



An  
Bord  
Pleanála

## Inspector's Report PL 91.248940

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<b>Development</b>	Construction of a new forecourt canopy, retail shop, delicatessen, coffee area and kitchen, stores and freezer room, service room, and associated offices.
<b>Location</b>	Holycross, Bruff, Co. Limerick
<b>Planning Authority</b>	Limerick City & County Council
<b>Planning Authority Reg. Ref.</b>	16/824
<b>Applicant(s)</b>	Catherine Reardon
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Don O'Flynn
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	6 <sup>th</sup> November 2017
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.38ha, is located within the hamlet of Holycross on the R512 Regional Road, some 17km south of Limerick City. The 80kph speed restriction applies on this stretch of road. There are no public footpaths and there is no public lighting in place. There are two unbroken white lines in the centre of the road at this location – due to the proximity of an adjoining crossroads on the R512/L1412 to the south.
- 1.2. There is a disused filling station on the southern portion of the current appeal site – the canopy and a roadside sign remaining in place. This filling station and forecourt is undergoing renovation, which is near completion. There is a two-storey building on the site – formerly used as a shop, and currently undergoing renovation – nearing completion. Immediately to the south (and part of the same ownership) is a two-storey public house and small hairdressing salon on the aforementioned crossroads. The northern portion of the current appeal site forms part of a football ground – grassed pitches – with rudimentary floodlighting. The level of the playing pitches is approximately 1m below the level of the adjoining road. There was visible evidence of recent archaeological investigations within playing pitches area. The ground was dry under foot of the date of site inspection. There is a small single-storey changing-room building serving the football club on the lands to the east, with a metal container located hard against a gable wall. There is a hard-core parking area located to the southeast of the changing rooms, within which is a raised earthen island on which is located the Bord na Móna effluent treatment unit serving the varied uses on this site. The R512 roadside boundary hedgerow is planted on the inside (pitches side) of a 1m high sod & stone bank. This hedgerow has been severely pruned to improve sight distance for vehicles exiting the forecourt area. The sight distance in the direction of Limerick is restricted by the presence of this trimmed hedgerow.
- 1.3. There is agricultural land on the opposite side of the R512. The country road to the south of the site (L1412) is the principal access for cars to the Lough Gur visitor centre – some 2.5km to the east. Lough Gur itself is not visible from the site – being screened by intervening hedgerows.

## 2.0 Proposed Development

2.1. Permission sought on 7<sup>th</sup> September 2017, for filling station redevelopment as follows-

- Demolition of existing two-storey shop of 135m<sup>2</sup>.
- Demolition of existing forecourt canopy and petrol pumps.
- Construction of two-storey building (420m<sup>2</sup> in total) comprising- retail shop (93m<sup>2</sup>); delicatessen/coffee shop (68m<sup>2</sup>), and ancillary kitchens, stores, offices and toilets.
- Construction of new petrol station forecourt with three pump islands.
- Construction of new canopy to forecourt – an extension of the two-storey shop/delicatessen building.
- Parking area for 16 + 5 + 2 no. cars and two coaches.
- New vehicular access arrangements from the R512.
- New roadside totem sign.
- Car-wash.
- Air & water station.
- Bicycle parking area.
- Charging points for two electric cars.
- Forecourt drainage to oil-separator.
- Removal of roadside boundary hedgerow to the north of the site (30 linear metres), and reinstatement of remaining hedgerow to the north again, to improve sight visibility in the direction of Limerick.
- Foul drainage connection to proposed new effluent treatment system (to replace existing septic tank serving public house) just outside the eastern boundary of the site, with discharge to a new Bord na Móna polishing filter (next to the one serving the public house).
- Surface water drainage to series of manholes within the county road immediately to the south of the public house.

- Water supply is stated to be from an existing connection.
- Existing underground petrol and diesel tanks are to remain and be re-used.

2.1.1. The application was accompanied by the following-

- Traffic Impact Assessment Report – dated September 2016.
- Architect's Report – dated September 2016.
- 'Conder' oil/water separator brochure.
- Site Risk Assessment and details of waste-water treatment plant.
- Architectural Heritage Survey & Statement of Justification – dated September 2016.
- Planning Statement – dated September 2016.
- Letters of support from the Lough Gur & District Historical Society, Lough Gur Development Co-Operative Society Ltd, Holycross AFC, and Irish Angling & Social Club – Lough Gur.

