.2 square metres). Food offer number three will include a drive-thru hatch facility and will involve hot food for consumption off the premises. The service station building will have a storage yard to the rear and will contain eight number signs (three on north façade, one each on west and east façade and three on

south façade), along with one number logo on the north façade. Also, six number pump islands with branded canopy over (signage to three number sides). All associated site works including new two-way road along south boundary, landscaping, outdoor seating, jet wash, brush wash, car wash storage (12 square metres), picnic area, car parking spaces, boundary treatment around the perimeter of the site, play area, refuelling point, vents, underground tank farm, main ID sign, drive-thru lane, provision of one number vehicular entry point and two number exit points and 'welcome' and 'exit' signs, development all at Dundalk Retail Park, Inner Relief Road, Marshes Upper, Dundalk County Louth.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

Having regard to the design and layout of the proposed development, the planning authority's policy as set out in the Louth County Development Plan 2015 – 2021 and the provisions of the Retail Planning Guidelines issued by

the Department of the Environment, Community and Local Government in April, 2012, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the vitality of Dundalk Town Centre or the local shops, would not be prejudicial to public health, would be in accordance with Louth Retail Strategy and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 29<sup>th</sup> day of September, 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed retail area shall be amended as follows:
  - (a) The off-license element shall be omitted.
  - (b) The total net retail space of the forecourt shop shall not exceed 90.3 square metres.

- (c) A 2.2 metres high barrier shall be constructed between the retail area and adjacent circulation/food serving and seating area along or with the line as delineated by the purple line in the submitted drawings.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To comply with national policy, as set down in the Retail Planning Guidelines for Planning Authorities.

3. All planting/landscaping shall be provided and maintained in accordance with the landscaping scheme including the Root Barrier system submitted to the planning authority. Any tree or plant which die are removed or become seriously damaged or diseased within a period of three years, shall be replaced within the next planting season with others of similar size and species.

A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This schedule shall cover a period of at least 3 years and shall include details of the arrangements for its implementation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of visual amenity

4. The development shall not accommodate overnight parking of trucks or Heavy Goods Vehicles.

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

5. Details including samples of the materials, colours and textures of all external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

6. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the canopy, on the forecourt building or anywhere within the curtilage of the site unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

7. During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location with the vicinity, shall not exceed –

(a) an Leq, 1 hour value of 55dB(A) during the period 0800 to 2200 hours from Monday to Sunday inclusive

(b) and Leq, 15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10dB(A) above background levels at the boundary of the site.

All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics -Description and Measurement of Environment Noise.

**Reason:** To protect the amenities of properties in the vicinity of the site.

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

**Reason:** In the interest of public health and to ensure a proper standard of development.

9. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular, recyclable materials, in the interest of protecting the environment.

10. All lighting used within the forecourt shall be directed and cowled so as not to interfere with passing traffic or the adjoining residential properties adjacent to the site.

**Reason:** In the interests of visual and residential amenity and traffic safety.

11. The developer shall control odour emissions from the premises in accordance with measures including extract duct details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of public health and to protect the amenities of the

area.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

13. The development shall not open for operation until the appropriate section of access road, entrances/exit, signs and road markings, footpath, lighting, and infrastructural services benefitting the proposed development has been completed to the satisfaction of the planning authority.

**Reason:** In the interests of visual amenity and orderly development.

14. The underground fuel storage tanks shall be double skinned and fitted with a leak detection system. Excavations for the tanks shall be lined/bunded in the case of an emergency where there is an accidental leak. Details of all tank dimensions for fuel and attenuation and layout shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interests of clarity and public health.

15. All service cables associated with the proposed development shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing cables shall be relocated underground as part of the site development works.

**Reason:** In the interest of visual amenity.

16. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working and noise management measures.

**Reason:** In the interests of public safety and residential amenity.



17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Stephen Bohan**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2018.**