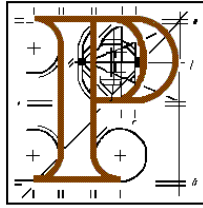


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL08.246446

Development: Development including two storey retail/office building (c.868m²) and a petrol filling station including:

- (i) a single storey building (c.640m²) comprising retail area with ancillary off-licence use, ancillary food offer counter, seating area, toilets, offices and ancillary storage and food preparation areas,
- (ii) construction of a new forecourt with 6 no. pump islands and canopy over,
- (iii) installation of 3 no. 40,000L and 1 no. 20,000L underground fuel storage tanks, associated pipework and above ground fill points,
- (iv) installation of 1 no. car wash facility and a single storey car wash building,
- (v) installation of 2 no. freestanding pole signs and,
- (vi) construction of all ancillary site features including screened storage compound, signage, boundary treatments, drainage systems, landscaping, car parking and associated site works

All at John Joe Sheehy Road, Tralee, Co. Kerry.

Planning Application

Planning Authority: Kerry County Council
Planning Authority Reg. Ref.: 15/1068
Applicant: Corrib Oil Company
Planning Authority Decision: Grant subject to conditions

Planning Appeal

Appellant(s): Joe O'Connor
Type of Appeal: Third Party v Permission
Observers: None
Date of Site Inspection: 25/07/2016

Inspector: A. Considine

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is located on the northern side of John Joe Sheehy Road which is the N69 and approximately 500m from the town centre which is to the west of the site. To the east of the site, there is a junction with Boherboy, which is also a major route (N21) into the town centre from Killarney and Castleisland. To the north of the Edward Street junction, the N69 provides access towards Listowel. A 50kph speed limit is in effect in the vicinity of the subject site.
- 1.2 The overall landholding from which the currently proposed development site is taken, originally comprised two GAA grounds, Austin Stack Park and John Mitchell's GAA Club. The subject site essentially comprises the eastern area of the John Mitchell's GAA site. The western end of the site still comprises the existing changing rooms and club house of the John Mitchell club while the middle section has been developed to provide for an Aldi discount food store with associated facilities and car parking. Beyond these facilities, and towards Tralee town centre is the Tralee bus and railway stations with the Centre Point building which comprises a mix of commercial and residential use.
- 1.3 To the south of the subject site, and to the south of John Joe Sheehy Road, there is a mix of uses including commercial and residential. To the east, there is a further mix of uses including the Horan Shopping Centre, including a Dunnes Stores and a petrol station, with further residential development. The northern boundary of the site consists of the railway line with the train / bus station located to the west beyond the Aldi store.

2.0 PROPOSED DEVELOPMENT

- 2.1 Permission is sought for a development including two storey retail/office building (c.868m²) and a petrol filling station including:

- (i) a single storey building (c.640m²) comprising retail area with ancillary off-licence use, ancillary food offer counter, seating area, toilets, offices and ancillary storage and food preparation areas,
- (ii) construction of a new forecourt with 6 no. pump islands and canopy over,
- (iii) installation of 3 no. 40,000L and 1 no. 20,000L underground fuel storage tanks, associated pipework and above ground fill points,
- (iv) installation of 1 no. car wash facility and a single storey car wash building,
- (v) installation of 2 no. freestanding pole signs and,
- (vi) construction of all ancillary site features including screened storage compound, signage, boundary treatments, drainage systems, landscaping, car parking and associated site works

All at John Joe Sheehy Road, Tralee, Co. Kerry.

