



## Development

Permission for development will consist of a new filling station. The service station building (466.2sq.m) will contain 3 no. food offers (offer 1- 19.8sq.m, offer 2- 16.5sq.m and offer 3- 14.8sq.m), a new retail area of 94.4sq.m(including ancillary off-licence, 4.1 sq.m), a seating area (69.47sq.m) and back of house area for storage, toilets and food preparation (192.2sq.m). Food offer no.3 will include a drive-thru hatch facility and will involve hot food for consumption off the premises. The service station building will have a storage yard to the rear and will contain 8 no. signs (3 on north façade, 1 each on west and east façade and 3 on south façade), along with 1 no. logo on north façade. Also, 6 no. pump islands with branded canopy over (signage to 3. no sides). All associated site works including new two-way road along south boundary, landscaping, outdoor seating, jet

wash, brush wash, car wash storage (12sq.m), picnic area, car parking spaces, boundary treatment around the perimeter of the site, play area, refuelling point, vents, underground tank farm, main ID sign, drive-thru lane, provision of 1 no. vehicular entry point and 2 no. exit points and 'welcome' and 'exit' signs.

<b>Location</b>	Dundalk Retail Park, Inner Relief Road, Marshes Upper, Dundalk County Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	17/477
<b>Applicant(s)</b>	Petrogas Group
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Thomas McMullen
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21 <sup>st</sup> March 2018
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

1.1. The site located in the outer fringes of Dundalk town about 3 km from the town centre. The site is prominently located at a corner site fronting both the Inner Relief Route - N52 (formerly R132) and Bothar na Feirme link road and in an area characterised by low density commercial, retail, community facility and housing development. It is described as forming the southern end of Dundalk Retail Park. Kentucky Fried chicken 'Drive-Thru' restaurant adjoins the site to its east. The former ice hockey dome is further east and a gym operates there. A large car park serves these premises. The corner fronts onto a roundabout junction and the site is accessed off the more minor road Bothar na Feirme. It is part of a large tract of land that was partly surfaced and serviced for a car park but is overgrown remains substantially undeveloped although access roads have been constructed. The site is fenced off.

## 2.0 Proposed Development

2.1. It is proposed to build a new petrol filling station with a drive-through facility with ancillary food, retailing and off-license use in addition to further ancillary facilities such as toilets, storage and food preparation areas. The main elements are:

- Overall building at 466.2 sq.m. Within this building it proposed to have: 3 food outlets with respective floors area of 19.8 sq.m., 16.5sqm. and 14.8 sq.m. (which will have a drive-thru), an off licence area of 4.1sq.m. and seating area of 69.47 sq.m. with the ancillary services areas of 192.2sq.m.
- 6 pump islands
- Branded canopy with signs to three sides.
- Outdoor facilities to include: car wash, seating/picnic, play area, parking refuelling vents underground tank,
- Main ID sign
- 1 vehicular entrance and 2 no. exits with associated welcome and exit signs are proposed along the southern side fronting an internal road network off Bothar Na Feirme.

- 2.2. The application is accompanied by technical reports.
- 2.2.1. Planning Report: This report describes the planning history, site context and applicant's business approach of the site. It refers to:
- Gateway status of Dundalk
  - High quality design having contemporary appearance with crisp and sleek appearance – render timber cladding and extensive glazing. Outdoor seating creating an active edge. Signage is in line with Apple green stations, Canopy will be visually ancillary. 1 totem is to be located near roundabout and this is a legal requirement
  - Retail in net terms is under the 100sq.m. cap and is a 'shop' use and different to food offer uses such as café or restaurant. In this regard the Board has previously taken the view that deli and the area in front of the counter space should not be retail in the context of the retail planning guidelines. The net retail area therefore complies with the Retail Planning Guidelines.
  - Food offer: 3 food offers is typical in Applegreen. It is 'quick service' food which does not compete with town centre restaurants for more relaxed meals. Aimed at motorist for quick convenient meal before returning to road. The range is one 'traditional fast food offer' at a lower price point and two 'fast casual food offers' providing a greater range.
  - The quick service type use is noted to being in the town already but is described as a robust market segment. The proposed food offers will not have a material impact.
  - Infrastructure: The engineer report is referred to. It is further noted that there are high quality public transport links in the vicinity to serve staff.
  - Parking: no Development Plan standards for petrol station – each case on its own merits. It is stated that as the floor area is largely back of house it makes standards difficult to apply.
  - The retail element would generate a need for 5 spaces and restaurant would generate a demand for a further 7 spaces.
  - The proposed provision of 59 spaces is an oversupply stated to be supported by the need to cater for events in the city such as matches, parade