2.2. Following a request for additional information, the following was submitted to LCCC on 3<sup>rd</sup> April 2017-

- Re-orientation of the building to face the R512, and removal further to the east.
- Reduction in building size from 420m<sup>2</sup> to 378.6m<sup>2</sup>. This involves reduction in the retail shop floor area from 93m<sup>2</sup> to 85.5m<sup>2</sup> and reduction in the delicatessen/coffee shop floor area from 68m<sup>2</sup> to 62.4m<sup>2</sup>.
- Reconfiguration of forecourt and parking layout.
- Licence has been granted under the National Monuments Acts 1930-2004, for archaeological testing on site, should planning permission be granted.
- Location of existing watermain which traverses the site and proposed relocation around the site with a 5m wayleave either side. [The wayleave does not appear to be in the documentation received by the Board, and neither was it received by Irish Water].

- Details for dealing with all surface water within the site, [This information was not in the documentation received by the Board, and neither was it received by Irish Water].

2.2.1. The additional information submission is accompanied by the following-

- Geophysical Survey Report (dated March 2017) – relating to the appeal site and to the football pitch to the north.
- Architect's Report (dated September 2016), but including some additional model drawings which did not accompany the original Architect's Report.
- Information on 'Conder' oil separators.
- Report on Archaeological Test Trenches within the site – dated June 2017.

2.3. Following a request for clarification of additional information, the following was submitted to LCCC on 9<sup>th</sup> June 2017-

- Second phase archaeological site investigation report. [This document does not appear to be amongst the material submitted to the Board].
- Drawing showing 5m wayleave around re-routed watermain.
- Existing public house and service station stormwater discharges to the public system on the L1412. Revised proposals submitted for soakpits within the playing fields to the east of the site.
- Reduction in amount of hedgerow removal from 30 linear metres to approximately 20 linear metres.

2.3.1. The submission is accompanied by a letter from Irish Water (dated 7<sup>th</sup> June 2017), and addressed to Boyce Architectural & Engineering.

### 3.0 Planning Authority's Decision

By Order dated 5<sup>th</sup> July 2017, LCCC issued a Notification of decision to grant planning permission subject to 19 no. conditions – the principal ones of which may be summarised as follows-

1. Development to be carried out in accordance with plans and particulars received on 7<sup>th</sup> September 2016, 3<sup>rd</sup> April 2017 and 9<sup>th</sup> June 2017.

2. Requires payment of a development contribution of €37,800.
3. Roadside boundary hedgerow along the R512 shall be replaced along that portion of the site to the north of the filling station forecourt, in accordance with the details shown in the Traffic Impact Assessment, as submitted on 7<sup>th</sup> September 2016. An hedgerow of indigenous species shall be planted on a set-back line within the first planting season following commencement of construction of development. In addition, an hedgerow of native species shall be planted along the new northern and eastern boundaries of the filling station forecourt.
9. Requires a standard-sized bin within the premises.
11. The total net retail sales space of the forecourt shop shall not exceed 100m<sup>2</sup>.
12. No display for sale or repair of vehicles shall be undertaken on the site.
14. Requires submission of details of totem sign for agreement of the Council.
15. Relates to archaeology.
- 16-17. Requires supervision by an Architect accredited by the RIAI – in order to ensure that materials used are compatible with historic and traditionally-built fabric, and submission of a report in relation to completion of the works.
19. Relates to foul effluent treatment.

#### 4.0 Planning History

**Ref. 15/729:** Permission was granted by LCCC for redevelopment of this filling station to include retail shop, delicatessen and coffee shop. On appeal by Dan O'Flynn to the Board (**PL 91.246210**), permission was refused on 30<sup>th</sup> June 2016, for one reason as follows-

“While accepting the principle of a replacement retail and filling station facility at this location, the Board considered that the proposed development, in view of its unsympathetic design and extensive footprint and road frontage would contravene Objectives EH O11 and EH 06 [sic] of the Limerick County Development Plan 2010-2016 which seek, respectively, to safeguard the visual amenity of the Lough Gur Character Area by, inter alia, restricting development, and to minimise the removal of

roadside boundaries. The Board does not consider that exceptional circumstances apply in the present case which would justify deviation from these objectives. Accordingly, the Board considered that the proposed development would materially contravene objectives indicated in the Limerick County Development Plan 2010-2016 and would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered that the proposed development would be a contravention of the Limerick County Development Plan 2010-2016 for the reasons stated".