2.2 The development essentially comprises of the following built elements:

- a) The petrol filling station forecourt which is located to the front (south) of the proposed convenience store. This element will comprise 6 pump islands. The islands will be covered by a canopy which will rise to an overall height of 5.4m. To the rear of the convenience store building, it is proposed to provide a truck diesel island and the underground fuel tanks and filling point are to be located to the eastern area of the site.
- b) The convenience store element of the petrol filling station will provide for a single storey building with a maximum height of 7.225m indicated. This building will have a mixture of finishes including a smooth render, sanded limestone cladding and curtain wall glazing, metal wall capping, aluminium framed windows and doors with steel powder coated doors to the northern elevation. Internally, the building will provide for a convenience shopping area with a net retail area of 230m², a food preparation area with seating for 40 patrons, an off-licence area as well as associated stores, offices and toilet facilities.
- c) A two storey retail / office building is proposed to be constructed to the south western corner of the site. The

building will rise to a height of 7.378m and will have a flat roof. The finishes of the building reflect those proposed in the convenience store with sanded limestone cladding proposed on the southern ground floor elevation with a rendered finish to the remaining building. The eastern and western elevations include an element of the sanded limestone cladding finish also. This building proposes three retail units at ground floor level including two units of 120m² and one 130m² and all will have a store and toilet area. The first floor will comprise an office unit of 380m² with two stair access points and a lift facility proposed.

- d) A car wash facility is proposed to the eastern boundary of the site.
- e) Car parking for 63 cars is also provided on site.

3.0 PLANNING HISTORY

ABP Ref PL08.229217 (PA ref 7560/177/07 [new ref 07/307560]): Permission was sought for a mixed use town centre development including the demolition of existing structures on the site and the construction of a mixed use development with a total gross floor area of 38,821m². Permission was granted by the local authority and subsequently appealed. The Board, on appeal, decided to grant permission for the proposed development subject to 34 conditions. This permission was not implemented and has since expired. The total site area for this development application included the subject site as well as the adjacent site.

PA ref 12/308044: Permission was granted for the construction of a single storey licensed discount food store. This permission was implemented and the Aldi store constructed on the site.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

a) Planners Report:

The planning officers' report associated with the subject proposed development, and following a request for further information, considered the proposed development in terms of the requirements of the Tralee Town Development Plan, 2009-2015 (extended). The report considered the development against the zoning objectives associated with the site, together with the relevant policies and objectives relating to the development type. In addition, the report considered the development in terms of the requirements of the Kerry County Development Plan, 2015-2021, as well as submissions made in relation to the proposed development.

The assessment is set out under a number of headings including zoning and location, planning history, visual impact, road safety and traffic, amenity, archaeology, capital infrastructure, environment and flood risk assessment as well as the issues raised by third parties. The report presents an AA screening report, EIA sub-threshold screening and a consideration of levies. The report concludes that the development is acceptable and the Planning officer recommends that permission be granted for the proposed development, subject to 19 conditions.

b) There are three third party submissions / objections noted on the planning file from the LA. The issues raised are summarised as follows:

- i. No need for off-licence
- ii. Road safety – pedestrian & vehicular
- iii. Congestion
- iv. Retail Planning Guidelines
- v. Contrary to zoning
- vi. No need for an additional filling station
- vii. Lost opportunity for strategic site
- viii. Green field status should be preserved
- ix. Right of way exists on 3 locations over the site.

c) There are three external reports noted on the LA file from the following:

- i. HSE who raised issues regarding ventilation and sanitary accommodation.
 - ii. Inland Fisheries Ireland. This report makes recommendations for conditions to be included in a grant of permission pertaining to oil storage tanks, bunding, hydrocarbon interceptors and certification in terms of connections to storm and public sewer drainage systems.
 - iii. Irish Water raised no objections to the proposed development and recommends conditions be attached to any grant of permission.
- d) There are five internal reports noted on the LA file as follows:
- i. County Archaeologist: no mitigation is required
 - ii. Tralee Municipal District Office: recommends conditions to be attached to any grant of planning permission.
 - iii. Capital Infrastructure Unit recommends conditions to be attached to any grant of planning permission.
 - iv. Environment Section required the submission of further information in relation to the proposed development and was satisfied on receipt of the response to the issues raised. Conditions to be attached to any grant of permission advised.
 - v. Flood Risk Assessment Officer required that the greenfield runoff rate be maintained. Following the submission of further information, it was considered that the proposed development is acceptable subject to the inclusion of conditions.