- Opening hours are stated to be 7am to 11 pm with hatch form 11pm to 7am and confined to fuel and retail only.
- 25 jobs are expected to be created.
- No Stage II Appropriate Assessment required.
- It is finally pointed out that the proposed active use in an attractive high-quality landmark feature in prominent location will place a vacant site screened by hoarding and will have a positive impact and will enhance visual amenities and will not have any adverse impact on traffic safety

2.2.2. Engineering report: The following conclusions are made based on analysis:

- The proposed drainage complies with the guidelines in the Greater Dublin Drainage Study. The system addresses attenuation and run-off control and also the refuelling area. A letter of consent has been obtained to allow for the surface drainage connection to the existing drainage network.
- Based on a Flood Risk Assessment the site is in Flood Risk C Area and therefore does not require a detailed justification test based on The Planning System and Flood Risk Management Guidelines for planning authorities.
- Foul Drainage: It is proposed to connect to the public network. The car wash will also discharge to this at a rate of 2800 litres of waste water daily based on average usage.
- Water Supply is available and the firefighting elements have been designed in line with the Building Regulations.

#### Roads Infrastructure and traffic

- The existing mini roundabout and internal access installed as the overall master plan for the area will be re-used to provide access to the proposed site. This is as for KFC. It is proposed to extend the existing road to the south of KFC to serve the proposed and future development. The vehicular entrance only will be south east of the site off the extended private road and there will be 2 exits only accessing onto the southern and southern western boundary of the site onto the extended private road. Pedestrian access and crossing is provided within the site.

- A traffic assessment is contained in section 7.7.
- A total of 59 car park spaces are provided based on a demand for 13 spaces based on the Area 2 parking requirements of retail, storage and restaurant uses.
- Sightlines are more than adequate based on DMURS and the 50kph limit for the area and the minor nature of the road.
- HGV/Tanker: the auto track exercise demonstrates capacity for manoeuvring vehicles with a minor encroachment on the opposite lane of the carriageway. This is stated to be once weekly and outside peak traffic hours.
- Impact on traffic in the locality: based on previous traffic and transport assessment for the site under 09520041 and trip attraction rates for similar uses trip generation analysis traffic increase is estimates to be 5.6% and as this is less than 10% further analysis is not required. It is pointed out that the peak trip rate constitutes 16% of the previous trip rate. The proposed development is deemed to have no detrimental impact on the capacity and/or performance of the junctions within the vicinity of the site.
- A landscape programme is set out in the report Specification for Implementation and Maintenance of Landscape Works prepared by Gannon an Associates Landscape architects.

2.2.3. Further information: This was received by the planning authority on 29<sup>th</sup> September and modifies the proposal as follows:

- Clarification of pedestrian route in drawings c-006 and c-008: This necessitated extending about 25m beyond the site as outlined in red but consent for the works is submitted from the relevant landowner.
- Drawing PL-001 refers to lighting detail and is accompanied by a lighting report.
- Landscape Plan and drawing 17024-LP-02 shows the location of the root barrier system.
- Soil permeability testing: percolation test and report concludes that the soil below the fill layer will allow little or no infiltration to the subsoil and

accordingly the proposed surface water drainage scheme based on on-site attenuation and been revised – refer to drawing c -003

- Water: A Pre-connection enquiry response from Irish Water is attached. This confirms that the proposed development can be facilitated subject to a valid connection agreement.
- Relevant consents attached.

The alterations are described as not being of significance to warrant public notice.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Grant of Permission subject to 10 conditions

Condition 1 standard

Condition 2 refers to financial contributions

Condition 3 refers to landscaping requirements of a general nature.

Condition 4 refers to construction management

Condition 5 refers to footpath and kerbing standards, surface water drainage, attenuation tank lading, root barrier system for trees, public utility diversion, road opening/licensing, repair of public roads and footpaths and construction management

Condition 6 refers to environment and public health such as installation standard for grease traps, demolition waste management, requirement of plan to reduce risk of water pollution, oil/petrol interceptors, construction hours and vibration.

