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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Laois County Council**

**Planning Register Reference Number: 18/216**

**Appeal** by Petrogas Group Limited care of David Mulcahy Planning Consultants Limited of 67 The Old Mill Race, Athgarvan, County Kildare against the decision made on the 26<sup>th</sup> day of October, 2018 by Laois County Council to grant subject to conditions a permission to Pat McDonagh care of McCarthy Keville O'Sullivan of Block 1, GFSC, Moneenageisha Road, Galway in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of a motorway service area and rest area consisting of (a) new vehicular entrance and egress road, secondary egress only point, with improvement works to existing road network at Togher, (b) provision of a two-storey building with retail unit, roof top solar panels, a food court and associated drive-thru, communal seating area, office, WC facilities, kitchen and food preparation and storage areas, storage, staff facilities, plant room, substation and associated illuminated signage (floor area: 1220 square metres), (c) six number petrol/diesel filling pumps with overhead canopy, (d) two number illuminated totem pole with associated signage, (e) pumping stations and associated access road, and (f) all associated site works including hard and soft landscaping, boundary treatment, car parking, HGV and coach parking, lighting. rain water harvesting

system and underground rain water harvesting tanks, electric car charging points, storm water runoff petrol inceptor and attenuation system, cycle stands, HGV refuelling point, fuel vents and underground fuel tanks, all adjacent to Junction 17 of the M7 at Togher, Portlaoise, County Laois.

## **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-

- (a) policy ECN2 of the Laois County Development Plan 2017-2023, in relation to the development of a National Enterprise Park at Togher,
- (b) policies TRANS 25 and TRANS 26 of the development plan, in relation to petrol filling stations and to Togher, Portlaoise in particular, for motorway service areas,
- (c) the zoning of the site for 'Enterprise and Employment' uses in the Portlaoise Local Area Plan 2018-2024,

- (d) policy ED P1 of the local area plan dealing with the development of Togher, as per the Togher Masterplan 2018,
- (e) the identification of the site within the Togher Masterplan 2018, for potential motorway service station use,
- (f) the 'Spatial Planning and National Roads – Guidelines for Planning Authorities' – issued by the Department of Environment, Community and Local Government in 2012,
- (g) the 'Guidelines for Planning Authorities - Retail Planning', issued by the Department of Environment, Community and Local Government in April 2012,
- (h) the 'National Roads Authority – Service Area Policy' issued by the National Roads Authority in August 2014,
- (i) the design and layout of the proposed development,
- (j) the pattern of development in the vicinity, and
- (k) the proposals to connect to drainage and water supply networks within the Togher National Enterprise Park to the west and north-west of the site,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience, would not seriously impact on the amenity of properties in the vicinity and 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 further plans and particulars submitted on the 1<sup>st</sup> day of October 2018, 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 out in accordance with the agreed particulars.

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

2. The total net retail sales floor area, as defined in section 2.4.3 of the 'Guidelines for Planning Authorities - Retail Planning', issued by the Department of Environment, Community and Local Government in April 2012, shall not exceed 100 square metres. The floor area of the retail unit shall be operated as one single concession/unit and shall not be sub-divided.

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

3. The second totem sign at the egress point, at the western end of the site, shall be omitted from the development.

**Reason:** To avoid visual clutter, in the interest of visual amenity.

4. Apart from the signage shown on the submitted drawings, as modified by condition number 3 of this Order, no further advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity, and to allow the planning authority to assess any further signage through the statutory planning process.

5. The forecourt, or any other part of the site, shall not be used for the display of goods for sale. In particular, no motor sales shall be undertaken from this site.

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

6. A new pedestrian crossing shall be created on the L26965 county road, immediately adjacent to the proposed access/egress point; and shall be available for use by patrons, prior to commencement of trading at the motorway service area.

**Reason:** In the interest of pedestrian and traffic safety.

7. 10 bicycle-parking spaces shall be provided within or adjacent to the forecourt area.

**Reason:** To encourage cycling as a means of transport for employees, and to serve the needs of cyclists in the area.

8. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, a Construction Environmental Management Plan (CEMP). This plan shall provide details of intended construction practice for the development; including-
- (a) Location of the site and materials compounds, including areas identified for the storage of construction waste; areas for construction site offices and staff facilities; site security-fencing and hoardings; and on-site car-parking facilities for site workers during the course of construction;
  - (b) The timing and routing of construction traffic to and from the construction site and associated directional signage; to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
  - (c) Containment of all construction-related fuel and oil within specially constructed bunds, to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
  - (d) Means to ensure that surface water run-off is controlled, such that no silt or other pollutants enter local surface water drains.

A record of daily checks, that the works are being undertaken in accordance with the Construction Environmental Management Plan, shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during the construction phase; and provide a record of any such complaints and any response to them, which may also be inspected by the planning authority.

**Reason:** In the interest of amenities, public health, and the environment, and, in particular, to protect water quality in adjacent streams and the Triogue River.

9. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

10. Piped music/radio shall not be broadcast externally within the site.

**Reason:** In the interest of residential amenity and the wider amenities of the area.

11. Floodlighting of the site shall be arranged, so as to not cause glare to users of public roads adjoining the site, in particular the M7 Motorway and Junction 17 interchange.

**Reason:** In the interest of traffic safety.

12. A series of timber bollards shall be erected (at the expense of the developer), on either side of the proposed access/egress to/from the site (on either side of the L26956 county road). The positioning of the bollards shall be agreed in writing with the planning authority, prior to commencement of development. The development shall not commence trading until such time as the required bollards are in place.

**Reason:** To discourage kerbside parking by HGVs and other vehicles, which could restrict sight visibility for traffic at the access/egress points, in the interest of pedestrian and traffic safety.

13. The internal road network serving the proposed development, including junctions, parking areas, cycle parking, directional signage, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

14. A Stage 2 Road Safety Audit shall be submitted for the written agreement of the planning authority, prior to commencement of development. Stage 3 and Stage 4 Road Safety Audits shall be submitted for the written agreement of the planning authority during construction, and upon completion of the development, respectively.

**Reason:** In the interest of pedestrian and traffic safety.

15. Receptacles for waste shall be provided and be available for use at all times, on the premises, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.

**Reason:** To provide for a satisfactory standard of development.

16. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. In particular, the capacity of the surface water attenuation pond shall be increased by 20%.



**Reason:** In the interest of public health and to limit the possibility of flooding of the adjacent motorway to the south, in the interest of traffic safety.

17. All service cables associated with the proposed development (such as electrical and telecommunications), shall be located underground. The three-phase, over-ground, electricity cables on the northern site boundary and traversing the western portion of the site, shall be undergrounded at the expense of the developer.

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

18. 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.

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

19. A workplace travel plan for the proposed development shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of trading at the motorway service area.

**Reason:** To encourage alternative means of getting to/from work for employees, in the interest of public health.

20. Landscaping of the entire site, as per landscape plans submitted with the application, shall be carried out within the first planting season following commencement of trading at the motorway service area; at the latest. Screen planting outside the site boundaries, on roadside verges, shall be retained in full; except where required to improve sight visibility at access/egress points, or to facilitate construction of a footpath on the northern boundary of the site. Any removal of screen planting from the roadside verges, shall only be carried out with the written agreement of the planning authority.

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

21. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve any archaeological heritage of the site, and to secure the preservation and protection of any remains that may exist within the site.

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

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

**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            2019.**