4.2 Planning Authority Decision

The PA decided to grant permission for the proposed development subject to 18 no. conditions

5.0 GROUNDS OF APPEAL

5.1 This is a third party appeal against the decision of Kerry County Council to grant planning permission for the proposed development. The issues raised are similar to those raised during the course of the PAs assessment of the proposed development. The appeal provides an introduction and details the site location as well as describing the proposed development, and planning history associated with the site. In addition, the appeal considers that petrol stations are listed as 'not normally permitted' on lands zoned for mixed use while the Kerry Retail Strategy explicitly states that the preferred location for petrol / diesel stations is on the edge of towns and villages. The appellant considers that despite the retail and office provision, the development is centred, both visually and functionally, around a petrol station. The site is located within the identified 'Primary Retail Area' of Tralee and it is not the intent of the Development Plan to facilitate low density and low site coverage uses such as a petrol station in such strategic sustainable locations.

The grounds of appeal are summarised as follows:

- The development represents a car-borne development and will directly compete with Tralee Town Centre.
- The development does not accord with the Retail Planning Guidelines which provide that a floorspace cap of 100m² regardless of location should apply to petrol filling stations. It is considered that the approach of the applicant when considering alternative sites is unreasonable.
- Traffic impacts are raised as a concern in terms of
 - the siting,
 - Road Safety Audit,
 - shortfall in parking provision,
 - allocation of parking spaces,
 - parking during games in Austin Stack Park
 - Back up of traffic onto John Joe Sheehy Road
 - Traffic Impact Assessment
 - Existing parking issues associated with GAA games at Austin Stack Park
- No appropriate assessment was carried out by the applicant and the ecological and experience of the PAs AA screening report is unknown and it does not address the potential for cumulative impacts
- The development does not comply with the zoning provisions and policies of the Tralee Development Plan, 2009-2015 (as extended).

- Issues raised in relation to the overall design of the proposed development.

It is concluded that the proposed development would represent a wasted opportunity to achieve the full redevelopment potential of the site for genuine mixed use and sustainable purposes adjacent to a high capacity rail line and adjacent to several intensive land uses.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The PA has not responded to this appeal.

6.2 First party response

The first party has submitted a response to this third party appeal seeking to address the issues raised in the third party appeal.

The response is summarised as follows:

- The development has been designed with particular consideration given to pedestrians and cyclists and the development has been subjected to a rigorous RSA.
- It is submitted that if the filling station was not part of the overall development the sequential approach assessment would not have been required. It is submitted that there are no other suitable and viable sites available for the proposed development.
- In terms of traffic impacts, it is submitted that the development has been subject to RSA and recommendation made will be implemented. Adequate car parking is to be provided and the provision of cycle parking spaces is adequately covered within condition 7(b) of the decision to grant permission. It is submitted that the development can be adequately accommodated within the existing road network and would not be contrary to the guidance provided in the Design Manual for Urban Roads and Streets (DMURS).
- The PA carried out AA.

- While the appellant considers that the development does not comply with the zoning provisions and policies of the Tralee Development Plan, 2009-2015 (as extended), the DP provides that petrol stations are 'not normally permitted' within the mixed use zoning afforded to the site. This does not prohibit such developments.
- The subject site is located within the designated Retail Expansion area of Tralee Town Centre on a busy access road into the town centre and will support the expansion of the town centre. The development has been designed in line with the development management guidelines set out for new developments for petrol stations in the Tralee Town Development Plan. It is further noted that the filling station is not being provided solely in the mixed use zone, but as part of a mix of uses in accordance with the purpose of the zone.
- In terms of the design of the proposed development, it is submitted that the buildings are a modern flat roof design while the external finishes of both buildings are in keeping with the local vernacular. The highest professional standards of architectural and engineering design have been employed and the portal frame design of the designs lends them to be adaptable to accommodate any future change of use or activity.

It is concluded that the proposed development would present a valuable addition to an under development area of Tralee Town, meets the requirements of the Tralee Town Development Plan and is in line with the proper planning and sustainable development of the area. It is requested that the Bord grant permission for the development.

6.3 Observations on grounds of appeal

There are no observations noted in relation to this third party appeal.