Condition 7 refers to noise and dust

Condition 8 refers to dust, mud and debris control

Condition 9 refers to construction management

Condition 10 refers to overhead cable.

### 3.2. Planning Authority Reports

3.2.1. Planning Report: The proposed development is considered to be compatible with both the zoning and retail strategy for the county having regard to:

- The net retail floor area of 94 sq.m. being less than 100 sq.m. maximum for petrol stations
- 94 sq.m. not excessive for location in retail park
- Suitability of site in terms of road infrastructure
- No negative visual impact on amenity
- Adequate car parking
- Enhancement of area by developing and landscaping a currently vacant and semi- derelict site

3.2.2. The planning authority concurs with appropriate assessment screening and that further assessment is not required.

3.2.3. Further information was requested in respect of servicing of the site and development standards as referred to in the inter-departmental technical reports and Irish Water.

3.2.4. Further information was lodged in 29<sup>th</sup> September to the satisfaction of the planning authority and was acceptable having regard to the further reports from the infrastructure department and Irish Water. The information was not considered to be significant to warrant new notices or to seek further submissions or observations. Accordingly, a grant of permission was recommended.

3.2.5. Other Technical Reports

Environment: no objections subject to conditions.

Infrastructure: further information required: access and footpaths, soil root barrier system, soil permeability test for permeable surfaces.

In a further report dated 13<sup>th</sup> October there is no objection subject to conditions in relation to traffic sign and road marking, roadside kerbing and footpaths, drainage, attenuation tank design, root barrier systems, public utilities and liaison as required,



licensing for road opening, hoarding and footpath diversion, costs of repair, construction management.

### 3.3. **Prescribed Bodies**

3.3.1. Irish Water: Report dated 13<sup>th</sup> October: No objection subject to conditions.

## 4.0 **Planning History**

4.1. An Bord Pleanala Ref: PL55.236605 refers to permission for a mixed-use development comprising retail, leisure and restaurant uses totalling 23,543 sq.m.; modifications to the existing highway to accommodate additional traffic and all associated site development works at Dundalk Retail and Leisure Park, Inner Relief Road, Marshes upper, Dundalk. The inspector recommended a refusal of permission having regard to the projections for retail floor space in the Louth Retail Strategy relative to those in the Retail Impact Assessment and the consequent impact on town centre vitality. The Board granted permission subject to omission of catering units and retail warehousing units based on an excessive quantum.

4.2. An Bord Pleanala Ref: PL55.242726 refers to permission for change of use from retail warehousing to cinema.

4.3. An Bord Pleanala Ref: PL15.246060 refers to permission for development and retention for alteration to previously approved change of use from retail warehousing to cinema use the alterations include the reduction in the size of the cinema and reversion to unit 4 to retail warehousing.

## 5.0 **Policy Context**

### 5.1. **Retail Planning Guidelines, DoECLG 2012**

5.1.1. These guidelines advocate a plan-led approach to retailing locations, scale and nature.

5.1.2. Section 2.4.3 outlines that 100sqm net is the retail floor area cap for petrol fillings station shops irrespective of location. It is guided that It is a matter for the relevant joint or multi-authority retail strategies and development plans to decide how and or

where the caps above should apply to particular cities and towns and their environs where these locations are traversed by local authority boundaries. Section 4.11.9 refers in more detail to retailing and motor fuel stations: Convenience shops are part of the normal ancillary services provided within motor fuel stations. In rural areas, they can have a very important function as the local shop or small supermarket. However, such shops should remain on a scale appropriate to the location, and their development should only be permitted where the shopping element of the station would not seriously undermine the approach to retail development in the development plan.

- 5.1.3. The floorspace of the shop should not exceed 100 M2 net; where permission is sought for a floorspace in excess of 100 M2, the sequential approach to retail development shall apply, i.e. the retail element of the proposal shall be assessed by the planning authority in the same way as would an application for retail development (without petrol/diesel filling facilities) in the same location. In considering applications for development, attention should also be given to the safety aspects of circulation and parking within the station forecourt.