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The relevant document is the Limerick County Development Plan 2010-2016. Limerick County Council and Limerick City Council have since amalgamated, but this Plan remains in force pending the adoption of a new plan for the unified local authorities. The site is located on the fringe of the Lough Gur Architectural Conservation Area (Map 7.7.6). The purpose of this designation is to ensure that new developments are compatible with the Lough Gur landscape (around the archaeological remains within and surrounding the lough).
- 5.1.2. Section 10.6.4.5 of the Plan deals with filling stations. Retail services should be of a secondary nature to fuel sales. They should not adversely affect towns/villages in which they are located in terms of retail offer and vibrancy of core areas. In general retail floor area will be limited to 100sq.m. Signage will be limited to one sign not greater than 4.5m in height.
- 5.1.3. Objective EH O6 states as follows-
- It is the objective of the Council to-
- a) Ensure the adequate integration of the development into the landscape by the retention of existing trees and landscape features and/or suitable planting.
  - b) Encourage, where appropriate, the use of native species. The lay out [sic] of landscaping planting and features to act as wildlife corridors within

developments, particularly residential developments, and linking with other habitats in the area will be encouraged.

- c) Resist the removal of substantial lengths of roadside boundaries. Where an alternative, suitable site is available for the development, applicants should consider such an alternative on the basis that avoids the necessity for widespread boundary removal. Only in exceptional circumstances should roadside boundaries be removed.

5.1.4. The site is located within the Lough Gur archaeological complex area – LI 032-187 – containing some 147 known sites. The site is located within the boundary of the archaeological complex – as set down in the Sites & Monuments Record of the OPW. Section 7.3.4.5 of the Plan indicates that Lough Gur is the most significant archaeological site in the county. The landscape is pastoral rolling hills surrounding the small lough. The presence of a wide variety of archaeological monuments is one of the characteristic features of the area. Objective EH O11 states as follows-

It is the objective of the Council to-

- a) Safeguard the visual amenity of the area and have regard to the views and prospects in and out of Lough Gur.
- b) Restrict development including residential development in the area of Special Development Control, shown on map 7.5, except in exceptional circumstances. Appropriate tourism development and extensions to existing properties, which respect the special character of Lough Gur will be considered.
- c) To have regard to the archaeological importance and richness of the area indicated in Map 7.5 as a zone of archaeological amenity. Any developments within the zone will be required to provide for an archaeological examination during the course of excavations or other ground disturbance.

5.1.5. The site is located entirely within the Area of Special Development Control, indicated at Map 7.5 of the Plan.

## 5.2. Natural Heritage Designations

There are no natural heritage sites either within or immediately abutting the appeal site. There are no watercourses either within or immediately abutting the site.



## 6.0 The Appeal

### 6.1. Grounds of Appeal

The 3rd party appeal from McElligott Consulting, agent on behalf of Dan O'Flynn, O'Flynn's Centra, Bruff, Co. Limerick, received by the Board on 28<sup>th</sup> July 2017, can be summarised in bullet point format as follows-

- The design does not conform with the requirements of the Development Plan – as outlined in section 10.6.4.5. The retail floor area is 147.9m<sup>2</sup> – whereas it should be no more than 100m<sup>2</sup>. Additional space shown is not required for the day-to-day running of a shop, and this space could be used for future expansion.
- It was previously accepted that 70 linear metres of hedgerow would need to be removed to improve sight lines. This has now been reduced to 20 linear metres. It is not clear how this reduction has been arrived at – particularly where no line of sight drawing has been submitted. The grant of planning permission contravenes policy EH 06 of the Development Plan in relation to retention of roadside boundary hedgerows.

### 6.2. Applicant Response

The response of Boyce Architectural & Engineering, agent on behalf of the applicant, Catherine Reardon, received by the Board on 22<sup>nd</sup> August 2017, can be summarised in bullet point format as follows-

- This appeal is solely based on competition grounds and should be dismissed by the Board.
- The Board has accepted, in principle, the replacement of a filling station and shop on this site. The Inspector recommended a grant of planning permission in relation to the previous application on the site.
- This second application has addressed the reason for refusal set down by the Board.
- The design has been arrived at, following lengthy consultation with LCCC and Lough Gur tourism. Visitor numbers at Lough Gur have been steadily

increasing, but the visitor centre has no proper refreshment facilities – only a coffee dock.