7.0 POLICY CONTEXT

- 7.1 The subject site is located within the Town of Tralee, and the Tralee Town Development Plan, 2009-2015 (extended) is the relevant policy document pertaining to the subject site. The site is located in an area which is zoned as Mixed Use, where the purpose of the zoning objective is 'to protect and enhance the special physical and

social character of the town and to provide for residential development.'

- 7.2 The site is located within the Primary Retail Expansion Area of the town as well as an opportunity site in terms of regeneration / redevelopment. Section 3.6 of the Plan deals with Retail Hierarchy and provides as follows:
'Primary Retail Area - including Castle Street, Ivy Terrace, The Mall, Ashe Street, Rock Street, Maine Street, Matt Talbot Road, Boherbee, The Square and the retail expansion areas centred on John Joe Sheehy Road and Prince's Quay - primarily characterised by smaller scale retail units with a mix of comparison and convenience stores.'
- 7.3 Section 3.8.2 of the Plan deal with Boherbee and John Joe Sheehy Road and states that 'the area bounded by the Boherbee Road and John Joe Sheehy Road is also a notable opportunity site for the development of comparison and convenience retail floorspace. Given the road network and proximity of the train and bus station, this area is ideally located for both types of retail development and as such has been highlighted for mixed use retail development in the Boherbee Action Area Plan. See Map 3A.
- 7.4 While the proposed development provides for a mix of uses, including retail and office, the Board will note that petrol filling stations are 'not normally permitted' within the mixed use zoning afforded to the site. Both retail and office uses are normally permitted.
- 7.5 Section 3.9.5 of the Development Plan deals with Petrol Filling Stations, extract attached. The plan provides that 'Shops associated with petrol filling stations should be ancillary to the petrol facilities. As such, a threshold of 100m² net retail sales space is recommended for shops associated with petrol filling stations.' It is further provided that recent trends to expand the convenience retail element of filling stations to fulfil the role of small supermarkets will not normally be permitted or encouraged.

- 7.6 The Plan also provides for a number of retail policy objectives, also attached. Of particular note are the following policy objectives:

RPO12 Promote the re-utilisation of underutilised/derelict sites. See Map 3A for location of opportunity sites.

RPO18 Facilitate the development of the Retail Expansion Areas. Development proposals will be required to incorporate a mix of appropriate landuses, make provision for excellent pedestrian permeability and public transport, propose buildings of high urban design quality and include a range of uses which will help achieve vitality and vibrancy in these areas.

8.0 ASSESSMENT

Having regard to the nature of this appeal, and having undertaken a site visit, as well as considering the information submitted and extensive planning history, I suggest that it is appropriate to assess the proposed development under the following headings:

1. The principle of the development and compliance with policy.
2. Site suitability Issues.
3. Other issues.
4. Appropriate Assessment

8.1 Principle of the development and compliance with policy:

- 8.1.1 In terms of the principle of the proposed development at this location, the Town Development Plan 2009-2015 identifies the zoning for this area as *mixed use*. The purpose of the zoning objective is 'to protect and enhance the special physical and social character of the town and to provide for residential development.' the Board will note that within this zoning objective, petrol filling stations are 'not normally permitted'. In addition, the site is located within the primary retail area for the town. Section 3.6 of the Plan deals with Retail Hierarchy identifies such areas as being 'primarily characterised by smaller scale retail units with a mix of comparison and convenience stores.' Section 3.8.2 of the Plan deal with Boherbee and John Joe Sheehy Road and states that 'the area

bounded by the Boherbee Road and John Joe Sheehy Road is also a notable opportunity site for the development of comparison and convenience retail floorspace.

8.1.2 In addition to the above zonings afforded to the subject site, the retail policy objectives contained in the Tralee Town Development Plan, and in particular RP012 and RO018, seek to promote the re-utilisation of underutilised/derelict sites and facilitate the development of the Retail Expansion Areas. It is a particular requirement that 'Development proposals will be required to incorporate a mix of appropriate landuses, make provision for excellent pedestrian permeability and public transport, propose buildings of high urban design quality and include a range of uses which will help achieve vitality and vibrancy in these areas.' While the final users of the proposed retail units have not been indicated, in principle, the proposal for a mixed use development might reasonably be considered as being acceptable. The development seeks to provide a mix of uses including retail and office in two separate buildings, as well as a petrol filling station. I have concerns in relation to the filling station.