## 5.2. **Louth County Development Plan 2015-2021**

- 5.2.1. General: In line with national and regional development policy Dundalk is Gateway town which is Level I in the settlement hierarchy for the county. It is also the hub for regional economic, heritage and leisure facilities. ***The Louth County Development Plan 2015-2021*** will be an over-arching Development Plan for the entire county including Dundalk. The statutory development plan for the urban and surrounding environs area of Dundalk is currently the ***Dundalk & Environs Development Plan 2009-2015*** and this still applies pending review and replacement by ab LAP.

### 5.2.2. Retailing Policies

- EDE 32 To ensure that applications for retail development comply with the provisions of Retail Planning: Guidelines for Planning Authorities 2012, Retail Design Manual 2012 and with the provisions and policies of the *Louth Retail Strategy* 2014.

- EDE 33 To promote a healthy competitive retail environment within County Louth and to maintain the vitality and viability of the town and village centres and their role as primary retail core areas.
- EDE 34 To support the development of Dundalk as a regional shopping centre and primary development centre of Drogheda as the principle locations for future retail development and to maintain the role of Ardee as a sub county retail centre and the retail function of all other settlements, commensurate with locally generated needs.
- EDE 35 To generally discourage permission for change of use from retail or service (including banks and similar institutions with over the counter services) to non-retail or non-service uses at ground floor level.

5.2.3. Development Management Guidelines for Industrial and Commercial Developments: Louth County Council will require that industrial and commercial lands be developed to a very high standard in campus style settings, combining aesthetics with enterprise to attract high calibre business occupiers. In spatial terms this will mean the development of a series of innovative landmark buildings set in attractive landscaped grounds. New development proposals should aim to provide design excellence realised within a hierarchical road structure and a hard and soft landscaping framework.

### 5.3. County Louth Retail Strategy 2009

5.3.1. Overview and context for Dundalk: The retail strategy is set out in Appendix 12. While it predates the construction of Dundalk Retail Park it highlights the following issues in relation to the town centre so as to inform its consolidation as a major retail centre.

- A high vacancy ration of 17.7% is highlighted and the following measures are identified as a means of consolidating the centre.
- There is a cluster of pubs, off licences and bookmakers to the north of the town and a considerable number of bars, night clubs and restaurants along Park Street and Dublin Road. **The number of takeaways along Clanbrassil Street has increased gradually and this has to a degree eroded the overall ambience**

**of the town centre.** A fine balance exists between offering a range of eateries and eroding the town core's retail role.

5.3.2. Key Objectives in Relation to Dundalk, (section 8.6.1)

- Develop and enhance Dundalk as a Gateway town as befits its status as Level 2 Settlement in the retail hierarchy (RPG's),
- Continue to support the BIDS Scheme,
- Encourage the establishment of a suitable off peak and evening economy,
- Improve linkages, accessibility and permeability to the south and west of the town centre,
- Consider policies restricting the type of non- retail uses along the core shopping area
- Encourage high end international and national retailers including a department store to locate within the Core Shopping Area,
- Promote the provision of directional signage to car parking facilities along with digital parking information.

5.3.3. Retailing and Motor Fuel Stations: Convenience shops have become part of the normal ancillary services provided within motor fuel stations. Such shops should remain on a scale appropriate to their locations and floor space of shops should not exceed 100m<sup>2</sup> net retail floorspace. Where permission is sought for a floor space in excess of 100m<sup>2</sup>, the sequential approach to retail development shall apply. Criteria for assessment includes considering:

- The quantitative and qualitative need for the development,
- The contribution of the development towards the improvement of the town centre in terms of urban design and reference to the Retail Design Manual,
- The contribution of the development towards site or area regeneration,
- The role of the development in improving the competitiveness of the town against other competing centres,
- Compliance with development plan/local area plan policies and objectives,
- The development is easily accessible by the elderly and less-abled persons/ those with impaired mobility.

5.3.4. **Policy 10 – Local Shops and Petrol Stations** - consistent with Paragraph 95 of the RPG this Strategy acknowledges the important function played by local shops in urban areas and this where a planning authority can substantiate clearly the local importance of local shops in defined local centres, they should safeguard them in development plans, through appropriate land-use zoning. Consistent with Paragraphs 96 – 98 of the RPG it is the policy of this Strategy that where retail space in excess of 100 sq. m net of net retail sales area is associated with petrol filling facilities then the application of the sequential approach to retail development should apply.