- The development will not interfere with the visual aspect of Lough Gur's ancient settlements, stone circle and historical topography.
- This application is in the nature of a replacement for an existing (closed) filling station and shop.
- It is intended to reinstate the hedgerow. The amount of hedgerow to be removed has been reduced to 20 linear metres. A specialised contractor will be used to reinstate the hedgerow on the set-back line. A grab machine will essentially move sections of the sod & stone bank on which the hedgerow is planted. This will be done outside of bird nesting period. Any portion damaged during the works will be replaced with similar hedgerow plants. The hedgerow is not being removed, merely relocated. Exit from the existing service station is dangerous – due to impairment of vision in the direction of Limerick City. These sight visibility works need to be carried out, irrespective of whether a new filling station is constructed or not. This access is used by patrons of the football club. It is suggested that a condition be attached to any grant of planning permission requiring hedgerow relocation as suggested by the applicant's agent.

### 6.3. **Planning Authority Response**

None received

### 6.4. **Observations**

6.4.1. The Board referred the appeal to the following for comment, on or before 23<sup>rd</sup> October 2017-

- Department of Arts, Heritage and The Gaeltacht.
- An Taisce.
- The Heritage Council.
- Fáilte Ireland.

- An Chomhairle Ealaíon.

6.4.2. There were no responses received.

## 7.0 Oral Hearing Request

Following the submission of the 3<sup>rd</sup> Party appeal, the 1<sup>st</sup> Party submitted a request that an Oral Hearing be held. By Order dated 13<sup>th</sup> October 2017, the Board decided that the appeal could be adequately addressed by written submissions.

## 8.0 Assessment

The principal issues for consideration in this appeal relate to design, location within the Lough Gur ACA, archaeology, traffic safety, and drainage.

### 8.1. Design & Layout

- 8.1.1. I note that since this appeal was lodged with the Board, renovation of the existing filling station and shop on the site has commenced, and is nearing completion. This involves an internal fit-out of the shop, renovation of the canopy, new petrol pumps and general painting and lighting of the forecourt area. The existing roadside totem sign had not been renovated on the date of site inspection by this Inspector. Having regard to the expense involved in the renovation work on this site, it is unlikely that any planning permission to upgrade this filling station would take place immediately. However, over the five-year period of any permission, it is possible that it would be implemented, involving the demolition and removal of all renovation works currently under way.
- 8.1.2. The proposed building to serve the filling station will be located somewhat further to the north than the existing shop building on site. The same applies for the pumps and canopy. The new building will be of single- and two-storey construction, with mono-pitch roofs at shallow angles – to reflect the design of an Irish dolmen. The external finishes will be a mixture of weathered brick, limestone tiling and rough lime render with inserted clay-fired pots – again to reflect the archaeology of Lough Gur. The roof of the building will be grey-coloured metal cladding. The replacement design is contemporary, but is intended to reflect the archaeology of the area. The

orientation of the building on the site was rotated 90 degrees by way of additional information submission – with the canopy facing directly onto the road in the latest iteration. This redesign involved a small reduction in the floor-space of the building, and a slight reduction in the canopy height to 7.4m maximum.