8.1.3 In terms of the proposed petrol station element of the overall development, Section 3.9.5 of the Development Plan deals with Petrol Filling Stations. The plan provides that 'Shops associated with petrol filling stations should be ancillary to the petrol facilities. As such, a threshold of 100m² net retail sales space is recommended for shops associated with petrol filling stations.' It is further provided that recent trends to expand the convenience retail element of filling stations to fulfil the role of small supermarkets will not normally be permitted or encouraged. The Board will note the arguments made by the applicant, who suggests that the petrol filling station element is proposed as part of a larger mixed use development for the overall site. The appellant in this instance suggests that the overall development is primarily centred around the filling station and that the proposal is essentially an inappropriate use of the lands in terms of the density of the development proposed.

8.1.4 In this regard, I refer the Board to the proposed site layout plan. The convenience store element of the development is centred on the site with traffic routes provided around the building. The petrol filling

station forecourt which is located to the front (south) of the proposed convenience store, and will comprise 6 pump islands. The islands will be covered by a canopy which will rise to an overall height of 5.4m. To the rear of the convenience store building, it is proposed to provide a truck diesel island with a large landscaped area proposed, with a small picnic area proposed. The underground fuel tanks and filling point are to be located to the eastern area of the site, along with the car wash facility. The convenience store element of the petrol filling station will provide for a single storey building with a maximum height of 7.225m indicated, and will provide for a convenience shopping area with a net retail area of 230m², a food preparation area with seating for 40 patrons, an off-licence area as well as associated stores, offices and toilet facilities. Traffic flow through the site will circle the proposed store element of the filling station. While I accept that the applicant has proposed a second mixed use building (retail / office) on the overall site, I am inclined to agree with the third party, that the overall development of the site is primarily centred around the petrol filling station. Indeed, the project title for drawings submitted in support of the proposed development is for a service station.

- 8.1.5 This determined, I refer the Board back to the zoning objective as well as the policy objectives relevant to the subject site. In the first instance, petrol filling stations are 'not normally permitted' within the mixed use zoning afforded to the site. In addition, the plan identifies a threshold of 100m² net retail sales space is recommended for shops associated with petrol filling stations. It is further provided that recent trends to expand the convenience retail element of filling stations to fulfil the role of small supermarkets will not normally be permitted or encouraged. Given the scale of the convenience store proposed, it may be argued that the fuel element is ancillary but having regard to the site layout, and the priority of vehicular movement through the site, I consider that if permitted, the development as proposed would be contrary to the zoning and policy objectives of the Tralee Town Development Plan.
- 8.1.6 In terms of the proposed two storey retail / office building proposed to be constructed to the south western corner of the site, I have no objections in principle. I do consider however, that overall the proposed mix of uses is inadequate for this town centre site. I also refer the Board to the Boherbee Action Plan, 2000, Section 10.3 of

the Tralee Town Development Plan where it is the objective of the Action Plan to improve the street pattern and urban environment and to provide a coherent framework within which provision is made for residential and commercial development. It is proposed to achieve these objectives through a number of measures, including:

- Develop the frontage of John Joe Sheehy Road to facilitate commercial development and to improve the visual impact of current uses
- Promote use of active street frontage uses to the south of the area defined by the Austin Stack Park.

8.2 Site suitability issues:

8.2.1 Water services:

The subject site is located within the zoned area of Tralee Town, where public water services are available. There are no indications that the capacity of these services is not capable of accommodating the scale of the development and as such, I have no objection to the proposed development in terms of water services.