#### 5.4. **Dundalk and Environs Development Plan**

5.4.1. The site is zoned Retail Recreation and Leisure where petrol stations are open for consideration.

5.4.2. **Chapter 3 Economic Development, Retail & Tourism:** It is a policy of the Councils to promote Dundalk as a regional shopping destination. Therefore, proposals for retail development of such a scale and nature that demonstrate a significant regional draw will be considered favourably on suitable sites within Dundalk and Environs plan area where it is clearly demonstrated that the proposed development:

- Is of sufficient scale or specialised nature to draw customers from a large regional catchment
- Does not replicate identical retail footprints or stores currently available in the town centre
- A detailed sequential approach to site selection is taken
- Does not damage the vitality and viability of the existing town centre
- Takes full account of the other criteria for assessment as set out in section 9.8 of the Louth Retail Strategy.

#### 5.4.3. Policies

- **Policy EC 14** Promote Dundalk as a regional shopping destination.
- **Policy EC 18** Promote Dundalk as a centre for heritage based tourism.
- Ensure that the town core remains as the primary retail area of the town

5.4.4. Regeneration: The site in the Regeneration area as of part of the Muirhevnamor RAPID area located along the Inner Relief Road (Map 6 of the Dundalk Plan.

## 5.5. **Natural Heritage Designations**

The appeal site is located c. 1km west of the Dundalk Bay SAC (Site Code 000455) and SPA (Site Code 004026).

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

A third-party appeal has been lodged by agents on behalf of Thomas McMullan and the grounds are based on:

- The scale and range of non-core petrol retailing uses will make the site a destination. The uses are contrary to the underlying land use zoning and vision for the site and will undermine the town centre.
- The net retail area is greater than 100 sq.m. by reference to the retail planning guidelines.
- The planning history supports the regulated development of retail warehousing and restricts the subject development.
- The further information was not sufficiently addressed.

### 6.2. **Applicant Response**

- Commercially motivated appeal that should be dismissed.
- The development is ancillary to a large retail park which is a destination rather than just the site.
- The net retail cap has not been breached. The use of the circulation can be restricted by condition.
- The 10% small goods restriction is not relevant to this case as that relates to retail warehousing.

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

- No further comment

### 6.4. **Observations**

- None

## 7.0 **Assessment**

### 7.1. **Issues**

7.1.1. This appeal relates to a petrol filling station on a vacant serviced site on the outskirts of Dundalk town. The key issues arising centre on:

- The Principle of Development
- Retail Impact - on locality
- Impact on Town Centre - from retail and restaurant use
- Adequacy of information

7.1.2. The issue of Appropriate Assessment and EIA are also mandatory considerations.

### 7.2. **Principle of Development**

7.2.1. The appeal site is located on lands zoned for Retail, Recreation and Leisure use in the latest development plan for Dundalk. The objective for these lands is 'To provide for retail warehousing and the sale of bulky goods where not more than 10% of the floor area is allocated to the sale of small goods; the provision of strategic large-scale retail development of significant scale and nature to draw from a regional catchment and to support the development of Dundalk as a regional shopping destination and the provision of large scale recreation and leisure facilities.' It is argued by the appellant that the proposed development does not comply with this objective as it is for a large retail use incorporating extensive facilities that will be a destination competing with the town centre.

7.2.2. Under the 'land zoning matrix' petrol stations and restaurants/cafe are open for consideration and drive-through and fast food are permitted. It is however also noted that Shop –local (defined as convenience unit less than 200 sq.m) or Shop, is 'not

permitted' within this land use zoning objective. In the context of the land use objectives for the area and the pattern of development of the area which includes retail warehousing, a drive-through restaurant and serviced lands, I consider the development of a petrol station with ancillary retail and food relates uses to be acceptable in principle.

- 7.2.3. With respect to zoning I note that the site is a largely undeveloped but serviced site in a prominent location and has been the subject of a number of planning permissions. It is also part of a larger land bank that remains undeveloped and is governed by the same objective, as such, there is no evidence of a lack of land to realise the objective for the area. It is therefore in my judgement, unlikely that the development of a use that is, in part, permissible and in part, open for consideration would undermine the objectives for the immediate area.