- 8.1.3. Objective EH O11 of the Development Plan seeks to restrict development within the Area of Special Development Control around Lough Gur. The appeal site is entirely located within this area. The Objective refers to “exceptional circumstances” and “extensions to existing properties” whereby development could be considered. I would consider that a replacement development of this order is in the nature of an exceptional circumstance, being in the nature of an extension/replacement to/of an existing use. The site immediately abuts a Regional Road and a public house. The applicant has argued that the facility will provide necessary services to visitors to nearby Lough Gur.
- 8.1.4. Whilst the Board has previously refused permission for the redevelopment of this filling station (30<sup>th</sup> June 2016), on grounds of design and excessive footprint, there was no objection in principle to the replacement retail and filling station – something specifically stated in the Board’s decision. The applicant has attempted to overcome this reservation of the Board, through a revised design and reduction in the footprint of the site. This reduction in footprint is not significant – involving a site which remains the same width, but which has been reduced by approximately 5m in length (measured north/south). The other significant change is the omission of that part of the site which included the entire roadside boundary hedgerow to the north. This omission of the hedgerow reduces the stated area of the site. However, whilst this area has been removed (as now outlined in red), the applicant would appear to be intending to set-back the hedgerow, or at least part of it, to the north of the site.
- 8.1.5. This removal of the roadside hedgerow to the north of the filling station, was one of the concerns of the Board in deciding to refuse permission for the previous scheme. The applicant has sought to overcome this reason for refusal through limiting the amount of hedgerow requiring removal; from an original 30 linear metres to 20 linear metres. The remaining hedgerow to the north of the removed section is to be retained (but physically relocated further to the east) in order to improve sight visibility to the north. I have elsewhere in this report noted that sight visibility to the north, for traffic exiting the existing filling station/shop complex, is substandard. The

applicant has attempted to address this problem through severe pruning of the hedgerow. Notwithstanding this, sight visibility remains sub-standard. The speed restriction on this Regional Road is 80kph. The roadside boundary hedgerow, in its severely pruned state, is of no great visual or ecological value. It is proposed to engage a specialised contractor to reinstate the hedgerow on a set-back line. This will be effected by using a grab machine to move sections of the 1m high sod & stone bank with the hedgerow intact. This is to be done outside of the bird-nesting period. Any damaged sections will be replaced using native hedgerow species. I would consider that this is a reasonable proposal to deal with an existing traffic hazard. I do not see that Objective EH O6 of the Development Plan is offended. The amount of hedgerow removal has been limited to 20 linear metres. I would contend that exceptional circumstances exist for the removal of this 20 linear metres – in the interest of removing a traffic hazard. This traffic hazard exists, whether this proposed development proceeds or not. I consider that the applicant has come up with a reasonable compromise which would involve the removal of 20 linear metres of undistinguished roadside boundary hedgerow, within which there are no mature trees. The setting back of the hedgerow line would allow for growth to a reasonable size, without the need for severe pruning which exists at present. This would improve both visual amenity and ecological utility of the set-back element of the hedgerow in the future. It would be possible to attach a condition to any grant of permission, limiting the amount of hedgerow removal to 20 linear metres, and imposing conditions in relation to relocation, timing and repair of the reinstated hedgerow to the north.

- 8.1.6. The 3<sup>rd</sup> Party appellant has argued that the size of the proposed development is excessive. However, noting that the proposal involves the replacement of an existing shop unit, I would consider that the floor area of the proposed shop and delicatessen/coffee shop (as indicated in revised plans submitted on 3<sup>rd</sup> April 2017), would be reasonable and would not be contrary to section 10.6.4.5 of the Development Plan, which restricts retail floor area of shops in filling stations to not greater than 100m<sup>2</sup>. The ancillary areas proposed are proportionate to the number of staff required to operate a facility of this size. Any proposal to extend retail floor area or delicatessen/coffee shop floor area would require separate planning permission.

## 8.2. **Architecture & Archaeology**

### 8.2.1. Architecture

The site is located on the southeast fringe of the Lough Gur Architectural Conservation Area (ACA), as outlined in the current Limerick County Development Plan 2010-2016. The other three corners of the Holycross crossroads are outside of the ACA. There are no Protected Structures either on or adjoining the appeal site. The redevelopment of a filling station will not have any significant impact on the architecture of the area. The development is limited in size, and the replacement building is a contemporary attempt at addressing the archaeological heritage of the area. The Heritage Officer of LCCC indicated support for the application by way of e-mail, dated 6<sup>th</sup> October 2016. Of note in the Notification of decision to grant planning permission is condition no. 16, which requires supervision by a qualified architect in order to ensure that materials used are compatible with historic and traditionally-built fabric. This condition would appear to have been attached to ensure work and materials used would be in accordance with the drawings submitted – particularly where elements of the building would incorporate references to the archaeological heritage of the area. A similarly-worded condition should be attached to any grant of planning permission which might issue from the Board.