8.2.2 Design and siting:

8.2.2.1 A full description of the proposed design of the overall development has been provided above in section 2 of this report. In terms of the overall design, I have no objections to the design or scale of the buildings and consider that the proposed materials are acceptable

8.2.2.2 In terms of the proposed siting within the subject site, I have raised concerns above in terms of the central nature of the proposed convenience store, including café and off-licence, associated with the petrol filling station. I consider that the layout of the site provides priority to vehicles, including larger vehicles. The large vehicle refuelling area is located to the rear of the site adjacent to the landscaped area and picnic areas. I am also concerned that the development as proposed will represent a very low density development for this opportunity site in Tralee Town.

8.2.3 Roads & Traffic Issues:

The subject site is to be accessed via the John Joe Sheehy Road. It is proposed that there will be two openings onto the site with one

being an in-only and one exit-only. Sight distances at the site are appropriate and the site is located within the 50km/ph speed limit. The Board will note that there are no objections to the proposed development from the Tralee Operations section of Kerry County Council. In support of the proposed development, the applicant carried out a Road Safety Audit, Stage 1 for the development, described as 'a proposed petrol filling station development. A traffic survey was also carried out. The carriageway of the R878 is indicated at approximately 12.6m width which includes 1.3m wide cycle lanes on both sides of the road. The audit highlighted 5 potential problems arising and makes recommendations in this regard. Overall I have no objection to the proposed development in terms of roads or traffic.

8.3 Other Issues:

8.3.1 Retail Impact:

Having regard to the zoning afforded to the subject site, I am satisfied that a mixed use development, which includes a proposed mix of both convenience and comparison retail, as well as office and petrol filling station, could be accommodated on the subject site in principle. A Retail Report was prepared in support of the proposed development given the fact that the net convenience retail element of the development comprises a store associated with a petrol filling station which has a floor space of 230m², which is above the 100m² threshold applicable. The full building has a floor area of 640m². In addition, the development proposes a separate two storey building with a floor area of 868m², which will include 3 retail units at ground floor level with floor areas ranging from 120m² to 130m².

The Planning History associated with the site, together with the current Aldi site to the west, provided for a large mixed use development which included a mixture of retail warehousing, anchor unit including food sales area of 2,854m², other large units and 31 retail units as well as offices and residential uses and car parking. Having regard to the location of the subject site in terms of Tralee Town Centre, I am satisfied that the development, in terms of retail, can be accommodated.

8.3.2 Zoning, Site Coverage & Scale:

The appellants submit that the proposed development will represent a low density development which is inappropriate to the zoning

afforded to the site. In addition, reference is made to the planning history of the site and the comments of the previous Board Inspector who considered that 'although the site can be defined as edge of centre it is zoned town centre and in my view the proposed development would consolidate the area between the public transport hub and the town centre as the commercial / retail centre of the town.' A concern is raised in terms of the inappropriately low density development proposed as a petrol station, for this strategic location.

I have considered this issue very carefully and while I accept the efforts of the applicant to promote a mixed use development for the site, and indeed the design features presented for the buildings, I consider that the development is primarily for a large petrol station and that the site layout prioritises the car above cyclists and pedestrians. I consider that the development as such, does not accord with the development management guidelines provided in Chapter 12 of the Tralee Town Development Plan for the site. Given the location of the site within the town centre, the site coverage requirements are indicated at 80%, with a plot ratio not to exceed 3. The development as proposed falls well below these criterion.

I consider that a grant of planning permission in this instance, would result in a significant under development, and inefficient use of a town centre site which has been identified in the Tralee Town Development Plan as an opportunity site within the Primary Retail Area of the town and would represent a poor and unsustainable form of development. I further consider that the proposed mix of uses, by excluding any residential element and a poor ratio of other uses, is inappropriate for this site. The development therefore, if permitted, would be contrary to the proper planning and long terms sustainable development of the town of Tralee.

8.3.3 Flooding:

In terms of flood risk assessment, the PAs EP notes that the proposed development site discharges to a combined network which flows via a 750mm combined sewer to Ballymullen. It is advised that this sewer depends on a pumped CSO to the River Lee and has experienced surcharging in recent years. In this regard, it is required that the storm water run off from the site be restricted to its current greenfield run off rate. The proposals to this effect as

submitted by the applicant have been considered and deemed acceptable. In this regard, I have no objections to the proposed development.