### **7.3. Retail Impact – local impact**

- 7.3.1. The development plan requires that an ancillary retail area for a petrol station in excess of 100 sq.m. be subject to a sequential analysis and more rigorous assessment. In this case there is a dispute as to the amount of retail space. It is argued that the net retail floor area exceeds 100sq.m when taking account of the area as defined in the guidelines as being within the shop or store which is visible to the public and to which the public has access including fitting rooms, checkouts, the area in front of checkouts, serving counters and the area behind used by serving staff, areas occupied by retail concessionaires, customer service areas and internal lobbies in which goods are displayed but excluding storage areas circulation space to which the public does not have access to, cafes, and customer toilets. I note in this regard that the drawings delineate the floor areas associated with food offers 1, 2 and 3, back of house, circulation net retail area and seating area totalling 466 sq.m. On this basis, the net retail area amounts to 94.4sq.m. which includes an off-license display of 4 sq.m. It does however exclude a circulation area of about 16 sq.m. between the seating area for the food areas and retail display area which brings the retail and directly associated public circulation area to over 110 sq.m. However, the retail area is not entirely reliant on this area for circulation within the shop and there is some overlap.



- 7.3.2. I consider the breach of the cap to be quite marginal and easily remedied as this retail area could easily be scaled back if considered to be excessive. I do not consider it of sufficient scale to warrant a detailed retail impact assessment.
- 7.3.3. In determining the excessiveness of the retail area, I consider that in the context of the retail strategy and the retail planning guidelines and development plan policies for regeneration, the most salient consideration is the immediate locality. The guidance is such that additional shops should remain on a scale appropriate to the location, and their development should only be permitted where the shopping element of the station would not duplicate or undermine existing shops in the area.
- 7.3.4. In the context of policies for the RAPID area, in which the site is located, the impact on local shopping is relevant. In this regard I note the neighbourhood shopping complex anchored by Dunnes on the opposite side of the N52 and adjacent to housing. At time of inspection there were vacant premises. In this context, the strict control of the proposed retail area is important so as not to undermine the vitality of an existing designated local shopping area – a core element of a rejuvenation strategy. In view of the proximity and potential for a range of convenient shopping in the existing vacant units I do not consider there to be sufficient need for an ancillary retail area greater than 100 sq.m. or for a comprehensive range to include an additional retail use such as an off-license. Accordingly, I consider it appropriate to omit the off-license element and curtail the retail area such that the 94 sq.m. is reduced pro rata and physically delineated (as per drawing submitted) with a barrier such as with a fixed panel or screen along the lines delineated between the adjacent circulation area also serving the seating and food areas.

#### **7.4. Impact on Town Centre: Scale and nature of use**

- 7.4.1. The development plans for the county and Dundalk town, in line with the national planning framework, pursue a strategy of consolidating Dundalk as a gateway town. Part of this strategy promotes the consolidating of the town centre as a retail centre through encouraging retail uses and complementary uses and the prevention of excessive loss of retailing use in addition to controlling out of centre retailing that would undermine this consolidation. The site is at the periphery of the town environs and is a 3.5km journey from Clanbrassil street - the principal retail street in the town

centre where it is a priority to concentrate retailing uses. The loss of such uses and vacancy rates is identified as a problem in the Development Plan.

- 7.4.2. I do not consider the ancillary retail use which is convenience in type and subject to a restriction of 94sq.m to be of a magnitude by itself to compete with the town centre retailing function.
- 7.4.3. The appellant makes the case however that the overall development will impact on the town centre particularly as the proposal incorporates 3 restaurant uses in addition to about 100 sq.m. of retailing. There is concern that this will create a destination use in itself and in this way, undermine the town centre. It is, I note identified in the development plan for Dundalk that there is a high rate of food related uses eroding the traditional retail uses. The proposed food related uses are of a fast food type which is precisely the type of use not promoted in the centre and is unlikely therefore to be possible catalyst for revitalising the town centre in the manner intended. Accordingly, it is difficult to conclude that the proposed development will undermine the town centre by directly competing with desired uses. The development therefore would not conflict with the economic, retail and tourism policy for Dundalk as a regional shopping centre.
- 7.4.4. It could, in fact, be argued that the provision of a well serviced petrol station is appropriate for a gateway town with a regional catchment as it improves the provision of services and amenities for potential visitors and therefore accords with the strategic aims for Dundalk.
- 7.4.5. Furthermore, I consider the development of a vacant site which incorporates high quality design features and extensive landscaping on a prominent site complies with the management guidance for commercial sites and could enhance the visual amenities of the area.