### 8.2.2. Archaeology

There are a number of megalithic monuments within the Lough Gur complex – served by a Visitor Centre. The closest part of the site to Lough Gur itself (the water body) is 500m. There are a number of intervening hedgerows between the appeal site and Lough Gur, and the lough is not visible from ground level at the site. The site is entirely within the boundary of archaeological potential of the massed Lough Gur sites no.s 4-40, as indicated on the Sites & Monuments Record of the OPW. The application was accompanied by an Architectural Heritage Survey & Statement of Justification, which addressed the issue of proximity to Lough Gur. This is largely a restatement of the Report which accompanied application ref. 15/729. The application was referred to the Executive Archaeologist of LCCC, who expressed concern about the impact of the development on the Lough Gur Special Development Control Area. It was indicated that phased archaeological testing would be required. The additional information submission of 3<sup>rd</sup> April 2017, included

a Geophysical Survey Report – dated 27<sup>th</sup> March 2017. The Executive Archaeologist for LCCC was concerned that the Report did not contain any details of second phase archaeological investigations. [However, it would appear to me that such details were submitted]. Notwithstanding this, clarification of additional information was sought from the applicant on this issue, amongst others. The submission of the applicant of 9<sup>th</sup> June 2017, was to the satisfaction of the Executive Archaeologist, who in an e-mail of 28<sup>th</sup> June 2017, stated as follows- “I note the submission of the second phase archaeological investigation in response to Point 2 of the original RFI, requested under Clarification. The archaeological test investigations were extensive and nothing of archaeological significance was recorded. The Clarification and the RFI have been complied with and there are no further archaeological issues in regard to this application”. The evidence of archaeological testing was still visible on the date of this Inspector’s site visit in November 2017. Objective EH O11(c) of the Development Plan clearly states that it is an objective of the Plan- “To have regard to the archaeological importance and richness of the area indicated in Map 7.5 as a zone of archaeological amenity. Any developments within the zone will be required to provide for an archaeological examination during the course of excavations or other ground disturbance”. This has now been carried out, prior to any development of the site – which was not the case when the previous application was under consideration by the Board (ref. 15/729). The Notification of decision to grant planning permission included a condition (no. 15) requiring notification of any finds made during full excavation of the site. A similarly-worded condition should be attached to any grant of planning permission which might issue from the Board.

The application was referred by the Board for comment to the Development Applications Unit of the Department of Arts, Heritage and the Gaeltacht: no response was received.

### **8.3. Traffic**

- 8.3.1. The application was accompanied by an updated Traffic Impact Assessment. Traffic counts were undertaken for the AM and PM peak periods at the end of August 2015 (when schools had re-opened). The traffic volumes are low in relation to the capacity of the road and the crossroads junction to the south. These figures are

likely to have increased slightly since 2015. The proposed development will replace an existing (currently closed; but soon to re-open) similar-type development. It is located on a Regional Road, where the 80kph speed restriction applies. Dedicated access/egress points (2 in no.) will serve the filling station/shop, where in the current situation, access and egress from the parking area to the north of the existing filling station is uncontrolled – just in the very place where sight visibility to the north is most restricted. The additional turning movements into and out of the filling station will not have a significant impact on traffic safety in the context of a replacement-type development in the vicinity of an existing public house and crossroads just to the south. The site has been extended to the north, in order to improve sight visibility. This will involve the permanent removal of approximately 20 linear metres of roadside boundary hedgerow, and an unspecified amount of roadside boundary hedgerow to the north again, to be set back in order to provide 160m stopping sight distance for traffic travelling south along the R512. There are no proposals for a public footpath to be provided along that part of the R512 boundary in front of the filling station proper. As there are currently no other footpaths at Holycross, this would not be an essential consideration. I note that there are no reports on file from the Roads Department of LCCC. The Roads Engineer and the Travel & Transportation Section of Limerick City & County Council were satisfied with the access and parking arrangements for the previously proposed development on this site, and there is no reason to suppose that this assessment has altered.

- 8.3.2. Parking is to be provided for 30 no. cars and 2 no. coaches within the curtilage of the site – as per the revised layout of 3<sup>rd</sup> April 2017. In addition, bicycle parking stands are to be provided, and bays for recharging electric cars. This is an acceptable level of parking, which should ensure no overspill onto the edges of the R512.
- 8.3.3. The proposal is acceptable in terms of traffic safety and convenience.