8.3.4 Right of Way:

Issue raised during the PAs assessment of the proposed development. This is a matter for the parties and any grant of planning permission will not discharge the need for the applicant to comply with other areas of law before developing the site.

8.4 Appropriate Assessment:

8.4.1 The subject site is located at a distance of approximately 1.5km from the nearest Natura 2000 site, Tralee Bay & Magharees Peninsula, West to Cloghane SAC & pNHA, Site Code 002070 and Tralee Bay Complex SPA, Site Code 004188, with 4 further Natura 2000 sites within 15km of the subject site. As such, the Board will be required to consider the potential effects of the proposed development on the identified SAC and SPA. Although the site is not located within the existing boundaries of the Natura site, given its proximity to same, the precautionary principle must be applied in this instance. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives "if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects" (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.

8.4.2 An Bord Pleanála, as the competent authority is responsible for obtaining the information necessary to enable an AA screening to be undertaken, and if required, obtain from the proponent, a Natura Impact Statement. Integral to the AA process, is the consideration of alternatives. This issue will be discussed further below. The purposes of AA screening will determine whether appropriate assessment is necessary by examining:

- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
- b) the potential effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000

site in view of its conservation objectives, and considering whether these effects will be significant.

8.4.3 AA Screening:

1. Description of the project and local site: This is an application to construct a petrol filling station, convenience store and mixed retail / office building on an existing greenfield site within the zoned town centre area of Tralee and in an area where services exist.

2. Is the proposed development directly connected with or necessary to the nature conservation management of a Natura 2000 site: No.

3. Identification of relevant Natura 2000 sites, within 15km of the subject site:

- Tralee Bay & Magharees Peninsula, West to Cloghane SAC & pNHA, Site Code 002070
- Tralee Bay Complex SPA, Site Code 004188
- Slieve Mish Mountains SAC, Site Code 002185
- Stacks of Mullaghareirks, West Limerick Hills and Mount Egal SPA, Site Code 004161
- Kerry Head SPA Site Code 004189

4. Key Natura 2000 site with regard to the subject site and proposed development is the Tralee Bay & Magharees Peninsula, West to Cloghane SAC & pNHA, which is located within 1.5km of the subject site.

5. Existing expert reports, advice or guidance: The PAs County Archaeologist has advised no objection to the proposed development and the Environment Section, as well as the Flood Risk Assessment EP, has advised no objections to the proposed development subject to compliance with conditions.

6. The potential for significant impacts on Natura 2000 sites, having regard to potential significance indicators and to qualifying interests and conservation objectives for the site. Where doubt exists, it should be assumed that effects could be significant. In terms of the relevant Natura 2000 site in this instance, the Conservation Objectives for Tralee Bay & Magharees Peninsula, West to Cloghane SAC & pNHA, [002070], states as follows:

Objective 1: To maintain or restore the favourable conservation status of the Annex 1 habitat(s) and / or the Annex 11 species for which the SAC has been selected:

- [1130] Esturies
- [1140] Mudflats and sandflats not covered by seawater at low tide
- [1150] *Coastal Lagoons
- [1160] Large shallow inlets and bays
- [1170] Reefs
- [1210] Annual vegetation of drift lines
- [1220] Perennial vegetation of stony banks
- [1310] Salicornia and other annuals colonizing mud and sand
- [1330] Atlantic salt meadows (Glauco-Puccinellietalia maritimae)
- [1355] Lutra lutra
- [1395] Petalophyllum ralfsii
- [1410] Mediterranean salt meadows (Juncetalia maritimi)
- [2120] Shifting dunes along the shoreline with Ammophila arenaria (“white dunes”)
- [2130] *Fixed coastal dunes with herbaceous vegetation (“grey dunes”)
- [2170] Dunes with Salix repens ssp. argentea (Salix arenariae)
- [2190] Humid dune slacks
- [6410] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)
- [91EO]*Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)

Potential significance indicators¹:

Any impact on an Annex I habitat:

- Causing interference with, reduction, erosion or fragmentation of the Natura 2000 site: Not likely

¹ Using the Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities, DoEHLG, 2009 I consider that the potential significant indicators should include as presented. There is no defined list of indicators, with each site potentially generating a different list.