## **7.5. Conclusion on Impact of Ancillary Uses**

- 7.5.1. I consider the catchment for the 94 sq.m. retail use can only be local or passing trade and subject to the omission of the off license would not compete with neighbourhood shops nearby. Furthermore, I do not consider the proposed retail area to constitute a destination shopping venue by itself or together with the additional restaurant uses. In conclusion, I do not consider that the proposed

development that caters for ancillary shopping and a range of fast food options would undermine the vitality and vibrancy of Dundalk Town Centre. In these circumstances and by reference to the zoning and economic, retail and tourism strategy the proposed development accords with the proper planning and sustainable development of the area.

## 7.6. Other matters

- 7.6.1. There is a concern that sufficient information was not submitted and addressed in respect of the further information request. The matters in relation to the requirements of the technical divisions have I note been substantially addressed for the purposes of making a decision and I am satisfied that the applicant has sufficient land interest to address the footpath issues. Other matters can be dealt with by condition of permission. I do not consider there is sufficient grounds for refusal of permission in this regard.
- 7.6.2. I do however note that there are no details on the submitted plans and drawings of the underground fuel tanks nor is there reference, that I can readily find, to the overall volume of fuel. I do however note that the legislation governing petrol storage is the Dangerous Substances [Retail and Private Petroleum Stores] Regulations, S.I. 311 of 1979, as amended. The Health and Safety Authority clarifies that petrol filling stations are particularly hazardous workplaces which require to be licensed by Local Authorities because they store and sell a highly flammable liquid. It is the responsibility of the licensee (the person operating / managing a petrol station) to hold a licence to store petrol. Louth County Council is the local licensing authority in this case as it is the location of the petrol store. It is usually issued by the Chief Fire Officer in the local authority and is typically renewed every three years. While I accept that the fuel storage is governed by separation regulation I consider it appropriate to add a condition in respect the fuel tank/s and its/their precise location together with that of the surface water attenuation tanks as part of the planning permission.

## 7.7. Appropriate Assessment

- 7.7.1. The appeal site is located about 1km west of the Dundalk Bay SAC and SPA (Site Codes 000455 and 004026, respectively). Some tributary drains/watercourses drain the land about 150m to the south and feed into Bay. As the development relates to fuel storage and distribution in addition to car washing, surface water management is an important consideration in the protection of the aquatic related environment.
- 7.7.2. The qualifying interests of the SAC are Estuaries [1130], mudflats and sandflats not covered by seawater at low tide [1140], perennial vegetation of stony banks [1220], salicornia and other annuals colonising mud and sand [1310], Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330] and Mediterranean salt meadows (*Juncetalia maritimi*) [1410].
- 7.7.3. The qualifying interests of the SPA are Great Crested Grebe (*Podiceps cristatus*) [A005], Greylag Goose (*Anser anser*) [A043], Light-bellied Brent Goose (*Branta bernicla hrota*) [A046], Shelduck (*Tadorna tadorna*) [A048], Teal (*Anas crecca*) [A052], Mallard (*Anas platyrhynchos*) [A053], Pintail (*Anas acuta*) [A054], Common Scoter (*Melanitta nigra*) [A065], Red-breasted Merganser (*Mergus serrator*) [A069], Oystercatcher (*Haematopus ostralegus*) [A130], Ringed Plover (*Charadrius hiaticula*) [A137], Golden Plover (*Pluvialis apricaria*) [A140], Grey Plover (*Pluvialis squatarola*) [A141], Lapwing (*Vanellus vanellus*) [A142], Knot (*Calidris canutus*) [A143], Dunlin (*Calidris alpina*) [A149], Black-tailed Godwit (*Limosa limosa*) [A156], Bar-tailed Godwit (*Limosa lapponica*) [A157], Curlew (*Numenius arquata*) [A160], Redshank (*Tringa totanus*) [A162], Black-headed Gull (*Chroicocephalus ridibundus*) [A179], Common Gull (*Larus canus*) [A182], Herring Gull (*Larus argentatus*) [A184] and Wetland and Waterbirds [A999].
- 7.7.4. The Conservation Objectives for the SAC and SPA are to maintain the favourable conservation condition of the various habitats and bird species for which the sites have been selected.
- 7.7.5. An Appropriate Assessment Screening Report was submitted as part of the Planning Report (section 7) and concludes that there will be no direct ecological link to any Natura 2000 sites. In this regard I note that the foul and surface water will discharge to the public networks. It is stated that the proposal has been designed to include interceptors which will prevent oil entering the surface water drainage system.