#### 8.4. **Water**

##### 8.4.1. Water Supply

The application form indicates that there is an existing mains water supply to the site. The location of the connection is shown on drawings submitted. Irish Water was concerned that the applicant would indicate the exact location of the watermain,



provide for a meter on it, and a 5m wayleave on either side of it. By way of additional information submission of 3<sup>rd</sup> April 2017, the position was restated. By way of clarification of additional information of 9<sup>th</sup> June 2017, revised drawings were submitted to show the watermain diverted around the filling station site (to north and east), with provision made for 5m wayleaves on either side. Provision is made for a water meter on this diverted line. This was acceptable to Irish Water.

#### 8.4.2. Foul Waste

The application information submitted on 7<sup>th</sup> September 2016, indicated that an existing septic tank serving the public house (and associated uses) on the adjoining site was to be replaced with a 'Tricel' effluent treatment plant to serve the public house and the proposed development. A Site Characterisation Report was submitted. The water table was encountered at 2.2m below ground level on 17<sup>th</sup> December 2013 (undertaken as part of a previous planning application for new changing rooms for the football club on the adjoining site). The existing septic tank discharges to a Bord na Móna enclosed secondary treatment unit by way of pumping. It is proposed to double the size of the Bord na Móna units, in order to serve the proposed development. It is recommended that the peat within the existing Bord na Móna unit be replaced. The new system will serve the existing public house, small hairdressing salon, the proposed development and the football club – an estimated population equivalent (p.e.) of 172. The Bord na Móna units will discharge to a gravel filter area of 406m<sup>2</sup>. These elements are located outside of the site as outlined in red, but within the wider site as outlined in blue – within the control of the applicant. For this reason, conditions could be attached relating to works to be carried out outside of the site, as outlined in red. The clarification of additional information submission, received on 9<sup>th</sup> June 2017, indicated the location of a grease trap on the foul discharge system. Condition 10 of the Notification of decision to grant permission relates to grease traps and oil interceptors. The proposed new car-wash will operate on a closed zero discharge system. The discharge to ground from the new system would be subject to requirement for a Discharge Licence from LCCC. Proposals were acceptable to Irish Water.

#### 8.4.3. Surface Water

The existing petrol interceptor on the site is to be decommissioned. Alterations were made in relation to the disposal of surface water as the application progressed through LCCC. The clarification of additional information submission of 9<sup>th</sup> June 2017, provided for a dedicated surface water drainage system for the forecourt and parking area – fitted with two ‘Conder’ hydrocarbon interceptors. Existing surface-water from the forecourt drains to surface water drains in the L1412 public road to the south of the site. This arrangement is to be altered by way of provision of two soakways within the playing fields to the east – indicated on drawings submitted on 9<sup>th</sup> June 2017. Whilst these soakways are outside of the site as outlined in red, they are within the landholding controlled by the applicant. These arrangements were acceptable to Irish Water.

## **8.5. Other Issues**

### **8.5.1. Financial Contribution**

Condition 2 required payment of a development contribution of €37,800. The amount of this contribution has not been disputed. A condition should be attached to any grant of planning permission issuing from the Board, requiring payment of a development contribution in accordance with the Development Contribution Scheme in force at the time.

### **8.5.2. Waste**

The proposed demolition will result in the creation of C&D waste. The Environment & Waste Management Section of the Council was satisfied with the previously proposed development, and there is no reason to consider why it would not be satisfied with the current proposal. Condition 7 of the Notification of decision to grant planning permission addressed this issue, and a similarly-worded condition should be attached to any grant of permission issuing from the Board. Existing underground fuel tanks are to be re-used for the proposed development.

### **8.5.3. Appropriate Assessment**

The application was screened by Limerick City & County Council for appropriate assessment, and it was concluded that there would be no adverse affect on any European site. The proposed development is largely for a replacement-type facility. The closest European site is Glen Bog SAC (Site code 001430) some 2.4km to the

southeast. That site hosts priority habitat 'Alluvial Forests with *Alnus glutinosa* and *Fraxinus excelsior*'. All foul and surface waters will be treated within the site prior to discharge to ground waters. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site no. 001430, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

#### 8.5.4. Signage

There are no signage proposals indicated for either the canopy, shop building or totem sign. It would seem from drawings submitted that the existing totem sign (slightly dilapidated at present) is to be retained. Condition 8 required that no display of goods or materials or advertising boards shall be located on the public footpath or roadway. A condition should be attached to any grant of planning permission to issue from the Board, relating to control of signage.