- Causing direct or indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site: Not likely
- Causing serious or ongoing disturbance to species or habitats for which the Natura 2000 site is selected (e.g. increased noise, illumination and human activity): Not likely
- Causing direct or indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site: Not likely
- Interfering with mitigation measures put in place for other plans or projects: Not likely.
- Causing the introduction or spread of exotic or invasive species: Possible in terms of potential landscaping of site.
- Causing a cumulative impact and other impacts: Possible.

7. Assessment of likely effects - direct, indirect and cumulative – undertaken on the basis of available information as a desk study or field survey or primary research as necessary: Having considered the above potential significance indicators, together with the zoning afforded to the site, the planning history associated with the site and the reports and submissions on the file, I consider that the development, if permitted, is likely to have little or no impact on the adjacent Natura 2000 site, subject to compliance with appropriate conditions attached to a grant of permission, should the Board be so minded.

8. Screening Statement with conclusions: The safeguards set out in Article 6(3) and (4) of the Habitats Directive are triggered not by certainty but by the possibility of significant effects. Thus, in line with the precautionary principle, it is unacceptable to fail to undertake an appropriate assessment on the basis that it is not certain that there are significant effects. As such, having regard to the nature and scale of the development proposed and to the nature of the receiving environment, and particularly its location within Tralee Town and in a fully serviced location, it is appropriate to conclude that this project should not proceed to Stage 2 of the AA process and that an Appropriate Assessment is not necessary as there is little or no potential for significant effects to Natura 2000 sites.

9.0 CONCLUSIONS & RECOMMENDATION

9.1 Conclusion:

9.1.1 Having regard to the provisions of the current Tralee Town Development Plan, 2009-2015, the pattern of existing and permitted development in the vicinity and to the information submitted as part of the planning application as well as the planning history associated with the site, I consider that in principle, the proposal for a mixed use development can be considered as being an acceptable form of development. However, given the detail of the proposed development, I consider that that the primary purpose for the development is to provide for a large petrol filling service station. As such, I consider that the development as proposed does not accord with the zoning objectives afforded to the site. The site is located on lands within Tralee Town Centre, zoned for Mixed Use and where petrol stations are not normally permitted.

9.1.2 In addition, I consider that the development as proposed, if permitted, due to low site coverage and plot ratio and a grant of permission in this instance, would result in a significant under development, and inefficient use of a town centre site which has been identified in the Tralee Town Development Plan as an opportunity site within the Primary Retail Area of the town and would represent a poor and unsustainable form of development. I further consider that the proposed mix of uses, by excluding any residential element and a poor ratio of other uses, is inappropriate for this site. The development therefore, if permitted, would be contrary to the proper planning and long terms sustainable development of the town of Tralee.

9.2 Recommendation:

I recommend that planning permission be **Refused** for the proposed development for the following stated reasons & considerations.

REASONS & CONSIDERATIONS

1. Notwithstanding the submissions of the applicant in terms of the proposed development, the Board considers that the primary purpose for the development is to provide for a large petrol filling service station where the site layout prioritises the car. Having regard to the provisions of the current Tralee Town Development Plan 2009 – 2015 (as extended), the Mixed Use zoning afforded to the site notes that petrol stations are 'not normally permitted'. As such, it is considered that the development as proposed does not accord with the zoning objectives afforded to the site and a grant of planning permission in this instance, would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the nature of the proposed development, and in particular due to the low site coverage and plot ratio proposed as well as the inadequate mix of uses proposed, a grant of permission in this instance, would result in a significant under development, and inefficient use, of a town centre site which has been identified in the Tralee Town Development Plan as an opportunity site within the Primary Retail Area of the town and would represent a poor and unsustainable form of development. The development if permitted therefore, if permitted, would be contrary to the proper planning and long terms sustainable development of the town of Tralee.

A. Considine
Inspectorate
28/07/2016