- 7.7.6. In further information it is explained that, following soil permeability tests across the site, it was determined that there is very poor infiltration within the existing subsoils and as a result permeable paving is not practicable. The revised SW strategy involves the attenuation for 1 in a 100-year event on site in compliance with principle of GSDSDS. The SW discharge will be limited from the site to 2/45l/s by a flow restriction device with excess flows surcharging into underground attenuation tanks. Once the storm event has passed the tanks will discharge through the hydro brake into the public network. This is to the satisfaction of the Infrastructure Division of the planning authority
- 7.7.7. The site has been partially development and there are no watercourses traversing the sit. There is land buffer between the development site and watercourses to the south. There is also a public drainage network between the site and sensitive habitats in Dundalk Bay. Having regard to the built-up character of the surrounding area, and subject to standard good construction practice measures for works in the vicinity of watercourses an prior to discharge and compliance with governing regulations for fuel storage, I do not consider that any contamination of watercourses is likely nor do I consider that significant in combination effects are likely to arise.
- 7.7.8. Therefore, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, the nature and scale of the proposed development, and the nature of the receiving environment, namely an urban and fully serviced location, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Dundalk Bay SAC or SPA (Site Codes 000455 and 004026, respectively), or any other European site, in view of the sites' Conservation Objectives. A Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## 7.8. **Environmental Impact Assessment**

- 7.8.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive locations, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the design and layout of the proposed development, the policy of the Louth County Development Plan and the provisions of the Retail Planning Guidelines, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the vitality of Dundalk Town Centre or the local shops, would be in accordance with Louth County Retail Strategy, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 22nd day of June 2017, and as amended by the further plans and particulars submitted on the 29th day of September 2017, except as may be otherwise be required in order to comply with the following conditions. Where such conditions require details in writing with the planning authority prior to commencement of development the development shall be carried out and completed in accordance with the agreed particulars.

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

2. In respect of the retail area the following shall apply:
  - a) The off-license element shall be omitted.
  - b) The total net retail space of the forecourt shop shall not exceed 90.3 square metres.
  - c) A 2.2m high barrier shall be constructed between the retail area and adjacent circulation/food serving and seating area along or with the

line as delineated by the purple line in the submitted drawings

Details including revised drawings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To comply with national policy, as set down in the Guidelines for Planning Authorities Retail Planning issued by the Department of the Environment, Community and Local Government in April, 2012.

3. All planting / landscaping required to comply with the specification of the landscaping scheme including the Root Barrier System submitted to the planning authority shall be provided and maintained, and if any tree or plant dies or is otherwise lost within a period of 3 years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.

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

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

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

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

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

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

6. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed

on the canopy, on the forecourt building or anywhere within the curtilage of the site unless authorised by a further grant of planning permission.

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

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

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

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

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

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

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

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

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

9. Prior to commencement of development, the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision for the storage and separation and collection of waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

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



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

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

11. Rock and soil excavated during construction works shall not be left stockpiled on-site following completion of the development. Details of the treatment of excavated rock and soil shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. On completion of site development works all machinery, equipment and spoil materials not used in the landscaping of the site shall be removed from the site.

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

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

**Reason:** In the interest of public health and to protect the amenities of the area.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. [The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention,

minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

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

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

15. The underground fuel storage tanks shall be double skinned and fitted with a leak detection system. Excavations for the tanks shall be lined/bunded in the case of an emergency where there is an accidental leak.

Details of all tank dimensions for fuel and attenuation and layout shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

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

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

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

Details of the application of the terms of the Scheme shall be agreed

between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Suzanne Kehely  
Senior Planning Inspector

5<sup>th</sup> November 2018