### 9.0 **Recommendation**

I recommend that permission be granted for the reasons and considerations set out below and subject to the attached conditions.

### 10.0 **Reasons and Considerations**

Having regard to the nature of the proposed development – being a replacement of an existing (but not currently operational) use on part of the site, the limited area of the retail facility proposed, the design of the building, arrangements made for access/egress and parking, and proposals for treatment of foul effluent, it is considered that, subject to compliance with the conditions set out below, the proposed development would not impact deleteriously on the Lough Gur Architectural Conservation Area or the Lough Gur Area of Special Development Control, would not be prejudicial to public health 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.

## 11.0 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 3<sup>rd</sup> day of April, and the 9<sup>th</sup> day of June 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars

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

2. The external walls of the shop building (apart from stone, brick features and pottery features) shall be finished in neutral colours such as grey or off-white.

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

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. In particular, the water supply and drainage layouts shall be as per revised drawings submitted to the planning authority on 9<sup>th</sup> June 2017. The development shall not open to the public until such time as the proposed new effluent treatment system is commissioned, and a contract put in place for its continued maintenance.

**Reason:** In the interest of clarity, and of public health.

4. Not more than 20 linear metres of the existing roadside boundary hedgerow along the R512 shall be removed to facilitate this development – as indicated on Drg. No. 03 Issue E, received by the planning authority on the 9<sup>th</sup> day of June 2017. Any hedgerow, to the north of the aforementioned 20 linear metres, which is to be set back to facilitate the improvement of sight lines, shall be accomplished by a qualified specialised contractor. This shall involve the setting back of entire sections of the sod & stone earth bank and associated hedgerow. Any damage shall be replaced using native hedgerow species. No mature trees shall be felled.

All works shall be carried out outside of the bird-nesting season (1<sup>st</sup> day of March to 31<sup>st</sup> day of August inclusive).

**Reason:** In the interest of visual amenity, ecology, and to comply with Development Plan policies to limit the removal of roadside boundary hedgerows.

5. All lighting used within the forecourt and on the exterior of the building shall be directed so as not to interfere with passing traffic.

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

6. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground within the site.

**Reason:** In the interest of protecting the visual amenities of this area, which is within the Lough Gur Landscape Character Area.

7. 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 interests of sustainable waste management.

8. At least one external litter bin shall be provided in front of the shop building, for use of customers during trading hours.

**Reason:** To prevent littering and protect the visual amenities of the area.

9. The total net retail sales space of the forecourt shop shall not exceed 100m<sup>2</sup>.

**Reason:** To comply with national policy, as set down in the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government in January 2005.

10. The site shall be used as a petrol filling station/shop/coffee shop, and no part of it shall be used for the sale, display or repair of motorised vehicles.

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

11. No 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 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 protecting the visual amenities of this area which is located within the Lough Gur Landscape Character Area.

12. Details of any branding signage to be affixed to the canopy, shop or free-standing totem sign, shall be submitted for the written agreement of the planning authority, prior to commencement of trading.

**Reason:** In the interest of visual amenity and to avoid visual clutter in this Architectural Conservation Area.

13. The developer shall facilitate the protection of archaeological materials or features which 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 it.

14. All works shall be supervised on an ongoing basis by an architect accredited by the Royal Institute of the Architects of Ireland. The supervising architect shall be responsible for ensuring that all interventions made, accord with the statutory and regulatory provisions allowed for in respect of the existing building stock, and that materials and methodologies used in construction of the new building are compatible with historic and traditionally-built fabric. Two weeks before submission of a Commencement Notice, the name of the supervising architect shall be submitted, in writing, to the planning authority.

Upon completion of the works, the supervising architect shall certify to the planning authority, and to the satisfaction of the planning authority, that the specified works have been carried out in accordance with best conservation and construction practice in the field of architectural heritage.

**Reason:** To protect the architectural heritage of the Lough Gur Architectural Conservation Area, and in the interest of visual amenity.

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. 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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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**Michael Dillon,  
Inspectorate.**

**9<sup>th</sup> November 2017.**