

An
Bord
Pleanála

Board Order
ABP-309207-21

Planning and Development Acts 2000 to 2021

Planning Authority: Clare County Council

Planning Register Reference Number: P20/781

Appeal by Maxol Limited and by Duesbury Limited and Others care of P. Coleman and Associates, Consulting Engineers and Planners of 5 Bank Place, Ennis, County Clare and by Shane Brigdale care of Michael J. Duffy, Consulting Chartered Civil Engineer of 1 Clos na hEaglaise, Kilfenora, County Clare against the decision made on the 16th day of December, 2020 by Clare County Council to grant subject to conditions a permission to Pat McDonagh care of Corbwell Design, Architectural Engineering and Design of Suite 1, Unit 17, Claregalway Corporate Park, Claregalway, County Galway in accordance with plans and particulars lodged with the said Council:

Proposed Development: To develop a motorway service area and rest area adjacent to Junction 12 of the M18 motorway, which will include service station building with convenience shop, food court, staff facilities, canopy, fuel facilities, parking and circulation space, children's play area, picnic area and access provision. The development also includes infrastructural works public lighting, signage, landscaping, internal fencing, electrical substation, sixteen electric car charging points, roof mounted solar panels, storm water runoff, petrol interceptors and attenuation system, on-site wastewater treatment plant including access road, pumping station and connection to public foul sewer,

drainage improvement works, underground fuel storage tanks, rain water harvesting system, connection to public water supply, underground storage tanks for fire-fighting purposes, underground rain water harvesting tanks, works to improve visibility at access point, upgrade to adjacent roundabout and ancillary works. The connection to the public sewerage system will be by means of a rising main to an existing public sewer. The rising main sewer will cross under the M18 motorway by directional drilling and thereafter underground via existing road margins/public road and under River Fergus and railway line through the townlands of Kilbreckan, Killow, Skehanagh, Clareabbey and Ballybeg. The inert soil from the directional drilling will be used in landscaping works on the site of the service station building at Kilbreckan, Doora, Ennis, County Clare.

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.

Reasons and Considerations

Having regard to:

- (a) the provisions of the Clare County Development Plan 2017-2023 including the zoning objective for Commercial and the COM7 designation of the site,
- (b) the "Spatial Planning and National Roads Guidelines for Planning Authorities" issued by the Department of the Environment, Community and Local Government in January 2012,

(c) Transport Infrastructure Ireland's Service Area Policy issued in August 2014, and

(d) the site's location at a strategic interchange at an intersection between the M18 motorway and the N85 National Primary Road,

it is considered that, subject to compliance with the conditions set out below, the proposed development would meet a need for motorway services provision serving cars and HGVs at this strategic intersection of two national roads, would not give rise to an over proliferation of private off-line service facilities at national road junctions, would not negatively impact on the level of service and carrying capacity of the national road network, would not endanger public safety by reason of traffic hazard or obstruction of road users, would not result in the creation of a retail destination that would adversely impact upon existing settlements in the vicinity, would not interfere with the use or existing amenities of adjoining properties, would not adversely affect the visual amenities of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening: Stage 1

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon Special Area of Conservation (Site Code: 002165), Newhall and Edenvale Complex Special Area of Conservation (Site Code: 002091), Old Domestic Building (Keevagh) Special Area of Conservation (Site Code: 002010), Pouladatig Cave Special Area of Conservation (Site Code: 000037), Poulmagordon Cave (Quin) Special Area of Conservation (Site Code: 000064) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) are the European Sites in respect of which the proposed development has the potential to have a significant effect in view of the sites' conservation objectives.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file including the Inspector's assessment and carried out an Appropriate Assessment of the implications of the proposed development on Lower River Shannon Special Area of Conservation (Site Code: 002165), Newhall and Edenvale Complex Special Area of Conservation (Site Code: 002091), Old Domestic Building (Keevagh) Special Area of Conservation (Site Code: 002010), Pouladatig Cave Special Area of Conservation (Site Code: 000037), Poulmagordon Cave (Quin) Special Area of Conservation (Site Code: 000064) and River Shannon and River Fergus Estuaries Special Protection Area (004077), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the Conservation Objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.
 - (a) The retail area of the proposed development shall contain a convenience shop with a net floor area not exceeding 100 square metres.
 - (b) The proposed development shall operate as an off-line motorway service area and shall not be used for functions or events or otherwise in a manner that would present the facility as a destination in its own right.

Reason: In the interest of the orderly development and to protect the viability of shops in nearby village settlements.

3. Prior to commencement of development, the developer shall submit comprehensive landscape proposals for the site to the planning authority for written agreement and shall include:
- (a) a programme of works,
 - (b) a mixture of deciduous species trees/hedging/shrubs,
 - (c) proposals for maintenance and replacement (in the event of failures) of planting,
 - (d) lighting scheme proposals throughout the site – lamp standards and/or wall mounted lights, and
 - (e) boundary treatments throughout the site including heights and finishes of same. The landscaping scheme shall be carried out, maintained and renewed as necessary.

The landscaping and tree planting scheme shall be carried out before or during the first planting season or part thereof occurring after the occupation of the premises. Any plants that become seriously damaged shall be replaced by others of similar size and species.

Reason: In order to assimilate the development on this site into the surrounding area, in the interest of visual amenity and the proper planning and sustainable development of the area.

4. The construction of the development shall be managed in accordance with a final and Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate all mitigation measures indicated in the Natura Impact Statement and shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of nature conservation, public safety and residential amenity.

5. Prior to commencement, a suitably qualified ecologist shall be appointed by the developer to oversee the site set-up, construction of the proposed development and implementation of all mitigation and monitoring measures as set out in the Natura Impact Statement. Details to be submitted to and agreed in writing with the planning authority.

Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the planning authority to be kept on the public record.

Reason: In the interest of nature conservation.

6. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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.

7. Site development and building works shall be carried only out between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on 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 amenities of property in the vicinity.

8. A Stage 2 (Completion of detailed design) Road Safety Audit shall be submitted to the planning authority for agreement and approval, prior to commencement of the development. Stage 3 (completion of construction) and Stage 4 (Early operation) Road Safety Audits shall be submitted to the planning authority for agreement and approval during construction, and upon completion of the development, respectively.

Reason: In the interest of pedestrian and traffic safety.

9. Details of signage and all lighting proposals for respective signage, advertising structures, logos and similar, shall be submitted for the written agreement of the planning authority prior to commencement of development. No sign, symbols, nameplate or advertisement other than as indicated shall be erected on the site without the prior written agreement of the planning authority.

Reason: In the interest of proper planning and visual amenity.

10. Details of road signage/markings, warning the public of the entrance, proposals for traffic management at the site entrance, details of alterations to existing safety barriers, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual amenity.

12. 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.

Reason: In the interest of public health.

13. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water. The precise route of the rising main shall meet the requirements of the planning authority.

Reason: In the interest of public health and orderly development.

14. 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 the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

15. 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.

16. The developer shall pay the sum of €35,000.00 (thirty five thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended, in respect of improvement works along the L4114. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

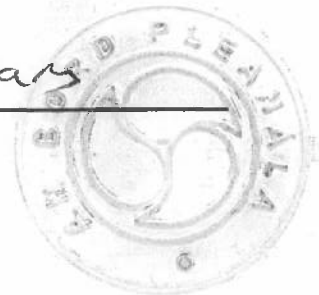
Patricia Calleary

Patricia Calleary

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board



Dated this 21st day of October 2022